

UNHCR POSITION ON THE RETURN OF UNSUCCESSFUL
ASYLUM SEEKERS TO RWANDA

Since the height of the refugee crisis following the 1994 war and genocide in Rwanda, when some 3 million refugees were outside the country, the vast majority of Rwandans have voluntarily returned home. For the Rwandese Government, repatriation of the remaining refugees is a priority. During 2001, UNHCR facilitated the voluntary repatriation of 21,600 Rwandese refugees from the Democratic Republic of the Congo (DRC) and from Tanzania, although returns from the DRC were sporadically interrupted due to security incidents caused by infiltration of Rwandese rebel groups in the north-western provinces of Gisenyi and Ruhengeri. Security incidents reportedly linked to infiltration of Burundi rebel groups have also been recorded in the south-western province of Cyangugu. Following large-scale army deployments, the situation has improved both in the north-west and south-west, but national security remains a pressing concern to the authorities in the face of unpredictable rebel incursions.

Sustainable repatriation depends on the cessation of military activity and the prevalence of peaceful coexistence within Rwanda. Therefore, UNHCR continues to facilitate return movements upon request.

Some progress has been made since 1994 in the areas of democratisation, decentralisation, reconciliation and the rule of law. The first district elections in 30 years were held in March 2001, albeit without the participation of political parties, and the Government is continuing to implement its decentralisation programme. A new Constitution is in the process of being drafted, which it is hoped will provide guarantees of respect for basic human rights. In 1999, the transitional Government of National Unity extended its mandate for another four years on the grounds that more time was needed to promote reconciliation and to pave the way for multi-party legislative and presidential elections.

The international community will be closely observing the forthcoming *gacaca* trials, in which over 100,000 current genocide suspects will be tried by local village assemblies. Trials will take place in public before the entire community, and the process may lead to fresh confessions and denunciations, possibly raising the trial caseload even higher. While *gacaca* is being introduced to speed up the genocide trials, to reduce the chronic problem of prison overcrowding and to promote reconciliation, concerns have been expressed about its compatibility with due process. There are also concerns about false accusations being made on individual participation in the genocide, for example in connection with property or land disputes, or as a means of settling personal scores. It appears that a significant number of applications submitted by Rwandese asylum seekers leaving the country at this stage refer to these phenomena.

In light of the above, and considering that Rwanda is still in a period of transition, UNHCR is of the opinion that the question of return of unsuccessful asylum seekers should be approached with caution, particularly in respect of persons originating from the north-western and south-western parts of the country, where sporadic rebel attacks still occur.

UNHCR further recommends that before deciding on return, States give due regard to the particular circumstances of each individual case (area of origin, educational level, age, gender, health, etc.) to determine whether any of these persons should be allowed to remain on their territory on humanitarian grounds.