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Burundi: From Itaba to Gatumba -- an imperative need for justice

This period of the year marks the remembrance of the massacre of civilians in Burundi at Itaba and Gatumba. On 9 September 2002 between 173 and 267 people were killed at Itaba and on 13 August 2004 at least 160 were massacred at Gatumba.

Amnesty International is gravely concerned that the government of Burundi, in violation of both national and international law, has so far failed to fully investigate and prosecute people suspected of carrying out the mass killings and ensure the victims receive adequate reparations.

On the night of 13 August 2004, more than 160 Congolese refugees were systematically killed at the Gatumba refugee camp, near the Congolese border. The victims were predominantly children and women members of Banyamulenge community who were fleeing from South Kivu (DRC). The Palipehutu-FNL (Forces Nationales de Libération -- National Liberation Forces) claimed responsibility for the massacre a few days after the attack. According to information received from the Banyamulenge community as well as interviews carried out with former Palipehutu-FNL combatants, other armed political groups from the Democratic Republic of Congo may too have been involved in the killings.

On 9 September 2002 between 173 and 267 unarmed civilians, many of them women and children, were deliberately and unlawfully killed by Burundian army forces in Itaba, a community in the province of Gitega. Burundian authorities initially claimed that the victims had been killed in crossfire between the army and the CNDD-FDD. However, as more details came to light, it became clear that the army was solely responsible for the killing.

Amnesty International is also concerned that the families of the victims and the survivors of these massacres may not see those responsible brought to justice.

On 5 October 2004, a United Nations report into the Gatumba massacre recommended that the Security Council encourage the immediate initiation of national and international judicial proceedings to ensure that the planners and perpetrators of the killings are identified, prosecuted and brought to justice. This report recommended also that the government of Burundi be encouraged to immediately invoke the jurisdiction of the International Criminal Court. Despite the issue of two arrest warrants for the head of the Palipehutu-FNL, Agathon Rwasa, and its spokesperson, Pasteur Habimana, a few days after their movement had claimed the responsibility for this massacre, and a statement from the Minister of Justice, on 13 April 2005, announcing that a national investigation had been completed into the Gatumba massacre, no official report has yet been issued by the government and none of the persons suspected of the crime have yet been prosecuted.

On 22 February 2003, two soldiers involved in the Itaba massacre were convicted by a military court of

failing to follow orders and breaching public solidarity. The charge of murder was dropped. The military prosecutor had reportedly argued that as civilians had been given the order to leave the area whenever combatants were present, those who stayed behind were correctly considered as combatants.

International human rights law and standards oblige Burundi to conduct prompt, independent and impartial investigations into violations of the right to life. Furthermore, the Basic Principles and Guidelines on the right to a remedy and reparations for gross violations of international human rights law and serious violations of international humanitarian law, adopted by the General Assembly of United Nations in 16 December 2005, give victims the right to 'equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms'. Under these principles and guidelines, reparations can include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

Amnesty International urges the government to put in force the law of 8 May 2003, which criminalizes genocide, crimes against humanity and war crimes. Under this law Burundi ought to exercise its jurisdiction to investigate and prosecute those suspected of involvement of such crimes, in trials that respect international standards of fairness and do not impose the death penalty.

If Burundi fails to do so, Amnesty International, echoing the recommendations of the United Nations report into Gatumba, calls for the Burundi government to immediately invoke the International Criminal Court's jurisdiction (ICC). Further, as a state party to the Rome statute of ICC since 21 September 2004, Burundi must introduce implementing legislation to ensure full cooperation with the ICC.

Amnesty International stressed that justice still needs to be done for the survivors and the family of the victims of Gatumba and Itaba, but also for all victims of human rights abuses and violations throughout Burundi.

Background information

Over the last months, the Burundi government's intentions and efforts at ending impunity have been ambiguous. On 26 February 2006, a United Nations mission visited Burundi to initiate talks with the Burundian authorities on the modalities of setting up two accountability mechanisms -- a truth and reconciliation commission and special chamber -- to investigate crimes committed in Burundi and bring to justice those responsible. So far, apart from exchanges of letters, concrete outcomes have failed to materialise.

On the other hand, on 18 June 2006, in Dar es Salaam, the government and FNL signed an agreement of principles towards lasting peace, security and stability in Burundi. Article 1 of this agreement states that the truth and reconciliation commission (not yet established) will be renamed the "Truth, Pardon and Reconciliation Commission". Its mandate will consist of establishing the facts surrounding the dark period of Burundi history and establishing various protagonists' responsibilities with a view to achieving forgiveness and national reconciliation.