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## Burundi

### Country Reports on Human Rights Practices - [2006](#)

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Burundi is a constitutional republic with an elected government and a population of 6.8 million. In February 2005, 90 percent of citizens voted by referendum to adopt a new constitution. Following local and parliamentary elections in June and July 2005, the country's two houses of parliament indirectly elected as president Pierre Nkurunziza, a member of the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) political party, in August 2005. International observers reported that the elections, which ended a four-year transitional process under the Arusha Peace and Reconciliation Agreement, were generally free and fair. Although the CNDD-FDD party dominated parliament and government, other major parties, notably the Burundian Front for Democracy (FRODEBU) and the Union for National Progress (UPRONA), were also represented. While civilian authorities generally maintained effective control of the security services, there were several instances in which elements of the security forces acted independently of government authority.

Throughout much of the year, the country remained engaged in an armed conflict between the government and the Party for the Liberation of the Hutu People/National Liberation Front (PALIPEHUTU-FNL), led by Agathon Rwasa. Although the security situation remained calm in most of the country, fighting continued in Bujumbura Rural Province, which surrounds the capital and was the traditional stronghold of the PALIPEHUTU-FNL. During the year fighting between the National Defense Forces (FDN) and the PALIPEHUTU-FNL also occurred in the neighboring provinces of Bubanza, Kayanza, Muramvya, and Cibitoke. On September 7 the government concluded a cease-fire agreement with the PALIPEHUTU-FNL in Dar es Salaam, Tanzania. In late September the government began preparations for the demobilization of an estimated 3,000 former PALIPEHUTU-FNL combatants.

During the year the government continued to integrate members of former rebel groups, including the CNDD-FDD, into the FDN. Members of former rebel groups who were not integrated into the FDN were demobilized; between 2004 and August the government had demobilized more than 20,000 former combatants, including some former rebels.

The government's human rights record remained poor; despite improvements in some areas, government security forces continued to commit numerous serious human rights abuses. In November UN officials and local and international human rights groups said the human rights situation had not improved since the Nkurunziza government took office in late 2005. Cases of human rights abuses were particularly prevalent in the western provinces. Many were related to the ongoing conflict with the PALIPEHUTU-FNL.

The UN and human rights organizations reported that members of the FDN, the police, and the National Intelligence Service (SNR) were responsible for summary executions, torture, and beatings of civilians and detainees, including suspected PALIPEHUTU-FNL supporters. There were reports that security forces raped women and young girls. Impunity and harsh and life-threatening prison and detention center conditions remained problems, and reports of arbitrary arrest and detention increased. Prolonged pretrial detention, lack of judicial independence and efficiency, and rampant judicial corruption continued. The government released thousands of individuals whom it deemed to be political prisoners during the year; however, it continued to hold numerous political prisoners and political detainees, including former president Domitien Ndayizeye, former vice president Alphonse Kadege, and four other individuals who continued to be held on charges of threatening state security, despite a Supreme Court order in October that they be freed. Fighting between government and rebel forces continued during the year.

Restrictions on freedom of the press increased during the year, and the government continued to restrict freedoms of assembly and association. Security forces' harassment of political opponents remained a problem. Societal violence and discrimination against women, trafficking in persons, and the use of child labor continued.

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

The government continued to make significant progress in demobilizing child soldiers and reintegrating them into society, although challenges remained. Unlike in the previous year, the government did not forcibly repatriate refugees and asylum seekers. The government cooperated to a greater extent with UN agencies and international organizations

aiding them. Trade unions had greater freedom to assemble and demonstrate peacefully.

## RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports that security forces committed political killings; however, security forces committed, often with impunity, summary executions and other unlawful killings of civilians during the year. These killings often followed fighting with rebels, in reprisal for rebel attacks, and for suspected collaboration with rebels (see section 1.g.).

According to a report released in October by Human Rights Watch (HRW), the country's intelligence service had executed 38 individuals since the Nkurunziza government took office in late 2005 and had failed to prosecute those accused of extrajudicial killings.

Suspects reportedly were killed while in the custody of security forces. For example on February 20, police officers arrested a man outside of Bujumbura for theft. While in police custody, the man was severely beaten and transferred to Mpimba prison, where he later died; the cause of death was not clear.

On August 15, the bodies of four individuals who had been in police custody in Kinama, north of Bujumbura, were found on the roadside. Both the minister of the interior and a police spokesperson announced that an immediate investigation was underway. A police spokesperson later told journalists that none of the actions could be traced back to the police. A member of the SNR, Zabulon Nduwimana, and a police officer, Reverien Hicintuka, were later arrested on charges of murder or being an accessory to murder. Both suspects remained in custody awaiting trial at year's end.

On July 7, in the Mutakura area of Cibitoke Province, police forces from a nearby military post killed five persons and wounded 40 others. According to witnesses, a group of jubilant soccer fans returned to their homes shouting and dancing following the conclusion of the telecast of the World Cup soccer final. The sub-lieutenant in charge of the police brigade ordered his men first to throw a grenade into the crowd and later to open fire. Authorities arrested the sub-lieutenant, Felix Bigiri, as well as a policeman, Clovis Ndimurwonko, and at year's end both remained in custody, awaiting trial.

There were no developments regarding killings reportedly committed by security forces in 2005: the May death of Mwafrika Masema following a police beating in a Rugombo commune jail in Cibitoke Province; the May beating by soldiers in Gatumba of a man who subsequently died of his injuries; the June beating by security forces of a man suspected of supporting the PALIPEHUTU-FNL who subsequently died of his injuries; and the August killing of an unidentified man by military soldiers in the Nyarabira commune in Bujumbura Rural Province.

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

There continued to be reports of deaths and injuries caused by unexploded ordnance and landmines laid in previous years by both government and rebel forces (see section 1.g.). A national mine survey, established in 2005, was completed in May. The UN and two nongovernmental organizations (NGOs) also did limited de-mining and educational activities.

There were no developments in any of the politically motivated killings committed in 2005 by unidentified assailants.

During the year there continued to be numerous deaths attributed to the use of grenades and mortars by unidentified persons. While the majority of these incidents occurred in bars or public gathering places, some appeared to target individuals. For example, on May 30, five bombs exploded in the Gihosha and Mutanga Nord districts of Bujumbura, close to the residence of former second vice president Alice Nzomukunda.

On September 3, in the Nyakabiga Commune, almost 40 persons were injured when an unidentified individual or individuals threw three grenades into a local bar.

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

Killings by bandits continued to be a serious problem during the year. For example, according to UN reports, there were approximately 19 deaths attributed to bandits and armed individuals in February. In several of these cases, the killings were often accompanied by property destruction and looting. In one case a man died after bandits raided his house and burned it.

There continued to be reports during the year of mob violence, lynchings, and the killing of suspected witches, although such reports were fewer than in the previous year. Unlike in the previous year, there were no reports that local officials were complicit in the killing of suspected witches. The president announced during the year that local authorities would be held accountable for such killings. By year's end authorities had made no arrests in connection with the cases below.

On June 7, in the Murwi Commune of Cibitoke Province, unidentified armed individuals killed a woman accused of sorcery.

On August 2, in the Busoni Commune of Kirundo Province, a group of individuals lynched and killed a woman accused of sorcery.

On August 21, unidentified persons in Kirundo threw a grenade into a home, killing a woman who had been accused of sorcery by her neighbors, and wounding her husband. Authorities had made no arrests in connection with the case by year's end.

There were no reports of action taken by authorities in the killing of suspected witches by mobs in 2005.

#### b. Disappearance

There were no confirmed reports of politically motivated disappearances; although there were several kidnappings, there were fewer than in the previous year.

According to a UN report, on April 24, SNR agents abducted a man in the Buyenzi quarter of the Bujumbura Mairie Province. His whereabouts were not known by year's end.

On May 2, in the Kinindo Commune, police detained a high-ranking member of the CNDD-FDD after he accused another senior CNDD-FDD member of corruption. He was released a month later.

The Association for the Protection of Human Rights and Detained Persons (APRODH) reported 10 detainees missing from communal lockups during the year.

There were no developments in the July 2005 incident in which a group of armed men, believed to be members of the PALIPEHUTU-FNL, kidnapped a communal official in the Isale Commune of Bujumbura Rural Province.

There were no developments in the 2004 kidnapping of four persons by members of the CNDD-FDD in the Kanyosha commune of Bujumbura Rural Province. The six persons who were kidnapped in 2004 in the Ndava commune of Mwaro Province were freed; no additional information was available at year's end.

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

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

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

On March 24, President Nkurunziza met with SNR personnel and verbally reprimanded those responsible for the reported ill treatment and torture of detainees. The meeting resulted in a commitment to stop the use of one SNR facility as a detention center; however, by year's end authorities had not closed the facility.

The UN, HRW, and domestic NGOs League Iteka and APRODH reported that members of the security forces beat and tortured civilians and detainees throughout the year.

Multiple credible sources reported that SNR agents arbitrarily detained and tortured people thought to be members and supporters of the PALIPEHUTU-FNL (see section 1.g.).

In August the minister of national solidarity and human rights visited former vice president Kadege and other detainees who were accused of conspiring against the government at SNR headquarters where they were being held. Following the visit, the minister publicly acknowledged that SNR officers physically abused Kadege and some other detainees (see section 1.d.).

There were no developments and actions taken against the FDN regarding the January 2005 beating of a man by the

FDN while he was in detention, or the April 2005 incident in which FDN members beat five brick masons during their detention.

Despite the lack of precise numbers, there was a slight decrease in the reports of conflict-related rape committed by security forces and PALIPEHUTU-FNL members (see section 1.g.). However, there were several reports of rape, including gang rape, committed by members of the security forces that were unrelated to the conflict with the PALIPEHUTU-FNL. For example, according to the UN peacekeeping mission in Burundi (ONUB), an FDN soldier reportedly raped two minors in April, and in May FDN soldiers reportedly raped a woman and two children, one of whom was gang-raped by off-duty soldiers. By year's end it was not known whether authorities had investigated or taken any action against the soldiers allegedly responsible.

There were no developments regarding the May 2005 rape of a woman by two men, one of whom was an FDN soldier, in Bujumbura; or the September 2005 rape of a woman by a uniformed police officer in the Gihanga commune of Bubanza Province.

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

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

#### Prison and Detention Center Conditions

Prison conditions remained harsh and sometimes life threatening. Severe overcrowding persisted. According to government officials and human rights observers, prisoners suffered from digestive illnesses, dysentery, and malaria, and prisoners died as a result of disease. According to APRODH, while there were no reports that prison guards beat prisoners in the country's 11 main prisons, there were reports that members of security forces beat detainees in the country's smaller jails and at the main detention center used by the SNR (commonly known as la Documentation); and during the year there was an increase in the number of beatings in the smaller jails at the commune level. ONUB reported that detainees and prisoners were tortured and abused. Each prison had one qualified nurse and at least a weekly doctor's visit; however, prisoners did not always receive prompt access to medical care. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the primary provider of medicines; the government provided insufficient food in the main prisons and did not provide food for persons held in communal lockups. Detainees and prisoners who were not held in communal lockups received 450 grams of food per day from the government, and families often had to supplement prisoner rations.

According to the Ministry of Justice, during the year 7,242 persons were held throughout the country in facilities built to accommodate 4,050 persons.

Conditions in detention centers and communal lockups were generally worse than prison conditions. Police personnel tortured and otherwise abused detainees, which resulted in death in several instances (see section 1.a.). According to APRODH, 15 individuals were killed in communal lockups, or small detention centers, and another 10 were missing (see section 1.b.). Minors were not always separated from adult detainees, and ONUB documented some cases of sexual abuse. There were 400 communal lockups where those who were arrested were supposed to be held no longer than one week; however, in practice detainees were regularly kept in these facilities for much longer periods of time. Family members were required to provide all food for detainees in communal lockups. Once detainees were transferred to larger detention facilities, the government provided food. Communal lockups and other, larger detention centers were severely overcrowded, with limited or no provisions for medical care and no sanitation.

According to the Ministry of Justice, during the year there were 334 children in prisons, of whom 54 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults. Political prisoners often were held with convicted prisoners. Pretrial detainees were held in communal lockups, but some were also incarcerated with convicted prisoners.

During the year dozens of former child soldiers associated with the PALIPEHUTU-FNL remained in government custody--in prisons, jails, and a newly opened welcome center for former PALIPEHUTU-FNL combatants--without any clarity on their legal status or knowledge of when they might be returned to their families. Some were as young as 13 years of age. According to a study released by HRW during the year, former PALIPEHUTU-FNL child soldiers detained in prisons lived in overcrowded cells, ate once a day, and were accused of participating in the rebellion. In contrast, children in the welcome center lived in better conditions and were not facing prosecution, although they were held with adult combatants.

During the year the government permitted some visits by international and local human rights monitors, including the ICRC; however, municipal police commissioners and other authorities were slow to grant ONUB human rights officers access to detainees following accounts of illegal detentions and torture, and access was sometimes denied. Authorities also sometimes denied HRW, ICRC, and local NGOs access to detainees thought to have been tortured or illegally detained, who were accused of belonging to PALIPEHUTU-FNL. NGOs continued their efforts to monitor and

improve sanitation, hygiene, medical care, food, and water.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but security forces arbitrarily arrested and detained persons.

#### Role of the Police and Security Apparatus

The national police are responsible for internal security, while the FDN may assume such responsibilities only in times of war. The police deal with criminal matters and the FDN fulfills external security and counterinsurgency roles. In practice the FDN also arrested and detained criminals. The Ministry of Defense oversees the FDN, and the Ministry of the Interior oversees the national police, including the gendarmerie. The SNR, commonly known as the Documentation Nationale, is a special police agency that reports directly to the president. The SNR's role consists of intelligence gathering, but it also has authority to arrest and interrogate suspects. According to a UN official, there was a significant increase in human rights abuses committed by the SNR during the year, including arbitrary arrests and torture of suspected FNL members.

Members of the security forces were poorly trained. Corruption, disregard for legal standards on the duration of detention, and mistreatment of prisoners remained problems. An internal affairs unit within the police force investigated crimes committed by other police units. ONUB and various NGOs provided human rights training to the police. Impunity for members of the security forces who committed serious human rights abuses and the continuing lack of accountability for those who committed past abuses remained key problems. During the year, however, the government made progress in combating impunity among the security forces.

In September authorities in Muyinga Province arrested a policeman who was working for SNR and charged him with kidnapping and killing more than 10 persons who were suspected of collaborating with the PALIPEHUTU-FNL (see section 1.g.).

#### Arrest and Detention

The law requires arrest warrants in most cases, and presiding magistrates are authorized to issue them; however, police and the FDN can make arrests without a warrant but are required to submit a written report to a magistrate within 48 hours. These provisions were not always respected in practice. The requirement that detainees be charged and appear in court within seven days of their arrest was routinely violated. A magistrate can order the release of suspects or confirm charges and continue detention, initially for seven days, then subsequently for one additional period of seven days, as necessary to prepare the case for trial. Police are authorized to release suspects on bail, but this provision was rarely exercised. Police regularly detained suspects for extended periods without announcing charges, certifying the detention before a judge, or advising the Ministry of Justice within 48 hours as required. Suspects are permitted lawyers in criminal cases at their own expense, but the law does not require and the government did not provide an attorney to indigents at government expense. Multiple sources reported that incommunicado detention existed, although the law prohibits it.

Authorities sometimes denied prisoners prompt access to family members or to their lawyer. For example, former vice president Kadege's wife stated in August that officials did not allow her to visit her detained husband for two days immediately following his detention.

During the year there were reports of politically motivated arrests and numerous reports of arbitrary arrests. For example, in July and August, the police arrested former president Ndayizeye, former vice president Alphonse Kadege, and six other individuals accused of planning a coup d'etat against the government. The government later accused the men of threatening state security. Police released two of the detainees after they reportedly confessed their roles in the affair. A judicially authorized 30-day detention period for the remaining six expired on September 27 without being extended. In a detention hearing on October 6, the Supreme Court ordered that the detainees be freed. The public prosecutor countermanded this order and instructed the prison not to release the detainees. At year's end the six remaining detainees in this case, including former president Ndayizeye and former vice president Kadege, remained in custody.

The government acknowledged in August that officers of the SNR physically abused several of these detainees, including former vice president Kadege. Several local and international organizations, including HRW, jointly issued a declaration condemning the beatings during interrogations and calling on the government to open investigations and bring to justice those responsible for abuses.

The government repeatedly stated that it had sufficient proof of an attempted coup to justify the detentions. However, it maintained that it could not make details public until the judicial system completed its deliberations. The continuing controversy surrounding the case increased tensions between the government and opposition parties and drew widespread criticism from human rights organizations. On September 29, the foreign minister told the diplomatic corps

that the judicial system had thus far met all relevant legal requirements concerning the handling of the case. In December, government officials said the suspects had met with foreigners to plot the overthrow of the government; however, officials did not present evidence publicly that supported this claim, and the country's defense minister subsequently told reporters that the military had no indication that a coup plot existed, and that there were "incoherent and unreliable" aspects to the case.

On August 16, police arrested Gabriel Rufyiri, president of the domestic NGO Observatory for the Struggle against Economic Corruption and Embezzlement (OLUCOME), on charges of defamation after he publicly denounced the degree of corruption in the government. In December, after detaining Rufyiri for four months, authorities provisionally released him after a court acquitted him.

According to HRW, the country's intelligence service arbitrary detained 200 individuals since the Nkurunziza government took office in late 2005. Furthermore, according to a UN report released in September, during the first half of the year there was a steady increase in arrests of individuals--including men, women, and school children--particularly those suspected of being PALIPEHUTU-FNL members, and particularly in the provinces of Bujumbura, Bujumbura Rural, Bubanza, and Cibitoke. The report also noted reports of security forces detaining citizens in illegal places or facilities, including three school children reportedly detained in a military camp in Bujumbura. In addition the report cited 800 reported cases of arbitrary arrest during the year in which individuals were detained on minor charges upon instruction from administrative authorities, mostly commune administrators.

Unlike in the previous year, there were no reports that security forces arrested elected officials from the FRODEBU party on suspicion of supporting or belonging to the PALIPEHUTU-FNL, or for any other reason. Nephtalie Ndikumana, a FRODEBU official who was arrested in 2005 and who remained in detention at the end of 2005, was released during the year.

The SNR on occasion carried out mass arbitrary arrests of suspected PALIPEHUTU-FNL supporters. According to an HRW report, on January 25, government forces ordered PALIPEHUTU-FNL combatants whom the security forces had captured to identify PALIPEHUTU-FNL collaborators in the Muyira zone in Kanyosha Commune. Authorities subsequently detained approximately 100 individuals whom the combatants had identified as PALIPEHUTU-FNL collaborators and sent them to the Interior Security Police's detention facility in Kigobe, Bujumbura. By year's end most had been released, but a few were still waiting to be brought before a magistrate.

During the year the government arrested journalists, an NGO leader, and a labor unionist (see sections 2.a., 4, and 6.a.).

Unlike in the previous year, there were no reports of police officers arbitrarily detaining or fining individuals for "moral offenses" such as wearing "inappropriate clothing."

Most of the persons arrested on criminal charges since 1993 remained in pretrial custody. According to the Ministry of Justice, 5,443 persons, or 65 percent of the country's prison population, had not been convicted and were awaiting trial at year's end. Lengthy jail procedures, a large backlog in pending cases, judicial inefficiency, corruption, and financial constraints often caused trial delays. Irregularities in the detention of individuals, including holding them beyond the statutory limit, also continued. On several occasions individuals held illegally were released following intervention by ONUB. Human rights NGOs lobbied the government for the release of prisoners who were held for long periods of time without charge.

#### e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary was not independent of the executive branch. The judicial system was inefficient and subject to bribes and other forms of corruption; many citizens had no confidence in its ability to provide even basic protection, although judicial reform was a priority of the Arusha Accord.

According to information contained in a UN report released in September, there were reports of magistrates being instructed by authorities not to investigate cases concerning suspected FNL members submitted to them by police; magistrates were reportedly instructed to confirm the arrest and commit the concerned individuals to prison.

During the year the government made significant strides in resolving the problems of ethnic balance in the judiciary, which was traditionally dominated by the members of the Tutsi minority.

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

A UN report, which resulted from a 2005 assessment mission focusing on the country's primary judicial challenges, criticized the country's judicial reforms as "incomplete and carried out too late," and it singled out lack of required materials, logistics, and infrastructure. The public viewed the judiciary, according to the report, as flawed and

"ethnically prejudiced and client to political powers" in the executive and legislative branches of government. In addition to asserting that magistrates' low salaries contributed to corruption, the report noted that there was no institution to provide judges with needed skills, and that laws were published in French while most citizens speak the national language of Kirundi.

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

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

The government officially recognizes the traditional system of informal community arbitration, known as Ubashingantahe, which functions under the guidance of community members recognized for their conflict resolution skills and which facilitates the settlement and reconciliation of disputes. The opinion of a Mushingantahe, or community arbitrator, often is necessary before access is granted to the formal civil court system. The Ubashingantahe system is limited to civil and minor criminal matters and has no jurisdiction over serious criminal matters. Traditionally, persons recognized by the community preside over deliberations, and no lawyers are involved under this system. During the year some members of the ruling CNDD-FDD party, composed of membership that continued to be predominately Hutu, looked unfavorably on the institution of the Ubashingantahe because some Hutus historically perceived it as a tool of Tutsi domination.

#### Trial Procedures

With the exception of capital punishment cases, all trials are conducted by panels of judges. Capital punishment cases are decided by a seven-person panel: four citizens and three magistrate judges. Defendants, in theory, are presumed innocent and have a right to counsel but not at the government's expense, even for those who face serious criminal charges. Defendants have a right to defend themselves; however, in practice, few had legal representation since there were only 89 registered lawyers in the entire country and since most persons could not afford a lawyer and had to plead their own cases. Authorities sometimes were unable to carry out their investigations or transport suspects and witnesses to the appropriate court because of lack of resources. All defendants, except those in military courts, have the right to appeal their cases up to the Supreme Court, and in capital cases, to the president for clemency. In practice the inefficiency of the court system extended the duration of the appeals process, effectively limiting the possibility of appeals, even by defendants accused of the most serious crimes.

Procedures for civilian and military courts are similar, but military courts typically reached decisions more quickly. Military trials, like civilian trials, generally failed to meet internationally accepted standards for fair trials. Defendants are not provided attorneys to assist in their defense, although NGOs provided some defendants with attorneys in cases involving serious charges. Trials generally are open to the public but can be closed for compelling reasons, including for national security or in cases in which publicity can do harm to the victim or a third party, such as in cases involving rape or child abuse. Defendants in military courts are allowed only one appeal.

#### Political Prisoners and Detainees

The incarceration of political prisoners and detainees remained a problem during the year. There were an estimated 500 political prisoners at year's end. Charges against individuals convicted for nonpolitical crimes, as well as defendants awaiting trial for nonpolitical crimes, sometimes were politically motivated (see sections 1.d. and 2.a.). International organizations and local human rights NGOs were generally afforded access to political prisoners.

In December 2005, following the appointment of a Commission on Political Prisoners, President Nkurunziza announced the conditional release of all political prisoners detained for more than two years without charge. Justice Minister Clotilde Niragira said that all of those who were temporarily freed would be required to stand before the truth and reconciliation commission once it was formed; she added that the provisional release was for prisoners who had been incarcerated in connection with the killing of former president Melchior Ndadaye in 1993 and the violence that followed. A series of four ministerial decrees granted provisional immunity to all political prisoners identified by the commission, based on the penal code's description of political crimes. The government also released prisoners who had served at least one-quarter of their sentence, with the exception of those who had committed serious crimes. However, some organizations questioned the government's definition of political prisoners and claimed that the process was illegal insofar as it resulted in the release of perpetrators of serious crimes, including detainees who had been sentenced to death. According to the Ministry of Justice, the government released 3,614 political prisoners during the year. The former chairman of the Commission on Political Prisoners said that there remained approximately 100 prisoners who may qualify as "political" prisoners.

Political and civil society leaders remained divided over the definition of a political prisoner, and human rights organizations raised serious concerns over the lack of transparency in the commission's work. They noted that the commission never publicly explained the criteria on which the decisions were based. Three NGOs brought a case before the Constitutional Court, stating that the decision to release the prisoners violated the constitution and should have been based on an act of parliament rather than on an executive decree.

Human rights organizations also expressed concern over the lack of preparation in the communities to which the detainees would return. In response, the government launched a sensitization campaign to explain its decision on political prisoners and to promote reconciliation in their communities.

#### Civil Judicial Procedures and Remedies

The judiciary's conduct of trials regarding civil matters was well regarded by observers, but execution of courts' decisions, including payment of damages, could be very slow, sometimes taking years. Some citizens and other observers perceived many judges to be susceptible to pressure and corrupt.

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

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

Families of former president Ndayizeye and the five other persons arrested and detained in late July and early August on suspicion of threatening state security complained that SNR personnel followed the detainees' children and kept them under observation while at school, and that the families received threatening phone calls (see section 1.d.).

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

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

Although the government finalized a cease-fire agreement with the PALIPEHUTU-FNL on September 7, there were still numerous incidents of violence due to the ongoing conflict. These incidents resulted in serious abuses against the civilian population by government and rebel forces; generally no actions were taken against perpetrators. The security forces killed numerous civilians following fighting with the PALIPEHUTU-FNL, in reprisal for PALIPEHUTU-FNL attacks, and for suspected collaboration with the PALIPEHUTU-FNL. Abuses included the killing of civilians, the looting and burning of houses, attacks on noncombatants, the displacement of large numbers of civilians, and the rape of women.

While no definitive countrywide casualty figures were available, reports from media and NGOs estimated that more than 250,000, mostly civilians, had been killed in conflict-related violence since 1993. Much unlawful killing and property destruction during the year were concentrated in Bujumbura Rural Province, which was the scene of the majority of the fighting between the FDN and the PALIPEHUTU-FNL.

According to a UN report released in September, during the first half of the year, security forces killed 34 civilians--27 by the FDN, five by the police, and two by the SNR; the majority of the killings occurred in the provinces of Bujumbura, Bujumbura Rural, and Cibitoke. None of the alleged perpetrators were prosecuted for the killings, which included some summary executions of suspected FNL members or sympathizers; in some instances the perpetrators were simply shifted to other military positions.

For example, in February the FDN killed approximately 12 civilians, eight of whom reportedly had connections to the PALIPEHUTU-FNL. On February 22, in the commune of Kabezi, FDN soldiers executed six persons, all of whom were presumed to be PALIPEHUTU-FNL supporters.

According to a May UN incident report, the FDN killed 21 individuals, 10 of whom were suspected to be members of the PALIPEHUTU-FNL or to have collaborated with the PALIPEHUTU-FNL. The report offered no reasons for detainment or death.

A September UN report also reported that during the first half of the year SNR agents in Bujumbura tortured a suspected FNL member to death by mutilating his genitals and drilling his skull with a sharp object; by year's end there were no reports of an investigation regarding this killing.

On July 17, the bodies of 16 persons believed to have been in police custody were found in the Ruvubu River, in the northeastern province of Muyinga. Between May and July, police had reportedly arrested the men, accused them of supporting the PALIPEHUTU-FNL, transferred them to the Mukoni military camp in Muyinga Province, and executed

them, according to Amnesty International (AI). In September the government appointed a commission of inquiry to investigate the killings, and shortly thereafter authorities arrested three middle-ranking members of the security forces, including the head of the intelligence service in Muyinga. On October 14, the public prosecutor of Ngozi issued an arrest warrant for the head of the fourth military region, but by year's end the warrant had not been executed. On October 26, the prosecutor of Muyinga, a member of the commission who was reportedly committed to investigate the killings, was informed by his supervisors that he was to be transferred to Rutana Province, ostensibly for his personal security. AI called on the government to appoint an independent body to fully investigate these deaths and bring to justice all those responsible, including senior military officials.

Although not as frequent as in past years, there continued to be reports of indiscriminate, conflict-related civilian deaths attributed to the FDN. These incidents were often a result of fights between soldiers and civilians, or civilian refusal to comply with threats of extortion. There were also a number of deaths related to cases of theft, looting or property damage.

On September 13, in the province of Muyinga, an officer of the SNR, Dominique Surwavuba, was arrested on suspicion of killing 15 persons thought to be PALIPEHUTU-FNL sympathizers. He remained in custody at year's end.

Multiple credible sources reported that SNR agents arbitrarily detained and tortured persons thought to be members and supporters of the PALIPEHUTU-FNL. According to these sources, SNR agents tortured these individuals by beating them with batons, breaking their feet, tying them or chaining them, using clamps on their genitals, using needles on their feet, rubbing chili oil and salt into wounds, placing them in isolation chambers without food for prolonged periods of time, and repeatedly threatening to execute them. There were reports that suspected FNL members were tortured to death (see section 1.a.). These sources also reported that SNR Chief Major General Adolphe Nshimirimana was sometimes present while detainees were tortured. League Iteka and APRODH frequently reported that prison authorities tortured detainees and prisoners using methods similar to those described above.

During investigations in May, police in the Kanga quarter of the Kinama Commune beat three men accused of being PALIPEHUTU-FNL collaborators and subsequently held them at Socarti camp. No additional information was available by year's end.

Members of security forces and rebels continued to rape civilians. For example, on February 5, in the Kanyosha Commune of Bujumbura Rural Province, a member of the FDN raped a young girl. During the week of July 31 through August 5, FDN soldiers allegedly raped two women, one of whom was a minor. By year's end there were no reports of authorities taking action against the soldiers allegedly responsible.

There were no developments in the September 2005 incident in which a uniformed police officer in the Gihanga Commune of Bubanza Province raped a woman after forcing her husband to the ground at gunpoint.

Unlike in the previous year, there were no reports of widespread looting of homes by the FDN.

The PALIPEHUTU-FNL continued to kill, beat, kidnap, steal from, and rape civilians. During the year League Iteka and the UN reported numerous incidents in which the PALIPEHUTU-FNL killed civilians for supposedly cooperating with the FDN or for ceasing to cooperate with the PALIPEHUTU-FNL.

For example, on February 3, in the Kanyosha Commune of Bujumbura Rural Province, approximately 20 members of the PALIPEHUTU-FNL abducted a woman and her daughter from their home. According to a member of the community, the woman had provided food to the PALIPEHUTU-FNL until FDN soldiers at a newly-constructed military post near her home ordered her to stop providing such assistance. The woman's badly mutilated body was found on February 4; her daughter managed to escape from her captors.

The PALIPEHUTU-FNL and armed bandits killed civilians who refused to comply with extortion, although there were fewer reports than in the previous year.

No actions were taken against members of the security forces or CNDD-FDD responsible for killings, rapes, lootings, or other abuses committed in the context of conflict that were reported in 2005 or 2004. There were no reports that rebel forces punished members who were responsible for abuses.

Unexploded ordnance and landmines laid in previous years by both government and rebel forces resulted in deaths and injuries during the year. In May seven civilians, including four children, were injured in separate explosions of land mines in Gitega Province. In August a landmine uncovered near military barracks in Gatete seriously injured two children.

In May the Swiss Foundation for Mine Action conducted a general survey on mines and explosive remnants of war. As of June 15, 57 explosive ordnance disposal tasks had been completed in rural areas, accounting for the clearance of 40 percent of the agricultural land along the border with Tanzania. ONUB has provided mine risk education to 25,000 people living primarily in the high mine-affected southern provinces.

Under the law the country's minimum age for military recruitment is 16, although the government stated that no one under 18 was recruited. A project sponsored by the government and the UN Children's Fund (UNICEF) demobilized approximately 3,000 child soldiers from the government security forces as well as from former rebel groups during the year. According to UNICEF, security forces no longer used children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks. According to HRW, security forces required children who were child soldiers with the PALIPEHUTU-FNL to carry munitions for the military and assist in locating PALIPEHUTU-FNL combatants and supporters.

During the year the Ministry of Defense instructed military officers to punish soldiers found to be forcing children to perform menial tasks; punishments included the performance of extra duties, docking of pay, and confinement to quarters or the brig for up to one week. The Ministry of Defense confirmed that soldiers with such discipline problems would be among the first to leave during "downsizing" of security forces over the next year.

With support from ONUB and UNICEF, a government-established child protection network became active during the year, monitoring and reporting on human rights violations committed against children in armed conflict.

The PALIPEHUTU-FNL continued to use and recruit child soldiers, although in fewer numbers than in previous years.

In May HRW conducted interviews with detained children. HRW reported that approximately 65 children, alleged PALIPEHUTU-FNL combatants or supporters of the PALIPEHUTU-FNL, were in government custody. Some of them had deserted the PALIPEHUTU-FNL and turned themselves in, hoping to be released into society. Others were captured by government soldiers or were arrested by police officers during searches for PALIPEHUTU-FNL combatants. In June HRW estimated that there could be up to hundreds of children still actively engaged with the PALIPEHUTU-FNL in need of demobilization and reintegration (see section 4).

In early January police officers at the Butara prison in Cibitoke province beat four PALIPEHUTU-FNL combatants who had turned themselves in to an army post at Ndora in Cibitoke. Two of the four were under the age of 18. Also in Butura, the police beat two other youths suspected of PALIPEHUTU-FNL involvement.

During the year civilians continued to be displaced by fighting, although there were fewer reports of such displacement than during 2005.

In August in Muhuta Commune in Bujumbura Rural Province, the population fled a PALIPEHUTU-FNL attack, but returned within two days. On September 5, in Gatumba, also in the province of Bujumbura Rural, civilians fled the area following a PALIPEHUTU-FNL attack before returning two days later.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution and the law provide for freedom of speech and of the press; however, the government restricted these freedoms in practice, and freedom of the press deteriorated during the year. The government continued to arrest, harass, and detain journalists. The government periodically forced some media to suspend operations. Journalists continued to practice self-censorship, although the media sometimes expressed diverse political views.

The government restricted freedom of speech through arrests, harassment, and intimidation (see sections 2.b. and 4).

The government controlled many of the major media outlets. The government owned Le Renouveau, the only daily newspaper, as well as the country's only television station. The government exercised strong editorial control of these media.

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

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

The law criminalizes offenses, including defamation, committed by the media and provides for fines and criminal penalties of six months' to five years' imprisonment for the dissemination of insults directed at the president, as well as

writings that are defamatory, injurious, or offensive to public or private individuals.

During the year the government arrested, detained, harassed, and intimidated journalists. On April 17, police detained approximately 30 journalists reporting on a news conference at the residence of a former parliamentarian, Mathias Basabose. Police beat several of the journalists, who were confined at Basabose's residence for several hours before being released. Officials instructed the journalists to hand over their records of the press conference to security services before they left the premises.

On June 1, police arrested Aloys Kabura, a journalist with the Burundian Press Association, and accused him of rebellion and defamation after he reportedly made critical comments about the police following the detention of journalists at an April 17 press conference. Kabura was initially detained on the basis of article 273 of the Burundi penal code, which in his case, did not allow for pretrial detention. When the public prosecutor was questioned on this potential violation of the penal code, he issued a new, backdated arrest warrant, detailing additional offenses to warrant the pretrial detention. On June 29, the judges stated that he found no irregularities in the procedure. After a month's detention, Kabura developed a severe medical condition in his legs and was unable to walk. Prison officials initially did not respond to his request to consult a doctor. On September 19, Aloys Kabura was sentenced to five months in prison in Kayanza, and after he had served his sentence, authorities released him.

On August 17, the Communication and Telecommunication Regulation Agency (ARCT) closed RPA's office in Ngozi. ARCT maintained that the station had not paid its broadcasting fees in a timely manner and was broadcasting illegally. RPA, which produced receipts to demonstrate that it had paid its broadcast fees on August 15, resumed broadcasting on August 24.

During the second half of the year Gabriel Nikundana, news editor of the independent radio station Radio Isanganiro, told AI that CNDD-FDD party members harassed him after Radio Isanganiro broadcast on August 24 an interview with opposition leader Alain Mugabarabona, who was detained on suspicion of threatening state security. During the interview Mugabarabona asserted that security forces beat and tortured him and the other detainees. Mugabarabona also claimed that the CNDD-FDD devised the alleged coup attempt to distract public attention from other issues.

Between October 2 and October 10, the attorney general of Bujumbura convoked journalists, editors, and directors of three radio stations for questioning and pressed them to reveal the sources of an August 29 story; according to the story members of the police and demobilized military were planning a mock attack on the home of the president and of the CNDD-FDD party chief to fabricate evidence of a coup plot. The journalists declined to reveal their sources.

On November 22, authorities arrested editor Serge Nibizi and journalist Domitile Kiramvu of independent radio station RPA in connection with a story they published about the alleged coup plot that resulted in the arrest of the former president, among other individuals. Authorities charged them with violating judicial secrecy laws in a November news item that discussed a claim in the progovernment newspaper Intumwa that investigators had uncovered evidence of the alleged plot. (Authorities took no action against Intumwa.) In addition, on November 29, authorities arrested Matthias Manirakiza, the director of Radio Isanganiro, and charged him--as well as Nibizi--with threatening state security and public safety in an August story aired on three independent stations, including RPA; the story cited police sources as saying that authorities planned to stage fake attacks on the homes of government officials to bolster their claims of a coup plot. The prosecutor's office summoned Corneille Nibaruta, director of independent station Radio Bonesha, to testify, but Nibaruta did not respond to the summons and reportedly went into hiding. In December the executive director of the international NGO Committee to Protect Journalists said the prosecution was politically motivated. All three journalists remained in jail at year's end.

During the year the country's media associations and press freedom advocates accused the Ministry of Communication's National Communications Council, the regulatory body for news media, of preferring to punish journalists rather than promote press freedom.

Unlike in the previous year, there were no reports that the government used direct censorship or that it suspended operations by independent media.

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

#### Internet Freedom

There were no reports of government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail. However, poverty and a lack of infrastructure prevented widespread public access to the Internet.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

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

##### Freedom of Assembly

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

On May 21, police arrested three members of Action Against Genocide (AC-Genocide)--Tatien Sibomana, Popon Mudugu, and their attorney Gabriel Sinarinzi--in the province of Gitega. The three had planned to participate in an AC-Genocide meeting. Authorities did not charge them and released them on May 31.

Unlike in the previous year, there were no reports of government security forces dispersing demonstrations by the government-sponsored militia group Guardians of the Peace (GP).

During the year authorities had released the 10 youths arrested in November 2005 in Musaga, Bujumbura, for attending a meeting of PA-Amasekanya, a militant pro-Tutsi group.

##### Freedom of Association

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

On June 18, Radio Bonesha reported that 14 members of the FRODEBU party were arrested in the province of Makamba. Local administration officials accused them of destabilizing the commune. No additional information was available by year's end.

Authorities harassed some FRODEBU members after they spoke out in defense of individuals accused of plotting a coup or journalists who had been arrested by authorities.

#### c. Freedom of Religion

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

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

In July the president signed a decree that announced the addition of the two most important Muslim holy days to the list of official national holidays.

##### Societal Abuses and Discrimination

On September 19, unidentified persons burned two Roman Catholic churches in Bubanza.

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

There were no developments in the June 2005 killing by the PALIPEHUTU-FNL of five civilians in Bujumbura Rural Province.

There were no new developments in the investigation of the 2003 killing of Papal Nuncio Michael Courtney, although President Nkurunziza's government pledged to pursue the case actively.

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

For a more detailed discussion, see the [2006 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2006/78722.htm).

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

The constitution and law provide for these rights; however, the government restricted them in practice. On April 14, the government lifted a curfew that had been in place since 1972. Nevertheless, the government still restricted access into and out of Bujumbura at night. During the year local populations frequently fled fighting between the FDN and the PALIPEHUTU-FNL, and citizens' movements were restricted by checkpoints, violence, and the threat of violence. In addition the government denied human rights observers access to some areas, such as some military camps and some facilities controlled by the SNR (see section 4).

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

In September, a FRODEBU member of the National Assembly, Jean-Marie Ntukamazina, fled the country because he was suspected by authorities of being a PALIPEHUTU-FLN sympathizer. No additional information was available at year's end.

By year's end the Office of the UN High Commissioner for Refugees (UNHCR) facilitated the voluntary repatriation of approximately 44,900 Burundian refugees who had previously fled to neighboring countries, primarily Tanzania. This figure represented a decline from 2005, when approximately 65,000 Burundians were repatriated, and 2004, when approximately 90,000 were repatriated. The repatriates, who returned mostly to the eastern provinces, often returned to find their homes destroyed, their land occupied by others, and/or their livestock stolen. Poor living conditions and a lack of food and shelter were problems for returnees during the year, although returnees did receive a three-month food ration and other forms of assistance from UNHCR during the repatriation process. During the year the UNHCR and the National Commission for Rehabilitation of War Victims assisted in the resettlement and reintegration of refugees and internally displaced persons (IDPs). According to the UNHCR, as of October, approximately 400,000 Burundian refugees remained outside the country.

#### Internally Displaced Persons

Civilians regularly were displaced as a result of fighting in Bubanza, Cibitoke, and Bujumbura Rural provinces between the FDN and the PALIPEHUTU-FNL, although on a much smaller scale than in previous years. Displacements stemming from clashes between the PALIPEHUTU-FNL and the armed forces were temporary, generally lasting from several hours to several days.

Timely relief was not denied to IDPs or other populations in need due to security conditions or security forces restrictions.

There were no reports that the government attacked IDPS or forcibly resettled them under dangerous conditions.

According to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), as of July there were approximately 120,000 long-term IDPs living in 160 sites nationwide, the majority in Kayanza, Ngozi, Kirundo, Muyinga, and Gitega provinces. The majority were Tutsis who were displaced by violence in 1993 and never returned home. Soldiers and police provided a measure of protection to the camps, which in many cases had taken on the characteristics of permanent towns and villages. According to UNOCHA, 91 percent of the IDPs were able to participate in agricultural activities and, of these, 78 percent had access to their lands of origin. In the south and east, 18.5 percent of the IDPs were former refugees. According to the UNHCR, IDP camp inhabitants sometimes were required to perform labor for soldiers without compensation.

Unlike in the previous year, there were no reports that the government used bulldozers to destroy IDPs' houses in a Bujumbura neighborhood. By year's end the IDPs who protested in Bujumbura in 2005 had not received a letter documenting ownership of land that the government agreed to give them in the Kinama neighborhood of Bujumbura; the government was attempting to resettle them elsewhere.

#### Protection of Refugees

The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The country is also a party to the Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa. The government has established a system for providing protection to refugees and granted refugee status and asylum to some persons during the year. In practice, the government provided some protection against refoulement, the return of persons to a country where they feared persecution. Some NGOs and humanitarian organizations expressed concern over the low percentage of applicants to whom the government granted asylum; however, according to the UNHCR, the government fulfilled all of its obligations to provide asylum and refugee protections and cooperated with all international organizations involved in refugee issues.

In 2005 the transitional government failed in thousands of cases to provide protection against refoulement. In early

June 2005 the transitional government declared that approximately 7,000 Rwandan asylum seekers were "illegal immigrants," following a joint decision by the governments of Burundi and Rwanda. In June and July of 2005 the two governments conducted a forced repatriation of the asylum seekers from temporary sites in Burundi without an assessment of their claims. By the end of August 2005 Burundi's government had forcibly repatriated at least 6,500 Rwandan asylum seekers from camps in northern Burundi, in cooperation with Rwandan authorities.

After taking office in August 2005, the government of President Nkurunziza sought to address the problem of refoulement more in accordance with the 1951 Refugee Convention than did the transitional government; in late 2005 and during the year, the government cooperated closely with the UNHCR and other humanitarian organizations assisting refugees.

In August 2005 the governments of Rwanda and Burundi signed an agreement with the UNHCR that laid the ground rules for the voluntary repatriation of a group of approximately 4,000 Burundian refugees from Rwanda. As of October an estimated 1,300 had voluntarily returned to Burundi and approximately 2,700 remained in Rwanda.

In December 2005 the Norwegian Refugee Council began constructing a transit site in the Ngozi Province town of Musasa for the 6,000 Rwandan asylum seekers who resided in Burundi at the end of 2005. Many had fled Rwanda for a second time since having been forcibly repatriated from Burundi to Rwanda in June. The government allowed the UNHCR to provide relief aid to these Rwandans, whom the UNHCR classified as asylum seekers.

Beginning in December 2005 and continuing during the year, the UNHCR brought in experts in refugee status determination to work with jurists to assess the validity of the Rwandan asylum seekers' claims on a case-by-case basis. The assessment officers made recommendations based on "international criteria" to an Eligibility Commission formed under the auspices of a border police unit in the Ministry of the Interior, which delivered its decision to each claimant. Those rejected were given seven days to appeal to a separate appeals commission, which reviewed the paperwork from the original hearing and took evidence from appellants, who could be assisted by UNHCR staff and human rights groups, including League Iteka.

By the end of March, the number of Rwandan asylum seekers in the country had surged to approximately 20,000. Assisted by the UNHCR, they were quartered at the Musasa and Sangore camps in Ngozi Province as well as at informal sites at Rwisuri in Kirundo Province. The number of asylum seekers began to decline significantly in April, at the same time as drought-related food shortfalls in southern Rwanda began to ease. By mid-September 13,870 Rwandan asylum seekers had voluntarily repatriated to Rwanda, while almost 5,000 remained in the Musasa camp. By year's end all Rwandan asylum seekers remaining in the country had been interviewed, and their asylum cases had been referred to the Eligibility Commission.

Of the 2,770 case decisions (representing thousands of Rwandans) made public by the authorities as of the end of the year, authorities had approved only 26 cases (representing 72 Rwandans). Appeals had been made in more than 600 cases, but authorities had reversed only eight decisions. Of more than 4,600 persons whose cases had been processed as of the end of the year, the commission approved and granted asylum to a total of 206, or 4.4 percent. These persons had been transferred to the Jiharo transit center in Rutana by year's end.

In mid-September, according to the UNHCR, there were approximately 30,000 Congolese refugees residing in the country, in addition to the 5,000 Rwandan asylum seekers. Of the Congolese, more than 11,000 were sheltered in three UNHCR-run refugee camps: Gihinga in Mwaro Province, Gasorwe in Muyinga, and Gihar in Rutana. In addition to the camp-based refugees, there were more than 20,000 locally integrated into urban centers. Approximately 23,500 receive UNHCR assistance.

During the year the government provided protection to certain individuals who may not qualify as refugees under the 1951 UN convention and the 1967 protocol. These individuals included the Rwandan asylum seekers as well as some Congolese in the process of undergoing refugee status determinations.

Unlike in the previous year, authorities generally did not employ acts of intimidation, harassment, or violence to hasten the return of Rwandan asylum seekers. Rwandan authorities continued to express concerns that the PALIPEHUTU-FNL and the Rwandan rebel group Democratic Front for the Liberation of Rwanda recruited Rwandan asylum seekers in Burundi and took them to training centers, including centers in the Kibira Forest.

Unlike in the previous year, there were no reports that members of Rwandan security forces entered the country to intimidate Rwandan asylum seekers.

ONUB and the UN Organization Mission in the DRC continued their follow-up to the joint investigation into the Gatumba massacre of 152 Congolese Tutsi refugees in 2004. The minister of justice told ONUB in April 2005 that a report by a national commission of inquiry had been completed and would be released in the near future; however, by year's end the government had not published the results of its investigation.

In July the government appointed a commission to resolve land and property disputes resulting from the approximately

320,000 Burundian refugees who have repatriated since 2002, including some who have been in exile in Tanzania since 1972. In addressing the increasing number of land disputes, the country has relied on a mixture of customary law and legislation, but few citizens were aware of their legal rights, and most remained too poor to afford legal representation.

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

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

#### Elections and Political Participation

In August 2005, through an indirect ballot, citizens chose their first democratically elected president in more than 12 years, marking the end of the four-year transition under the Arusha Peace and Reconciliation Agreement. The legislature elected the sole candidate, Pierre Nkurunziza of the CNDD-FDD, and he was sworn in as president in August 2005.

President Nkurunziza's election followed communal and legislative elections in June and July 2005, which independent electoral observers judged to be generally free and fair, although the campaign prior to the National Assembly elections was tense and significantly marred by violence and intimidation.

During the year there were 35 recognized political parties. The CNDD-FDD, FRODEBU, and UPRONA were the largest political parties. The CNDD-FDD, which held majorities in both chambers of the legislature, controlled most government positions.

According to a September UN report, during the first half of the year there were noticeable ongoing tensions between the government and some opposition parties, and there was "constant harassment by members of the security forces of political opponents and critics of the government." On March 24, the President of FRODEBU announced that the party would pull out of the government; shortly thereafter FRODEBU officially withdrew to protest the government's lack of consultation and transparency on several key issues affecting the country. While several ministers affiliated with the party elected to remain in their positions, even though FRODEBU asked that they withdraw their party membership, the official withdrawal "confirms a worrying trend of growing intolerance toward the views of the opposition" which could provoke internal conflict, according to the UN report.

The arrest and detainment of the former president and vice president on charges of threatening state security exacerbated tensions between the majority party and the opposition. Critics of the government asserted that leaders within the ruling party fabricated allegations of a coup plot in order to weaken the opposition's chances in the 2010 elections. Some opposition leaders reported increased harassment and expressed fears that other key opposition leaders were also under suspicion (see sections 1.d. and 2.b.).

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

The law stipulates quotas to maintain ethnic balance in the government. The constitution provides that 60 percent of seats in the National Assembly be filled by Hutus, the majority ethnic group in the country, and 40 percent be filled by Tutsis, who constitute about 15 percent of the citizenry. In addition military posts are divided equally between Hutus and Tutsis. Three members of the Batwa ethnic group, which makes up less than 1 percent of the population, were appointed to the government body.

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

#### Government Corruption and Transparency

The government remained subject to a culture of impunity, and widespread corruption remained a problem. Corruption was prevalent in the public and private sectors and affected numerous public services, including procurement, the granting of land use concessions, public health, and the assignment of school grades. Several respected private sector representatives and trade association officials reported that corruption remained a major impediment to commercial and economic development in the country. According to Transparency International's (TI) 2006 Corruption Perceptions Index, corruption among the country's public officials was perceived by both resident and nonresident experts to be "rampant," which is the most severe assessment designation used by TI. In December OLUCOME said

the state had lost an estimated \$133 million (138.7 billion Burundian francs) to corruption and embezzlement since 2000.

During the year the government made significant progress in eliminating off-budget accounts. However, in July the government ordered the local brewery to pay a special off-budget "tax" for each bottled beverage it produced. The government stipulated that this requirement would be applied retroactively to February. The government established an off-budget bank account to receive the proceeds of this "tax".

Despite numerous allegations of corruption during the year, no parliamentary commissions of inquiry were launched. According to some observers, the lack of inquiry was due to the fact that the CNDD-FDD dominated the legislature and chaired all eight of the parliament's commissions. In September Second Vice President Alice Nzomukunda resigned her position following disagreements with CNDD-FDD party leaders. She stated that she could no longer effectively function in her position, accusing party leadership of interfering in state affairs and citing allegations of embezzlement and corruption.

The second vice president, the Ministry of Good Governance, and the National Auditing Agency were responsible for fighting corruption. The National Auditing Agency published a report in August 2005 which incriminated some former officials in a case of alleged corruption concerning the payment of approximately four million dollars (4.4 billion Burundian francs) government debt to the heirs of Belgian businessman Mojzesz Lubelski. The Constitutional Court subsequently determined in March that the National Auditing Agency did not have the authority to rule on such issues, only to give non-binding recommendations. There were no further developments in the case by year's end.

Early in the year, the government replaced the Ministry of Good Governance's Inspector General for Finance (IGF) with an Inspector General of the State (IGE), ostensibly to yield more autonomous oversight of anti-corruption programs. However, a legal dispute concerning the integration of the former staff of the IGF into the IGE resulted in an impasse, preventing the highly trained IGF staff from undertaking its functions. By year's end the impasse had not been resolved, and the IGE remained severely understaffed.

During the year the government acknowledged irregularities in procedures related to the request for bids in the June sale of the president's private jet. The government ultimately sold the plane to a low bidder, and one of the losing bidders subsequently entered legal proceedings against the government. The World Bank conditioned disbursement of funds to the government on the conclusion of an independent audit that would investigate the bidding procedures. The Ministry of Finance engaged an auditing company to investigate procurement procedures surrounding the sale of the plane. The firm had not completed its investigation by year's end.

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

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

A number of local and international NGOs, including human rights groups, generally operated without government restrictions; however, human rights observers were not allowed to visit some government facilities, such as some military bases and prisons run by the government's intelligence service. Government officials cooperated with these groups by providing limited access to information and other resources.

Domestic human rights groups received varying degrees of cooperation from government ministries; at times the ministries provided them with information and facilitated visits to areas of interest. Although the government did not directly take action based on local NGO recommendations, local NGOs continued to engage in advocacy. The most prominent local human rights group, League Iteka, continued to operate and publish a newsletter. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from government harassment, indigenous NGOs, particularly those in the countryside, were more vulnerable to pressure from the local authorities.

For example, on May 10, police detained Terence Nahimana, a former parliamentarian and the head of a local NGO. According to AI, authorities arrested Nahimana after he wrote a letter to President Nkurunziza that questioned why the government was reluctant to begin peace negotiations with the PALIPEHUTU-FNL. He also accused the government of delaying talks with the UN on establishing a truth and reconciliation commission. On May 15, the prosecutor formally charged Nahimana with "threatening state security." A court acquitted Nahimana on December 22, and authorities released him on December 27.

On August 16, authorities imprisoned the chairman of OLUCOME, Gabriel Rufyiri, on accusations of giving false reports asserting that the government was involved in embezzlement. A court acquitted him on December 13, and

authorities released him the following day.

During the second half of the year, according to a UN report released in September, the Ngozi regional commissioner reportedly threatened a human rights activist belonging to League Iteka. The activist had written an article in which he had reported the presence of Rwandan spies among asylum seekers at a camp in Ngozi Province (see section 2.d.). The commissioner denied making the threat and said no harm would be done to the activist.

In a November 27 article published by a UN news agency, Jean-Pierre Kisamare of League Iteka noted that the governor of one province said the NGO was an enemy of peace and had arrested some of its staff members. While League Iteka staff members were arrested during the year, all were released after a few days for lack of evidence.

Although the process of registering domestic NGOs remained lengthy and time-consuming, it was not overly burdensome or overtly discriminatory.

During the year there were reports by employees of human rights organizations that, due to the employees' work on human rights reports, unidentified persons issued threats of violence against them and their families.

The government did not always cooperate with the UN and international NGOs. Unlike in the previous year, the president did not threaten to expel the UNHCR or the ICRC; however, in August, the government asked that the UN recall its special representative. The UN declined to honor the government's request, and the special representative remained in his position until the end of his term in December.

In November the government's director of the National Office for the Coordination of International NGOs announced that 32 of the 95 registered international NGOs in the country could face expulsion for failing to abide by government regulations, namely the requirement to submit mandatory annual reports to the government. Some in-country employees and directors of international NGOs said the country's regulations, introduced by the new government, needed to be streamlined to reduce the tendency of different ministries to demand reports in different formats; others said the regulations bordered on interference, as some government officials demanded influence over NGOs' recruitment and training processes.

According to a report released in October by the ONUB Human Rights section, although there was a slight improvement in ONUB's access to detainees, various authorities frequently denied ONUB human rights officers access to detainees (see section 1.c).

HRW published a report in June on PALIPEHUTU-FNL child soldiers, describing the situation of at least 65 former PALIPEHUTU-FNL child soldiers held in government custody. According to the report approximately 25 were being treated as combatants and housed at a "welcome center" in Randa, Bubanza Province, and at least 40 others were being held in prisons on charges of participation in rebel groups. HRW urged the government to clarify the status of former child soldiers to facilitate their reintegration into civilian society (see section 1.g.).

On August 4, HRW released a joint letter of appeal to the government condemning the beating of former vice president Alphonse Kadege and others during interrogation. The letter called on the government to open investigations and bring those responsible for torture to justice. The UN High Commission for Human Rights in Burundi, Lawyers without Borders, and six local human rights and good governance NGOs signed the letter (see section 1.d.).

A September HRW report highlighted the practice of detaining patients in hospitals for nonpayment of medical bills. Many of these individuals required surgery or treatment following accidents, as well as complications from childbirth. The report stated that hospitals justified the detentions by saying that they would be forced to close if they could not use such methods to oblige patients to pay their bills. HRW noted that because the government did not consider the detentions a human rights violation, it took no actions to prevent them. The report noted the president's May 1 announcement of free maternal care and healthcare for children under the age of five, and suggested that this policy shift in healthcare should have prompted the government to end the detention of some women and small children. However, HRW added that the change in healthcare policy would provide no relief for other patients unable to pay their bills.

The UN Office of the High Commissioner on Human Rights maintained a two-person observer team in Ngozi to deliver and explain decisions of the Eligibility Commission regarding refugee and asylum status. The Commission's purpose was to determine eligibility for those who entered the country and requested refugee and asylum status (see section 2.d.).

In December 2005 ONUB began to withdraw its peacekeeping forces and continued to draw down its forces throughout the year. ONUB expected to conclude troop withdrawals by year's end. The UN secretary general published two special reports on ONUB and on the human rights, humanitarian, and security situation in the country--one in March and one in June. The March report commended the government for its efforts to facilitate demobilization and disarmament and to address socio-economic problems. It expressed concern about continuing insecurity and

stressed the need for security sector reform. The UN reported that early in the year the human rights situation deteriorated noticeably in the western provinces as a result of the government's intensified military campaign against the PALIPEHUTU-FNL. The UN Secretary General's June report noted an overall reduction in the number of reported human rights abuses but expressed concern about continued violations, primarily attributed to government forces engaged in operations against the PALIPEHUTU-FNL. The UN noted that no prosecutions of members of government security forces were reported, although the government initiated investigations in some cases. The UN also noted that President Nkurunziza met with security forces and reprimanded those responsible for ill treatment of detainees.

During the year the UN called on the government to utilize regional mechanisms to pursue a lasting solution to the conflict and praised the decision to resume peace talks with the PALIPEHUTU-FNL. It commended the government's efforts to effect justice sector reform, reduce numbers of small arms and light weapons, consolidate peace, and to take steps towards institution building.

Though the Arusha Agreement called for the formation of a human rights commission, the government had created no such commission by year's end.

In February the government informed ONUB that a committee appointed to study the creation of an International Commission of Judicial Inquiry and a National Truth and Reconciliation Commission had completed preparatory work and provided recommendations for the commission's establishment. The proposed commission would bring to justice persons responsible for genocide, crimes against humanity, and war crimes committed in the country since it gained its independence in 1962. A UN delegation met with government representatives in March to discuss the government's recommendations, as well as a legal framework for these bodies. By year's end, neither the truth commission nor the judicial body had been established. On September 29, the foreign minister announced that the two bodies would not need to be created simultaneously, adding that the conclusion of a cease fire agreement with the PALIPEHUTU-FNL offered an opportunity to move forward expeditiously with the creation of a Truth and Reconciliation Commission.

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

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

##### Women

Domestic violence against women was common, although no credible statistics were available. Wives had the right to charge their husbands with physical abuse but rarely did so. The law does not specifically prohibit domestic violence; however, persons accused of domestic violence could be tried under assault provisions of the law. By year's end no known court cases had dealt with domestic abuse. Citizens traditionally did not seek police assistance in domestic dispute cases, but police intervened on occasion and upon request. Police occasionally arrested persons accused of domestic violence but released suspects within a few days, with no further investigation. According to League Iteka, husbands beat their wives, forced them out of their homes, denied them basic food necessities, and denied them freedom of movement.

The law prohibits rape, which is punishable by up to 20 years' imprisonment, but does not specifically prohibit spousal rape. The FDN and the PALIPEHUTU-FNL raped women during the year (see section 1.g.). Doctors without Borders (MSF) received an average of 125 rape victims each month at its center for rape victims in Bujumbura; however, MSF said the number of rapes was likely much higher. As of the end of August, MSF reported 1,683 cases of sexual violence, with children less than five years of age comprising 14 percent of the total. According to ONUB, over 60 percent of reported rapes were of children aged 17 and under. A UN agency reported that many rapes were committed with the belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Information on rape has only recently begun to be recorded.

Many women remained reluctant to report rape due to cultural reasons and fear of reprisals. According to ONUB's human rights department, during the year only one out of every three women raped lodged a complaint. According to a field officer at a MSF center in Bujumbura, only 10 to 15 percent of rape victims actually initiated legal proceedings.

Many rape victims did not receive medical care due to the intimidation caused by cultural attitudes. Men often abandoned their wives following acts of rape, and women and girls were ostracized. In some instances police and magistrates reportedly ridiculed and humiliated women who alleged that they were raped; according to a UN agency, there were reports that some police required that victims provide food for and pay the costs for incarceration of those they accused of rape. Many of those who sought judicial redress faced the weaknesses of the judicial system, including many judges who did not regard rape as a serious crime, and a lack of medical facilities for gathering important medical evidence. In the limited number of cases that were investigated, successful prosecutions of rapists were rare.

Civil society and religious communities attacked the stigma of rape to help victims reintegrate into families that had

rejected them. League Iteka, APRODH, and ONUB continued to encourage women to press charges and seek medical care, and international NGOs provided free medical care in certain areas. The government also raised awareness of the problem's extent through seminars and local initiatives describing the kinds of medical care available. Although no precise statistics were available, a UN report stated in June that during the year more victims filed complaints, obtained urgent medical assistance, and received briefings on their legal rights. The UN attributed the change to increased sensitization of the population on issues related to sexual violence.

In the first eight months of the year, a project sponsored by a foreign government to help victims of torture provided assistance to 1,055 rape victims.

The law prohibits prostitution; however, it continued to be a problem. There were reports that soldiers and rebels sexually exploited women and young girls residing near military installations and rebel camps. However, there was no evidence that they trafficked women for prostitution.

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

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

Enrollment of girls in elementary education increased by over 11 percent in the first school year following the president's August 2005 abolishment of all school fees (see section 5, Children).

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

#### Children

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

According to the Ministry of Education, the government provided public schooling up to a maximum age of 22. Schooling was compulsory up to age 12; however, in practice this was not enforced. Sixth grade was the highest level of education attained by most children, with approximately 9 percent of girls and 12 percent of boys of secondary school age attending school, according to UNICEF.

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

At his August 2005 inauguration, incoming President Nkurunziza abolished all school fees. However, students still had to pay for uniforms, textbooks, and other school materials. While this initiative made schooling available to hundreds of thousands of new students, it also led to an educational emergency involving overcrowded classrooms and teachers teaching multiple shifts. More than 25 percent of primary schools were destroyed in the war, and many teachers were killed. At the commencement of the school year in September, the Primary School Teacher's Union said the school system was still unprepared, and it complained of the continued shortage of faculty and classrooms. Some schools reported difficulties in paying for some services, such as guards, which they previously funded with school fees.

Despite these problems, a recent survey reported an increase in primary school attendance of 11.3 percent for girls and 15.3 percent for boys.

In April in cooperation with the government, UN agencies launched a project intended to provide 300,000 children in the country with a new vaccine to protect them against diphtheria, tetanus, hepatitis B, measles, and tuberculosis; in 2005 the project was piloted in Makamba, Kirundo, and Muyinga provinces, and according to UNICEF it was expanded during the year to cover the entire country for children less than a year old.

According to UNICEF, 30,000 children were living with HIV/AIDS. Anti-retroviral treatment for children was available via a UNICEF-funded program in the context of a program to prevent HIV transmission from mother to infant. UNICEF estimated that there were over 240,000 children orphaned by AIDS.

In June the World Health Organization launched its road map for the prevention of HIV/AIDS infection. The program was designed to increase HIV/AIDS prevention awareness, increase distribution of condoms, and improve the

availability of reactive treatments and drugs for sexually transmitted diseases.

Child abuse occurred but was not reported to be a widespread problem, apart from rape of minors (see section 5, Women).

The percentage of women between the ages of 20 and 24 who had been married or in a union before 18 years of age was 17 percent, according to UNICEF statistics.

Trafficking of children was a problem. Under the law the country's minimum age for military recruitment is 16, although the government stated that no one under 18 was recruited. According to UNICEF, security forces no longer used children as soldiers for combat, although other sources reported that children continued to serve in the security forces as spies and porters and to perform other menial tasks. The PALIPEHUTU-FNL continued to use and recruit child soldiers, although in fewer numbers than in previous years (see section 1.g.).

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

The ongoing conflict and increasing prevalence of HIV/AIDS has increased the number of orphans, which has resulted in an increase in the number of street children. The total number of orphans in the country, including children who were orphaned by causes other than HIV/AIDS, was more than 837,000, according to the National Council for the Fight Against HIV/AIDS. According to the Ministry for National Solidarity, Human Rights, and Gender, there were approximately 5,000 street children in the country. According to UNICEF, an estimated 18,363 children were heads of household, mostly in rural areas. A group of approximately 15 NGOs working with street children developed an action plan and met monthly to coordinate intervention activities in this area.

#### Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were reports of trafficking. Traffickers could be prosecuted under existing laws against assault, kidnapping, rape, prostitution, slavery, and fraud, but among police this was not widely understood.

During the year the country was a source and transit country for children trafficked for the purpose of forced labor and child soldiering. The trafficking of child soldiers by the PALIPEHUTU-FNL within the country remained a problem (see section 1.g.).

During the year there were arrests of alleged traffickers but no reports of prosecutions or convictions. Allegations of trafficking during the year were made by women, who alleged that they had been promised jobs elsewhere, taken against their will, and sexually abused. The Ministry for National Solidarity, Human Rights, and Gender was responsible for combating trafficking. According to the new criminal code, those charged with crimes related to trafficking can receive up to 20 years in prison. There were no cases during the year in which the government was requested to participate in international investigations of trafficking.

In January police arrested a man in Cibitoke Province for attempting to sell his seven-year-old son. In Bujumbura a Congolese national was arrested under suspicion of trafficking three young girls who disappeared in August.

In December, in the Makamba Province town of Vugizo, police arrested a mother for selling her five-year-old daughter. She told police she had already sold five of her 11 children. The buyer was also arrested, but police released both the buyer and the seller on October 2 because the country had no law specifically prohibiting trafficking in persons.

Unlike in the previous year, there were no reports of government soldiers or rebel combatants coercing sexual exploitation of women.

The government supported public awareness campaigns and programs to prevent trafficking and continued to demobilize and provide assistance to former child soldiers from the FDN, GP, and six former rebel groups (see section 1.g.).

#### Persons with Disabilities

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

### National/Racial/Ethnic Minorities

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

Discrimination against Hutus, who constituted an estimated 85 percent of the population, occurred less frequently during the year. The new constitution, adopted in 2005, requires ethnic quotas on representation within the government and in the military. Hutus significantly increased their presence and power in the government following the 2005 elections.

### Indigenous People

The Batwa (Pygmies), who were believed to be the country's earliest inhabitants, comprised approximately 1 percent of the population and generally remained economically, socially, and politically marginalized. Unlike in the previous year, there were no reports of Hutus threatening members of the Batwa and causing scores of them to flee the country. Most Batwa lived in isolation, without formal education and without access to government services, including health care and the judicial system. Refugees International has reported that the popular perception of the Batwa as barbaric, savage, and subhuman had seemingly legitimized their exclusion from mainstream society.

There were occasional reports that private individuals burned Batwa homes during the year.

### Other Societal Abuses and Discrimination

The constitution specifically outlaws any discrimination against those with HIV/AIDS or other incurable illnesses. There were no reports of government-sponsored discrimination against such individuals, although some observers suggested that the government was not actively involved in preventing societal discrimination.

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

### Section 6 Worker Rights

#### a. The Right of Association

The law protects the right of workers to form and join unions without previous authorization or excessive requirements, and although most workers exercised this right in practice, the army, gendarmerie, and foreigners working in the public sector were prohibited from union participation. The law does not address the rights of state employees and magistrates. The law prevented workers under the age of 18 from joining unions without the consent of their parents or guardians. According to the Confederation of Burundian Labor Unions (COSYBU), many private sector employers systematically worked to prevent the creation of trade unions, and the government failed to protect private sector workers' rights in practice. Union representatives indicated, however, that relations with the government improved during the year. Unlike in past years, the government permitted unions to choose their own representatives to the tripartite National Labor Council. However, according to the International Trade Union Confederation (ITUC), in order for persons to stand for union office they must work in the sector for one year.

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

From January 2005 until July, the government withdrew union dues from employee salaries but withheld payment of those dues to COSYBU. The International Labor Organization stated that the delayed payments hampered COSYBU's operations.

Unlike in the previous year, there were no reports of government security agents preventing COSYBU's leadership from traveling to an international labor conference, and no reports of a member of COSYBU's leadership going into hiding due to such government harassment.

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

The Textile Company of Burundi (COTEBU) dismissed Raphael Horumoende, the vice president of COTEBU's employees' union, and three other employees after they protested COTEBU management's interference in union activities. COSYBU and human rights organizations interceded with COTEBU to ensure that it reinstated the four employees. The Ministry of Labor reinstated the workers in December.

In July police in the province of Muyinga imprisoned the president of the Interprofessional Provincial Committee, a labor rights advocacy group, after he asked authorities to provide all civil servants the same housing benefits that teachers received. COSYBU intervened to secure his release within a week. Unlike in the previous year, there were no reports of the government firing a union leader or suspending union members due to an impending strike.

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

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law recognizes the right to collective bargaining; however, wages are excluded from the scope of collective bargaining in the public sector. In practice collective bargaining was freely practiced. In the public sector, wages were set according to fixed scales, following consultation with unions. There are no export processing zones.

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

The law provides workers with a conditional right to strike; although the law bans solidarity strikes and permits requisition orders in the event of strike action, workers exercised this right in practice. For a strike to be legal, the law requires workers to obtain authorization in advance from their employer and to inform the Ministry of Labor prior to the strike. All other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the government; and six days' notice must be given. The Ministry of Labor must determine if strike conditions have been met before a strike can legally take place, which gives the ministry the power to veto all strikes, according to the ITUC. The labor code prohibits retribution against workers participating in a legal strike.

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

The law prohibits forced or compulsory labor, including by children; however, there continued to be reports that it occurred (see sections 1.g. and 2.d.). During the year there were reports that security forces continued to use persons, including children, to perform menial tasks without compensation. A 2003 UNICEF survey found that 640,000 children in the country had been forced to work.

The PALIPEHUTU-FNL forced rural populations to perform uncompensated labor, such as the transport of supplies and weapons, and recruited children for labor, although to a lesser extent than in previous years (see section 1.g.).

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

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

Children were legally prohibited from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector. Child labor also existed in the mining and brick-making industries. UNICEF estimated that approximately 600,000 children worked in these areas.

There continued to be reports of children engaging in forced or compulsory labor, and that children were trafficked (see section 5). The use of child soldiers and child prostitution continued to be problems (see sections 1.g. and 5).

The Ministry of Labor enforced labor laws only when a complaint was filed, at least in part due to a lack of labor inspectors.

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

e. Acceptable Conditions of Work

The legal minimum wage for unskilled workers continued to be \$0.15 (160 Burundian francs) per day. However in practice, most employers paid their unskilled laborers a minimum of roughly \$1.40 (1,500 Burundian francs) per day. Such an income does not provide a decent standard of living for a worker and family. Most families relied on second incomes and subsistence agriculture to supplement their earnings.

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

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