



## Burundi

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### Country Reports on Human Rights Practices - 2004

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Burundi is a republic with a Transitional Government established in November 2001, under the Arusha Peace and Reconciliation Agreement (Arusha Agreement). In April 2003, Domitien Ndayizeye, a member of the Hutu ethnic group, succeeded Pierre Buyoya, a member of the Tutsi ethnic group, as President. The Arusha Agreement obliged the Transitional Government to hold local and national elections before November 1; however, by year's end, no elections had been held. On October 18, the National Independent Electoral Commission (CENI) proposed to delay national and local elections until 2005 for technical reasons. On October 20, the Transitional Government approved an interim constitution that allowed the Transitional Government to remain in power until a referendum on a post-transition constitution was held. By year's end, the CENI announced that a referendum on the draft post-transition constitution, scheduled for December 22, would be delayed, and a date had not been set.

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. Government forces were aided in this conflict by fighters of the National Council for Defense of Democracy—Forces for the Defense of Democracy (CNDD-FDD), a former rebel group. The security situation improved markedly in most parts of the country after the CNDD-FDD joined the Transitional Government in November 2003. However, in Bujumbura Rural Province, which surrounds the capital and was the stronghold of the PALIPEHUTU-FNL, fighting continued. Human rights violations resulting from the conflict continued to occur, primarily in Bujumbura Rural. The judicial system continued to be corrupt, subject to political manipulation, and inefficient.

The security forces were controlled by the Transitional President, and consisted of the Burundian Armed Forces (FAB) and the gendarmerie under the Ministry of Defense, police under the Ministry of Public Security, and the intelligence service under the presidency. The Ministry of Defense reduced the role and numbers of the Guardians of the Peace (GP), armed paramilitary civil defense units. CNDD-FDD forces created de facto parallel police forces and administrations in parts of the country and operated with significant autonomy. On June 1, the U.N. Operation in Burundi took over the international peacekeeping function from the South African-led African Union Mission to Burundi.

The country's U.N.- and World Bank-supported process to disarm, demobilize, and reintegrate former soldiers and former rebels began in December. By year's end, a total of approximately 3,300 former soldiers, as well as approximately 2,900 child soldiers, had been demobilized.

Civilian authorities did not maintain effective control of the security forces, including the CNDD-FDD. Members of the security forces, including the CNDD-FDD, committed numerous serious human rights abuses.

The country, which by World Bank estimates had a population of 7.2 million, was extremely poor. The majority of the population was dependent on subsistence agriculture. The Transitional Government controlled the price of some commodities and the rates of exchange; however, it took steps to reduce the difference between the official and parallel exchange rates. The public sector, including government-owned enterprises, dominated the small formal section of the economy. The armed conflict caused severe economic disruption, and internally displaced persons (IDPs) were dependent on international humanitarian assistance. The country's gross domestic product was \$669.2 million in 2003, according to the World Bank. Wages did not keep pace with inflation. An estimated 8.3 percent prevalence rate of HIV/AIDS continued to place a burden on the country's resources through rising medical expenditures, absenteeism from work, labor shortages resulting from morbidity and mortality, and training of replacement labor.

The Transitional Government's human rights record remained poor, and the Transitional Government continued to commit numerous serious human rights abuses. Citizens did not have the right to change their government. Security forces, including the CNDD-FDD, continued to commit numerous arbitrary and unlawful killings, including killings of unarmed civilians, many of whom were killed during reprisal attacks on

those suspected of cooperating with the PALIPEHUTU-FNL. There were credible reports of disappearances, and security forces continued to torture, beat, rape, and otherwise abuse persons. Prison conditions remained harsh and sometimes life threatening. Impunity and the continuing lack of accountability for those who committed past abuses remained serious problems. Arbitrary arrest and detention, and lengthy pretrial detention were problems; there were also credible reports of incommunicado detention. The court system did not ensure due process or provide citizens with fair trials. The Transitional Government infringed on citizens' privacy rights. The Transitional Government restricted the freedoms of speech, association, and movement, and at times it restricted the freedoms of press and assembly. Since 1993, the civil war caused thousands of civilian deaths and massive internal population displacement. Corruption was a serious problem. The armed forces sometimes limited access to certain areas by human rights observers, citing security conditions. Violence and discrimination against women continued. The continued use of child soldiers was a problem; however, the Transitional Government and all former rebel groups demobilized child soldiers throughout the year. Trafficking in persons was a problem. Discrimination against persons with disabilities and indigenous Twa populations remained problems. There was also a disproportionate number of Tutsis in state institutions. Societal discrimination between Hutus and Tutsis continued along with incidents of ethnically motivated conflict. Child labor, including forced labor, was a problem. Mob killings were a problem.

The PALIPEHUTU-FNL also continued to commit numerous serious human rights abuses against civilians, including killings, kidnappings, rapes, theft, extortion, the forcible recruitment and employment of children as soldiers, and 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

Unlike in the previous year, there were no reports that security forces committed political killings; however, security forces committed unlawful killings of civilians during the year.

At year's end, six of the seven individuals accused in the 2001 killing of Kassi Manlan, including Colonel Gerard Ntunzwenayo, remained in jail and their trial was ongoing. No action had been taken against the seventh, Commander Sylvestre Hakizimana. At year's end, police held in custody another man allegedly involved in the killing. Two other individuals accused of having taken part in the killing had disappeared; however, the Attorney General told the court that they were being held in a safe place for security reasons.

The FAB regularly committed unlawful killings, often with impunity, of Hutu and Tutsi civilians following fighting with rebels, in reprisal for rebel attacks, and for suspected collaboration with rebels (see Section 1.g.).

League Iteka reported that on February 21, a FAB soldier reportedly killed Melchiade Basingwa and his wife in Kiremba Commune, Ngozi Province, and stole approximately \$280 (300,000 Burundian francs). The soldier was arrested on March 15 and held for interrogation. At year's end, it was unknown if he was still in detention.

There were no developments in the February 2003 killing of Abraham Nshirimana, allegedly by FAB soldiers.

During the year, there were reports that suspects were killed while in the custody of security forces and the CNDD-FDD. For example, League Iteka reported that on May 6, in Bujumbura city's Kanyosha Zone, the local gendarmerie reportedly shot and killed a bicycle taxi operator who was in custody. There had been no investigation into the killing at year's end.

On August 13, members of the CNDD-FDD detained and beat to death Albert Ntahomvukiye in Mutimbuzi Commune, Bujumbura Rural province. Ntahomvukiye's son was beaten until he was unable to walk. League Iteka reported that the CNDD-FDD suspected them of collaborating with the PALIPEHUTU-FNL.

League Iteka reported that on September 20, the corpse of an alleged thief who had been in FAB custody was found near a FAB position in Bugabira Commune, Ngozi Province. There were no reports that action was taken against persons responsible for the alleged killing.

There were no developments in the June 2003 torture death of FAB soldier Mathias Nkurunziza.

Civilians were killed during fighting between government and rebel forces, and women died as a result of being raped (see Section 1.g.).

There continued to be reports of deaths and injuries caused by landmines laid by both government and rebel forces.

Although very few exact figures were available, there were numerous political killings by unidentified assailants during the year. For example, Bujumbura Rural Province Governor Ignace Ntawembarira reported that 38 local government officials were killed in the province during the year.

According to League Iteka, on September 8, in Kayanza Province, seven armed men in military uniforms killed CNDD-FDD Gatara Commune representative Sebastien Bamporubusa, severely tortured the Karurusi colline chief, and amputated the fingers of one of Bamporubusa's neighbors.

There were no developments in the following 2003 killings by unknown assailants: The February killing of Leonard Masengo; the May killing of Jean Nkurukiye; the September killing of Raphael Nzinahora; or the November killing of World Food Program official Philbert Nsengiyumva.

There were reports that the GP committed killings, rapes, and armed robberies during the year.

The PALIPEHUTU-FNL rebels killed numerous persons during the year and committed serious abuses against the civilian population, including a massacre of refugees in August (see Section 1.g.).

Killings by bandits were a serious problem during the year, particularly by year's end. In November, a U.N. spokesperson told the press that between 6 and 10 persons were dying every day as a result of acts of banditry.

There were numerous reports during the year of mob violence, lynchings, and the killing of suspected witches. For example, League Iteka reported that on February 12, a mob killed Nephtalie Sindayihebura, whom the local population accused of being a witch, in Rumonge Commune, Bururi Province.

League Iteka also reported that on February 28, the local population of Rugombo Commune, Cibitoke Province, lynched an individual accused of using witchcraft to paralyze and kill a local youth.

On April 9, a mob stoned to death a man accused of injecting persons in the markets of Kayanza Province with the HIV/AIDS virus. In August, there were several similar reports that mobs killed individuals accused of injecting persons with poison.

During the year, the local press reported numerous incidents in which individuals threw hand-grenades into bars or other public gathering places, resulting in deaths and injuries. For example, on April 14, in Kirundo Province, four men were killed in a pub after an unidentified individual threw a grenade into the establishment.

On July 10, in Rutana Commune, Rutana Province, two persons were killed and 19 wounded after an unidentified individual threw a grenade into a wedding reception.

#### b. Disappearance

Although precise numbers were unavailable, there were frequent reports of kidnappings during the year; however, there were no reports of politically motivated kidnappings.

For example, League Iteka reported that on July 7, members of the CNDD-FDD kidnapped a man, his wife, and two others in Kanyosha Commune, Bujumbura Rural Province. At year's end, it was unknown if they were still being held.

The PALIPEHUTU-FNL was reportedly responsible for many disappearances during the year.

For example, on February 15, unidentified assailants kidnapped six persons in Ndava Commune, Mwaro Province, according to League Iteka. They have not been found or released.

League Iteka reported that on March 10, members of the PALIPEHUTU-FNL kidnapped and held for ransom the Mutambu Zone Chief, whom they reportedly suspected of passing information to the FAB. The Chief was later released.

On September 14, members of the Rwandan Interahamwe militia group took nine individuals hostage in the

Kibira forest, Cibitoke Province. According to League Iteka, they were released after 3 weeks and at least two of the hostages reportedly paid a ransom of \$180 (194,000 Burundian francs).

There were no developments in the 2002 disappearance of two persons in Buhonga, Bujumbura Rural Province.

Unlike in the previous year, there were no reports that children were kidnapped by rebels and then used as child soldiers.

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

The Transitional Constitution prohibits such practices; however, members of the security forces continued to torture and otherwise abuse persons.

Throughout the year multiple credible sources reported that the CNDD-FDD set up illegal detention and torture centers across the country, including at least five in Bujumbura.

League Iteka reported that members of the security forces and CNDD-FDD members beat and tortured civilians and detainees throughout the year.

On February 17, in Nyambuye Zone, Bujumbura Rural province, members of the CNDD-FDD detained and tortured numerous individuals, several of whom were reportedly hospitalized; some young girls and women were raped (see Section 1.g.).

On April 14, two FAB soldiers in Mutambu Commune, Bujumbura Rural province, detained Judge Gaspard Gahungu, stole \$45 (48,000 Burundian francs) and a mobile phone, and beat him until he lost consciousness.

In April, members of the CNDD-FDD arrested many residents of Mutimbuzi Commune, Bujumbura Rural province, took them to detention center, beat them, forced them to spend the night in a trough filled with water, and later forced them to drink that water.

On September 29, in Mutimbuzi Commune, Bujumbura Rural province, CNDD-FDD members detained a 13-year-old student and four others, took them to a local CNDD-FDD garrison, and beat them with rods and batons until they could no longer walk. According to League Iteka, the five were accused of knowing members of the PALIPEHUTU-FNL.

There were no new developments in the July 2003 torture of Emmanuel Niyongabo by the Public Security Police and Ezechial Ncitiyinalaba by security forces, or in the December 2003 torture of suspected witches by members of the CNDD-FDD.

Although precise figures remained unavailable, there were frequent reports that members of the FAB and the CNDD-FDD raped women with impunity (see Section 1.g.). For example, according to League Iteka, on June 1, a FAB soldier raped a 6-year-old girl in Bubanza province. On June 29, again in Bubanza province, two men in military uniforms raped a 12-year-old girl. The soldiers' superiors took no action in either case.

League Iteka reported that on July 21, in Mwaro province, a FAB officer, Justin Nitunga, raped a 13-year-old girl. There was no official investigation of this case.

There were frequent reports that PALIPEHUTU-FNL members raped women (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 landmines laid by government and rebel forces.

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. The Transitional Government provided sufficient food, and families were permitted to supplement prisoner rations.

According to the Ministry of Justice, during the year, 7,568 inmates were held in facilities built to accommodate a maximum of 3,650 persons. Of this number, 2,728 were serving sentences, and 4,798 were pretrial detainees. Human rights NGOs lobbied the Transitional Government during the year for the release of prisoners who were held for long periods of time without charge. Between January and September, the Transitional Government released over 400 of these prisoners and had set up a

commission to review the cases of pre-trial detainees.

On July 30, over 400 gendarmes stormed Mpimba prison in Bujumbura to quell a prison strike that was launched on July 19 by self-proclaimed political prisoners who demanded amnesty under the terms of the Arusha Agreement. According to press reports, the gendarmes used teargas to break up the strike, and at least four prisoners were wounded.

According to the Ministry of Justice, women were detained separately from men. During the year, there were 135 children in prisons, of whom 42 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 Transitional Government permitted visits by international and local human rights monitors. NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water.

The ICRC was allowed access to prisoners and detained persons, including persons detained for "reasons relating to the conflict," and conducted visits regularly during the year.

#### d. Arbitrary Arrest or Detention

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

Impunity for those who committed serious human rights violations, and the continuing lack of accountability for those who committed past abuses, remained key factors in the country's continuing instability. The security forces did not always cooperate with civilian prosecutors or magistrates, including in investigations involving members of the security forces. Members of the GP were unpaid and poorly trained. Unlike in the previous year, there were no reports that members of the GP were coercively recruited. Corruption, abuse of the criminal code's standards on the duration of detentions, and mistreatment of prisoners remained problems.

The law requires arrest warrants, and presiding magistrates were authorized to issue them. Police and gendarmes 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, and the requirement that detainees be charged and appear in court within 7 days of their arrest was violated routinely. A magistrate could order the release of suspects or confirm charges and continue detention, initially for 15 days, then subsequently for periods of 30 days, as necessary to prepare the case for trial. The police were required to follow the same procedures as magistrates; however, the police have regularly detained suspects for extended periods without announcing charges, certifying the cases, or forwarding them to the Ministry of Justice as required. Multiple credible sources reported that incommunicado detention existed, although the law prohibits it. Bail was permitted in some cases.

There were numerous arbitrary and some politically motivated arrests, including some demonstrators, labor officials, and local NGO employees (see Sections 2.a., 2.b., and 4).

Many of the persons arrested on criminal charges since 1993 remained in pretrial custody. According to the Ministry of Justice, 4,798 prisoners were awaiting trial. There were 400 communal lockups where those who were arrested were supposed to be held no longer than 1 week; however, in practice, detainees were regularly kept in these facilities for much longer periods of time. Family members were required to provide all food for these detainees. Once detainees were transferred to larger detention facilities, the Government provided food.

#### e. Denial of Fair Public Trial

The Transitional Constitution provides for an independent judiciary; however, in practice 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; however, in practice 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 of law. All trials were conducted before a jury. Defendants, in theory, are presumed

innocent and have a right to counsel and to defend themselves; however, in practice, few had legal representation. 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. According to the law, 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; however, 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 Transitional Government officially recognized the traditional system of communal arbitration, which functioned under the guidance of elders, the "Bashingantahe," and which 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 under this system.

The law provides for an independent military court system, which in practice was influenced by the executive and higher ranking military forces. Courts of original jurisdiction for lower ranking military offenders were called "War Councils," and one existed in each of the 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. 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; however, they could be closed for compelling reasons, such as national security or "scandalous accusations against prominent people."

Procedures for civilian and military courts were similar; however, military courts reached decisions more quickly, and trials generally failed to meet internationally accepted standards for fair trials. In addition, defendants in military courts are allowed only one appeal.

The detention of political prisoners remained a problem during the year. Local human rights NGOs claimed that the Government held approximately 4,000 political prisoners during the year. However, the Government stated that there were no political prisoners and that each person in detention had been convicted of a specific crime. Charges against defendants convicted for nonpolitical crimes sometimes were politically motivated.

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

The Transitional Constitution provides for the right to privacy; however, these rights were not respected in practice. Authorities rarely respected the law requiring search warrants. It was widely believed that security forces monitored telephones.

There were numerous reports during the year that the FAB and CNDD-FDD 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 Violations of Humanitarian Law in Internal and External Conflicts

The ongoing conflict in Bujumbura Rural province resulted in numerous serious abuses against the civilian population by government and rebel forces; generally no actions were taken against perpetrators. The FAB and CNDD-FDD 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. Security forces prevented international humanitarian aid agencies and human rights observers from reaching some areas of the country (see Section 2.d.).

While no definitive countrywide casualty figures were available, reports from media and NGOs estimate that more than 250,000 persons, mostly civilians, have been killed in conflict-related violence since 1993. Much of the unlawful killing and property destruction during the year was concentrated in Bujumbura Rural province, which was the scene of continuing fighting between the FAB and CNDD-FDD on one side, and the PALIPEHUTU-FNL on the other.

There were numerous reports that FAB forces deliberately killed civilians during the conflict. For example, on March 29, FAB soldiers killed a man who refused them entry into his home in Mutimbuzi Commune, Bujumbura Rural province, while they were searching the area for PALIPEHUTU-FNL rebels.

League Iteka reported that on April 27, in Kabezi Commune, Bujumbura Rural province, FAB soldiers killed four IDPs after fighting occurred in the area between FAB and PALIPEHUTU-FNL forces.

According to League Iteka, on June 8, FAB soldiers killed two civilians and wounded three others that they suspected of having contacts with PALIPEHUTU-FNL members.

There were numerous reports that FAB forces killed civilians indiscriminately as a result of the conflict. For example, League Iteka reported that on January 26, FAB soldiers began firing into the marketplace in Mutambu Commune, killing six civilians. The soldiers reportedly opened fire after the PALIPEHUTU-FNL killed two FAB soldiers in the marketplace.

According to HRW, on March 16, during fighting between FAB soldiers and PALIPEHUTU-FNL rebels, FAB soldiers indiscriminately fired mortars into a crowd of fleeing civilians in Kabezi Commune, Bujumbura Rural Province. No additional information was available by year's end.

On May 29, FAB soldiers killed 23 persons in Kabezi Commune, Bujumbura Rural Province; at least 1 of the victims was raped prior to being killed.

CNDD-FDD soldiers operating in Bujumbura Rural Province, in cooperation with the FAB, were also accused by human rights organizations of killing civilians. According to HRW and local NGOs, one tactic the CNDD-FDD regularly employed was to search local areas for persons not known by the areas' inhabitants, or to search for wounded individuals, and to summarily execute them under suspicion of belonging to the PALIPEHUTU-FNL.

According to Human Rights Watch (HRW), on September 16, in Mutamba Commune, Bujumbura Rural Province, CNDD-FDD and FAB soldiers forced the local population to undress to inspect them for alleged battle-related injuries. One man, who was discovered to have wounds, was summarily executed.

According to the U.N. Office of the High Commissioner for Human Rights (UNOHCHR) and NGOs, soldiers and rebels used rape as a weapon of war. From January to May, Search for Common Ground reported 267 rapes, 54 of which were attributed to the security services and a significant number to the PALIPEHUTU-FNL.

On February 17, while searching for PALIPEHUTU-FNL members in Nyambuye Zone, Bujumbura Rural Province, members of the CNDD-FDD raped girls as young as 7 years old and several women, at least two of whom died from their injuries.

League Iteka reported that members of the CNDD-FDD raped a mother and her daughter in the Gatumba Zone of Bujumbura Rural Province in mid-April.

On April 30, six members of the CNDD-FDD raped a 22-year-old resident of Kamenge Zone in Bujumbura. The UNOHCHR reported that although the identities of the rapists were known, no action was taken to investigate this crime.

In February, FAB troops reportedly stole \$50,000 (54 million Burundian francs) worth of non-food humanitarian assistance from approximately 4,000 families.

The CNDD-FDD also reportedly pillaged houses throughout the year in Bujumbura Rural Province. During one operation that began on February 17, elements of the CNDD-FDD looted over 2,000 homes in Nyambuye Zone, Bujumbura Rural Province.

On September 6, members of the CNDD-FDD, who were searching for PALIPEHUTU-FNL members or sympathizers, looted approximately 15 houses in the Kanyosha Zone of Bujumbura and beat the owners of the houses, according to League Iteka.

No actions were taken against members of the security forces or CNDD-FDD responsible for abuses reported in 2003 or 2002.

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

During the year, security forces restricted access by humanitarian organizations to parts of Bujumbura Rural Province; although authorities said insecurity in those areas made delivery of aid impossible, commercial traffic was sometimes not restricted.

Security forces and former rebel groups continued to have child soldiers in their ranks; however, during the year, the Government and former rebel groups removed child soldiers from combat units and demobilized many of them by year's end (see Section 5).



There were numerous 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 reported numerous incidents where the PALIPEHUTU-FNL killed civilians for supposedly cooperating with the FAB or the CNDD-FDD. For example, on March 31, in Mubimbi Commune, Bujumbura Rural Province, PALIPEHUTU-FNL members killed two men suspected of collaborating with the CNDD-FDD.

On June 1, PALIPEHUTU-FNL members in Muhuta Commune, Bujumbura Rural Province, killed Violette Nzitonda because her husband was a member of the CNDD-FDD.

On July 26, PALIPEHUTU-FNL members killed Paul Ndabanukiye for allegedly passing information to security forces in Nyambuye Zone, Bujumbura Rural Province.

The PALIPEHUTU-FNL claimed responsibility for the August 13 massacre of refugees from the Democratic Republic of the Congo (DRC) at the UNCHR-operated transit camp for refugees at Gatumba in Bujumbura Rural Province. The PALIPEHUTU-FNL claimed they were attacking armed individuals; however, 152 refugees, many of them women and children, were killed in the attack. Other armed groups may have been involved in the attack. In October, a team of U.N. experts submitted a report to the U.N. Secretary General regarding their investigation of the massacre (see Section 4).

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

Throughout the year, members of the PALIPEHUTU-FNL were reported by League Iteka to have raped civilians.

League Iteka reported that the PALIPEHUTU-FNL looted homes throughout the year. For example, on May 26, in Gihanga Commune, Bubanza Province, PALIPEHUTU-FNL members pillaged over 40 homes.

There were no reports that rebel forces prosecuted or punished members who were responsible for abuses.

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

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Transitional Constitution provides for freedom of speech and of the press; however, in practice, the Transitional Government restricted freedom of speech, and although respect for freedom of the press improved during the year, the Government at times limited this right. Unlike in the previous year, the Transitional Government did not arrest, harass, or detain journalists. However, the Transitional Government suspended the operations of one Internet news sheet, AGINFO, for 7 days and issued warnings to three other media groups. At times, the Transitional Government and security forces prevented journalists from going to rural areas where crimes occurred, making it difficult to gather information about perpetrators or victims. Journalists practiced self-censorship. During the year, there were no reports that the Transitional Government restricted academic freedom.

The Government restricted freedom of speech through arrests and intimidation. On June 24, the state prosecutor summoned Sangwe-Pader party chairman Leonidas Havyarimana for interrogation regarding statements he had made on the radio. Havyarimana, citing parliamentary immunity, disregarded the summons.

On September 24, police arrested COSYBU labor confederation president Pierre Claver Hajayandi and COSYBU treasurer Celestin Nsavyimana after they criticized the Transitional Government in an address to workers. The intelligence service detained the two men until September 30. In addition, the intelligence service confiscated COSYBU's computers.

On October 11, the state prosecutor questioned UPRONA party chairman Jean Baptiste Manwangari for allegedly insulting the president.

The Transitional Government controlled the major media. The Transitional Government owned the only daily newspaper, the country's only television station, and two radio stations, and exercised strong editorial control. The government-owned newspaper *Le Renouveau* was published daily. There were six private



weekly publications and eight private Internet and fax-based news sheets.

Radio remained the most important medium of public information. The government-owned radio broadcast 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 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, there were no reports that security forces arrested or harassed journalists.

The Transitional Government continued to restrict, through direct and indirect means, reporting on the country's internal conflict. For example, on July 14, the Transitional Government suspended the news sheet AGINFO for 7 days for issuing a report alleging that South African peacekeepers were supplying arms to the PALIPEHUTU-FNL and an article claiming that there were signs of a genocide in the country. On the same day, the Transitional Government issued warnings to the news sheet NETPRESS, as well as to the radio stations Bonesha FM and RPA.

Unlike in the previous year, there were no reports that the Transitional Government suspended radio stations.

During the year, the Government used prohibitive licensing and rent fees to weaken the independent media.

A media law adopted in November 2003 provides for fines and criminal penalties of 6 months' to 5 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. Human rights observers criticized the law as a tool to intimidate and censor the media.

Following the passage of a November 2003 press law, newspapers were no longer required to have articles reviewed by the Transitional Government before their publication.

According to the British Broadcasting Corporation, as a result of government pressure, journalists continued to practice self-censorship.

The Transitional Government did not restrict access to the Internet during the year.

During the year, there were no reports that the Transitional Government limited academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Transitional Constitution provides for freedom of assembly; however, the Transitional Government at times restricted this right in practice. The law requires permits for public meetings and demonstrations, and applications were sometimes denied to groups, including those that criticized or opposed the Transitional Government. There were fewer reports that such applications were denied during the year.

The COSYBU labor confederation reported that the Transitional Government often denied its member trade unions the right to assemble and peacefully demonstrate during the year.

During the year, the Transitional Government denied requests by PA Amasekanya, a hard-line Tutsi movement, to demonstrate on several occasions.

During the year, security forces also broke up meetings and demonstrations, including political demonstrations. For example, on August 18, security forces used tear gas to break up a street demonstration led by refugees from the DRC protesting the massacre of refugees at Gatumba. Some protestors were arrested; however, all were released by year's end.

No action was taken against security forces responsible for using excessive force during demonstrations and marches in 2002.

The Transitional Constitution provides for freedom of association; however, the Transitional Government restricted this right in practice and arrested members of organizations (see Sections 4). 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; however, the Transitional Government routinely failed to complete the approval process for private organizations whose purposes the Transitional Government opposed. In November, U.N. representatives expressed concern over the Transitional

Government's delay in registering former rebel groups as political parties.

From February 22 to May 2, approximately 67 members of PA-Amasekanya, a hard-line Tutsi movement, were arrested because of their membership in a pro-Tutsi militia group, according to PA Amasekanya and allied groups. At year's end, some members were still in detention.

#### c. Freedom of Religion

The Transitional Constitution provides for freedom of religion, and the Transitional Government generally respected this right in practice.

The Transitional Government required religious groups to register with the Ministry of Interior, which kept track of their leadership and activities. The Government required religious groups to maintain a headquarters in the country.

On July 12, Dieudonne Hakizimana, a PALIPEHUTU-FNL rebel who reportedly admitted to taking part in the December 2003 killing of Papal Nuncio Michael Courtney, died in government custody of wounds sustained prior to his capture on February 1.

Archbishop Simon Ntamwana, who was ordered by the PALIPEHUTU-FNL to leave the country within 30 days in 2003 after the Papal Nuncio's killing remained in the country without incident.

On August 8, the PALIPEHUTU-FNL reportedly captured a 20-member delegation headed by Anglican bishop Pie Ntukamazina in Kabezi Commune, Bujumbura Rural Province. CNDD-FDD forces rescued the delegation the same day. The motive for the capture was not known.

On October 18, in Makamba Province, armed assailants shot and killed Catholic priest Gerard Nzeyimana. According to press reports, Nzeyimana was specifically targeted; the killers reportedly verified his identity before killing him. Catholic World News reported that Nzeyimana was killed for his stance against human rights abuses; a news report from the Fides Agency quoted sources who identified the killers as members of the PALIPEHUTU-FNL.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

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

The Transitional Constitution provides for these rights; however, the Transitional Government restricted them in practice. The Transitional Government continued to impose a curfew in parts of the country. During fighting between the FAB and CNDD-FDD on one side and the PALIPEHUTU-FNL on the other, local populations were routinely displaced and their movements were restricted by checkpoints, violence, and the threat of violence. Citing insecurity, security forces sometimes restricted humanitarian relief agencies' access to local populations in Bujumbura Rural province. The Transitional Government also cited insecurity as grounds for denying human rights observers access to some areas of the country (see Section 4).

A November 2003 ban on bicycle taxis entering the city center remained in effect throughout the year, though it was not regularly enforced. The ban, as part of a security measure to prevent rebel infiltration of the city, primarily affected persons, particularly poor peasant farmers, who could not afford public transportation. The ban did not affect those using bicycles for other purposes.

The law does not provide for forced exile, and the Transitional Government did not use it as a means of political control; however, many persons remained in self-imposed exile in Belgium, Kenya, Tanzania, the DRC, and elsewhere.

By year's end, the U.N. High Commission for Refugees (UNHCR) had facilitated the voluntary repatriation of 83,849 Burundian refugees; in addition, there were approximately 6,500 refugees who spontaneously repatriated to the country during the year. The repatriates, most of whom came from Tanzania and returned to the eastern provinces, often returned to find their homes had been burned and their livestock stolen. Poor living conditions and a lack of food and shelter were problems for returnees during the year. During the year, the UNHCR and the Transition Government's National Commission for the Rehabilitation of War Victims (CNRS) assisted in the resettlement and reintegration of refugees and IDPs; however, some human rights groups criticized the Transitional Government for not allocating sufficient resources to strengthen the CNRS' capacity to improve conditions for IDPs and refugees. According to the UNHCR, as of August, an estimated 750,000 refugees remained outside the country.

Civilians were regularly displaced as a result of fighting in Bujumbura Rural province between the FAB and CNDD-FDD on one side and the PALIPEHUTU-FNL on the other. According to the U.N. Office for the

Coordination of Humanitarian Affairs (UNOCHA), clashes between the PALIPEHUTU-FNL and government security forces, including the CNDD-FDD, caused temporary population displacements lasting from 2 days to 3 weeks in 8 of the 10 communes of Bujumbura Rural Province. At any given time during the year, estimated UNOCHA, between 25,000 and 70,000 persons were displaced in Bujumbura Rural province. For example, according to UNOCHA, 80,000 individuals were temporarily displaced in February and March, and 35,000 were temporarily displaced in April.

Unlike in the previous year, there were no reports that security forces restricted the movement of IDPs.

Timely relief was sometimes denied to populations in need, including IDPs, due to security conditions and security force restrictions (see Section 1.g.).

According to UNOCHA, there were 145,034 long-term IDPs living in 170 sites by year's end. The majority were Tutsis who were displaced by violence in 1993 and who never returned home. Soldiers provided a measure of protection to camp inhabitants. There were reports that camp inhabitants sometimes were required to perform labor for soldiers without compensation.

Unlike in the previous year, there were no reports that security forces killed persons who remained outside the displacement sites on suspicion of collaborating with the rebels, or that Hutu rebels killed IDPs for allegedly collaborating with government authorities.

The law does not provide for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Transitional Government has established a system for providing protection to refugees. There was a special ad hoc administrative body in the Transitional Government that coordinated refugees. In practice, the Transitional Government generally provided protection against refoulement, the return to a country where they feared persecution, and granted asylum status. The Transitional Government cooperated with the UNHCR and other humanitarian organizations assisting refugees. There were approximately 30,000 refugees in the country at year's end. The UNHCR reported in October that it was assisting roughly 9,000 refugees from the DRC who had settled in U.N.-run refugee camps. In addition, the UNHCR estimated that there were approximately 21,000 DRC refugees who had settled in urban areas of the country.

During the year, the Transitional Government provided protection to certain individuals who may not qualify as refugees under the 1951 U.N. Convention/1967 Protocol.

During the year, refugees and asylum seekers were subject to killings and other abuses. On August 13, PALIPEHUTU-FNL and possibly other armed elements killed 152 refugees from the DRC at the Gatumba transit camp (see Section 1.g.). There were reports that DRC refugees who survived the August 13 Gatumba massacre were coerced by refugee leaders to return to the DRC.

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

The Arusha Agreement obliged the Transitional Government to hold presidential, legislative, and communal elections before November 1; however, none of these elections had been held by year's end, and citizens did not have the right to change their government. On October 18, the CENI, which was approved by the National Assembly on August 31, proposed to delay the completion of presidential, legislative, and communal elections until April 2005 for technical reasons. On October 20, the Transitional Government approved an interim constitution that provided for the Transitional Government to remain in power until a referendum on a post-transition constitution was held; however, on December 14, the CENI announced that the constitutional referendum would also be postponed for technical reasons. By year's end, the date of the referendum had not been set.

In 2000, the Arusha Accord, which provided for a 3-year transitional period to end the country's civil war, was signed and ratified by the National Assembly. In 2001, a Transitional Constitution was adopted, providing for power to be shared between the Tutsi minority, which has ruled the country for most of its history, and the Hutu majority. In November 2001, the transition period began, and President Buyoya was President, and Domitien Ndayizeye, then secretary general of FRODEBU, was Vice President.

In May 2003, President Ndayizeye succeeded former President Buyoya to begin the second half of the Transitional

Government in accordance with the peace agreement; the predominantly Tutsi parties selected Alphonse-Marie Kadege as Vice President. During the year, the President and 14 of the 26 cabinet ministers were members of predominantly Hutu parties. The cabinet also included 12 ministers from predominantly Tutsi parties, including the Ministers of Defense and Foreign Affairs.

On November 10, the President dismissed Vice-President Kadege for having "failed in his primary mission

to assist the President" and said he failed to support the country's constitution. Kadege and the predominantly Tutsi political parties aligned with him had criticized the draft interim constitution for, among other things, not providing for what they considered to be an acceptable number of seats in the National Assembly reserved for predominantly Tutsi parties. However, by December, most predominantly Tutsi parties reportedly had agreed to respect the interim constitution.

The Arusha Agreement, the Transitional Constitution, and the October 2003 agreement between the Transitional Government and the CNDD-FDD comprise a formula for the restoration of democracy. Under the agreement, democratic rule is to be accomplished through elections, and the protection of minority rights is to be reflected in a senate and armed forces that have a higher percentage of Tutsis than the population at large.

The National Assembly consisted of 186 parliamentarians: Those elected in 1993 who sat in the previous National Assembly (or substitutes from the same political party, if some of the original parliamentarians had died), and 40 additional members. Members of the Tutsi community filled 22 of the 40 new seats.

In March and April, with the entrance of the CNDD-FDD and other former rebel groups into the Government, an additional 44 parliamentarians were added to the National Assembly, of which 15 were from the CNDD-FDD. The total number of deputies was 220.

There were 26 recognized political parties by year's end. UPRONA and FRODEBU were the largest political parties and controlled most transitional government positions. Although not technically a political party, the CNDD-FDD was the largest former rebel group in the Transitional Government. The Transitional Government prevented or disrupted political demonstrations (see Section 2.b.).

The National Assembly continued to refuse the demands of human rights groups calling for the repeal of a provisional immunity law that the Assembly approved on August 2003. The law grants provisional immunity to political leaders who return from exile to take part in the transitional government institutions. The law covers "crimes with a political aim" committed from July 1, 1962, to the date of the law's promulgation.

The Transitional 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 Transitional Government's revenues and expenditures remained off-budget, allowing the Transitional Government to use monies collected from taxes of such things as beer and gas to fund military expenditures. According to Transparency International, in 2003, a report by financial inspectors drew attention to the misappropriation of \$20,000 (20 million Burundian francs) in public funds at Bujumbura's city hall. Transparency International also reported that the presence of military personnel throughout the countryside has contributed to an increase in petty corruption, including extortion at identity checks and levying fees on farmers harvesting after the curfew.

The Ministry of Good Governance is charged with fighting corruption, and by year's end, it had prosecuted three cases of corruption.

On March 31, the Transitional Government created a national auditing agency, to report to the National Assembly and oversee government expenditures, including military expenditures, but by year's end, it was not yet conducting audits.

According to Transparency International, 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.

There were 43 women in the 220-seat National Assembly and 10 women in the 54-seat Senate. Of the 26 cabinet seats, women held 3 portfolios. Three of the eight members of the Supreme Court were women, as were two of the seven Constitutional Court members, including its president.

Approximately 1 percent of the population was Twa; although there were no Twa in the Cabinet, one Twa was appointed to the National Assembly, and three were members of the Senate.

#### 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; however, the Government denied journalists, international relief workers, and

human rights observers access to some areas of the country, citing insecurity in rural areas (see Sections 1.g. and 2.d.). Government officials, although limited by capacity and resources, 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; the ministries provided them at times 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, government security services—even if willing—were unlikely to be able to protect NGO members from private reprisals. Although the Transitional 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.

At times, the FAB and CNDD-FDD denied human rights observers access to areas where they were accused of committing human rights violations. Human rights NGOs were unable to investigate reports of killings because of these restrictions, which they said were arbitrary. Parts of Bujumbura Rural Province often effectively remained off limits for humanitarian operations.

According to a U.N. news service, on October 27, CNDD-FDD combatants arrested Innocent Nzeyimana, an employee of a local NGO, along with three other civilians, and detained him in an illegal prison run by the CNDD-FDD in the northern suburb of Kamenge. Nzeyimana said he was accused of siding with the PALIPEHUTU-FNL; however, he said he believed he was arrested because he had advised the CNDD-FDD to stop harassing civilians.

The Transitional Government cooperated with the U.N., permitting visits by U.N. human rights representatives during the year. The U.N. Independent Expert for Human Rights visited the country from October 4 through 13. The UNOHCHR maintained a four-person observer team in the country. The U.N. Operation in Burundi (UNOB) had 20 human rights observers in place as of October.

In October, a team of U.N. experts submitted a report to the U.N. Secretary General regarding their investigation of the August 13 killing of 152 Congolese Tutsi refugees at the Gatumba transit camp (see Section 1.g.). The report stated that the Transitional Government "failed to move the refugee camp to a safer location prior to the attack and failed to adequately protect the refugees and come to their aid on the evening of the massacre." The report did not conclusively determine the identity of the assailants beyond what it called "the likely participation of FNL." The report stated that credible but unverified information that suggested the involvement of one or more actors in the DRC warranted further investigation. The Transitional Government characterized the U.N. report as "incorrect" and objected to the report's criticism of the security forces' response to the attack.

In compliance with the Arusha Agreement, in May, the Transitional Government facilitated a U.N. delegation visit to assess the possibility of establishing an International Judicial Commission of Inquiry and an international tribunal if the Commission of Inquiry deemed it warranted. By year's end, neither body had been established.

On December 27, the Burundian President signed a law establishing a National Truth and Reconciliation Commission (NTRC) to investigate crimes committed during the country's recent civil war, as well as those committed since the country gained its independence in 1962.

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

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

#### Women

Domestic violence against women was common; however, no credible statistics were available. Wives had the right to charge their husbands with physical abuse, but rarely did so. Police normally did not intervene in domestic disputes. 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. The Transitional Government rarely investigated cases involving violence against women. According to League Iteka, women were beaten by their husbands, forced out of their homes, denied basic food necessities, and denied freedom of movement.

The law prohibits rape, which is punishable by up to 20 years imprisonment. The FAB, CNDD-FDD, and the PALIPEHUTU-FNL raped women during the year (see sections 1.c. and 1.g.). According to a 2003 AI report, domestic rape (outside the context of the conflict) was common. According to UNHCR, 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. Few cases of rape were reported to the authorities, and many rape victims did not receive medical care due to the intimidation caused by cultural attitudes. Men often abandoned their wives following the abuse, 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 the UNOHCHR, there were reports that some police required that victims provide food and pay the costs for incarceration of those they accuse of rape. According to the UNOHCHR, 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. Domestic human rights groups League Iteka and APRODH continued to encourage women to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The Transitional 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 has forced many women into prostitution to feed their children. Increased prostitution continued to contribute to the growing incidence of HIV/AIDS.

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. 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 Transitional 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 Transitional Government provided primary school at nominal cost, but it was increasingly unaffordable due to the declining economy. UNICEF reported during the year that the net primary school enrollment/attendance rate for children was 47 percent, with 44 percent of girls enrolled/attending compared with 49 percent of boys. Sixth grade is the highest level of education attained by most children, with approximately 11 percent of children of secondary school age attending school.

Female illiteracy was a problem. Approximately 40 percent of women were literate compared with 56 percent of men.

An estimated 550,000 children of school age did not attend school for many reasons, including an inability of their families to afford school fees and materials, frequent displacement due to civil war, ill health, and the deaths of parents as a result of HIV/AIDS, which left children orphaned, homeless, or both. More than 25 percent of primary schools have been destroyed in the war, and many teachers have been killed. Teacher training was interrupted, and it was difficult to find qualified teachers to work in some parts of the country.

Under the law, the country's minimum age for military recruitment is 16, although the Transitional Government has stated that no one under 18 was recruited; however, throughout the year, there were reports that security forces and former rebel groups continued to have child soldiers in their ranks, despite the participation of all of these groups in a joint government-UNICEF project to demobilize and reintegrate children into their communities. No reliable figures were available on the exact number of child soldiers in the security forces, GP militia, and former rebel groups, and estimates varied significantly among different organizations and changed during the year, in part to reflect the reported results of demobilization.

In May, UNICEF estimated that approximately 3,000 child soldiers were serving in government forces or former rebel groups. According to the Coalition to Stop the Use of Child Soldiers, there were reports during the year that the FAB continued to use children as domestic laborers, spies, and in combat; however, in

June, the FAB reportedly ceased conscripting children and—along with some former rebel groups—reportedly removed child soldiers from combat units. During the year, there continued to be reports that some former rebel groups continued to recruit and use child soldiers.

According to a U.N. news agency, some children joined the FAB voluntarily by using fraudulent documents such as birth certificates. In previous years, according to HRW, children voluntarily attached themselves to military units. Most of these children were orphans or IDPs who had no independent means of survival. Some observers believed the FAB allowed these children to perform menial tasks such as cooking in army encampments.

On January 26, the Transitional Government demobilized 24 child soldiers as it officially launched the National Structure for the Disarmament, Demobilization, Reintegration, and Prevention of Child Soldiers (National Structure). By year's end, the National Structure had demobilized and reintegrated 2,913 child soldiers, of which more than 2,000 came from the FAB and the GP militia, and 632 from former rebel groups. By October, all six former rebel groups, including the CNDD-FDD, had joined the child soldier demobilization effort.

The PALIPEHUTU-FNL continued to use and recruit child soldiers, and according to HRW, children were among the PALIPEHUTU-FNL combatants in the August 13 Gatumba massacre (see Section 1.g.).

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

According to UNICEF, HIV/AIDS infection rates in girls aged 15 to 19 were roughly 2 times greater than in boys of the same age, and according to a 2003 UNICEF study, there were an estimated 200,000 children orphaned by HIV/AIDS in the country. 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. According to the Ministry for the Promotion of Women and for Social Action, there were approximately 5,000 street children by year's end. Street children were accused of involvement in street crimes. Following a series of rapes in December 2003, police rounded up 700 street children during the year and took them to a special government center for street children. By year's end, 175 remained in the center; the rest were returned to their provinces of origin or to the streets.

#### 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 Transitional Government did not report any prosecutions, convictions, or sentences of traffickers; however, it investigated alleged cases of trafficking.

The Ministry of Reinsertion, Repatriation, and Reintegration and the Ministry of Institutional Reform, Human Rights, and Parliamentary Relations were responsible for combating trafficking. At year's end, the Transitional Government was aggressively investigating a case of suspected trafficking of women that emerged in 2003.

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

During the year, the Transitional Government supported public awareness campaigns and programs to prevent trafficking, and demobilized 2,913 child soldiers from the FAB, GP, and six former rebel groups (see Section 5, Children).

#### Persons with Disabilities

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. Discrimination against persons with disabilities was a problem. There were few job opportunities for persons with physical disabilities.

#### National/Racial/Ethnic Minorities

There continued to be ethnic conflict between the majority Hutus and the minority Tutsis, and regional inequities between southern Burundi Province and much of the rest of the country. Almost 4 decades of violence and systematic societal discrimination have exacerbated tensions between Tutsis and Hutus. Tutsis claimed to have been the targets of genocide carried out in 1993 by Hutus angered by the assassination of democratically elected Hutu president Ndadaye. The Tutsis, particularly southern Tutsis



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

State discrimination against Hutus, who constituted an estimated 85 percent of the population, continued to affect every facet of society, most strikingly in higher education and certain branches of the Transitional Government, such as the armed services and the judicial system. Northern and eastern Tutsis also had a more difficult time acceding to positions of power than Tutsis from the south.

The Tutsi-dominated FAB discriminated against Hutu members by denying them promotion into and within the officer corps. However, progress was made in integrating officers from the predominantly Hutu CNDD-FDD into the security forces. For example, an integrated army general staff was instituted with 14 of 35 members coming from the CNDD-FDD.

#### 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 (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 Refugees International report released during the year noted that the popular perception of the Twa as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

On September 16, authorities burned 50 Twa homes in Busoni Commune, Kirundo; Provincial Governor Philippe Njoni ordered that the houses be burned because they were built on state-owned land, League Iteka reported.

#### Other Societal Abuses and Discrimination

During the year, there were reports that discrimination against persons with HIV/AIDS increased. In reaction to the perceived increase in discrimination, an association for persons living with HIV/AIDS campaigned during the year for the Government to enact a law protecting affected persons from discrimination and stigmatization.

#### Section 6 Worker Rights

##### a. The Right of Association

The Labor Code protects the right of workers to form and join unions; however, 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. The Ministry of Labor does not have the authority to refuse the registration of a new union.

According to the International Confederation of Free Trade Unions (ICFTU), less than 10 percent of the formal private sector workforce was unionized, and only 50 percent of the public sector was unionized. However, most citizens worked in the unregulated informal economy, in which unrecognized workers have little or no legal protection of their labor rights.

According to the ICFTU, private sector employers systematically prevented the creation of trade unions, and the Government failed to protect private sector workers' rights in practice.

Tutsis continued to dominate the formal economy and unions; however, Hutus became more involved in the formal economy and unions during the year.

According to the ICFTU, there were allegations during the year that the Transitional Government did not allow trade union bodies to select their own representatives to the country's tripartite National Labor Council.

The Labor Code prohibits employers from firing or otherwise discriminating against a worker because of union affiliation or activity, and the Transitional Government generally respected this right in practice. However, in the private sector, the Government often failed to protect workers from discrimination by employers, according to the ICFTU. 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.

The Transitional Government often denied trade unions the right to assemble and peacefully demonstrate

during the year (see Section 2.b.).

According to the Confederation of Burundi Labor Unions (COSYBU), Vincent Nyandwi, the head of the workers union at the state water and electricity company REGIDESO, was dismissed by REGIDESO, allegedly on account of his union membership in December 2003. In February, the Ministry of Labor called for him to be rehired. REGIDESO rehired Nyandwi but transferred him from the city of Bujumbura to an outlying area of Bujumbura Rural Province.

On September 24, police arrested COSYBU labor confederation president Pierre Claver Hajayandi and COSYBU treasurer Celestin Nsavyimana, and detained them until September 30 (see Section 2.a.).

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

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.

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 (CSB) represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions.

There are no export processing zones.

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 6 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.

On March 9, the intelligence service arrested Eulalie Nibizi and Adolphe Wakana, heads of the teacher's unions STEB and SLEB; the arrest was reportedly in relation to a teachers strike between January and March. They were released the same day.

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

The law prohibits forced or compulsory labor, including by children; however, there were reports that it occurred. During the year, there were reports that security forces continued to use persons, including children, to perform menial tasks without compensation, and the use of child soldiers remained a problem (see Section 5).

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 16 cannot be employed by "an enterprise," except for the types of labor the Ministry of Labor determines to be acceptable, which includes 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 Sections 5).

The Ministry of Labor enforced labor laws only when a complaint was filed; there was one employee complaint during the year (see Section 6.a.).

During the year, international organizations, a few NGOs, and labor unions engaged in efforts to combat child labor.

#### e. Acceptable Conditions of Work

The legal minimum wage for unskilled workers continued to be \$0.15 (160 Burundian francs) per day. This amount did not provide a decent standard of living for a worker and family, and most families relied on second incomes and subsistence agriculture to supplement their earnings. Unionized employees, particularly in urban areas, generally earned significantly more than the minimum wage. Public sector wage scales were set by agreement between the Government and either the CSB or COSYBU; however, an employee's position on the wage scale was determined by individual negotiation between the employer and the employee. The government wage scale has remained unchanged since 1992, but allowances, such as for housing, have increased.

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; there were no reports of complaints filed with the Ministry during the year. Health and safety articles in the Labor Code did not directly address workers' rights to remove themselves from dangerous tasks.

Foreign workers, including undocumented workers, are protected by law and were not subject to discrimination; however, they were prohibited from union participation.