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Burundi

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I. GENERAL INFORMATION

A. Description of Burundi

1. Burundi is a central African country with a surface area of 27,834 square kilometres. To the north it is bounded by Rwanda, to the south-east by Tanzania, and to the north-west by the Democratic Republic of the Congo. The national language is Kirundi and the official language is French. Other languages such as English and Kiswahili are taught at school and spoken by a small portion of the population but have not yet become firmly entrenched like French. The recent administrative census of 2004 put the population of Burundi at 7.3 million, of whom 52 per cent were women. Young people and children account for over 60 per cent of the population. Population density is 239 inhabitants per square kilometre, with:

- (a) A demographic growth rate of 3 per cent;
- (b) A fecundity rate of 6.3 children per woman.

2. Life expectancy has been under 40 years in recent years owing to the war, disease and poverty. Burundi lives essentially off arable farming and livestock-breeding, which still use archaic methods (crop-growing with hoes and livestock-breeding for reasons of prestige). It is ranked among the five poorest countries in the world.

3. Politically, before colonization Burundi had what was called a “divine right” monarchy with the “Ganwa dynasty”. Burundi was colonized by Germany before the First World War and by Belgium as a mandated trusteeship territory after the Second World War until independence on 1 July 1962. Shortly after independence Burundi experienced the first of a very long succession of internal crises, including:

- (a) The assassination, on 13 October 1961, of Prince Louis Rwagasore, Hero of National Independence;

- (b) There were a succession of fratricidal crises and civil wars of a genocidal nature in 1965, 1969, 1972, 1988, 1991, 1993, etc.;

- (c) These culminated in the assassination, on 21 October 1993, of the first democratically-elected President, His Excellency Ndadaye Melchior, hero of democracy in Burundi. After that, Burundi was plunged into a long civil war of more than 10 years’ duration, which declined in intensity in a first phase with the signing of the Arusha Agreement on Peace and Reconciliation in Burundi on 20 August 2000, followed by a transition of 36 months, divided into two periods of 18 months each;

- (d) During the second period of transition, the second phase was characterized by the signing of the political and ceasefire agreements between the Government of Burundi and the former Armed Political Movements and Parties, the most decisive of which were the political agreement and the technical agreement on forces between the Government and the National Council for the Defence of Democracy - Democracy Defence Force on 16 November 2003. This was followed by the entry of this movement which had become a political party, into the country’s institutions (Executive, Parliament, diplomacy, territorial and para-State Administration). This process culminated in the adoption by referendum on 18 March 2005 of a Constitution based on the major principles of equilibrium contained in the Arusha Agreement; the organization of free, transparent and democratic elections in June 2005, which set up the current institutions that run the country. Even the last armed political movement, namely, the Party for the Liberation of the Hutu

People - National Liberation Front, has recently signed a ceasefire agreement with the Government. The billeting of its combatants has already begun in some provinces. The movement will shortly enter the country's institutions.

B. Methodology and consultation

4. Pending the establishment of a standing inter-ministerial committee for the drafting of national reports (initial and periodic) relating to the conventions ratified by Burundi, a lightweight inter-ministerial body composed of 17 members (from the Office of the first Vice-President of the Republic, and the ministries with responsibility for human rights, foreign affairs, justice, the interior, labour and social security) has been set up. It is this body which, in collaboration with the human rights partners, both national and international, such as civil society, national and international NGOs, certain United Nations agencies, the Office of the High Commissioner for Human Rights in Burundi (OHCDHB) and the Human Rights Unit of the United Nations Integrated Office in Burundi (BINUB), drafted the report of Burundi on the basis of the general guidelines for the preparation of information under the Universal Periodic Review, and notably points A, B, C, D, E, F and G. The structure was also based on the other reports already produced on the various human rights conventions - the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the various reports on human rights in Burundi, notably the reports of the Special Rapporteurs and the Independent Expert on Burundi, and other information available to the OHCDHB and BINUB. The consultations with the services concerned were conducted with the aim of obtaining reliable, updated information on the subject. Before its adoption and transmission to the Human Rights Council, this report was the subject of broad consultation with all the above-mentioned partners.

C. Normative and institutional human rights framework

1. Governmental mechanism for the promotion and protection of human rights

5. Since independence until the present time, Burundi has generally been described, in terms of respect for human rights, as a State in which these rights are constantly and massively violated, as evidenced by the repeated crises mentioned above which have plunged the country into mourning and claimed many victims. Until the early 1990s, there were no State institutions which dealt explicitly with human rights questions. It was not until the wind of democratization of African institutions in the 1990s (the Beaulieu current), and above all in response to the demands of donors, that attention was given to human rights questions. In April 1992, for the first time in Burundi, a Human Rights Centre was set up under the aegis of the Ministry of Justice. Later, this Centre became the Centre for the Promotion of the Rights of the Human Person and Prevention of Genocide and was placed under the aegis of the Ministry with responsibility for Human Rights.

6. After the June 1993 elections, a Ministry for Social Action, Human Rights and the Advancement of Women was set up in July 1993 and a woman was appointed as its Head. Since then, a Ministry with responsibility for Human Rights has existed within the various ministerial departments - from 1993 until the present time.

7. The responsibilities of this Ministry include:

- (a) Designing government policy on human rights and contributing to its execution;
- (b) Promoting and defending human rights in collaboration with the other ministries and public and private organizations concerned;

- (c) Coordinating activities relating to human rights;
- (d) Designing and promoting a programme of education in peace, human rights, tolerance and democratic values, in collaboration with other partners;
- (e) Designing and executing a programme for the prevention of genocide and the eradication of the ideology of genocide, in collaboration with the other partners.

8. Although not in conformity with the Paris Principles, a Governmental Commission on Human Rights, which will become the Independent National Commission on Human Rights, was set up in 2000 by Decree No. 120/VP1/002/2000 of 11 May 2000. At present, the process of setting up this new Commission is well advanced, the bill relating to it having already been considered by the Council of Ministers on 12 and 13 June 2008.

9. A number of observations have been made; the bill will shortly be reconsidered by the Council of Ministers and transmitted to Parliament for adoption. Adoption will be followed by the promulgation of the resultant Act by the Head of State and the effective establishment of the Independent National Commission.

2. Institutional and legislative framework

10. Burundi has ratified and/or acceded to a number of regional and international human rights instruments. Some of these instruments form an integral part of the Burundian Constitution of 18 March 2005 through article 19, which stipulates: "The rights and duties proclaimed and guaranteed, inter alia, by the Universal Declaration of Human Rights, the International Covenants on human rights and the rights of peoples, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi. These fundamental rights may not be the subject of any restriction or derogation, except in certain circumstances justifiable by the general interest of the protection of a fundamental right."

3. State of ratifications of international legal instruments by Burundi and submission of reports

11. Burundi has already ratified a number of instruments. The following may be mentioned by way of example:

(a) The International Covenant on Economic, Social and Cultural Rights, which was adopted on 16 December 1966, entered into force on 3 January 1976 and was ratified by Burundi on 14 March 1990. The initial report has already been produced and the periodic report is currently being prepared;

(b) The International Covenant on Civil and Political Rights, which was adopted on 16 December 1966, entered into force on 23 March 1976 and was ratified by Burundi on 14 March 1990. The periodic report is currently being prepared;

(c) The African Charter on Human and Peoples' Rights, which was adopted on 26 June 1981 and ratified by Burundi on 28 July 1989. No report relating thereto has so far been produced; the first report is currently being prepared;

(d) The Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted on 9 December 1948 and entered into force on 12 July 1996. Burundi acceded to it on 22 July 1996. No report relating thereto has so far been produced;

(e) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted on 10 December 1984, entered into force on 26 June 1987 and was ratified by Burundi on 31 December 1992. The initial report has been produced and presented to the Committee. Burundi is currently engaged in follow-up to the Committee's conclusions and recommendations. The first periodic report is currently being prepared;

(f) The OAU (AU) Convention governing the Specific Aspects of Refugee Problems in Africa, which was adopted on 10 September 1969 and entered into force on 20 June 1974. It was ratified by Burundi on 31 October 1975. No report relating thereto has so far been produced;

(g) ILO Convention No. 87 concerning freedom of association and protection of the right to organize, which was adopted on 9 July 1948 and entered into force on 4 July 1950. It was ratified by Burundi on 11 May 1993. No report relating thereto has so far been produced;

(h) The Convention on the Political Rights of Women, which was adopted on 20 December 1952 and entered into force on 7 July 1954. It was ratified by Burundi on 31 December 1992. No report relating thereto has so far been produced;

(i) The Convention on the Rights of the Child, which was adopted on 20 November 1989 and entered into force on 2 September 1990. The initial report was produced in 1997 and presented to the Committee on the Rights of the Child. Burundi's follow-up to the Committee's conclusions, recommendations and observations is described in the first periodic report, which has been available since 2005 and already been transmitted to the Committee;

(j) Additional Protocol I to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts, which was adopted on 8 June 1977 and entered into force on 7 December 1978. It was ratified by Burundi on 6 November 1993. No report relating thereto has so far been produced;

(k) Additional Protocol II to the Geneva Conventions of 12 August 1949 relating to the protection of victims of non-international armed conflicts, which was adopted on 8 June 1977 and entered into force on 7 December 1978. It was ratified by Burundi on 6 November 1993. No report relating thereto has so far been produced;

(l) The International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted on 21 December 1965 and entered into force on 4 January 1969. It was ratified by Burundi on 12 September 1977. No report relating thereto has so far been produced;

(m) The Convention on the Elimination of All Forms of Discrimination against Women, which was adopted on 18 December 1979 and entered into force on 3 September 1981. It was ratified by Burundi on 4 April 1991. The initial report was produced in January 2001 and presented to the Committee. The follow-up to the conclusions, observations and recommendations is described in the first periodic report, which was produced in November 2005 and presented in April 2008;

(n) ILO Convention No. 100 concerning equal remuneration for men and women workers for work of equal value, which was adopted on 26 June 1951 and entered into force on 23 May 1993. It was ratified by Burundi on 11 May 1993. No report relating thereto has so far been produced;

(o) ILO Convention No. 111 concerning discrimination in respect of employment and occupation, which was adopted in Geneva by the General Conference of the International Labour Organization at its forty-second session on 25 June 1958 and entered into force on 15 June 1960. It was ratified by Burundi on 11 May 1993. No report relating thereto has so far been produced;

(p) ILO Convention No. 98 concerning the right to organize and collective bargaining, which was adopted on 11 July 1949 and entered into force on 18 July 1951. It was ratified by Burundi on 22 July 1996. No report relating thereto has so far been produced;

(q) ILO Convention No. 135 concerning workers' representatives and facilities to be accorded to them, which was adopted on 23 July 1971 and entered into force on 30 June 1976. It was ratified by Burundi on 22 July 1996. No report relating thereto has so far been produced;

(r) ILO Convention No. 144 concerning tripartite consultations to promote the implementation of international labour standards, which was ratified by Burundi on 22 July 1996. No report relating thereto has so far been produced;

(s) ILO Convention No. 138 concerning minimum age for admission to employment, which was adopted in Geneva by the General Conference of the International Labour Organization at its fifty-eighth session on 26 June 1973 and entered into force on 19 June 1976. It was ratified by Burundi on 22 July 1996. No report relating thereto has so far been produced;

(t) The protocol relating to the African Charter of Human and Peoples' Rights establishing an African Court of Human and Peoples' Rights, concluded at Ouagadougou on 10 June 1998. It was ratified by Burundi on 27 June 2000;

(u) The African Charter of the Rights and Well-being of the Child, adopted in Addis Ababa in July 1990. It was ratified by Burundi on 11 August 2000. No report relating thereto has so far been produced;

(v) The Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted by the General Assembly of the United Nations on 26 November 1968. Burundi acceded to the Convention on 16 June 2000. No report relating thereto has so far been produced;

(w) ILO Convention No. 182 concerning the prohibition, and immediate action for the elimination, of the worst forms of child labour, which was adopted in Geneva by the General Conference of the International Labour Organization at its eighty-seventh session on 17 June 1999 and entered into force on 19 November 2000. The National Transitional Assembly of Burundi acceded to it in April 2001. No report relating thereto has so far been produced;

(x) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was adopted in New York by the General Assembly of the United Nations in resolution 54/263 of 25 May 2000 and entered into force on 18 January 2002. It was ratified by Burundi by Act No. 1/15 of 18 January 2005. No report relating thereto has so far been produced;

(y) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, which was adopted in New York by the General Assembly in its resolution 54/263 of 20 May 2000 and entered into force on 12 February 2002. It was ratified by Burundi by Act No. 115 of 18 January 2005.

II. PROMOTION AND PROTECTION OF RIGHTS

12. Burundi has acceded to various international and regional treaties aimed at the promotion and protection of human rights. The guarantees and fundamental values relating to human rights are also established by the Burundian Constitution of 18 March 2005 in articles 13-18 of chapter 2. The choice of the rights addressed in the present report was made in the light of the disturbing extent of their violation in relation to the war situation which prevailed for more than 10 years.

A. The right to life

13. The right to life is a fundamental and inalienable right and is protected in all States Members of the United Nations by international and national legal instruments.

14. Article 3 of the Universal Declaration of Human Rights stipulates that “Everyone has the right to life, liberty and security of person”, and article 6 of the International Covenant on Civil and Political Rights states that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”.

15. The Constitution, which is a national source par excellence, guarantees the right to life in articles 14, 21, 25 and 26. Article 21 stipulates that “Human dignity shall be respected and protected. Any violation of human dignity is punishable under the Criminal Code”. The Criminal Code in force establishes penalties for any violation of human dignity in articles 141-170 under the heading “Offences against individuals”. The right to life is protected from the time of conception and not from birth, since the Criminal Code makes abortion an offence under articles 353-356. Articles 142-145 of the Code establish the death penalty for any person who has deliberately deprived another person of his life.

16. The civil war and its after-effects, to which the country was recently subjected for more than a decade, led to massive violations of human rights in general and the right to life in particular. The proliferation of firearms among the civil population is a continuing cause of violations of the right to life.

17. Isolated cases of people taking justice into their own hands are occasionally reported. These involve lynching. The explanation given for these incidents relates to land disputes, on the one hand, and the failure of the courts to hear cases within a reasonable time. However, the Government spares no effort to punish the perpetrators of these violations of the right to life. They are hunted down, arrested, tried, convicted and imprisoned in various establishments. Pursuant to its policy of honouring its human rights commitments, the Government is in the process of harmonizing its domestic law with the international human rights instruments. Thus, the bill reforming the Criminal Code provides for the abolition of the death penalty.

B. The prohibition of torture

18. The prohibition of torture and other cruel, inhuman, or degrading treatment or punishment is established in a number United Nations international human rights instruments to which Burundi has acceded. Article 5 of the Universal Declaration of Human Rights stipulates that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Similarly,

article 2 (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as justification of torture”. At the domestic level, torture is prohibited in article 25 of the Constitution of 18 March 2005, which reads: “... No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

19. Burundi submitted its initial report to the Committee against Torture in November 2006. The dialogue between the Committee and the delegation of Burundi ended with a number of conclusions and recommendations, which were transmitted to the Government, notably those calling for speedier implementation of the Convention, including the integration in the Criminal Code of a definition of torture consistent with article 1 of the Convention. The same applies to the other articles and provisions making an act of torture an offence and liable to criminal penalties proportionate to the seriousness of the acts perpetrated. Through the revision of the Criminal Code, Burundi is in the process of harmonizing its internal law with the Convention so as to enable any person subjected to torture to invoke the Convention before the courts.

20. The figures in the table below show that cases of torture are decreasing in number.

Table 1

Cases of torture recorded in 2006-2007

<i>Civil society</i>	<i>2006</i>	<i>2007</i>
APRODH	152	49
ACAT	287	107
Iteka League	573	537

21. The objective is to ensure that the practice of torture disappears completely. One of the ways of eradicating acts of torture has been the draft reform of the Criminal Code and the Code of Criminal Procedure. Among other things, this reform enables criminal proceedings to be instituted for acts of torture and gives the victim the right to obligatory assistance by the State.

C. The right to equality of the sexes

22. The right to equality of the sexes is established in articles 7-14 of the Convention on the Elimination of All Forms of Discrimination against Women. The provisions of these articles are applicable in Burundi since, at the national level, the Convention forms part of our Constitution, as provided for in article 19. Among the country’s institutions, there is a ministry responsible for gender matters. In the area of equality of the sexes, this ministry is supported by the human rights leagues, national and international NGOs, and also certain organizations and agencies within the United Nations system, including UNDP, the United Nations Development Fund for Women, the United Nations Population Fund, OHCDHB and BINUB.

23. The State of Burundi has also taken measures to establish equality between men and women, the principal measures being listed below:

(a) Formulation and adoption of a national gender policy whose principal objective is to reduce the inequality and discrimination to which women fall victim;

- (b) Formulation of an action plan for the implementation of this policy;
- (c) The sectoral policies of the various ministries have integrated the gender dimension;

(d) Provision has been made for the establishment of a National Gender Council, which will comprise all bodies involved in the promotion of equality of the sexes, with a view to achieving improved coordination of the various activities conducted. The establishment of a technical gender committee and a permanent secretariat of the National Gender Council has also been planned.

24. The specific objectives of the national gender policy are to correct the existing inequalities in various identified priority areas: cultural, security and mobilization for peace, action to combat poverty, employment, agriculture, health, action to combat HIV/AIDS, education and training, action to combat violence against women, decision-making, information and communication.

25. Despite the efforts made at the governmental level through the institutions and the conventions ratified and even the national gender policy, the gender and development approach has not yet been totally integrated within Burundian society. Although the minimum quota of 30 per cent is guaranteed in article 129 of the Constitution, disparities continue to exist at various levels of representation of women, and especially in access to positions of responsibility, as shown in the table below:

Table 2
Representation of women in positions of responsibility

<i>Position</i>	<i>Number of women</i>	<i>Number of men</i>	<i>Total</i>	<i>Percentage of women</i>
Ministries	7	19	26	26.9
Deputies	33	85	118	27.9
Senators	17	30	47	36.1

26. The national gender policy has to meet certain challenges, notably increasing the representation of women, increasing women's involvement at all levels of decision-making and eradicating cultural prejudice against women. In addition, the absence of a law on succession, matrimonial regimes and gifts still constitutes a barrier for women. The correction of gender disparities and imbalances must be undertaken, inter alia, within: the Nationality Code and the Labour Code, which should be brought into line with the Convention on the Elimination of All Forms of Discrimination against Women, particularly with regard to paid maternity leave; the Taxation Code, which makes a married woman liable to tax as a person without dependants; the Criminal Code, with regard to adultery; and the Code of Individuals and the Family, article 126 of which in particular should be amended in order to require the obligatory consent of the wife for any act concerning the disposition of a jointly held asset, and article 88 in order to standardize the legal age of marriage for women and men. Reforms are also required in the law on succession, matrimonial regimes and gifts; these are still governed by custom, which discriminates against women.

D. The rights of the child

27. As a member of the United Nations and the African Union, Burundi associates itself with global progress in the areas of human rights in general and the rights of children in particular. It has

endorsed the conclusions and recommendations emerging from the recent special session of the General Assembly on children, and notably the report of the conference on “A world fit for children”.

28. At the international level, article 19 of the Convention on the Rights of the Child stipulates that “States parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse ...”.

29. Article 44 of the Burundian Constitution of 2005 states that “Every child is entitled to specific measures to provide or improve the care necessary for his well-being, health and physical security and to be protected against ill-treatment, abuse or exploitation”.

30. The Code of Individuals and the Family, as amended in 1993, devotes particular attention to the protection of children, especially with regard to recognition, filiation and, importantly, parental obligations. It also contains clauses intended to protect the child.

31. Even so, the situation of children is continuing to deteriorate. Three phenomena - HIV/AIDS, war and poverty - are the main factors in generating orphans and vulnerable children. The latter were estimated to number 650,000 at the end of 2004 and totalled 835,996 in 2005, in other words, about 11 per cent of the population. Of these children, some 250,000 are infected or affected by HIV/AIDS and 30,346 are orphans and heads of households. According to UNICEF data, 65,400 children are under-age workers and 5,000 are street children.

32. In 2005 and 2006, Burundi, with the support of various national participants, made great progress along the path to creating an environment conducive to the promotion and protection of children’s rights:

(a) In the area of public education, abolition of school fees. Following this measure at the beginning of the 2005-2006 school year, there was an increase in primary school admission and enrolment rates;

(b) In the area of health, health care was made free for children under the age of 5 years and maternity charges were abolished. Many women now give birth in an assisted environment.

33. Certain international instruments protecting the rights of the child invite States to establish a special justice system for juvenile detainees. Although Burundi has ratified several of these instruments, however, it does not yet have a specific legal instrument relating to justice for juveniles.

E. Sexual violence

34. Articles 5 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women clearly show that States have an obligation to protect their citizens against abuse, rape, sexual violence and any other form of violence.

35. In articles 25 and 27 of the Burundian Constitution relating to the fundamental rights of the individual and the citizen, it is clearly stipulated that “Every woman has the right to protection of her physical and mental integrity and that she shall lead a life consistent with human dignity”.

36. The phenomenon of sexual violence against women in general and against juveniles in particular has assumed disturbing dimensions in recent years and constitutes one of the critical

problems confronting Burundi. Although there are few formal studies, the totality of data collected in the field by the various participants indicate the extent of this problem, as reflected in the table below.

Table 3
Distribution of victims of violence by province in 2007

<i>Distribution of victims by province</i>	<i>Number of identified victims of rape and marital violence</i>	<i>Number of victims of other forms of violence</i>
Bubanza	99	215
Bujumbura Mairie	60	105
Bujumbura Rural	84	190
Bururi	73	155
Cankuzo	48	30
Cibitoke	64	190
Gitega	44	100
Karusi	36	50
Kayanza	40	100
Kirundo	52	65
Makamba	49	50
Muramvya	32	85
Muyinga	36	125
Mwaro	41	50
Ngozi	87	295
Rutana	54	70
Ruyigi	72	95

37. It should be noted that, because of cultural prejudice, several cases of rape are not reported or are settled between families, especially in rural areas. Children are not spared this crime.

38. Through the Ministry responsible for the rights of the human person and gender, the Government is combating this phenomenon with the support of the partners involved. Burundi, in collaboration with its partners, assists the victims. Despite the shortcomings of our current Criminal Code, certain provisions (arts. 382-387) establish penalties for rape.

F. The rights of victims

39. The right of every citizen to leave and return to his country is set forth in article 13 (2) of the Universal Declaration of Human Rights and in article 12 of the International Covenant on Civil and Political Rights.

40. The OAU Convention of 10 September 1969 governing the Specific Aspects of Refugee Problems in Africa, and in particular article 5 thereof concerning voluntary repatriation, reflect respect for this right.

41. Article 49 of the Burundian Constitution provides that no citizen may be forced to go into exile. In view of the horrendous cycle of violence in Burundi since the 1960s, there has been a massive exodus of Burundians to neighbouring countries - Tanzania, Rwanda and the Democratic Republic of the Congo. Following the 1993 crisis, there was a new phenomenon of population groups displaced within the national frontiers.

42. In order to deal with the situation, in 1994 the Government established a ministry responsible for the socio-economic reintegration of victims.

43. The total number of persons repatriated up to June 2008 was 42,724, including 10,916 households scattered all over the country, as indicated in the data obtained through the Repatriation and Reintegration of Victims Support Project (PARESI) in the table below:

Table 4
Distribution of repatriated households by province

<i>Province</i>	<i>Men</i>	<i>Women</i>	<i>Children</i>		<i>Total</i>	<i>Total households</i>
			<i>Under 6 years</i>	<i>7-17 years</i>		
Bubanza	15	16	15	32	78	19
Buja-Mairie	44	34	36	55	169	68
Buja Rural	31	20	35	27	113	32
Bururi	467	496	504	708	2 177	536
Cankuzo	441	469	749	2 354	4 013	555
Cibitoke	19	16	26	24	85	24
Gitega	288	233	339	310	1 170	312
Karuzi	550	477	792	657	2 476	656
Kayanza	106	79	120	96	401	123
Kirundo	831	857	1 426	1 330	4 444	1 140
Muramvya	66	49	79	76	270	74
Muyinga	2 384	2 688	4 270	4 308	13 650	3 648
Mwaro	6	2	3	1	12	6
Makamba	1 123	1 231	1 585	1 714	5 653	1 286
Ngozi	279	254	368	319	1 220	390
Rutana	243	270	389	398	1 300	288
Ruyigi	1 426	1 462	2 029	2 228	7 145	1 705
Undocumented, Mugano	3	1	2	1	7	4
Total	8 322	8 656	12 767	12 979	42 724	10 916

44. Despite the efforts of the Government, there is no shortage of constraints. As a general rule, repatriated persons whose property and houses are available return to them and settle there. But most repatriated persons have found their properties either already occupied by members of their families who have become increasingly numerous or requisitioned by the State for the purpose of execution of its programmes or by third parties in good or bad faith. Thus they are destitute, homeless and landless, and often living in extreme poverty. The courts are overflowing with cases of land disputes, and killings by both sides are not uncommon.

45. With the aim of settling these disputes, the Government had set up the Land and Other Properties Commission, which has replaced the old National Commission for the Reintegration of Victims. The new Commission is responsible for resolving these problems and trying to rehabilitate every victim and ensuring that they are able to exercise their rights with dignity. In addition, an inter-ministerial technical committee has been established by Decree No. 121/VP2/014/2008, with responsibility for setting up a land security policy, revising the Land Code and harmonizing land policy with the other legislative, regulatory and operational instruments relating to sustainable land management.

G. The right of work

46. Various international legal instruments ratified by Burundi guarantee the right to work, notably the Universal Declaration of Human Rights, article 23 of which states: "Everyone has the right to work." Article 6 of the International Covenant on Economic, Social and Cultural Rights stipulates that "The States Parties to the present Covenant recognize the right to work ...".

47. Article 54 of the Burundian Constitution proclaims that "The State recognizes the right of all citizens to work and shall endeavour to create conditions which make possible the effective enjoyment of this right. It recognizes the right of every person to enjoy fair and satisfactory conditions of work and guarantees the worker fair remuneration for his services or his production."

48. At the legislative level, in order to promote the realization of this right, the Burundian State has reformed the Labour Code of 2 June 1966 and Decree-Law No. 1/009 of 6 June 1998 establishing the statutes relating to civil servants.

49. Decree-Law No. 1/037 of 7 July 1993 reforming the Labour Code improved the right to work, and notably the duration of the working week, weekly rest, the work of women and children, trade union freedom, the right to strike, etc. The various provisions of Act No. 1/28 of 23 August 2006 establishing the general statutes relating to civil servants ensure greater respect for the right to work. At the institutional level, a labour tribunal settles disputes between employers and workers.

50. At the political level, the Government has manifested its will to improve social conditions by increasing civil servants' salaries by 34 per cent.

51. There is as yet no system of protection against unemployment. However, efforts are being made by the Government to combat unemployment by formulating new development programmes, essentially in the agricultural sector.

H. The right to housing

52. Burundi is among the countries which have ratified certain international instruments on fundamental rights, notably the right to housing. Thus, this right is ensured by article 25 of the Universal Declaration of Human Rights, which states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services ...".

53. At the national level, article 27 of the Constitution stipulates: "The State shall to the fullest extent possible ensure that all citizens have the means to lead a life consistent with human dignity." However, despite the country's initiatives, the long crises have wreaked enormous material and human damage. The social-political crises since 1962, and particularly the crisis of October 1993, apart from causing loss of life and population displacement, destroyed a substantial proportion of human settlements (housing, infrastructure and installations of all kinds). During this period,

Burundi was confronted with the humanitarian challenges of survival and restoration of peace. In the context of the reconstruction and rehabilitation of infrastructure, the Government and its partners have already initiated the housing policy by building homes for the victims.

54. According to UNHCR statistics, by the end of 2007, 7,709 houses had been built in Muyinga, 4,414 in Kirundo, 3,583 in Karuzi, 2,236 in Ngozi and 1,273 in Kayanza. By the end of 2008, UNHCR expects to have built 300 more houses in Muyinga, 1,680 in Kirundo, 1,120 in Karuzi and 190 in Ngozi. In the province of Muyinga, and specifically in the commune of Giteranyi, the Norwegian Council for Refugees has planned to build 900 homes for repatriated and extremely vulnerable persons.

55. For undocumented persons, in 2007 PARESI built 100 houses in Buhomba (Rural Bujumbura), 300 in Muyange (Bubanza) and 300 in Buhinyuza (Muyinga). In 2008, 96 houses have been built in Musenyi (Makamba).

I. The right to equitable justice

56. Articles 8-11 of the Universal Declaration and article 14 of the International Covenant on Civil and Political Rights establish the right to a fair trial.

57. In Burundi, the right to a fair trial is guaranteed by article 38 of the Constitution. Everyone has:

- (a) The right to an effective remedy before the competent courts;
- (b) The right to an independent and impartial judge;
- (c) The right to a competent and impartial tribunal;
- (d) The right to defence and equality of arms;
- (e) The right to have one's guilt reviewed by a higher court;
- (f) The right to presumption of innocence;
- (g) The right to application of the principles of the legality of crimes and penalties;
- (h) The right to be tried within a reasonable period.

58. However, the exercise of the right to a fair trial is sometimes rendered difficult by the inadequacy of human, financial, material and logistic resources.

59. The Government has carried out reforms aimed at guaranteeing enjoyment of this right.

60. Thus, competence to impose penalties in criminal matters has been extended to the Tribunaux de Grande Instance. This competence was formerly the preserve of the courts of appeal. The advantage of this reform is that it brings justice closer to citizens and gives effect to the principle of two levels of jurisdiction, especially in criminal matters.

III. GENERAL POLICY MEASURES: PROGRESS, BEST PRACTICES, DIFFICULTIES AND CONSTRAINTS

61. Despite the difficulties relating to the lack of financial, human and logistic resources, Burundi is trying to do everything possible to honour its commitments vis-à-vis the treaty bodies.

A. Strengthening of capacities and technical assistance

62. Since human rights are universal, indivisible, interdependent, indissociable and above all inalienable, Burundi quickly understood that it could not act alone or in an isolated fashion in the area of the promotion and protection of human rights. For this reason, in collaboration with its partners, and especially United Nations partners, and in the context of both multilateral and bilateral cooperation, Burundi has received various forms of support. It has made efforts to consolidate peace and human rights.

1. The consolidation of peace

63. Seventeen Peacebuilding Fund projects are currently being executed by the Government of Burundi in partnership with the United Nations, due account being taken of various priority sectors:

(a) Support for the consolidation of peace and for good governance. The following activities have been undertaken:

- (i) Support for reinforcement of the mechanisms set up to combat corruption and various forms of misappropriation throughout the country;
- (ii) Support for the establishment of frameworks for dialogue and consultation between national partners;
- (iii) Support for improvement of the quality of local public services.

(b) Reinforcement of the sector concerned with security and reduction of knives and handguns. The following activities have been undertaken:

- (i) Billeting of the National Defence Forces (FDN) to lessen the impact of their presence on the public;
- (ii) Support for an operational national neighbourhood police force;
- (iii) Promotion of discipline and improvement of relations between the FDN and the population through the raising of ethical standards;
- (iv) Support for a National Intelligence Service having due respect for the rule of law;
- (v) Initiation of activities designed to disarm members of the public and combat the proliferation of knives and handguns.

(c) Promotion and defence of human rights, strengthening of justice and combating impunity. The following activities have been undertaken:

- (i) Rehabilitation of the basic judicial system with a view to the reduction of intra-community conflicts through the construction and installation of permanent courts;

- (ii) Reduction of violence and termination of killings through the resumption of the National Programme for the recording and execution of decisions and judgements rendered by the courts and tribunals, accompanied by the reinforcement of the capacity of the judicial apparatus;
 - (iii) Support for the establishment of an Independent National Human Rights Commission and for the initiation of its activities;
 - (iv) National consultation for the implementation of the transitional justice machinery.
- (d) Land question and advancement of communities. The following activities have been undertaken:
- (i) Support for the peaceful settlement of land disputes;
 - (ii) Support for the social reintegration of victims;
 - (iii) Participation of young people in social cohesion at the community level;
 - (iv) Rehabilitation of the role of women in the process of community reconstruction and rehabilitation;
 - (v) Promotion of the role of small businesses and microprojects in the consolidation of peace.

2. Human rights

64. The institutional framework for the promotion and protection of human rights in Burundi was greatly strengthened by the Framework Agreement for collaboration between the United Nations and the Government of Burundi in the activities of the United Nations Operation in Burundi (ONUB) established on 8 November 1995. Seven months later, on 22 June 1996, the Government signed a Memorandum of Agreement with the United Nations concerning a technical cooperation programme relating to human rights. It was in this context that the United Nations supported the Government through the Human Rights Promotion Centre, which later became the Centre for the Promotion of the Rights of the Human Person and Prevention of Genocide.

65. Today, the United Nations, through Security Council resolution 1719 (2006) relating to ONUB adopted at its 5554th meeting on 25 October 2006, followed by resolution 1791 (2007) relating to BINUB adopted at its 5809th meeting, is supporting the Government of Burundi on the path to peace and stability.

66. The Government has also benefited from United Nations support in the following areas:

(a) Introduction of a democratic culture and initiation of a social dialogue between all partners; political parties, civil society, private sector, religious faiths, trade unions, media, women's associations and human rights associations throughout the country;

(b) Reform of the FDN, strengthening of the capacities of the National Police, reform of the intelligence services aimed at ensuring greater respect for human rights, and strengthening of the institutional capacities of the National Technical Commission for the disarmament of civilian population groups;

- (c) Reception and socio-economic reintegration of refugees in their communities and the rehabilitation of infrastructures, the guarantee of food security, income-generating activities for repatriated and displaced persons, demobilized combatants and other vulnerable groups, and the increased independence of women and children;
- (d) Strengthening of the capacities of institutions for the promotion and protection of human rights, with particular emphasis on action to combat violence against women and children;
- (e) Subregional integration through partnership with the secretariat of the International Conference on the Great Lakes Region and Burundi's membership of the East African Community;
- (f) Strengthening of national coordination capacities and contribution to the Monitoring and Tracking Mechanism of the Strategic Framework for Peacebuilding;
- (g) Promotion and defence of human rights, including the strengthening of institutional capacities in this area, particularly with regard to the rights of women, children and other vulnerable groups;
- (h) Formulation and implementation of a national human rights action plan, including the establishment of an Independent National Human Rights Commission;
- (i) Establishment of transitional justice machinery through the signing of a framework agreement on the setting-up of a tripartite steering committee for national consultations on transitional justice machinery in Burundi.

B. Compliance with obligations

67. The United Nations system for the promotion and protection of human rights is based on two major supervisory mechanisms, namely: treaty and non-treaty mechanisms, Burundi has experience of the two systems.

1. Treaty mechanisms

68. Burundi has already produced and presented to the competent committees:

- (a) Its initial reports relating to the rights of the child, torture and discrimination against women. All three reports have been the subject of conclusions, observations and recommendations by the committee concerned;
- (b) Two periodic reports on the rights of the child and discrimination against women have been produced and constitute follow-up to the committees' conclusions and recommendations on the initial reports;
 - (i) In the case of the Committee on the Rights of the Child, the first periodic report has not yet been presented; it constitutes a follow-up to the Committee's conclusions and recommendations. The Government had been recommended to: continue efforts to effect legislative reform with a view to ensuring conformity between the national legislative provisions and principles, and the provisions of the Convention; ensure that customary law and traditional principles fully respect

the provisions of the Convention; and continue to adopt framework laws on the rights and duties of the child. The Government has continued efforts to harmonize national legislation with the Convention, as evidenced by the ratification of a number of ILO Conventions (cf. report, I.3.2.1; Constitution, art. 19, etc.);

- (ii) In the case of the Committee on the Elimination of Discrimination against Women, the first periodic report, combining the second, third and fourth reports, was presented to the Committee in January 2008. It constituted follow-up to the Committee's conclusions and recommendations on the initial report. The Committee had asked questions about measures and programmes benefiting rural women, the publicity given to the Convention, women's freedom of speech, violence against women, the education of girls, budget allocations, women prisoners, employment, prostitution, abortion, marriage, the nationality of children with an unknown father, etc. The first periodic report responded to all these questions and described the progress achieved, constraints and difficulties encountered;
- (iii) In the case of the Committee against Torture, the observations and recommendations essentially related to:
 - (a) Concern at the non-existence of provisions explicitly defining torture in the Criminal Code in force and making torture a punishable offence in criminal law, in accordance with articles 1 and 4 of the Convention;
 - (b) Lack of clarity concerning the status of the Convention in Burundian domestic law and the fact that it is not invoked before the competent judicial and administrative authorities (arts. 1 and 4);
 - (c) The provisions relating to police custody in the Code of Criminal Procedure in force, which do not explicitly provide for the notification of rights, including the presence of a lawyer and the medical examination of the detainee during the first hours of police custody;
 - (d) Lack of provisions on legal aid for disadvantaged persons and length of police custody, which can last as much as 14 days or even longer;
 - (e) The persistence of torture, widespread sexual violence, the practice of rape as a weapon of war, the dual mandate of the National Intelligence Service as a State security body and also serving as a judicial police force, enforced disappearances, arbitrary arrests, incommunicado detention, the apparent impunity enjoyed by rapists, the extrajudicial or amicable settlement of cases of rape, and above all practices such as marriage between the rapist and the victim, etc.;
 - (f) The Committee was also concerned about the lack of independence of the judiciary, and the absence of a specific justice system for juveniles and of an adequate supervisory system in all places of detention. The Committee suggested the establishment of a legislative and judicial supervisory mechanism, and that in the next periodic report detailed statistical information, broken down by offence, should be provided. At present, the lightweight body set up to draft national

reports (initial and periodic) is working on this matter and taking account of the Committee's observations. Burundi's first periodic report relating to the Convention against Torture will be available shortly and will describe the follow-up and implementation of the conclusions and observations.

2. Non-treaty mechanisms

69. Burundi has already been the subject of a number of mandates namely, those held by the Special Rapporteur and the Independent Expert. The most recent mandate is that of the Independent Expert, Mr. Akich Okola. Pursuant to General Assembly resolution 60/250 of 15 March 2006 entitled "Human Rights Council", the Independent Expert has produced an interim report, which was the subject of agenda item 2 of the fourth session of the Human Rights Council. The report related to the sixth and seventh visits made by the Independent Expert from 7 to 14 October 2006 and from 14 to 27 January 2007 respectively. He addressed the general situation in Burundi and focused specifically on the following points:

- (a) The implementation by the Government of programmes aimed at providing free primary education and free access to health care for children under five years of age and expectant mothers;
- (b) The political situation, including the signing of a comprehensive ceasefire agreement between the Government and the National Liberation Forces (FNL) on 7 September 2006;
- (c) The arrest, detention and acquittal of the alleged coup-plotters, including the former President and the former Vice-President of the Republic;
- (d) The arrests and killings perpetrated in Muyinga between May and August 2006, and the subsequent judicial investigation.

70. At the end of his report, the Independent Expert made a number of recommendations to the Government and to the international community. Most of these recommendations are still applicable. Without going into details, it may be mentioned, for example, that the recommendation calling upon the Government to implement the ceasefire agreement signed on 7 September 2006 as soon as possible, although still applicable, has been implemented to a significant extent. The leaders of the FNL have already returned to Burundi and the billeting of its combatants has already begun. As to the international community, the Government reiterates and endorses the Independent Expert's recommendations to the international community to increase its support for the Burundian justice system, in particular regarding the establishment of transitional justice mechanisms and of an Independent National Human Rights Commission, and support for the efforts made by the Government to encourage respect for human rights and secure a lasting peace.

BIBLIOGRAPHICAL REFERENCES

A. International sources

De Schutter (Olivier), Tulkens (François), Vani Droo Ghenbroeck (Sebatien), Code de droit International des droits de l'homme, Bruxelles, Bruylant, 3^{ème} Edition, mise à jour au 1^{er} mai 2005.

B. National sources

Loi N° 1/010 du 18 Mars 2005 portant Promulgation de la Constitution de la République du Burundi.

Décret-loi N°1/6 du 4 Avril 1981 portant réforme du Code Pénal.

Décret-loi N° 1/024 du 28 Avril 1993 portant réforme du Code des Personnes et de la Famille.

Le Rapport initial du Burundi sur la CDE.

Le Rapport Initial du Burundi sur la CCT.

Le Rapport Initial du Burundi sur la CEDEF.

Le 1^{er} Rapport Périodique du Burundi sur la CDE.

Le 1^{er} Rapport Périodique du Burundi sur la CEDEF.

Le Rapport CAT/C/BDI/CO/1.

Le Rapport Intérimaire de l'Expert Indépendant.

Plan d'Action National pour les Orphelins et Enfants Vulnérables au Burundi, Période: 2007-2011.

Décret N° 100/75 du 14 Mars 2006 portant organisation du Ministère de la Solidarité Nationale, du Rapatriement, de la Reconstruction Nationale, des Droits de la Personne Humaine et du Genre.

Arrêté N° 120/VP1/002/2000 du 11 Mai 2000 portant création de la Commission Gouvernementale des droits de la Personne Humaine.

Arrêté N°121/VP2/014 du 11/06/2008 Portant création d'un Comité Technique Interministériel Elargi chargé de préparer une lettre de Politique foncier et d'organiser la Révision du Code Foncier.

LIST OF ABBREVIATIONS AND ACRONYMS

ACAT	Association Chrétienne pour l'Abolition de la Torture
ADDF	Association pour la Défense des Droits de la Fille
APRODH	Association pour la Protection des Droits de l'Homme et des Prisonniers
BINUB	Bureau Intégré des Nations Unies pour le Burundi
CCT	Convention Contre la Torture et autres Peines ou Traitements Cruels, Inhumains ou Dégradants
CDE	Convention Relative aux Droits de l'Enfant
CDH	Centre des Droits de l'Homme
CEDEF	Convention sur l'Elimination de toutes les formes de Discrimination à l'Egard des Femmes
CGDPH	Commission Gouvernementale des Droits de la Personne Humaine
CNDD-FDD	Conseil National pour la Défense de la Démocratie Force pour la Défense de la Démocratie
CNG	Conseil National Genre
CNIDH	Commission Nationale Indépendante des Droits de l'Homme
CNR	Conseil Norvégien pour le Réfugiés
CNRS	Commission Nationale de Réhabilitations des Sinistrés
CPDPHPG	Centre de Promotion des Droits de la Personne Humaine et de la Prévention du Génocide
CPP	Code de Procédure Pénale
EPU	Examen Périodique Universel
FDN	Forces de Défense Nationale
HCR	Haut Commissariat des Nations Unies pour les Réfugiés
MSF	Médecins Sans Frontière
OEV	Orphelins et Enfants Vulnérables
OHCDHB	Office du Haut Commissaire des Droits de l'Homme au Burundi
OIT	Organisation Internationale du Travail

ONG	Organisation Non Gouvernementale
ONUB	Opérations des Nations Unies au Burundi
OPJ	Officier de Police Judiciaire
OUA	Organisation de l'Unité Africaine
PALIPEHUTU-FNL	Parti pour la Libération du Peuple Hutu-Force Nationale de Libération
PARESI	Projet d'Appui au Rapatriement et à la Réintégration des Sinistrés
PBF	Peace Building Fund
PIB	Produit Intérieur Brut
PIDCP	Pacte International relatif aux Droits Civils et Politiques
PIDESC	Pacte International relatif aux Droits Economiques, Sociaux et Culturels
PMPA	Partis et Mouvements Politiques Armés
PNUD	Programme des Nations Unies pour le Développement
SNR	Service National de Renseignement
SWAA	Society for Women against Aid in Africa
RDC	République Démocratique du Congo
UA	Union Africaine
UNIFEM	Fonds de développement des Nations Unies pour la Femme
UNFPA	Fonds des Nations Unies pour la Population
VIH/SIDA	Virus Immuno Déficience Humaine/Syndrome Immuno Déficience Acquise
