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## Burundi

### Country Reports on Human Rights Practices - [2005](#)

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Burundi is a constitutional republic with an elected government that governs a population of 6.8 million. In February 90 percent of citizens voted to adopt a new constitution. Following local and parliamentary elections in June and July, the country's two houses of parliament indirectly elected as president Pierre Nkurunziza, a member of the National Council for the Defense of Democracy—Forces for the Defense of Democracy (CNDD-FDD) political party on August 19. International observers reported that the elections, which ended a four-year transitional process under the Arusha Peace and Reconciliation Agreement, were generally free and fair. Although the CNDD-FDD party dominated parliament and government, other major parties, notably the Burundian Front for Democracy (FRODEBU) and the Union for National Progress (UPRONA), were also represented.

The country remained engaged in an armed conflict between the government and the Party for the Liberation of the Hutu People/National Liberation Front (PALIPEHUTU-FNL) led by Agathon Rwasa. Although the security situation remained calm in most of the country, fighting continued in Bujumbura Rural Province, which surrounds the capital and was the traditional stronghold of the PALIPEHUTU-FNL. During the year fighting between the National Defense Force (FDN) and the PALIPEHUTU-FNL spread to the neighboring provinces of Bubanza, Kayanza, Muramvya, and Cibitoke.

During the year members of former rebel groups, including the CNDD-FDD, were integrated into the military, which changed its name from the Burundian Armed Forces (FAB) to the FDN. Members of former rebel groups who were not integrated into the FDN were demobilized; by September approximately 16,400 former rebels and soldiers had been demobilized. The government began a demobilization process for civilian militia groups, including the Guardians of the Peace (GP), in September. While civilian authorities generally maintained effective control of the security services, there were several instances in which elements of the security forces acted independently of government authority.

The human rights record of both the transitional and post-transitional governments remained poor; despite improvements in some areas, both governments continued to commit numerous serious human rights abuses. In relation to the country's human rights situation in 2004, political rights increased significantly following the adoption by referendum of a new constitution and national elections. In addition humanitarian relief agencies had greater access to local populations, the government demobilized and reintegrated into society thousands of former child soldiers, and trade unions had greater freedom to assemble and demonstrate peacefully. Freedom of the press worsened, primarily amid electoral tensions. In addition refugee and asylum seeker rights deteriorated markedly. The government also cooperated to a much lesser extent with UN agencies and international organizations aiding refugees and asylum seekers. Widespread poverty, food shortages in some parts of the country, lack of basic infrastructure, and a high level of foreign debt contributed to the overall poor human rights situation. The following human rights problems were reported:

- security force killings of civilians, including suspected PALIPEHUTU-FNL supporters
- torture and beatings of civilians and detainees by security forces
- rape of women and young girls by security forces
- impunity
- harsh and life-threatening prison and detention center conditions
- arbitrary arrest and detention
- prolonged pretrial detention
- corruption and inefficiency in the judiciary
- looting and destroying of houses by security forces
- restrictions on freedoms of the press and assembly
- routine displacement of civilians as a result of fighting between government and rebel forces
- violation of the rights of thousands of refugees and asylum seekers
- violence, acts of rape, and discrimination against women
- trafficking in persons
- child labor, including forced child labor

The PALIPEHUTU-FNL continued to commit numerous serious human rights abuses against civilians, including killings, indiscriminate shelling of civilian areas, kidnappings, rapes, theft, extortion, the forcible recruitment and employment of children as soldiers, and the use of forced labor.

#### RESPECT FOR HUMAN RIGHTS

## Section 1 Respect for the Integrity of the Person, Including Freedom From:

### a. Arbitrary or Unlawful Deprivation of Life

There were no reports that security forces committed political killings; however, security forces committed summary executions and other unlawful killings of civilians during the year (see section 1.g.).

In May a court handed down verdicts in the 2001 killing of World Health Organization representative Kassi Manlan. The court sentenced 4 individuals to death, 3 to life in prison, 2 to 20 years in prison, and several others to prison sentences ranging from 2 to 10 years. Colonel Gerard Ntuzwenayo, a former deputy administrator in the national intelligence service, was sentenced to death for his role in the murder. The court decided that Sylvestre Manirakiza was not involved in the murder. At year's end he was serving as the deputy commander of the National Police in Bururi Province.

The FDN committed unlawful killings, often with impunity, of civilians following fighting with rebels, in reprisal for rebel attacks and for suspected collaboration with rebels (see section 1.g.).

During the year there were reports that suspects were killed while in the custody of security forces. For example League Iteka, a domestic nongovernmental organization (NGO), reported that on March 20, police officers severely beat accused thief Mwafrica Masema in the Rugombo commune jail in Cibitoke Province. He died three days later from injuries sustained during the beating.

Between May and November, there were UN-documented reports that FDN forces arbitrarily arrested and tortured to death several suspected PALIPEHUTU-FNL supporters. For example on June 18, FDN soldiers in the Mutimbuzi commune of Bujumbura Rural Province arrested, beat to death, and then burned the corpse of a man thought to be a member of the PALIPEHUTU-FNL, according to the UN.

Security forces and intelligence service agents committed unlawful killings. The UN reported that on May 14, FDN soldiers in the Bujumbura Rural Province town of Gatumba robbed and beat two individuals, one of whom died from his injuries. On August 18, FDN soldiers shot and killed an unidentified man in Nyarabira commune in Bujumbura Rural Province. By year's end authorities had not opened an official inquiry in either case.

There were no developments in the following killings committed by security forces in 2004 and 2003: the February killing of Melchiade Basinga and his wife; the May killing of a bicycle taxi operator in Bujumbura by local gendarmerie; the August beating to death of Albert Ntahomvukiye; the September killing of an alleged thief in military custody; the 2003 killing of Abraham Nshirimana, allegedly by soldiers; or in the 2003 torture death of FAB soldier Mathias Nkurunziza.

Civilians were killed during fighting between government and rebel forces (see section 1.g.).

There continued to be reports of deaths and injuries caused by unexploded ordnance and landmines laid in previous years by both government and rebel forces (see section 1.g.). The country had a national de-mining program, and in the past had had persons trained in de-mining, but it was unclear if they were actively engaged in de-mining at year's end. A national mine survey--to establish the scope of the problem--was underway at year's end. The UN and two NGOs also did limited de-mining and educational activities.

Although few precise figures were available, there were numerous political killings by unidentified assailants during the year, the majority of which took place in Bujumbura Rural Province.

On January 23, in the Bubanza Province town of Gihanga, unidentified assailants ambushed a vehicle carrying Bubanza Province Governor Isaie Bigirimana and three other individuals. The assailants made the occupants lay face-down on the road and fatally shot Bigirimana and one of the other passengers. The assailants remained at large at year's end.

On March 11, unidentified assailants killed local government officials Emmanuel Munyana and Charles Ntamirengero in the Isale commune of Bujumbura Rural Province. On April 23, unidentified assailants killed a sector chief in Nyabira Commune, Bujumbura Rural Province. No official action had been taken by year's end.

Unidentified assailants also killed several political party candidates during the country's communal and legislative election campaigns. For example on May 31, unidentified assailants killed a CNDD-FDD candidate in the Muhuta commune of Bujumbura Rural Province. On June 2, unidentified assailants killed two FRODEBU candidates and eight supporters in the Mpanda commune of Bubanza Province. On June 18, unidentified assailants killed two FRODEBU members and wounded a dozen others in Bujumbura during a grenade attack on a bar owned by a prominent FRODEBU politician. No official action was taken in any of these cases.

There were no developments in the September 2004 killing of CNDD-FDD commune representative Sebastien Bamporubusa by armed men, or of the more than 30 other local government officials killed by unknown assailants in 2004. There were no developments in the 2003 killings by unknown assailants.

Unlike in the previous year, there were no reports that the GP committed killings, rapes, or armed robberies during the year.

The PALIPEHUTU-FNL rebels killed numerous persons during the year and committed serious abuses against the civilian population (see section 1.g.).

Killings by bandits continued to be a serious problem during the year, particularly during ambushes of passenger vehicles on the main roadways from Bujumbura. Unidentified bandits were also responsible for numerous killings while robbing individuals' houses.

There were numerous reports during the year of mob violence, lynchings, and the killing of suspected witches. For example on February 15, a mob in Bujumbura lynched and burned several individuals accused of stealing a motorcycle.

On March 13, a mob in the Musongati commune of Rutana Province killed a "rain bringer" for not successfully bringing rain. According to UN reports, local authorities were complicit in the killing.

On June 8, a group of individuals armed with clubs beat to death a woman accused of sorcery in the Nyabihanga commune of Mwaro Province.

During the year the local press reported numerous incidents in which individuals threw grenades into bars or other public gathering places, resulting in deaths and injuries. For example on May 29, an unidentified individual threw a grenade into a bistro in the Nyamurenza commune of Ngozi Province that killed two persons and wounded seven others.

#### b. Disappearance

There were no reports of politically motivated kidnappings; however, there were an unknown number of kidnappings during the year.

For example the UN reported that in January, CNDD-FDD forces kidnapped four persons in the Kabezi commune of Bujumbura Rural Province. The perpetrators reportedly released the four individuals after they paid a ransom.

The PALIPEHUTU-FNL was responsible for many disappearances during the year. For example on July 18, a group of armed men believed to be members of the PALIPEHUTU-FNL kidnapped a communal official in the Isale commune of Bujumbura Rural Province. The victim's whereabouts remained unknown at year's end.

There were no developments in the July 2004 kidnapping of four persons by members of the CNDD-FDD in the Kanyosha commune of Bujumbura Rural Province, or in the February 2004 kidnapping of six persons in the Ndava commune of Mwaro Province.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits such practices, members of the security forces continued to torture and otherwise abuse persons, which reportedly resulted in several deaths.

Throughout the year multiple credible sources reported that the security forces maintained illegal detention and torture centers across the country.

League Iteka, the UN, Human Rights Watch (HRW), and the Burundian Association for the Protection of Human Rights and Detained Persons (APRODH) reported that members of the security forces beat and tortured civilians and detainees throughout the year.

Multiple credible sources reported that agents of Documentation National (DN), the civilian intelligence service, arbitrarily detained and tortured people thought to be members and supporters of the PALIPEHUTU-FNL. According to these sources, DN agents tortured these individuals by beating them with batons, breaking their feet, tying them or chaining them, using clamps on their genitals, using needles on their feet, rubbing chili oil and salt into wounds, placing them in isolation chambers without food for prolonged periods of time, and repeatedly threatening to execute them. These sources also reported that DN Chief Major General Adolphe Nshimirimana was sometimes present while detainees were tortured.

There were frequent reports by League Iteka and APRODH that prison authorities tortured detainees and prisoners using methods similar to those described above.

On January 17, in the Rubira commune of Bujumbura Rural Province, members of the FDN detained and beat a man who refused to give them his bicycle.

After a March 21 visit to a detention facility in Bujumbura, League Iteka reported that four detainees showed signs of having been beaten with batons and clubs.

On April 7, in the Nyarabira commune of Bujumbura Rural Province, members of the FDN detained five brick masons after they passed nearby a military position. FDN members reportedly beat them during their detention before eventually releasing them.

There were no developments in the February 2004 torture of civilians by CNDD-FDD members, the April 2004 robbery and beating of a

judge by soldiers, the April 2004 torture of civilians in the Mutimbuzi commune of Bujumbura Rural Province by CNDD-FDD members, or the September 2004 beating of five students by CNDD-FDD members in the Mutimbuzi commune of Bujumbura Rural Province.

Although precise figures remained unavailable, there were numerous reports that members of the security forces raped women and young girls with impunity (see section 1.g.). For example members of the FDN reportedly committed at least 21 rapes in February in Kayanza, Muramvya, and Cibitoke provinces; 11 of these cases involved minors.

On May 24, two men, one of whom was an FDN soldier, raped a woman in Bujumbura. Although police arrested one of the two men, the soldier evaded arrest; no additional information was available at year's end.

According to HRW, on September 13, a uniformed police officer in the Gihanga commune of Bubanza Province raped a woman after forcing her husband to the ground at gunpoint. The woman reported his name and service number to the local judicial police, but the perpetrator had not been arrested and was still seen in the neighborhood at year's end.

There were reports that PALIPEHUTU-FNL members raped women, but there were fewer reports of rape by PALIPEHUTU-FNL members than in previous years (see section 1.g.).

Government troops used excessive force in areas where there were civilians (see section 1.g.).

Several persons were injured during the year by unexploded ordnance and landmines laid in previous years by government and rebel forces (see section 1.g.).

#### Prison and Detention Center Conditions

Prison conditions remained harsh and sometimes life threatening. Severe overcrowding persisted. According to government officials and human rights observers, prisoners suffered from digestive illnesses, dysentery, and malaria, and prisoners died as a result of disease. According to APRODH, although there were reports that security forces members beat detainees, there were no reports that prison guards beat prisoners; however, the UN peacekeeping mission in Burundi (ONUB) reported that detainees and prisoners were tortured and abused. Each jail had one qualified nurse and at least a weekly doctor's visit. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the primary provider of medicines. The government provided insufficient food. Detainees who were not held in communal lockups and prisoners received 600 grams of food per day from the government, and families often had to supplement prisoner rations.

According to the Ministry of Justice, during the year 7,969 persons were held throughout the country in facilities built to accommodate 3,650 persons. Of this number, 2,921 were serving sentences, 5,009 were pretrial detainees, and 39 were children accompanying their mothers. Human rights NGOs lobbied the government for the release of prisoners who were held for long periods of time without charge.

Conditions in detention centers and communal lockups were generally worse than prison conditions. Police personnel tortured and otherwise abused detainees, which resulted in death in several instances (see section 1.a.). Minors were not always separated from adult detainees, and ONUB documented some cases of sexual abuse. There were 400 communal lockups, or small detention centers, where those who were arrested were supposed to be held no longer than one week; however, in practice detainees were regularly kept in these facilities for much longer periods of time. The government did not provide food for persons held in communal lockups, and family members were required to provide all food for detainees in communal lockups. Once detainees were transferred to larger detention facilities, the government provided food. Communal lockups and other, larger detention centers were severely overcrowded, with limited or no provisions for medical care and no sanitation.

According to the Ministry of Justice, during the year there were 348 children in prisons, of whom 39 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults. Political prisoners often were held with convicted prisoners. Pretrial detainees were held in communal lockups, but some were also incarcerated with convicted prisoners.

During the year the government permitted some visits by international and local human rights monitors, including the ICRC; however, municipal police commissioners and other authorities repeatedly denied ONUB human rights officers access to detainees, following accounts of illegal detentions and torture. Authorities also sometimes denied HRW, ICRC, and local NGOs access to detainees thought to have been tortured or illegally detained, who were often thought to be members of the PALIPEHUTU-FNL. In addition according to HRW, on October 20, authorities at the Interior Security Police (PSI) allowed government magistrates to visit some parts of the premises of the PSI, located in Kigobe, Bujumbura, but denied them access to other parts. NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water.

#### d. Arbitrary Arrest or Detention

The criminal code prohibits arbitrary arrest and detention, but security forces arbitrarily arrested and detained persons.

#### Role of the Police and Security Apparatus

Both the national police and the FDN are responsible for internal security. The Ministry of Defense oversees the FDN, and the Ministry of the Interior oversees the national police, including the gendarmerie. The president directly controls the DN. The police deal with criminal matters and the FDN fulfills external security and counterinsurgency roles. In practice the FDN also arrested and detained criminals.

Members of the security forces were poorly trained. Corruption, disregard for the legal standards on the duration of detentions, and mistreatment of prisoners remained problems. An internal affairs unit within the police force investigated crimes committed by other police units. ONUB and various NGOs provided human rights training to the police. Impunity for those who committed serious human rights violations and the continuing lack of accountability for those who committed past abuses remained key problems. The security forces did not always cooperate with civilian prosecutors or magistrates, including in investigations involving members of the security forces.

#### Arrest and Detention

The law requires arrest warrants in most cases, and presiding magistrates were authorized to issue them; however, police and the FDN could make arrests without a warrant but were required to submit a written report to a magistrate within 48 hours. Few aspects of these provisions were respected in practice. The requirement that detainees be charged and appear in court within seven days of their arrest was routinely violated. A magistrate could order the release of suspects or confirm charges and continue detention, initially for 15 days, then subsequently for 1 additional period of 30 days, as necessary to prepare the case for trial. Police were authorized to release suspects and to extend detention once for seven days. However, police regularly detained suspects for extended periods without announcing charges, certifying the cases, or forwarding them to the Ministry of Justice as required. Suspects are permitted lawyers in criminal cases at their own expense, but indigents were not provided an attorney at government expense. Multiple sources reported that incommunicado detention existed, although the law prohibits it.

During the year there were reports of politically motivated arrests and numerous reports of arbitrary arrests. For example on January 24, members of the military arrested a person passing near a military position in the Kabezi commune of Bujumbura Rural Province and held the individual for several days before releasing the individual.

Following the August inauguration of the new government, DN agents arrested several elected officials from the FRODEBU party, who the DN claimed were supporters or members of the PALIPEHUTU-FNL. Multiple sources reported that these arrests were motivated more by political than by security concerns. During their detention some of these FRODEBU officials were occasionally held incommunicado. By year's end some had been released, while others remained in custody.

During the electoral period between May and August, the FDN carried out mass arbitrary arrests of suspected PALIPEHUTU-FNL supporters, including widespread cordon-and-search operations.

According to the UN, on May 27 in Bujumbura, members of the FDN arrested 43 persons while robbing their houses; all were released by year's end after paying a \$9 (10 thousand Burundian francs) fine.

The government arrested journalists during the year (see section 2.a.). However, unlike in previous years, there were no reports that the government arrested demonstrators, labor officials, or local NGO employees.

After the August inauguration of the new government, there were numerous reports of police officers arbitrarily detaining individuals for supposed "moral offenses." Police arrested women for moral offenses after they wore "inappropriate clothing" to public beaches and nightclubs and after they left nightclubs with men who were not their husbands or male relatives. On some occasions, police officers would reportedly wait outside popular nightclubs to detain large groups, and on at least one occasion, police attempted to enter a nightclub in order to do so. Individuals detained for these moral offenses, none of which are prohibited by any formal law, were typically released after paying a fine.

There were reports of political detainees, including FRODEBU party members arrested following the inauguration of the new government.

Many of the persons arrested on criminal charges since 1993 remained in pretrial custody. According to the Ministry of Justice, 5,009 persons, or 63 percent of the country's prison population, had not been convicted and were awaiting trial at year's end. Lengthy jail procedures, a large backlog in pending cases, judicial inefficiency, corruption, and financial constraints often caused trial delays. Irregularities in the detention of individuals, including holding them beyond the statutory limit, also continued. On several occasions individuals held illegally were released following intervention by ONUB.

#### e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the judiciary was not independent of the executive and was dominated by members of the minority Tutsi community. The judicial system was inefficient and subject to bribes and other forms of corruption; many citizens had no confidence in its ability to provide even basic protection. Judicial reform was a priority of the Arusha Accord, but little progress was made during the year.

The judicial system consisted of civil and criminal courts with the Supreme Court and Constitutional Court at the apex. In all cases the Constitutional Court had the ultimate appellate authority, but few cases of lower-ranking offenders reached this level.

Citizens generally did not have regular access to court proceedings and often had to travel more than 30 miles to reach a court.

#### Trial Procedures

All trials were conducted before a jury. Defendants, in theory, are presumed innocent and have a right to counsel but not at the government's expense, even for those who face serious criminal charges. Defendants have a right to defend themselves; however, in practice, few had

legal representation since there were only some 80 registered lawyers in the entire country and since most persons could not afford a lawyer and had to plead their own cases. Authorities sometimes were unable to carry out their investigations or transport suspects and witnesses to the appropriate court because of lack of resources and poor security conditions. All defendants, except those in military courts, have the right to appeal their cases up to the Supreme Court, and in capital cases, to the president for clemency. In practice the inefficiency of the court system extended the duration of the appeals process, effectively limiting the possibility of appeals, even by defendants accused of the most serious crimes.

The government officially recognized the traditional system of informal communal arbitration, known as *Bashingantahe*, which functioned under the guidance of elders and facilitated the settlement and reconciliation of disputes. A Bashingantahe opinion often was necessary before access was granted to the formal civil court system. The Bashingantahe was limited to civil and minor criminal matters and had no jurisdiction over serious criminal matters. Community elders presided over deliberations, and no lawyers were involved under this system.

The law provides for an independent military court system, which in practice was influenced by the executive and higher-ranking military officers. Courts of original jurisdiction for lower-ranking military offenders were called "War Councils," and one existed in each of the country's five military districts. A court martial tribunal of appeals heard appeals of War Council decisions and also had trial jurisdiction for mid-ranking military offenders up to the rank of colonel. Military courts had jurisdiction over military offenders and civilians accused of offenses implicating members of the military.

Procedures for civilian and military courts were similar, but military courts typically reached decisions more quickly. Military trials, like civilian trials, generally failed to meet internationally accepted standards for fair trials. Defendants were not provided attorneys to assist in their defense, although NGOs have provided some defendants with attorneys in cases involving serious charges. Trials generally were open to the public but could be closed for compelling reasons, such as national security or "scandalous accusations against prominent people." Defendants in military courts are allowed only one appeal.

#### Political Prisoners

The detention of political prisoners remained a problem during the year. Local human rights NGOs claimed that the government held more than three thousand political prisoners. Although the transition government asserted that there were no political prisoners, the government that took office in August stated that it would release all political prisoners. In November the government announced the establishment of a commission to vet political prisoners for early release, although none had been released by year's end. Charges against defendants convicted for nonpolitical crimes sometimes were politically motivated. International organizations and local human rights NGOs were generally afforded access to political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution provides for the right to privacy, but this right was not respected in practice. Authorities rarely respected the law requiring search warrants. It was widely believed that security forces monitored telephones. There also were numerous reports during the year that the security forces looted and destroyed houses whose occupants were accused of harboring and aiding the PALIPEHUTU-FNL (see section 1.g.).

There were numerous reports of looting by the PALIPEHUTU-FNL (see section 1.g.).

#### g. Use of Excessive Force and Other Abuses in Internal Conflicts

The ongoing conflict resulted in numerous serious abuses against the civilian population by government and rebel forces; generally no actions were taken against perpetrators. The security forces killed numerous civilians following fighting with the PALIPEHUTU-FNL, in reprisal for PALIPEHUTU-FNL attacks, and for suspected collaboration with the PALIPEHUTU-FNL. Abuses included the killing of civilians, the looting and burning of houses, attacks on noncombatants, the displacement of large numbers of civilians, and the rape of women. Unlike in previous years, security forces did not prevent international humanitarian aid agencies and human rights observers from accessing areas of the country.

While no definitive countrywide casualty figures were available, reports from media and NGOs estimated that more than 250 thousand persons, mostly civilians, have been killed in conflict-related violence since 1993. Much of the unlawful killing and property destruction during the year were concentrated in Bujumbura Rural Province, which was the scene of the majority of the fighting between the FDN and the PALIPEHUTU-FNL.

Although not as frequent as in previous years, there were reports that FDN forces deliberately killed civilians during the conflict. For example on January 18, in the Isale commune of Bujumbura Rural Province, members of the FDN executed a man suspected of collaborating with the PALIPEHUTU-FNL.

On May 14, also in the Isale commune, following fighting between the FDN and the PALIPEHUTU-FNL, members of the FDN detained and executed 8 youths (all between the ages of 12 and 15) and 4 men. According to a UN report, none of the victims could be identified.

Between May and September, ONUB documented an increase in summary executions, reportedly by FDN soldiers of suspected supporters of the PALIPEHUTU-FNL. Multiple credible sources reported that FDN soldiers and DN agents summarily executed individuals thought to be members or sympathizers of the PALIPEHUTU-FNL. These sources noted another increase in these executions beginning in November.

According to a UN report, on July 31, in the Bubanza commune of Bubanza Province, an FDN patrol killed a man in his home in an area believed to be a PALIPEHUTU-FNL infiltration route.

Although not as frequent as in past years, there were reports that the FDN killed civilians indiscriminately as a result of the conflict. For example on March 1, three civilians were killed during a firefight between the FDN and the PALIPEHUTU-FNL near Bujumbura. On June 7, in the Mpanda commune of Bubanza Province, two civilians were killed during fighting between the FDN and the PALIPEHUTU-FNL. On September 13, one civilian was killed by shrapnel during fighting between the FDN and the PALIPEHUTU-FNL in Bujumbura.

According to the UN Office of the High Commissioner for Human Rights (UNOHCHR) and NGOs, soldiers and rebels used rape as a weapon of war. For example on March 3, in the Mutimbuzi commune of Bujumbura Rural Province, a member of the FDN raped and beat a woman during a patrol. On March 8, in the Bubanza commune of Bubanza Province, a member of the FDN raped an eight-year-old girl. On June 6, in the Nyanza-Lac commune of Makamba Province, a member of the FDN detained a local woman at a military position and raped her.

The FDN pillaged houses throughout the year, particularly in Bujumbura Rural Province. The UN reported that on March 15, members of the FDN pillaged more than 200 houses in the Isale commune of Bujumbura Rural Province while searching the area for the PALIPEHUTU-FNL. On May 1, in the Kibuye commune of Bujumbura Rural Province, members of the FDN extorted money, food, and personal possessions from the local population.

Landmines placed by government and rebel forces in past years and unexploded ordnance continued to cause civilian deaths and injuries.

There were reports that security forces continued to use children to perform menial tasks without compensation; however, the government removed child soldiers from government security forces and demobilized approximately 3,015 children by year's end (see section 5). According to the UN Children's Fund (UNICEF), by year's end security forces were no longer using children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks.

There were reports of civilians displaced by fighting (see section 2.d.).

The PALIPEHUTU-FNL killed, beat, kidnapped, stole from, and raped civilians. During the year League Iteka and the UN reported numerous incidents where the PALIPEHUTU-FNL killed civilians for supposedly cooperating with the FDN. For example on February 18, in the Kabezi commune of Bujumbura Rural Province, members of the PALIPEHUTU-FNL decapitated and cut off the arms and legs of a farmer they accused of passing information to the FDN.

On March 14, in the Nyarabira commune of Bujumbura Rural Province, members of the PALIPEHUTU-FNL killed three persons accused of collaborating with the FDN.

On June 18, in the Mutimbuzi commune of Bujumbura Rural Province, members of the PALIPEHUTU-FNL used machetes to kill two men accused of collaborating with the FDN.

The PALIPEHUTU-FNL and armed bandits often killed civilians who refused to comply with extortion. There were numerous reports that the PALIPEHUTU-FNL ambushed minibuses on national highways and robbed and killed the occupants. UN security officials reported numerous other ambushes during the year.

Throughout the year members of the PALIPEHUTU-FNL raped civilians.

League Iteka and the UN reported that the PALIPEHUTU-FNL looted homes throughout the year. For example on February 5, in the Muhuta commune of Bujumbura Rural Province, the PALIPEHUTU-FNL pillaged 50 houses, and one teenager was killed in the attack.

In July and August there were frequent reports that members of the PALIPEHUTU-FNL stole livestock and extorted money, clothing, and medicine from civilians in Bubanza and Kayanza provinces.

The PALIPEHUTU-FNL rebel group used or recruited children as soldiers during the year (see section 5).

No actions were taken against members of the security forces or CNDD-FDD responsible for killings, rapes, lootings, or other abuses committed in the context of conflict that were reported in 2004 or 2003. There were no reports that rebel forces punished members who were responsible for abuses.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press; however, the government restricted these freedoms in practice. The government arrested, harassed, and detained journalists. The government periodically forced some media to suspend operations. Unlike in the previous year, the government did not prevent journalists from going to rural areas where crimes occurred. Journalists continued to practice self-censorship, although the media sometimes expressed diverse political views. The University of Burundi, the country's only government-funded university, did not offer a journalism program, but one private university did.

The government restricted freedom of speech through arrests and intimidation. On November 19, government forces arrested 10 youths in Musaga, Bujumbura, for attending a meeting of PA-Amasekanya, a militant pro-Tutsi group. On October 14, the government banned the sale and the publicity for a book written by PA-Amasekanya leader Diomedé Rutamucero.

The government controlled much of the major media. The government owned *Le Renouveau*, the only daily newspaper, as well as the country's only television station and the only radio station with national coverage. The government exercised strong editorial control of these media.

There were six private weekly publications, including the private French-language *Arc-en-ciel* (Rainbow), and 11 private Internet and fax-based news sheets. The number of copies printed by independent publications was small, and readership was limited by low literacy levels. Newspaper circulation was generally limited to Bujumbura or urban centers to the near exclusion of rural areas. Ownership of private newspapers was concentrated, but there was a wide range of political opinion among the press.

Radio remained the most important medium of public information. The government-owned radio station broadcasted in Kirundi, French, and Kiswahili, and offered limited English programming. There were eight privately owned radio stations, including Radio Isanganiro, Bonesha FM, and African Public Radio (RPA), all of which broadcast news in French, Kirundi, and Kiswahili. Some stations received funding from international donors. Listeners could receive transmissions of foreign news organizations.

Unlike in the previous year, the government arrested and detained journalists. For example on June 14, the government arrested Etienne Ndikuriyo, a Radio Bonesha journalist and head of the news sheet *ZoomNet*, for reporting that President Domitien Ndayizeye was suffering from depression following his party's defeat in municipal elections. On June 23, the government released Ndikuriyo on bail of \$483 (500 thousand Burundian francs) and ordered him to report to a magistrate once a week.

During the year the government increased censorship and suspensions of operations by independent media, primarily as a result of media criticism of the government prior to various elections during the year. For example on February 11, the government suspended RPA for 48 hours. The CNC had accused it of "offending public morals" by reporting on the rape of an eight-year-old girl, threatening public security by "deforming" the words of Tutsi politician and former President Jean-Baptiste Bagaza, and slandering a number of citizens without giving them the right of response. RPA Director Alexis Sinduhije said these acts were intended to intimidate the station following the broadcast of critical debates and editorials about the country's electoral process.

Also on February 11, the CNC banned the private newssheet *NetPress* for one week, following accusations of libel regarding an article and an editorial it published in January and February. The article accused the head of the National Commission for Rehabilitation of War Victims (CNRS), Frederic Bamvuginyumvira, of diverting food aid intended for the hunger-stricken communities of the eastern province of Muyinga. The editorial accused then-National Assembly President Jean Minani of being lazy and unfit to run for president. According to the international press freedom watchdog Committee to Protect Journalists, the CNC did not allow *NetPress* an opportunity to respond to the CNC's allegations of libel.

The CNC ordered RPA to close indefinitely on July 14 (an order that RPA ignored), following accusations by the CNC that RPA's legislative election coverage favored the opposition CNDD-FDD and that the RPA had insulted the council. On July 19, RPA suspended operations for 48 hours in a compromise with government authorities; however, on July 22, acting on orders from President Ndayizeye's office, police forcibly closed RPA and detained for several hours 10 RPA journalists. Following mediation efforts by several media organizations, the CNC authorized the station to resume broadcasting on July 27.

During the year the country's media associations and press freedom advocates accused the CNC of acting under the orders of the government and of preferring to punish journalists rather than promote press freedom.

Media outlets complained about having to pay licensing fees, which some said were an unnecessarily heavy financial burden; it was not clear whether these fees weakened the independent media.

The law criminalizes offenses, including defamation, committed by the media and provides for fines and criminal penalties of six months' to five years' imprisonment for the dissemination of insults directed at the president, as well as writings that are defamatory, injurious, or offensive to public or private individuals.

During the year there were no reports of government restrictions on the Internet or academic freedom.

In October the PALIPEHUTU-FNL threatened four RPA journalists for reports that they disseminated about the rebel group.

## b. Freedom of Peaceful Assembly and Association

### Freedom of Assembly

The constitution provides for freedom of assembly; however, the government at times restricted this right. The law requires permits for public meetings and demonstrations, and applications were sometimes denied to groups, including those that criticized or opposed the government.

Unlike in the previous year, the Confederation of Burundian Labor Unions (COSYBU) reported that the government did not deny its member trade unions the right to assemble and peacefully demonstrate during the year. However, COSYBU reported that the government denied it a role in the official May 1 labor holiday celebrations.

Unlike in the previous year, there were no reports that the government denied requests by PA Amasekanya to demonstrate.

Throughout the year government security forces dispersed demonstrations by the government-sponsored militia group GP, who were protesting the manner in which they were being demobilized. For example on August 9, the security forces dispersed GP protesters after the GP set up a roadblock in Matonga, in Kayanza Province. On October 3, security forces members beat some GP protesters in Bubanza and Cibitoke provinces. On October 11, security forces shot into the air to break up a GP protest in Bujumbura city.

#### Freedom of Association

The constitution provides for freedom of association; however, the government restricted this right in practice. Unlike in previous years, there were no reports that police arrested persons due to their membership in associations. Registration was required for private organizations and political parties. Private organizations were required to present their articles of association to the Ministry of Interior for approval. Unlike in the previous year, there were no reports that the government failed to complete the approval process for private organizations whose purposes the government opposed.

By year's end the government had released all 67 members of PA-Amasekanaya whom security forces had arrested between February and May of 2004 due to their membership in the group.

#### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

The government required religious groups to register with the Ministry of Interior, which kept track of their leadership and activities. Registration was granted routinely. The government required religious groups to maintain a headquarters in the country.

#### Societal Abuses and Discrimination

On June 16, members of the PALIPEHUTU-FNL killed 5 civilians taking part in a religious service in Bujumbura Rural Province, and at least 10 persons were wounded by grenades and gunfire.

There were no new developments in the October 2004 shooting of Catholic priest Gerard Nzeyimana by individuals who reportedly belonged to the PALIPEHUTU-FNL.

There were no new developments in the investigation of the 2003 killing of Papal Nuncio Michael Courtney.

The Jewish population was very small, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2005 [International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Immigration, and Repatriation

The constitution provides for these rights; however, the government restricted them in practice. The government continued to impose a curfew in parts of the country. During fighting between the FDN and the PALIPEHUTU-FNL, local populations were routinely displaced and their movements were restricted by checkpoints, violence, and the threat of violence. Unlike in previous years, security forces did not restrict humanitarian relief agencies' access to local populations. However, the government denied human rights observers access to some areas, such as some military camps (see section 4).

The law does not provide for forced exile, and the government did not use it; however, many persons remained in self-imposed exile in Belgium, Kenya, Tanzania, the Democratic Republic of the Congo (DRC), and elsewhere.

Following the February 28 constitutional referendum, there were several reports that Hutus threatened voters in Kirundo Province, causing hundreds to flee the country (see section 3).

Between January 1 and November 19, the Office of the UN High Commissioner for Refugees (UNHCR) facilitated the voluntary repatriation of approximately 65 thousand Burundian refugees who had previously fled to neighboring countries; in addition there were 1,444 refugees who spontaneously repatriated to the country. The repatriates, most of whom came from Tanzania and returned to the eastern provinces, often returned to find their homes destroyed, their land occupied by others, and/or their livestock stolen. Poor living conditions and a lack of food and shelter were problems for returnees during the year, although returnees did receive a six-month food ration and other forms of assistance from UNHCR during the repatriation process. During the year the UNHCR and the CNRS assisted in the resettlement and reintegration of refugees and internally displaced persons (IDPs). According to the UNHCR, as of September, an estimated 450 thousand Burundian refugees remained outside the country, mostly in Tanzania. According to a special report to the UN Security Council in September, the UN Secretary General said that the return of large numbers of refugees was likely to continue and that the government needed to continue to work towards the fair and equitable redistribution of land and a just resolution of land ownership issues.

#### Internally Displaced Persons

Civilians were regularly displaced as a result of fighting in Bubanza, Muramvya, and Bujumbura Rural provinces between the FDN and the PALIPEHUTU-FNL. For example between June 7 and 14, an estimated 23 thousand persons fled Bubanza Province because of fighting between the FDN and the PALIPEHUTU-FNL. According to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), clashes between the PALIPEHUTU-FNL and security forces caused temporary population displacements lasting from one day to three weeks.

Unlike in the previous year, timely relief was not denied to IDPs or other populations in need due to security conditions or security forces restrictions.

According to UNOCHA, as of September there were 117 thousand long-term IDPs living in 160 sites nationwide, the majority in Kayanza, Ngozi, Kirundo, Muyinga and Gitega provinces. The majority were Tutsis who were displaced by violence in 1993 and who never returned home. Soldiers and police provided a measure of protection to camp inhabitants. There were reports that IDP camp inhabitants sometimes were required to perform labor for soldiers without compensation.

On July 25, hundreds of long-term IDPs, representing more than 600 families, camped out in front of a government building in Bujumbura to demand land in a Bujumbura neighborhood that they claimed the government confiscated from them. Although the government said these IDPs had no documents to prove their ownership, the IDPs claimed that former President Pierre Buyoya granted them the land in a national radio address in 1997, after visiting them in Bujumbura's Kinama neighborhood. During the year the government parceled the land out to civil servants, and in July the government used bulldozers to destroy the IDPs' houses. In August the IDPs agreed to end their months-long protest after the government agreed to give them land in another part of the Kinama neighborhood. However, as of year's end the IDPs were still demanding a letter from the government that would document their ownership of the land.

### Protection of Refugees

The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The country is also a party to the Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa. The government has established a system for providing protection to refugees and granted refugee status and asylum. However, in thousands of cases during the year, the government did not provide protection against *refoulement*, the return to a country where refugees feared persecution. In early June the government declared that approximately seven thousand Rwandan asylum seekers, who had been arriving since February, were "illegal immigrants", following a joint decision by the governments of Burundi and Rwanda. Initially the government had accepted the Rwandans as refugees, but the Rwandan government accused Burundi of harboring persons suspected of participating in the 1994 Rwandan genocide and reportedly applied significant pressure on the government; one Rwandan minister said the asylum seekers were fugitives fleeing justice. From June 12 to June 14, the two governments conducted a forced repatriation of the asylum seekers from temporary sites in Ngozi, Muyinga, Kirundo, and Cankuzo provinces without an assessment of their claims. By September the government had forcibly repatriated at least 6,500 Rwandan asylum seekers from camps in northern Burundi, in cooperation with Rwandan authorities. In December the UNHCR reported there were approximately six thousand Rwandan asylum seekers in Burundi's northern provinces of Kirundo and Ngozi, many of whom had returned to Burundi after being refouled in June.

The government did not always cooperate with the UNHCR and other humanitarian organizations assisting refugees. In late May President Ndayizeye publicly threatened to expel the UNHCR and the ICRC and accused them of aiding Rwandan asylum seekers whom the government had denied refugee status; the president cited acute land and food shortages as part of his justification for not cooperating further with the organizations. The UNHCR, UNOCHA, ONUB, humanitarian organizations, and the diplomatic community undertook extensive efforts to prevent forced repatriations of refugees in June; however, the government largely ignored these appeals. In June the security forces denied the UNHCR access to the Songore transit site in the northern province of Ngozi during the forced repatriation of thousands of Rwandan refugees. However, in August the governments of Rwanda and Burundi signed an agreement with the UNHCR that laid the ground rules for the voluntary repatriation of thousands of Burundian refugees from Rwanda. In December the Norwegian Refugee Council began constructing a transit site in the Ngozi Province town of Musasa for the six thousand Rwandan asylum seekers who resided in Burundi at year's end, many of whom had fled Rwanda for a second time since having been forcibly repatriated to Rwanda in June. The government allowed the UNHCR to provide relief aid to these Rwandans, whom the UNHCR classified as asylum seekers.

As of year's end there were approximately 48,824 refugees residing in the country, in addition to at least 6 thousand resident asylum seekers. Of these, the UNHCR assisted more than 16,980. Many refugees were locally integrated into urban centers and did not stay in camps, although roughly 7,800 Congolese refugees were hosted in 2 camps.

During the year the government provided protection to certain individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol.

The Burundian and Rwandan authorities employed acts of intimidation, harassment, and violence to hasten the return of Rwandan asylum seekers, particularly during the forced *refoulement* of thousands of refugees in June. Unlike in the previous year, there were no reports that refugees were killed. According to the Rwandan interior minister, the PALIPEHUTU-FNL and the Rwandan rebel group Democratic Front for the Liberation of Rwanda recruited Rwandan asylum seekers in Burundi and took them to training centers, including centers in the Kabira Forest. On October 20, local authorities said that they could not protect the asylum seekers from Rwandan security forces near the Ngozi Province town of Gatsinda and urged them to move from Gatsinda to Mivo, another town in the same province. According to the UNHCR, approximately 15 members of Rwanda's security forces had been in the area of Gatsinda on the night of October 18, prompting the local authorities to make the declaration.

ONUB and the UN Organization Mission in the DRC (MONUC) continued their follow-up to the joint investigation into the Gatumba massacre of 152 Congolese Tutsi refugees in August 2004. The government had not published the results of its own investigation by year's end.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides the right for citizens to change their government peacefully, and citizens exercised this right in practice.

On February 28, following two postponements, citizens adopted a new constitution by referendum, with more than 90 percent of the population voting in favor; 92 percent of the almost 3 million voters who registered participated in the referendum. According to the country's Independent National Electoral Commission (CENI), the referendum took place peacefully, despite the presence of what CENI's chairman called "minor irregularities." Following the referendum there were several reports that certain groups of Hutus threatened to commit acts of reprisal against Kirundo Province voters, including members of the Twa minority (Pygmies), for supposedly voting "no" in the constitutional referendum. According to press reports, several hundred citizens, including 88 Twa, fled Kirundo to nearby Rwanda as a result of this intimidation.

#### Elections and Political Participation

On August 19, through an indirect ballot, citizens chose their first democratically elected president in more than 12 years, marking the end of the 4-year transition under the Arusha Peace and Reconciliation Agreement. The legislature elected the sole candidate, Pierre Nkurunziza of the CNDD-FDD, and he was sworn in as president on August 26. During the election, the PALIPEHUTU-FNL shelled Bujumbura with mortars.

On June 3, the country held communal elections in which voters chose 3,225 communal councilors (25 seats for each of the country's 129 communes). Formal local election observers, as well as members of the international diplomatic corps who observed informally, considered the communal elections generally free and fair. However, shootings attributed to the PALIPEHUTU-FNL and intimidation affected the polls in parts of Bujumbura Rural, Bubanza, and Cibitoke provinces. With improved security, by-elections were held in those areas on June 6. The CNDD-FDD won 55 percent of the communal seats, and voter turnout was above 80 percent. During the campaign period in May, smaller parties also accused the CNDD-FDD and other large parties who held key government and territorial administrative positions of violating the electoral code of conduct; they said the larger parties were using government vehicles and other government resources during their campaigns.

On July 4, the country held elections for the National Assembly, the lower house of the legislature. Electoral observers from the European Union judged these elections to be generally free and fair. In order to respect constitutional requirements regarding ethnic and gender quotas, an additional 18 members were co-opted after the elections. The CNDD-FDD won 64 National Assembly seats out of 118. FRODEBU won 30 seats, and UPRONA won 15 seats. The campaign prior to the National Assembly elections was tense and significantly marred by violence and intimidation (see section 1.a.). FRODEBU Secretary General Leonce Ngendakumana said unidentified assailants were attacking FRODEBU supporters across the country. Tensions between the CNDD-FDD and FRODEBU remained high during the campaign, and FRODEBU accused the CNDD-FDD of using "intimidation and terrorism" to win votes.

On July 29, the country held elections for the Senate, the upper house of the legislature, through an indirect process; international and local election observers deemed the elections free and fair. In each province, electoral colleges of communal councilors chose senators. The CNDD-FDD won 32 out of 49 seats.

The constitution provides that 60 percent of seats in the National Assembly be filled by Hutus, the majority ethnic group in the country, and 40 percent be filled by Tutsis, who constitute about 15 percent of the citizenry. In addition military posts are divided equally between Hutus and Tutsis.

During the year there were 35 recognized political parties. The CNDD-FDD, FRODEBU, and UPRONA were the largest political parties. The CNDD-FDD controlled most government positions.

The constitution reserves 30 percent of National Assembly seats and 30 percent of Senate seats for women. There were 37 women in the 118-seat National Assembly, including Nahayo Immaculee, who was elected speaker. There were 17 women in the 49-seat Senate. Women held 7 of 20 ministerial seats. The constitution requires that 30 percent of seats in the cabinet, as well as in other government bodies, be filled by women.

The law stipulates quotas to maintain ethnic balance in the government. Three members of the Twa ethnic group, which makes up less than 1 percent of the population, were appointed to the government body.

The National Assembly continued to refuse the demands of human rights groups that have called for the repeal of a provisional immunity law that the assembly approved in 2003. The law grants provisional immunity to political leaders who return from exile to take part in government institutions. The law covers "crimes with a political aim" committed from 1962 to the date of the law's promulgation.

#### Government Corruption and Transparency

The government remained subject to a culture of impunity, and widespread corruption remained a problem. Corruption was prevalent in the public and private sectors and affected numerous public services, including procurement, the granting of land use concessions, public health, and the assignment of school grades. A portion of the government's revenues and expenditures remained off-budget, allowing the government to use monies collected from taxes on such things as beer and gas to fund military expenditures. According to Transparency International's 2005 Corruption Perceptions Index, citizens perceived corruption to be a "severe" problem.

The second vice president, the Ministry of Good Governance, and the National Auditing Agency were charged with fighting corruption. The National Auditing Agency has questioned a former president, vice president, minister of finance, and the head of the central bank over alleged corruption concerning the payment of a roughly 4 million dollar (4.4 billion Burundian francs) government debt to the heirs of Belgian businessman Mojzesz Lubelski. There was an ongoing investigation at year's end.

The law does not provide for access to government information, and in practice information was difficult to obtain. The law does not allow the media to invoke the right to broadcast or publish information in certain cases relating to national defense, state security, and secret judicial inquiries. Human rights observers criticized the law for its application of poorly defined restrictions on the right to access and disseminate information; they said that vague prohibitions regarding official secrets could easily be used as a broad shield to hide corruption or other human rights abuses.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and international NGOs, including human rights groups, generally operated without government restrictions; unlike in previous years, the government did not restrict access for journalists, humanitarian workers, or human rights observers to areas of the country affected by fighting. However, human rights observers were not allowed to visit some government facilities, such as some military bases and prisons run by the government's intelligence service. Government officials cooperated with these groups by providing limited access to information and other resources.

Domestic human rights groups received varying degrees of cooperation from government ministries; at times the ministries provided them with information and facilitated visits to areas of interest. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from government harassment, indigenous NGOs in the countryside were more susceptible to government pressure. In addition security forces—even if willing—were unlikely to be able to protect NGO members from private reprisals. Although the government did not directly take action based on local NGO recommendations, local NGOs continued to engage in advocacy. The most prominent local human rights group, League Iteka, continued to operate and publish a newsletter. Unlike in the previous year, there were no reports of harassment of NGOs by security forces.

During the year authorities released local NGO employee Innocent Nzeyimana, whom CNDD-FDD combatants arrested in October 2004 and accused of siding with the PALIPEHUTU-FNL.

In October League Iteka released a report that urged the government to prosecute quickly security forces involved in extrajudicial executions, torture, and inhumane treatment. In September alone the military killed 11 civilians, according to the report. Iteka also criticized the government's denial of requests by human rights organizations and family members to gain access to persons being detained, some of whom were believed to have been tortured. A military spokesperson dismissed Iteka's claims as "groundless," saying the military had not killed any civilians.

The government did not always cooperate with the UN and international NGOs. During the year the president threatened to expel the UNHCR and the ICRC for aiding Rwandan refugees that the government had determined to be illegal immigrants (see section 2.d.). In addition according to a report by HRW that cited interviews with ONUB, the municipal police commissioner and various other authorities repeatedly denied ONUB human rights officers access to detainees (see section 1.c).

On November 4, HRW published a report entitled *Burundi: Missteps at a Crucial Moment*. The report called on the government to investigate and prosecute all cases of serious human rights violations committed by government officials, including security forces; to take all necessary measures—such as through training programs—to ensure that government officials and security forces respect citizens' human rights; and to allow ONUB human rights officers and representatives of human rights NGOs access to all prisons and detention facilities. Although the president called for an end to torture on November 3, there were no known actions taken by the government in response to the report.

The UN Office of the High Commissioner on Human Rights maintained a four-person observer team in the country. During the year UNOH had 40 international human rights observers in the country.

During the year the UN released reports that highlighted the government's failure to curb human rights violations. For example in its quarterly report covering April through June, ONUB described the frequency of human rights violations as increasing, especially in the provinces of Bujumbura Rural and Makamba. In a press conference in August, following the release of the report, the head of the ONUB human rights division said that no soldier had been prosecuted for violations detailed in the report because of a lack of cooperation by the military. A military spokesman denied the report's allegations and said ONUB's report was biased.

The UN secretary general published two special reports on ONUB and the human rights, humanitarian, and security situation in the country—one in May and one in September. The September report commended the government for adopting a post-transitional constitution, conducting several elections, concluding the transitional process, and making progress toward disarmament, demobilization, and reintegration of former combatants. The reports expressed concern over the country's culture of impunity and the continued military confrontations between the FDN and the PALIPEHUTU-FNL, as well the conflict's adverse impact on civilians. The report called for more progress on judicial reform and the transparent and accountable management of state revenues. The report deplored the government's failure to investigate serious violations committed by FDN members, who were frequently transferred to different locations and allowed to continue working following the commission of human rights violations. The report also detailed the poor conditions in the country's prisons and detention centers, and the government's failure to respect international law concerning the treatment of refugees and asylum seekers. There were no reports of action taken by the government in response to the UN reports.

On March 11, the UN released a report on the establishment of an International Commission of Judicial Inquiry and a National Truth and Reconciliation Commission. The UN, the government, and others were negotiating how to organize these bodies, which would bring to justice persons responsible for genocide, crimes against humanity, and war crimes committed in the country since it gained its independence in 1962. By year's end, neither the truth commission nor the judicial body had been established.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in

## Persons

The constitution provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, or opinion; however, the government failed to effectively implement these provisions, and discrimination and societal abuses persisted.

## Women

Domestic violence against women was common, although no credible statistics were available. Wives had the right to charge their husbands with physical abuse but rarely did so. The law does not specifically prohibit domestic violence; however, persons accused of domestic violence could be tried under assault provisions of the law. By year's end no known court cases had dealt with domestic abuse. Police normally did not intervene in domestic disputes, and the government rarely investigated cases involving violence against women. According to League Iteka, husbands beat their wives, forced them out of their homes, denied them basic food necessities, and denied freedom of movement.

The law prohibits rape, which is punishable by up to 20 years' imprisonment, but does not specifically prohibit spousal rape. The FDN and the PALIPEHUTU-FNL raped women during the year (see sections 1.c. and 1.g.). According to a 2003 Amnesty International report, domestic rape (outside the context of the conflict) was common. In 2004 Doctors without Borders (MSF) received an average of 125 rape victims each month at its center for rape victims in Bujumbura; however, MSF said the number of rapes was likely much higher. According to a UN agency, many rapes of young girls were committed during the year with the belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Information on rape has only recently begun to be recorded. Many women remained reluctant to report rape, including for cultural reasons and fear of reprisals. Few cases of rape were reported to the authorities, and according to a field officer at a MSF center in Bujumbura, only 10 to 15 percent of rape victims actually initiated legal proceedings. Many rape victims did not receive medical care due to the intimidation caused by cultural attitudes. Men often abandoned their wives following acts of rape, and women and girls were ostracized. In some instances police and magistrates reportedly ridiculed and humiliated women who alleged that they were raped; according to a UN agency, there were reports that some police required that victims provide food and pay the costs for incarceration of those they accuse of rape. Many of those who sought judicial redress faced the weaknesses of the judicial system, including many judges who did not regard rape as a serious crime, and a lack of medical facilities for gathering important medical evidence. In the limited number of cases that were investigated, successful prosecutions of rapists were rare.

Civil society and religious communities attacked the stigma of rape to help victims reintegrate into families that rejected them. League Iteka, APRODH, and ONUB continued to encourage women to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The government also raised awareness of the problem's extent through seminars and local initiatives on the kinds of medical care available.

The law prohibits prostitution; however, it was a problem. There were reports that soldiers and rebels sexually exploited women and young girls residing near military installations and rebel camps. According to a 2003 report by the Women's Commission for Refugee Women and Children, the ongoing conflict forced many women into prostitution to feed their children. Increased prostitution continued to contribute to the growing incidence of HIV/AIDS.

The law did not prohibit sexual harassment, but it could be prosecuted under public morality laws. There were no known prosecutions during the year.

Women faced legal and societal discrimination. Discriminatory inheritance laws, marital property laws, and credit practices continued. By law women must receive the same pay as men for the same work, but in practice they did not, and some enterprises cut salaries of women when they went on maternity leave. Women were far less likely to hold mid-level or high-level positions. In rural areas women performed most of the farm work, married and had children at early ages, and had fewer opportunities for education than men.

Several local groups worked in support of women's rights, including the Collective of Women's Organizations and NGOs of Burundi and Women United for Development.

## Children

The law provides for children's health and welfare, but the government could not adequately satisfy the needs of children, particularly the large population of children orphaned by violence since 1993 and by HIV/AIDS.

According to the Ministry of Education, the maximum age up to which public schooling was provided was 22. Schooling was compulsory up to age 12; however, in practice this was not enforced. The government traditionally provided primary school at nominal cost, but it was increasingly unaffordable due to the declining economy. Beginning in September primary school fees were abolished; however, students still had to pay for uniforms, textbooks, and other school materials. According to UNICEF, the net primary school enrollment/attendance rate was 48 percent for girls and 59 percent for boys. Sixth grade is the highest level of education attained by most children, with approximately 9 percent of girls and 12 percent of boys of secondary school age attending school, according to UNICEF.

The NGO Maison Shalom, which ran several centers for orphaned and other vulnerable children in different parts of the country, estimated that 60 percent of the country's school-age children were illiterate. Female illiteracy remained a particular problem. Approximately 40 percent of women were literate compared with 56 percent of men.

At his August 26 inauguration, incoming President Nkurunziza abolished all school fees; while this action made schooling available to hundreds of thousands of new students, it also led to an educational emergency involving overcrowded classrooms and teachers teaching

multiple shifts. More than 25 percent of primary schools were destroyed in the war, and many teachers were killed. Teacher training was interrupted, and it was difficult to find qualified teachers to work in some parts of the country. A study on the obstacles to girls' education, conducted in 2003 by the Forum of African Women Educationalists, found that unwanted pregnancies were, after poverty, the second highest cause of girls leaving school prematurely. It found that 28.4 percent of girls who dropped out of school did so because of pregnancies, many of which resulted from sexual violence.

In April in cooperation with the government, UN agencies launched a project intended to provide 300 thousand children in the country with a new vaccine to protect them against numerous diseases, including diphtheria, tetanus, hepatitis B, measles, and tuberculosis; the project was to be piloted in Makamba, Kirundo, and Muyinga provinces and later expanded to cover the entire country.

In October in cooperation with the government, UNICEF launched a campaign to support and protect tens of thousands of children living with or affected by HIV/AIDS. According to a survey cited by UNICEF that was carried out in 15 of the country's 17 provinces at the beginning of the year, 30 thousand children were living with HIV/AIDS.

During the year numerous cases of sexual violence among the population continued to be reported, with most victims being minors, according to a special report delivered to the UN Security Council by UN Secretary General Kofi Annan in September.

Child abuse occurred but was not reported to be a widespread problem.

There was a pattern of child marriage in the country during the year. The percentage of women between the ages of 20 and 24 who were married or in a union before 18 years of age was 17 percent, according to UNICEF statistics.

Trafficking of children was a problem.

Under the law the country's minimum age for military recruitment is 16, although the government stated that no one under 18 was recruited. According to a report by Maison Shalom, as of February approximately seven thousand children were serving as child soldiers in the security forces and various rebel groups. A joint government-UNICEF project demobilized 3,015 child soldiers from the government security forces as well as from former rebel groups by year's end. According to UNICEF, by year's end security forces were no longer using children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks. By year's end all members of the former rebel groups had either been demobilized or integrated into the government security forces.

The PALIPEHUTU-FNL continued to use and recruit child soldiers. During the last 2 weeks in May, the FDN arrested 100 child soldiers at various locations throughout the country who had been recruited by the PALIPEHUTU-FNL. According to a military spokesperson, the FDN arrested some children as they entered the country from the eastern region of the DRC, where they were undergoing military training. The FDN arrested other children in Bujumbura and the provinces of Bujumbura Rural, Bubanza, Kayanza, Muramvya, and Muyinga. The spokesperson said the majority were between 10 and 15 years old and that the PALIPEHUTU-FNL had recruited all of them after May, after the rebel group had signed a cease-fire agreement with the government. Reportedly, 22 of those arrested were turned over to the national demobilization campaign and were demobilized at year's end. It was unclear what happened to the other 78 children.

Child labor was a problem (see section 6.d).

According to a survey carried out in the beginning of the year and the director of Maison Shalom, at least 230 thousand children were HIV/AIDS orphans (had lost one or both parents to HIV/AIDS). The ongoing conflict and increasing prevalence of HIV/AIDS has increased the number of orphans, which has resulted in an increase in the number of street children. The total number of orphans in the country, including children who were orphaned by causes other than HIV/AIDS, was more than 970 thousand, according to the survey cited by UNICEF. According to the Ministry for National Solidarity, Human Rights, and Gender, there were approximately five thousand street children in the country by year's end. During the year there were reports that police periodically rounded up hundreds of street children and took them to a shelter in the Bujumbura neighbor of Kamenge to be assisted.

#### Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were reports of trafficking. Traffickers could be prosecuted under existing laws against assault, kidnapping, rape, prostitution, slavery, and fraud. During the year the government aggressively investigated and prosecuted the alleged trafficking of a woman from the DRC to Lebanon that occurred in 2003; however, the courts determined that it was a case of smuggling for domestic work. There were no other reports of prosecutions or convictions of traffickers during the year.

The Ministry for National Solidarity, Human Rights, and Gender was responsible for combating trafficking.

During the year Burundi was a source and transit country for children trafficked for the purpose of forced soldiering. There also were reports of coerced sexual exploitation of women by both government soldiers and rebel combatants. The trafficking of child soldiers by the PALIPEHUTU-FNL within the country was a problem (see section 5, Children).

The government supported public awareness campaigns and programs to prevent trafficking and continued to demobilize and provide assistance to former child soldiers from the FDN, GP, and six former rebel groups (see section 5, Children).

#### Persons with Disabilities

The constitution prohibits discrimination against those with physical or mental disabilities and there were no reports that the government failed to enforce this provision regarding employment, education, or access to healthcare. The government has not enacted legislation or otherwise mandated access to buildings or government services such as education for persons with disabilities, and this was due in part to a lack of government resources to ensure access to buildings and services. Unlike in the previous year, there were no reports that discrimination against persons with disabilities was a problem, or that there were few job opportunities for persons with physical disabilities.

#### National/Racial/Ethnic Minorities

The Tutsis, particularly southern Tutsis from Bururi Province, historically have held power, dominated the economy, and controlled the security forces.

Discrimination against Hutus, who constituted an estimated 85 percent of the population, continued to affect every facet of society, most strikingly in higher education. Discrimination against Hutus that was prevalent in certain branches of the government decreased following the February 28 adoption of a new constitution requiring ethnic quotas on representation within the government and in the military, and following July and August elections during the year in which Hutus significantly increased their presence and power in the government.

#### Indigenous People

The Twa (Pygmies), who were believed to be the country's earliest inhabitants, comprised approximately 1 percent of the population and generally remained economically, socially, and politically marginalized. Following the February 28 constitutional referendum, there were several reports that Hutus threatened members of the Twa causing scores of them to flee the country (see section 3). Most Twa lived in isolation, without formal education and without access to government services, including health care and the judicial system. A 2004 Refugees International report noted that the popular perception of the Twa as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

Unlike in the previous year, there were no reports that authorities burned Twa homes during the year.

#### Other Societal Abuses and Discrimination

The constitution specifically outlaws any discrimination against those with HIV/AIDS or other incurable illnesses, and there were no reports of government-sponsored discrimination against such individuals.

The constitution bans marriage between individuals of the same sex. According to a local law professor, this same-sex marriage ban, given cultural attitudes, constitutes a legal prohibition of homosexuality. Societal discrimination against homosexuals was widespread, although they maintained a very low profile.

#### Section 6 Worker Rights

##### a. The Right of Association

The Labor Code protects the right of workers to form and join unions, and although most workers exercised this right in practice, the army, gendarmerie, and foreigners working in the public sector were prohibited from union participation. The Labor Code does not address state employees and magistrates. According to COSYBU, private sector employers systematically worked to prevent the creation of trade unions, and the government failed to protect private sector workers' rights in practice.

According to COSYBU, less than 10 percent of the formal private sector workforce was unionized, and roughly 50 percent of the public sector was unionized. Most citizens worked in the unregulated informal economy, in which workers had little or no legal protection of their labor rights.

Unlike in previous years, the government did not deny trade unions the right to assemble and peacefully demonstrate during the year.

On June 3, security agents prevented General Secretary of COSYBU Pierre Claver Hajayandi from boarding a plane at the Bujumbura airport and confiscated one of his passports. According to the International Confederation of Free Trade Unions (ICFTU), Hajayandi was forced to go into hiding to avoid being arbitrarily detained by authorities. Hajayandi intended to attend an annual labor rights conference held by the International Labor Organization when he was stopped at the airport. Because Hajayandi had two passports, he was able to reach Geneva. After President Ndayizeye's term ended, Hajayandi returned to the country and the issue was resolved.

The Labor Code prohibits antiunion discrimination, and aside from some exceptions, the government generally respected this right in practice in the public sector. However, according to the ICFTU, the government often failed to protect workers in the private sector from discrimination by employers. In cases where employers dismiss employees because of their union affiliation, the Ministry of Labor can order an employee reinstated. If the employer fails to comply, the ministry refers the case to the labor court, which makes a determination of the severance pay and indemnification that the employer must pay.

During the year, after the government received advance notice of an impending strike by workers at the National Statistics Institute, the government fired one union leader and suspended six others. All seven were reinstated by year's end.

#### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The Labor Code recognizes the right to collective bargaining; however, wages are excluded from the scope of collective bargaining in the public sector. In practice collective bargaining was freely practiced. There are no export zones.

Since most workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both COSYBU and the Confederation of Free Unions in Burundi represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions.

The Labor Code provides workers with a conditional right to strike, and workers exercised this right in practice. All other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the government; and six days' notice must be given. The Ministry of Labor must determine if strike conditions have been met. The Labor Code prohibits retribution against workers participating in a legal strike.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that it occurred (see section 5). During the year there were reports that security forces continued to use persons, including children, to perform menial tasks without compensation. A 2003 UNICEF survey found that 640 thousand children in the country had been forced to work.

The PALIPEHUTU-FNL forced rural populations to perform uncompensated labor, such as the transport of supplies and weapons, and recruited children for labor (see section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The Labor Code states that children under the age of 18 cannot be employed by "an enterprise," except for the types of labor the Ministry of Labor determines to be acceptable, which include light work or apprenticeships that do not damage their health, interfere with normal development, or prejudice their schooling. However, child labor remained a problem. Children under the age of 16 in rural areas regularly performed heavy manual labor in the daytime during the school year. According to the ICFTU, the vast majority of children in the country worked during the year.

Children were legally prohibited from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector. Child labor also existed in the mining and brick-making industries. The use of child soldiers and child prostitution continued to be problems (see section 5).

The Ministry of Labor enforced labor laws only when a complaint was filed.

During the year international organizations, a few NGOs, and labor unions engaged in efforts to combat child labor; efforts included the campaign to demobilize child soldiers and changing the law during the year to raise the minimum age for workers from 16 to 18.

#### e. Acceptable Conditions of Work

The legal minimum wage for unskilled workers continued to be \$0.15 (160 Burundian francs) per day, which did not provide a decent standard of living for a worker and family. Most families relied on second incomes and subsistence agriculture to supplement their earnings.

The Labor Code stipulates an 8-hour workday and a 45-hour workweek, except where workers were involved in activities related to national security; however, this stipulation was not always enforced in practice. Supplements must be paid for overtime. Alternative work schedules were negotiable.

The Labor Code establishes health and safety standards that require safe workplaces. Enforcement responsibility rests with the Minister of Labor, who was responsible for acting upon complaints; however, there were no reports of complaints filed with the ministry during the year. Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment.

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