

# OPERATIONAL GUIDANCE NOTE

## BURUNDI

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#### 1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Burundi and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Burundi Country of Origin Information at: [http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instructions on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

#### **Source documents**

- 1.4** A full list of source documents cited in footnotes is 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.<sup>1</sup>

- 2.2** Burundi's first ever election, held 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. 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.<sup>2</sup>
- 2.3** A transitional government, established in 2002, split power between the two most important political parties, Unity for National Progress (UPRONA) and Burundi Democratic Front (FRODEBU). Tutsi-dominated UPRONA was the only legal party from 1974 and provided all of Burundi's post-independence presidents until 1993. FRODEBU, a largely Hutu party, won the elections of 1993. The transitional presidency from 2002 to 2005 was shared between UPRONA leader Pierre Buyoya and FRODEBU head Domitien Ndayizeye.<sup>3</sup>
- 2.4** Elections in 2005 ended the bipartisan consensus. Hutu rebel groups, notably the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), changed into political organisations following the end of hostilities, and won an overwhelming victory at all levels in the elections. Large numbers of Tutsi joined previously Hutu parties, and UPRONA and FRODEBU faded as electoral powers, though ethnic divisions remain politically salient. The new Government largely comprises former rebel leaders, including the new president Pierre Nkurunziza.<sup>4</sup>
- 2.5** In July 2006, a wide range of key opposition figures, including former president Domitien Ndayizeye were arrested after the authorities claimed to have uncovered a 'coup' plot. They were finally released after five months in detention and Ndayizeye was acquitted of all charges. Former rebel leader, Alain Mugabarabona and co-defendant Tharcisse Ndayishimiye, however, were sentenced to 20 and 15 years in prison respectively.<sup>5</sup>
- 2.6** Only the National Liberation Front (FNL) remains outside of a formal, long term peace agreement, but the rebel group finally entered the peace process in September 2006 after the signature of a ceasefire agreement with Nkurunziza's Government. Implementation of the agreement has been slow, however, and both sides have accused the other of violating the ceasefire. In June 2007, President Nkurunziza met Agathon Rwaswa, the FNL rebel leader, in order to reactivate the stalled ceasefire agreement. They agreed plans regarding the release of imprisoned FNL fighters, and discussed subsequent demobilisation and the integration of eligible FNL fighters into the national security forces. However, negotiations between the Government and the FNL froze in July 2007 when the FNL delegation walked out on the team in charge of monitoring the implementation of the peace agreement. Since then, leaders of the FNL have also stated that they no longer want Charles Nqakula to act as mediator in the peace process because they consider him to be partial to the Government. FNL has reportedly resumed recruitment in some areas and FNL combatants continue to rob and extort money and goods from civilians in areas such as Bujumbura and

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<sup>1</sup> Home Office Country of Origin Information (COI) Key Documents: Burundi, Foreign and Commonwealth Office (FCO) Country Profile 2007: Burundi & British Broadcasting Corporation (BBC) News Timeline: Burundi

<sup>2</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi & BBC News Timeline: Burundi

<sup>3</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi & BBC News Timeline: Burundi

<sup>4</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi & BBC News Timeline: Burundi

<sup>5</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi & BBC News Timeline: Burundi

Bubanza. There have also been violent clashes between factions within the group who disagree about the ceasefire agreement.<sup>6</sup>

- 2.7** The Government's human rights record remains poor and in November 2006 United Nations officials and local and international human rights groups stated that the human rights situation had not improved since Nkurunziza's Government took office. In 2006, the security forces continued to commit human rights abuses, particularly in the western provinces during the conflict with the FNL. Reports of arbitrary arrest and detention increased in 2006 and impunity remained a problem. Prolonged pre-trial detention and the lack of judicial independence also continued during the year.<sup>7</sup>
- 2.8** Over 50,000 Hutu refugees returned to Burundi from Tanzania in 2005 and by November 2006 an estimated further 33,000 had returned, bringing to over 280,000 the number of returnees since 2002. Many had fled during the violence in 1993 and most of these returnees have reclaimed their former holdings. The return of refugees has multiplied conflicts over land ownership, flooding the justice system with land cases. A new land commission was announced in 2006 but has not yet begun work.<sup>8</sup>

### **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 Asylum Instructions 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 Asylum Instructions, 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 applicant 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 how much weight to be given to the material provided in support of the claim (see the Asylum Instructions on Assessing Credibility in Asylum and Human Rights Claims).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant 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. Case owners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the Asylum Instructions on Assessing Credibility in Asylum and

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<sup>6</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi, Amnesty International (AI) Annual Report 2007: Burundi, Human Rights Watch World Report 2007: Burundi, BBC News Timeline: Burundi, BBC News 'Burundi rebels in deadly clashes' dated 4 September 2007, BBC News 'Rebels in Burundi for peace talks' dated 19 February 2007, IRIN: Burundi 'Rebel activity displaces hundreds in Bubanza' dated 10 September 2007, IRIN: Burundi 'Peace process must be concluded by year end - mediator' dated 30 August 2007, IRIN: Burundi 'Government, rebels to revive stalled peace accord' dated 18 June 2007 & allAfrica.com. 'FNL resumes recruitment' dated 14 September 2007

<sup>7</sup> U.S. Department of State report on Human Rights Practices 2006: Burundi (Introduction), AI Annual Report 2007: Burundi & Human Rights Watch (HRW) World Report 2007: Burundi

<sup>8</sup> HRW World Report 2007: Burundi & HRW World Report 2006: Burundi

Human Rights Claims).

**3.5** All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:  
<http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>

### **3.6 Supporters of the FNL**

**3.6.1** Most applicants 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 the National Liberation Front (FNL).

**3.6.2** **Treatment.** In May 2005, the transitional government and the FNL announced an agreement to end hostilities and to bring the last remaining Hutu rebel group into the peace process. The peace agreement held until July 2005 when pockets of armed attacks between the two sides were reported and in September 2005 the FNL rejected the Government's offer of peace talks.<sup>9</sup>

**3.6.3** Fighting between Nkurunziza's Government and the FNL rebels continued in Bujumbura Rural Province and neighbouring provinces into 2006. During the early months of the year, government armed forces reportedly killed, tortured, raped and beat civilians and detainees suspected of involvement with the FNL, although there were fewer such incidents than in previous years.<sup>10</sup>

**3.6.4** In September 2006, the Government and the FNL signed a ceasefire agreement following peace talks in Tanzania. Implementation of the agreement has been slow, however, and both sides have accused the other of violating the ceasefire. In June 2007, President Nkurunziza met Agathon Rwasa, the FNL rebel leader, in order to reactivate the stalled ceasefire agreement. They agreed plans regarding the release of imprisoned FNL fighters, and discussed subsequent demobilisation and the integration of eligible FNL fighters into the national security forces. However, negotiations between the Government and the FNL froze in July 2007 when the FNL delegation walked out on the team in charge of monitoring the implementation of the peace agreement. Since then, leaders of the FNL have also stated that they no longer want Charles Nqakula to act as mediator in the peace process because they consider him to be partial to the Government. FNL has reportedly resumed recruitment in some areas and FNL combatants continue to rob and extort money and goods from civilians in areas such as Bujumbura and Bubanza. There have also been violent clashes between factions within the group who disagree about the ceasefire agreement.<sup>11</sup>

**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

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<sup>9</sup> BBC News Timeline: Burundi, BBC News 'Burundi's rebels extend attacks' dated 13 July 2005 & BBC News 'Last rebels make peace in Burundi' dated 16 May 2005

<sup>10</sup> USSD 2006 (Introduction & Section 1), AI Annual Report 2007: Burundi & HRW World Report 2007: Burundi

<sup>11</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi, AI Annual Report 2007: Burundi, HRW World Report 2007: Burundi, BBC News Timeline: Burundi, BBC News 'Burundi rebels in deadly clashes' dated 4 September 2007, BBC News 'Rebels in Burundi for peace talks' dated 19 February 2007, IRIN: Burundi 'Rebel activity displaces hundreds in Bubanza' dated 10 September 2007, IRIN: Burundi 'Peace process must be concluded by year end - mediator' dated 30 August 2007, IRIN: Burundi 'Government, rebels to revive stalled peace accord' dated 18 June 2007 & allAfrica.com. 'FNL resumes recruitment' dated 14 September 2007

state authorities, relocation to a different area of the country to escape this threat is not feasible.

**3.6.7 Conclusion.** The FNL finally entered the peace process in September 2006 after the signature of a ceasefire agreement with the Government. However, the peace agreement has stalled since July 2007 and the FNL has reportedly resumed recruitment. While both sides have accused the other of violating the ceasefire and FNL combatants continue to rob and extort money and goods from civilians in some areas, there have been no reports of substantial recurrences of the armed conflict or human rights abuses that were widely documented prior to September 2006. It is likely therefore that applicants who cite their involvement with, perceived involvement with or membership of FNL will not now be able to establish 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** Case owners should note that members of the FNL have been responsible for numerous serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant for the FNL and the evidence suggests he/she has been involved in such actions, then case owners should consider whether one of the Exclusion clauses is applicable. Case owners should refer all such cases within this category of claim to a Senior Caseworker in the first instance.

### **3.7 General country situation**

**3.7.1** Some applicants will claim asylum or humanitarian protection based on the general political, human rights and/or humanitarian situation in Burundi.

**3.7.2 Treatment.** There have been significant improvements in Burundi's overall stability and political development since December 2004 when the United Nations 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 and all the Hutu rebel groups but the FNL. In March 2005, voters backed a new power-sharing constitution and in June 2005, the first peaceful parliamentary elections since 1993 were widely praised by observers and analysts. The Hutu ex-rebel party, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), won a commanding majority of the vote and the party's leader Pierre Nkurunziza was elected president in August 2005.<sup>12</sup>

**3.7.3** Conditions in the capital Bujumbura continued to improve overall in 2006 with the lifting of a nighttime curfew for the first time since the 1970s. The FNL rebel group entered the peace process in September 2006 after the signature of a ceasefire agreement with the Government, however, the peace agreement has stalled since July 2007 and the FNL has reportedly resumed recruitment. While both sides have accused the other of violating the ceasefire and FNL combatants continue to rob and extort money and goods from civilians in some areas, there have been no reports of substantial recurrences of the armed conflict or human rights abuses that were widely documented prior to September 2006. At the end of 2006, the United Nations Operation in Burundi (ONUB) completed its mandate and was succeeded by the United Nations Integrated Office in Burundi (BINUB).<sup>13</sup>

**3.7.4** There have, however, been violent clashes between rival factions within the FNL who disagree about the ceasefire agreement. In September 2007, more than twenty people were killed and hundreds of families reportedly fled their homes following clashes in the

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<sup>12</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi & BBC News Timeline: Burundi

<sup>13</sup> USSD 2006 (Introduction & Section 1), FCO Country Profile 2007: Burundi, AI Annual Report 2007: Burundi, HRW World Report 2007: Burundi, BBC News Timeline: Burundi, BBC News 'Rebels in Burundi for peace talks' dated 19 February 2007, IRIN: Burundi 'Peace process must be concluded by year end - mediator' dated 30 August 2007, IRIN: Burundi 'Government, rebels to revive stalled peace accord' dated 18 June 2007 & allAfrica.com. 'FNL resumes recruitment' dated 14 September 2007

outskirts of Bujumbura. In the same month, combatants also robbed and extorted money and goods from civilians in the province of Bubanza which led a reported four thousand people to flee their places of residence.<sup>14</sup>

- 3.7.5** Despite government and presidential promises for protecting human rights, there have been reports that some officials within the National Defence Forces (FDN), the police, and the National Intelligence Service (SNR) continue to commit human rights abuses. In November 2006, United Nations officials and local and international human rights groups even stated that the human rights situation had not improved since Nkurunziza's Government took office. Impunity and judicial corruption continued during 2006 as did restrictions on press freedom and the right to freedom of assembly and association. In July 2006, a wide range of key opposition figures, including former president Domitien Ndayizeye were arrested after the authorities claimed to have uncovered a 'coup' plot. They were finally released after five months in detention and Ndayizeye was acquitted of all charges.<sup>15</sup>
- 3.7.6** **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.
- 3.7.7** **Internal relocation.** In light of the nature of this category of claims, the availability of an internal relocation option is not relevant.
- 3.7.8** **Caselaw.**

**AM (Burundi) [2005] UKAIT 00123.** 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)

- 3.7.9** **Conclusion.** The agreement in September 2006 by the FNL to join the peace process and the widely-praised general elections in 2005 has brought an increasing level of peace and countrywide stability to Burundi. While there have been reports in 2006 and 2007 that the political and human rights climate has deteriorated, applicants who apply for asylum based on the general political, human rights or humanitarian situation are not likely to be able to demonstrate that they individually 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 will not therefore be appropriate.

### **3.8** **Prison conditions**

- 3.8.1** Applicants 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 Burundi are so poor as to amount to torture or inhuman treatment or punishment.
- 3.8.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in

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<sup>14</sup> BBC News 'Burundi rebels in deadly clashes' dated 4 September 2007, IRIN: Burundi 'Calm returns as army warns it may crack down on rebels' dated 5 September 2007, IRIN: Burundi 'Rebel activity displaces hundreds in Bubanza' dated 10 September 2007 & IRIN: Burundi 'Hundreds flee as 20 die in rebel clashes near capital' dated 4 September 2007

<sup>15</sup> COI Key Documents: Burundi, FCO Country Profile 2007: Burundi, BBC News Timeline: Burundi, USSD 2006 (Introduction & Section 1), AI Annual Report 2007: Burundi & HRW World Report 2007: Burundi

order to justify a grant of asylum.

- 3.8.3 Consideration.** Prison conditions reportedly remained harsh in 2006. Severe overcrowding persisted and during the year 7,242 persons were held throughout the country in facilities built to accommodate 4,050 persons. 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 the Burundian Association for the Protection of Human Rights and Detained Persons (APRODH), although there were reports that security forces members beat detainees, there were no reports that prison guards beat prisoners in 2006. However, the ONUB reported that detainees and prisoners were tortured and abused during the year. Each prison had one qualified nurse and at least a weekly doctor's visit. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the primary provider of medicines.<sup>16</sup>
- 3.8.4** In 2006, it was reported that conditions in detention centres and communal lock-ups were generally worse than prison conditions. Police personnel reportedly abused detainees, which resulted in death in several instances. Minors were not always separated from adult detainees, and ONUB documented some cases of sexual abuse. There were 400 communal lock-ups, or small detention centres, where those who were arrested were supposed to be held no longer than one week; however, detainees were regularly kept in these facilities for much longer periods of time. It was reported that communal lockups and other, larger detention centres were severely overcrowded in 2006, with limited or no provisions for medical care and no sanitation.<sup>17</sup>
- 3.8.5** According to the Ministry of Justice, during 2006 there were 334 children in prisons, of whom 54 accompanied their convicted mothers. Juvenile prisoners were held with and often treated as adults during 2006, and political prisoners often were held with convicted prisoners. Pre-trial detainees were held in communal lock-ups, but some were also incarcerated with convicted prisoners.<sup>18</sup>
- 3.8.6** In 2006, the Government permitted some visits by international and local human rights monitors, including the ICRC; however, municipal police commissioners and other authorities sometimes denied ONUB human rights officers access to detainees, following accounts of illegal detentions and torture. Authorities also sometimes denied Human Rights Watch (HRW), the ICRC, and local NGOs access to detainees thought to have been tortured or illegally detained, who were often thought to be members of the FNL. In 2006, NGOs continued their efforts to monitor and improve sanitation, hygiene, medical care, food, and water.<sup>19</sup>
- 3.8.7 Conclusion.** Whilst prison conditions in Burundi are poor with severe overcrowding, lack of medical treatment and food and poor sanitation being particular problems, these conditions will not normally be sufficiently severe to meet the high Article 3 threshold. In addition to these adverse conditions there are reports that officials act with impunity and regularly mistreat inmates. The information available does not suggest that particular groups of inmates are more at risk of such mistreatment than others. There is no evidence that the mistreatment is of such a systematic nature as to make removal a breach of Article 3 on these grounds.
- 3.8.8** Even where applicants 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. Where in an individual case treatment does reach

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<sup>16</sup> USSD 2006 (Section 1)

<sup>17</sup> USSD 2006 (Section 1)

<sup>18</sup> USSD 2006 (Section 1)

<sup>19</sup> USSD 2006 (Section 1)

the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

#### **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 Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

**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 categories set out below. 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 related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

#### **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 for minors with no family in Burundi.

**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 leave on any more favorable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

#### **4.4 Medical treatment**

**4.4.1** Applicants 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** In May 2006, the Government announced free maternal care and healthcare for children under the age of five. However, this has led to overcrowded wards, and a shortage of doctors and other medical staff. In September 2006, Human Rights Watch also highlighted that other patients, including those who require surgery and treatment following accidents, are being detained by hospitals for not paying medical bills. Hospitals reportedly justify 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.<sup>20</sup>

**4.4.3** The large number of women and children seeking free healthcare has overwhelmed most institutions. Hospital administrators nationwide have complained about congestion in paediatric and maternity wards. The new initiative has made the lack of qualified medical staff and specialists even more keenly felt. The Ministry of Public Health said the government was providing US\$2 million to settle medicine shortages. The number of people living with HIV is approximately 150,000. 2.4% of pregnant women receive treatment to reduce mother-to-child transmission and 14% of HIV infected men and women receive anti-retroviral therapy.<sup>21</sup>

**4.4.4** A national mental health programme was formulated in 1998 and mental health is part of

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<sup>20</sup> USSD 2006 (Section 4) & IRIN: Burundi 'Side effects of free maternal, child healthcare' dated 9 June 2006

<sup>21</sup> IRIN: Burundi 'Side effects of free maternal, child healthcare' dated 9 June 2006 & UNAIDS – Joint United Nations Programme on HIV/AIDS: Burundi Country Profile



the primary health care system. However, actual treatment of severe mental disorders is not available at the primary level. There are community care facilities for patients with mental disorders, but community care is available in only four provinces and is undertaken by an NGO. The following therapeutic drugs are generally available at the primary health care level: carbamazepine, phenobarbital, phenytoin, sodium, sodium valproate, amitriptyline, chlorpromazine, diazepam, fluphenazine, haloperidol, lithium, biperiden, and levodopa.<sup>22</sup>

- 4.4.5** Where a case owner considers that the circumstances of the individual applicant and the situation in Burundi 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. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** In spite of the recent political developments, the country remains in a transitional phase and as such the UNHCR recommends that States do not return any rejected asylum seekers to Burundi.<sup>23</sup> The UNHCR's position pre-dates the widely praised parliamentary elections of 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 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 (VARRP) implemented on behalf of the Border and Immigration Agency by the International Organization 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 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Burundian 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 0800 783 2332 or [www.iomlondon.org](http://www.iomlondon.org).

## **6. List of source documents**

- Home Office Country of Origin Information Key Documents: Burundi (dated 14 March 2007). [http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)
- allAfrica.com. 'FNL resumes recruitment' dated 14 September 2007. <http://allafrica.com/stories/printable/200709140219.html>
- U.S. Department of State report on Human Rights Practices (USSD) 2006 (released on 6 March 2007). <http://www.state.gov/g/drl/rls/hrrpt/2006/78722.htm>

<sup>22</sup> World Health Organisation (WHO) Mental Health Atlas 2005: Burundi

<sup>23</sup> UNHCR Position on the return of rejected asylum seekers to Burundi 11 April 2005

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