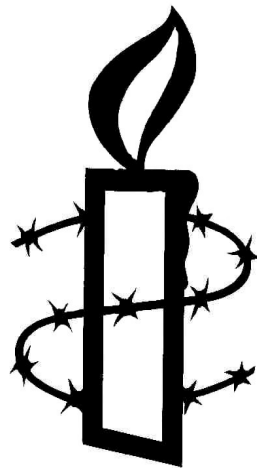

amnesty international

Burundi
Submission to the
UN Universal Periodic Review
Third session of the UPR Working Group of
the
UN Human Rights Council
December 2008



Executive summary

In this submission, Amnesty International provides information under sections C and D as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

In Section C Amnesty International describes concerns related to violence against women, rape by both state and non-state actors, including law enforcement officials and military officers, and concerns related to torture and other ill-treatment carried out within the Burundian criminal justice system and the administration of justice.

In section D, Amnesty International makes a number of recommendations in the areas of concerns listed.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

Burundi

Amnesty International submission to the UN Universal Periodic Review

Third session of the UPR Working Group, December 2008

C. Promotion and protection of human rights on the ground

Violence against women

The most commonly reported form of sexual violence in Burundi is rape, committed by both state and non-state actors, including law enforcement officials and military officers. Rape of women and girls is prevalent in the home and in the community and the problem is widespread throughout Burundi. Between 2004 and 2006, an average of 1,346 women a year reported their cases to *Médecins sans Frontières* (MSF). Minors are also particularly at risk: in December 2006, 60 percent of reported rapes were committed against minors. The Burundian authorities are failing to exercise due diligence to prevent, investigate and punish rape and other sexual violence, and the perpetrators often escape prosecution and punishment by the state. These systemic failures have created a climate where rape victims are less willing or able to pursue criminal proceedings. The rate of successful prosecutions for sexual offences is very low. Most victims remain silent – often out of fear of social stigmatization. Some victims and their families resort to traditional and informal dispute resolution systems, often negotiating and agreeing to payment from the perpetrator or the family of the perpetrator, as compensation.

It is difficult to determine current levels of sexual violence with any accuracy in the absence of reliable official statistics. The government does not have in place an effective monitoring system which would allow it to publicly report on the prevalence of rape and other forms of sexual violence as well as the effectiveness of the responses by the relevant authorities.

On 19 January 2007, an elderly woman was raped by an unidentified man dressed in military uniform. The man had ordered her husband to carry his food supplies. When the husband refused, his wife did it instead, and the unidentified soldier raped her by the side of the road. The victim received medical treatment the following day, but did not report the crime to the authorities.

On 17 November 2007, a 12-year-old girl was raped by her neighbour, a married man and a father of three. The perpetrator was arrested and charged, but released two days later. Local human rights groups appealed to the police chief who ordered his re-arrest, but the man was still at large at the end of 2007.

Torture and other ill-treatment

Although Burundi acceded to the Convention against Torture in 1993, concerns continue over the persistence of torture and cruel, inhuman or degrading treatment or punishment at the hands of state authorities. Annual reports published by Amnesty International since 2003 indicate that high levels of torture have persisted from 2003 to the current year. Amnesty International has documented allegations of torture by the *Documentation Nationale* (intelligence services), the National Police Services and other military and security forces.

Torture and ill-treatment in police and military custody remain widespread. Torture methods most frequently reported include severe and sustained beatings using electric cables, sticks and other heavy implements, on

the joints, the soles of the feet and the genitals; kneeling on bottle tops, stabbings, tying in excruciating positions, and humiliation and intimidation, including death threats or other psychological forms of torture and ill-treatment. Other techniques documented by Amnesty International include scalding with boiling water and melted plastic bags, breaking of bones and simulated executions. Some detainees have been so severely tied or beaten that their limbs have subsequently had to be amputated.

There are also reports that government troops have used torture to extract confessions from detainees. Torture and ill-treatment is particularly acute during the early stages of detention in military and police detention centres, and people are often held incommunicado in illegal places of detention or without access to families, lawyers and human rights and humanitarian organizations.

On 28 February 2007 the police chief of Bururi town and another police officer reportedly tortured a man to make him confess to an offence he had not committed. They stripped him naked, beat him and threatened to kill him.

An 18 year-old man accused of stealing a bicycle was reportedly tortured on 26 July 2007 in police custody in the town of Gitega. His arms were tied behind his back and police officers allegedly beat him with batons and burned him. Human rights monitors reported scars on his arms and neck.

A man from Nyanza-Lac, Makamba Province, arrested on 18 January 2007, was severely beaten in custody by four policemen, including the police chief. He was fined and released from detention the same day. No investigation was carried out and the perpetrators were not brought to justice. He suffered from pain in his ears, his right eye and his feet following the attack.

Amnesty International is concerned that the number of investigations into reports and complaints of torture or ill-treatment is substantially lower than the number of incidents reported. It is extremely rare that the authorities take any action against members of the security forces or other state officials responsible for torture and ill-treatment. Members of the security forces convicted of torturing detainees to death have, for instance, been allowed to continue in their functions.

The weak capacity of the judicial system does not guarantee the right to victims of an effective remedy, including the right to complain and have their case promptly and impartially examined by the competent authorities. In fact, the majority of reported cases of torture are not investigated, and hence not prosecuted.

In February 2007, the UN Committee against Torture recommended that the government should address the climate of impunity, strengthen the capacity of the judiciary and ensure its independence, and establish effective mechanisms to monitor all places of detention.

Administration of justice

Burundi's law enforcement and justice system remains weak and in urgent need of reform. The judicial system lacks human, financial and material resources, and law enforcement and judicial staff are poorly trained. Corruption remains a problem, and low levels of confidence in the justice system have led to numerous incidents of mob justice, including killings and lynching.

On 21 February 2007, six policemen, only two of whom wore a uniform, arrived in Nkenga Busoro, Kanyosha. Because of a recent spate of armed robberies, the local population thought the men were robbers and attacked them. Four of the policemen escaped, but two were captured and beaten to death.

On 24 November 2007, a policeman was killed by the local population of Nyamurenza, Ngozi. He had reportedly robbed a local trader and assaulted the trader's cousin.

Human rights organisations have often questioned the impartiality and independence of the judiciary, which further limits victims' recourse to justice.

The perpetrators of the Muyinga massacre, in which at least 16 people with suspected links to the National Liberation Forces (*Forces Nationales de Libération, FNL*) are alleged to have been extrajudicially executed by military personnel in July and August 2006, remain at large. There has been no significant political will to bring the perpetrators to justice.

D. Recommendations for action by the State under review

Amnesty International calls on the government of Burundi to:

Violence against women:

Develop, distribute and apply standardized procedures to accurately record the case details of incidents of rape and other acts of sexual violence;

Give clear and immediate instructions to key high-ranking officials of the police force, the army and other security forces that all law enforcement officials should treat rape as a crime and take all necessary measures to effectively investigate allegations of rape and other forms of sexual violence and bring the perpetrators to justice;

Ensure that all reports of rape and other forms of sexual violence by law enforcement officials are promptly, impartially and effectively investigated by an independent body and the alleged perpetrators brought to justice. Officials suspected of committing rape or other forms of sexual violence should be suspended from active duty during the investigation.

Torture and other ill-treatment

Openly condemn the practice of torture and inform high-ranking law enforcement officials that all allegations of torture must be investigated and the perpetrators brought to justice;

Create an independent accountability mechanism to ensure prompt, thorough, independent and impartial investigations into all allegations of torture by all law enforcement officials;

Ensure reparation, including fair and adequate compensation, for victims of torture and ill-treatment inflicted by police or other state officials.

Administration of justice

Provide systematic training to all law enforcement officials on their responsibility to ensure the protection of human rights, including the elimination of the practice of torture, as specified under the international conventions to which Burundi is a party.

Appendix: Amnesty International documents for further reference²

Amnesty International report, “Burundi: No Protection from rape in war and peace”, (AFR 16/002/2007)

Amnesty International Annual Report 2008, Burundi, (POL 10/001/2008)

² All of these documents are available on Amnesty International’s website: <http://www.amnesty.org/en/region/africa/central-africa/burundi>