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BURUNDI
Between hope and fear

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The appalling human price of the seven-year conflict in Burundi, a catalogue of killings of unarmed civilians, "disappearances", torture, arbitrary arrests and massive population displacement, continues to rise unabated. Ironically, the search for peace itself has generated further abuses as belligerents cynically negotiate in blood, and a peace agreement, signed in August 2000 after two years of circuitous negotiations, has yet to come into force. The civilian population continues to pay a heavy price for the failure of their leaders to genuinely seek a resolution. Hundreds of civilians have been killed since the signing of the peace agreement and the conflict has escalated.

Although failure to implement the peace agreement, and thus to renounce the search for a durable peace, would impact disastrously on the already critical human rights situation, it is far from clear that all signatories to the peace agreement are prepared to honour their commitments. Parties to the conflict continue to commit serious human rights abuses while some political leaders and opponents to the concept of negotiation have provoked violence against civilians or sought to undermine the peace agreement. Two major armed opposition groups continue to reject the peace agreement. Others, including human rights defenders, struggle to create an environment conducive to peace, reconciliation and respect for human rights.

Whatever the failings of the peace agreement, it represents a key moment in Burundi's political history which could serve as an opportunity to break with the cycles of violence and impunity of the past. The peace agreement and its implementation represent the best opportunity in recent years to ensure better respect for human rights in Burundi's future, providing a framework to acknowledge and investigate past human rights abuses and to reform and strengthen institutions such as the judiciary and army. The alternative of continued, escalating conflict, of generalized deadly violence and a further human rights crisis, does not bear thinking about, and must at all costs be prevented. Burundi's future lies balanced once more between hope and fear.

The political crisis cannot be separated from the magnitude of the human rights crisis and decades of injustice in Burundi. The abuse and denial of fundamental human rights are at the very heart of the conflict and unless this is addressed in a concrete way there can be no durable peace.

In that context, this report summarizes key human rights challenges at this complex and critical time for Burundi, reiterating many of the concerns and recommendations expressed in previous Amnesty International reports in relation to the killings of unarmed civilians, torture, "disappearances", arbitrary arrests, unfair trials, the death penalty and the rights of the displaced and refugees. It is far from an exhaustive picture of all of Amnesty International's concerns, or of the human rights abuses which have taken place in Burundi over the last 12 months.

There are clearly major challenges to re-establishing respect for human rights in Burundi. Successfully addressing these human rights challenges will require commitment from the Burundian government, the political elite and armed opposition groups, and from the international community. The role of national human rights groups will be key.

The report makes a number of recommendations to the Government of Burundi and leaders of Burundian armed opposition groups and political parties, as well as to members of the international community. Amnesty International is calling on the Government of Burundi, leaders of armed opposition groups, political parties and movements and civil society to take responsibility for the human rights situation, and whatever the political system or uncertainty, to act now to better protect human rights. In particular, in the immediate, Amnesty International is calling on all parties to the conflict to protect the right to life and to cease the extrajudicial execution and deliberate and unlawful killing of unarmed civilians. It is also calling on the international community, the support of which is key in the current context, to do all in its powers to ensure better respect for human rights in Burundi now and in the future, through supporting measures to tackle impunity, particularly of the armed forces, through supporting the reforms of key institutions, ensuring that the rights of refugees and displaced people are protected.

KEYWORDS: ARMED CONFLCIT1 / COMMUNAL VIOLENCE1 / PEACE KEEPING1 / POLITICAL BACKGROUND / HUMAN RIGHTS INSTRUMENTS / EXTRAJUDICIAL EXECUTIONS / MILITARY / NON-GOVERNMENTAL ENTITIES / IMPUNITY / INVESTIGATION OF ABUSES / TORTURE/ILL-TREATMENT / DISAPPEARANCES / DEATH IN CUSTODY / DETENTION WITHOUT TRIAL / TRIALS / DEATH PENALTY / REFUGEES / DISPLACED PEOPLE / CHILD SOLDIERS

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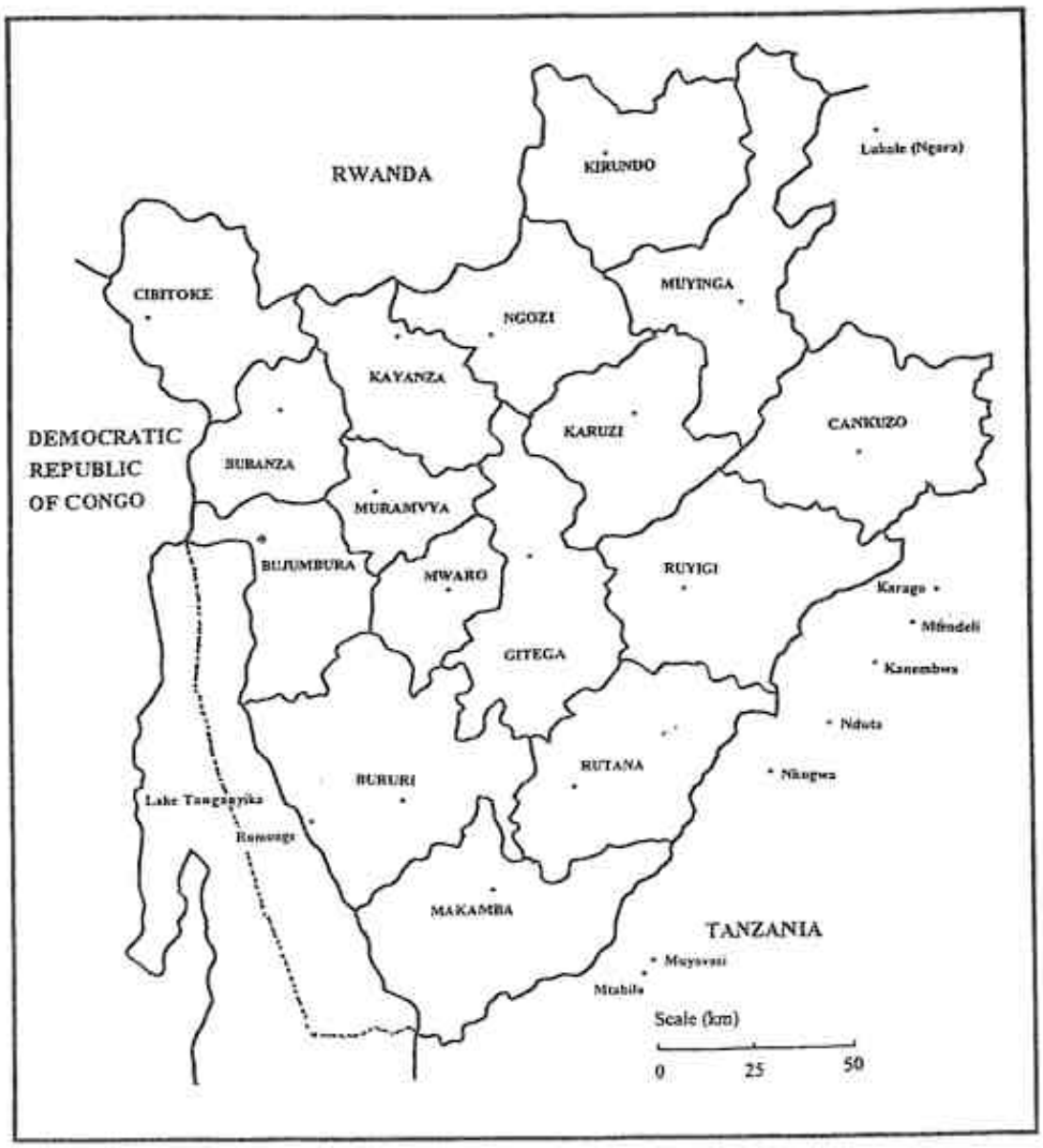

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BURUNDI
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I INTRODUCTION

The appalling human price of the seven-year conflict in Burundi, a catalogue of killings of unarmed civilians, "disappearances", torture, arbitrary arrests and massive population displacement, continues to rise unabated. Ironically, the search for peace itself has generated further abuses as belligerents cynically negotiate in blood, and a peace agreement, signed in August 2000 after two years of circuitous negotiations, has yet to come into force. The civilian population continues to pay a heavy price for the failure of their leaders to genuinely seek a resolution. Hundreds of civilians have been killed since the signing of the peace agreement and the conflict has escalated.

Although failure to implement the peace agreement, and thus to renounce the search for a durable peace, would impact disastrously on the already critical human rights situation, it is far from clear that all signatories to the peace agreement are prepared to honour their commitments. Parties to the conflict continue to commit serious human rights abuses while some political leaders and opponents to the concept of negotiation have provoked violence against civilians or sought to undermine the peace agreement. Two major armed opposition groups continue to reject the peace agreement. Others, including human rights defenders, struggle to create an environment conducive to peace, reconciliation and respect for human rights.

Whatever the failings of the peace agreement, it represents a key moment in Burundi's political history which could serve as an opportunity to break with the cycles of violence and impunity of the past. The peace agreement and its implementation represent the best opportunity in recent years to ensure better respect for human rights in Burundi's future, providing a framework to acknowledge and investigate past human rights abuses and to reform and strengthen institutions such as the judiciary and army. The alternative of continued, escalating conflict, of generalized deadly violence and a further human rights crisis, does not bear thinking about, and must at all costs be prevented. Burundi's future lies balanced once more between hope and fear.

In that context, this report summarizes key human rights challenges at this complex and critical time for Burundi, reiterating many of the concerns and recommendations expressed in previous Amnesty International reports in relation to the killings of unarmed civilians, torture, "disappearances", arbitrary arrests, unfair trials, the death penalty and the rights of the displaced and refugees. It is far from an exhaustive picture of all of Amnesty International's concerns, or of the human rights abuses which have taken place in Burundi over the last 12 months. It does not address other challenges facing Burundi, such as the devastated economy and social exclusion of a vast percentage of the population, although

these rights issues undoubtedly affect considerably the current and future human rights situation.

The report makes a number of recommendations to the Government of Burundi and leaders of Burundian armed opposition groups and political parties, as well as to members of the international community.

Amnesty International attended the peace talks in Arusha, Tanzania, in February and March 2000, where the organization's delegates discussed with representatives at the talks ways in which any peace agreement could better promote and ensure greater protection of human rights, and it visited Burundi in August 2000 for research purposes.

II THE SEARCH FOR PEACE OR POWER? THE FUTURE OF HUMAN RIGHTS AT STAKE

Background and history of the conflict

Since independence in 1962, members of the minority Tutsi ethnic group have dominated virtually all successive governments and the security forces within the country. The judiciary, the educational system, business and news media are also dominated by Tutsi. The decades-long struggle for power between Tutsi and Hutu elites in Burundi has led to the deaths of hundreds of thousands of people, most of them civilians. Repeated Hutu challenges to Tutsi domination have each time been followed by reprisals against Hutu civilians by the security forces. Waves of killings occurred in Burundi in 1965, 1969, 1972, 1988, and 1991. Failure to bring to justice those responsible for these gross human rights violations led in part to the violence of 1993 and the ensuing crisis. Understanding of the political dimensions to this struggle is key to understanding the current situation.[1]

In the early 1990s under the government of Pierre Buyoya, a process of democratization began and multi-party elections were held in June 1993. The Hutu-dominated *Front pour la démocratie au Burundi* (FRODEBU), Front for Democracy in Burundi, won a landslide victory to the surprise of the incumbent president and horror of some parts of the Tutsi community and armed forces, used to decades of relative privilege and power. Immediately after FRODEBU's electoral victory, threats to its future were evident, with demonstrations in the capital, Bujumbura, and two attempted coups before the

[1]Underlying the complexities of the political and military conflict, lies tension between the northern and southern regions of Burundi. Virtually all military and political leaders since 1965, including the current president, Pierre Buyoya, have come from Bururi province in the south, and the majority of officers within the armed forces are also from the south. Many leaders of Hutu armed opposition groups are also from Bururi.

new president took office. Three months after electoral victory, President Melchior Ndadaye, Burundi's first and only democratically-elected president, his constitutional successors and other key figures in the administration were killed in a coup attempt. President Ndadaye's proposed reforms of the military to address ethnic and regional imbalance may have in part provoked the coup attempt. After worldwide condemnation of the coup attempt and the suspension of foreign aid, military leaders claimed that only a small group of soldiers had carried out the coup attempt. This claim was difficult to believe when there had been no evidence of any section of the armed forces taking measures to prevent it.

As news of the assassination of President Ndadaye spread, thousands of Tutsi civilians as well as Hutu supporters of the former ruling party, the *Union pour le progrès national* (UPRONA), Union for National Progress, were killed in reprisal by Hutu civilians. Within four days of the coup attempt, mass and indiscriminate reprisals for these killings were being carried out by the Tutsi-dominated security forces and Tutsi civilians against the Hutu population. Hundreds of thousands of Hutu, as well as some Tutsi, fled the violence, mainly to Tanzania and Zaire (now the Democratic Republic of Congo) and hundreds of thousands of others, mainly Tutsi, were internally displaced. The majority of refugees and internally displaced have yet to return to their homes.

Leaders and allies of UPRONA organized themselves to resist the return of power to FRODEBU control. The Tutsi political opposition, backed by the Tutsi-dominated army, was reluctant to relinquish the power it had enjoyed since independence, and continued to force political concessions from the weakened FRODEBU government which could not consolidate its position. Tutsi youths formed armed groups, with the knowledge and even assistance of Tutsi soldiers. Many government supporters, particularly Hutu, were killed during such action. To counter this violence and what they considered as the inability of the FRODEBU-led government to protect its members and supporters, armed Hutu groups sprang up in and around Bujumbura and were themselves responsible for abuses. From 1994 onwards, a number of Hutu-dominated armed opposition groups, formally allied to political parties in exile, began an open war against the Tutsi-dominated armed forces and their political allies, killing many unarmed Tutsi civilians. Tutsi militias also operated, often in open collusion with the armed forces, carrying out political assassinations and extrajudicial executions, particularly of prominent Hutu. The violence spread country-wide, and Hutu and Tutsi who had previously lived together effectively separated, with urban centres dominated by Tutsi. Both armed opposition groups and the armed forces were responsible for large numbers of killings of unarmed civilians.

The FRODEBU government continued to weaken, as FRODEBU parliamentarians and officials were assassinated, arrested or fled into exile. The government requested

international security assistance, a move violently opposed by UPRONA and the armed forces. In July 1996, Major Pierre Buyoya returned to power in a coup with the support of the armed forces, which he claimed to have carried out to prevent further human rights violations and violence; many observers saw it as the completion of the October 1993 coup attempt. It also ended discussion of international security assistance. Nationally the new government employed a practice of forcibly relocating or "regrouping" the Hutu rural population into camps, a counter-insurgency strategy developed to undermine Hutu-dominated armed opposition groups by creating military zones and by removing any possible source of support or cover. Whole areas were cleared of civilians and homes and plantations destroyed. Furthermore, the war which broke out in the Democratic Republic of Congo (DRC) in late 1996 not only led to the expulsion and return to Burundi of tens of thousands of Burundian refugees but also meant that armed opposition groups lost bases in eastern DRC, including support they were deriving directly and indirectly from refugee camps. By 1997 the areas of conflict had been reduced.[2]

Major Buyoya consolidated his position through 1996 and early 1997, successfully limiting political opposition from all parties. Opponents were harassed, arrested and detained, placed under house arrest or forbidden to travel abroad. A period of political negotiation ensued as the mandate of the National Assembly drew to a close, and a new Transitional Constitution was adopted. Major Buyoya was sworn in as president on 11 June 1998 and a new government formed, formally sharing power between the government which had come to power by force in 1996, and other political parties. FRODEBU obtained a number of portfolios including the post of first vice-president. However, the National Assembly remained weak and the government partnership was undermined by distrust, unwillingness to share power and internal divisions within the majority of political parties.

[2]The most active Hutu-dominated armed opposition groups are now the CNDD-FDD and FNL. The CNDD-FDD, is led by Jean Bosco Ndayikengurukiye, former commander in chief of the *Forces pour la défense de la démocratie*, Forces for the Defence of Democracy, the armed wing of the *Conseil national pour la défense de la démocratie*. The CNDD was formed in exile following the October 1993 assassination of President Ndadaye by former FRODEBU and FRODEBU-allied political parties. The CNDD-FDD broke away from the original CNDD in 1998, taking with it many FDD combatants. The CNDD led by Léonard Nyangoma retains a smaller fighting force, the FDD.

The *Forces nationales pour la libération* (PALIPEHUTU-FNL), National Liberation Forces, referred to mainly as the FNL, was led until February 2001 by Kossan Kabura, who was replaced by a senior commander, Agathon Rwasa. It split in the early 1980s from the Hutu opposition party, the *Parti pour la libération du peuple hutu* (PALIPEHUTU), Party for the Liberation of the Hutu People. PALIPEHUTU, formed in 1980 and headed by Etienne Karatasi, retains a small fighting force. The *Front pour la libération nationale* (FROLINA), Front for National Liberation, another breakaway faction of PALIPEHUTU, lead by Joseph Karumba, also has a small number of combatants, known as the *Forces armées populaires* (FAP), Popular Armed Forces.

The army continued to exercise considerable power and many local administration positions were retained by members of the armed forces.

The conflict and political crisis within Burundi cannot be isolated from its regional context, in particular the regionalisation of the DRC conflict has provided government and opposition forces in Burundi with military support from regional allies. The late DRC president, Laurent-Désiré Kabila, provided financial and military support in particular to the CNDD-FDD. Both the CNDD-FDD and FDD are also reported to have received arms and training from Zimbabwe, also involved in the conflict as an ally of President Kabila. These armed opposition groups both have bases in eastern DRC facilitating incursions into Burundi across Lake Tanganyika and via Tanzania. Largely due to the DRC war, since1999 both have re-emerged as stronger, better armed fighting forces and the level of sustained conflict has escalated. Scores of incursions have been launched from Tanzania and the Government of Burundi has consistently asserted that armed opposition groups are training within refugee camps in Tanzania.

The Government of Burundi has also derived support from its regional neighbours and despite periodic tension in its relations with both the Governments of Rwanda and Uganda, it has benefited from political and military support from both countries. Despite the Government of Burundi's refusal to admit to involvement other than that of defending itself against Burundian armed opposition groups, it has been closely involved with the opposition *Rassemblement congolais pour la démocratie* (RCD), Congolese Rally for Democracy authorities, opposed to President Laurent Kabila, and maintains a large military presence in the Kivu region of DRC.

Although the majority of protagonists at the Burundi peace negotiations appear to accept the argument that outright military victory by one side or faction is not a realistic possibility, renewed support from regional allies appears to have encouraged the various belligerents to hold out, if not for military victory, at least for a more advantageous hand.

The search for peace

Regional and international diplomatic initiatives to end the crisis, often violently resisted by Tutsi-dominated parties, led by UPRONA and supported by the army, began as early as 1995. Following Pierre Buyoya's return to power, secret negotiations with the apparently weakened CNDD were held under the auspices of the San Egidio community in Rome, culminating in the agreement of a number of pre-conditions to a cease-fire. The announcement of talks was met once more with great hostility by Tutsi parties in Bujumbura and further efforts by the late former President of Tanzania, Julius Nyerere, to

bring all parties together did not yield any result.[3] However, shortly before he was sworn in as new president under a 1998 power-sharing arrangement, Pierre Buyoya agreed to meet the armed opposition for talks, again sparking demonstrations in Bujumbura. Formal negotiations began in Arusha, Tanzania, in June 1998, culminating in the signature of an Agreement for Peace and Reconciliation (referred to hereafter as the Peace Agreement) in Burundi on 28 August 2000.

Although a significant proportion of the talks focussed on the origins of the conflict and social issues underlying the conflict, little weight was given to civil society groups. Marginalised groups such as the Twa, the minority ethnic group, were excluded, and little reference made to their existence during negotiations. Refugees were largely excluded from the process. Women had little voice in most delegations. A group of six women were eventually granted official observer status but question themselves their real ability to impact on the talks, although their presence raised awareness of gender issues.[4] Burundian human rights groups were largely excluded from the process although organizations such as the Burundian Human Rights League, ITEKA, campaigned consistently to promote human rights issues in relation to the peace process, as well as seeking to hold political leaders accountable for human rights abuses associated with the conflict. The failure of the talks to acknowledge the key role that human rights groups and civil society could play in building the future of Burundi, including through promoting better understanding of and finding solutions to the legitimate fears and grievances of different ethnic, social or political groups, means that important contributions and opportunities were lost.

From the start of the official talks, fundamental divisions between parties were evident. The first round of talks ended with a statement which called for a cease-fire and opening of negotiations within one month. However, some parties entered reservations and the government made it clear that the cease-fire concerned only armed opposition groups, not the government armed forces. Neither the CNDD-FDD nor PALIPEHUTU-FNL were represented and both rejected the cease fire agreement and talks.

The negotiations progressed slowly. Although the complexity of the issues at stake could explain the length of the two-year negotiations, other considerations were often key as the business of negotiation got underway; ITEKA observed that delegates received large allowances enabling them to earn far more than they could at home; delegates who perhaps saw no interest in political compromise were able to delay or hinder progress and personal

[3]Some observers believe that the CNDD leaked news of the negotiations to increase hostility to President Buyoya within Burundi.

[4]See *Out of Sight, Out of Mind: Conflict and Displacement in Burundi*, January 2001, by the Women' Commission for Refugee Women and Children, New York.

rivalries frequently triumphed over more relevant considerations. Significant political and armed opposition figures were either excluded or refused to participate in the negotiations, and some smaller parties carried undue weight. The majority of political parties were divided by internal splits with only one wing represented in Arusha. For some, these issues call into question the legitimacy of decisions taken at the talks and will certainly impact on the implementation of the Peace Agreement. Throughout this two-year period, serious human rights abuses continued to be inflicted on the population.

From December 1999, former South African president Nelson Mandela, who was appointed as facilitator following the death of Julius Nyerere, showed his determination to push negotiations to an end, often publicly demonstrating his frustration with delegations. Funding for the negotiations has been provided by the UN and foreign governments, whose impatience at the slow progress of the talks was also increasingly apparent. There was a concerted push to end negotiations, potentially at the peril of simplifying the complexities of the issues. As the date for the signature of the accord approached, violence intensified throughout Burundi. As attacks on the capital increased, tension in Bujumbura rose and there were violent demonstrations.

The Peace Agreement was however signed on 28 August, although key issues, including the leadership of the transitional period and agreement for a cease-fire had not been reached. Furthermore, the government and five G10 parties signed only after entering certain reservations on key issues including reform of the army, the question of amnesties and the duration of the transition.[5] Four other parties refused initially to sign. The pressure on delegations to sign led to a certain amount of confusion, and last minute amendments were made in particular by the government delegation who gained important concessions from FRODEBU. Other parties of the G7 grouping, all of whom signed the Peace Agreement on 28 August, have since expressed disagreement with some of these concessions. The final version of the text itself contains a number of contradictions and the weight of the reservations entered by G10 or G2 parties, some of which also contradict provisions of the Peace Agreement, is also contested. Leaders of delegations who have been mandated to reconcile these differences have yet to meet to discuss these issues, some six months after signature.

[5] At Julius Nyerere's instigation, to speed up negotiations, the 18 delegations merged into three groupings. One grouping known as the G3, comprised government and pro-government delegations, while the G8 consisted of PARENA and smaller Tutsi-dominated opposition parties. The third grouping known as the G7 comprised FRODEBU, allied Hutu-dominated parties and Hutu-dominated armed opposition groups. In August 2000, the pro-government UPRONA joined the G8 grouping forming a pro-Tutsi group known as G10 (RADDES, a Tutsi-dominated party which joined the negotiations in February 2000 is also part of G10). The government group was reduced to two groups and became the G2.

Furthermore, two key armed opposition groups, the FNL and CNDD-FDD, did not attend the negotiations in Arusha and are in no way bound to the peace agreement. Both are splinter factions of the armed wings of political parties represented at the talks, and rivalry between the new and old factions has impacted negatively on the progress of talks. Both increased military activity since August. Since September 2000, Nelson Mandela, has made clear signals to the two groups that if they do not now join the process in negotiating a cease-fire they will pay the consequences through possible sanctions and arrest.

By the end of September 2000 all remaining parties who had attended the negotiations had signed the peace agreement and a first meeting aimed at negotiating a cease-fire, which representatives of both the FNL and CNDD-FDD attended, had taken place in Nairobi. However, the CNDD-FDD sent only a low-level delegation and the FNL rejected categorically the Peace Agreement and question of a cease-fire, saying they had been excluded from the process. Other meetings have also taken place in South Africa, but little concrete progress seems to have been made towards cessation of hostilities. The Peace Agreement was ratified by the Burundian National Assembly on 1 December and on 11-12 December an international donors' conference in Paris agreed to provide $440 million for reconstruction programs. While the FNL are not known to have had direct talks with the Government of Burundi, President Buyoya, the leader of the CNDD-FDD, Jean Bosco Ndayikengurukiye and President Laurent Désiré Kabila of DRC met in Gabon for talks, which also covered the war in DRC, for the first time in January 2001. President Kabila was assassinated shortly afterwards in Kinshasa. His son, Major General Joseph Kabila who succeeded him as President, has stated his wish to be involved in the Burundian peace process and in February 2001 met Nelson Mandela to this effect. At the time of writing, it is too soon to see what impact the death of Laurent Désiré Kabila, and the succession of Joseph Kabila, will have on the peace process in Burundi.

By March 2001, a cease-fire still has not been signed and the civilian population continues to pay the price of further fighting. Few people imagined the signature of the Peace Agreement was the end of the process. Far from it. However, despite the on-going human rights crisis, there appears little haste to move forward, either to resolve outstanding issues or to make real moves towards a viable cease-fire and the implementation of the Peace Agreement.

Human rights and the Peace Agreement

Signature of the Peace Agreement presents new opportunities as well as new dangers. It is a critical time. Successful implementation is, of course, not guaranteed. However it seems clear that the alternative of continued war and violence would further undermine the future of human rights in Burundi.

The Peace Agreement itself, which makes recommendations and statements of principle on the nature of the conflict, governance, transitional arrangements, institutional reform and reconstruction, provides a legal framework which could provide better respect for human rights.[6] Indeed, there are clear references to human rights, justice and equality, and respect for all throughout. Protocol II, Article 3 of the Peace Agreement includes a Charter of Fundamental Rights and duties to be guaranteed by the Constitution. These include the rights and duties enunciated in the Universal Declaration of Human Rights and international human rights treaties, the African Charter of Human and Peoples' Rights, Convention on the elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child. The right to property is also guaranteed for both men and women.

The Peace Agreement also makes recommendations on the reform of key institutions including the armed forces, on providing training in humanitarian and human rights law for the armed forces, on the exclusion of human rights violators from the security forces and the separation of the roles of the police and military, all of which could lead to better respect for human rights.

A number of provisions, if implemented and properly provided with resources, including experienced personnel, equipment and funding, would be an effective starting

[6]The Peace Agreement recognises that the conflict is essentially a political conflict with important ethnic dimensions. It expresses commitment to establishing a new political order within the framework of a new constitution based on the values of justice, rule of law, good governance, democracy and respect for human rights and affirms the principles of equality before the law and of the sexes. The right to property for both men and women is also guaranteed. It recognizes multipartyism, defines the transitional arrangements and provides for the establishment of an electoral commission. For the duration of the transitional period, legislative power will be exercised by the transitional National Assembly (made up of the elected parliamentarians from 1993, or their successors, three representatives of each political party (except UPRONA, FRODEBU and the CNDD which are already represented) and representatives of civil society appointed by President Buyoya in 1998), and the Senate, a new body with important constitutional powers. The transitional Senate will be composed of two representatives (from different ethnic groups) from each province, former heads of state and and three members of the Twa community. Executive power will be exercised by the President of the Republic, assisted by a Vice-President, representing different political tendencies. The President of the Transition may not stand in the next presidential elections, which mark the end of the Transitional period. Both the presidential election and the democratic elections of parliamentarians to the National Assembly should take place within 30 months of the signing of the Peace Agreement. Transitional arrangements may only be modified with the consent of 9/10 of the transitional National Assembly.

The Peace Agreement also provides for an Implementation Monitoring Committee the role of which is to ensure the implementation schedule is adhered to, to ensure correct interpretation of the Peace Agreement, reconcile or arbitrate in case of disagreement, assist and coordinate the work of the commissions set up by the Peace Agreement and assist in the establishment of the transitional government.

point to tackling impunity, in relation to both past and future abuses. These provisions include legal reform, recruitment to the judiciary, the establishment of a National Truth and Reconciliation Commission, a request for an International Judicial Commission of Inquiry, and measures to prevent and prosecute genocide. Other elements of the peace agreement may however ultimately grant total immunity to perpetrators of human rights abuses, or make the judiciary vulnerable to political interference.

Appendix I of this document contains more detailed comments and recommendations in relation to some of the main points contained in the peace agreement relating to human rights.[7]

III APPLICATION OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW TO THE CONFLICT

The Government of Burundi and the leaders and military commanders of armed opposition groups have the obligation under international humanitarian law to ensure that their forces respect fundamental rights.

The Constitution and laws of Burundi would, if applied, also provide protection from human rights violations.

International human rights law

The Government of Burundi is required to fulfil its obligations under international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the Convention on the Rights of the Child and the African Charter on Human and Peoples' Rights (African Charter) particularly with respect to members of its civilian population.

Although the Government is entitled to derogate from the rights protected under the ICCPR in a situation of an emergency which threatens the life of the nation, there are

[7] In January 2000, Amnesty International submitted a memorandum, *Burundi: Protecting human rights -- an intrinsic part of the search for peace* (AI Index: AFR 16/01/00), to participants to the Arusha talks. The memorandum made of a series of recommendations on how any future agreement could better protect and promote human rights. Further recommendations were also submitted to an International Donor Conference on Burundi, held in Paris in December 2000. In both submissions, Amnesty International focussed particularly on the areas of justice, reform and training of the security forces, the protection of refugees and the displaced, the rights of children and human rights monitoring.

certain core rights, including the right to life and prohibition of torture, from which there can be no derogation even during times of war. The African Charter and the Convention against Torture do not allow for any derogations.

The Burundi Government should also implement the full range of other human rights standards including the UN Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Code of Conduct for Law Enforcement Officials, Basic Principles of the Use of Force and Firearms by Law Enforcement Officials, Basic Principles on the Independence of the Judiciary, Guidelines on the Role of Prosecutors, Basic Principles on the Role of Lawyers, Declaration on the Protection of All Persons from Enforced Disappearances and Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

International humanitarian law

All parties to the civil war in Burundi, including government and armed opposition forces, are bound by the provisions of Article 3 of the Geneva Conventions of 1949 and by Additional Protocol II to the Geneva Conventions governing the conduct of non-international armed conflicts. Article 3 which is common to the four Geneva Conventions, provides for the protection of persons taking no active part in the hostilities, including members of armed forces who have laid down their arms or who are otherwise *hors de combat*, and requires such persons to be treated humanely. In particular, it prohibits certain acts against such persons, including violence to life and person, torture, taking of hostages and humiliating and degrading treatment, and provides certain fair trial guarantees. Common Article 3 explicitly prohibits mutilation or any form of corporal punishment, rape, any form of indecent assault, pillage.

Additional Protocol II adds provisions regarding the protection of civilians from the dangers arising from military operations, and particularly, the protection of children during armed conflict. Additional Protocol II also prohibits the recruitment of children under the age of 15 (see below for more details on the law regarding the use of child soldiers). It also prohibits the attacking, destruction, and removal of "objects indispensable to the survival of the civilian population, such as foodstuffs, agriculture areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works."

Acts committed by members of either side to an internal conflict in violation of Common Article 3 or Additional Protocol II may be considered as war crimes.

In addition, the international community has affirmed that individuals can be held criminally responsible under international law for acts which are committed in violation of Common Article 3 and Additional Protocol II through including such violations in the statutes and case law of the International Criminal Court and the International Criminal Tribunal for Rwanda.

Application of principles to specific problems

i) Forcible transfer

Forcible transfer violates a number of international human rights treaties which Burundi has ratified, including the ICCPR, specifically the right not to be subjected to arbitrary interference with privacy, home or family. The killings which occurred during regroupment and cases of ill-treatment and rape violate Articles 6 and 7 of the ICCPR, which are non-derogable under any circumstances.

Under the African Charter, the authorities are obliged to protect the rights enshrined in that treaty including the right to life, the prohibition of torture, cruel, inhuman or degrading treatment and the right to freedom of movement and residence within the borders of a state.

Under international humanitarian law, specifically Article 17 of Additional Protocol II, forced displacement of civilians is only allowed to protect civilians or for an imperative military reason. Forcible displacement to gain control over an ethnic group is therefore prohibited.

Forcible transfers, except in very limited circumstances for temporary periods, are war crimes if committed in armed conflict or crimes against humanity. The Statute of the International Criminal Court (the Rome Statute), which Burundi signed in January 1999, defines as a war crime "ordering the displacement of the civilian population for reasons related to the conflict" unless the security of the civilians involved or imperative military reasons so demand, and as a serious violation "of the laws and customs applicable in armed conflict not of an international character".

ii) Child soldiers

In an internal armed conflict, the obligation under international humanitarian law is clear -- children under the age of 15 shall neither be recruited into the armed forces or armed opposition groups, nor allowed to take part in hostilities. This prohibition applies equally to government forces and armed opposition groups.

The Rome Statute recognizes that it is a war crime for any government or armed opposition group to recruit or use as soldiers children under the age of 15.

In a report by the Special Representative of the Secretary General for Children and Armed Conflict, made to the UN General Assembly in October 1998, the Special Representative strongly supported the movement to "*raise the legal age for recruitment and participation of children in hostilities from 15 to 18 years*" and stated that "*Children simply have no role in warfare.*"

Amnesty International believes that the voluntary or compulsory recruitment and participation in hostilities, whether on the part of governments or armed opposition groups, are all activities that ultimately jeopardize the mental and physical integrity of anyone below the age of 18. For this reason, the organization actively opposes the voluntary or compulsory recruitment, not just the participation in hostilities, of persons below 18 years of age.

IV CURRENT HUMAN RIGHTS ABUSES

Closely linked to the escalation of the conflict, human rights abuses -- in particular the torture, "disappearance", forcible regroupment and killings of unarmed civilians -- escalated at the end of 1999 and continued unchecked throughout 2000 and into 2001. The complete lack of respect for fundamental human rights, in particular the right to life, by all parties to the conflict has led to the killing of hundreds of civilians. Scores of others have been tortured, often after arbitrary arrest. There have been a number of deaths in detention, and hundreds of people have been forced to take part in military operations or carry out unpaid labour for members of the armed forces. The crisis of population displacement is unresolved, although the regroupment camps around Bujumbura, into which over 300,000 people were forced in 1999, have now been officially dismantled. The destruction of crops and homes by all factions has added to this misery.

V THE KILLING CONTINUES

The Burundian armed forces and armed opposition groups continue to show complete disregard for the right to life and to act with apparent impunity. The problem is likely to be perpetuated -- even in the event of a substantial reform of the army -- unless there is substantial training and the perpetrators of human rights abuses are brought to justice. The lack of accountability and discipline of both the current government armed forces and various armed opposition groups must be immediately challenged to protect lives now and in any future arrangement. In addition to the violations attributed to the armed forces in the section which follows, there are frequent reports of other abuses, such as forcing the

population to carry out unpaid manual work for soldiers or members of the local government administration, and of looting by members of the armed forces.

i) Extrajudicial executions by the armed forces

Mass reprisals against the Hutu civilian population seem to indicate that the Hutu population in general is regarded by the government forces as both hostile and complicit -- actively or passively -- with the armed opposition. The response by Burundi's security forces to the loss of colleagues in hostilities has on numerous occasions been arbitrary reprisal killings of unarmed civilians. The signing of the Peace Agreement does not seem to have changed this well-established pattern of response.

Between 25 and 28 June 2000 at least 44 unarmed civilians were extrajudicially executed -- mostly apparently by bayonet -- by members of the armed forces in Itaba commune, Gitega province, in reprisal for military losses following clashes with an armed opposition group, possibly the FDD, on Ruhanza *colline*.[8] Ruhanza primary school was reportedly burned down by the armed opposition group who also destroyed coffee plantations. Much of the local population had already fled, some to a nearby camp for the displaced in Buhoro; it appears those who remained were considered indiscriminately by the government forces to be members of the armed opposition and executed. On the same day, following the retreat of the armed opposition, soldiers from the military positions of Buhoro and Mujejuru began looting and killing on the three hills of Kagoma, Rukobe and Ruhanza. Six men were killed by soldiers on 26 June on Rukuku *sous-colline* as they went to bury a relative who had been killed by soldiers the previous day. A man, **Gahungu**, who was bayoneted to death, was among six people killed on Muyange sous-*colline*.[9] An old man named **Zacharie Muranga** was one of four people killed on Seseko *sous-colline*, Rukobe *colline*. Some survivors apparently accused inhabitants of Buhoro displaced person camp of participating in the military operation alongside soldiers.

On 28 July on Munyinya *colline*, Gisuru commune, Ruyigi province, soldiers reportedly set fire to the *collines* and *sous-collines* of Munyinya, Kinama, Nyarumuanga, Musenga and Iteka, looting and burning homes, and setting fire to banana and coffee plantations. At least six unarmed civilians were reportedly killed during the military

[8] *Colline* (hill) is an administrative division at local level which breaks down into smaller sub units referred to as *sous-collines*. A *colline* is itself a unit of the zone.

[9] Both Rukuku and Muyange are *sous-collines* of Ruhanza *colline*.

operation, which followed a series of attacks in the locality by the armed opposition during which the civilian population was systematically robbed.

Between 17 and 19 August 2000, scores of civilians were killed on Nyambeho, Gishingana and Gitezi *collines*, Nyambuye commune, Rural Bujumbura. The circumstances of the killings are not entirely clear but at least 30 unarmed civilians were extrajudicially executed on 18 or 19 August by members of the armed forces in reprisal for clashes with the FNL in which the army sustained heavy losses. The victims were ordered to return to their homes by soldiers but were then apparently fired on by soldiers as they complied with the order. A number of children were among the dead and wounded. According to the Administrator of Isale commune, 65 civilians were killed. The army spokesperson admitted that the army had been carrying out "punitive" operations against the armed opposition in the area but denied that the army was responsible for the deaths of civilians.

On 29 September, at least 28 unarmed civilians were extrajudicially executed by members of the elite *Battalion para*, Paratroop Battalion in northern Bujumbura. Despite an official denial by the armed forces, a wide range of unofficial sources in Bujumbura insist that the armed forces were responsible for the killings, termed by one independent observer as a killing spree. The Minister of Interior acknowledged that 19 civilians had been killed but said they had been killed in cross fire.

The killings followed heavy fighting in Tenga, close to Bujumbura and an attack on a military post in the Kamenge district of northern Bujumbura which was attributed to the FNL. The FNL then withdrew and the following morning soldiers of the *Battalion Para* carried out reprisal killings in the Kamenge, Gasenyi, Gituro areas of Bujumbura, mainly inhabited by Hutu. The soldiers reportedly entered the areas on the pretext of looking for members or supporters of the armed opposition. Most of those killed, including women and children, are reported to have been bayoneted to death, some in their homes, while others were killed as they fled. The bodies of two women and their children, still tied to their backs, were seen in Gasenyi district. All had been bayoneted to death. A 14-year old girl, **Francine**, was amongst those killed. **Ferdinand Ntunzwenimana**, his wife, **Rose**, and four members of their extended family were all killed.

The area was closed off by soldiers after the killings and Amnesty International is concerned that incriminating evidence may have been destroyed. There has been no official government investigation.

On 9 October, CNDD-FDD combatants installed themselves on Kagozi *colline*, moving among the population and holding propaganda meetings. Following a clash the next day with government armed forces, the CNDD-FDD withdrew burning the Mahonda

zone administration buildings and two schools in Nyakarambu and Muyuga. After the CNDD-FDD had left, most of the population fled, fearing reprisals. However some, mostly the elderly or women with young children, stayed on the *colline*. Shortly afterwards, members of the armed forces arrived in Mahonda zone, Buhaza commune, and began a military operation to root out members of the armed opposition. The soldiers reportedly looted homes and fired indiscriminately on people they saw on Bugege *colline*, reportedly killing 30 people including **Ndekiye**, **Muvimbere**, an old woman **Nahimana**, a woman **Marguerite** and her eight-year-old daughter, a woman **Bahezwa** and her five-year -old daughter **Nicoyagize**, **Simparugwa**, a woman known as "**Madame**" and an old man **Ndikumana**. Unconfirmed reports also state that on Bibate *colline*, also in Mahonda zone, up to 15 people hiding in two houses were killed when the houses were set on fire.

The armed forces have further deliberately endangered the lives of unarmed civilians by forcibly recruiting them to clear land during military operations, to facilitate the advance of the armed forces and to serve as a first line of protection against the armed opposition. There have been numerous reports of this practice, often hard to verify, over the years. On 16 November, around 300 men, reportedly all Hutu, were forcibly taken from several districts of Bujumbura, including Kinama, Kamenge, Buterere and Gihosa in military lorries and taken to clear bushes and trees in the area leading up to Tenga in Rural Bujumbura. In the weeks prior to this, there had been intense fighting in the area between the armed forces and FNL. Independent observers described the group of forcibly recruited men as serving a dual function of "human shields" -- protecting the military who were with them -- and as forced labourers.

ii) Killings and other abuses by armed opposition groups

Since late 1999 there has been an upsurge of fighting by the armed opposition groups with a permanent presence around the capital (largely FNL) and increased attacks in the eastern border provinces (largely attributed to the CNDD-FDD). The activities and area of operation of the FDD, PALIPEHUTU and FROLINA are less clear, although the FDD and FROLINA are thought to have a small number of combatants in the south, and PALIPEHUTU has in recent years been more active in the north of the country.[10] What is clear, however, is that the activities and human rights abuses of the armed opposition groups have severely affected life throughout the country and in the capital, creating an atmosphere of fear and violence. Their leaders have failed to acknowledge or condemn

[10]Combatants move rapidly around the country and it is often not possible to confirm who is responsible for particular abuses or attacks. In the south, some ambushes and thefts are attributed by local sources to ex-members of the FDD operating as criminal gangs.

human rights abuses by their combatants, and have, in the case of the FNL, openly threatened violence against civilians.

Scores of civilians, both Hutu and Tutsi, have been killed in ambushes. There is no guarantee of safety on many roads. Armed opposition groups have also been responsible for ill-treatment and summary executions, as well as for looting and the deliberate destruction of homes, crops and the economic livelihood of a rural population most of whom already live in total poverty, and in some cases, on the brink of starvation. Armed opposition groups have destroyed scores of schools. Major economic targets have also been repeatedly targeted, including the sugar company, the *Société sucrière de Moso* (Sosumo), whose deputy director, **Alexis Rwagatore**, was amongst those killed in the 12 October 1999 attack on Muzye displaced camp, close to the Tanzanian border. National and international humanitarian workers have also been attacked.

The level of arbitrary and deadly abuse and violence has been sustained. The few examples of human rights abuses given in this section of the report reflect only a minority of the abuses which have occurred. They have been grouped somewhat geographically due to the supposed regional bases of the various factions.

On 24 April the FNL entered Ruziba regroupment camp and demanded money. One man, **Pascal Ntirugirindaganu**, who tried to resist, was shot and killed. Around 20 young men were forced to help the combatants take food they had stolen from the camp to their bases in Gitenga and Massama.

On 1 June, members of the FNL killed and decapitated three people on Rutegama *colline*, Isale commune, Rural Bujumbura. Two other people escaped. The FNL had apparently accused the men of collaboration with government forces. On 5 June, six people were reportedly killed in an ambush on the RN9 road, around 10km north of Bujumbura near Muzinda. The ambush is attributed to the FNL, based in Tenga. On or around 10 June the head of Mubone zone was shot in broad daylight at home by three armed men, believed to be members of the FNL. Local government officials, both civilian and military, Hutu and Tutsi, have been systematically targeted by armed opposition groups.

On 3 August, three decapitated heads were placed on the RN9 following fighting between the FNL and armed forces. The three are believed to be captured government soldiers, executed by the FNL. On 4 September, a local administration official in Rushibi commune was killed. On 7 and 8 September, Kinama district, Bujumbura was attacked and five civilians reportedly killed. On 12 September, a local administration official in Isale commune was killed by members of the armed opposition. Repeated attacks on northern

Bujumbura were followed by mass reprisal killings by the security forces (see section on extrajudicial executions).

On 1 October, members of an armed opposition group, presumed to be the FNL, attacked the Cibitoke and Mutakura districts of Bujumbura. Eleven people were killed, most of them Hutu. One woman and her four sons aged between 15 and 20 were killed. Testimony received by Amnesty International indicated that the victims were singled out in what appeared to be score-settling or because they refused to give money to the combatants.

On 28 December, passengers on the Kigali - Bujumbura bus were forced off the bus at Mageyo some 15km from Bujumbura by members of an armed group, believed to be the FNL. Twenty one of the 30 passengers died in the attack, at least 10 of whom were robbed, forced to lie down and summarily executed. The motive of the attack may have been the alleged failure of the driver, **Pascal**, who was amongst those killed, to contribute sufficiently to the FNL. Others killed included **Charlotte Wilson**, a British aid worker in Rwanda, **Audace Ndayisaba, Richard Notereyimana, Aline Nzeyimana, Ibrahima, Innocent, Florence Hagatura** and **Nzeyimana**. The FNL have denied responsibility for the attack.

While the FNL appear to have concentrated on consolidating positions around the capital and attacking the city in a series of hit and run attacks, the CNDD-FDD increased infiltrations and military activity in the central, eastern and southern border provinces during 2000, apparently seeking to gain permanent bases in the region. The FDD are also reportedly active in the region. The populations of the conflict areas have been subjected to a campaign of terror and intimidation through selective killing, threats, physical aggression, rape, kidnapping and theft. Failure to comply and attempts to call for help have sometimes been punished by beatings or death. Members of the armed opposition have demanded money and food; homes and schools have been burned and livestock stolen. Much of the destruction of property, crops, livelihoods and the infrastructure seems designed to force the population to flee or is intended purely as punitive. Civilians have complained that combatants have accused them of betrayal -- merely by the fact that they have not fled the country. The constant insecurity has had other tragic consequences; by August 2000, in Gihago commune, Rutana province alone, there were reportedly around 600 abandoned children whose parents had fled to Tanzania.

On 27 January 2000, combatants, probably from the CNDD-FDD, looted and set fire to a number of small shops in Cendajuru commune, Cankuzo province. In early February, Rubamvyi primary school, Gitega commune, Gitega Province was destroyed. On 29 April, the Mbizi area of Kibago commune, Makamba Province was attacked and crops destroyed. Several houses were burned. In mid-May, the commune was again attacked and

scores of houses were destroyed. Some of the houses were already deserted and it appears to be a tactic to discourage the population from returning to their homes.

On 12 March, four people were reportedly killed and three wounded -- all from the same family -- during an attack on Ruranga, Bukemba commune, Rutana province. Several houses were also set on fire, and some livestock stolen. On the night of 19-20 March, the town of Makamba was also attacked and several shops looted. Although most attacks in the Makamba region are attributed to the CNDD-FDD, the attackers were reported to be singing religious songs, something usually associated with the FNL. A number of people were threatened and ill-treated but no civilians are known to have been killed. Eyewitnesses said that children who looked as young as nine years old were participating in the looting and burning. On the night of 23 April, Mushara site for the displaced, in Gitara zone, Mabanda commune, Makamba province was attacked and at least five people killed.

On 1 June, two people were killed and two others wounded in an ambush on Maramvya *colline*, Butaganzwa commune, Ruyigi Province. On 9 June, members of an armed opposition group opened fire on a minibus coming from Gitega, also on Maramvya *colline*, on 9 June killing three people and wounding one. On 7 June, two people were killed at Mpinga Kavoyge, Rutana Province, when they refused to give money. A neighbour who gave the alarm was tied and beaten at the military position, apparently for having failed to alert the soldiers quickly enough. On or around 20 June, one person was killed and two wounded, and several houses burned in Butare, Bukemba commune, Rutana province. The health centre was also looted.

On 14 July, **Jérôme**, the head of Simba *colline*, Makebuko commune, Gitega Province, was stabbed and killed by members of the armed opposition, probably the CNDD-FDD, as he was drinking in a bar in Simba. Money was extorted from several households before they left. Three vehicles were ambushed on 20 July at Kibande, Gitega Province, by combatants who demanded money. The passengers of one vehicle refused to give money. Their clothes and shoes were taken and the cars burnt.

Since late July 2000, the CNDD-FDD have again been attacking through Cankuzo province in eastern Burundi. According to testimony received by Amnesty International, the CNDD-FDD arrived at Cendajuru commune on 19 July in the afternoon and began drinking and dancing. In the early evening they threatened and beat a young man so that he would act as their guide, giving him a list of people they wished to visit for money. The combatants remained in the area moving from hill to hill for three days, taking money and beating those who refused. Twenty five houses were burned and destroyed.

The accountant of Gisuru commune, Ruyigi Province, was killed by combatants presumed to be the CNDD-FDD on 4 or 5 August, after being stopped on the road from Nyagahero market. He had apparently been threatened by the group a week earlier. The CNDD-FDD then apparently went to look for people who had sold cows at the market, knowing they would have money. In Ndutwe, a business man named **Bonaventure** was killed and his money stolen. Sixteen houses were burned at Ruyinerere.

On 25 December, following an attack by the CNDD-FDD on a military post next to Bukemba displaced camp in Rutana province, the camp itself was attacked and a number of unarmed civilians deliberately killed. The soldiers who were heavily outnumbered fled and the combatants entered the camp, looting, burning and killing. In all, 13 civilians died in the attack although some are believed to have been caught in cross-fire in the initial confrontation. The dead included two young boys, **Lazard and Ndikumana**, both of whom were two years old and three older students, **Ferdinand Minani, Jean-Marie Sabimana** and **Jean-Pierre Nduwimana**. The attackers broke the windows in the local school, *collège communal*, and burnt books and tables. The administration buildings were also set on fire. A teacher was forced to accompany the group but was later released unharmed. In a press statement released on 29 December, the CNDD-FDD denied killing civilians in Bukemba, stating that in the course of the attack 18 Burundian soldiers had been killed in Bukemba and accusing the Burundian government of killing more than 30 civilians in nearby Butare. There has been no independent confirmation as yet of the latter killings.

iii) Other threats to the right to life

> *"On va se battre par tous les moyens, politiques et diplomatiques... nous prendrons même les armes, prêparez-vous à vous en munir et vous en servir s'ils viennent nous tuer..."("We will use all means to fight, political means, diplomatic means..., we will even take up arms. Get ready to arm yourselves and to use your weapons if they come to kill us...")* Diomède Rutamucero, *PA Amasekanya*, April 2000

> *"La signature des Accords d'Arusha sera une déclaration de guerre au peuple burundais. Nous la prendrons comme tel et le peuple burundais se défendra..." ("The signing of the Arusha Agreement will be a declaration of war to the Burundian people. We will take it as such, and the Burundian people will defend itself...")* Charles Mukasi, UPRONA, April 2000

The conflict and the perceived failure of the Government of Burundi and its forces to protect Tutsi civilians has increased opposition to Pierre Buyoya amongst a number of Tutsi-dominated political parties and movements, some of whom have opposed the negotiations in Arusha from the outset on the grounds that the Government is negotiating

with what those they regard as responsible for the killings of Tutsi, which they consider to have been acts of genocide, in 1993.

The Tutsi self-defence association, *PA (Puissance d'Autodéfense) Amasekanya*[11] and allied movements such as *AC Génocide*, the *Jeunesse révolutionnaire Rwagasore* (JRR), Rwagasore Revolutionary Youth, the *Coalition contre la Dictature*, Coalition against Dictatorship, insist that an ethnically reformed army could not protect the Tutsi ethnic group from the threat of genocide. To counter this they have sought to undermine the peace process, incited violence and are accused of a number of human rights abuses, including killings.

Demonstrations against the Arusha negotiations were organized throughout the year in Bujumbura, often accompanied by pamphlets warning of an impending genocide of Tutsi and stating that failure to comply with the order to demonstrate would be perceived as treason. In March for example, an anti-Arusha demonstration was called for by *PA Amasekanya*, the Mukasi wing of UPRONA, *AC Génocide Cirimoso*[12], the JRR and *Union des Femmes Burundaises* (UFB), Burundian Women's Union, a women's movement affiliated to UPRONA, and the *Coalition contre la Dictature*. The call for a demonstration was accompanied by the statement that "absence will be considered as a sign of support for genocidal organizations and their supporters". The demonstrators also denounced the idea of an amnesty for those involved in genocide and integration of members of Hutu-dominated armed opposition groups into the armed forces. In early April, the same five organizations threatened to take up arms in a press conference if the interests of the survivors of genocide [Tutsi] were not safeguarded. **Diomède Rutamucero**, the president of *PA Amasekanya* has also strongly opposed demobilisation of the current army (post integration of other combatants) and in October 2000 was briefly detained with the Secretary General of JRR and **Pierre Claver Hajayandji**, President of the *Confédération de Syndicats du Burundi* (COSYBU), Confederation of Burundian Unions, after publicly criticising plans for demobilisation. The document issued by *PA Amasekanya* included a warning to soldiers that by demobilising they risked the murder of themselves and their families by genocidal terrorists, calling on them "not to sell themselves and go like lambs to the slaughter".

[11] *PA (Puissance d'Autodéfense) Amasekanya* (*Amasekanya* implies physical force or strength) is an armed movement closely associated with the Mukasi wing of UPRONA. It presents itself as against campaigning against the genocide of Tutsi.

[12] *AC Génocide Cirimoso* was formed following the 1993 massacres of Tutsi civilians. *Cirimoso*, a Kirundi word means "never again" in English. It is accompanied by a gesture which indicates something bad which needs to be vomited (which you want no more of). AC is an abbreviation of *Action Contre la Génocide (AC)*, Action Against Genocide.

Members of *PA Amasekanya* are reported to have been behind an ambush on 21 May 2000 near Gatumba, in which at least three Hutu members of FRODEBU were killed, including **Liboire Karikurubu**. Following the killing on 6 August of up to 42 trainee army officers in an ambush in Rural Bujumbura, attributed to the FNL, members of *PA Amasekanya* reportedly attempted to launch a reprisal attack on Gatumba, a predominantly Hutu village near the Congolese border. The group was turned back close to Gatumba by members of the security forces who certainly prevented serious human rights abuses.

PA Amasekanya, AC Génocide and other parties or movements which hold similar political views also called for city-wide strikes or "*villes mortes*" and incited disturbances in the capital around the signature of the accord provoking a climate of intense fear and mistrust in the capital. On 18 August a three-day general strike organized by COSYBU started. Barricades were erected on several main roads and there were violent demonstrations during which three people were reportedly killed. The central market was closed following rumours that Tutsi youths were to attack the market, and Jabe market in Bwiza district was burned to the ground on 21 August. A grenade was thrown in another Bujumbura market in Buyenzi killing at least three people on 23 August. In response to the "*villes mortes*" a number of students and **Pierre Claver Hajayandji, Diomède Rutamucero** were arrested and briefly detained incommunicado. **Raphaël Horumpende**, Deputy Secretary General of the JRR was also arrested and was detained before being released uncharged.

The government response to the activities of movements such as *PA Amasekanya* has been somewhat ambiguous. Diomède Rutamucero, a very public critic of President Buyoya, has been arrested and briefly detained on numerous occasions and has accused the government of intimidation. Some sources claim that senior political figures within the government support, and even finance, *PA Amasekanya*, and despite the frequent arrests, no real measures appear to have been taken to prevent the arming of the movement or to end its calls for violence. The organization has been legally recognized. The International Crisis Group has argued that President Buyoya has allowed *PA Amasekanya* and other extreme organizations to operate so as to appear as a more moderate, and attractive, alternative.[13]

Another clear potential threat to the right to life is posed by the *gardiens de la paix*, guardians of peace, a force made up mainly of former armed opposition combatants who have changed allegiances and now work with government security forces, particularly in the south of the country. They are armed but not paid, and receive little training or

[13] *Burundi: The Issues at Stake, Political Parties, Freedom of the Press and Political Prisoners.* International Crisis Group Africa Report N.23, 12 July 2000.

supervision. There is no formal structure and no uniform. Although in theory they are answerable to the local administration, senior government figures have acknowledged privately that they can be difficult to control, especially during moments of high tension. There also appears to be a potentially explosive mistrust between them and the paid security forces. Amnesty International has received numerous reports of harassment of the population - often to get money or food. In November, a teacher in Rukingka, Rumonge commune who intervened to prevent the ill-treatment of a man by the *gardiens de la paix*, escaped serious injury when one of the *gardiens* attempted to shoot him. The teacher lodged a complaint with the *Police de sécurité publique* (PSP), Public Security Police, who said it was not their responsibility but that of the administration to ensure discipline. The teacher was briefly detained by the administration when he alerted them to the problem. Other independent observers report that people are regularly detained in the Rumonge area by the *gardiens de la paix* in connivance with the local administration for short periods of time, and are only released after payment of bribes.

VI THE STRUGGLE FOR JUSTICE

The judiciary in Burundi continues to face extraordinary challenges. There have been a number of significant improvements, including in conditions of detention. However, violations of human rights related to the administration of justice remain widespread. The justice system is not sufficiently independent of the executive. There is no equality before the law and the military justice system remains a law unto itself. It is essential that these issues are effectively addressed in the context of the peace process and transitional arrangements if human rights are to be better respected in future. The challenges, though, are immense. There is a real problem of financial and material resources and a backlog of thousands of cases. Decades of abuse of power, of torture and of violence within the detention system must be reversed.

The importance of addressing these matters cannot be underlined enough, and they are as much a threat to a durable peace as any outstanding political or military issues.

i) The menace of impunity

i.i) Still above the law

As reported in *Burundi: No respite without justice*, the Burundian government and military appear willing to bring soldiers who have perpetrated human rights violations to justice only in a few, very high profile, cases, such as the case of Nyandwi, a Cadet Officer, *candidat officier*, who was arrested and accused of the extrajudicial execution of between 100 and 165 unarmed civilians, including at least 59 children, during a counter-insurgency

operation carried out in November 1998 by a mobile unit of which he was the commander. In the public outcry which followed the making public of the killings, Nyandwi and another officer were arrested. However, two years later, Nyandwi has yet to be charged and once the public outcry had quietened, little seems to have been done to investigate the killings and bring those responsible to justice.

Likewise **Claude Ndayisaba** was sentenced to death in November 1999 after being found guilty by Bujumbura military court of fatally shooting six people in Ruyaga regroupment camp and wounding seven others in October 1999[14]. Because of the close national and international scrutiny of the regroupment policy, the extrajudicial executions were reported on widely, possibly a significant factor in Claude Ndayisaba's rapid trial and conviction. He has appealed unsuccessfully to the Military Court of Appeal on the grounds of legitimate defence and the case is now with the Supreme Court. He has received legal assistance.

However, virtually all other cases of human rights violations by soldiers remain uninvestigated. Members of the armed forces continue to torture, maim and kill with impunity. The number of cases where members of the armed forces are investigated remains derisory and, rather than indicating real steps to challenging impunity, serve to emphasize its continuity. Unless this crucial area of justice is addressed, however the armed forces and security forces are reformed, the level of violations of human rights will remain high.

i.ii) A shared lack of accountability

Like the Burundian armed forces, none of the Burundian armed opposition groups appear to act with any real accountability. Leaders of most of the groups have repeatedly assured Amnesty International verbally and in writing that allegations of human rights abuses by their own combatants are investigated, and a strict code of discipline is enforced. Amnesty International has received testimony on the execution after court martial of CNDD-FDD combatants found guilty by their local commanders of rape. However, no leader of PALIPEHUTU, FROLINA, CNDD, CNDD-FDD or the FNL has ever publicly acknowledged specific human rights abuses committed by their forces, despite an ever increasing catalogue of death and destruction. Unless leaders publicly condemn as well as take action to investigate abuses, it is hard to see that greater respect for human rights can be instilled in the fighting forces in the current context of continuing conflict and any future

[14] Amnesty International is unconditionally opposed to the death penalty in all circumstances, however heinous the crime.

post-conflict transitional period. The FNL has furthermore made statements threatening violence against civilians -- threats which appear to have been carried out.

ii) Other challenges to justice

ii.i) Torture, "disappearances" and deaths in detention

Although the introduction in January 2000 of a revised Code of Criminal Procedure has, according to many lawyers and members of the judiciary, gone some way to addressing the problem of arbitrary detentions and should help address the core problem of torture, neither practice has been eradicated. For example, **Jean Nzigirabarya**, a low level government official, *chef de colline* was arrested on or around 30 October after alleging in a public meeting that soldiers had killed several people on Kizingwe *colline*, Kanyosha district, Bujumbura (previously Kanyosha commune, Rural Bujumbura). He was held in detention in Kanyosha on the orders of the commander of the local gendarmerie. He was released on the morning of 23 November, but re-arrested in the afternoon shortly after the arrest of a security guard at the National Assembly, **Cyprien Sindayigaya**. Both were accused by the members of the local administration of passing information on human rights violations by soldiers to the National Assembly. Jean Nzigirabarya was released on or around 1 December and Cyprien Sindayigaya some days later.

The lack of control over arrest and detention procedures and the climate of impunity continue to facilitate serious human rights violations, including torture and "disappearances". This is particularly important given not only the current difficult political situation but also the challenges to be faced when the Peace Agreement is implemented. In the hours following their arrest on 18 December 2000, three students, **Mertus Habonimana**, **Rémy Habonimana** and **Pascal Ndikumana**, were tortured by being beaten on the soles of their feet in a military camp in Kamenge known as SOCARTI, where they were illegally held. The three were arrested after a letter addressed to the "rebellion" and written by Mertus Habonimana was found, in which he expressed general support for the FNL. Rémy Habonimana and Pascal Ndikumana were arrested purely because they were close friends of his. After intervention by human rights groups and a government human rights body, Rémy Habonimana was released and Mertus Habonimana and Pascal Ndikumana transferred to a recognized place of detention. Following further interventions, the two students were unconditionally released four days later.

Amnesty International and other human rights groups including the *Association burundaise pour la défense des droits des prisonniers* (ABDP), Burundian Association for the Defence of Prisoners' Rights, and ITEKA, both of whom have identified combatting torture as a key part of their work, continue to receive regular reports of torture and

"disappearance", particularly in military custody or in the early stages of police custody. The continued use of torture and incommunicado and illegal detentions by the military and gendarmerie in particular are other signs that these agencies consider themselves above the law. The new Code of Criminal Procedure has had little impact on military and gendarmerie units.

In January 2000, four men, **Dominique Bedetse**, **Pie Ndayizeye**, **Léonidas Birigusa**, and **Frédéric Nahindazi** were severely tortured in Ijenda brigade, Rural Bujumbura, following their arrest on 27 January. The four were accused of murder, following an attack by an armed opposition group in the area during the course of which a man was killed and some cows stolen. The four were held in Ijenda brigade until 4 April when they were transferred to Mpimba central prison. Following his transfer, Frédéric Nahindazi was hospitalized -- one of the few torture victims to receive the medical care they need. In late November 2000, four men accused of stealing cows from the property of the Minister of Energy and Mines in Makamba province were severely beaten on the back, soles of the feet and joints while detained for questioning in Mabanda brigade. One, **Evariste**, was beaten with a large piece of wood and whipped on his back. Another, **Balthazar**, was beaten on his joints and the soles of his feet.

No one has been brought to justice for acts of torture despite attempts by some members of the judiciary to initiate legal proceedings. Not only does torture continue to be an accepted form of interrogation, but the authorities have failed to take action to prevent deaths in custody as a result of torture.

On 13 February 2000, **Diomède Buyoya** died at the *Brigade spéciale de recherche* (BSR), Gendarmerie Special Investigation Unit, as a result of torture and ill-treatment. Diomède Buyoya, a domestic employee, was taken to the BSR by a BSR investigating officer who allegedly tortured and beat him to death. The investigating officer's wife had allegedly been insulted by Diomède Buyoya, who was her employee. The investigating officer was, after considerable efforts by the ABDP, arrested and detained in Mpimba central prison, Bujumbura. However, one month later all charges against the officer were dropped on the instructions of the Military Prosecutor's Department and the officer returned to work in a different unit.

Abdallah Kamana was arrested in April 2000 by the commander of Bunyerere military position, Gisagara commune, Cankuzo province on suspicion of participating in a theft which had been carried out by a group of armed robbers. Abdallah Kamana was severely beaten at the position apparently with the intent to force a confession -- although he had been in Tanzania at the time of the theft -- and handed over to the *chef de zone* to be detained. He died on the way to the communal cell as a result of his injuries.

The body of **Nicodème Sibomana** was found close to the local cell in Muyaga zone, Kanyosha commune on 15 May 2000. He had been arrested the previous evening by soldiers as he returned home from work. The reason for his arrest is not known. When contacted by Nicodème Sibomana's mother, the commune administrator denied knowledge of the arrest. However the commander of the military position told her that Nicodème Sibomana was held in the administration's cell. The administrator subsequently said that Nicodème Sibomana had died of malaria. No explanation was given for why the body was dumped near to the buildings. Eyewitnesses claimed his throat had been cut.

Another man, **Guido Niyungeko**, died on 27 June 2000 at the BSR as the result of severe injuries to the head and other parts of his body. Guido Niyungeko was arrested on 24 June, accused of stealing some cloth from a trader in Bujumbura central market and detained at the SOGEMAC detention centre in the market. He was severely beaten between 24 and 27 June. The commander of the BSR denied that the torture had taken place at the BSR but acknowledged that Guido Niyungeko had been severely beaten and brought, dying, to the BSR. The State Public Prosecutor ordered the Bujumbura District Prosecutor to arrest the officer allegedly responsible. He is yet to be arrested.

Scores of people were feared to have "disappeared" in late 1999 after a wave of arrests led to over 40 men being illegally, in held incommunicado detention, mostly illegally in military barracks or other unofficial detention centres. All were accused of links with the armed opposition following an increase in attacks by the FNL on Bujumbura. The failure by the military authorities to keep records of detention, follow legal procedures and use recognized places of detention has meant that while many of the 40 people are believed ultimately to have been released, the fate of others remains unclear. Many of those arrested at this time were severely tortured at SOCARTI military camp and at the headquarters of a military intervention squad, the *Groupement d'intervention*. One year later scars are still visible on some of those who have reappeared. One man, **Monsieur C**, was held initially at SOCARTI and subsequently at the *Groupement d'intervention*. He was severely tortured at both and was tied and beaten throughout his two month detention. Following his "release" he was forced to accompany soldiers to a military post in Rural Bujumbura and collect wood and water for them.

Although fewer "disappearances" have been reported during 2000, the phenomenon has not ended and is unlikely to do so unless those responsible are brought to justice. The two men whose cases are reported below, both "disappeared" in military custody in 2000.

One man, **Bigirimana**, "disappeared" following his arrest at Kavumu regroupment camp, Rural Bujumbura, by soldiers on 7 May. Bigirimana was accused of throwing stones during a disturbance at the camp after an army search operation degenerated into a looting

spree. Bigirimana was taken to a nearby military position, where he was reportedly seriously beaten. Soldiers later denied that he had ever been held. Six other people including **Gaspard Ndagibeze** and **Innocent Ndayizeye** were also arrested but were detained in the cells of the *Police spéciale de Roulage* (PSR), Special Haulage Police, in the compound of the District of Rural Bujumbura, a gendarmerie detention centre. The detainees were held incommunicado and beaten. All but Gaspard Ndagibeze and Innocent Ndayizeye who were subsequently charged with collaboration with armed opposition groups, were released. The basis for the allegation is not clear.

Feliazard Nahimana "disappeared" immediately after his release from Mpimba central prison, Bujumbura, in August. Accused of collaboration with the FNL, Feliazard Nahimana had that day been released on the instructions of the investigating magistrate who said he had no case to answer. As he left the prison on foot, around 17h30, later than the usual release time, Feliazard Nahimana was stopped by two soldiers and picked up in their car, later identified as having been requisitioned that day by the District of Bujumbura. Other prisoners released at the same time witnessed the arrest and were able to take down the jeep's registration number. The jeep drove off in the direction of a nearby military base. The State Public Prosecutor ordered the Bujumbura District Prosecutor to investigate the case. However, the investigation did not progress and those responsible were not identified. Feliazard Nahimana has not been seen since and is believed to have been killed shortly afterwards.

ii.ii) Long-term detention without trial

One of the biggest problems facing the Burundian judiciary is that of the long-term detention without trial of detainees, some of whom have now been in detention for over six years. Amnesty International considers the majority to be political prisoners. Of the approximately 9,000 strong prison population, nearly 6.000 have yet to be tried. The problem is particularly acute in some areas of the country. For example, in Ngozi prison, which covers the Kayanza, Kirundi, Muyinga and Ngozi jurisdictions, in August 2000, only 218 of the 2,224 inmates had actually been tried. Worse, of those 2,006 untried detainees, 245 were yet to be brought before a judge for the legality of their detentions to be confirmed and were thus illegally detained. The problem of long term detention without trial also affects common-law prisoners. **Gervais Macumi**, who is accused of murder and is detained in Ngozi prison, has been held without trial for over seven years since his arrest on 10 October 1993. During 2000, a date for trial was fixed at the Appeal Court but further investigations were ordered and the case has still not yet been brought to court. The Ngozi prosecutor has apparently said that they currently do not have the petrol to travel to the area to carry out the investigations.

The majority of detainees held for substantial periods without trial are accused of participation in the massacres of Tutsi civilians in 1993 or of some form of collaboration with armed opposition groups. Many detainees are in detention simply because they have not been able to challenge the legality of or basis for their detention and may be detained without substantiating evidence. **Libère Kanyurumwunsi** has no case file and is yet to appear in court although he has spent six years in detention in Ngozi prison following his arrest in Kirundo province in 1994. He is accused of participation in the 1993 massacres. **Côme Assumani** and **Mundaga** have both been held in detention in Rumonge prison since 1994, accused of maliciously destroying property in Minago zone, Rumonge commune during the 1993 political crisis. Neither man has been to court and both are yet to have an opportunity to challenge the basis for their detention.

Six women who were arrested between March 1997 and November 1999 are currently held without trial in Rumonge prison, southern Burundi. The six women, **Ildégonde Manirakiza**, **Sabine Ndayisimbiye**, **Fitina Barumbanzi**, **Jeanette Ndayisenga**, **Eliane Bukuru** and **Valérie Bukuru** are accused of participation in an armed opposition group or of collaboration with such a group, mainly on the grounds that they are alleged to have provided food to members of the armed opposition. Jeannette Ndayisenga, were arrested by the *Gardiens de la Paix* who have no legal authority to carry out arrests. She was stopped at a roadblock, accused of collaborating with armed opposition groups by providing food, and arrested. The basis for the allegation against her appears to be only that she was carrying provisions when stopped. Some of the women are reported to have been arrested because members of their families were known to belong to the armed opposition.

All six women were tortured in police or gendarmerie custody, some beaten with rods made out of electrical wire, others made to kneel on broken bottle tops or tied so tightly that the scars persist today. **Valérie Bukuru**, aged 46, has been held without trial since March 1997. Following her arrest on suspicion of providing food to the armed opposition, she was made to lie on the floor and was beaten on her thighs, feet and shoulders while in gendarmerie custody in Nyanza Lac *brigade*. She was reportedly stabbed in both legs, and both her legs and feet still bear scars. **Eliane Bukuru** (not a relative) has been held without trial since May 1998. She too was badly beaten in gendarmerie custody in Buyengero *brigade*, Bururi province. **Pascasie Barahemana**, a 70-year-old widow, was accused of having provided food to members of the armed opposition and was severely beaten on her arms and legs while in police custody in Rumonge. The scars are still visible. Held without trial for nearly three years' before her trial, she was convicted of collaboration with the armed opposition and sentenced to 10 years' in January 2000. She reportedly did not have a lawyer at her trial and is detained in Bururi prison.

The Bururi State Prosecutor has admitted that because of a drastic lack of resources, in practice no investigations are being carried out. Cases therefore cannot progress to the courts.

Furthermore, trials are often lengthy and may last years, as a consequence of multiple postponements. In 1996 a law designed to speed up the process of these trials was passed. The law stipulated that all witnesses must be present for the trial to go ahead. In practice, even when, after several years, a detainee might get to be heard in court -- often the first chance for many to challenge the legality or basis of their detention -- the time lapse between the initial accusation and the court hearing may make it difficult to find the prosecution witnesses or plaintiff, and there is no guarantee that the hearing will take place. Defendants, too, are often unable to locate his or her witnesses after years in detention. The courts have yet to establish an effective system for tracking witnesses in these difficult situations and a high proportion of trials are consequently adjourned. Witnesses -- if identified and prepared to testify -- must pay their own costs of travelling to court. Many people are simply unable to do this. Others are further discouraged as they know the likelihood is that they will turn up in court only for the case to be adjourned for several months. There is no limit to the number of times a case may be deferred. The problem of the attendance of witnesses -- both prosecution and defence -- is acknowledged by the government, judiciary and human rights groups. It remains a serious obstacle to the proper functioning of the courts The human rights group, ITEKA, have developed a witness transport program to try to address this problem.

Firmin Rigi is accused of killing two Tutsi in Nyamwenze commune, Ngozi province, during the massacres which occurred in October 1993. He was arrested on 15 September 1994 in Ngozi and was questioned for the first time two months later. He did not appear in court until mid-1999. Further delays in his trial seem inevitable as the state prosecution service has proposed that the 57 men from Nyamwenze commune who are accused of participation in the killings should be brought together into one case file. It may in consequence be extremely difficult to bring all the witnesses together.

In cases where trials are deferred to allow for further investigations to be conducted, there appears to be no monitoring to ensure that the further investigations actually take place within a reasonable time. Another detainee in Ngozi prison, **Guillaume Bucumi**, was arrested in August 1994. He is accused of participation in the1993 massacres in Rango commune, Kayanza province. The case went to trial in early 1998 and a co-defendant was released. The case against Guillaume Bucumi was sent back for further investigation. Nearly three years later, it has still to return to court.

Even when the trial has concluded, delays may occur. **Gerard Barutwananyo** was tried by the *Tribunal de grande instance*, High Court, in Bururi in mid-1998, accused of

being a member of an armed opposition group. He has yet to hear the verdict. **Victoire Hatungimana**, a teacher, who was arrested in June 1997, was eventually tried on charges of collaboration with an armed opposition group by the same court in March 2000. She too is to be told the verdict. She did not have a lawyer and was reportedly tortured during questioning.

ii.iii) Recent political trials

Trials continue to fall far short of international standards for fair trial, through in particular the denial of the right to appeal and the use of torture.

The right to appeal

Since 1996, hundreds of Hutu have been tried on charges of participation in the massacres of Tutsi civilians which followed the assassination of President Melchior Ndadaye. Many of the trials, particularly those which took place in 1996 and 1997, were grossly unfair. During 1996 virtually all defendants in these trials were denied the right to legal assistance, defence witnesses were intimidated and in some cases arrested, and trials were often summary. Many convicted defendants were sentenced to death or received long prison sentences.

As most trials took place before the Court of Appeal in the first instance, the only recourse available is to make a petition to the Cassation Chamber of the Supreme Court for a review of the case on the basis of procedural irregularities. The procedure does not look at the facts of the case, and can only overturn the conviction and return the case of retrial. As such it does not amount to a full appeal and is a contravention of Article 14(5) of the ICCPR.[15] The procedure is technical and requires knowledge of the law and submission of an appeal without the intervention of an experienced cassation lawyer is virtually guaranteed to be unsuccessful.

Of 131 cases submitted to the Cassation Chamber between January 1997 and July 2000, only 19 were deemed admissible and were heard. Many prisoners who were tried in 1996 and 1997 were denied legal assistance and were forced to submit petitions to the Cassation Chamber without assistance. Such petitions are almost inevitably deemed inadmissible. Of those 19 which were heard, only eight were upheld. There were no successful petitions by prisoners under sentence of death in 2000 (up to July) according to the ABDP. Petitions to the Cassation Chamber must be submitted within eight days of the

[15] Article 14(5) guarantees that, "*Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to the law*".

judgment being passed. Although the majority of defendants are now represented in court, in the majority of cases neither they nor their lawyer, if they have one, receive copies of the written judgment on which to base their appeal to the Cassation Chamber. A directive by the Minister of Justice in 1998 ordering the immediate production of a copy of the judgment does not appear to have been implemented, and the Cassation Chamber remains inflexible with regard to accepting late or additional submissions. In such cases the value of the intervention of a lawyer is unfortunately nominal. This administrative blocking of the role of the lawyer contravenes the UN safeguards guaranteeing protection of the rights of those facing the death penalty, which stress the need for those facing the death penalty to receive legal assistance at all stages of the process. Furthermore, detainees are currently required to purchase their own copy of the judgement at the cost of 10,000 Burundian francs (fbu) (approximately US$13). Few are in a position to do so.

Torture continues to be a feature of many political trials

In November 1999, as fighting increased around Bujumbura with frequent attacks on the capital, a grenade exploded in Bujumbura's main market killing at least two people and injuring many more. The attack was attributed to the FNL and in the weeks that followed a wave of arrests took place of people suspected of links to the armed opposition. Scores of people were illegally held incommunicado by members of the armed forces and gendarmerie. Many were thought to have "disappeared" as the security forces refused to acknowledge their whereabouts, or even in some cases that they were held. At least three of those arrested and severely tortured during this period are now on trial accused of links to the FNL and of involvement in the grenade explosion.

Lévy Rukundo, a school head, was arrested at his school by the commander of the *Brigade spéciale de Recherche* (BSR), Gendarmerie special investigation unit on 28 November 1999. He was threatened and tortured in detention and was deliberately held in several military barracks to prevent people from knowing where he was. According to Lévy Rukundo's testimony, he was beaten with a gun butt as he was driven from his home to the BSR. He was then transferred to different places of detention - the nearby *Police Spéciale de Roulage* (PSR), Special Haulage Police, where he was beaten and kicked, then to Camp Buyenzi where he was denied food for four days prior to being interrogated. He was questioned in another military camp, Camp Ngagara, where soldiers spat in his face, kicked and beat him on his back and feet while questioning him. He was also tortured by electricity on his fingers and ankles. After two months of interrogation and torture in military custody he was transferred to the BSR where he was held for two months before being transferred to Mpimba central prison. He did not receive medical treatment and, physically weakened by torture and poor diet, suffered a chest infection at the BSR. During interrogation he was told that the security forces knew that a number of senior Hutu politicians were financially contributing to the FNL, and that he should confirm this. He

was also accused of giving 2,000fbu (US$2.6) to a man -- a fellow detainee -- alleged to be part of the FNL. Lévy Rukundo admitted giving the money, but denied it was a contribution to the FNL.

Canésius Barakamfitiye, a member of the *Documentation nationale*, national intelligence agency, was arrested on 2 December 1999 by members of the *Documentation nationale*, and taken to the BSR where he claims to have been beaten and hit on the head with a piece of wood for three days prior to questioning. He was also detained in Ngagara military barracks in Bujumbura. Canésius Barakamfitiye was asked if he belonged to the FNL, which he denied. After continued beatings he finally accepted that he had contributed a small sum of money to the FNL. He has since tried unsuccessfully to retract his statement on the grounds that it was extracted under duress.

In March 2001 Levy Rukundo's and Canésius Barakamfitiye's trial was still ongoing.[16]

On 30 August 2000, the verdict in a trial of political opponents linked to the opposition *Parti pour le redressement national* (PARENA), National Recovery Party and *Solidarité jeunesse pour la défense des droits des minorités* (SOJEDEM), Youth Solidarity for the Defence of Minority Rights, was announced. Six defendants received penalties of 10 years' imprisonment, two were acquitted, and one, **Alexis Simbavimbere**, had already been released in March as he had been charged with the lesser offence of failing to report plans for the coup d'état which was being prepared. The defendants had been detained since early 1997 at a time when the newly returned President Buyoya consolidated his position by clamping down on opponents across the political spectrum. Senior members of the party and other supporters or supposed supporters of former president **Jean-Baptiste Bagaza** were arrested and accused of involvement in a plot to assassinate President Buyoya. Former President Bagaza was himself placed under house arrest.

Many of those arrested were tortured and one detainee, **Lt-Col Pascal Ntako**, died in Muyinga prison after being denied essential medical care. In November, all the defendants except **Emmanuel Manzi** were conditionally released. Emmanuel Manzi, a deserter from the Rwandese Patriotic Front, claimed to have been tortured and offered money at the *Documentation nationale* in an effort to persuade him to sign a statement incriminating the other detainees. He attempted to retract the statement after failing to receive the payment he was promised.

[16] **Médiatrice Mukandekezi, Nestor Nikobagomba, Rogatien Negamiye, Pamphile Ntahomvukiye, Nasson Mbanjineza, Nixon Nibitanga** and **Saidi Hakizimana** are also on trial in the same case on various charges of collaboration with the FNL.

The verdict in another trial of political opponents linked to PARENA and SOJEDEM was announced in January 2000. The 25 defendants included a number of prominent members of the business community and known opponents of the government. The majority of defendants received 10 or 15 year prison sentences.[17] The trial centred on the accusation that an armed group, the *Front national pour la libération du Burundi* (FNLB), National Front for the Liberation of Burundi, had been formed with the intention of overthrowing the Buyoya government. A number of minors, and members or former members of the armed forces alleged to have been in the armed opposition group were amongst those arrested as well as more high-profile political opponents, who were alleged to have provided financial backing or other support to the FNLB. The defendants were initially arrested after an unsuccessful attack on a gendarmerie brigade in Cibitoke, northern Burundi.

The allegation of the creation of the FNLB does not appear to have been fully substantiated and may have been created to remove potential threats to power. Evidence extracted under torture appears to have been a major element in their conviction and is a serious breach of Burundi's obligations under the Convention against Torture. Two adolescents, **Jean de Dieu Ezechiel Bukuru** and **Audace Ngendakuma**, who were both allegedly recruited into the FNLB, were tortured in detention. Under torture both accepted the accusation that they belonged to the FNLB, although they later tried to retract their statements. Jean de Dieu Ezechiel Bukuru, aged 14 at the time, was arrested at his school in Kayanza. He was held initially at the *brigade* in Kayanza where he alleges that he was beaten. He confessed, after being threatened with a gun held against his head, to taking part in the attack on Cibitoke. Audace Ngendakumana was also beaten with a rod with metal wires by a judicial police officier, *officier de la police judicaire*, at the *brigade* in Cibitoke. Although he was aged only 15 at the time of his arrest, Audace Ngendakuma was a serving member of the Burundian armed forces. Another student, **Onésphore Niyongere**, aged 25, who denied participation in a plot to assassinate President Buyoya but admitted that he had intended to go and fight in eastern DRC, was also tortured: he was beaten and tied so tightly that the scars on his arms were still visible in February 1999, some five months after his arrest. Jean de Dieu Ezechiel Bukuru, Audace Ngendakumana and Onésphore Niyongere were all sentenced to 10 years' imprisonment.

During the trial, in November 1999, one witness, **Onésphore Mdayitwayeko**, alleged that the case had been fabricated by the *Documentation nationale* and the Presidency, and that he had been offered money to make incriminating allegations to substantiate the case. An attempt by the *Documentation nationale* to arrest Onésphore

[17] One of the defendants, **Jean-Pierre Kagiyse**, was conditionally released in November. He had been sentenced to 15 years' imprisonment.

Mdayitwayeko the day before he appeared in court was foiled when the person he was with, **Benoît Ndorimana**, the father-in-law of one of the defendants, demanded to see the arrest warrant. There was none. When the officers returned with a warrant, failing to find Onésphore Mdayitwayeko, they arrested and detained Benoît Ndorimana for several days before releasing him uncharged. Although Onésphore Mdayitwayeko was able to testify, he was arrested immediately after appearing in court. He was held for approximately one month at the *Documentation nationale*, which has no legal power to detain, before being unconditionally released. It appears to have been a clear attempt to intimidate an embarrassing witness.

ii.iv) Continued use of the death penalty

The death penalty continues to be widely used. During 1999, at least 85 people were sentenced to death. By February 2001, at least 99 more people had been sentenced to death, including **Herman Birikumana, André Rwajekera, Fabien Rugunyi, Sévérin Mayoya** and **Raphaël Ntemako**, who were all convicted of offences relating to the 1993 crisis by Bujumbura Court of Appeal. Over 370 people, including 19 soldiers, have now been sentenced to death since 1996, many after unfair trials. Furthermore, under the Burundian legal system, those sentenced to death by civilian courts do not have the right to a full appeal.

Military jurisdictions continue to show disregard for the rule of law, blatantly violating procedures. **Napoléon Manirakiza**, an army deserter, and Sergeant **René Rukengamangamizi** were executed by firing squad on 19 October just hours after they were sentenced to death by Gitega military court, *conseil de guerre*. Both had been convicted of murders committed earlier in the month. They were denied legal representation and were not allowed to appeal against their sentence. Executions carried out after unfair trials amount to arbitrary executions in violation of the right to life guaranteed in Article 6 of the ICCPR and Article 4 of the African Charter. Seven of the 19 soldiers under sentence of death did not have legal representation at their trial.

There have been limited but significant moves towards promoting debate on use of the death penalty. These moves have included debates on the independent radio station *Studio Ijambo* involving human rights activists and members of parliament, and the drafting of an abolition bill by a FRODEBU member of parliament. In the drafting of the peace agreement, FRODEBU, which committed itself in 1993 to abolishing the death penalty, proposed that the agreement contain provision for the abolition of the death penalty. The proposal was rejected by most other delegations.

ii.v) Conditions of detention

Although still harsh, conditions in the majority of Burundi's prisons have improved over the last 12 months, due in part to an apparent change in attitude of the Prison Services Administration, and largely to the work of organizations such as the International Committee of the Red Cross (ICRC), ITEKA and the ABDP. Furthermore, in July 2000, the decision was finally taken to close what were known as the isolation cells of Mpimba central prison. All prisoners under sentence of death in Mpimba were held in three tiny cells in appalling conditions, under a punitive regime harsher than that for the other inmates. They were allowed out of the cells for only half an hour per day and granted only one family visit per week. Amnesty International and other national and international human rights and humanitarian organizations had campaigned for the closure of the cells over several years on the grounds that they constituted cruel, inhuman and degrading treatment. The cells were also used as punishment cells for other prisoners. Since July, there have been improvements and the prisoners have been held in a more spacious area and have free access to an outside space.

While conditions of detention have improved, standards still fall far short of internationally recognized guidelines. In particular, prisons are seriously overcrowded and continue to lack basic facilities including medical care and provide barely minimum food supplies. While Burundi's prisons have a total capacity of approximately 3,600, there are nearly 9.000 people in detention. Many of the prison buildings are in poor condition, and in the current economic climate, it is unlikely that without further international assistance they will be improved. It is essential that the problem of long-term detention without trial is addressed as a significant contributory factor to overcrowding.

Although many prisoners who are unable to supplement their diet with food from outside remain under-nourished, and therefore particularly vulnerable to diseases prevalent in conditions of close confinement, mortality rates generally have fallen dramatically as a result of detainees having access to clean water and some medical care. For example, in 1998. 188 prisoners died in Gitega prison, whereas in 1999, 72 deaths were reported. The prison has a capacity of 400 but holds approximately1.700. In Ngozi men's prison, 375 prisoners died in 1998 of a total population averaging 2,400. The prison has a capacity of 400. In 1999, the mortality rate dropped to 43 and by July 2000, 26 inmates had died. When Amnesty International delegates visited Mpimba central prison, Bujumbura in August 2000, in addition to the creation of a new space for detaining prisoners under sentence of death. other construction and repair work was underway, including the construction of a new block for minors, and the refurbishment of toilet and washing facilities. Conditions in the southern prison of Bururi are reported still to be appalling.

Such improvements do not affect other places of detention, in particular those controlled by the gendarmerie and military. Access by human rights and humanitarian groups is routinely denied. In addition to concerns on reports of torture and "disappearance"

from these places, it is to be supposed that conditions also are far worse than in central prisons. Conditions in cells at the commune level are also often reported often to be appalling.

VII DISPLACEMENT AND RETURN

The conflict has forced hundreds of thousands of people to flee their homes. Within Burundi, approximately 500,000 people are officially displaced as a result of violence and conflict, falling mainly into the categories known in Burundi as *déplacés*, "displaced people", predominantly Tutsi who have fled many since 1993 to camps protected by the military; *dispersés*, "dispersed people", predominantly Hutu, who have fled their homes but sought shelter away from camps and the military whom they perceive to be a threat rather than a source of protection; and since 1996, the *regroupés* - those - primarily Hutu - who have been forcibly "regrouped" or relocated, most of whom have now returned home or are dispersed. Approximately there are approximately 330,000 people living in displaced camps, and a further 170,000 people who are otherwise dispersed.

A further 340,000 Burundians are refugees living in the border refugee camps in Tanzania and another 200,000 people who fled to Tanzania nearly 30 years ago live in settlements further inland.

Internally displaced people and refugees continue to suffer human rights abuses, not only at the hands of belligerents to the conflict but in their place of refuge. Their future return will throw up series of complex social, economic and human rights problems, not least in relation to the question of land, which may prevent refugees from returning to their homes. It is crucial that financial, material and human resources are dedicated to these questions.

While conditions in camps for the internally displaced are better than those in regroupment camps, and inhabitants may move freely outside the camps, conditions are still harsh in many cases. Armed opposition groups have attacked the camps, often located close to military positions, and civilians within the camps have been deliberately and arbitrarily killed. Some camps have become semi-permanent villages and it is not clear whether inhabitants will feel safe enough to leave the protection of the camps and return home.

i) Refugees in Tanzania

The presence of large numbers of Burundian and Rwandese refugees in Tanzania has caused tensions with the local Tanzanian communities: tensions which were aggravated by

the actions of some government and local authorities who have encouraged anti-refugee sentiments among the population. During 2000, these tensions were aggravated by legislative elections in Tanzania and hundreds of Burundian and Rwandese refugees were forcibly returned.

Particularly with the spectre of the forcible return of nearly 550,000 Rwandese refugees from Tanzania in 1996 in a joint UNHCR/Tanzania operation hanging over the Burundian refugee population,[18] discussion of future repatriation quickly provokes anxiety. Indeed, the possibility of mass refoulement with regard to Burundian refugees, and how to pre-empt or respond to such an eventuality, was one of several scenarios to be discussed at the peace negotiations. An agreement on repatriation and reintegration of refugees has been prepared in conjunction with the Peace Agreement and UNHCR and the governments of Burundi and Tanzania are now negotiating a tripartite agreement for the return of the refugees. Amnesty International believes that these measures must set up a framework which protects the rights of all refugees currently enjoying protection in Tanzania.

In September 2000, Amnesty International raised a number of concerns with the UNHCR relating to a draft version of the agreement, including a statement within the draft that the "minimum threshold" for promotion of return was sufficient stabilisation of areas of return, guarantees of non-discrimination of returnees and freedom of movement. This determination falls far short of the durable improvement which should precede voluntary repatriation. Within the draft there was also a lack of clear commitment to the principle of non-refoulement and no reference to the obligation of countries to keep their borders open in accordance with the principle of non-refoulement, to allow for new refugee flows.

The UNHCR responded stating that Amnesty International's concerns had been addressed in a later draft. Amnesty International has received assurances in particular that returns will be voluntary and will be adequately monitored. However, despite these assurances, the organization remains concerned that the refugees may in reality still be at risk. This concern derives partly from evident "donor fatigue" and the erosion of refugee protection -- something which has been particularly evident in the Great Lakes region -- as well as the apparent reluctance of Tanzania to continue hosting large numbers of refugees. This has manifested itself in frequent cases of forcible return from Tanzania. There is also pressure from the Government of Burundi for the refugees to be repatriated. These combined factors still make the hundreds of thousands of Burundian refugees very vulnerable to forcible return despite the principles enunciated in the Peace Agreement and repatriation agreement. Amnesty International remains concerned that in the event of a

[18] See *Rwanda: Human rights overlooked in mass repatriation* (AI Index: AFR 47/02/97, January 1997) for further information.

large-scale return of refugees there may be insufficient resources and personnel to effect a significant and sustained monitoring of the return and reintegration of refugees.

The general protection of refugees has also been undermined by the use of the camps by armed opposition groups as sources of recruitment and as resting places. By recruiting from the refugee camps, the groups are not respecting the civilian and humanitarian nature of the refugee camps. In doing so, they are putting the safety of hundreds of genuine refugees in danger.

Nearly 200 Burundian refugees, including young children, were arrested in May 2000 near Kigoma on suspicion of links with Burundian armed opposition groups. They were reportedly on their way back to Burundi to undergo military training with the CNDD-FDD. Most of the group were returned to the camps but a number were detained in harsh conditions amounting to cruel, inhuman and degrading treatment on charges of illegally leaving the camps. There were other reports of recruitment by Burundian armed opposition groups from the camps during 2000.[19]

Both the FDD and CNDD-FDD appeared to launch recruitment drives both to strengthen fighting forces in the run up to the August 2000 agreement and in response to rivalry between the two groups. The breakaway CNDD-FDD had initially taken many FDD fighters. However, tension emanating from the CNDD-FDD's involvement in the DRC war led to some fighters returning to the ranks of the FDD. The murder of **Dr Jean Batungwanayo**, the brother of the leader of the CNDD, Léonard Nyangoma, in February 2000 in Muyovisi camp was reportedly linked to his role in recruiting fighters back to the FDD. Eight refugees suspected of supporting the rival CNDD-FDD were arrested shortly after the murder and charged by the Tanzanian authorities with his murder and that of his wife and three children who were also killed in the attack.[20] The motive behind the killing is not entirely clear. However, some sources have alleged that Dr Bantungwanayo had failed to pay newly recruited FDD fighters as promised. Others accuse members of the CNDD-FDD of being responsible. Amnesty International is not in a position to comment on the fairness of procedures so far or the allegations against the refugees or on the basis

[19]Children have also been forcibly recruited in Burundi. Amnesty International continues to receive reports of the widespread use of child soldiers by the armed opposition, sometimes to carry ammunition or looted goods. One nine-year-old boy escaped from Tanzania in mid 2000 after spending one year with the armed opposition, looking after their goats. He and four brothers had been forcibly taken from his home in Mwaro, Burundi. He was unable to say which faction had taken him.

[20]The death penalty is mandatory for murder under Tanzanian law, although no executions have been carried out since 1994.

for the allegations against them. Two other CNDD-FDD officials were briefly detained in September on suspicion of visiting Mtabila camp as part of a recruitment drive.

In addition, conditions in the camps are overcrowded and poor. Little medical care is available and rations were temporarily cut in July 2000 because of financial constraints to a level which UNHCR staff admitted did not meet even minimum nutritional needs. The low nutritional standards in the camps are all the more significant because many refugees arrive severely malnourished. Many spend weeks or months spent hiding before trying to cross the border. Outside the camps, freedom of movement is extremely restricted by Tanzanian domestic law and refugees who fail to abide by orders to reside within certain designated areas can be subject to imprisonment. Refugees have complained that corruption within the Tanzanian police force has led to arbitrary fines being imposed on refugees caught outside the designated areas, as well as arrest and detention.[21]

In a document published in May 2000,[22] Amnesty International expressed concern at the failure of the Tanzanian authorities to take adequate action to bring to justice people responsible for the rape of a group of Burundian refugee women, including at least one child, in May 1999 in Buhero district, near Mtendeli camp. Although 11 people were arrested and the case brought to court, it was dismissed by the judge on 15 December when the prosecutor was late. All defendants were acquitted. However, the decision was appealed against and in June 2000 the case was reopened. Other cases of rape both within the camps and in the surrounding areas have been documented by other human rights groups.[23]

Despite the security situation in Burundi, a small number of refugees do choose to return. Meeting their immediate protection needs on return is particularly problematic at present as the UNHCR is not operating in the south of the country because of security

[21] EXCOM decision no. 44 (XXXVII) 1986 'Detention of Refugees and Asylum-Seekers' specifies that: "... *in view of the hardship which it involves, detention should normally be avoided. If necessary, detention may be resorted to only on grounds prescribed by law to verify identity; to determine the elements on which the claim to refugee status or asylum is based; to deal with cases where refugees or asylum-seekers have destroyed their travel documents or have used fraudulent documents in order to mislead the authorities of the State in which they intend to claim asylum, or to protect national security or public order.*" Amnesty International opposes the detention of asylum-seekers and refugees unless they have been charged with a recognizably criminal offence, or unless the authorities can demonstrate in each individual case that the detention is necessary, that it is on grounds prescribed by law, and that it is for one of the specified reasons which international standards recognize may be legitimate grounds for detaining asylum-seekers.

[22] *Great Lakes Region: Refugees denied protection* (AI Index: AFR 02/02/00, May 2000)

[23] *Seeking Protection: Addressing Sexual and Domestic Violence in Tanzania's Refugee Camps.* Human Rights Watch, September 2000.

concerns. Refugees returning without the assistance of the UNHCR are at greater risk of violation of their rights, through arrest or extortion. Amnesty International has received several reports of the extortion of returnees in Rumonge, Bururi Province by members of the immigration services and has also received reports of a number of arrests of returning refugees at the border town of Gisagara, Cankuzo Province, who were accused of being members of an armed opposition group and detained by the gendarmerie. One returnee, originally from Makamba Province, is reported to have died of malnutrition in Gisagara brigade in April 2000, and another returnee, also from Makamba, who had been arrested at the same time, also reportedly died some two months later.

ii) Forcible regroupment

The practice of forcibly regrouping the rural population of Burundi in conflict areas dates from 1996, when approximately 500,000 Hutu were forced into camps. Hundreds of people were killed in the process. Although ostensibly for their protection, it was soon clear that the policy was part of a counter-insurgency strategy designed to remove protection and potential support, whether freely given or coerced, from Hutu-dominated armed opposition groups. As a counter-insurgency strategy it was effective and the armed opposition groups lost ground. On a humanitarian and human rights level it was a catastrophe. Many of the original camps were subsequently closed and the population allowed to return home.[24]

However, in September 1999, following repeated attacks on Bujumbura by the armed opposition, the Burundian government again resorted to mass regroupment and forcibly relocated more than 290,000 mainly Hutu civilians from their homes in Rural Bujumbura province, forcing them into various "regroupment" camps within the province. Another 30,000 people were already displaced in the province.

From the outset, conditions inside the camps constituted a humanitarian disaster. The populations of many camps had no or only restricted access to their fields and to adequate supplies of clean water. As a result of malnutrition, dehydration, overcrowding, poor sanitation and inadequate medical care, diseases such as cholera and dysentery took hold. Although international humanitarian aid was eventually made available to some camps, others remained inaccessible to aid agencies because of their remote location or because local security conditions made the delivery of aid supplies impossible. Other organizations were initially prevented or delayed from providing aid to some camps.

[24] Please see *Burundi: Forcible relocation - New patterns of human rights abuses* published by Amnesty International in July 1997 (AI index: AFR 16/19/97) for further information on how the regroupment policy violated international law and on the extrajudicial execution of hundreds of Hutu civilians during the regroupment process.

Furthermore, the evacuation of many international staff and reduction in the operations of many agencies, particularly following the killing of two staff from the UN World Food Programme and UN Children's Fund (UNICEF) in October 1999, diminished still further the possibilities for both national and international organizations to provide assistance.

There is no accurate record of the numbers of dead but hundreds of lives were lost in the camps from the combined effect of disease and the squalid living conditions. Amnesty International received lists of over 500 people who had died as a result of preventable diseases in five sites in a three month period. Children were particularly vulnerable. **Nyandwi**, aged 1, **Butoyi** aged 3, **Théophile Nahimana Munaga** aged 1, **Jean de Dieu Nimbona**, aged 6, **Banyansekera** aged 1, **Diane Bagora** aged 1 and **Françine Duma**, aged 2, all died in one month in Kinyenkomge site, Kiyenzi zone, of dysentery or malaria.

In February 2000, following growing international condemnation of the regroupment policy, the government announced it would progressively close the camps. The closure program was slow to start but took on momentum in early June -- apparently following strong pressure from Nelson Mandela -- when the government further announced that all regroupment camps would be closed by the end of July. In the following days three camps were cleared by the Burundian security forces within a matter of hours, their inhabitants ordered abruptly to return to homes which in many cases had been destroyed or were uninhabitable.

In August 2000, Amnesty International interviewed a number of people who had recently left the camps. One man from Nyabibondo camp in Rural Bujumbura stated that he had lost six members of his immediate family in a four- month period in the camps. All had died of preventable diseases such as malaria. Other former inhabitants of Nyabibondo camp, met by Amnesty International, who were obviously distressed by their experiences in the camp, said they were happy to have left the camp but that the security situation to which they had returned on Gasarara *colline* was no different from the situation immediately prior to their regroupment. There was still fighting nearby and their fields and property were frequently attacked. They felt unable to sleep at home because of fear of being attacked at night, either by government soldiers or members of armed opposition groups, and said they would hide nearby at night. Furthermore, they claimed that since the population's return, the FNL had carried out reprisal killings of camp inhabitants whom they deemed to have collaborated with the government forces. Included in this category were people who had assisted in food distribution within the camps, and those who had been involved in night time patrols ("*la ronde*") in the camps.

The inhabitants' testimony spoke clearly of the atmosphere of fear and intimidation within the camps, and of hunger. Despite a persistent -- if not large -- military presence,

people did try to "escape" from the camps, motivated by hunger and the need to search for food. Those caught were beaten. Eventually, they were allowed to leave the camp three times a week to return to their homes, some three hours' walk away, to cultivate their land. They were only able to produce a small harvest from badly tended and in some cases destroyed land. Others had felt unable to return to their fields through the fear of crossing what was effectively an empty battle ground.

While the camps are now closed, the fate of the inhabitants is uncertain. Some were unable to return and now fall into the category of "dispersed people". Others have returned home but live in insecurity. Crops have not been adequately tended, or have been destroyed. Even for those who now live in relative security, the humanitarian and economic legacy will be slow to disappear. The psychological scars may be even harder to heal.

VIII CONCLUSION

The political crisis cannot be separated from the magnitude of the human rights crisis and decades of injustice in Burundi. The abuse and denial of fundamental human rights are at the very heart of the conflict; the abuses referred to in this report are a mere indication of the misery and humiliation suffered on a daily basis by the population of Burundi. Unless this is addressed in a concrete way there will be no durable peace. Immediate action must be taken now to protect, in particular, the right to life.

There are clearly major challenges to re-establishing respect for human rights in Burundi. The Peace Agreement sets out a framework to challenge some of the key human rights issues behind the political conflict and crisis in Burundi, such as the acknowledgement of past abuses and measures to tackle the impunity of the armed forces. Successfully addressing these human rights challenges will require commitment from the Burundian government, the political elite and armed opposition groups, and from the international community. The role of national human rights groups will be key.

If respect for human rights is to be enshrined, justice will be a key element in ending the war and creating a durable peace. Without justice, there can be no future accountability, no security, nor will there be an end to the tragedy of population displacement. Obtaining justice, though, should not wait for peace. There is no excuse now for not eradicating torture or arbitrary arrests. There is nothing which can justify attacks on unarmed civilians or the total disregard for the rights of those who have fled or been forced from their homes.

Amnesty International is calling on the Government of Burundi, leaders of armed opposition groups, political parties and movements and civil society to take responsibility

for the human rights situation, and whatever the political system or uncertainty, to act now to better protect human rights.

In particular, Amnesty International is calling on all parties to the conflict to protect the right to life and to refrain from extrajudicial executions and deliberate and unlawful killings of unarmed civilians.

It is also calling on the international community, the support of which is key in the current context, to do all in its powers to ensure better respect for human rights in Burundi now and in the future, through supporting measures to tackle impunity, particularly of the armed forces, supporting the reforms of key institutions and ensuring that the rights of refugees and displaced people are protected.

IX RECOMMENDATIONS

i) Recommendations to the Government of Burundi

Amnesty International is appealing to the Government of Burundi to:

- issue strict orders prohibiting further deliberate killings of unarmed civilians and to ensure a strict chain of command in the security forces.

- investigate allegations of human rights violations made against officials in the security forces, and bring to justice those found to have committed or condoned human rights violations;

- ensure that employees of humanitarian and human rights organizations are not threatened, arrested or killed, and can freely carry out their work;

- ensure that the findings of investigations which are carried out by human rights groups or other independent observers, including the United Nations Office of the High Commissioner for Human Rights in Burundi, receive serious attention with a view to taking appropriate action;

- demonstrate public proof of the government's willingness and ability to tackle abuses by the armed forces, through public information on the progress of inquiries into allegations of human rights violations and through fair trials by competent courts;

- take measures to protect witnesses and investigators from intimidation, arrest or assassination. Any cases where witnesses have been intimidated or killed by soldiers should be investigated and those responsible brought to justice.

- to ensure that all members of the armed forces are given practical and sustained training, including in human rights protection and humanitarian law, and that the application of this training is monitored;

- refrain from recruiting minors, and from involving children in the transportation of equipment;

- bring to justice anyone who incites violence;

- take immediate action to prevent the growth of armed political movements, including those which incite racial hatred or violence.

Justice

- undertake prompt, thorough, impartial and independent investigations of cases against people detained on accusations relating to the conflict or other political violence, and ensure the unconditional release of those against whom there is no substantive evidence;

- undertake independent judicial reviews of convictions on charges related to the conflict or other political violence to establish whether due process was followed and that the convictions were safe;

- undertake the necessary reforms to ensure a functioning impartial legal system (see *Justice on Trial*, and *No Respite without Justice)* and to seek the necessary international assistance required to effect these reforms;

- implement urgent legal reform to ensure that the right to a full appeal is guaranteed in all circumstances;

- implement immediately a moratorium on the death penalty pending a full study and discussion on the question of the abolition of the death penalty;

- continue to seek ways of improving prison conditions, paying particular attention to detention centres other than central prisons;

- take immediate steps to eradicate torture and "disappearances", in particular by investigating all allegations of such acts and prosecuting those responsible, and by guaranteeing free access to members of the judiciary, human rights and humanitarian organizations to all places of detention.

Refugees and the displaced

- respect the rights of internally displaced persons as set out in the Guiding Principles on Internal Displacement, and in particular ensure protection for camps for the internally displaced against attacks from armed opposition forces and from human rights violations such as extrajudicial execution, rape and "disappearance" by members of the government armed forces;

- ensure that closures of regroupment camps or other camps for the internally displaced are managed in such a way that respects the right of the inhabitants to be protected against voluntary return and resettlement to any place where their life, safety, liberty and/or health would be at risk, and to ensure that they can return voluntarily, in safety and with dignity to their former homes. The government should also, in consultation and coordination with the camps' inhabitants and appropriate humanitarian organizations, ensure that adequate humanitarian assistance is given to those wishing to leave the camps, and that especially vulnerable groups are protected;

- not to encourage or seek to incite involuntary repatriation and not to promote programs for voluntary repatriation until such a time of lasting conditions exists for the safe and dignified repatriation of refugees.

ii) Recommendations to the leaders of armed opposition groups

Leaders of all armed opposition groups should:

- halt human rights abuses against the civilian population, and make it clear to their subordinates that human rights abuses will not be tolerated;

- take immediate steps to end human rights abuses by their members, in particular killings of unarmed civilians. As a measure of this commitment, military leaders should provide information on measures taken against members of their forces who fail to adhere to these principles;

- ensure that employees of humanitarian and human rights organizations are not threatened, arrested or killed, and can freely carry out their work;

- refrain from recruiting minors, and from involving children in the transportation of equipment;

- take immediate action to prevent rape, including the forcing of women and young girls to accompany combatants as "wives";

- respect fully the humanitarian and civilian character of refugee camps in Tanzania and refrain from activities which threaten the protection of hundreds of thousands of refugees in Tanzania.

iii) **Recommendations to political leaders and civil society**

- use their influence to ensure that human rights are a central point of current political debate and of the implementation of the Peace Agreement;

- refrain from inciting violence or other human rights abuses.

iv) **Recommendations to the international community**

- use their political influence and financial resources to support programs to promote and protect human rights in Burundi as the ability of the Government of Burundi and intergovernmental agencies to implement these recommendations will be seriously diminished without the support of key donor governments;

- look at ways of providing increased support for national human rights groups;

- support and promote national and international non-governmental organizations who work for the protection of the social, economic and human rights of children, and to support work on children who are particularly vulnerable such as refugees, the displaced, and street children;

- impress on the parties to the conflict the need to conform to the provisions of Common Article 3 of the Geneva Conventions and its additional Protocol II, and to hold them accountable for violations of these principles;

- continue to assist the judiciary by providing material and human resources, including legal experts at all levels to supplement existing national resources and to help improve the competence, independence and impartiality of the country's judiciary;

- provide expertise and resources to assist the Government of Burundi in reforming and training the police force and armed forces of Burundi in human rights protection;

- support and strengthen the UN Office of the High Commissioner for Human Rights in Burundi to ensure that it has enough resources and political support to carry out its tasks efficiently and independently. Resources should be allocated to provide as secure working conditions as possible and to ensure that frequent and comprehensive reports of its findings are published. The findings published should include information on the way in which competent bodies carry out investigations into allegations of human rights abuses, and the remedies applied;

- help the government to strengthen the Public Prosecutor's Office, giving financial and political support;

- assist in providing counselling for psychological trauma, paying particular attention to children;

- assist in the rebuilding of the infrastructure which will support the education, training and health care needs of children;

- assist in addressing human rights abuses committed by child soldiers, and their rehabilitation in society. In the rare cases where it is in the interests of justice to prosecute child soldiers, the international community should assist the Burundian government in bringing children to justice while recognizing their special needs;[25]

- abide scrupulously by the principle of *non-refoulement* as set out in the 1951 Convention Relating to the Status of Refugees and the 1969 Organisation of African Unity (OAU) Convention Governing Specific Aspects of Refugee Problems in Africa:

> Any repatriation of refugees to Burundi should be strictly voluntary. No refugee should be forcibly returned to Burundi, or put under undue pressure to do so. No repatriation can take place until there is a fundamental and lasting change in the country of origin; mere cessation of the hostilities is

[25] Please see Amnesty International, *Child Soldiers - Criminals or victims?* (AI Index: IOR 50/02/00, December 2000) for further information on AI's suggestions on tackling human rights abuses committed by child soldiers.

not sufficient. The human rights situation must be subject to an independent and impartial assessment based on publicly available information. International human rights treaty bodies, thematic mechanisms and country rapporteurs, non-governmental organizations and the refugee community should be involved in any such assessment on an ongoing basis;

- ensure, through the United Nations and other relevant organizations and donor countries, that sufficient financial and logistical support is available to ensure that Tanzania and other states are able to meet the basic needs and protection requirements for the refugee communities they host. International organizations responsible for providing refugee protection and assistance should be able to operate without political interference and with secure funding.

APPENDIX I: Human Rights and the Peace Agreement: Comments on the Agreement for Peace and Reconciliation in Burundi of 28 August 2000

1 MEASURES TO TACKLE IMPUNITY (Protocols I and II)

Genocide

A number of provisions relate to the prevention and prosecution of the crime of genocide, including the introduction of legislation prosecuting the crime of genocide (Protocol I, Article 6(9)). Protocol II, Article 18 empowers the transitional government to constitute a commission of judicial enquiry on genocide, crimes against humanity and war crimes and make a report on this subject to the UN Security Council. A national observatory for the prevention and elimination of genocide, war crimes and crimes against humanity will be established and the creation of a similar regional body promoted (Protocol I, Article 6(4)). As yet, it is not clear what powers this body will have, nor how it will function in practice, particularly in its relation to the National Truth and Reconciliation Commission (NTRC).

- Burundi has already ratified the UN Convention the Prevention and Punishment of the Crime of Genocide (the Genocide Convention) and as such is bound to introduce legislation in this regard. Any such legislation should be in accordance with other international standards, including the Rome Statute, which Burundi has signed but not yet ratified. It should provide for universal jurisdiction over these crimes.

National Truth and Reconciliation Commission (NTRC)

A National Truth and Reconciliation Commission (NTRC) will be established (Protocol I, Article 8). The NTRC will be mandated to investigate serious acts of violence committed since independence in 1962. It will have the power to specify which crimes have been committed, but does not have the mandate to specify that genocide, crimes against humanity or war crimes have been committed. It will have the power to establish who was responsible for crimes, and to identify the perpetrators and victims.

- Amnesty International welcomes the recognition by participants in the peace negotiations of the necessity of investigating past human rights abuses. It is the

organization's view that there can be no genuine reconciliation, and therefore no lasting peace, if the truth about human rights abuses is not established and those responsible held accountable and reparations made to the victims.

Once the NTRC's investigations are complete, it will submit proposals to relevant national institutions on measures to promote reconciliation and forgiveness, compensation and the return of property or any other social or political measures it deems appropriate (Protocol I, Article 8(1)(b)). It can also recommend that the Transitional National Assembly pass one or more laws granting an amnesty "in conformity with international legislation for political crimes" (Protocol I, Article 8(1)(b)).

- The meaning of this last point is not entirely clear. These terms have not been defined in the text of the Agreement, nor do they have a clear meaning under international law. Amnesty International is deeply concerned about this ambiguity, which leads to a serious danger that the term could include amnesties for crimes under international law.

- The NTRC will not have the power to initiate judicial procedures (as had initially been proposed) and while it may still play a vital role in establishing the truth about past violations, some of those who negotiated its creation are themselves accused of involvement in human rights abuses and appear to have protected their own interests. Many political leaders and members of the armed forces could be the first beneficiaries of any amnesty granted by the NTRC, which could include international crimes, due to the ambiguity referred to above.

Amnesties granted by peace agreements to those responsible for killings, mutilation, rape and abduction contradict fundamental human rights standards and provide no deterrent to further violations of international human rights and humanitarian law. Amnesty International calls for all perpetrators of crimes involving serious violations of human rights -- genocide, war crimes, crimes against humanity and torture -- to be brought to justice. To do otherwise contributes to the phenomenon of impunity, whereby those who have perpetrated serious crimes or might consider doing so could be encouraged to commit further atrocities, knowing that the matter will not be investigated, and they will not be held accountable. Impunity also denies victims their right to reparation, which includes the right to apology and to justice. Truth commissions should be a supplement to, not a substitute for, justice.

- Amnesty International recommends that such a truth and reconciliation process ensures that the victims are heard, not just political representatives or prominent members of civil groups. Reparations, including medical and psychological

assistance, should be made available to victims. The NTRC should also make recommendations designed to prevent repetition of the crimes it has investigated.

Amnesty International is concerned that many other crimes, such as extrajudicial executions, deliberate and arbitary killings, torture, "disapperance", "political trials" as well as abuse of due legal process will be submitted to the NTRC, rather than ordinary criminal courts (Article 7 (18) of Protocol) which may lead to impunity for these crimes. The organization notes furthermore with concern that there is no definition of "political trials" term in the text of the peace agreement, which as outlined above, may lead to impunity for serious crimes.

- The NTRC could nevertheless provide a useful role in preventing future violations by looking at their causes and making recommendations for legislative, administrative and educational reforms designed to ensure that such crimes are never repeated.

International judicial Commission of Inquiry, and possible international criminal court

The transitional government will request the UN Security Council to establish an international judicial Commission of Inquiry to investigate genocide, war crimes, other crimes against humanity and participation in coups d'état (Protocol I, Article 6(10)). This Commission of Inquiry will be mandated to investigate and establish facts from independence to the signing of the peace agreement, to specify which crimes have been committed, establish responsibility and submit a report to the Security Council.

In the event that the Commission of Inquiry finds that acts of genocide, war crimes and other crimes against humanity have been committed, the Government of Burundi will request the establishment of an international criminal court to prosecute those responsible (Protocol I, Article 6(11). The Peace Agreement states that the Commission of Inquiry will use a number of existing (specified) reports, including the 1996 UN Commission of Inquiry report of its findings in relation to the assassination of President Ndadaye and subsequent massacres and other acts of violence (Article 6, Protocol I).

Amnesty International welcomes the fact that the Peace Agreement allows for the results of the previous inquiries into the serious human rights violations in Burundi to be made available to the international Commission of Inquiry. However, these findings should not prejudice the outcome of new investigations. In particular, the 1996 UN Commission of Inquiry report acknowledged the limitations of its investigations and Amnesty International has consistently maintained that further, impartial, investigations are needed

before it can be stated that acts of genocide did take place, as found by the UN Commission of Inquiry.[1]

- Amnesty International recommends that the International Commission of Inquiry focus on establishing the facts about human rights violations. The task of determining individual criminal responsibility should lie with an independent prosecutor and courts in fair trials.

- To avoid repeating the limitations of the 1996 UN Commission's work, measures need to be put in place to ensure that the new international judicial Commission of Inquiry can investigate independently and unhindered and have full access to all relevant witnesses, who should be protected from reprisal. Since certain political leaders and senior members of the armed forces, both from the government and opposition, may be identified as being responsible for serious human rights violations, the possibility that the work of the Commission of Inquiry may be threatened or hindered and the potential dangers for witnesses cannot be underestimated.

- Any recommendations for criminal investigations and prosecutions should carefully weigh the costs and benefits of international and national proceedings. If an international court is created, Amnesty International considers that it should supplement, not replace, investigations and trials in an independent and extensively reformed national criminal justice system. Amnesty International calls for the death penalty to be abolished during any such reform of the domestic criminal justice system.

Commission overseeing prison conditions and political prisoners

Protocol II Article 15 (19)(a) requires the transitional government to create within 30 days of the start of the period of transitional government a commission overseen by a judge. This commission will have the mandate to inquire urgently into prison conditions and to make recommendations on the treatment of prisoners; the training and conditions of employment of prison guards; the release of remand prisoners whose case has taken an excessive amount of time to be processed; and the release of "political prisoners."

[1] The Commission of Inquiry itself stated, amongst other things, that it had inadequate resources to fully carry out its task, that access in particular to Hutu witnesses was difficult, and that independent access to witnesses was impossible. The Commission was unable to visit most parts of the country. The Commission failed to indicate why it concluded that killings of Tutsi were genocidal and not killings of Hutu.

- Amnesty International is concerned that the term "political prisoners" is not defined in the text of the Peace Agreement and may refer to those who have committed acts of violence, including killings and torture, for political reasons; therefore although the tasks undertaken by this commission in regard to prison conditions, and investigations which may clarify the situation of detainees who have been detained for long periods without charge, are welcome, there is a concern that the commission may also have a role in providing amnesty to those who have committed serious crimes.

The debate on political prisoners

The question of what constitutes a political prisoner is a highly emotive subject in Burundi, particularly as many prisoners have been associated with acts of violence. The question has been discussed at length in the context of the Arusha negotiations, although no agreement was reached on a definition.

Different political leaders have indirectly sought amnesties for their supporters for acts of political violence. The current Government of Burundi has always refused to acknowledge that there are any political prisoners, and in particular that those accused of participation in the massacres of Tutsi civilians in 1993, classified by some as acts of genocide, are political prisoners. In June, Nelson Mandela caused outrage within the Tutsi community in Burundi by classifying the entire Burundi prison population as political prisoners and calling for their release. ITEKA issued á déclaration in response expressing dismay at this statement given that impunity for heinous crimes remains one of the major challenges in Burundi.

Amnesty International's interpretation of the term "political prisoner" is deliberately broad and flexible. Amnesty International treats as a "political prisoner" anyone who is imprisoned, or on conviction risks being imprisoned, where there is a significant political element either in the motivation of the authorities, in the acts or motivation of the prisoner, or in the immediate context in which the trial or the alleged crime took place. Political prisoners may be people imprisoned for membership of an armed opposition group or for committing ordinary crimes such as assault or murder in support of a political group or objective. The political element may also reside in the context of the crime, for example for crimes committed in a highly-charged political atmosphere. Amnesty International also

recognizes the political dimensions of patterns of imprisonment grounded in systematic discrimination on the basis of gender, ethnic origin or other similar status.[2]

In this sense, Amnesty International considers the majority of people detained in relation to the 1993 crisis, participation in the armed opposition, or because of other opposition to the government or authorities, as political prisoners, and has been campaigning for their rights to be respected. At the same time, the organization has been campaigning continually to end the impunity enjoyed by so many in Burundi, and for the investigation into human rights abuses and for the prosecution of those responsible. The organization firmly opposes pre-trial amnesties and does not call for the release of political prisoners.

Reform of the judiciary

Extensive reforms are set out to ensure that the judiciary is more effective, independent and impartial.

- Ethnic and gender imbalance will be addressed through recruitment and accelerated training (Protocol II, Article 17(3)(a)).

- Measures will be taken against corruption of judges, including improving the conditions of judicial appointment, strict application of all laws against corruption, and the institution of effective methods of control and the requirement that cases of corruption be reported (Protocol II, Article 17(f)).

- Laws will be translated into Kirundi and unspecified measures shall be taken to promote respect for the law (Protocol II, Article 17(3)(d) and (e)).

- The government will seek international assistance in reforming and strengthening the judiciary although the nature of the assistance is not specified (Protocol II, Article 17(10)).

[2]When using the term "political prisoner", Amnesty International does not mean to suggest that such prisoners should enjoy any special status, or that their imprisonment is, in itself, a violation of human rights. Amnesty International does not call for the unconditional release of political prisoners but for their prompt and fair trial, in accordance with internationally recognized norms and without recourse to the death penalty. As such there is a distinction between the organization's definition of a political prisoner and a prisoner of conscience, who is defined as someone imprisoned for their beliefs, their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, who has not used or advocated violence. Amnesty International calls for the unconditional release of prisoners of conscience.

- Important legal reforms are providing for including potentially (and if it is deemed necessary) the Criminal Code, Code of Criminal Procedure (Protocol I, Article 7(18)(c)).

- The *Conseil supérieur de la Magistrature* (CSM), Supreme Judicial Council (Protocol II, Article 9 (13) and (14) will be set up as the highest disciplinary body of the judiciary. It will examine individual complaints and complaints from the Ombudsman (see Protocol I, Article 17(18)(g)) about the professional conduct of the judiciary, and the appeals of judges against disciplinary procedures. A judge may be dismissed from his or her post only for reasons of professional incompetence, and only by decision of the CSM.

Members of the CSM will be composed of five members proposed by the executive branch of government, three Supreme Court judges (all members of the Supreme Court are appointed by the president, on the basis of recommendations by the CSM and approved by the National Assembly and Senate), two magistrates of the *Parquet général de la République*, two judges from the *Tribunaux de résidence*, High Courts, and three people who exercise the legal profession in the private sector (Protocol II, Article 9). Amnesty International is concerned that under this proposal, there is scope for undue influence of members of the executive which may undermine the role of the CSM in guaranteeing independence.

- An office of Ombudsman will be created (Protocol II, Article 10). In addition to submitting complaints about the professional conduct of the judiciary to the CSM, the Ombudsman will investigate complaints submitted to it by ordinary citizens of violations of their rights by agents of the state and make recommendations to the relevant authorities. An annual report submitted by the Ombudsman to the National Assembly will also be made public in the Official Gazette.

The Ombudsman should be empowered to act on his/her own initiative as well as on the basis of complaints by alleged victims and should be able to adopt any reasonable procedure he/she considers appropriated. When deemed necessary, the Ombudsman should be able to publicise his/her findings and views. Officials should have a legal duty to cooperate with investigations. In addition to investigating individual situations, the Ombudsman should be empowered to make recommendations about legislation and administration arrangements. The office should publicise its role and means of action and the ways people can have recourse to it. The office should have the power to investigate human rights violations which the government authorities have failed to investigate and prosecute, impartially, promptly and thoroughly.

- Accelerated training (Protocol II, Article 17(3)(b)) is proposed as one as a number of measures to promote ethnic balance within the judiciary. While accepting that the principles of impartiality of the judiciary are compromised, or perceived to be compromised by the composition of the judiciary, which is overwhelmingly dominated by Tutsi, Amnesty International is concerned that accelerated training may mean that new officials -- including judges, magistrates and prosecutors -- are not adequately trained, and that weaknesses within the judiciary are perpetuated. There should be a strong commitment to achieving a balanced representation of candidates from all ethnic groups, and a balanced representation of women, and ensuring that educational and professional opportunities are open to all. The method for selecting the staff should ensure the prompt recruitment of the best possible personnel based on merit.[3]

Measures taken to reform the judiciary should be in line with the UN Basic Principles on the Independence of the Judiciary and the UN guidelines for their implementation, and should include further training of legal officials to ensure adequate knowledge of national procedures and national and international law.

II INSTITUTION OF OTHER GUARANTEES OF FAIR TRIAL

The Peace Agreement refers to important judicial or legal reforms but make no reference to guaranteeing the right to a full appeal.

Appeals

The majority of political trials have taken place before the criminal chambers of the Appeal Courts, which try people accused of offences punishable by prison sentences of 20 years or more, including the death penalty. There is no right to a full appeal; people convicted by the criminal chambers may only submit a cassation plea on the basis of procedural irregularities or errors to the cassation chamber of the Supreme Court. In a minority of cases, defendants benefiting from a *privilège de juridiction*, attachment of privilege, have been tried in first and last instance by the Supreme Court. Again there is no full appeal and defendants may only submit a cassation plea which is considered by all chambers of the Supreme Court. The cassation procedure does not look at the facts of the case, and can only

[3]The strengths, weaknesses and challenges of the Burundian legal system are explored in more detail in *Burundi: Justice on Trial* (AI Index: AFR 16/13/98, 30 July 1998) and *Burundi: No respite without justice* (AFR 16/12/99, 17 August 1999). Both reports contain detailed recommendations for reform.

overturn the conviction and return the case of retrial. As such it does not amount to a full appeal and is a contravention of Article 14(5) of the ICCPR.[4]

- The transitional period of institutional reform is an opportunity to ensure that the right to a full appeal is guaranteed in all circumstances by introducing appropriate legislation.

- Exceptional provision should also be made to allow for a full review of all cases tried by the criminal chambers, or other jurisdictions which have acted as a court of first and final instance, and where there has been no opportunity for a full appeal.[5]

Military Tribunals

Reforms will be introduced so that no civilian can be subjected to the military code of justice or tried by military jurisdictions (Article 11(4). Protocol II). Amnesty International welcomes this provision and has expressed on numerous occasions its concerns at the failure of trials by military courts to reach minimum standards for fair trial.

- It recommends that further reforms will be implemented to guarantee fairness in military jurisdictions. In particular, military personnel suspected of genocide, crimes against humanity, war crimes or torture should be investigated and prosecuted in civilian courts. Amnesty International remains concerned that unless members of the security forces and armed opposition groups are brought to justice for human rights violations decades of abuse cannot be effectively challenged.

REFORM OF THE SECURITY FORCES (Protocol III)

The question of reform of the army has been one of the most difficult subjects to be tackled by the negotiations in Arusha. Much discussion has revolved on the ethnic quotas to be included in the army, reflecting the general perception of the army as a protector of ethnic rather than national interests.

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[4] Article 14(5) guarantees that, "*Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to the law*".

[5] Please see *Burundi: Justice on Trial* (AI Index: AFR 16 13/98, 30 July 1998), *Memorandum to the Government of Burundi on Appellate Rights* (AI Index: TG AFR 16/98.69, November 1998) and *Burundi: No respite without justice* (AFR 16/12.99, 17 August 1999), for further information.

The peace agreement proposes that a new national defence force be created in which one ethnic group cannot represent more than 50%, to maintain "the essential ethnic balance" and as a "safeguard against acts of genocide and coups d'état" (Article 14). Article 14 also specifies that members of the current armed forces, armed opposition groups and political movements may be integrated provided that they have not committed human rights abuses, acts of genocide, coups d'état, violations of the constitution or war crimes. The integration will be progressive during the transitional period (Article16).

The same criteria and provisions apply to the new police force, the *Police nationale du Burundi*, but do not explicitly apply to the intelligence services (Article 13). The national police force will come under one ministry (unlike at present).

Although the Agreement refers to a Commission to be established to oversee recruitment into the security forces (Protocol III, Article 17(3)), no specific provision is made for such a body to investigate the background of applicants to the military and police forces, nor to ensure that the recruitment process is fair. Such a body needs to be effective and respect due process, so that the screening process is fair to applicants.

Article 12 sets out the different missions of the various units of the security forces (armed forces, police, security services).

- Amnesty International hopes that the clear separation of military and policing roles will ensure greater control over the security forces than is exercised at present. Armed forces should never perform law enforcement functions unless they have been properly trained to do so.

Article 18 states that training including on human rights and humanitarian law will be provided to the armed forces up to the grade of junior officers (*sous-officiers*).

- Unless effective training can be provided which ensures that the army is both disciplined and respectful of human rights and dignity, human rights violations will continue against all ethnic groups. Given the appalling human rights records of the Burundian armed forces and armed opposition groups, Amnesty International believes it is essential that all members receive thorough and effective training in human rights and humanitarian law and its application. Such training should not be limited to rote learning of the rules without explanation or application to specific instances.

Although the organization welcomes the exclusion of perpetrators of human rights abuses from the armed forces, it is unclear how they will be identified, given the total lack of accountability and investigation currently operated by all parties. The NTRC could

potentially play a useful role in identifying people who should be excluded from the armed forces.

In the context of the integration of forces, an amnesty is provided for combatants and members of political parties for the political offence of having belonged to armed opposition groups, but not for acts of genocide, crimes against humanity or coups d'état. No mention is made of human rights abuses which constitute lesser crimes (Article 26, Protocol III).

CHILD SOLDIERS

The demobilisation of child soldiers is not explicitly mentioned in the Peace Agreement despite their particular needs, and although the Peace Agreement refers to the exclusion of people if they have not fulfilled the age criteria, (Protocol III, Article 17(1)(c)) it does not make provision for bringing the age limit into line with international law. The *Charte des Droits fondamentaux*, Charter of Fundamental Rights, states explicitly that no child can be used **directly** in a conflict (Protocol II, Article 3(27)).

- Amnesty International opposes the use of any child under 18 in any conflict, whether directly or indirectly, and opposes the voluntary or compulsory recruitment of any child by government forces or armed opposition groups.

THE RIGHTS OF REFUGEES AND THE DISPLACED (Protocol IV)

Protocol IV of the peace agreement makes clear reference to the international standards protecting the rights of refugees and the displaced (Article 2). It states that the return of refugees shall be in accordance with international law and shall be voluntary and with dignity and that access by humanitarian organizations to returnees shall be guaranteed.

A commission is to be set up to enter into the practical implementation of repatriation, return and rehabilitation of both refugees and the displaced (Article 3).

The agreement reaffirms the right to property and the right for refugees and the displaced to return to their land, or obtain compensation. It highlights the problem of land ownership as being problematic, with refugees who have been absent in some cases for nearly 30 years returning to claim their land (Article 8).

However, there is little detail on how such a process will be managed. Any legal process to determine ownership and compensation is likely to be cumbersome, and in the context of a mass return, to be particularly problematic.

PEACE-KEEPING (Protocol V)

Although Article 8 of Protocol V of the Agreement provides for an international peace-keeping force, in reality this has yet to be agreed to and is strongly opposed by the government, Tutsi-dominated parties and the armed forces. Hutu-dominated parties see a neutral international presence as an essential pre-condition to safe return and to oversee integration of combatants into the new armed forces. The exact mandate of any peace keeping force is yet to be determined and can only be sent at the request of the current government.

Amnesty International takes no position concerning whether a peace-keeping operation is necessary. However, any peace-keeping operation or other international monitoring operation should comply with certain essential principles, including the following:[6]

- international peace-keeping forces, however composed, should have the mandate and capacity to protect persons belonging to all ethnic communities and political groups in Burundi from violations of human rights;

- the duty to monitor and report on human rights abuses should be explicitly included in the mandate of any peace-keeping force;

- the agreement should be in line with the United Nations (UN) Department of Peacekeeping Operations guidelines on the minimum age for peacekeepers. They should be at least 18 years old, and preferably 21;

- all peace-keeping personnel should be fully trained in international human rights, humanitarian law and criminal justice standards and their duty to adhere to them at all times;

- a mechanism should be established with powers to investigate any allegations of human rights violations by peace-keeping personnel. States contributing troops to the peace-keeping operation should promptly conduct independent and impartial investigations into reports of violations of human rights and humanitarian law by

[6]Several of these and other principles are set forth in *Amnesty International's 15-point Program for Implementing Human Rights in International Peace-keeping Operations* (AI Index: IOR 40/01/94).

their nationals and bring to justice those responsible. Those suspected of such violations should be suspended from duty pending the outcome of investigations.

APPENDIX II: Glossary of Burundian political parties and armed opposition groups relevant to the conflict in Burundi

POLITICAL PARTIES AND ARMED OPPOSITION GROUPS WHICH ATTENDED THE ARUSHA NEGOTIATIONS

At Julius Nyerere's instigation, to speed up negotiations, the 18 delegations attending the peace talks in Arusha, Tanzania, (the government, national assembly, 13 political parties and three armed opposition groups) merged into three groupings. One grouping known as the G3, comprised government and pro-government delegations, while the G8 consisted of PARENA and smaller Tutsi-dominated opposition parties. The third grouping known as the G7 comprised FRODEBU, allied Hutu-dominated parties and Hutu-dominated armed opposition groups. In August 2000, the pro-government UPRONA joined the G8 grouping forming a pro-Tutsi group known as G10 (RADDES, a Tutsi-dominated party which joined the negotiations in February 2000 is also part of G10). The government group was reduced to two groups and became the G2.

Other parties, armed opposition groups or movements not party to the talks but mentioned in this document, or otherwise particularly relevant to the peace process, are also included at the end of the document.

THE G2 GROUPING

The Government

The government delegation was led by **Ambroise Niyonsaba**, Minister of the Peace Process and a close ally of President Pierre Buyoya. **Sebastien Ntahuga**, a key presidential advisor. **Colonel Nijimbere** and **Colonel Longin Minani**, formerly Commander of the 5th military region in the south, were also in the delegation. Ambroise Niyonsaba, Colonel Nijimbere and Colonel Minani are all from Bururi Province.

President Pierre Buyoya returned to power in July 1996 in a bloodless coup supported by the armed forces. Since his return political opponents and rivals have been imprisoned, tortured, and some, subjected to unfair trials. Human rights violations have been committed by all units of the security forces, including the *Documentation nationale*, national intelligence unit, which is directly responsible to the Presidency. President Buyoya is also Commander in Chief of the armed forces. He too is from Bururi Province.

Pierre Buyoya first took power in a coup in September 1987, deposing President Jean Baptiste Bagaza, whom he accused of corruption. Under his first presidency, there were several mass outbreaks of violence by Hutu against Tutsi civilians which were brutally repressed by the armed forces. Under international pressure, Pierre Buyoya led the transition to multi-party elections.

The National Assembly

The National Assembly delegation was led by **Augustin Nzojibwami**, from Bururi Province, who is the leader of the pro-government wing of FRODEBU in Bujumbura (see below) and a key figure in the *Convergence National pour la Paix et la Réconciliation* (CNPR), National Convergence for Peace and Reconciliation, an alliance of several political parties made up largely of politicians expelled from the main ranks of their respective parties and excluded from the peace negotiations. The CNPR is largely perceived as a mouthpiece of the government. At the negotiations, the National Assembly delegation, which includes members of parliament from both UPRONA and FRODEBU, has largely taken the same positions as the government.

Augustin Nzojibwami was formerly an outspoken defender of human rights within FRODEBU and has been detained on several occasions, including in 1997, for his criticism of the regroupment policy.

THE G10 GROUPING

Union pour le progrès national (UPRONA), Union for National Progress

The former single party, founded in 1957 and legally recognised in 1960, UPRONA, retained a close relationship with the armed forces under the presidencies of Michel Micombero, Jean Baptiste Bagaza and Pierre Buyoya. It was heavily defeated by the Hutu-dominated *Front pour la Démocratie au Burundi*, Front for Democracy in Burundi, in Burundi's first multi-party elections in 1993. UPRONA and the security forces were unwilling to cede power and were closely associated with violence by the *Sans échec* ("Without Failure") and other Tutsi militia in the 1993 to 1996 period. Senior members of UPRONA including **Charles Mukasi**, **Libère Bararuntyeretse** and **Alphonse Kadege** were among the civilians associated with the 1993 coup attempt. Charles Mukasi, has also been accused of undermining the 1994 Convention of Government power-sharing arrangement and of orchestrating some of the spiralling violence which enabled Pierre Buyoya to return to power in 1996.

Divisions between the Charles Mukasi wing, which opposed the negotiations with the Hutu-dominated armed opposition, and a pro-Buyoya wing became apparent in 1997.

and culminated in the replacement of Charles Mukasi and others by pro-Buyoya party representatives. Charles Mukasi, who is from Ngozi Province in northern Burundi, has refused to accept his dismissal, claims to be party president and to be the victim of harassment by the president and security forces. **Luc Rukingama** was nominated president of the pro-Buyoya wing of the party. The Mukasi wing has continued to vehemently oppose the negotiations.

The UPRONA delegation included **Libère Bararuntyeretse** and **Alphonse Kadege**. **Willy Madirisha**, former head of the *Sans échec*, also briefly attended the Arusha talks as a member of the UPRONA delegation in February 2000.

Parti pour le redressement national **(PARENA), Party for National Recovery**

PARENA was created in 1994 after the return of former president **Jean-Baptiste Bagaza** from exile. Since its creation it has been linked to armed movements or militias within Burundi which have incited violence against FRODEBU members and Hutu civilians in general. A small number of PARENA members are alleged to undergo military training in Uganda, possibly to form a protection corps for Jean-Baptiste Bagaza.

Several senior members of PARENA were convicted in January 2000 of plotting to assassinate the head of state, Major Pierre Buyoya, nearly four years after their arrest. They were released in August 2000. Jean-Baptiste Bagaza was himself also initially accused of involvement in the alleged plot and placed under house arrest. Charges against him were dropped in the run up to the start of the Arusha negotiations and he returned to exile. He now lives in Kampala.

Jean-Baptiste Bagaza, who is from Bururi Province, was president of Burundi from 1976 to 1987. Under his presidency severe restrictions on religious activities were imposed and scores of priests arrested. The Roman Catholic church was particularly targeted. Reports of torture and detention without trial also continued. Jean-Baptiste Bagaza was also the Deputy Chief of Staff in the armed forces in 1972 when as many as 100,000 Hutu were killed by members of the armed forces after a Hutu uprising in the south of the country.

MSP-INKINZO

A small Tutsi-dominated party founded in 1993 and presided by **Dr Alphonse Rugambarara**, a founder member of the Burundian League for Human Rights, the *Ligue ITEKA*. MSP-INKINZO has been critical of the policy of regroupment on human rights and humanitarian grounds. MSP-INKINZO was also reportedly heavily involved in the *villes*

mortes -- violent general strikes and paralysis of city life -- which characterized Bujumbura between 1994 and 1996.

***Parti pour la Réconciliation du Peuple* (PRP), People's Reconciliation Party**

Formerly the *Parti royaliste parlementaire* (PRP), Parliamentary Monarchist Party, the PRP is led by **Mathias Hitimana**, a businessman, who lives in exile in Brussels. Mathias Hitimana is alleged to have been behind the financing and arming of the *Sans échec* militia. **Déogratias Niyonzima**, the former leader of *Solidarité jeunesse pour la défense des minorités* (SOJEDEM), Youth Solidarity for the Defence of Minorities, was also a member of the PRP delegation. SOJEDEM, which appears to no longer exist, was believed to be a front for Tutsi militias in Bujumbura from 1994 onwards and was actively involved in the *villes mortes*. Déogratias Niyonzima fled Burundi in 1997, after being briefly detained on suspicion of threatening state security, and is based in Kampala.

AV-Intwari, The Valiant

AV-Intwari is led by **André Nkundikijie**. It has a small following in Burundi and was founded in 1996.

***Parti indépendant travailleurs* (PIT), Independent Labour Party**

Led by **Nicéphore Ndimurukundo**, the PIT was founded in 1993.

***Parti social démocrate* (PSD), Social Democratic Party**

The PSD was founded in 1993. Members of the PSD are suspected of involvement in the *villes mortes*. Despite sometimes taking different positions from UPRONA, the party is generally perceived to be an UPRONA satelite. It is led by **Godefroid Hakizimana** in Bujumbura.

***Alliance burundo-africaine pour le salut* (ABASA). Burundo-African Alliance for Salvation**

ABASA, which was founded in 1993, was also reportedly involved in the violent *villes mortes*. It is led in exile by former ambassador **Térence Nsanze** who lives in Europe. The party is split and is led in Bujumbura by **Serge Mukamarakiza**.

***Alliance nationale pour le droit et le développement économique* (ANADDE), National Alliance for Law and Economic Development**

ANADDE was founded in 1992. It is led by **Patrice Nsababaganwa**. ANADDE was also linked to the *villes mortes*.

***Ralliement pour la Démocratie et le Développement économique et social* (RADDES), Rally for Democracy and Economic and Social Development**

RADDES, which was founded in 1992, was openly involved in the *villes mortes* and violence of the 1994-1996 period. It is presided by **Joseph Nzeyimana**.

RADDES was present at the start of the negotiations but refused to sign a document on participation. It subsequently made a series of highly critical declarations accusing the former facilitator, the late Julius Nyerere, of bias in his management of the talks. RADDES rejoined the negotiations in February 2000.

THE G7 GROUPING

***Front pour la Démocratie au Burundi* (FRODEBU), Front for Democracy in Burundi**

FRODEBU was formed in the mid-1980s and officially recognized in mid-1992. Its manifesto includes a commitment to abolish the death penalty. Many of its founder members including former presidents **Melchior Ndadaye** and **Sylvestre Ntibantunganya** were also founder members of the *Ligue ITEKA*. FRODEBU officially rejects recourse to violence. It has been, however, frequently accused of links with armed opposition groups including PALIPEHUTU and subsequently the CNDD and its armed wing, and hundreds of supporters and officials of FRODEBU have been arrested and detained on such accusations. FRODEBU also used PALIPEHUTU networks to mobilise support for the 1993 FRODEBU election campaign.

Thousands of FRODEBU supporters and officials are now in detention, mainly on suspicion of participation in the massacres of Tutsi civilians in October 1993 or on suspicion of links with the armed opposition. Twenty-four FRODEBU members of parliament have been killed by the security forces or militias since the coup attempt of 1993. Others fled into exile, many then joining ranks with the CNDD. The president, **Jean Minani**, lives in exile in Dar es Salaam, Tanzania.

Several senior FRODEBU representatives including some in government have been the subject of legal proceedings or accusations of participating in or inciting violence. Jean

Minani is accused of inciting violence in October 1993 after calling on Radio Rwanda for people to "resist" the coup. Legal charges that **Léonce Ngendakumana** had participated in the massacres of 1993 were dropped in negotiations surrounding the 1998 power-sharing arrangement. Both **Augustin Nzojibwami**, former Secretary General, and **Domitien Ndayizeye**, current Secretary General, have also had legal proceedings against them on charges of threatening state security or involvement in the 1993 massacres.

Divisions in the already weakened party became more obvious with the return to power of Pierre Buyoya, and two factions emerged: the external Jean Minani wing and internal Nzojibwami wing, which appeared closer to the government. The extent of the crisis was revealed when Augustin Nzojibwami expelled senior members of the party. In retaliation, Jean Minani expelled Augustin Nzojibwami. Senior members including former president, Sylvestre Ntibantunganya, Léonce Ngendakumana and Domitien Ndayizeye rallied to the Minani cause.

Conseil National pour la Défense de la Démocratie (CNDD), National Council for the Defence of Democracy

The CNDD was formed in 1994 in Bukavu, Democratic Republic of Congo, following the assassination in 1993 of President Ndadaye and flight into exile of many FRODEBU and FRODEBU-allied politicians. The main stated aims were to fight for the restoration of democracy and to end the Convention of Government power-sharing arrangement signed in September 1994.

Léonard Nyangoma, Minister of Interior under Melchior Ndadaye, holds the presidency. The Hutu-dominated CNDD retains many FRODEBU principles but advocated from its formation the use of its armed wing, the *Forces pour la Défense de la Démocratie* (FDD), Forces for the Defence of Democracy. The FDD initially carried out joint operations with PALIPEHUTU and FROLINA (see below) but such cooperation came to an end in 1995 over disagreements of strategy and the inclusion of Tutsi in the ranks of the CNDD. In early 1998, the CNDD and FDD publicly split, with the commander-in-chief of the FDD, **Jean-Bosco Ndayikengurukiye**, breaking away to form a new faction, the CNDD-FDD, claiming that Léonard Nyangoma was remote from the armed struggle. Several members of the political executive were also temporarily expelled. The CNDD retains its armed wing the FDD, although this was substantially diminished by the split. The FDD are thought to operate mainly in southern Burundi.

The FDD have been responsible for serious human rights abuses including the deliberate and arbitrary killings of unarmed civilians.

Léonard Nyangoma, along with other senior members of the movement, was charged *in absentia* with responsibility for a series of mine explosions in Bujumbura in 1997. Several defendants were sentenced to death in 1998 after unfair trials in which they were convicted of involvement in the explosions. Further investigations were ordered into the charges against Léonard Nyangoma.

Parti du Peuple (PP), People's Party

The FRODEBU-allied PP was legally recognized in 1992. It is presided by **Shadrack Niyonkuru** from Bururi Province. Shadrack Niyonkuru fled Burundi after the coup which returned Major Buyoya to power. In Bujumbura, the PP, which has also split, is led by **Séverin Ndikumugongo**. The PP is also in favour of abolition of the death penalty.

Parti libéral (PL), Liberal Party

The PL is led in exile by **Gaëtan Nikobamye** from Bubanza Province. It is FRODEBU-allied and was legally recognised in 1992. Gaëtan Nikobamye, a lawyer and businessman, fled Burundi because his business activities apparently placed him in danger. The party is split and the internal Bujumbura wing is led by **Joseph Ntidendereza**.

Rassemblement du peuple burundais (RPB), Rally of the Burundian People

The RPB is also FRODEBU-allied and was recognised in 1992. Its former president, **Ernest Kabushemeye**, Minister for Mines and Energy, was gunned down in Bujumbura in March 1995 days after his name appeared on a hit list in a paper, *Le Carrefour des Idées*. **Etienne Mvuyekure**, former Secretary General of the RPB, "disappeared" after his arrest by members of the armed forces in November 1997. He is believed to have been extrajudicially executed shortly afterwards. He had previously been convicted of links with armed opposition groups. The current president, **Balthazar Bigirimana**, lives in exile in Paris. He fled Burundi in late1996 shortly after the arrests of close party associates. He had been actively pushing for investigations into the death of Ernest Kabushemeye and "disappearance" of Etienne Mvuyekure. The party is led in Bujumbura by **Philippe Nzobonariba**.

Parti pour la libération du peuple hutu (PALIPEHUTU), Party for the Liberation of the Hutu People

PALIPEHUTU was formed clandestinely in 1980 by **Rémy Gahutu** to fight against Tutsi domination. Rémy Gahutu died in detention in Tanzania in 1990. Its current president, **Etienne Karatasi**, lives in exile in Denmark. PALIPEHUTU retains a small fighting force,

the *Forces nationales de libération* (FNL), National Forces for Liberation. Rivalry between PALIPEHUTU and the breakaway PALIPEHUTU-FNL led by Kossan Kabura is also intense. PALIPEHUTU has no control over the PALIPEHUTU-FNL.

PALIPEHUTU incited the civilian Hutu population to violence in 1988 in the north of the country in Ntega and Marangara, and several hundred Tutsi were killed. Some 20,000 Hutu civilians were killed in reprisal by members of the Tutsi-dominated armed forces. PALIPEHUTU is believed to have been responsible for armed attacks on Bujumbura and Bubanza provinces in November 1991 and April 1992 in an effort to disrupt the forthcoming 1993 elections. PALIPEHUTU campaigned clandestinely against the 1993 elections, claiming that no political change was possible for as long as the army remained Tutsi-dominated. The party was not officially recognized in 1992 due to its mono-ethnic stance.

Front pour la libération nationale (FROLINA), Front for National Liberation

FROLINA is a small breakaway faction of PALIPEHUTU lead by **Joseph Karumba**, who left Burundi after the 1972 massacres of Hutu. He is based in Dar es Salaam, Tanzania. Its armed forces are known as the *Forces armées populaires* (FAP), Popular Armed Forces. It is mainly based in Tanzania but is largely inactive militarily. Since signature of the peace agreement, however, there have been reports of small FAP units attempting to establish bases in southern Burundi.

MAJOR ARMED OPPOSITION GROUPS WHO HAVE NOT ATTENDED THE ARUSHA NEGOTIATIONS

CNDD-FDD

A breakaway faction of the FDD, led by **Jean-Bosco Ndayikengurukiye**, from Bururi, the brother of Augustin Nzojibwami and nephew of Léonard Nyangoma. Its main base is eastern Democratic Republic of Congo (DRC), although it also has bases within Burundi and incursions have been launched from Tanzania. The CNDD-FDD has actively recruited out of Burundian refugee camps in Tanzania and includes many child soldiers in its ranks. The CNDD-FDD is primarily an armed opposition group, with a limited number of political advisors including **Jean-Marie Ngendaheyo**, former Minister of Foreign Affairs under Melchior Ndadaye, who was a founder member of the *Ligue ITEKA*. Jean-Marie Ngendaheyo fled Burundi after his name appeared on a hit list established by Tutsi extremists. Prior to joining the FDD, Jean-Bosco Ndayikengurukiye was undergoing officer training with the Burundian armed forces.

Rivalry between the two branches is intense. The CNDD Nyangoma threatened on several occasions to pull out of negotiations if the CNDD-FDD were permitted to attend. The CNDD-FDD have sought direct negotiations with President Buyoya, outside the Arusha process.

Active largely in southern and central Burundi, the CNDD-FDD has committed widespread human rights abuses. It has also been active in the DRC where it has also reportedly committed human rights abuses.

PALIPEHUTU-FNL

A breakaway faction of PALIPEHUTU, PALIEPHUTU-FNL, refered to mainly as the FNL, was until February 2001 led by **Kossan Kabura**. The FNL have been very active around Bujumbura. They have committed serious human rights abuses including the deliberate and arbitrary killings of unarmed civilians and prisoners of war, mutilation and torture. They are consistently reported to have links with Rwandese armed opposition groups including the ex-FAR and *Interahamwe*, who are accused of the 1994 genocide in Rwanda and have openly threatened violence against civilians.

In February 2001, Kossan Kabura and other senior officials of the FNL were removed from their functions and **Agathon Rwasa**, a senior FNL commander was nominated as president and chief of staff.

The FNL have bases within Burundi, as well as DRC. They have actively recruited from Burundian refugee camps in Tanzania.

AI Members only

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BURUNDI
Between hope and fear

RECOMMENDED ACTIONS

Please ensure that all relevant people in the section have received copies for their attention, and that the document is centrally filed for future reference. In particular please ensure copies are distributed to section press officers, home government lobbyists and campaign coordinators.

A news release will accompany the launch of this report on 22 March 2001 (please note this embargo date).

An internal RAN action accompanies this report. Please refer to the action circular (AI Index: AFR 16/010/2001, March 2001) for detailed recommended actions.

Torture Campaign: Please note that this report contains substantial information on torture, which AI sections and structures may be able to incorporate into activities around the campaign.

DISTRIBUTION BY THE IS

Advance copies of this document and the action circular have been sent direct by the IS to country coordinators and CAFRAN coordinators, as well as to AI EU and UN offices, and AI's Africa Regional Office.

Copies will also be sent direct to representatives of the Burundian government and opposition, and the Burundian armed opposition.

QUERIES

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