

Burundi (95)
BURUNDI
A critical time
Human rights briefing on Burundi

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I INTRODUCTION

An Amnesty International delegation visited Burundi in July and September 2003 and carried out research into allegations of human rights abuses in the provinces of Rural Bujumbura, Ruyigi, Gitega, Kayanza and Ngozi, as well as Bujumbura, the capital. In addition to meeting victims of human rights abuses, the delegation met a number of government and judicial authorities, as well as human rights defenders and human rights organizations, and members of the international community including representatives of intergovernmental and humanitarian organizations. The organization is indebted in particular to the Burundian human rights groups, the *Association pour la protection des personnes détenues et des droits humains* (APRODH), Association for the Protection of Detainees and Human Rights, the *Ligue ITEKA*, the Burundian Human Rights League, and the *Association burundaise pour la Défense des Droits des Prisonniers* (ABDP), Burundian Association for the Defence of Prisoners' Rights.

During its visit, Amnesty International received numerous testimonies of continued rape, extrajudicial executions and other unlawful killings, and looting by all parties to the conflict. It also gathered information on a significant and dangerous rise in criminality, facilitated by the proliferation of small arms in the country, which coupled with conflict-related insecurity, is having a damaging impact on the lives of the Burundian population, destroying their health and livelihoods.

This document summarises Amnesty International's findings during its two visits in 2003 as well as sustained research both before and since. It particularly focuses on the administration of justice, unlawful killings, violence against women, the right to health and some of the consequences of the proliferation of small arms in the country. It takes into account some of the concerns and perspectives voiced by the victims of human rights abuse, human rights activists, international agencies and government authorities.

The main objective of this document is to argue for the need for a holistic and sustained approach to the crisis in Burundi, which makes a link between the humanitarian situation and serious human rights abuses. It is produced in conjunction with an appeal the organization is making to participants to an International Donor Conference on Burundi in Belgium in January 2004. The appeal, *Burundi: Commitment to human rights is essential* (AI Index: AFR 16/001/2004), contains recommendations on areas which Amnesty International believes are in vital need of assistance and support as part of international efforts to rebuild Burundi's infrastructure. The recommendations are based on Amnesty International's long-term work and analysis of the situation in Burundi.

II POLITICAL CONTEXT AND SUMMARY

The year 2003 in Burundi was marked, ultimately, by significant political progress towards resolution of the 10-year armed conflict, with the signature in October of a power-sharing agreement between the then main active armed political group, the *Conseil national pour la Défense de la Démocratie - Forces pour la Défense de la Démocratie*, National Council for the Defence of Democracy - Forces for the Defence of Democracy (CNDD-FDD), led by Pierre Nkurunziza (referred to hereafter as the CNDD-FDD (Nkurunziza)) and the Transitional Government of Burundi. The agreement was a culmination of negotiations, under the auspices of the African Union (AU) and regional governments, outstanding from a scarcely implemented December 2002 cease-fire agreement. The October agreement was given regional support at a Heads of State summit in Dar es Salaam, Tanzania, and a new inclusive government came into force in late November 2003. Earlier, in April, President Pierre Buyoya transferred power to Domitien Ndayizeye, of the *Front pour la*

Démocratie au Burundi (FRODEBU) political party, thus beginning the second half of the political transition set out under the August 2000 Agreement for Peace and Reconciliation in Burundi (hereafter referred to as the Peace Agreement).

Less positively, the year 2003 was also marked by a dramatic increase in rape, armed robbery and general insecurity, as well as ongoing mass human rights abuses. It is too soon to say whether recent political developments will indeed end conflict and other political violence as well as bringing greater respect for human rights. Other important political developments including the signature of the August 2000 Peace Agreement did not produce relief from the unrelenting cycles of violence, poverty and humiliation suffered by much of the Burundian population.

While not minimizing the significance of steps taken in 2003, important obstacles to resolution of the crisis and substantially improved respect for human rights clearly remain, and need to be explicitly acknowledged and seriously addressed. These include blatant and massive human rights abuses by all parties to the conflict. The former government armed forces and the armed political groups who will comprise the reformed security forces have poor human rights records. Between them they have killed or caused the death of hundreds of thousands of civilians since October 1993. Many more civilians had been killed during the 1960s, in 1972 and in 1988. Amnesty International is concerned that simply forming a new army composed of the same individuals and commanders is unlikely to bring respect for human rights.

The second main armed political group, the PALIPEHUTU-FNL (Rwasa), is yet to enter negotiations and has vowed to continue fighting. Though numerically quite small, it has shown it is capable of maintaining low-level action as well as launching sustained attacks. From its positions in the hills encircling the capital it may be able to sustain its operations relatively easily. The FNL may form a magnet for discontented or demobilised CNDD-FDD fighters.

Some in the country may be deeply suspicious of the new authorities, or resentful of the loss of privilege they will suffer as a result of institutional reform or change in government. Amnesty International is concerned that without adequate safeguards, the disarmament and demobilisation of thousands of armed opposition fighters and government soldiers in a context of ongoing war, poverty and international disinterest may lead to new human rights abuses.

Several parties or movements across the political and ethnic divide remain clearly outside the process. Such opponents include those who have from the outset opposed the process, feel excluded or have excluded themselves. They include PARENA, and other smaller Tutsi-dominated parties or movements such as *PA Amasekanya* which have consistently opposed the process. They have support from a sector of the army, as well as from army deserters. While potentially a minority, the possibility of substantial destabilisation remains.

The threat of further destabilisation, possibly in the form of violence, from other political groups, or opponents to the process cannot be excluded. Some may fear their own or their supporters' security or interests are not sufficiently protected in the current deal, or may wish to create an unmanageable situation in which implementation of the Peace Agreement can be reversed. Smaller Hutu-dominated parties or former armed political groups such as the CNDD (Nyangoma), FROLINA and PALIPEHUTU, have all in some way expressed concern over the entry into government of the CNDD-FDD (Nkurunziza).(1)

Despite the progress cited above, the process which has brought Burundi to the current situation has been far from perfect, and often openly manipulated by players. Particularly since the Transitional Government took office November 2001, the two main parties in the government, FRODEBU and UPRONA, have increasingly isolated themselves from other parties and both appear increasingly weakened. The sense, misplaced or not, that the Peace Agreement was negotiated by an elite with an elite's interests in mind has never been entirely lost. Political leaders have given grand discourses on

justice and tackling impunity yet secured temporary immunity for themselves or their supporters, and shown little real commitment to issues of justice and redress. For some the lack of credibility of the process that led up to signature still undermines implementation of the Peace Agreement. Even within the parties who are signatories to the Peace Agreement, and therefore at least theoretically supportive of the process, discontent clearly remains. As parties jockey for influence and support bases in anticipation of local, legislative and presidential elections before the end of the transitional period in November 2004, these divisions are likely to become more apparent, and potentially violent. Fighting between rival armed political groups that are party to the Peace Agreement has broken out on several occasions, and a growing number of assassinations of supposed rival supporters, including children, are taking place.

The importance claimed by and given to some armed political groups such as the CNDD-FDD (Ndayikengurikye) and FNL (Mugabarabona) appeared to be an attempt to convince an international community largely ill-informed or disinterested in Burundi that the peace agreement was being implemented in the hope that substantial pledges of aid would be released. It led directly, at the cost of several hundred thousands of US dollars in the form of per diems to their leaders and the financing of demobilisation sites, to new human rights abuses, particularly the recruitment of child soldiers. The leaders of both groups also negotiated to have demobilisation sites for troops in areas close to bases of rival groups, and indeed some fighting took place.

Clearly, prospects for greater respect for human rights and a durable resolution of the armed conflict also depend on the political and military situation within the immediate Great Lakes region. In particular, the situation in the Democratic Republic of Congo (DRC) is likely to remain a potential source of instability in the region for some time to come. The inauguration in July 2003 of a new DRC transitional power-sharing government holds out the possibility for a lasting resolution of the seven-year-old conflict in that country. However, the new government has yet to demonstrate its ability to rise above the factionalism and mutual suspicion of its constituent parties and has done little so far to deliver peace, security or respect for human rights.

The DRC's eastern provinces, including South-Kivu which borders Burundi, remain mired in insecurity, large-scale human rights abuse and humanitarian crisis. The new government has had little meaningful impact in these areas, which continue under the *de facto* control of different armed political groups. All these forces, as well as foreign (including Burundian and Rwandese) insurgent forces present in eastern DRC, have been responsible for continuing gross human rights abuses against Congolese civilians. Abuses include high levels of unlawful killings, sexual violence, torture and use of child soldiers. UN Security Council measures - namely, the imposition in the Kivu provinces and Ituri district of an arms embargo and of a strengthened "Chapter VII" mandate for UN peace-keepers, instructing them to take all necessary measures to protect civilian life - have led to some alleviation of the crisis in eastern DRC. However, in general the personnel and resources available to the UN force in DRC (known as MONUC) remain insufficient to the size and scope of its task.

The DRC transitional government also has many other major obstacles to overcome if it is to progress to free and fair nationwide elections, supposed to take place within two years(2). One obstacle is the formation of an integrated national army, to be drawn from the various belligerent forces, and the associated disarmament, demobilization and reintegration into civilian life of scores of thousands of unneeded combatants, including large numbers of child soldiers. A second obstacle is how the DRC transitional government, with international support, will promote justice for the mass human rights abuses committed in the course of the conflict, including abuses by the very forces now included in the government, and reconstruct and reform the DRC's incapacitated justice and policing systems. Failure to handle these issues satisfactorily may plunge the DRC into renewed crisis, with potentially destabilizing ramifications upon the rest of the region, including on Burundi's own fragile peace process.

The disarmament, demobilization and repatriation (DDR) of foreign insurgents based in DRC is also

a pressing issue. The presence of these groups in eastern DRC was the original *casus belli* cited by the governments of Rwanda, Uganda and Burundi as justification for their invasion of the DRC in 1996, and again in 1998. While there have been gradually increasing numbers of (largely voluntary) repatriations of these combatants, their continued presence is an important element in the ongoing instability in eastern DRC. To this can be added reported continued Rwandese and Ugandan government involvement in eastern DRC beyond the official withdrawal of their forces in late 2002 and early 2003(3), including the alleged continuing implication of Rwandese and Ugandan "elite networks" in resource exploitation in DRC, perhaps the remaining major driving force of the conflict. These reports have been denied by both governments. Nevertheless, with limited DRC governmental control over the east, and insufficient numbers of UN monitors and peace-keepers in place, the vast territories of eastern DRC could continue to provide potential cover and bases for the activities of foreign armed groups and governments.

The majority of Burundi's armed political groups have at times benefited from support from the Congolese government or had bases in its territory. In particular, several thousand CNDD-FDD (Nkurunziza) fighters are thought still to be based in eastern DRC, and in 2003 continued to receive some support from the Congolese government, as well as potentially other armed movements in the region. The Burundian army has been present in eastern DRC since 1996, allegedly for security reasons, although it, like the Rwandese and Ugandan armies, is presumed to have some economic interests. It is too soon to say whether recent developments in DRC will force all Burundi parties out of the area and DRC is likely to remain a potential base for opposition movements.

In such a situation, humanitarian needs are likely to remain critical and human rights protection a priority.

III CRITICAL HUMAN RIGHTS ISSUES WHICH NEED TO BE ADDRESSED

III.i NO ACCOUNTABILITY: PERSISTENT HUMAN RIGHTS ABUSES IN 2003 BY THE GOVERNMENT SECURITY FORCES AND THE CNDD-FDD (NKURUNZIZA)

Members of the government security forces and the CNDD-FDD (Nkurunziza) have been responsible for hundreds of unlawful and deliberate killings of unarmed civilians and other non-combatants, acts of torture and ill-treatment, "disappearances" and abductions, committed in the near-certainty that they would not be held accountable by their leaders. As in previous years the CNDD-FDD (Nkurunziza) failed to acknowledge human rights abuses by its own troops. However, dramatic reductions in looting of the population or other abuses coinciding with the CNDD-FDD (Nkurunziza)'s apparent tactical decision to gain more popular support on the ground, possibly with the 2004 elections in mind, showed that a chain of command structure was effective. The military justice system also had no will to hold government soldiers accountable. Killings of unarmed civilians, often in reprisal for the military activities of armed political groups, continued with impunity.

Human rights abuses by the CNDD-FDD (Nkurunziza)

In addition to human rights abuses described later in this document, in particular in the section, Increasing sexual violence, members of the CNDD-FDD (Nkurunziza) were responsible for scores of unlawful and deliberate killings of unarmed civilians and abductions.

CNDD-FDD (Nkurunziza) combatants have repeated harassed, abducted and killed members of the local administration. In 2003, in Bubanza province alone they reportedly included the head of Karinizi sector, Bubanza commune, Bubanza province, who was abducted on 12 January; the head of Gihanga sector, killed in February; the head of Gatabura colline(4), Mpanda commune, Bubanza province, killed on 25 March; the head of Gahongor sector, Mitakataka zone, Bubanza province, killed on 30 April. Siméon Ndimurwimo, of Murambi colline, Muramvya province was killed by

members of the CNDD-FDD (Nkurunziza) on 29 June 2003. A note was left with his body warning that other local officials who "collaborated" with the military would receive the same fate. Jean Ndayizeye, another local official in the province was duly unlawfully killed by CNDD-FDD (Nkurunziza) combatants on 28 July. In July 2003, in Ngozi province, Hilaire, the head of Bugorora sector, Mwumba commune was shot and killed by CNDD-FDD (Nkurunziza) members who reportedly told him to come with them and dig his own grave. He was reportedly suspecting of informing the authorities that CNDD-FDD (Nkurunziza) members had lodged with his secretary who was subsequently arrested. In Gitega province, Gaspard Ndarisigaranye, head of Bubaji sector, Muraza commune was shot at home in January 2003 at point blank range by CNDD-FDD (Nkurunziza) members. The unlawful killings were not limited to members of the administration. Norasque Nayigihugu, the head of Muhaga health centre on 19 July 2003. He was reportedly suspected of passing information on CNDD-FDD (Nkurunziza) members to the local authorities. A man, Muyokiye, was killed with his wife and young child on Kagoma colline, Itaba commune in early August 2003 by CNDD-FDD (Nkurunziza) members. He was suspected of having passed information to the authorities on the identities of CNDD-FDD agents in the area responsible for recruitment and mobilisation.(5)

Four FRODEBU members of parliament and seven other civilians were abducted by the CNDD-FDD (Nkurunziza) in June 2003 in Ruyigi province. Their abduction appeared to be in response to alleged political campaigning by FRODEBU. All were released unharmed between seven and 30 days later.

Following the entry of the CNDD-FDD (Nkurunziza) into the Government, scores of killings of suspected FNL supporters were carried out by the CNDD-FDD (Nkurunziza), apparently with the complicity of the armed forces. In early December 2003, APRODH representatives visited a house in the Kinama district of Bujumbura and found 24 bodies, all reportedly suspected FNL civilian supporters killed by the CNDD-FDD (Nkurunziza).

The CNDD-FDD (Nkurunziza) also carried out a number of "arrests" in December. On 17 December, CNDD-FDD combatants took seven suspected FNL supporters from their homes at night in Gatumba, Rural Bujumbura to an unknown destination, later reported to be a CNDD-FDD military position in the area, apparently with the knowledge and blessing of the Burundian authorities, although the force is not integrated into the security forces. Human rights groups including APRODH expressed concern that the men were being held outside the framework of the law. Other alleged FNL members or supporters were carried out by members of the Burundian security forces on the basis of information passed to them by the CNDD-FDD (Nkurunziza). There was no clear apparent intent from the side of the Burundian authorities to prevent score settling and arbitrary arrests. The CNDD-FDD (Nkurunziza) is currently reporting to be openly operating several detention centres across the country, including in Bujumbura, Rural Bujumbura, Cibitoke and Bururi provinces. Amnesty International has been informed of a number of cases where people have been "arrested" on suspicion of armed robbery subjected to fines or beatings. A number of women in Cibitoke province, accused of witchcraft were reportedly badly beaten on their legs and feet in December 2003 by CNDD-FDD members.

Extrajudicial executions by government forces

Throughout the year in Rural Bujumbura, for example, civilians - often the ill, elderly or very young - were killed during military operations, sometimes by bayonet. Others were arbitrarily accused of being members of the FNL and killed. Killings included the following examples:

In early January 2003, 12 people were extrajudicially executed in the Gihosha district of Bujumbura by soldiers following the killing of a soldier in the area by members of the FNL. Two soldiers suspected of the killings were arrested one week later. They are yet to be tried.

At least 30 unarmed civilians were extrajudicially executed by members of the government armed forces in Muvumu sector, Gisuru commune, Ruyigi province on 20 January 2003. The killings were in reprisal for the killing of 10 soldiers in an ambush, carried out by the CNDD-FDD (Nkurunziza) two days earlier in the area.

On 18 November 2003, **Edmond Majamo**, aged 80, was shot in the legs and then killed by a blow to the head by soldiers in Ruyaga, following an ambush by the FNL on the armed forces in the area. Other civilians in the area had already fled fearing reprisals, but he was too weak to run and stayed at home, hoping to be safe. Two days later on 20 November, **Jean Ntahonvikiye**, an 11-year-old pupil, was shot and killed in the same area in front of his mother, by soldiers who accused him of being a member of the FNL. Other killings of unarmed civilians included the following:

Need for reform of the military justice sector

The experience of military trials in Burundi has repeatedly demonstrated that military jurisdictions are simply not capable of bringing to justice those accused of human rights violations. However, the inherent weaknesses of military courts persist because they are tolerated by the highest authorities, who largely fail to acknowledge or condemn human rights violations by their forces. The failure to investigate, hold accountable and bring to justice members of the armed forces suspected of being responsible for gross human rights violations is almost absolute and has been extensively documented by Amnesty International.(6)

Justice has been applied selectively, and with political and ethnic bias, and the armed forces have as a consequence largely been able to escape justice, both in civilian and military courts. For example, no one has been brought to justice for the killing of at least 80,000 Hutu civilians in 1972. Unlike trials before civilian jurisdictions, such as the trials of civilians for their roles in the massacres which followed the 1993 assassination of President Ndadaye, where judicial officials have been zealous in the arrest, trial and conviction of civilians, military jurisdictions have been less rigorous in their pursuit of soldiers accused of perpetrating serious human rights violations. Even in relation to the events of 1993, few members of the security forces who participated in reprisal killings of Hutu civilians following the initial wave of killings of Tutsi civilians, have been arrested or brought to justice. Tens of thousands of unarmed civilians have been killed since; the majority of killings attributed to the armed forces remain uninvestigated.

To date, in the few cases where soldiers have been tried by military courts for serious human rights violations, including the extrajudicial execution of unarmed civilians and captured combatants, those convicted have received disproportionately lower sentences than those imposed on civilians by civilian courts for similar offences. Sentences have been so light as to reinforce the sense that the armed forces are above the law. Amnesty International believes that the sentence should reflect the gravity of the offence, without recourse to the death penalty.

Insufficient training and resources undermine the quality of justice administered in military courts in Burundi. Few judges have received adequate legal training, and their knowledge of applicable legal procedures is often flawed. Some lawyers who have represented defendants in military courts have complained that the courts do not understand the arguments put forward and that therefore decisions have failed to take into account basic elements of Burundian criminal procedure. The inadequacy of training is compounded by the fact that in practice, when military judges misapply the law, corrective measures are rarely taken, as there is less judicial scrutiny than with civilian courts.(7)

Proposals announced in 1999 by the Ministry of Justice to limit military jurisdictions have yet to be implemented, and did not appear in the Ministry's 2003 sectorial plan.

A blatant disregard for justice

At least 173 and possibly as many as 267 unarmed civilians, including large numbers of women, children and the elderly, were deliberately and unlawfully killed by government soldiers in Itaba commune, Gitega province, on 9 September 2002. Most of the victims had been shot at point blank range. Others had been shot as they attempted to flee, or burnt alive in houses where they had hidden. Following national and international outrage, as information that had initially been hidden began to emerge, two army officers were arrested and accused of murder. On 22 February 2003, they were convicted by a military court (*conseil de guerre*) of the lesser charge of failing to follow orders, sentenced to four months' imprisonment (the time they had already served) and released.

Although the Burundian armed forces had admitted the killings, during the two day trial, for reasons that are not clear, the charge of murder was dropped and lesser charges of breaching public solidarity (*manquement à la solidarité publique*) and failure to follow orders (*violation de consignes militaires*) were introduced. Acquitted of the first charge, the officers were found guilty of failing to follow orders on the grounds that they had failed to give a report of the incident, and that even though they had received orders to fire on combatants in the area it should have been clear that they were firing on an unarmed civilian population. The military prosecutor had reportedly argued that as civilians had been given the order to leave the area whenever combatants were present, those who stayed behind were correctly considered as combatants. Reflecting concern that justice had not been done, the civilian State Public Prosecutor ordered the Military Prosecutor's Office to reopen the case. However, no further investigations into the killings are known to have taken place.

The Itaba massacre was only one in a series of mass killings by the armed forces in Burundi last year alone. More than 500 unarmed civilians including scores of children were extra-judicially executed in 2002. At least 100 unarmed civilians were extra-judicially executed in 2003.

More generally, the justice sector - whose performance is key to resolution of the conflict and an end of human rights abuses - remains weak, under-resourced, and increasingly undermined by corruption. However, there have been positive developments, including the promulgation of a law in September 2003 devolving the jurisdiction of cases, which since 1996 had been tried by the criminal chambers of the Appeal Courts, to the High Court. The measure effectively introduces the right to appeal.⁽⁸⁾ Cases affected are those for crimes punishable by death or life imprisonment. The Burundian authorities have proposed to promote and provide further training to judges from the *Tribunaux de Résidence*, Burundi's lowest jurisdiction, to enable them to handle the more serious cases. It is unclear whether these measures will be sufficient to guarantee standards of fair trial.

One case which seemed to demonstrate perfectly both the vulnerability of humanitarian workers and the climate of total impunity which suffocates Burundi is that of **Dr Kassi Manlan**, the head of the World Health Organization (WHO) in Burundi, who was killed in November 2001. Four guards from his house and office were immediately arrested and the State Public Prosecutor, *Procureur Général de la République*, set up a commission to investigate the case. A fifth person, **Gertrude Nyamoya**, Dr Manlan's assistant and a long-term WHO employee, was arrested on 21 December as she tried to leave the country reportedly for medical treatment. The diplomatic immunity of an expatriate colleague to Dr Manlan, apparently implicated in the murder by the testimony of one defendant, was never lifted and he later left Burundi.

The four guards were detained incommunicado for over two months and at least one, **Pierre Ngendakumana** was hospitalized reportedly after being badly tortured while in the hands of the *Documentation nationale*, national intelligence agency. He confessed to involvement in the murder following torture but subsequently retracted his statement. Another guard at the house, **Jean-Paul Bukeyenye**, implicated all four guards as well as Gertrude Nyamoya.

Persistent rumours circulated potentially implicating people close to then President Pierre Buyoya. In September 2002, the CNDD-FDD website published an article linking the murder to allegations of corruption and medicine trafficking as well as to people close to then President Buyoya. These or

similar allegations were also repeated and expanded by an independent radio station, *Radio Publique Africaine* (RPA), and subsequently by the lawyers of one of the accused. The allegations are yet to be proved in court. However, in October 2003, four senior members of the security forces or intelligence services were detained on suspicion of involvement in the murder and have been questioned at length since, although they have not been formally charged. The accused are, Colonel Gérard Ntunzwenayo, at the time of the murder a senior representative of the *Documentation nationale*; Commander Emile Manisha, then Inspector General of the *Police de Sécurité Publique* (PSP), Public Security Police; Japhet Ndayiegamiye, head of the *Documentation nationale* in Bujumbura; and Commander Sylvestre Manirakiza, head of the *Brigade spéciale de Recherche* (BSR), gendarmerie special investigation unit, at the time, as well as one civilian. The State Public Prosecutor is reported to have survived at least one assassination attempt since.

Whether this is evidence of a serious attempt by the authorities to investigate a sensitive political case, and thus a serious challenge to institutional impunity, remains to be seen.

III.ii TORTURE AND "DISAPPEARANCES"

Ill-treatment and torture in police, gendarmerie and military custody remain widespread. Torture methods most frequently reported to Amnesty International in 2003 include severe and sustained beatings using electric cables, sticks and other heavy implements, beatings on the joints, the soles of the feet and the genitals, kneeling on bottle tops, stabbings, electric shocks, tying in excruciating positions, humiliation and intimidation, including death threats or other psychological abuse. Other techniques documented by Amnesty International include scalding with boiling water and melted plastic bags, breaking of bones and simulated executions. These torture methods have been documented by Amnesty International for many years. Some detainees have been so severely tied or beaten that their limbs have subsequently been amputated.

Désiré N, aged 18, from Kanyosha commune, Rural Bujumbura was arrested on 17 July in Bujumbura. A mason, he had reported for work in Bujumbura. He was stopped in central Bujumbura by a soldier and asked to produce his identity document, which he did. Because he was a young Hutu from outside the capital he was immediately considered suspect, arrested and taken to a military position in Mutanga district, Bujumbura, where his arms and feet were tied together behind his back and to his feet in an excruciating position known as *kabuha budege* (the airplane position) and beaten. As they beat him, soldiers told him to confess to being a member of the FNL saying that they knew that it was boys his age who had been killing people in Musaga. The soldiers reportedly threatened to blow him up with a grenade and made as if they would stab him with a bayonet. However, the commander from another battalion arrived, and Désiré N was taken away to the *1^{er} bataillon d'intervention*, 1st Intervention Battalion. He was detained for nine days during which he was unable to eat as his face was too swollen after the beating. He was released without charge. In late September 2003, he was still unable to work.

Amnesty International continued its work into juvenile justice in 2003. It concluded that children remain at grave risk of human rights abuses in the hands of the law, including of torture and ill-treatment in the early stages of detention. Jean Claude Nibugoyi, who was approximately 16 years old in November 2002 when he was arrested in Giheta zone, Marangara commune, on suspicion of involvement in a number of robberies, including an armed robbery, was reportedly whipped with electrical wire on his legs; his arms were tied behind his back with the elbows forced together and the tip of his right finger was broken while in gendarmerie custody in the days which followed his arrest.

Several cases of "disappearance" were reported, mainly from gendarmerie custody. As in previous years, in some instances the fear of "disappearance" was generated by incommunicado detention, the frequent transfer of detainees, and deliberate obstruction on the part of those detaining them giving inaccurate information.

Moussa Ndikumana, Berchmans Nsaguye, Alexandre Jamboryiza, Shabani Nkeshimana, Michel Bigirimana, Moussa Mutama, Karim Niyonsaba and Stany Hatungimana were feared to have "disappeared" after they were taken from Ngozi gendarmerie detention centre (*brigade*) and taken to an unknown place of detention. They were transferred to a gendarmerie detention centre close to Bujumbura, and then to a military barracks. This appeared to be a deliberate attempt to deny members of the civilian judiciary and independent observers from having access to the detainees. The human rights group, APRODH, traced them to Muzinda military barracks, Bujumbura, after several days. All are believed to have been badly beaten in Ngozi.

In one case, there was clear collaboration between the security forces of Burundi and Rwanda. In November, two Rwandese Defence Force (RDF) officers, **Aimable Nkurunziza** and **Charles Muyenzi**, and a Congolose man, **Joseph Nzeyimana**, "disappeared" following their detention in gendarmerie custody in the town of Rumonge, southern Burundi. Aimable Nkurunziza and Charles Muyenzi, at least one of whom had been granted refugee status in Uganda, were reportedly handed over to Rwandese security forces in Bujumbura. Their subsequent fate could not be confirmed. The RDF spokesperson in Rwanda confirmed to Amnesty International that Charles Muyenzi was known to them and that they would like to prosecute him to the full extent of the law for desertion. Desertion is a capital offence in Rwanda. However, he claimed to be unaware of Charles Muyenzi's transfer to Rwanda. Members of the Burundian security forces further variously claimed that Joseph Nzeyimana had been handed over to the Congolese embassy in Bujumbura or had been released. The men were reportedly suspected of links with an anti-Rwandese armed political movement based in DRC.

III.iii INCREASING SEXUAL VIOLENCE

During a September 2003 visit to Burundi, Amnesty International's representatives met numerous women and girls, particularly from the provinces of Rural Bujumbura and Ruyigi, who had been the victims of rape or other sexual abuse.(9)

Many sources in Burundi agree that rape - in particular the use of rape as a weapon of war - has increased dramatically over the last 12 months. Testimonial evidence also supports the view that sexual violence has in fact been a significantly underreported element of Burundi's 10-year human rights crisis. It is, however, impossible to have accurate statistics due to the stigma and fear attached to reporting rape officially and the lack of systematic recording of cases. Few cases of rape are reported to the authorities, and many rape victims do not receive medical care. Furthermore, statistical comparisons are impossible as it is only recently that information on rape began to be recorded, despite its widespread nature.

The perpetrators are largely members of the Burundian armed forces and armed political groups, as well as armed criminal gangs who not only rob but also rape. However, domestic rape and rape of young girls, sometimes in the belief that it will provide protection or cure from HIV/AIDS, is also common. A number of cases of male rape - previously limited to prisons - have also been reported. Rape is not confined to the areas most affected by the conflict. In Kirundo province, two girls, aged six and nine, were raped on 3 July 2003. The suspected perpetrator, a 21-year-old civilian, was arrested and detained, but then released several days later. The family appealed to the local administration to pursue the case, without success.

Even from the limited evidence available, the scale of rape indicates a deliberate strategy to use this and other forms of sexual violence against women as a weapon of war to instil terror among the civilian population as well as to degrade and humiliate it. There is no doubt that the impunity which the security forces have enjoyed for rape and other human rights violations, and the lack of accountability of armed political groups, has been a key factor in the escalation of rape and other forms of sexual violence.

Beyond the brutality and the trauma of the rape itself, which often causes life long psychological damage to the victim, it can result in serious physical injury, unwanted pregnancy, disease and even death. Some women have been sexually abused by having objects such as broken beer bottles inserted into their vaginas. Burundi is facing a mounting HIV/AIDS crisis and all rape victims risk contracting sexually transmitted diseases including AIDS. Fear of being raped at home at night is causing families to sleep outside and away from their homes, rendering them more vulnerable to malaria and respiratory diseases.

It is imperative that the opportunity provided by the entry of the CNDD-FDD (Nkurunziza) into the transitional institutions of Burundi, and the reform of the Burundian security forces is not wasted. The new National Defence Force, *Force de défense nationale*, of Burundi should not be allowed to be an army of rapists. Former combatants who have committed or condoned rape, as well as other serious human rights abuses should be excluded from the new army.

Like all human rights abuses in Burundi, rape has become an entrenched feature of the crisis because the perpetrators - whether government soldiers, members of armed political groups, or private individuals - have largely not been brought to justice. It is imperative that the impunity of the security forces be ended by a new era of accountability and that substantial resources and political support be given to the justice system to enable it to respond to the challenges it faces.

Most victims of rape in Burundi currently face insurmountable obstacles in trying to bring perpetrators to justice. Many women who have been victims of rape or other forms of sexual abuse are too intimidated by certain cultural attitudes and state inaction to seek redress. To do so can often lead to hostility from the family, the community and the police, with little hope of success. Those who do seek justice are confronted by a system that ignores, denies and even condones violence against women and protects perpetrators, whether they are state officials or private individuals. In a situation of armed conflict, the likelihood of cases being brought, and successfully prosecuted, further diminishes. In addition to the general weaknesses of the judicial system, there is a lack of facilities for gathering essential medical evidence. In September 2003, only one soldier was detained in Ruyigi prison (*maison d'arrêt*) on the charge of rape, yet hundreds of women are believed to have been raped there this year alone.

Amnesty International also learned that police and magistrates have ridiculed and humiliated women who have come forward. In one case a victim was actually instructing to take the summons to her alleged rapist.

While the picture is certainly bleak there are recent positive developments. Individuals within religious communities and civil society have attacked the stigma of rape, helping women - in the case of an Abbé from Rural Bujumbura - to be reintegrated into the families that rejected them, in particular by educating their husbands on how to respond to rape, or in the case of the *Maison Shalom*,⁽¹⁰⁾ by providing refuge, medical care and education for hundreds of abandoned children. Many of those whom the *Maison Shalom* assists are thought to be children, many of them HIV+, conceived after their mothers were raped, as well as women and girls who have been raped. National and international human rights and humanitarian organizations are working together to develop programs designed to provide medical care, counselling and support for legal action against the perpetrators. Burundian human rights groups including APRODH and the Ligue ITEKA have been active in encouraging and supporting women to press charges, as well as providing medical care and advice. The UN Special Rapporteur on Burundi has also spoken out strongly condemning increased sexual violence and calling for a coherent response to the crisis, "*The victims of this violence should receive special care from all sides - the Government, human rights organizations and United Nations Agencies. An urgent response to all the issues raised by these crimes must be forthcoming, especially care for the victims, protection of vulnerable groups, and prevention*".⁽¹¹⁾ The government, too, has raised awareness on the scale of the problem, through seminars and through a number of local initiatives to inform women of the care that is available to them. The central and

local administration has done some training and awareness-raising to encourage women to go for immediate medical care and AIDS tests. Interventions by international humanitarian organizations have enabled women in some areas to receive this medical care, including post-exposure prophylactic drugs to prevent HIV infection, in the immediate aftermath of the rape, free of charge. However, in practice, these services are not available in many provinces, particularly to women who live far from health centres or in areas of conflict. Sometimes the medicines are just not available. Many people still do not know that such care exists.

III.iv THE RIGHT TO HEALTH

The rape crisis is putting a further strain on the health care system in Burundi, which is already weak and under-resourced as a consequence of years of under investment. Although after decades of crisis, a significant proportion of the Burundian population may at some time in their life suffer from mental trauma or illness, mental health care is extremely limited and access to it impossible for most. There are one to two state doctors per province who must also carry out the administration of the health services as well as providing medical care. Salaries are low and many staff are reportedly increasingly unmotivated. The departure of many qualified personnel seeking better salaries and working conditions abroad or outside the medical sector has added to the critical weakness. Poor salaries have also led to corruption and theft of stocks by medical staff. Medical centres have repeatedly been looted by armed political groups, themselves desperate for medical supplies, further reducing the civilian population's access to health care.

At the same time, life-threatening diseases including malaria and HIV/AIDS, have reached epidemic proportions. In its activity report 2001-2002, MSF wrote "*Malaria, which kills 1-2 million people a year, most of them children in Africa, is endemic in Burundi. In an epidemic lasting from late 2000 through summer 2001 over three million cases occurred among a total population of 6.5 million.*" For the first time, even areas above 1400 metres were affected, and mortality reportedly particularly high in those areas due to low resistance to the illness as well as the ineffectiveness of the treatment being provided.

"MSF treated over a million cases during the epidemic, often having to use drugs that did not work. As realization set in that chloroquine - then the country's protocol (standard for treatment) for first-line treatment of simple malaria - was not working (in areas where MSF was active, resistance to chloroquine ranged from 63-87%; resistance to sulfadoxine-pyrimethamine (SP), the second line drug, was 32-56%(12)), MSF tried to change to ACT (combination therapy including artemisinin derivatives). With neither the funds nor the political will to make the change, the Burundi government resisted, opting instead for an interim protocol, chloroquine and SP combination therapy and later SP monotherapy. MSF prevented from using ACT, introduced it illegally (though publicly). The government then suspended MSF's malaria-related programs, and as of September 2002 MSF was still not able to use ACT in Burundi, though other work continued. In July 2002, an expert panel recommended changing the national protocol to ACT, and the government agreed to begin implementing it by July 2003. Ironically, artemisinin derivatives have been and remain available in private pharmacies in Burundi for people who can pay. After much pressure and negotiation, in July 2002, the government finally agreed to introduce a new protocol using ACT by July 2003".(13) Over 3,500,000 cases of malaria were reported in 2002. A new treatment protocol was finally adopted in late 2003.

The ACT treatment is costly at approximately US\$2.40 per adult dose. In February 2002, MSF estimated that use of ACT, the optimum treatment, would cost Burundi an additional US\$1.6 million a year, something it is unlikely to be able to afford without substantial international support.

Access to health care varies considerably from one province to another, through a range of factors from the difference in quality of infrastructure to the level of past or current armed conflict. Much medical care at this point inevitably falls to humanitarian organizations and several international

organizations intervene in the medical sector. The relations of international organizations in the sector with the government appear to be frequently tense. The organizations openly complain that they repeatedly find themselves facing excessive administrative delays and procedures which impinge on their ability to intervene promptly and effectively, while the government appears to perceive international non-governmental organizations as taking the money it believed should come from international donors to the government. Vital equipment and supplies may be blocked for weeks or months, accruing large customs duties. The NGOs additionally have faced in 2003 serious security constraints, some linked to conflict, others to a dramatic increase in armed crime.

Even with this assistance, many people appear not to have access to health care, due to a variety of reasons: difficult physical access to medical centres, through geography and insecurity; lack of confidence in the medical sector and, not least, prohibitive costs. Furthermore, some find it futile to walk 20 kilometres or more to the nearest health centre when they do not even know if it will have medicines or when they cannot afford the treatment. At the same time, the population's general health has been weakened by repeated displacements which disrupts access to food and clean water and exposes the displaced to conflict related injury and trauma, as well as inadequate shelter from cold and rain. Bluntly, their medical needs have grown but their ability to pay has diminished.

Many would argue that the majority of the population in Burundi is increasingly poor if not destitute. However in 2002, the government introduced a policy of cost recovery in the health sector. The policy appears to have substantially increased financial obstacles to access to health care for the majority of the population. In some provinces such as Cankuzo, a cost recovery policy of 115% of the costs was introduced, effectively excluding many people from health care. Many humanitarian workers told Amnesty International that it was simple - without their intervention, the population, in some areas, particularly those most affected by conflict or other insecurity, would not get health care. Some people are turning to traditional medicines, others to armed political groups to provide medical care - either with traditional or looted medicines.

In 2002, the Ligue ITEKA and other non-governmental organizations intervened on several occasions on behalf of people who had been detained in hospitals by hospital staff because they were unable to pay their bills. They included women who had just given birth, some of whom stayed for periods of up to two months before being allowed to leave. At a Council of Ministers meeting in April 2002, the Council recommended to the Minister of Public Health to ensure that the practice was ended. The Ligue ITEKA's 2002 annual report stated that as a result, most hospitals enforced a stricter control over whether to accept a patient or not, dependant on certain financial guarantees.

After 10 years of emergency response, there is some debate within the international humanitarian community on the appropriateness of the current humanitarian response, some arguing for a more flexible response which may include both emergency and developmental approaches. Many of those engaged in the debate seem to agree that now is the time to evaluate the international response and that the short planning cycles and inadequate and late funding were undermining the efficiency of their response. All recognized in late 2003 that the situation remained potentially volatile.

Humanitarian response in the health sector has been at the heart of this debate, and international efforts to support the health sector are not without controversy. A European Development Fund program to provide support to the health infrastructure in five provinces (Cibitoke, Bubanza, Rutana, Ruyigi and Cankuzo) has, for example, been perceived very differently by some humanitarian organizations, compared to its implementers. The project was agreed on in 1992 but subsequent political violence and conflict meant the implementation was stopped. Implementation resumed in 2002 and despite the fact that, unlike in 1992, these provinces were now in a critical conflict stage, the choice of provinces was not changed. A heated debate has ranged since on the feasibility and advisability of implementing what is effectively a development project in conflict zones, and the likely impact on the health of the population, particularly as the EDF program also subscribed to a high cost recovery policy.(14)

III.v THE PROLIFERATION OF SMALL ARMS

The proliferation of small arms contributed to a dramatic rise in violent armed crime in 2003. Armed criminal gangs multiplied, some formed by members of the armed forces or *Gardiens de la Paix*(15) or by armed civilians sometimes with the complicity of the security forces. Others were formed by deserters from armed political groups. The rise in crime has meant that an already impoverished population is repeatedly looted and displaced with dramatic consequences on their livelihood and health.

With so many protagonists, the situation is chaotic - almost anarchic at times. All groups have used each others' activities as a screen to refute responsibility. It has also led to further human rights abuses such as rape and has seriously impacted on the ability of humanitarian organizations to carry out their work.

In provinces such as Kayanza, President Ndayizeye's home province, the armed robbery phenomenon has been particularly marked, in part because of its proximity to the Kibira forest which provides cover and bases for armed groups; in part because two rival CNDD-FDD groups were present in the province. Both they and criminal gangs, including members of the armed forces and political opponents of the transition process or FRODEBU, may have perceived it to be in their interests to destabilize the province in the hope of showing that President Ndayizeye was unable to control the country.

Many people informed Amnesty International that members of the security forces were renting out their weapons for use in armed robberies, or taking part directly. Large scale thefts of livestock often occurred with members of the security forces nearby, raising questions as to their participation or complicity in the theft. For example, in Rutana province, southern Burundi, 50 cows were stolen in May 2003 from Buhinga sector, Musongati commune, at a time when members of the armed forces were in the area providing security for students taking examinations.

Cibitoke province has been particularly affected by armed robbery by a large armed gang, reportedly FNL deserters, who are reported to be based in DRC(16). Many of the ambushes carried out on roads in Cibitoke have been attributed to them. The group has demanded large ransoms for people they have abducted. In early September, 11 people were abducted in an ambush on a major road (RN5). A message was sent to the families to pay a collective ransom, the sum of which is not known to Amnesty International but is reported to have been over one million Fbu (approximately US\$1,000). Their families collected this but only one person released, who was sent back with a request for another one million Fbu per person. The subsequent fate of the 10 remaining civilians is not known.

As armed crime has risen, lack of confidence in the ability and willingness of the law enforcement agencies and judiciary to arrest, investigate and bring to justice those responsible for such abuses appears to be perhaps at an all time low. As a result, the population has increasingly resorted to mob justice and lynching, or has relied on armed political groups to administer "justice", often resulting in summary execution. Even relatively calm provinces have been dramatically affected. In Muyinga province, as elsewhere, the population is extremely frustrated at the poor response of the administration and justice sector to the rise in crime. Many people complained to Amnesty International that in cases where suspected criminals are caught, even while committing offences, they are often released shortly afterwards, possibly after bribing their way out, and that as a result civilians are resorting to mob justice. This view is supported by many human rights activists. For example, on 10 September 2003 robbers attacked a house close to Muyinga airstrip. However, the population reacted alerting each other to the robbery. The robbers fled. However one man, suspected to have been involved, was caught by the population who beat him to death. In other cases, according to the Ligue ITEKA, in Muyinga province, suspected criminals have been lynched in front of local officials who have not prevented the crime or ordered the arrest of those responsible. In July, in Burihinda commune, members of the population reportedly brought three suspected robbers to the

commune administrator saying that they would kill them because he was failing to deter robberies. The three men were lynched. Their killers are not reported to have been arrested. Seven others were reportedly lynched in July in Giteranyi commune.

Many people fear that the existing problem of robbery has been aggravated by poverty and the prospect of demobilisation for many members of the armed forces. In the words of one observer, "They use the gun to take what they think they will no longer have". The proliferation of arms is such that for many, armed robbery is perceived as a logical response to unemployment or poor salaries.

Government response - the distribution of more arms

The response of the government authorities was to authorise the distribution of more arms to the civilian population through an expansion of the *Gardiens de la Paix* militia. Amnesty International delegates received numerous testimonies in the provinces it visited of new recruitment and training, although in some provinces such as Ngozi this was denied by the authorities.

The Governor of Kayanza province, where in September 2003, 20 arms were to be distributed per *colline* (of which there are approximately 280 in Kayanza province), confirmed that extensive recruitment into the militia was taking place. He told Amnesty International that the authorities were conscious that in the past the militia had indeed carried out human rights violations and other criminal acts. He claimed that this would be avoided in the future by allowing the population to select people of integrity. The measure in Kayanza, as in other provinces, is apparently supported by many in the population who feel that the armed forces cannot defend them. However, Amnesty International remains deeply concerned that providing more arms to a civilian population in a context of insecurity and poverty will lead inevitably to further human rights abuses, particularly when accompanied by a strong message that the population should "defend itself", should "arrest criminals" and that the administration would "understand" if some suspected criminals were killed during arrest.

Other economic exploitation or punishment

The increase in robbery comes on top of the continual economic exploitation of an impoverished population, regularly forced to provide labour, food or even land to government soldiers or armed political groups.

Reprisals against the rural Hutu population for its perceived support of Hutu-dominated armed political groups, largely in the form of mass and indiscriminate killings by government forces, are a well-established feature of the human rights crisis. Many reprisals in 2003 were additionally in the form of systematic looting, property destruction and the theft of humanitarian assistance, as well as attacks on people's livelihoods through crop destruction, by members of the armed forces. In September 2003, farmers from Rural Bujumbura complained that the armed forces were punishing them by cutting down banana plantations and fruit trees, using them for firewood.

On 12 August 2003, for example, following fighting between the government armed forces and CNDD-FDD (Nkurunziza), 46 houses were looted on Gacokwe colline, Ruyigi province alone. Items stolen included goats, hens, banana beer, blankets and cooking utensils were stolen. Other looting was reported in Gisuru, Rubanga, Nyabigozi and Nyabitare. The looting was apparently carried out by soldiers based in Kinyinya commune. Seven houses and a banana plantation were burnt in the same area. A 13-year-old child, Niyonguru, and his uncle, Sildio Mukende, were killed by soldiers on a sub-colline of Gacokwe colline after being forced to cook food for the soldiers. On 17 August, 46 houses were reportedly burned on Ndago colline, Nyabitsinda commune, and six people including two students aged 16 and 17 from Rusengo secondary school, killed by members of the armed forces. A military commander in the area is reported to have told the local administration that the

looting was their way of rejecting integration of the CNDD-FDD into the armed forces, and of getting their share of the supplies being given to the CNDD-FDD (Nkurunziza).(17)

Looting by the armed forces is not confined to rural areas. In July 2003, the FNL launched a sustained attack on the capital and occupied several districts of southern Bujumbura for one week, causing the displacement of approximately 30,000 people. Up to 200 people died, including an unknown number of civilians. The armed forces systematically looted areas of the capital as the FNL withdrew, and openly stole some of the emergency aid provided to displaced people. Later, in September, soldiers looted houses in Ruziba district, Bujumbura, after calling the inhabitants to a meeting at the market place and opening fire, killing at least nine civilians. Amnesty International remains concerned at persistent claims by the local population that the number of dead was much higher. Much of the looted property was returned to the population after the military commander of a different unit intervened, including by stopping a military lorry apparently loaded with firewood, and ordering that the household goods hidden underneath be returned.

The CNDD-FDD (Nkurunziza) have for years stolen and looted from the rural population, taking by force what was not given voluntarily, or what the population could not, for its own survival, afford to give. Livestock has also been stolen on large scale, some reportedly to be sold for arms in Tanzania. Animals have also been deliberately slaughtered and left to rot, destroying peoples' livelihoods. In July, for example, FDD combatants attacked Bukeye brigade and shot 27 cows. At other times people, from low level farmers to government ministers, have been targeted apparently as a means of intimidation. In June for example, combatants from the CNDD-FDD (Nkurunziza) attacked and robbed the house of the Minister of Education (a member of FRODEBU) on Gitarama colline, Kayanza province, apparently in an act of intimidation. The stolen items were returned the next day.

Amnesty International was repeatedly told during its September 2003 visit that many people were simply selling their livestock to minimize the chances of being attacked, and that in some areas of entrenched insecurity such as parts of Ruyigi and Gitega provinces livestock could no longer be found. The dramatic decrease in livestock was not only affecting diet, through lack of milk and meat, but reducing fertiliser in the form of animal manure for crops.

Insecurity and displacement

Over 280,000 people in Burundi are registered in camps for the internally displaced, with up to 100,000 others fleeing their homes temporarily on a regular basis. Of those in the camps, many have been displaced since 1993 and the political violence which followed the assassination of President Ndadaye. An unknown number of others, possibly tens of thousands are classified as "dispersed" and generally without specific humanitarian assistance. During 2003, Amnesty International met several long-term residents of camps for the internally displaced. All expressed the wish to return to live on their hills of origin, in security. Some feared that should peace and security return, they would not be consulted on their future.

As the conflict has lengthened, the cumulative effect of years of displacement is increasingly weakening the population. The constant insecurity has led to thousands more sleeping outside and away from their homes, making them more vulnerable to both disease and malnutrition. Repeated displacement has affected the population's ability to work the land and tend their crops. Furthermore, many others are reportedly not maintaining food stocks and simply selling their harvests, often at low prices.

III.vi INSECURITY AND ATTACKS ON HUMANITARIAN ORGANIZATIONS

Humanitarian organizations were again in 2003 frequently denied access, sometimes for lengthy periods, to certain areas, in particular in Ruyigi province ostensibly for security reasons. In some cases, it appeared the obstruction may have been designed to prevent aid from being given to a

population deemed by the armed forces likely to pass it on voluntarily or forcibly to armed political groups, or to prevent independent observers witnessing human rights abuses. Increasing lawlessness in 2003 became a major security concern for humanitarian organizations, which were repeatedly the subject of violent crime or attack. All international NGOS, however small, within the context of the Burundian economy, represent an enormous source of revenue. The health sector appears particularly sensitive. Humanitarian response is also complicated, and made more dangerous, by endemic and increasing corruption.(18)

On 7 November 2003, **Philbert Nsengiyumva**, a World Food Program (WFP) employee, was shot dead at close range at his home in Ngozi town. The WFP expressed regret that *"such a violent act should be perpetrated against a person engaged in providing urgently needed humanitarian assistance in Burundi... The security of our staff is paramount. Such brutality cannot be tolerated, especially because it might compromise our ability to carry out the humanitarian work which is so necessary here."*

On 17 August, eight expatriate employees of the Jesuit Refugee Service (JRS) were held at gunpoint in their Bujumbura residence by six armed men. They threatened to kill the national representative and demanded that staff hand over all their money and valuables. The national representative and another expatriate were then driven to their office which was also robbed. One of the robbers claimed to be a member of the armed forces and made several accusations that JRS was "helping the rebels". JRS is one of the few international humanitarian organizations present in Burundi which has consistently spoken out against human rights abuses. On 9 August, the compound of *Action contre la Faim* (ACF), Action Against Hunger, in Kayanza province was attacked by unidentified armed men who stole computer and communications equipment. ACF, which at the time was the sole international humanitarian organization present in Kayanza, temporarily withdrew its expatriate staff.

On 30 July, unidentified people threw two grenades into the residential compound of CARE in Muyinga.

Three local employees of the International Rescue Committee (IRC), German Technical Cooperation (GTZ) and Norwegian Refugee Council (NRC) were abducted in Makamba province on 9 and 13 July, reportedly by members of the CNDD-FDD (Nkurunziza). All were released on 18 July, reportedly on payment of a ransom by their families.

III.vii REFUGEES AND RETURNEES

Approximately 400,000 Burundian refugees live in camps along the border with Tanzania. Another 200,000 refugees who fled Burundi in 1972 live in settlements further inland. How their eventual return to Burundi is managed will have a determining effect on the human rights crisis in the country. Should a mass return, voluntary or otherwise, occur in the present situation could trigger a collapse of the peace process.(19) Added to this, a further 280,000 internally displaced people may also wish to return in the near future and their needs and fears must also be addressed. The significance of the issues should not be underestimated. The prospect of the return of hundreds of thousands of Hutu refugees, and their claims to land, was one of the triggers of the 1993 coup attempt and assassination of President Ndadaye, sparking a 10-year human rights crisis and further mass displacement.

Although in theory the August 2000 Peace Agreement provides for the return of refugees only in conditions of safety and dignity, Amnesty International remains concerned that the refugees may in reality still be at risk of returning without these guarantees. 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. Tanzania, a historically generous refugee host, which often, justifiably, complains of lack of support from other, richer states, is clearly tired of hosting the

refugees, and hostile to any perceived criticism of its refugee record. This has manifested itself in frequent cases of forcible return from Tanzania, as well as an increasingly hard line attitude to refugees which has dramatically affected conditions in the camps.(20) The forcible return of nearly 550,000 Rwandese refugees from Tanzania in 1996 in a joint UNHCR/Tanzania operation also hangs over the existing Burundian refugee population.(21)

In a context of funding shortfalls and donor fatigue, as well as domestic political considerations in both Burundi and Tanzania, Amnesty International is concerned that there may be pressure to promote or encourage mass repatriation before the security situation truly permits it, and equally importantly before effective measures are in place to address issues which will arise on return. These issues include in particular access to land and resolution of land disputes, and systems for adequate and sustained monitoring of returns.

To conclude that conditions in a refugee's country of origin have become sufficiently safe to justify return requires a finding that there has been effective and durable change in the human rights situation. If the host government and the international community cannot be sure that the changes are going to last, refugees cannot be forced back. They remain fully entitled to and in need of protection.

Amnesty International hopes that this document will convince donors and the governments hosting refugees that it would be at present and for the foreseeable future premature and irresponsible to act on the assumption that such a change has taken place in Burundi. In such a situation, the protection and humanitarian needs of the hundreds of thousands of refugees in Tanzania must be addressed.

Forcible returns

The presence of large numbers of Burundian, and Rwandese refugees, in Tanzania has caused tensions with the local Tanzanian communities, aggravated by the actions of some government and local authorities who in 2003 incited anti-refugee sentiments among the population. Scores of Burundian refugees were forcibly returned throughout the year. For example, 48 refugees were forcibly returned to Muyinga province, north eastern Burundi, in June after being arrested following the murder of a policeman in Tanzania, allegedly by Burundian refugees. Over 50 people were forcibly returned to Ruyigi province in July. In May 2003, nearly 6,000 refugees from the Kibondo camps in Tanzania crossed back "spontaneously" (that is without the assistance of the UNHCR) into Burundi. They were reportedly unanimous that hardships in the camps were the reason for returning, and not any perceived improvement in the security situation in Burundi. Factors that forced the refugees to return included restrictions on leaving the camps, effectively denying refugees access to land and markets, which coincided with a reduction in food rations in the camps. Inadequate donor funding repeatedly fell short of UNHCR estimates.

In effect, the 1998 Tanzanian Refugee Act was being strictly enforced by the Tanzanian authorities. Refugees were no longer allowed to leave the camp without a permit. In the past, refugees had been allowed to leave the camp for up to four kilometres without a permit, enabling them to develop coping mechanisms such as sharecropping or petty trading in local markets. In 2003, as the Refugee Act was enforced, refugees outside the camps were liable to be arrested and sentenced to a fine of up to Tsh. 50.000 (approximately US\$50) or a prison term of up to six months. Scores were taken from police custody and forcibly returned to Burundi.

One reason given for the suspension of the "4 km rule" was that banditry had risen. The local authorities alleged that refugees were involved, and in particular alleged that refugees were armed. While many such accusations seem to be largely unfounded, it is undeniable that the general protection of refugees has also been undermined by the use of the camps, which are close to the border with Burundi, by armed political 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 thousands of genuine

refugees in danger. The camps continue to be a place of recruitment for armed political groups, and in particular groups such as the CNDD (Nyangoma) are reported to be recruiting from camps at present, as they reassemble a military wing.

The refugees returned largely to Ruyigi and Makamba provinces, both of which experienced high levels of armed conflict and insecurity throughout the year and to areas to which humanitarian organizations were repeatedly denied access.⁽²²⁾ During its visit to Ruyigi province in September 2003, Amnesty International received a number of testimonies which claimed that some refugees waiting for assistance at the Nyabitare transit centre in Gisuru commune had been forced by members of the armed forces to carry out work for them - in particular to transport their equipment sometimes for several days at a time.

Refugees remained at risk of human rights abuses in the camps themselves. During March 2003 there was an increase in security incidents in Mtabila and Muyovosi camps in Kasulu. A group of armed men, believed to be members of the CNDD-FDD (Ndayikengurukiye) entered the camps over a three-day period. They reportedly raped several women and intimidated the Tanzanian police and the refugee security guards present in the camps, as well as setting fire to several huts. Leaflets with threat messages and abusive messages to women were disseminated throughout the camp.

According to the Ligue ITEKA, which is providing basic monitoring of refugee returns in a UNHCR funded project, many refugees were robbed and beaten on the way to the border by members of the Tanzanian police force and local Tanzanian militias.

Preparing for voluntary repatriation

The voluntary repatriation of large numbers of refugees raises serious challenges that merit intense preparation - something which both the Government of Burundi and international community have largely failed to do. Challenges include resolving the issue of land, as many refugees had their land expropriated in their absence. In some cases, the land has been sold on to others who consider themselves the legal owners. In other cases, it may be occupied by family members who may also be reluctant to give up the land. Land conflicts between neighbours and relatives are already common, in part due high population density. Under current Burundian legislation after an absence of 30 years with no provable attempt to reclaim the land, the owner loses the right to land. As stated earlier, women do not customarily own land, and widows do not customarily inherit their husbands' land. Burundi is a small, overcrowded country, and its population is largely dependent on land for their survival. Women-headed households returning to Burundi appear largely to be returning to destitution.

Even now, corruption is ensuring that land is often being sold or given to the wealthy. Urban Bujumbura is encroaching on rural Bujumbura, huge villas swallowing up vital fields. The courts and procedures needed to resolve these issues are not ready.

III.viii HUMAN RIGHTS ABUSES BY PALIPEHUTU-FNL (Rwasa)

Amnesty International takes no position on the FNL's continued resort to force, per se. However, serious human rights abuses that must be addressed continue to be committed by the FNL. They include unlawful killings of scores of unarmed civilians, suspected collaborators and government officials. The FNL has also shelled military targets in civilian areas in Bujumbura without taking evident steps to protect the civilian population, causing a number of civilian casualties.

Scores of members of the local government administration as well as people suspected of belonging to rival opposition factions were deliberately and unlawfully killed by the FNL in Rural Bujumbura province. Scores of civilians suspected of passing information to the administration were also killed or ill-treated. The FNL continued to "try" civilians in the area for numerous offences including theft,

adultery and drunkenness. It is not known how many people were summarily executed as a result. Despite the brutality of the justice administered by the FNL, Amnesty International delegates were told by numerous people, that much of the population turned to the FNL to administer justice in their areas, perceiving the state justice system to be corrupt and ineffective.

In particular, in July 2003, Amnesty International understands that a series of executions took place in Kabezi commune in the aftermath of the FNL's attack on Bujumbura reportedly including that of a low level local official from Ruziba district and his assistant. The officials were accused of collaborating with the Burundian armed forces as they pushed the FNL back in two weeks of heavy fighting following their withdrawal from Bujumbura. The two men are reported to have been brought up to the area where they quickly confessed, along with a number of children accused of collaborating with the armed forces and two boys from Mubone, aged between 11 and 13. The children were summarily executed after they reportedly admitted that they had been paid - with bread and peanuts - to provide information on the FNL presence in the area to the military.

On 7 July 2003, the FNL launched a sustained attack on the capital and occupied several districts of southern Bujumbura for one week causing the displacement of approximately 30,000 people. Up to 200 people died, including an unknown number of civilians. Both the FNL and armed forces initially allowed civilians to leave the districts, although some civilians, often armed, stayed to protect their property. A number of unlawful killings were carried out by both the armed forces and FNL, including 11 civilians who were shot in a single house by the armed forces. The FNL shelled the several districts of the capital, apparently aiming for military targets, although only civilian objectives were hit and at least two civilians were killed by shells.

On the last night of the FNL's attack and occupation of Bujumbura, in Gatoke district at least 28 FNL combatants were killed, predominantly young children who appeared to be aged between 10 and 14. At least two were extrajudicially executed by members of the government armed forces as they tried to surrender. Widely circulated photographs of the bodies showed packets of white powder presumed to be drugs spilling from their pockets and traditional amulets used for their assumed magical protection. Both practices are strictly forbidden by the FNL.

The FNL explicitly denied to Amnesty International that the child soldiers were among their ranks and told Amnesty International that their commitment to human rights could be seen by their respect for international humanitarian law during the July attack. However, Amnesty International received numerous testimonies from other sources which, while they did not confirm the presence of those particular children in the FNL, confirmed that many children are used in various capacities by the FNL, and that in the FNL's youth wing, the *Jeunesse Patriotique Hutu*, is effective in persuading children to join voluntarily. These sources include former child soldiers or combatants. Amnesty International met one 14-year-old boy, Jean-Bosco N, in September 2003, who had been abducted in July 2002 Mukike commune by the FNL, along with six other children. They were forced to transport ammunition and looted goods. He remained with the FNL for two months before being captured and arrested by members of the armed forces.

IV CONCLUSION

Burundi is one of the world's forgotten crises. Over ten years, an estimated 250,000 to 300,000 people, mostly civilians, are reported to have been killed. Over 280,000 people are registered in camps for the internally displaced, with up to 100,000 others fleeing their homes temporarily on a regular basis due to insecurity. An unknown number of others, possibly tens of thousands, are classified as "dispersed" and generally without specific humanitarian assistance. A further 500,000 Burundians are refugees in neighbouring Tanzania. Some 8,000 people are in detention, often in extremely harsh conditions. Approximately 5,000 are awaiting trial - many have been in detention without charge or trial for years. After 10 years of war, corruption is now endemic, state structures largely weak, inefficient and not trusted by the population. Crucial institutions such as the health and

justice sector are chronically under-resourced.

According to a recent United Nations Development Programme (UNDP) Human Development Index, 58.4 percent of the population lives under the poverty threshold and 69 percent of the population is malnourished. The population's general physical health is weak after years of malnutrition increased by poverty, displacement and lack of access to health care. Infant mortality has nearly doubled in the last 10 years and is currently estimated to be at 190 per 1000 births. Maternal mortality has also risen. The quality and quantity of education are decreasing.

It is essential that the new Transitional Government of Burundi and the leaders of PALIPEHUTU-FNL (Rwasa), as well as other political leaders and civil society in Burundi, assisted by regional and international actors who have supported the peace process, commit themselves to pursuing solutions to fundamental questions such as addressing impunity and the accountability of their forces. A political settlement must be underpinned by a determination by all parties to end the human rights and humanitarian crises.

While much of the responsibility falls to the State to address these issues, it cannot do so successfully without substantial support from the international community and donors. International response to this situation has been often weak, unfocused and sporadic. Even within the immediate sub-region, Burundi is repeatedly overlooked in favour of the DRC and Rwanda.

The humanitarian and human rights crises are themselves inextricably linked and must be addressed simultaneously. Support to political developments must not be at the expense of human rights - to do so is to invite failure. The international community must adopt a holistic, informed and sustained approach to the crisis in Burundi, in which the humanitarian situation and serious human rights abuses are strongly linked. How the return of hundreds of thousands of refugees to Burundi is managed will be critical to the chances of success of the current peace process, or may, as in 1993, tip the country once more into catastrophe. Failure to address these issues, and to look at the key human rights issues at the heart of the crisis, will undermine any chance of a durable resolution of the crisis. *****

(1) The CNDD-FDD has been led by Pierre Nkurunziza since the expulsion of Jean-Bosco Ndayikengurikye in October 2001. The CNDD-FDD was formed in 1998 after Jean-Bosco Ndayikengurikye, former commander of the FDD, the armed wing of the CNDD, broke away from the original movement, taking many FDD fighters with him. The CNDD was formed in exile following the 1993 assassination of President Ndadaye, by FRODEBU and FRODEBU-allied party members. The CNDD led by Leonard Nyangoma, entered into government in November 2001 and claims to retain several thousand combatants.

The Forces nationales de libération (PALIPEHUTU-FNL), National Liberation Forces, referred to mainly as the FNL, is led by Agathon Rwasa. PALIPEHUTU-FNL 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, apparently inactive, fighting force. In late 2001, Alain Mugabarabona announced from Holland that he had ousted Agathon Rwasa, and signed a peace agreement with the transitional government, claiming to have the loyalty of most FNL fighters. Both he and Jean Bosco Ndayikengurikye returned to Burundi in February 2003 and sites were opened to demobilise their forces. Claims by both to have several thousand troops appear to have been completely unfounded and by the end of 2003, only approximately 200 troops, largely reported to be new recruits, from both forces were awaiting demobilisation. The Front pour la libération nationale (FROLINA), Front for National Liberation, another breakaway faction of PALIPEHUTU, led by Joseph Karumba, also has a small number of combatants, known as the Forces armées populaires (FAP), Popular Armed Forces, also apparently non active.

- (2) See Amnesty International's Memorandum, DRC: Addressing the present and building a future (AI Index: AFR 62/050/2003, November 2003) for detailed commentary on these and other issues.
- (3) Burundian government forces also withdrew in late 2002 from some positions they occupied in eastern DRC.
- (4) A colline (hill) is a local administrative division of a commune. Administratively a commune breaks down into a number of smaller units: zone, sector, colline and sous-colline
- (5) These examples are merely illustrative. Numerous other unlawful killings of members of the local administration took place.
- (6) For further information on military jurisdictions in Burundi please see AI reports, Burundi: No respite without justice (AFR 16/12/99, 17 August 1999) and Burundi: An opportunity to confront torture and impunity: Memorandum to the Transitional Government of Burundi and the international community (AFR 16/943/2001, December 2001) and Cases for Appeal (AFR 16/044/2001, December 2001).
- (7) Members of the armed forces are tried in the first resort by a Military Court (conseil de guerre), and then may appeal to the Military Court of Appeal (Cour militaire), and then to the Cassation Chamber of the Supreme Court. Senior officers are tried in the first instance by the Military Court of Appeal.
- (8) Amnesty International has campaigned since 1998 for the introduction of a right to appeal in all cases.
- (9) A report providing more detailed information on sexual violence against women in the context of the armed conflict will be published by Amnesty International in February 2004.
- (10) The Maison Shalom is safe-haven for orphans, abandoned children and victims of rape. Its founder, Maggy Barankitse, a winner of the World's Children's Prize for the Rights of the Child, has since 1993 received children from across the country to her centres, where she and her staff care for them and eventually reintegrate them into their extended families or set the children up in their own households.
- (11) Situation of human rights in Burundi (A/58/448), October 2003.
- (12) The WHO considers that 25% resistance is the rate at which it becomes imperative to change the treatment protocol.
- (13) MSF activity report 2001-2002, The Good medicine - Why are millions of malaria victims in Africa going without a treatment that works (Anastasia Warpinski)
- (14) The program also provides for the training of medical personnel, and has introduced management committees for health centres made up of members of the population. The idea is to cut corruption by and to increase the population's involvement to protect their own interests.
- (15) The Gardiens de la paix are an unpaid, poorly trained but armed government militia responsible for numerous human rights abuses.
- (16) According to an article published by the Ligue ITEKA on its website, www.ligue-iteka.bi on 12 December 2003 the leader of the group, a former FNL fighter called Bitaryumunyu, was killed in DRC in early December 2003.

(17) Under the December 2002 cease-fire agreement, it was agreed that at certain specific points, the CNDD-FDD (Nkurunziza) would be given supplies as an incentive to demobilise. Although it was apparently hoped that this would lead to a reduction in ambushes and attacks on the population the program immediately ran into difficulties. Humanitarian organizations refused to be associated with it, and deliveries were repeatedly hampered by the armed forces. In Ruyigi province it led to a serious upsurge in conflict.

(18) While attacks on humanitarian organizations have increased during 2003, humanitarian workers in Burundi have worked in a seemingly endless climate of complete insecurity in which both national and expatriate workers have been killed. Numerous others have been threatened, intimidated or expelled. There is, in fact, a well-established pattern of threats to international humanitarian workers, which in the mid-1990s seemed to fit into a deliberate strategy of removing foreign witnesses from the country, as well as being reprisals for particular activities. Some killings or threats have apparently been in retaliation for internal management issues, including auditing or recruitment. International humanitarian workers killed include José Herrera, UNHCR, shot and killed in Kirundo province, 1994; Dimitri Lascaris, Catholic Relief Service (CRS), shot and killed in Kirundo province in 1995; Reto Neuenschwander, Juan Ruffino, and Cédric Martin, International Committee of the Red Cross (ICRC), shot and killed in Cibitoke province in June 1996; Renato Ricciardi, WFP, shot and killed in Bujumbura in July 1998; Luis Zuniga, UNICEF chief representative and Saskia Von Meijenfeldt, WFP Chief logistics officer, shot and killed in Rutana province in October 1999, Antonio Bargiggi, Amis des pauvres, October 2000 and Dr Kassi Manlan, World Health Organization Bujumbura, November 2001. Numerous national humanitarian workers have also been killed including, Emmanuel Nsengiyumva, an ICRC employee, 1995; two employees of the Austrian Relief Program, July 1998; a driver for Children's Aid Direct, Driver shot and killed in Bubanza, June 2001; a guard for the ICRC in Gitega, 2002 and Philbert Nsengiyumva, WFP, November 2003.

(19) UNHCR has been "facilitating" voluntary repatriation to what it classifies as "secure" provinces in Burundi since March 2002. Some 70,000 refugees reportedly returned to Burundi in 2003, largely spontaneously.

(20) In July, an Amnesty International delegation which requested authorization to visit camps in Tanzania hosting Rwandese and Burundian refugees for research purposes was denied access by the Tanzanian authorities.

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

(22) UNHCR resisted pressure to facilitate the return of refugees to Ruyigi province throughout 2003 on the grounds of security. However, a transit centre was established where refugees could wait to be picked up by the Ministry of Refugees, Repatriation and Rehabilitation. In September, UNHCR began facilitating returns to the neighbouring province of Cankuzo, although it too was experiencing insecurity.