

# Refugees and Displaced Persons in Burundi – Defusing the Land Time-Bomb

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## EXECUTIVE SUMMARY AND RECOMMENDATIONS

A final cease-fire agreement and the permanent suspension of hostilities in Burundi, however elusive these objectives might seem today, carry the risk that a great many people who were uprooted will rush home to a country not yet prepared to receive them. It will only be possible to repatriate approximately one million Burundians quickly if thorough advance preparation is made. Too little attention has been paid to the land question this involves, however, by both the transitional government and the international community. If they do not make it an immediate priority, it risks destabilising the transition from the day that a definitive ceasefire is signed.

The main victims of the war in Burundi, refugees and displaced persons, have been waiting for the dividends of peace ever since the Arusha agreement was signed on 28 August 2000. There is a precedent in Burundi's history for what the poorly prepared return of refugees can mean for political stability. Following the election victory of FRODEBU in 1993 some 50,000 who became refugees in 1972 returned spontaneously. Their arrival was handled badly by the newly installed government, which was trapped between the necessity of returning to the refugees what the former regime had stolen from them and the fear of the Tutsis that they would be the losers. It was, in part, the demonstrations of expropriated Tutsi families which produced the deterioration of the political situation that culminated in the coup d'état and the assassination of President Ndadaye on 21 October 1993.

Burundi has experienced two main waves of refugees. The first was in 1972, when genocidal acts of the army against the Hutu elite led approximately 300,000 to flee, mostly to Tanzania. In 1993 the assassination of Ndadaye and the massacres which followed started another round of flight and displacement that was re-enforced by each new wave of violence. After ten years of war, over 500,000 are estimated to be in the refugee camps in western Tanzania. Another 300,000 are thought to be dispersed across Tanzania or otherwise living there in dire conditions. There are approximately 281,000 permanently displaced persons in Burundi itself, living in 226 registered places. Moreover, every month 100,000 people on average become temporarily displaced as a result of the ongoing fighting.

To one degree or another, all these refugees and displaced persons can have been the victims of land expropriation. The 1972 Hutu refugees were deprived virtually systematically of their goods and lands in the fertile Imbo plain by the Micombero and Bagaza regimes. The 1993 refugees were less often the victims of expropriation - but this does not mean that their return will be any easier. As with displaced Tutsis currently eking out a living on the edges of the cities, many were victims of profiteers who benefited from the absence, or death, of the legal owners either to seize land or to sell it at a profit.

Even if these displaced persons generally feel safer on the edges of the cities, they have no land security and should be empowered either to reclaim the entirety of what has been taken from them or to be compensated appropriately for the land if they decide not to claim it. War-profiteers have also manipulated rampant administrative and political corruption to appropriate the estates which could have been used to help with the resettlement of refugees.

The Burundi government and the international community have thus far failed to recognise the scale of the problems they will face with the return and resettlement of refugees and displaced persons. The issue will not only test the administrative capacity of the transitional government and the willingness of the international community to help Burundi's reconstruction, but will also be an ongoing source of tension during the transition process. Those disappointed by the peace process are likely to use every opportunity to block reforms in the first few months after a definitive cease-fire. There is scope for both Hutus and Tutsis to engage in a political bidding war over the restitution of land to refugees and displaced persons and over insufficient or late payment of reparations and compensation to expropriated or resettled families.

The foreseeable disappointment of a large number of refugees who will be unable to recover their property offers ideal political opportunities for the one rebel group still not involved in the peace process: Agathon Rwasa's Party for the Liberation of the Hutu People, otherwise known as the National Liberation Forces (PALIPEHUTU-FNL). The transition could likewise be in serious danger if the land question becomes an election issue.

The urgent requirement in this situation is to defuse the land time-bomb through the creation of a transitional judicial process designed exclusively for land management, one that adapts the traditional institutions of "Bashingantahe" to help implement the resettlement process. Of course, this should be seen as complementary to other structural reforms which Burundi needs to undertake. However, political preparation for the return of refugees and displaced persons should be a priority in the general scheme of reform.

## **RECOMMENDATIONS**

### **To the Burundi Government:**

1. Begin to revise the land code immediately, harmonise it with existing land law and ensure that the right of women to own land is explicit.
2. Suspend all grants of estates to private persons and revoke all those made since the beginning of the transition process.
3. Revise the law on the National Commission for the Rehabilitation of Victims (CNRS) to guarantee its administrative and financial independence.

### **To the National Commission for the Rehabilitation of Victims (CNRS):**

4. Form immediately a sub-commission for land issues, with rebel representation.
5. Undertake a program to re-introduce the Bashingantahe institutions, so that on each hill there is a managing committee for the resettlement of refugees and displaced persons.
6. Establish a land tribunal in every province and elaborate the precise rules governing:

*(a) the resettlement of refugees and displaced persons on their property;*

*(b) compensation criteria for expropriated families;*

*(c) resettlement criteria for estate lands;*

*(d) the amount of reparations for those unable to return to their former property; and*

*(e) establish the principle whereby a widow has full rights to the property of her deceased*

| *husband.*

7. Engage in dialogue with the Catholic Church over reallocation of part of unused church lands for resettling refugees and displaced persons.

8. Create a trust fund to finance the re-establishment of the institution of Bashingantahe, the creation of land tribunals in each province and compensation and reparations for expropriated families or those unable to reclaim their land.

9. Set up a land register for rural areas.

**To Donors:**

10. Finance the CNRS trust-fund so that the commission can guarantee its administrative and financial independence from the government.

**Nairobi/Brussels 7 October 2003**