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Burundi : Suffering in Silence : Civilians in Continuing Combat in Bujumbura Rural

Human Rights Watch Briefing Paper, June 2004

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Summary

With most of Burundi at peace, the United Nations has assumed responsibility for the African Mission in Burundi (AMIB), a peacekeeping force already in place under the auspices of the African Union. The new UN force, known as the United Nations Operation in Burundi (ONUB) is supposed to facilitate implementation of agreements between the government of Burundi and former rebel groups, including the most important of them, the Hutu-led National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) of Pierre Nkurunziza. Implementation of the agreements has been slow, preventing real consolidation of the fragile peace.

The UN force also has the mandate to protect civilians at imminent risk of danger, an important charge given that the combined forces of the government army and the FDD of Nkurunziza continue to jointly carry on combat against a smaller Hutu rebel movement, the Forces of National Liberation (FNL) in the province of Bujumbura rural.¹ In recent months, soldiers of the government army (Forces Armées Burundaises, FAB) and combatants of both rebel forces violated international humanitarian law by killing, wounding, raping, and pillaging civilians in areas just outside the capital. Both Burundian and international actors focus on diplomatic developments and largely ignore these continuing crimes. As one victim put it, “The civilian is like a bridge that everyone walks across. He never chooses to collaborate with one or the other but he is forced to do so. The big difference is that the others—soldiers and rebels—are armed.”²

Context

A general staff including the senior officers of the Burundian army and of the FDD of Nkurunziza has been established in partial fulfillment of the power-sharing agreements and the forces often cooperate on the ground. But these arrangements, including responsibility for operational command, remain fluid and ambiguous. The day after the joint general staff was set up, Minister of Defense Major General Vincent Niyungeko stated that it “did not replace the already existing general staff,” meaning that of the Burundian army. The ambiguity in the command structure reduces prospects for establishing accountability for the crimes against civilians just at a time when the number of forces in the area has increased considerably.

The agreements between the government and the FDD, like the earlier accords between the government and smaller rebel movements, provided for the cantonment and eventual demobilization and disarmament of combat forces, but the parties have not adhered to the schedules for these processes. In the meantime the FDD has moved ahead on the ground, installing its forces at places of its own choosing instead of at agreed-upon sites. With no legal basis for claiming authority, it has nonetheless begun administering local civilians in several parts of the country.

1 In the past adamantly opposed to negotiations with the government, the FNL changed its stand on April 21 and announced a ceasefire to clear the way for talks. Twenty-four hours later the effort failed and combat resumed.

2 Human Rights Watch interview, Bujumbura, March 4, 2004.

As the CNDD-FDD has shown its strength on the ground, it has attracted supporters from other political movements: it began April with fifteen deputies in the Transitional National Assembly but ended the month with more than fifty. Most of its new adherents were deserters from FRODEBU (Front for Democracy in Burundi, a party that encompasses many of the majority Hutu). This once clearly preeminent Hutu-led political force, the original major partner in the coalition government with the Tutsi-dominated UPRONA (the National Unity and Progress party) is close to losing the distinction of being the largest Hutu-led party in the assembly. In a first demonstration of their newfound strength in the legislature, CNDD-FDD representatives expressed dissatisfaction with the distribution of power in the assembly and announced a boycott of plenary legislative meetings. Ten days later the CNDD-FDD withdrew from the government, saying it had received too few administrative posts. While thus pushing forward its own political agenda, the CNDD-FDD professed willingness to continue collaboration with the Burundian army on military matters.³

Although the various accords prohibited recruiting new forces, the FDD and other rebel movements continue to recruit combatants, children as well as adults.

Both Burundian leaders and international actors, intent on pushing along a halting peace process, say little about the ongoing military activities, recruitment, and violations of international humanitarian law. International leaders have proved largely unable to counter the delaying tactics used by the Burundian actors, some of whom seem to prefer continuing low-scale war to a final peace.

The people of Bujumbura rural, site of the continuing combat, feel abandoned, held hostage by all sides as attempts to bring peace stumble forward. As one said, “The hardest, the saddest, is the silence that surrounds what is happening in our region.”⁴

Recommendations

To the Government of Burundi, the FDD and the FNL:

Order the forces under your command to immediately begin observing provisions of international humanitarian law, particularly those regarding treatment of civilians and access of humanitarian agencies in conflict zones.

Bring to justice or otherwise hold accountable forces under your command that have committed violations of international humanitarian law.

To the Government of Burundi:

In conjunction with ONUB, UNICEF, and the national office for the demobilization of child soldiers, ensure the demobilization of all child soldiers in the Burundian armed forces and the various armed groups, including the FDD, now joined with it, and ensure this will be done within the framework of the national program of disarmament, demobilization and reintegration (DDR).

³ British Broadcasting Company (BBC), “Burundi ex-Rebels Quit Government,” May 3, 2004.

⁴ Human Rights Watch interview, Bujumbura, February 3, 2004.

Screen all Burundian army soldiers and former rebel combatants set to join the new Burundian National Defense Forces to ensure that no one who is apparently implicated in serious violations of international humanitarian law is included in the new force.

To the United Nations Security Council:

Ensure that ONUB execute fully its mandate to protect civilians throughout Burundi, providing adequate resources for it to do so. Direct the ONUB human rights unit to closely monitor all serious violations of international humanitarian law, including in Bujumbura rural and any areas where combat continues, and to periodically and publicly report its findings.

FDD Abuses: “The Politics of the Stick”

Even before the signing of the power-sharing agreements in late 2003, CNDD-FDD representatives assumed an increasingly visible role in public affairs in the Kamenge and Kinama sections of the city of Bujumbura. In several cases, their agents detained civilians in unofficial places of detention in private homes, accusing them of having supported the FNL.⁵ CNDD-FDD representatives summarily settled various local conflicts, including questions involving land, marriage problems, and failure to repay debts.⁶ According to several residents of these sectors, they imposed “the politics of the stick,” meaning they beat persons whose personal or political behavior they found unacceptable.⁷

Government officials and soldiers generally tolerated the appropriation of authority by the CNDD-FDD. “The soldiers just laugh,” said one Kamenge resident.⁸ Another commented, “The administration and the local respected people (*bashingantahe*) don’t say anything because they can’t say anything.”⁹ Another Burundian said, “The one who really governs is the one who has a gun.”¹⁰ After the situation was publicized, national officials sought to temper the CNDD-FDD exercise of authority, but in some areas the former rebel agents continued to intervene in local affairs, undermining the authority of local government officials.¹¹

In the early months of 2004, CNDD-FDD agents began exercising authority in some other parts of the country as well. In Ngozi province, FDD representatives reportedly summarily executed a man identified as a thief by the local people and in Bubanza province FDD agents detained persons without any authority to do so and in another case they supposedly beat a man so severely that he had to be hospitalized.¹² In late April in Kiganda commune, Muramvya they arrested a leader of another rebel group, accusing him of recruiting new combatants for their opponents.¹³

5 Human Rights Watch interviews, Bujumbura, February 4, 9, 20, and 23, 2004.

6 Human Rights Watch interviews, February 10, 20, and 23, 2004.

7 Human Rights Watch interviews, Bujumbura, 9, 10, 20, and 23 February, 2004.

8 Human Rights Watch interview, February 10, 2004.

9 Human Rights Watch interview, February 10, 2004.

10 Human Rights Watch interview, Bujumbura, February 3, 2004.

11 Agence France Presse, “Burundi: Des associations s’indignent des arrestations opérées par d’ex-rebelles,” December 18, 2003.

12 Human Rights Watch interviews, Bujumbura, March 26 and April 14, 2004.

13 Arib News, “Arrestation d’un officier de Ndayikengurukiye par les FDD/Nkurunziza,” April 20, 2004.

FDD and Government Cooperation in Bujumbura Rural

In waging war against the FNL, FDD combatants and government soldiers cooperate in ways that are varied and poorly defined on the ground. The Burundian army brought in thousands of soldiers, including some from the provinces of Muramvya and Ruyigi (24th battalion).¹⁴ In addition to fixed outposts, government soldiers operated in mobile units, many of them new to the region. To the government forces were added hundreds and perhaps thousands of FDD combatants. Burundian army vehicles provided transport and delivered food to the FDD, commanders exchanged visits and soldiers drank together. On occasion the forces launched joint operations for combat and pillage.¹⁵ But troops did not operate in the integrated military units that had been foreseen by the power-sharing accords of late 2003.¹⁶ Burundian army troops and FDD combatants, for example, occupied separate positions and wounded FDD combatants reportedly were not treated at the Bujumbura military hospital.

In such places as Mubimbi, Isale, Kanyosha, and Nyabiraba communes, the FDD chased away the FNL and civilians whom they took for FNL supporters. According to residents their message was, “FNL control is finished now.”¹⁷ FDD leaders publicly denied their presence in Bujumbura rural, perhaps reluctant to acknowledge their role in combat against another Hutu-led force. But in interviews with Human Rights Watch researchers and others, high-ranking FDD officers did not contest the FDD presence in the area.¹⁸ In Rushubi, Isale commune, some FDD officers told local people that they had eight military posts with 740 combatants in that commune.¹⁹

Violations of International Humanitarian Law

In Bujumbura Rural, soldiers of the government army and both FDD and FNL combatants have violated international humanitarian law. Burundi is party to the 1949 Geneva Conventions and to its Additional Protocol II that applies to internal armed conflicts and that continue in effect even after the implementation of a ceasefire agreement until a definitive peace is achieved.²⁰

Killings of Civilians

All sides have deliberately targeted civilians whom they supposed to be supporters of the other side, ignoring the distinction between civilian and combatant that is fundamental to international

14 Human Rights Watch interviews, Bujumbura, November 27, 2003 and Rushubi, March 19, 2004.

15 Trucks of the government army reportedly delivered food to FDD positions at Rushubi and Mbare Gasarara. Human Rights Watch interview, Bujumbura, March 17, 2004.

16 Article 6, Pretoria Protocol of October 8, 2003, known as the Comprehensive Accord of cease fire and power sharing adopted on 16 November 2003. In a first joint training exercise, 400 FDD combatants moved to Bururi military camp on March 16, 2004 to be trained with 800 Burundian army soldiers for a unit meant to replace forces now protecting political institutions (Unité de Sécurité des Institutions).

17 Human Rights Watch interview, Rushubi, March 19, 2004.

18 Human Rights Watch interviews, Bujumbura, February 25 and April 14, 2004.

19 Human Rights Watch interview, Rushubi, March 19, 2004.

20 See Human Rights Watch, *Everyday Victims: Civilians in the Burundian War*, December 2003, note 60.

humanitarian law. A young girl said, “Soldiers say that everyone they see is a rebel. That women and girls are also rebels.”²¹

Witnesses from Kanyosha commune accuse government soldiers, perhaps those stationed at Mboza, of killing a ten-year-old child named Elias on November 14, 2003. Soldiers stopped the child, who was fleeing combat with his mother, at a barrier at Mugwa, Buhonga hill. When his mother tried to protect the child, the soldiers tore him from her arms, accusing him of being “one of those rebels who are shooting at us.” They killed him in front of his mother’s eyes. According to local witnesses, soldiers also stopped and killed Ambroise Nvuyekure, another civilian, the same day at the same place.²² According to local witnesses, FDD combatants killed Emmanuel Nahurutari in Rushubi as he tried to prevent them from abducting his daughter Denise, said to have belonged to the Patriotic Hutu Youth (Jeunesses Patriotique Hutu, JPH), a FNL organization for young people.²³

In late 2003 the FNL made a list of forty-nine persons in Mutambu commune accused of having attended an FDD meeting. Within several months, three of those on the list, Michel Nyabworo, Artémone Kirahinduka, and Stanislas Ciza, had been killed by the FNL and others had fled the area, said local witnesses.²⁴ On March 29, 2004, in Muberure, commune Isale, FNL combatants killed one student because he was the brother of an older man supposed to be supporter of the FDD.²⁵

Government soldiers may have also engaged in the disproportionate and indiscriminate use of force, putting civilians at risk of injury and death. According to one witness, government soldiers fired mortars with no regard for fleeing civilians during an attack at Kabezi on March 16. “They set up a large weapon,” she said, and fired four shells towards Mena hill. You could clearly see the people fleeing down that hill towards Kabezi center. A shell fell on the civilians and I saw the dust rise up and the people ran in every direction. We prayed for them, that they would not die.”²⁶ In another case, two government soldiers were shot and killed on January 26 in the Karinzi market in Mutambu commune, supposedly by FNL combatants. Other government soldiers then opened fire on the crowd, killing six civilians.²⁷

Rape

As the mother of one rape victim said, “Rape has become like an epidemic.”²⁸ To protect themselves, women and girls avoid being alone, whether in their own homes or out on the road.²⁹

21 Human Rights Watch interview, Bujumbura, December 5, 2003. See also Human Rights Watch, Burundi: Civilians pay the price of a faltering peace process, February 2003.

22 Human Rights Watch interviews, Bujumbura, November 18, 20, 25, and 27, 2003.

23 Human Rights Watch interview, Rushubi, March 19, 2004.

24 Human Rights Watch interview, Mutambu, March 12, 2004.

25 Human Rights watch interview, Muramvya, 29 mars 2004.

26 Human Rights Watch interview, Bujumbura, March 18, 2004.

27 Human Rights Watch interviews, Bujumbura, February 3, 2004 and Mutambu, March 12, 2004. .

28 Human Rights Watch interview, Kayanza, March 9, 2004.

Said by one young girl, “I want peace...so as to not have to always live hidden.”³⁰ Both soldiers and FDD combatants have committed this crime. FNL rebels, bound by strict religious rules, are reportedly forbidden to rape and may be punished by death if they do so. As a result, rape by FNL combatants appear to be relatively infrequent.

On January 10, 2004 two FDD combatants raped a girl who was cultivating in a field at Mbare. According to her, they said, “We are going to take you all. There won’t be a virgin left among you.”³¹ On February 15, 2004 FDD combatants caught five girls on the hill Sagara, Isale commune. Three managed to escape, but the two others were raped.³²

In January, a government soldier from the Musumba post raped a girl in Ruyaga.³³ On March 10, 2004 government soldiers stopped a group of civilians on the road in Ruziba in Kanyosha commune and abducted a girl, threatening to kill the others if they did not flee immediately.³⁴

Women and girls who have been raped suffer long after from the consequences of the crime. Those known to have been raped or thought to have been raped because they were publicly abducted, because they were away from home long enough for their absence to have been noticed, or because they became pregnant, are likely to be rejected by their communities and even by their husbands and their own families. An unmarried woman known to have been raped will have difficulty finding a spouse.

One young widow and her fifteen-year old sister-in-law from Mubimbi commune were abducted by four armed FDD combatants early one morning in June 2003 when they had just arrived at their fields to begin cultivating. According to one of the victims, the combatants forced them to walk for half a day until they reached a FDD post in the Kibira forest where there were many combatants. Both were gang raped nightly by various FDD combatants from Monday through Friday. “They kept saying, “Just do as you are told...,” said the victim. “They came one after the other. Then there was a pause and then another came. I couldn’t even count how many. It went on a long time, a very long time.” On Tuesday the fifteen-year old complained to the commanding officer. The next day he sent two of the rapists to another post, but the others continued to rape the young women. On Friday night two combatants took away the fifteen-year old and the other victim heard a gunshot nearby. The next morning she was told to run away as fast as she could without looking back. She refused to go without her sister-in-law until she was shown her dead body. She then fled. The young widow had no choice but to return to the home of her mother-in-law. “I spent five months with her. We never spoke [about the rape] even though everyone knows that if a girl or woman is taken, it is for that. One day I couldn’t eat meat and she said that I was pregnant. I denied it. But when it became clear I was pregnant, she chased

29 Human Rights Watch interviews, Bujumbura, March 2 and 4, 2004; Mutambu, March 12, 2004; and Mutumba, March 17, 2004 .

30 Human Rights Watch, Bujumbura, March 18, 2004.

31 Human Rights Watch interview, Bujumbura, March 5, 2004.

32 Human Rights Watch interview, Rushubi, March 19, 2004.

33 Human Rights Watch interview, Ruyaga, February 26, 2004.

34 Human Rights Watch interview, Bujumbura, March 18, 2004.

me away from her house.” Shaking her head and crying, the victim concluded, “We are rejected, insulted, mistreated. This crime must be punished to deter this in the future.”³⁵

Rapes were rarely prosecuted and punished. In some cases this is because victims cannot identify their assailants and sometimes do not even know for which side they were fighting. On February 21, 2004, armed men in camouflage uniform and boots abducted two girls, one aged fifteen, the other aged seventeen, from a home at Kirombwe. They identified themselves as FNL combatants but the victims and their families believed them to be FDD combatants, trying to discredit their FNL opponents. Yet there appear to have been neither FDD nor FNL combatants in the immediate region and there were government soldiers at a nearby post.³⁶ Parents of the girls overcame their own fear of possible reprisals for bringing a complaint and sought action from administrative authorities. But because neither the rapists nor their military units could be identified, the governor of Bujumbura rural concluded that he had insufficient evidence to raise the case with either the government army or with the FDD.³⁷ The angry father of one of the girls said, “I came here because someone has really hurt my child. The principal person responsible is the one who sent these men there. And we can’t even know who it was.”³⁸

Even where there was a possibility of finding the rapists, authorities rarely made the effort. In the case of the rape in Ruyaga mentioned above, police investigated the case but six weeks later still had not transmitted the file to the military justice department.³⁹ At Gitaza, Muhuta hill, FDD combatants were in the act of abducting three girls when the shouts of local residents attracted the attention of the FDD commander. He intervened to free the girls, but he apparently did not punish the combatants.⁴⁰ In one exceptional case, a FDD commander had one of his combatants publicly beaten after he was caught trying to rape a girl at Nyarukere, Isale commune.⁴¹

A young girl who had been raped said with eyes downcast, “It’s important to punish them [those who raped her] because they did me harm and they did not even know me.”⁴²

“A Swarm of Bees”: Pillage, Looting, and Occupation of Property

Most of the mobile units of government soldiers and FDD combatants arrived in Bujumbura rural without supplies and engaged in “stocking up en route” [*le ravitaillement sur itinéraire*]⁴³ “It is like a swarm of bees that have invaded us,” said one woman of the FDD combatants.

35 Human Rights Watch interview, Bujumbura, March 13, 2004.

36 Exaggerated reports of these rapes circulated rapidly and widely in the area, always charging the FDD with the crime. By two or three days later, Human Rights Watch researchers and representatives of other NGOS had been told repeatedly that FDD combatants had systematically raped at least twenty persons, including babies and the elderly in the vicinity of Kirombwe but HRW researchers only found the two cases described above. Human Rights Watch interviews, Ruyaga, February 26, 2004.

37 Human Rights Watch interview with Ignace Ntawembarira, governor of Bujumbura rural, Bujumbura, March 22, 2004.

38 Human Rights Watch interview, Bujumbura, March 5, 2004.

39 Human Rights Watch interview, Ruyaga, February 26, 2004.

40 Human Rights Watch interview, Bujumbura, March 18, 2004.

41 Human Rights Watch interview, Rushubi, March 19, 2004.

42 Human Rights Watch interview, Bujumbura, March 5, 2004.

43 Human Rights Watch interview, Ruyaga, February 26, 2004.

On February 23 and 24, government soldiers looted 128 households on the hill of Ruhabiro, near Gasarara, carrying off chickens, beans, oil, soap, cooking pots, blankets, hoes, and gerry cans. They also looted 200 households on the hill Buzige Musumba and 136 households on the hill Buzige Mugubve.⁴⁵ In some cases, soldiers simply destroyed property, apparently to punish and humiliate the civilian population: they turned over pots full of food, broke jugs of beer, or dug up bananas that were being ripened to make beer.⁴⁶ “They’d rather poke a hole in a pot than leave it whole,” said one woman. “They pull up the manioc growing in the fields and even stamp on the young shoots so that they will not grow.”⁴⁷ Residents of Kabezi reported that soldiers who looted on their hill on March 20 went so far as to defecate in their cooking pots.⁴⁸

In some cases, such as at Nyabibondo in Nyabiraba commune in early February, the soldiers looted immediately after humanitarian assistance had been distributed, when local people would have the largest possible amount of supplies on hand. At Kinyami and Mayemba, Nyabibondo, Nyabiraba, they fired in the air to make civilians flee so that they could loot the goods that they left behind in flight. In still other cases, soldiers followed the civilians to the homes of others where they had sought safety.⁴⁹ One woman displaced at Mugere lamented, “We always have a little bundle of things ready in case we have to flee. After coming back from their attack [against the FNL] the soldiers came to find us where we had fled. They searched everything, took our money, the clothes we had brought along, everything that we had taken in flight. I lost everything. In my little packet, there were clothes, plates, a cooking pot.”⁵⁰

Residents of Bujumbura rural also reported looting by the FDD. According to one woman, “On Sunday we had put on our best clothes to go to mass. The FDD stopped us on the way and made us undress. They spared no one. They stole everything. We were left without even a cloth or a pair of pants. Even those who offered them money were forced to undress. We felt humiliated.”⁵¹

As in the past government soldiers required civilians to provide them with unpaid and forced labor, including cutting and transporting firewood, fetching water, transporting goods from one post to another. At Buhama in Mutambu, government soldiers surrounded a church where a service was being held and required twelve men to come provide transport for their goods.⁵² In areas occupied by the FDD, they now require the same services from nearby residents. At Mbara Gasara, FDD require people to furnish firewood and at Rushubi they require unpaid

44 Human Rights Watch interview, Bujumbura, February 26, 2004.

45 Human Rights Watch interviews, Buhonga, March 11 and Bujumbura, March 18, 2004.

46 Human Rights Watch interviews, Bujumbura, November 27 and December 5, 2003; March 22, 2004.

47 Human Rights Watch interview, Bujumbura, March 22, 2004.

48 Human Rights Watch interview, Bujumbura, March 22, 2004. The unit responsible was said to be the Bakongwe (see below in Chain of command and impunity).

49 Human Rights Watch interview, Bujumbura, February 18, 2004.

50 Human Rights Watch interview, Bujumbura, March 18, 2004.

51 Human Rights Watch interview, Bujumbura, February 18, 2004.

52 Human Rights Watch interview, Mutambu, March 12, 2004.

contributions of food two or three times a week.⁵³ “Even someone who has nothing tries to find something to give,” said one person, “because if you refuse you are taken for a collaborator with the FNL.”⁵⁴

The FNL also force the population to donate food and other goods and to attend political meetings. They mete out punishments like beatings and fines to those who do not comply with their directives.⁵⁵ A JPH youth group collect goods and provide other services to the FNL, such as transporting the wounded and keeping track of attendance at FNL political meetings. According to one witness, young people in areas dominated by the FNL are generally obliged to join the JPH, whether they want to or not. “If parents refuse [to have their children participate] they are threatened with death.”⁵⁶ The FNL refuse to tolerate any expression of dissent from their policy of continuing the war. “We’re afraid to tell our ideas about [ending the war] to the FNL,” said one old man. “They don’t seem ready to accept that right now. If anyone talks that way to the FNL, then we will find heads on the road.”⁵⁷

Displacement and Humanitarian Assistance

Many of the people of Bujumbura rural have been forced to flee their homes repeatedly during this period of intensified combat. In February and March, 25,000 to 30,000 civilians from Kabezi became the group most recently displaced. Unable to cultivate their fields, dependent on uncertain deliveries of food aid, and deprived of regular medical assistance, many people suffer from malnutrition and illness. Many sleep outside, drenched every day and night by the heavy rains of the rainy season. The displaced who seek shelter with relatives or friends impose burdens on their hosts who share their meager food supply and sometimes sleep twenty-five or thirty adults in a single room.⁵⁸

Command Responsibility and Impunity

Government soldiers operating in Bujumbura rural include units stationed at fixed military posts, who generally spend weeks or months in the same place and who often become known to the local population, as well as mobile units sent in for temporary missions who are rarely in any one place very long. Rebels may belong to the FDD led by Pierre Nkurunziza or to the FNL led by Agathon Rwasa. With different forces operating in the same area, those accused of abuses often claim innocence and assign the blame to their opponents, as in the case of rape at Kirombe described above. The FDD accuse the FNL and vice versa. Even between the supposedly allied forces of the government army and the FDD, each side accuses the other of responsibility for abuses.⁵⁹

53 Human Rights Watch interview, Bujumbura, March 17, 2004.

54 Human Rights Watch interview, Rushubi, March 19, 2004.

55 Human Rights Watch interviews, Bujumbura, November 27, 2003 and March 2, 2004.

56 Human Rights Watch interview, Bujumbura, March 4, 2004.

57 Human Rights Watch interview, Bujumbura, November 27, 2003.

58 Human Rights Watch interviews, Bujumbura December 4 and 5, 2003; February 25 and March 18, 2004.

59 Human Rights Watch interviews, Rushubi, December 16, 2003 and March 19, 2004 and Bujumbura, March 15, 2004.

If perpetrators of crimes and their military units cannot be identified, then accountability becomes impossible. As one witness said, “We no longer know who is who. You can find government army soldiers even wearing Rwandan or Congolese uniforms. The mobile units behave like rebels and wear dirty and torn uniforms.”⁶⁰

In some cases government soldiers are identifiable because they wear uniforms that are more complete and in better condition, but this is not always the case. Some government soldiers also appear in the dirty, torn or partial military dress more often worn by rebels, perhaps in a deliberate effort to pass as rebels. According to the Burundian army chief of staff General Germain Niyonyankana, all soldiers have complete uniforms available to them and are punished if they do not wear them. But he recognized that some soldiers have worn torn, dirty or incomplete uniforms, “particularly when they behave like rebels.”⁶¹

Civilians frequently reported abuses by soldiers of mobile units and remarked on their apparent indiscipline. One reported seeing a soldier of such a unit insult and strike an officer, accusing him of fighting poorly against the FNL.⁶² One mobile unit, the 19th battalion of the government army, calls itself the “Bakanongwe,” “Those Who [Dare Even to] Castrate Leopards,” a reference to their supposed ferocity.⁶³ Residents called them “barbarians” or “animals” when they described their brutal behavior, such as firing for no apparent reason other than to terrorize civilians nearby the health center in Kabezi on March 20, 2004.⁶⁴

Official Reactions

When a Human Rights Watch researcher informed General Niyoyankana of alleged killings, rapes, and other abuses by government soldiers in December 2003 he ordered his officers to investigate the cases. In late March, he told the researcher that his subordinates had found no proof of wrongdoing. He admitted that “Not all soldiers were saints,” but concluded that FDD combatants had been responsible for the instances of looting reported. He also said that any crimes by government soldiers were punished but conceded that the movements of units in the field and the time that often elapsed before crimes were reported made it difficult to establish accountability. In discussing a case where government soldiers had hit civilians with a poorly aimed shell, he said the fault lay with a poor quality weapon. He agreed to look into new accusations of abuses by the Bakonangwe on March 20 at Kabezi and of a killing by a military patrol at Mwico.⁶⁵

60 Human Rights Watch interview, Bujumbura, February 11, 2004.

61 Human Rights Watch interview with General de Brigade Germain Niyoyankana, Chief of staff, Bujumbura, March 24, 2004.

62 Human Rights Watch interview, Ruyaga, February 26, 2004.

63 According to one account, soldiers of this unit were originally FDD rebels led by Ndayikenkurukiye but incorporated into the government army by former President Buyoya. Another account relates that they were a group of undisciplined soldiers whom Buyoya punished by sending them to fight in Makamba and Bujumbura rural without either supplies or equipment. Human Rights Watch interviews, Bujumbura, March 5, 2004.

64 Human Rights Watch interviews, Bujumbura, March 22, 2004.

65 Human Rights Watch interview, Bujumbura, March 24, 2004.

In some cases local officials or military officers on the ground tried to protect civilians from abuses by government soldiers. In the incident at Karinzi market described above, two government soldiers, one a sergeant, were killed. They were described officially as casualties of FNL fire, but according to local people the sergeant was killed by other government soldiers because he was trying to prevent them from killing and pillaging civilians. A major from the government post at Mutambu supposedly then stopped soldiers from further looting.⁶⁶ Other government officers reportedly stopped soldiers from looting at Rukuba, Nkombe, and Nyamabokio-Kibazo on the hill Nyamaboko in commune Kanyosha.⁶⁷

When questioned about command relationships between the government army and the FDD, General Niyoyankana told a Human Rights Watch researcher that the commanding officers of each force continued to be responsible for the conduct of their own troops. He said that the integrated general staff combining government and FDD officers was a discussion group meant to lead to new army structures rather than a functioning general staff.⁶⁸ FDD commanding officers, he stressed, were the appropriate authorities to answer for alleged abuses by FDD combatants.

When victims of FDD exactions in Bujumbura rural sought help from government soldiers, the representatives of the only supposedly legitimate forces of order in the area, the soldiers told them to complain to FDD commanders.⁶⁹

The CNDD-FDD responded inconsistently to complaints of abuses by their forces or political representatives. In mid-February CNDD-FDD leader and State Minister for Good Governance Pierre Nkurunziza asked “pardon from God and all the people” for abuses committed by his combatants during the war. But when then asked to account for the whereabouts of a local administrator abducted in August 2003 by his combatants, Nkurunziza gave no answer. He underlined merely that transitional periods after conflict were difficult everywhere in the world.⁷⁰ In one meeting with local residents at Mbare Gasarara, FDD officers and a CNDD-FDD political representative admitted that FDD combatants had been guilty of abuses but then tempered this admission by accusing listeners of continuing to support the FNL.⁷¹

High-ranking FDD officers in charge of field operations have never been available to discuss FDD abuses with a Human Rights Watch researcher who tried to reach them on several occasions. But some local officials who found their own superiors unwilling or unable to help them in cases of FDD abuses were able to reach local FDD commanders and got prompt action on their complaints. According to local observers in a position to follow the cases, the

⁶⁶ Human Rights Watch interviews, Bujumbura, February 3 and Mutambu, March 12, 2004. For a similar incident, see Human Rights Watch, “Everyday Victims: Civilians in the Burundian War,” December 2003.

⁶⁷ Human Rights Watch interview, March 18, 2004.

⁶⁸ Human Rights Watch interview, Bujumbura, March 24, 2004.

⁶⁹ Human Rights Watch interview, Bujumbura, March 5, 2004.

⁷⁰ Agence Burundais de Presse (ABP), “Le ministre Pierre Nkurunziza demande pardon à Dieu et à la population,” Kayanza, February 14, 2004.

⁷¹ Human Rights Watch interview, Bujumbura, March 17, 2004.

commanders on several occasions summarily judged and severely punished the accused.⁷² When victims in Rushubi complained in one case about looting by FDD combatants, their commanders ordered the goods returned. But in later cases in the same area, victims received nothing but the usual explanation that the perpetrators were FNL and not FDD, highly unlikely since the FNL combatants had long since fled the area.⁷³ When one group in Ruyaga complained about FDD stealing their property, an FDD commander reportedly answered “If you don’t want us to loot you, then sell your goats! We have nothing to eat. Go complain to the government.”⁷⁴

“Provisional Immunity”

The November 2003 Pretoria Protocol between the government and the FDD provided “provisional immunity,” not otherwise defined or limited, to combatants of both sides for crimes committed during the conflict. To implement this provision the government created a joint government-FDD commission on March 23, 2004 to identify beneficiaries of immunity. In addition to government army soldiers, they included police, Gardiens de la Paix, a governmental paramilitary group, and FDD supporters currently detained in government prisons.⁷⁵ The decree excludes from immunity genocide and crimes against humanity but says nothing about war crimes. There is a real danger that the Pretoria Protocol and its implementing decree will encourage government soldiers, police, Gardiens de la Paix, and FDD combatants to believe that they can continue to commit war crimes with no fear of punishment.

Demobilization, Recruitment, and Children in Military Service

According to several ceasefire and power-sharing agreements between the government and different rebel groups, government troops are to return to their barracks and rebel combatants are to gather in various sites where those fit for further military service will be separated from those to be demobilized. Children, the elderly, the ill or injured, and others not continuing in military service are to be reintegrated into their communities while remaining combatants are to join government soldiers in a new integrated force that may number as many as 80,000 to 100,000 soldiers. Gradually this new national army is to be reduced to a far smaller size with 14,000 troops demobilized each year for five years. As yet there is no indication who will pay the cost of this huge army in the interim. The Joint Ceasefire Commission (JCC)⁷⁶ composed of representatives of the various Burundian parties and chaired by General Samba, appointed by the U.N. Secretary-General, oversees assembling and demobilizing the forces under the supervision of a joint Burundian-international Implementation Monitoring Commission (IMC).⁷⁷ Despite regular assurances of progress, the JCC has not completed the first steps in the process: defining the term “combatant” and determining the number and rank of combatants in each rebel force.

72 Human Rights Watch interviews, Bujumbura, February 4 and March 22, 2004.

73 Human Rights Watch interview, Rushubi, March 19, 2004.

74 Human Rights Watch interview, Ruyaga, February 26, 2004.

75 The decree is entitled “Décret du 23 mars 2004 portant modalités d’application de l’immunité provisoire prévue par l’accord global de cessez le feu du 16 novembre 2003”. See also Human Rights Watch, “Everyday Victims: Civilians in the war in Burundi”, December 2003.

76 Known in French as the Commission Mixte de Cessez-le-feu (CMC).

77 Known in French as the Comité de Suivi de l’Application des Accords (CSA).

General Samba has abstained from using his power as president of the commission to impose a decision if the parties cannot agree.⁷⁸

The Arusha Accords, the first of the agreements under which the current government functions, provides for excluding from the new army any government soldiers or rebel combatants known to be guilty of “genocide, violations of the constitution and of human rights, as well as of war crimes.”⁷⁹ The parties have not yet developed a vetting process to implement this provision, particularly important given the relative lack of progress in investigating and prosecuting crimes committed by all parties to the conflict.

Rebel leaders seek to claim the largest number of combatants possible: The number indicates not just the immediate military power of the group, but is likely to influence its eventual political importance. It also determines the amount of food aid delivered to the force as well as the amount of money to be available later for distribution to its adherents. The rush of new adherents to the CNDD-FDD in the legislature described above resulted in part from its success as the largest and most powerful rebel military group. When observers of the African Union peace-keeping force began investigating claims about the size of several rebel groups, they found the numbers seriously inflated; soon after the observers were directed by their superiors to halt the effort.⁸⁰

The process which is meant to decrease the number of combatants is in effect contributing to its increase because rebel movements all engage in recruiting to swell their ranks, despite the prohibition against this in ceasefire agreements.⁸¹ An unknown number of ordinary people are joining the rebel forces, all of them expecting to be well paid and rapidly sent home again. Some have been told they will receive as much as \$3,000 for their brief participation as “combatants.” As one said pragmatically, “It’s not about becoming a soldier...it’s the money that interests me.”⁸²

According to Desirée Gatoto, head of a national program for demobilizing children in military service, “many former armed groups continue to recruit combatants and most of those recruited are under seventeen years old.”⁸³ Reporting that the program had demobilized 964 child soldiers since January 2004, she identified continued recruitment by rebel groups as the “main obstacle” to efforts to end military service by children.

The only plan that currently provides for the demobilization of Gardiens de la Paix is one for child soldiers, applicable to Gardiens de la Paix who were born before 1985. No plan covers members of this paramilitary group who are older. These young men, who number in the thousands, are trained to use arms and many of them have easy access to weapons. The

78 Human Rights Watch interview with General Samba, Bujumbura, February 25, 2004.

79 Arusha Accords, protocol III, article 14 e.

80 Human Rights Watch interviews, Bujumbura, February 24 and March 22, 2004.

81 Human Rights Watch interviews, Bubanza, March 25, 2004; Bujumbura, March 4 and April 1, 2004; Kayanza, April 14, 2004.

82 Human Rights Watch interview, Bujumbura, April 1, 2004.

83 Integrated Regional Information Network (IRIN), “Burundi: 964 children demobilized since January, official says,” April 29, 2004.

government recruited a certain number into the regular army, but thousands of others have no immediate prospects for employment or further education. Hundreds have left to join various rebel groups in hopes of assuring their future. Some express bitterness against a government that has failed to recognize and reward their years of unpaid military service. “If the government does nothing to reintegrate us to civilian life with the honor due after ten years of work, some will think of going elsewhere, that’s for sure,” said one young man.⁸⁴ Some fear returning to their communities after giving up their firearms because they anticipate reprisals from the civilians whom they once abused.⁸⁵

Under the demobilization plan, the rebel forces are to gather at sites determined by the JCC but the FDD has also assembled its men at places of its own choosing, including Mubimbi, where it has approximately 4,000 combatants, and in the eastern province of Ruyigi where it has installed its forces at Karindo, nearby Kinyinya. In addition, FDD combatants have established themselves in the Kamenge and Kinama sections of the city of Bujumbura and at Gihanga in Bubanza province. They have also set up outposts along the border between Bujumbura rural and Bururi province where another rebel leader, Leonard Nyangoma, has a base. The FDD and Nyangoma’s forces have skirmished several times, with dozens of combatants killed. The toll on civilians from this military activity is not known. In company of government troops, the FDD have also fought against another small rebel group, Frolina, along the eastern frontier of Burundi.

The International Community

Anxious to maintain the appearance of constant progress towards peace, donors and representatives of the United Nations and of mediating mechanisms fail to react effectively to delays in implementing the ceasefire and power-sharing agreements or to outright disregard for certain of their provisions.

Following a ceasefire accord in late 2002, European donors began providing food to the FDD and other rebel groups, supposedly to enable them to gather their forces in agreed-upon sites to be counted, disarmed, and demobilized. A year and a half later they resumed the distribution of food to the rebel forces even though many of them are not yet gathered in the specified sites and even though those in the sites remain armed. Donors have not been able to obtain a reliable count of combatants and so deliver food according to needs estimated by the rebel forces. In some sites, rebel forces have stocked excess food, some of which may be used to attract new recruits or to win political support in adjacent areas. According to local witnesses, in at least one case, food delivered to a site in Bubanza was later trucked by government military vehicles to FDD posts at Mbare Gasarara, where the combatants were engaged in combat.⁸⁶ Donors are unwilling to end food deliveries because they fear upsetting the peace process. As a result of donor reluctance to confront the problem, Burundians now “treat the food deliveries as a right,”

84 Human Rights Watch interview, Rumonge, March 6, 2004.

85 Human Rights Watch interview, Rumonge, March 6 and 7, 2004.

86 Human Rights Watch interview, Bujumbura, March 17, 2004.

exclaimed one frustrated diplomat. “And they are adopting the same attitude towards [support for] an integrated army,” he added.⁸⁷

The World Bank and others pledged considerable funds for the peace process, to pay for demobilization and disarmament; now some Burundian leaders insist that the international community must also assume the cost of the newly integrated army, far beyond the means of the Burundian government itself. Although it initially seemed impossible that donors would agree to contribute funds for such a standing army, even if meant only to sustain it during the years of its eventual reduction, several are now said to be considering this course in hopes of speeding the peace process and avoiding further conflict in Burundi.⁸⁸

In April 2004 and after more than a year in the field, the African Union force lacked the funds to continue its peacekeeping efforts. The Secretary-General proposed having the Security Council adopt the force as a UN peace-keeping force, doubling the number of troops to more than 5,600 and including civilian services to monitor human rights and to assist in preparations for elections.⁸⁹

There are some signs that the international community is taking a firmer stand towards Burundian leaders. On April 21, the chair of the IMC criticized the delays in the peace process and asked that all rebel movements finishing to have their combatants assembled by mid-May, but as of early June this had not been done.⁹⁰ The World Bank said that release of its funding for demobilization depends on the JCC agreeing finally on a definition of “combatant.” It also said that the Burundian government must provide a plan for demobilizing the Gardiens de la Paix. On June 5, the regional leaders who have been following the Burundi peace process met once more and rejected a government effort to extend the transition by a year. They insisted that the government begin planning immediately for elections to be held by the October 31 deadline and they agreed to help mobilize resources to support cantonment of the forces and integration of former combatants. Equally significant, the leaders decided to impose as yet undefined “restrictions” on the FNL and asked the newly formed Peace and Security Council of the AU to recommend further sanctions against the FNL if there is no end to combat within three months.⁹¹ With the new UN presence and this firmer stance by international leaders, there is greater hope for peace than at any time in the recent past. Should that peace be achieved, justice for the crimes described in this paper must be the next priority.

87 Human Rights Watch interview, Bujumbura, March 22, 2004.

88 Human Rights Watch interview, Bujumbura, March 31, 2004.

89 Human Rights Watch interview, by telephone to Washington, April 28, 2004.

90 Arib News, “Dinka appelle au désarmement avant le 15 mai prochain,” April 21, 2004.

91 IRIN, “Great Lakes: Stick to peace accord, regional leaders tell Burundi”, June 7, 2004.