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FIELD REPORT

The Need for Humanitarian Intervention in Central Africa

by Brian Smith

Dramatic events in Central Africa kept the world clustered around its television screens in 1994, as Rwandan Hutus murdered about one million of their Tutsi countrymen in the most shocking case of genocide since the end of the Second World War. Although dismayed by the number of people killed, the world nevertheless stood by and watched, asserting that concepts of national sovereignty and non-intervention should reign supreme, even in cases of total anarchy.

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The United Nations Assistance Mission in Rwanda (UNAMIR) was established by Security Council Resolution 872 on October 5, 1993 to accomplish disengagement and demobilization of the fighting factions, and facilitate the integration process. The overall goal was to help establish and maintain a climate conducive to the creation of a transitional government in Rwanda. Rwandans in exile want UNAMIR to be strengthened and to monitor the arrival and the settlement of the refugees. Financial constraints have led to the reduction of UNAMIR from 1,800 to 1,200 peacekeepers. Although hundreds of Belgian and French elite troops flew in to evacuate those countries' nationals, the mandate of UNAMIR (which was partly carried out by Belgian paratroopers) and the reluctance of Belgium, France and the EU to play a more proactive role, led to humiliating scenes of well-trained armies standing by and watching the horror of a civil war.

Western military strategists have contended that even a few hundred Western troops making a small show of force or establishing safe areas would at least have reduced the number of people slaughtered, if not diffused the conflict altogether. They point to "Operation Turquoise," in which the French Army

established a safe area in western Rwanda in June 1994, as an example of successful intervention. Although that operation came too late to have a major impact, it still constitutes an important precedent. While the French intervention was marred by political machinations that were anything but strictly humanitarian, it may be used by scholars of international law in the future to tear down walls of national sovereignty.

The Great Lakes region of Central Africa, which encompasses Burundi, Rwanda, Tanzania, Uganda, and Zaire, is still caught in a tense situation. Tremendous refugee flows followed the killings, destabilizing the provinces of North and South Kivu in eastern Zaire. There are about 1,000,000 Rwandan refugees in Zaire's Kivu region today, plus approximately 90,000 in Tanzania. These displacements have had a major impact on the host countries, particularly Zaire. The environment in Kivu, for instance, has been severely damaged. Three hectares of wood in the Virunga National Park, home



of the silver back gorilla, fall each day. In addition, the massive influx of refugees has sent prices in Kivu soaring and created a surplus of labor.

Although the presence of the refugees has ravaged the economy of Kivu, the cost of hosting them is borne by the international community. Additionally, in contrast to the negative impact the mass influx has had on the economic status of the Zairians, the refugees themselves have managed to turn the camps into thriving villages. For example, in Kibumba, which hosts almost 200,000 refugees, one will

find several butcher shops, grocery stores, bars, discothèques and cinemas. According to many critics, such economic activity is the result of over-distribution of supplies, as well as the considerable war booty with which many refugees fled Rwanda.

This odd economic situation leads to heightened tension not only in Kivu itself, but also in the relations between Rwanda and Zaire. The Zairian army now occasionally blocks off entire refugee camps, suspending the booming economic activity and discouraging them from trying to establish permanent "habitats" in Kivu. In addition, Zaire has banned the group Return of Refugees and Democracy to Rwanda (RDR), which is accused of intimidating fellow refugees, impeding the work of the UN, and halting the movement of refugees back to Rwanda. Furthermore, according to Zairian newspapers, Zaire provides arms to the Hutu-dominated Rwandan army-in-exile that is preparing for a re-invasion of Rwanda. The Tutsi-dominated Rwandan Government Army, however, has so far been able to push back cross-border incursions and prevent an invasion. This capability was recently demonstrated when government forces killed a few hundred Hutu "rebels" on Iwawa Island in Lake Kivu, an important Hutu training camp.

Ethnic strife and anarchy are also spreading throughout Zaire. Occasional uprisings by Zairians in Kivu target not only the recently-arrived Rwandan refugees but also the Banyarwanda, ethnic Rwandans who migrated or were relocated to Kivu during the Belgian colonial era. Although the Zairian government revoked the citizenship of the Banyarwanda in 1982 by requiring proof of presence since 1885, it has not taken any measures to expel them, and clashes between ethnic Zairians and the Banyarwanda have been increasing over the last several years. For example, between August 1992 and March 1993, thousands of Kasaiens, who were brought into Shaba, the southernmost province of Zaire, as the result of Belgian colonization, were forced to flee back to the Kasai province. The outbreak of racial violence in Shaba was triggered by the governor of the province and various national ministers who have Shaba roots.

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President Mobutu Sese Seko is either unwilling or unable to restrain the spreading ethnic violence. The president remains isolated in his lavish palace in his hometown of Gbadolite, from which he commands the Zairian army. Representatives of non-governmental organizations (NGOs) assert that the army is a well-oiled machine of intimidation and

President Mobutu is either unwilling or unable to restrain the spreading ethnic violence. The Zairian army is a well-oiled machine of intimidation and repression, whose primary activity is the extortion of money from the civilian populace.

repression, whose primary activity is the extortion of money from the civilian populace. The army appears to remain faithful to Mobutu out of sheer economic opportunism. Its frequent looting and pillaging are rarely punished, and amnesty for other crimes almost always is granted.

Despite the situation of near-anarchy and numerous restrictions imposed by the local authorities, NGOs remain active among the Rwandan refugee camps located in Zaire. The Zairian Government, therefore, has threatened to suspend the mandate of the United Nations High Commissioner for Refugees (UNHCR), in order to hasten the return of refugees to Rwanda. Even the relief organizations have begun to realize that the only way to persuade the refugees to return to Rwanda is by making life in Zaire difficult for them, even if this means lowering food rations and limiting supplies to the bare minimum. Although forceful repatriation is contrary to UNHCR's mandate, many of those who left Rwanda were not fleeing persecution as much as they were attempting to avoid prosecution for the 1994 genocide. As a result, UNHCR has found its mandate stretched almost to breaking. Other institutions which would normally step in to provide humanitarian relief have failed to do so because world powers have little strategic or economic interest in this region. Although UNHCR officially asserts that the return of refugees from Burundi was voluntary, diplomats privately concede that the refugees returned under

very strong pressure, even if direct force was not used.

In Rwanda itself, however, NGOs have been denied access, because prior to the coup, the most active NGOs in Rwanda were Belgian and French. The new Rwandan government considers these countries to be supporters of slain President Habyarimana and the former Hutu Government, which is now in exile in Zaire. In addition, monitors for the UN Human Rights Field Operation in Rwanda are widely criticized. The monitors have been forced into the role of preventing revenge attacks and protecting those targeted (generally Hutus), a role which is undoubtedly perceived in Rwanda as highly political.

Meanwhile, the Rwandan refugees have become a strategic pawn on the diplomatic chessboard. In November 1995, former U.S. President Jimmy Carter organized meetings in Cairo and Tunis between the presidents of Zaire, Rwanda, Burundi, Uganda, and Tanzania. Although Carter has managed to gather the parties together to discuss the serious issues raised by the refugee crisis, many analysts believe that the only beneficiary of the talks is President Mobutu. The

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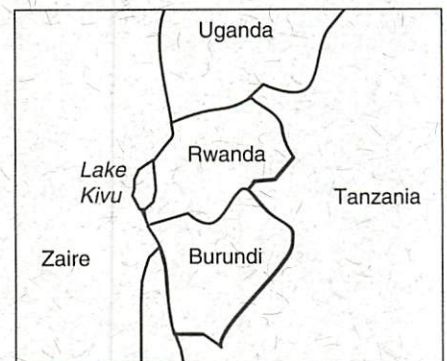
Zairian leader, who ordered all refugees to leave by the end of 1995, has subsequently shown greater flexibility on the issue, as Western governments, who previously had tried to isolate the dictator, now are forced to deal with him to ensure that the aid they supply actually reaches the devastated Kivu Region.

Ethnic tension is also rising in neighboring Burundi, which is slowly being engulfed in another civil war. Burundi has the same ethnic diversity as Rwanda, and similar problems consequently arise. The conflict, in fact, has been active for months, resulting in the death of approximately 1,000 people per month at the hands of both the Tutsi-dominated army and armed opposition groups, composed mainly of Hutus. The rebels, strengthened by an inflow of weapons from Zaire, are suspected of planning a major attack on the government in the near future. In

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an interim report from January 29, 1996, the UN International Commission of Inquiry finds strong indications that Rwandan elements in Zaire are being trained to conduct incursions into Rwanda. The Security Council established the Commission last September to investigate reports that former Rwandan government officials in the Great Lakes region were receiving arms in violation of a Security Council arms embargo, and were being trained to destabilize Rwanda. The Commission, however, was not able to establish that specific governments, companies or individuals had aided in the sale or supply of arms.

A UN commission sent to Burundi in early 1996 confirmed that it was both necessary and possible to send UN troops to Burundi to prevent further escalation of the conflict. UN Secretary-General Boutros Boutros-Ghali has proposed sending a UN rapid deployment force to Zaire, which could intervene in Burundi, if the situation worsens. This proposal has been widely criticized, mostly by Zairians who see it as yet another attempt by Mobutu to



impress the Western world. Western countries have not been eager to respond to the pledge of the Secretary-General, citing budgetary constraints and frustration with the existing UN mandates.

Despite these criticisms of the Secretary-General's proposal, however, Western governments are increasingly aware of the need to prevent a repetition of the tragedy in Rwanda. The West's feeble

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the violation of any right protected by the Constitution and domestic laws of the State concerned, as well as to rights ensured by the Convention, rather than the specific provisions of Article 7.6. It seems that a more feasible interpretation of the standards laid down by the Convention would be to apply Article 7.6, in relation to the general protection of Article 25.1. In any case, in view of ensuring consistency in its case law, the Court should follow its own decisions or it should spell out the reasons why it decides to make a different application of the law.

Without explaining its legal reasoning, the Court held that Caballero Delgado and Santana had been provided an "effective" remedy under Article 25.1. The judge who substantiated the habeas corpus in *Caballero* requested information from different State agencies and personally visited the Fifth Brigade, where the victims' next of kin had asserted they were held. These authorities, which included those members of the armed forces who allegedly disappeared Mr. Caballero Delgado and Ms. Santana, denied the detention. Based on this denial, the tribunal declared the action unsubstantiated, because "it had not been proved that [the victims] had been deprived of liberty." Since the

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Court found that the habeas corpus judge had handled the matter "with great speed," it ruled that the right to an effective remedy had not been violated.

The Court's ruling ignores its own findings regarding other aspects of the case. The Court found Colombia responsible for the disappearances because there was proof that the victims were detained and presumably killed by State agents, specifically, members of the Fifth Brigade. When analyzing the effectiveness of the habeas corpus proceeding, however, the Court overlooked the intentional failure by those same agents to provide information to the habeas corpus judge. This omission is clear evidence that agents of Colombia precluded the habeas corpus proceeding from being the "effective" remedy required by the American Convention. Although the habeas corpus judge acted with due diligence, the victims' rights were not protected by this remedy because other agents of the State,

responsible for their abduction and killing, prevented the tribunal from ascertaining their whereabouts. It is important to remember that the Court as an international tribunal does not rule on the responsibility of the separate organs of the State but on the responsibility of the State itself. Under general international law, States are responsible not only for the acts of its agents but also for their omissions.

Conclusion

The role of the Inter-American Court in protecting the rights of individuals and, more importantly, in deterring the practice of forced disappearances, requires a consistent application of the proper legal standards and reasoning. *Caballero Delgado and Santana* raises serious questions about the current application of the Convention and calls for a careful reassessment of many issues. ☹

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response to the initial crisis, the resulting slaughter, and the danger of a similar crisis erupting in neighboring states, highlight the absence of workable mechanisms

The West's feeble response to the initial crisis, the resulting slaughter, and the danger of a similar crisis erupting in neighboring states, highlight the absence of workable mechanisms of conflict prevention.

of conflict prevention. Yet, Central Africa's history over the past thirty years points to one possible mechanism to prevent local conflicts and civil wars from gaining irreversible momentum.

Since the mid-1960s, Central Africa has been ravaged by countless conflicts. French troops have intervened at least thirty times during this period. While the interests of France were not always strictly humanitarian, the experience nevertheless

demonstrates that conflicts in Central Africa are not very difficult to diffuse, or at least to neutralize, for a certain time. This pattern should be used again now, and a new kind of humanitarian intervention should be advocated. Central Africa will not turn out to be another Somalia, because its under-equipped militia can be easily controlled. In addition, Central Africa could be the perfect testing ground for such intervention, especially now that Cold War has ended and the superpowers are no longer competing on its soil.

The rebuilding of nations shattered by ethnic conflict, such as Rwanda, should be among the international community's highest priorities. The UN Human Rights Commission has called for massive housing construction as well as the creation of security corridors to facilitate the safe return of the refugees. UNHCR estimates that around 500,000 houses are needed. Creating a safe climate for the return of refugees can be accomplished by setting up security checkpoints and safe routes, a process which should be supervised by the Rwandan Government as well as international organizations and NGOs. To pre-

vent reprisals and revenge attacks against the resettled Hutus, observers should be posted to guarantee a relatively safe environment.

Rwanda's judicial system also needs radical improvement. According to Amnesty International, overcrowded prisons have resulted in more than 2,300 deaths, in part because there are 43,000 detainees in prisons designed for 4,500. In May 1995, prisoners suffocated to death following a wave of arrests. Rwanda lacks the infrastructure and procedural guarantees necessary to try those in custody. The recent arrest of a key prosecutor who turned out to be a member of the infamous Hutu death squads tragically illustrates the failure of the Rwandan judicial system to deal with the genocide. As a result, fear reigns supreme within Rwanda, and the refugees in Zaire are unwilling to return home.

Despite the UN's conclusions, the world has taken little action. Perhaps Central Africa will have to suffer another nightmare, perhaps we will have to witness once again rivers red with blood and choked by corpses, before we find the courage to act. ☹