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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS IN ANY PART OF
THE WORLD**

**Report on the human rights situation in Burundi submitted by
the Special Rapporteur, Ms. Marie-Thérèse A. Keita Bocoum,
in accordance with Commission resolution 2003/16***

* The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B. by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

Summary

The present document is the eighth report submitted by Ms. Marie-Thérèse A. Keita Bocoum, Special Rapporteur on the human rights situation in Burundi, whose mandate was extended by the Commission on Human Rights in its resolution 2003/16 of 17 April 2002. In November 2003, the Special Rapporteur presented an interim report to the General Assembly at its fifty-eighth session (A/58/448).

This eighth report, which covers the period from 1 October to 31 December, is not based on a mission to Burundi, but on reports and information gathered by the Special Rapporteur. Chapter I deals with the political, economic and social situation in the country, particularly developments in the peace process. Chapter II focuses on civil and political rights and violations of these rights resulting from the armed conflict. It also describes the situation of internally displaced persons, repatriates and refugees. The Special Rapporteur also discusses the status of people in detention and of women and children. She then analyses the situation with regard to economic, social and cultural rights and developments in the spheres of justice, the rule of law and promotion of human rights. Chapters III and IV contain the Special Rapporteur's observations and recommendations based on her consideration of these situations.

The Special Rapporteur recognizes that the recent developments in the peace process, in particular the ceasefire agreement signed by the Transitional Government and the Conseil national pour la défense de la démocratie - Forces pour la défense de la démocratie (CNDD-FDD), represent an important step in the transformation of the military and political situation in Burundi. However, a different kind of violence, linked to organized crime, has begun to surface and could spread, once the cantonment and demobilization processes are set in motion. The ongoing hostilities are a further obstacle to the continuation of the peace process and to national reconciliation, and are still claiming many civilian lives. The incidence of sexual violence has risen sharply and is a source of concern for the national and international communities. The current security situation is an aggravating factor in rising HIV/AIDS rates. Indeed, it is difficult to envisage action on provisions related to the electoral process and, hence, to think about the post-transition phase, if the war and insecurity continue. Finally, an improved human rights situation in Burundi closely depends on a climate of stability and lasting peace in the Great Lakes region. The international conference on peace, security and stability in the Great Lakes region advocated by the Security Council and the Secretary-General is an initiative towards that end.

In addition to the recommendations made in her previous reports (E/CN.4/2000/34, paras. 133-167; A/55/358, paras. 113-140; E/CN.4/2001/44, paras. 154-207; A/56/479, paras. 138-157; E/CN.4/2002/49, paras. 100-123; E/CN.4/2003/45, paras. 91-110 and A/58/448, paras. 102-126), the Special Rapporteur has further recommendations to make to the parties to the conflict, the Burundian authorities and the international community.

The Special Rapporteur condemns all the acts of violence that continue to be committed against civilians and the impunity that surrounds them. She urges those belligerents who are still fighting to discontinue all hostilities, lay down their arms and sit down at the negotiating table. She condemns sexual violence and calls on those who engage in such despicable behaviour to

desist immediately. She urges the belligerents to respect international humanitarian law and calls on them to refrain from attacking economic and social infrastructure. She furthermore invites the warring parties to cease involving civilians in the armed conflict.

The Special Rapporteur recommends that the Burundian authorities take all appropriate measures to combat impunity effectively. She calls on the Government to do everything possible to protect vulnerable population groups, to combat all wrong-doing against children, to put an end to sexual violence and to help promote the integration of the Batwa. She recommends that the Burundian authorities take steps to implement the recommendations of the independent commission on issues relating to prisoners, to improve the effectiveness of the Government Commission on Human Rights and to consider establishing, within a reasonable time frame, a national human rights commission. She encourages the international community to support action towards that end.

The Special Rapporteur congratulates the international community on its efforts to promote peace in Burundi and encourages it to continue working for a comprehensive and lasting peace, by helping to bring the last of the combatants to the negotiating table. She hopes that the reform programme will give prominence to human rights training. She encourages the international community to provide greater assistance to the judicial system and the National Commission for the Rehabilitation of *Sinistrés* (Survivors). The Special Rapporteur recommends coordination among the activities of the various stakeholders in the international community to protect and promote human rights, particularly women's rights. She again emphasizes the necessity and urgency of increasing the financial and human resources available to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Burundi, so that it can improve its work in the field and respond effectively to requests for observation, protection and promotion of human rights and human rights training.

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Introduction

1. The Special Rapporteur has the honour to submit to the Commission on Human Rights her eighth report on the human rights situation in Burundi. In contrast to its predecessors, this report is not based on a mission to Burundi, but will describe the human rights situation since the drafting of the interim report submitted to the General Assembly (A/58/448) in November 2003: the Special Rapporteur has not been able to go to Burundi since her last mission in May 2003. This report deals with the period from 1 October to 31 December 2003 and is based on reports provided by the OHCHR Burundi office and non-governmental organizations, including the Burundi Human Rights League and on official data supplied by the Burundian authorities and United Nations bodies. While there have indeed been some significant improvements in the political situation since November, the security situation is still delicate and persistent violence of various kinds is hampering improvements in the human rights situation, which remains dependent on political developments and the security, economic and social situations.

I. GENERAL SITUATION

2. The political situation has somewhat improved since October 2003 and this has had an impact on security.

A. Political developments and peace process

3. On 8 October 2003, at Pretoria, after lengthy negotiations facilitated by Thabo Mbeki, the President, and Jacob Zuma, the Deputy-President of South Africa, President Domitien Ndayizeye and Pierre Nkurunziza, the leader of the main armed group, the Conseil national pour la défense de la démocratie - Forces pour la défense de la démocratie (CNDD-FDD), reached agreement on power sharing in government and on participation by the rebels in the army, the security forces and the National Assembly. Under the terms of the Pretoria protocols, CNDD-FDD led by Pierre Nkurunziza is to receive four ministerial posts, including that of Minister of State for the Presidency, with responsibility for good governance and general State inspection. The Head of State must consult the Minister on all key matters. Within the National Assembly, CNDD-FDD will be given two key posts previously held by the Front pour la démocratie au burundi (FRODEBU); those of Second Vice-President and Deputy Secretary-General, it will also have two advisers' posts and 15 Assembly seats. With regard to defence and the armed forces, the Pretoria Protocol stipulates that 40 per cent of the officer corps will be selected from CNDD-FDD, while the composition of the non-commissioned officers and the rank and file will be determined according to the size of the forces verified once the cantonment operation is completed, taking due account of the principle of 65 per cent ethnic balance. The general structure of the police force will be determined according to the principle that 65 per cent shall be taken from the forces of the Transitional Government and 35 per cent from CNDD-FDD (Nkurunziza wing). The gendarmerie will be absorbed into the army and the police, while the militia will be disarmed, under the supervision of African Mission in Burundi (AMIB), as soon as the cantonment and barracking exercises begin. The intelligence services will be placed under the direct control of the President of the Republic. The question of CNDD-FDD representation in the Senate, temporary immunity, the Forces Technical Agreement and the transformation of CNDD-FDD into a political party were left in abeyance.

4. A fresh round of negotiations took place on 2 November 2003 and Pierre Nkurunziza signed a second protocol with the Government, the Protocol on the Forces Technical Agreement. The two sides also reached agreement on a number of key issues, such as temporary immunity for the belligerents (combatants and leaders of CNDD-FDD and government security forces) and the transformation of CNDD-FDD into a political party once the cantonment process begins. Under that agreement, the Transitional Government has to be reconstituted, within three weeks of signing the protocol, to include members of CNDD-FDD (Nkurunziza wing).

5. The parties further agreed that the National Defence Force will be set up under the supervision of the Arusha Agreement Implementation Monitoring Committee, the Joint Ceasefire Commission and AMIB.

6. However, the armed group's position on CNDD-FDD (Nkurunziza wing) representation in the Senate remained unchanged; the group would not take its seats in the Senate until an amendment had been made to paragraph 9 of article 147 of the Transitional Constitution, which granted the Senate the power to approve nominations for senior posts in the sectors of administration, defence, security and justice.

7. The participants in the Twentieth Summit of the Great Lakes Regional Peace Initiative on Burundi held at Dar es Salaam on 16 November 2003 approved the Pretoria protocols and witnessed the signing of the Global Ceasefire Agreement between the Transitional Government and CNDD-FDD, specifying the arrangements for implementation of all the agreements signed by the parties.

8. In conformity with the Agreement, President Ndayizeye, in consultation with Deputy-President Kadege, has formed a new 27-member Government with Pierre Nkurunziza as Minister of State with responsibility for good governance and general State inspection. CNDD-FDD holds two other ministerial portfolios. On the parliamentary front, the movement has two posts in the Bureau of the National Assembly and a number of others in the Senate. It also has 15 seats in the Assembly. With regard to territorial administration, CNDD-FDD will take part in the running of provincial and municipal government. It will also be represented in the diplomatic corps and at the helm of some public and semi-public enterprises.

9. The signing of the Pretoria protocols and the resumption of food distribution to CNDD-FDD (Nkurunziza wing) combatants in the provinces of Bubanza, Ruyigi and Makamba have brought about an immediate reduction in violence throughout the country. This improvement in the security situation should facilitate access to disaster-stricken areas and populations.

10. However, the Parti pour la libération du peuple hutu - Forces nationales pour la libération (PALIPEHUTU-FNL), which is led by Agathon Rwasa and has a large presence in the province of Bujumbura Rural, continues to reject the peace process, thereby undermining the establishment of a comprehensive peace. The Dar es Salaam twentieth regional summit called

on the United Nations, the European Union and the international community to support its position and that of the African Union and urged PALIPEHUTU-FNL to join the process within three months or risk being deemed an organization that is inimical to peace and stability in Burundi.

11. Several meetings between Tutsi and FNL representatives were held in late November 2003, in Nairobi, under the auspices of the Special Representative of the Secretary-General for Burundi. The situation was not affected.

12. A meeting of the Forum of Partners for Development in Burundi was held in Brussels on 13 and 14 January 2004. The objective was to present to the international community the programme for the second transition phase that should lead to the adoption by referendum of the post-transition Constitution and the organization of municipal, legislative and presidential elections. The emergency programme deals with the issues of budgetary support, the balance of payments, capacity-building for good governance, reform of the defence and security forces, and rehabilitation of *sinistrés* (survivors).

13. The Forum recommended that a committee of experts be set up to advise the Government on reform of the defence and security forces. It also recommended that a rapid solution be found to the perpetuation of a peacekeeping force, insofar as possible under the aegis of the United Nations, because the return to peace to Burundi could be jeopardized in the near future by the fact that no armed international force is present on the ground. It called for special attention to be focused on the programme for the rehabilitation of war victims by providing institutional support to the National Commission for the Rehabilitation of *Sinistrés* (survivors). It also recommended that contributions be made to the National Fund for *Sinistrés*.

14. The Forum also recommended that the Government take some specific aspects into consideration in the operational arrangements and implementation of the programme, namely the rational management of the land issue, rehabilitation of production infrastructures, peaceful cohabitation between resettled victims and those people who remained in the hills, and appropriate complementarity and coordination of the programme with the other development programmes.

15. The Forum furthermore recommended that special attention be focused on good governance, the human rights culture and demining. It encouraged the Government of Burundi to continue its efforts to consolidate peace and democratize the country. Burundi's international partners promised their political, diplomatic and financial support; they announced their intention to provide funding for a total amount of €810 million, i.e. \$1,032 billion. The Forum decided to form a "monitoring committee" of its members, to be chaired by the Government and composed of experts representing the Government and donors. The committee is expected to meet each month.

16. Taking note of political advances following the agreements between CNDD-FDD and the Government, the Forum expressed the hope that those advances would lead to a global and

permanent ceasefire. It urged the last armed movement to join the peace process immediately. The participants noted with concern the sharp deterioration in the economic, social and financial situation in Burundi and called on donors to come to the country's aid.

17. From 18 to 21 January 2004, talks were held at Oisterwijk, in the Netherlands, between President Domitien Ndayizeye and an FNL (Agathon Rwasa wing) delegation headed by Ibrahim Ntakirutimana. The two sides agreed on the need to appoint an international commission of inquiry to investigate the death of the Apostolic Nuncio Monsignor Michael Courtney, without making any objection to the national inquiry, and on the need to end the violence on the ground in order to create an atmosphere of trust that would help promote dialogue. They also agreed on their desire to see an end to the deadly clashes between PALIPEHUTU-FNL and CNDD-FDD and, finally, agreed to meet again soon for another round of talks on the peace process in Burundi.

B. Security situation

18. One of the direct results of the signing of the peace agreements has been an overall improvement in the security situation and the beginning of a pre-cantonment process in the province of Makamba. However, owing to the FNL presence and the spread of organized crime, some provinces, including Bujumbura Rural, Bubanza and Kirundo, are still not safe. Rebel attacks and clashes with the army and the CNDD-FDD movement are leading to huge population displacements under cover of darkness.

19. In November, fighting between the various CNDD-FDD and FNL rebel groups intensified in Bubanza province, causing many fatalities and displacing a further 3,000 people. A fresh mortar attack, for which FNL claimed responsibility, was launched against Bujumbura on 26 November 2003, inflicting some damage but no loss of life.

20. On 28 November 2003, fighting broke out in the Kinama area, north of Bujumbura, between the army and PALIPEHUTU-FNL rebels, who continue to clash with CNDD-FDD troops. This violence is responsible for much killing, injury and material damage, making the area virtually impossible to live in.

21. In December, the implementation of the peace agreements - particularly the swearing in of the new ministers, the setting up of the Integrated General Staff and the pre-cantonment of members of the former rebel movement - was seen to falter. The slow pace of the pre-cantonment exercise is allegedly responsible for a return to insecurity in some provinces. The lack of security is aggravated by the continued presence of armed groups in the provinces of Rutana, Rumonge and Makamba and the fact that PALIPEHUTU-FNL, which already has a large presence in Bujumbura Rural, is moving into the provinces of Bururi and Bubanza.

22. On 29 December 2003, the car in which the Apostolic Nuncio Monsignor Michael Courtney was travelling was ambushed by a number of unknown men between the provinces of Bujumbura Rural and Bururi. The Apostolic Nuncio was returning from Minago, in Bururi province, where he had attended the funeral of a Burundian priest who had died in Italy. He died of his injuries that evening at the Prince-Rwagasore clinic in Bujumbura to which he had been taken. Only one of the three other passengers in the car was slightly injured.

23. When they learned of the murder, officials at the OHCHR Burundi office immediately launched an inquiry and went to Bururi on 4 and 5 January 2004. A judicial commission of inquiry consisting of three police officers headed by the Commander of the Rumonge brigade and backed by the Bururi Public Prosecutor and the Commander of the Bururi district, sat from 30 December 2003 to 6 January 2004. The army and FNL blame each other for the attack. FNL has formally and publicly denied any involvement in the incident.

24. Another ambush was carried out on the afternoon of 29 December 2003 against a public security police vehicle in Cibitoke; several people, including a child, are believed to have died in the attack.

25. On 5 January 2004, State Prosecutor Gérard Ngendabanka was attacked in the Mutanga Nord district, in the eastern part of Bujumbura. According to the information he reportedly gave to the press, he was shot at several times, but emerged from the attack unscathed. He believed the attack to be linked to some cases that are under investigation.

C. Economic and social situation

26. The economic and social situation is a difficult one. Eighty-two per cent of the population lives on less than \$2 per day and 58 per cent on less than \$1. The adult illiteracy rate is 52 per cent and life expectancy at birth was 48 years in 2003. Gross Domestic Product (GDP) fell to \$620 million in 2003. The growth rate slumped because of low rainfall in the first half of the year and an upsurge in the fighting. The budgetary difficulties could have consequences for the peace process, particularly with regard to the payment of salaries for civil servants and soldiers, while the spread of poverty and shortage of land could hamper the return of Burundian refugees.

27. External debt represents 204 per cent of Gross National Product (GNP), and debt servicing absorbs 98.8 per cent of total revenue. The debt burden has persuaded some of Burundi's partners to approve the creation of a transitional debt relief fund. The fund has been established and contributions, far from adequate as yet, will doubtless increase after the round table organized in Brussels by the United Nations Development Programme (UNDP) and Belgium in January 2004. The Ad Hoc Advisory Group on Burundi formed by the Economic and Social Council in July 2003 undertook a mission to Burundi from 20 to 25 November 2003. It has been mandated to submit recommendations on a long-term programme of support, based on Burundi's development priorities.

II. HUMAN RIGHTS SITUATION

28. Political progress has yet to produce any significant improvement in the humanitarian situation or in respect for human rights. Efforts on all sides have not, unfortunately, led to a comprehensive peace, and this has eroded what little positive influence they could have had on the humanitarian situation. Throughout the period under consideration, the same human rights violations that had been observed before continued at differing degrees of intensity. Numerous abuses of civil and political rights are still being committed. The impunity that certain categories of persons, particularly members of the regular army and rebel troops, have always enjoyed has only increased the already widespread feeling of insecurity.

A. Civil and political rights

29. The many disturbing violations of civil and political rights relate to the right to life, liberty, security and inviolability of person, the right to freedom of movement and residence, and the rights of minorities, women, children and all vulnerable persons.

1. Violations of the right to life

30. In addition to the killing of the Apostolic Nuncio, violations of the right to life continued unabated throughout the reporting period. There were targeted killings in late October, for example, in the capital district of Bujumbura, where it is reported that there were frequent manhunts involving CNDD-FDD and FNL fighters. According to the Burundi Human Rights League report, never a month goes by without 10 deaths in the northern districts of Bujumbura resulting from fighting between the various armed rebel factions - clashes that sometimes affect innocent civilians.

31. During the night of 16/17 October 2003, one person was reported killed and seven wounded in a grenade attack in the Kamenge region. The wounded included six children aged under 12 who were not involved in the fighting. During the night of 15/16 October 2003, a Congolese member of the rebel forces was killed at his home in the Twinyoni district. Many senior local officials accused of conniving with government forces are still being murdered. On the night of 28/29 September, for example, about a dozen rebels reportedly attacked the home of the head of the Gazakuya sector in Rutana commune, Rutana province, tied him up and raped his daughter, a primary school pupil, before his eyes; they then abducted them to another sector of the commune; the girl is said to have been released on the morning of 29 September, while her father's body was found on the morning of 30 September. The same day, the chief of the Nyabitare area, Gisuru commune, Ruyigi province, was reportedly killed in an ambush.

32. The head of the Mubone region, in Kabezi commune, Bujumbura-Rural province, was reportedly killed on the night of 16/17 October 2003. The head of the Mungwa sector was killed in Gitega on 17 October 2003. Attacks by persons unknown were also reported; some have been brought to the attention of the OHCHR Burundi office, which is responsible for following up such cases: in November, for example, the Office investigated the killing of a municipal official and five of his colleagues by a person unknown. One report concerned the death of a young Batwa who had been tortured by a municipal official in a brigade cell in Kirundo province.

33. Several civilians are said to have lost their lives during attacks by FNL (Agathon Rwasawing): four were killed on the night of 8/9 November 2003 and four others had their throats cut for belonging to FNL. Two civilians were apparently killed on 14 November 2003 in fighting between the army and FNL rebels.

34. The November report of the OHCHR Burundi office mentions the deaths of 20 civilian inhabitants of Kinama on 24 November 2003, in clashes between regular army soldiers and FNL: an inquiry is said to be under way.

35. Six civilians were reported to have been killed on 28 November 2003 by members of the military from the Kinama position. Three children are said to have been killed on the night of 9/10 December 2003 in clashes between FNL and CNDD-FDD. Five civilians and two

soldiers are reported to have been killed on the night of 22 December 2003 in the Kinama area. Four civilians, including a Jeunesse patriotique hutu official, are said to have been killed on 27 December 2003 by members of the army's 43rd battalion: an inquiry has apparently been opened. Two civilians, Ezechiél Manirakiza and Jean Marie Mpawenimana, presumed to be FNL combatants, are reported to have been arrested, tortured and killed by soldiers, and their bodies thrown into a mass grave on 23 December 2003. One of their comrades, Alexis Mpawenima, arrested at the same time, was apparently detained by the Special Investigation Brigade (BSR); an inquiry is said to be under way.

2. Violations of the right to physical integrity

(a) Torture

36. In the course of an investigation into the judicial police attached to the Public Prosecutor's Office on 17 November 2003, the OHCHR Burundi office observers noted that two detainees had been severely beaten with wire by judicial police officers. According to information received, during an FNL attack on a Batwa village on the night of 27/28 December, 17 houses were destroyed and numerous belongings stolen. OHCHR Burundi office observers reported that people bore the marks of torture with whips, kicks, stones, sticks and bayonets.

(b) Ill-treatment

37. On 3 November 2003, three soldiers reportedly broke into a house and requisitioned a maid to carry water containers; Constance Nyandwi lodged a complaint against a soldier on 18 October for ill-treatment and attempted rape. On 25 November 2003, the Burundi Human Rights League reported that many similar incidents had occurred in the same area, with young people and old women being dragooned into carrying water for soldiers. Anyone who objected risked being killed, as happened early in the year in the Musaga region. Those responsible have reportedly not been punished.

(c) Rape

38. Numerous cases of rape have been reported by various NGOs, including Médecins sans Frontières Belgium, the Burundi Human Rights League, the Centre de développement pour le bien-être familial (Family Welfare Centre) and the Burundi Family Welfare Association. In its November report, the Burundi Human Rights League notes that 50 women in the Murima region were subjected to sexual violence between January and November 2003; 12 women in the Kayanza region were raped during the same period; and the same happened to 22 women in the Nyabihogo region and 4 in the Kabuye region. It transpires that, in Kayanza commune alone, 88 women were raped by national army soldiers, rebels and young policemen.

39. In Ngozi province, the Burundi Family Welfare Association notes that more than 21 women were raped in 2003. The victims' ages range from 3 to 40 years, but the majority of them, mainly school students, are around 15. Those responsible are reportedly rebels and bandits who disappeared after committing the crime. The number of rapes reported falls far short of the real figure, for many victims keep silent, either through fear or because they are afraid of being ostracized. There have apparently been many rapes of girls aged

between 7 and 15 in Rumonge commune in the last six months; most cases are apparently of schoolgirls raped by adults, and many of them are now pregnant. There are also many reports of cases of sodomy in Bujumbura, with boy street children being sexually attacked; in a single day, 30 October 2003, four young boys were reportedly raped by other boys. Such acts of juvenile crime are becoming ever more frequent in the streets of Bujumbura.

40. The problem of sexual violence aroused the Special Rapporteur's indignation on her last visit to Burundi and was mentioned in her last report; it seems to have become more widespread, and the fact that it continues to go unpunished makes it all the more disquieting.

3. Violations of the rights to liberty and security of the person

(a) Illegal detention

41. Riziki Kamalebo was arrested on 15 November and arbitrarily detained, first by the Public Security Police and then by the traffic police on 16 and 17 November 2003. He was apparently beaten by a judicial police official who confiscated his refugee card without officially recording the incident; he would not have got it back on his release from prison without the help of the OHCHR Burundi office. On 17 November 2003, following an inquiry by OHCHR Burundi office observers, the judicial police noted that, of a total of 23 detainees, 7 had been held for longer than the legal period. Sébastien Kibinda is said to have been arrested and placed in custody at the Rumonge brigade in October 2003, then ordered to pay a fine of 100,000 Burundi francs despite the fact that the land dispute he was involved in was a matter for the courts; the fine was cancelled as a result of action by the OHCHR Burundi office. Commander Ndayitwayeko, a political prisoner, is still in pre-trial detention in Mpimba prison, after two years.

(b) Abductions

42. Ten students from the Musenyi lycée in Tangara commune, Ngozi province, were reported to have been abducted by CNDD-FDD rebels on 7 September 2003, the beginning of the new school year, but two girls managed to escape on 12 October 2003 and raise the alarm. According to information received, the students were robbed of their school fees and some of their clothes; they also carried the rebels' gear, were put up in households during the day and forced to march and take part in looting during the night.

43. On 19 December 2003, 62 people were reportedly abducted by CNDD-FDD rebels. According to the OHCHR Burundi office, CNDD-FDD subsequently admitted the abductions and handed over 49 of the 62 people abducted to the Kibago commune administrator. The fate of the other 13 is still unknown.

(c) Enforced disappearances

44. Zeffrey Niyonzima, accused of being an FNL sympathizer, is reported to have been illegally arrested at his home on 7 November 2003 by members of the 10th battalion with the assistance of former CNDD-FDD rebels; it is still not known where or under what conditions he is being held. Four young people living in the Cibitoke region, also accused of belonging to FNL, were apparently abducted on 26 November 2003 by members of

CNDD-FDD; they are reported to have been taken to cells in the Kamenge region. A number of civilians were reportedly abducted on 15 December 2003 in the Cibitoke region. The same happened to four young farmers in the same region, during the night of 27/28 November 2003. On 20 December 2003, 62 people who had been repatriated from the United Republic of Tanzania were allegedly abducted and detained in Bukeye camp, Makamba province.

(d) Robbery, looting and extortion

45. During the night of 2/3 October 2003, a number of young policemen reportedly joined forces with former CNDD-FDD rebels (Jean Bosco Ndayikengurukiye wing) and local Batwa, and went looting in the hill settlement of Mihigo, in Kayanza region and commune, Kayanza province, in the north of Burundi. More than 20 households were looted during the night of 5/6 October 2003 in Gatara region and commune, in the same province. Several cows and goats were reportedly stolen; the perpetrators have not yet been identified, but local people are of the opinion that the same groups are responsible.

46. The young policemen of the Kabuye region, Kayanza commune, Kayanza province, have been accused by local people of engaging in illegal fund-raising among the families of the hill settlement of Migege. Each household is said to have been ordered to hand over between 500 and 1,000 Burundi francs, and anyone who refused was reportedly taken to the cells and released only on payment of a fine of 2,000 Burundi francs.

4. Violations of freedom of movement and freedom to choose one's residence

47. The persistence of mass population movements can be attributed to the prevailing lack of security. Parallel return movements of Burundian refugees are currently under way, from the United Republic of Tanzania and the Democratic Republic of the Congo. Moreover, in conflict zones and areas where organized crime is rife, it is extremely difficult for humanitarian assistance to reach survivors. NGOs are frequently the targets of robberies and abductions; the World Food Programme (WFP) has been obliged to call off many of its planned distributions of food (287 out of 787). More than 17 per cent of Burundians are internally displaced or refugees.

(a) Situation of internally displaced persons and survivors

48. There are around 281,000 displaced persons in 230 camps around the country. Every month, 100,000 people are temporarily displaced. The clashes of 25 November 2003 between the army and FNL rebels displaced 4,000. Ten thousand people were said to have fled the fighting between security forces and FNL on 3 December 2003 in Bujumbura-Rural province. Overall, a total of 30,000 people have been displaced as a result of recent events and attacks by armed bandits.

(b) Situation of refugees and returnees

49. There are still a large number of refugees outside Burundi: more than 750,000 people are living in refugee camps and communities, principally in the United Republic of Tanzania, the Democratic Republic of the Congo, Rwanda and Zambia. Return movements continue, even if the number of people involved is still not very high. There were an average of 1,000 returnees a week in December 2003, in addition to spontaneous or non-assisted returns, for which there are

no exact figures. According to statistics from the UNHCR office in Bujumbura, there were 82,366 returns in 2003, 12,612 of them in Nyanza-lac commune alone. Between January and December 2003, 45,078 spontaneous returns were counted, and between September and December 2003 there were 6,309 assisted returns.

50. Reception of returnees continues to be supported by UNHCR, which opened an additional site at Cankuzo at the beginning of June; another site is planned at Ruyigi. Receiving and settling returnees is not always easy; returnees are subject to many violations in the camps and on the way home. Some of them, especially those who left Burundi in the 1970s, face land issues, particularly in the south and southwest of the country.

51. To help solve these problems, a National Commission for the Rehabilitation of Survivors was established at the beginning of the year, in implementation of the Arusha Agreement, but lacks the means to fulfil its mission.

52. The Commission has been confronted with the problem of combatants repatriated from the Democratic Republic of the Congo, which has decided to expel all foreign combatants; combatants who are arrested or surrender are handed over to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). MONUC has invited the Chairman of the Commission, former vice-president Frédéric Bamvuginyumvira, to undertake a mission to the Democratic Republic of the Congo, where there are between 200 and 300 refugee families - around 1,500 individuals - for whom no solution has yet been found.

5. Violations of the right to freedom of expression and of opinion

53. The media still have many problems with access to information, censorship and intimidation. Bède Ntakibirora, a correspondent for the Agence burundaise de presse in Bujumbura-Rural province, was reportedly arrested on 22 November 2003 and detained for two days at the Kamenge military position; he was allegedly tortured and escaped with his life only thanks to a gendarme who opposed his lynching.

54. Several grass-roots activists from the Front pour la démocratie au Burundi (FRODEBU) have allegedly suffered at the hands of rebels belonging to Pierre Nkurunziza's CNDD-FDD. The head of the Nyabitare region, Gisuru commune, Ruyigi province, is reported to have been killed in an ambush set by the rebels on 30 September 2003, and, the head of the local secondary school in the commune was allegedly killed by rebels from the same group.

55. Charles Mukassi, the leader of a wing of the Union pour le progrès national (UPRONA) that did not sign the Arusha Agreement, was allegedly arrested and taken away by police on 17 October 2003, after having first been summoned to the National Registry (intelligence service) on 15 October and placed under house arrest on 16 October.

6. Situation of the Batwa minority

56. There have been no new developments in the situation of the Batwa and the reader is referred to paragraphs 59 to 61 of the interim report submitted to the General Assembly in November 2003 (A/58/448).

7. Women's rights

57. The rigours of war, economic difficulties and the weight of tradition continue to influence the protection of women's rights. Here again, the reader is referred to the last report to the General Assembly (A/58/448, paras. 64-68 in particular).

8. Children's rights

58. There has been no real improvement in the situation of children's rights in Burundi during the period covered by the present report. The reader is therefore referred to paragraphs 69 to 75 of the interim report (A/58/448).

59. It should nevertheless be pointed out that there are around 5,000 children living on the streets in major urban centres. They have no parents, being war or AIDS orphans, and there are insufficient formal structures to enable them to reintegrate. The police arrested 262 street children for rape and theft in Bujumbura-Mairie on 13 November 2003 and another 150 were apprehended. The children were placed in compounds belonging to the Ministry for Social Action and the Advancement of Women in Kamenge, where conditions are sometimes harsh. Some of the children were then collected by their parents; the majority of these were from Gitega. The authorities were planning to send the children back to the provinces they came from.

B. Economic, social and cultural rights

60. There has been no significant improvement in economic, social and cultural rights during the reporting period. Access to education and health care continues to be limited by the obstacles mentioned in the previous report (A/58/448). Action is still being taken to improve Burundians' well-being. On 26 November 2003, for example, the representative of UNESCO announced that 10,000 indigent children from Makamba and Bururi provinces were to receive educational aid for uniforms and school fees as part of a project set up by Belgium. Many provinces are said to have permanent malaria epidemics, which are the cause of numerous deaths: the Ministry of Health and the World Health Organization (WHO) are now preparing a treatment protocol to address the problem.

61. The prevalence of HIV/AIDS is still high. Numerous incidents of violence against women, precarious living conditions and ignorance all contribute to the spread of the pandemic. In Kirundo province, for example, which marked World AIDS Day this year, women and girls are constantly being raped: not a week passes without a rape being reported. Rape and levirate are one of the main reasons for the spread of the disease. Out of 1,224 people in the province tested between January and October 2003, 214 (17 per cent) were found to have HIV/AIDS.

62. In addition to the difficulties of gaining access to care, people suffering from AIDS are subject to discrimination in their social and professional lives. Burundi has the second highest AIDS rate in central Africa and the 13th highest in sub-Saharan Africa. Screening carried out in 2002 revealed that 3 per cent of the population aged between 12 and 49 have AIDS. An effective HIV/AIDS programme would cost 230 billion Burundi francs, but donors have pledged only 60 billion. The Government reportedly spends 100 million Burundi francs a year on anti-retroviral drugs.

C. Justice and the rule of law

63. The administration of justice and the rule of law are discussed in paragraphs 81 to 86 of document A/58/448.

64. The number of people in prison stands at nearly 7,880. The Burundian Government can apply several solutions to the problem of prison overcrowding, including increasing the (still insufficient) number of releases on parole, accelerating the judicial process and decentralizing jurisdictions. The Transitional Government has also taken steps to improve prison conditions, in part by setting up rehabilitation programmes in several prisons, notably in the provinces of Rutana, Bururi and Ruyigi. Overcrowding continues to make conditions in most of the other prisons very difficult, and in some cases prisoners are even obliged to sleep in shifts. The issue of political prisoners is still unresolved. Much hope has been placed in a prompt and effective implementation of the recommendations of the independent commission on issues relating to prisoners, which would make it possible to improve the overall conditions of detention.

65. The Criminal Division in Bujumbura organized an ad hoc hearing on the case of the killing of Dr. Kassi Manlan, former World Health Organization (WHO) representative in Burundi. This led to a breakthrough, with five more people arrested on 23 October 2003, four of them senior officers in the Burundi police force and one a businessman. Most of them had served on the committees established to investigate Dr. Manlan's murder; they were transferred to the central prison in Mpimba on 31 October and 1 November 2003 and appeared before the Principal State Prosecutor of the Republic on 6 November 2003. Gertrude Nyamoya, a WHO employee accused of involvement in the killing, was given conditional release.

D. Promotion of human rights

66. The OHCHR Burundi office has increased the number of human rights training and awareness sessions; these will be offered to women leaders and to members of the regular armed forces and demobilized rebel forces. It will also help to strengthen the pan-African force by providing it with training in human rights and international humanitarian law.

67. The Office gave a technical training seminar on human rights for 50 journalists, from 10 to 15 November 2003: participants received instruction in the main international and domestic human rights instruments. Another training seminar, for judicial police officers, was organized between 1 and 5 December 2003 in Bururi: there the emphasis was on respect for human rights in general and refugees' rights in particular.

68. The Government Commission on Human Rights has been restructured. It has resumed its visits in the field but its 2002 report has yet to be published.

III. OBSERVATIONS

69. The ceasefire agreement between the Transitional Government and CNDD-FDD marks an important step forward in the military and political situation in Burundi. It should result in fewer acts of violence, particularly against civilians. Other forms of violence, related to organized crime, have emerged and could spread with the quartering and demobilization

operations, for some combatants in both the military and the militias might be tempted to continue living by the gun. To prevent this, it is essential for an effective programme of demobilization, disarming and resettlement to be put in place without delay.

70. Continuing clashes, particularly between government forces and PALIPEHUTU-FNL, are another obstacle to peace and national reconciliation. There are still large numbers of civilians among the victims. The process is also seriously compromised by clashes between Pierre Nkurunziza's CNDD-FDD and Agathon Rwasa's FNL, and by manhunts and score-settling that seem to have become routine. It is therefore important for a ceasefire and cessation of hostilities to be quickly established, first of all because implementation of the peace agreements depends on them, and also so that war can no longer be used as a pretext or excuse for gross human rights violations. Indeed, it is difficult, if war and insecurity persist, to envisage action on the provisions relating to the electoral process and think about the post-transition period.

71. An improved human rights situation in Burundi closely depends on a climate of stability and lasting peace in the Great Lakes region. Readers who wish to know more are referred to document A/58/448, paragraph 94.

72. Sexual violence has increased significantly and raised concerns at home and abroad. Criminal activity of this kind is discussed in document A/58/448, paragraph 497.

73. The increasing prevalence of HIV/AIDS infection and preventive measures are dealt with in the interim report, paragraph 98.

74. In order to develop the capacities of the Burundian people with regard to human rights, it would be advisable to consider the establishment of a national human rights commission, even if that seems somewhat premature for Burundi at the moment. For the time being, the international community could support the Government Commission on Human Rights so as to enable it to perform effectively.

IV. RECOMMENDATIONS

75. **In addition to the recommendations set out in her earlier reports (E/CN.4/2000/34, paras. 133 to 167; A/55/358, paras. 113 to 140; E/CN.4/2001/44, paras. 154 to 207; A/56/479, paras. 138 to 157; E/CN.4/2002/49, paras. 100 to 123; E/CN.4/2003/45, paras. 91 to 110; and A/58/448, paras. 102 to 126), the Special Rapporteur makes further recommendations to the parties to the conflict, the Burundian authorities and the international community.**

A. To the parties to the conflict

76. **The Special Rapporteur condemns all the acts of violence that continue to be perpetrated against civilians and the impunity that surrounds them. She condemns the abduction and killings of political leaders and humanitarian aid workers, and particularly the attack on the Apostolic Nuncio's vehicle, which resulted in the death of a man deeply committed to peace. She asks those investigating the case to establish responsibility without delay and calls for a trial to be held so that this crime does not go unpunished.**

77. The Special Rapporteur notes the progress achieved in the political and military spheres and urges those belligerents who are still fighting to discontinue all hostilities, lay down their arms and sit down at the negotiating table.

78. The Special Rapporteur appreciates the commitments made by some belligerents to peace and national reconciliation and asks them to continue their efforts to establish a comprehensive and lasting peace unmarred by acts of vengeance or score-settling that might set off a chain reaction.

79. The Special Rapporteur repeats her urgent appeal to all belligerents to respect the rights of the civilian population, especially the right to life, security and inviolability of the person. She condemns sexual violence and calls on those who engage in such despicable behaviour to desist immediately. She exhorts the belligerents to respect international humanitarian law and calls on them to refrain from attacking economic and social infrastructure.

80. The Special Rapporteur condemns the continuing recruitment of children as soldiers and auxiliaries and insists that children should not be involved in armed conflict. She also calls on the warring parties to desist from involving civilians in the conflict.

B. To the Burundian authorities

81. The Special Rapporteur recommends that the Government should take all appropriate steps to combat impunity effectively, put an end to arbitrary detention and torture, and implement the recommendations of the independent commission on issues relating to prisoners.

82. The Special Rapporteur requests the Government to do everything possible to protect vulnerable population groups, combat all wrong-doing against children, including minors held in detention, and to help promote the integration of the Batwa. She encourages the international community to support action taken to that end.

83. The Special Rapporteur asks the Government to take all necessary steps to promote women's rights. She urges it to take action to put an end to sexual violence and ensure that victims receive moral, material and psychological support.

84. The Special Rapporteur recommends that the Burundian authorities take steps to improve the effectiveness of the Government Commission on Human Rights and consider establishing, within a reasonable time, a national human rights commission.

C. To the international community

85. The Special Rapporteur congratulates the international community on its efforts to promote peace in Burundi and encourages it to continue working for a comprehensive and lasting peace by helping to bring the last of the combatants to the negotiating table.

86. The Special Rapporteur supports the international community's efforts to implement the transition timetable; she hopes that the reform programme will give prominence to human rights training.

87. **The Special Rapporteur continues to support efforts to establish lasting peace and stability in the Great Lakes region, particularly those made in connection with the forthcoming international conference on peace, security and stability in the Great Lakes region.**

88. **The Special Rapporteur encourages the international community to provide greater assistance to the judicial system and the National Commission for the Rehabilitation of *Sinistrés* (Survivors).**

89. **The Special Rapporteur recommends coordination among the activities of the various stakeholders in the international community to protect and promote human rights, particularly women's rights.**

90. **The Special Rapporteur again emphasizes the necessity and urgency of increasing the financial and human resources available to the OHCHR Burundi office, so that it can improve its work in the field and respond effectively to requests for observation, protection and promotion of human rights and human rights training.**
