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BURUNDI

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1. Introduction

1.1 This document summarises the general, political and human rights situation in Burundi and provides information on the nature and handling of claims frequently received from nationals/residents of that province. It must be read in conjunction with any RDS-COI Service Burundi bulletins.

1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim
 API on Humanitarian Protection
 API on Discretionary Leave
 API on the European Convention on Human Rights

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

Source documents

1.4 A full list of source document cited in footnotes can be found at the end of this note.

2. Country assessment

2.1 Following independence in 1962, Burundi was run by a series of brutal regimes dominated by the minority Tutsi group. Massacres in 1972 killed an estimated 300,000 of which the majority were Hutu. In 1987, Major Pierre Buyoya, a Tutsi, took control in a

bloodless coup and initiated a five-year transition to democracy.¹

- 2.2** Burundi's first ever election in 1993 was won by a Hutu, Melchior Ndadaye. Elements of the Tutsi-dominated army assassinated the new President a few months later, triggering the start of a long-running conflict between the army and Hutu rebel groups that has cost an estimated 500,000 lives. In 1996, Buyoya again took power but was unable to stop the violence. Under pressure from the region, negotiations between the belligerents began in 1998, and in 2000 a peace agreement was concluded in Arusha, Tanzania. It was signed by all parties except four hard-line rebel groups. Violence between these groups and the army continued until separate cease-fire agreements were concluded with three of them during the second half of 2003. Only one group (PALIPEHUTU-FNL) remains actively engaged in hostilities. The UN deployed a peacekeeping force in Burundi (ONUB) in June 2004, following the deployment of an African Union peacekeeping force (AMIB) one year previously.²
- 2.3** The new constitution provides for an Executive Presidency and a bicameral legislature. There are 35 registered political parties. But only three are truly national parties - the Burundi Democratic Front (FRODEBU) – a predominantly Hutu party with some Tutsi members –the Unity for National Progress (UPRONA) – a Tutsi dominated party with many Hutu members and the National Council for the Defence of Democracy/Forces for the Defence of Democracy (CNDD-FDD), the largest former rebel movement, which is predominantly Hutu but contains Tutsi members.³
- 2.4** Elections marking the end of the 36 month power-sharing transitional government were due to be held before the end of October 2004, but delays forced an extension of the transitional arrangements until August 2005. A new constitution was approved by referendum in February 2005. Pierre Buyoya, the three-time Burundian President and UPRONA member who had led the Government for the first 18-month transition period, handed power to his Vice-President, Domitien Ndayizeye (Hutu), on 30 April 2003 for the second 18 months of the transition. Ndayizeye, representing the largely Hutu FRODEBU party has remained President during the period of extension.⁴
- 2.5** Burundian politics has long been dominated by a rivalry between UPRONA, a predominantly Tutsi party that held power in Burundi from independence until 1993, and FRODEBU, the most important of a number of relatively moderate Hutu political parties. Since late 2003 this bipartisan consensus has been shifted by the transformation of the Hutu rebel groups into political organisations. The leaders of the largest former rebel group, the National Council for the Defence of Democracy/Forces for the Defence of Democracy (CNDD-FDD), have been given positions in the transitional government. Its leader, Pierre Nkurunziza, was made Minister of State for Good Governance (essentially number three in the government).⁵
- 2.6** Most of Burundi enjoyed relative peace for the first time in a decade during 2004. However some areas of conflict remained, mainly around the capital. Government soldiers in collaboration with the CNDD-FDD (subsequently united under the banner of the unified Forces Nationales de Defence) fought to extirpate the rebel Party for the Liberation of Hutu People/National Liberation Forces (PALIPEHUTU-FNL) from the hills surrounding Bujumbura, areas that had formed the FNL base for years. In some cases they engaged PALIPEHUTU-FNL combatants but often they also attacked civilian populations thought to support the PALIPEHUTU-FNL by paying them party dues or by

¹ FCO Burundi Country Profile 23 December 2005 & BBC Burundi Timeline 31 December 2005

² FCO December 2005, BBC Burundi Country Profile 17 November 2005 & BBC Timeline December 2005.

³ FCO December 2005

⁴ FCO December 2005 & BBC Timeline December 2005

⁵ FCO December 2005, BBC Timeline December 2005 & Amnesty International Burundi Annual Report covering 2004

giving them food and shelter. They also attacked civilians in reprisal for PALIPEHUTU-FNL ambushes against government soldiers or CNDD-FDD combatants. They deliberately killed civilians, raped women and girls, burned houses, and stole property. PALIPEHUTU-FNL forces assassinated those known or thought to be working with the government and stole or extorted property from civilians. Combat and abuse by combatants frequently caused civilians to flee and tens of thousands spent more than six months of the year living in camps, temporary lodgings, or in the bush.⁶

- 2.7** On 13 August 2004, PALIPEHUTU-FNL rebels, apparently together with combatants from other groups, massacred more than 150 Congolese refugees at Gatumba camp, near the Congolese border. More than one hundred Burundian army soldiers and dozens of Burundian national police in nearby barracks failed to respond to repeated calls for help from the civilians, most of them women and children, who were killed by intense gunfire or were burned to death in their tents. As of early November 2004, Burundian military authorities had taken no public action against the officers responsible for this failure to protect civilians under their charge.⁷
- 2.8** By late 2004, government and CNDD-FDD forces were regularly looting civilians immediately after they had received humanitarian assistance like food, blankets, or other household items. The practice had become so widespread that humanitarian agencies were obliged to suspend deliveries of aid in order to avoid further attacks on people who were living in abject misery. The CNDD-FDD, in the past occasionally allied with the PALIPEHUTU-FNL, saw the other movement as a potential rival for votes if a functional electoral system is established and apparently were the force most responsible for abuses against civilians thought to support the PALIPEHUTU-FNL.⁸
- 2.9** There has been considerable progress in Burundi's stability and political development since December 2004 when the UN and the government began to disarm and demobilise thousands of soldiers and former rebels. In January 2005 the President signed a law to set up a new national army, incorporating the existing government force and all but the PALIPEHUTU-FNL. In February 2005, voters backed a new power-sharing constitution and a month later regional leaders extended the transitional government's mandate by four months. In May 2005, the Government and the PALIPEHUTU-FNL agreed to end hostilities, while in July 2005 the first legislative elections since 1993 were praised by observers and analysts.⁹
- 2.10** Elections in July 2005 ended the bipartisan consensus between the UPRONA and FRODEBU. Hutu rebel groups, notably the CNDD-FDD, changed into political organisations following the end of hostilities, and won an overwhelming victory at all levels in the elections. The ethnic rivalry that previously characterised Burundian politics dissipated, as large numbers of Tutsi joined previously Hutu parties, and UPRONA and FRODEBU faded as electoral parties. The new Government, largely comprised of former rebel leaders, now faces a steep learning curve and will need to tackle Burundi's many development challenges while nurturing fragile democratic institutions.¹⁰ In September 2005, the PALIPEHUTU-FNL continued to reject the government's offer of formal peace talks and persisted with a sporadic armed campaign.¹¹
- 2.11** During 2004, the human rights situation in Burundi remained poor with widespread abuses committed by all parties, particularly in the rural areas surrounding the capital. Tens of thousands of people remain internally displaced. Killing of civilians, reprisal killings, torture, rape, theft, illegal and arbitrary detention, and forced labour have been

⁶ AI Annual Report 2004 & Human Rights Watch World Report Burundi covering 2004

⁷ AI Annual Report 2004 & HRW World Report 2004

⁸ AI Annual Report 2004 & HRW World Report 2004

⁹ FCO December 2005, BBC Timeline December 2005

¹⁰ FCO December 2005

¹¹ BBC Timeline December 2005

reported. The Transitional Government's security forces continued to commit numerous serious human rights abuses in 2004. Citizens did not have the right to change their government while security forces, including the CNDD-FDD, continued to commit numerous arbitrary and unlawful killings, including killings of unarmed civilians, many of whom were killed during reprisal attacks on those suspected of co-operating with the PALIPEHUTU-FNL during the year. There were credible reports of disappearances, and security forces continued to torture, beat, rape, and otherwise abuse persons. Rape and gang rape against women, girls and boys is on the increase.¹²

2.12 The judicial system has little capacity to act in timely and impartial manner, and impunity is pervasive. Arbitrary arrest and detention, and lengthy pre-trial detention were problems in 2004; there were also credible reports of incommunicado detention. The CNDD-FDD party was accused by ONUB of operating a parallel justice system in areas which came under its control. The court system did not ensure due process or provide citizens with fair trials during the year. The Transitional Government infringed on citizens' privacy rights. Prison conditions remained harsh and sometimes life threatening in 2004.¹³

2.13 The Transitional Government restricted the freedoms of speech, association, and movement, and at times it restricted the freedoms of press and assembly in 2004. Since 1993, the civil war caused thousands of civilian deaths and massive internal population displacement. Corruption was a serious problem during the year. The armed forces sometimes limited access to certain areas by human rights observers, citing security conditions in 2004. Violence and discrimination against women continued as did the use of child soldiers; however, the Transitional Government and all former rebel groups demobilised child soldiers throughout the year. Trafficking in persons and political, economic, cultural and social discrimination against persons with disabilities and indigenous Twa populations remained problems in 2004. There was also a disproportionate number of Tutsis in state institutions. Societal discrimination between Hutus and Tutsis continued along with incidents of ethnically motivated conflict. Child labour, including forced labour, was a problem. Mob killings were a problem.¹⁴

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Burundi. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding

¹² FCO December 2005, US State Department Human Rights Report on Burundi covering 2004 (Introduction), AI 2004 & HRW 2004

¹³ FCO December 2005, US State Department Human Rights Report on Burundi covering 2004 (Introduction, Section 2), AI 2004 & HRW 2004

¹⁴ FCO December 2005, US State Department Human Rights Report on Burundi covering 2004 (Introduction, Section 2) & AI 2004

how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).

- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Supporters of the PALIPEHUTU-FNL

- 3.6.1** Most claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the government armed forces due to membership of, involvement with, or perceived involvement with the Hutu armed rebel group, Party for the Liberation of the Hutu people/National Liberation Front (PALIPEHUTU-FNL).
- 3.6.2** **Treatment.** In 2004, the armed conflict between the Government and the PALIPEHUTU-FNL led by Agathon Rwasa continued. Government forces were aided by fighters of a former rebel group, the National Council for Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD). The security situation improved markedly in most parts of the country after the CNDD-FDD joined the Transitional Government in November 2003. However, in Bujumbura Rural province, which surrounds the capital and was the stronghold of the PALIPEHUTU-FNL, fighting continued. Human rights violations resulting from the conflict continued to occur, primarily in Bujumbura Rural. During 2004, security forces including the CNDD-FDD, continued to commit numerous arbitrary and unlawful killings, including killings of unarmed civilians, many of whom were killed during reprisal attacks on those suspected of co-operating with the PALIPEHUTU-FNL.¹⁵
- 3.6.3** The PALIPEHUTU-FNL also continued to commit numerous serious human rights abuses against civilians during 2004, including the massacre of 150 refugees in August 2004, arbitrary killings, kidnappings, rapes, theft, extortion, the forcible recruitment and employment of children as soldiers, and forced labour.¹⁶
- 3.6.4** In May 2005, the Government and the PALIPEHUTU-FNL announced an agreement to end hostilities and to bring the last remaining Hutu rebel group into the peace process. This helped pave the way for elections in June 2005 which were initially delayed due to violence, but which took place in early July 2005 and were widely commended by observers and analysts as being free and fair.¹⁷ The peace agreement between the

¹⁵ USSD 2004 (Section 1), AI 2004 & HRW 2004

¹⁶ USSD 2004 (Section 1), AI 2004 & HRW 2004

¹⁷ BBC Timeline December 2005

Government and PALIPEHUTU-FNL continued to hold until July 2005 when pockets of armed attacks between the two sides were reported.¹⁸ PALIPEHUTU-FNL continued to reject the government's latest offer of peace talks in September 2005.¹⁹ There have however been no reports of recurrences of the widespread armed conflict or serious human rights abuses that were widely reported in 2004.

- 3.6.5 Sufficiency of protection.** As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.6.6 Internal relocation.** As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.
- 3.6.7 Conclusion.** Since the conclusion of the peace agreement between the Government and PALIPEHUTU-FNL in May 2005, there have been no reports of substantial recurrences of the armed conflict or human rights abuses that were widely documented in 2004. It is likely therefore that claimants who cite their involvement with, perceived involvement with or membership of PALIPEHUTU-FNL will not now be able to adduce a real risk of ill treatment amounting to persecution at the hands of the authorities within the terms of the 1951 Convention. The grant of asylum in such cases is not likely to be appropriate.
- 3.6.8** The PALIPEHUTU-FNL has been responsible for numerous serious human rights abuses and actions that amount to war crimes. If it is accepted that the claimant was a member or combatant for the PALIPEHUTU-FNL, then caseworkers should consider whether to apply one of the Exclusion clauses. All cases should be referred to the Senior Caseworker in the first instance.

3.7 General country situation

- 3.7.1** Many claimants will apply for asylum based on ill treatment amounting to persecution due to the general political, human rights and/or humanitarian situation in Burundi.
- 3.7.2 Treatment.** The political situation in 2004 remained precarious while the human rights record of the Transitional Government was described as poor with serious human rights abuses committed by the state authorities, the ex-rebel CNDD-FDD group and the rebel PALIPEHUTU-FNL. The civil conflict between the government, CNDD-FDD and the PALIPEHUTU-FNL was nevertheless restricted to the region immediately outside the capital – Rural Bujumbura and the rest of the country enjoyed relative peace for the first time in a decade. In June 2004, a South African-led peace-keeping force was replaced with a UN peace-keeping force known as the UN Operation in Burundi (ONUB). Reaching its full complement at the end of the year, ONUB deployed increasing numbers of troops and observers to Rural Bujumbura but without markedly reducing the numbers of abuses against civilians. At least 90,000 refugees returned to Burundi in 2004, mainly from Tanzania although around the same number remained internally displaced and people continued to flee the country.²⁰
- 3.7.3** There have been significant improvements in Burundi's overall stability and political development since December 2004 when the UN and the government began to disarm and demobilise thousands of soldiers and former rebels. In January 2005, the President signed a law to set up new national army, incorporating the existing government force

¹⁸ BBC World News Africa 'Burundi's rebels extend attacks' 13 July 2005

¹⁹ BBC Timeline December 2005

²⁰ USSD 2004 (Introduction & Section 1), AI 2004 & HRW2004

and all but the PALIPEHUTU-FNL. In March 2005, voters backed a new power-sharing constitution and a month later regional leaders extended the transitional government's mandate by four months and demanded that presidential elections are held by 19 August 2005. In May 2005, the Government and the last active Hutu rebel group, the PALIPEHUTU-FNL, agreed to end hostilities, though pockets of PALIPEHUTU-FNL fighters had resumed their campaign against government forces according to a BBC report in July 2005.²¹ In July 2005, the first peaceful general election since 1993 was widely praised by observers and analysts. The Hutu ex-rebel party, the FDD, won a commanding majority of the vote. Though PALIPEHUTU-FNL continued to reject the government's offer of formal peace talks in September 2005 and have persisted with their armed resistance, there have not been any serious recurrences of the widespread armed conflict or serious human rights abuses that were widely reported in 2004.²²

3.7.4 Sufficiency of protection. In light of the nature of this category of claims, the availability of sufficient protection from the state authorities is not relevant.

3.7.5 Internal relocation. In light of the nature of this category of claims, the availability of an internal relocation option is not relevant.

3.7.6 Caselaw.

AM (Burundi) [2005] UKAIT 00123 promulgated 2 September 2005. Risks in the Bujumbura area. The Tribunal ruled that in particular localities, and particularly in the appellant's home area, individual appellants may still succeed in their appeals despite the general improvement in the situation in Burundi. The Tribunal also emphasised that "this case turns on its own facts and turns on the evidence before us". (para 26)

3.7.7 Conclusion. The rapid political progress made during the first half of 2005: the peace agreement between the PALIPEHUTU-FNL in May and the peaceful conclusion of the general election in July 2005 which resulted in the Hutu ex-rebel group the FDD winning a clear majority of seats, has brought an unprecedented level of peace and countrywide stability to Burundi. Claimants who apply for asylum based on the general political, human rights or humanitarian situation are not generally likely to be able to demonstrate that they will be at real risk of ill-treatment amounting to persecution within the terms of the 1951 Convention or torture or inhuman or degrading treatment that would engage the UK's obligations under Article 3 ECHR. The grant of asylum or Humanitarian Protection in such cases is therefore not likely to be appropriate.

3.8 Prison conditions

3.8.1 Claimants may claim that they cannot return to Burundi due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Burundi are so poor as to amount to torture or inhuman treatment or punishment.

3.8.2 Consideration. Prison conditions were harsh and sometimes life threatening in 2004. Severe overcrowding persisted. According to government officials and human rights observers, prisoners suffered from digestive illnesses, dysentery, and malaria, and prisoners died as a result of disease. The Transitional Government provided sufficient food, and families were permitted to supplement prisoner rations. According to the Ministry of Justice, during the year, 7,568 inmates were held in facilities built to accommodate a maximum of 3,650 persons. Of this number, 2,728 were serving sentences, and 4,798 were pre-trial detainees. Human rights NGOs lobbied the Transitional Government during the year for the release of prisoners who were held for long periods of time without charge. Between January and September 2004, the

²¹ BBC Timeline December 2005 & BBC Report 13 July 2005

²² FCO December 2005 & BBC Timeline December 2005

Transitional Government released over 400 of these prisoners and had set up a commission to review the cases of detainees.²³

- 3.8.3** In July 2004, over 400 gendarmes stormed Mpimba prison in Bujumbura to quell a prison strike that was launched on 19 July 2004 by self-proclaimed political prisoners who demanded amnesty under the terms of the Arusha Agreement. According to press reports, the gendarmes used teargas to break up the strike, and at least four prisoners were wounded. According to the Ministry of Justice, women were detained separately from men. During the year, there were 135 children in prisons, of whom 42 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults. Political prisoners often were held with convicted prisoners. Pretrial detainees were held in communal lockups, but some were also incarcerated with convicted prisoners.²⁴
- 3.8.4** During 2004, the Transitional Government permitted visits by international and local human rights monitors. NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water. The International Committee of the Red Cross (ICRC) was allowed access to prisoners and detained persons, including persons detained for "reasons relating to the conflict," and conducted visits regularly during the year.²⁵
- 3.8.5 *Conclusion.*** Whilst prison conditions in Burundi are poor with severe overcrowding, lack of medical treatment and food and poor sanitation being a particular problem conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Burundi a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health.

4. Discretionary Leave

- 4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)
- 4.2** With particular reference to Burundi the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.
- 4.3 Minors claiming in their own right**
- 4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.
- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for

²³ USSD 2004 (Section 2)

²⁴ USSD 2004 (Section 2)

²⁵ USSD 2004 (Section 2)

leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

- 4.4.1** Claimants may claim they cannot return to Burundi due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** Burundi's healthcare system is basic and relies partly on facilities provided by international relief agencies. Access to health care varies considerably from one province to another, through a range of factors from the difference in quality of infrastructure to the level of past or current armed conflict. Much medical care at this point inevitably falls to humanitarian organisations and several international organisations intervene in the medical sector. The relations of international organisations in the sector with the government appear to be frequently tense. The organisations openly complain that they repeatedly find themselves facing excessive administrative delays and procedures which impinge on their ability to intervene promptly and effectively, while the government appears to perceive international non-governmental organisations as taking the money it believed should come from international donors to the government. Vital equipment and supplies may be blocked for weeks or months, accruing large customs duties. The NGOs additionally have faced in 2003 serious security constraints, some linked to conflict, others to a dramatic increase in armed crime.²⁶
- 4.4.3** Access to anti-retroviral drugs is limited due to lack of funds; in 2003 it was estimated that out of 250,000 HIV positive people in Burundi, 25,000 needed to be on ARVs but only 1,500 had access to them - 700 of them free of charge. Burundi has reached an agreement with four pharmaceutical companies to obtain anti-retroviral drugs at a cost 90% less than in the United States. In 2003 the cost of ARVs was said to be about US \$30 for a month's dose.²⁷
- 4.4.4** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Returns are to the capital Bujumbura.
- 5.2** In spite of the recent political developments and progress towards elections, the country remains in a transitional phase and as such the UNHCR recommends that States do not return any rejected asylum seekers to Burundi.²⁸ The UNHCR's position predates the May 2005 peace agreement between the government and PALIPEHUTU-FNL and the widely praised parliamentary elections of July 2005. It provides a broad assessment of the situation in Burundi and we do not dispute that it presents an accurate overview of the general humanitarian situation and the social and security problems inherent in Burundi. However, asylum and human rights claims are not decided on the basis of the

²⁶ Home Office Country Information and Policy Unit Burundi Country Report April 2004 (para 5.51)

²⁷ Home Office Country Information and Policy Unit Burundi Country Report April 2004 (para 5.57 – 5.60)

²⁸ UNHCR Position on the return of rejected asylum seekers to Burundi 11 April 2005

general situation - they are based on the circumstances of the particular individual and the risk to that individual. We do not therefore accept UNHCR's conclusion, based on their overview of the general situation in Burundi, that all persons originating from Burundi are in need of some form of international protection.

- 5.3** Burundian nationals may return voluntarily to any region of Burundi at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Burundi. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Burundi nationals wishing to avail themselves of this opportunity for assisted return to Burundi should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents

- UK Foreign and Commonwealth Office (FCO) Country profile: Burundi. Last updated 23 December 2005 at:
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- British Broadcasting Corporation (BBC) Country profile: Burundi. Last updated 17 November 2005 at http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1068873.stm
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- US Department of State: Bureau of Democracy, Human Rights and Labor Country Report on Human Rights Practices 2004: Burundi. Released 28 February 2005 at
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<http://hrw.org/english/docs/2005/01/13/burund9861.htm>
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- United Nations High Commissioner for Refugees (UNHCR) Position on the current situation in Burundi and the enforced and voluntary returns of failed asylum seekers 11 April 2005.

**Asylum and Appeals Policy Directorate
16 January 2006**