

PUBLIC

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Impunity / fear of further extrajudicial executions

25 February 2003

BURUNDI

Burundian unarmed civilian population

Members of the Burundian armed forces extrajudicially executed between 173 and 267 unarmed civilians, many of them women, children and the elderly, in Itaba commune, Gitega province on 9 September 2002. Information about the massacre was initially hidden. However, as details emerged, national and international outrage grew and two army officers were arrested.

On 22 February 2003, the two officers were convicted by a military court (*conseil de guerre*) merely of failing to follow orders. They were sentenced to four months' imprisonment and immediately released, as they had already served five months.

Although the Burundian armed forces had admitted the killings for reasons that are not clear, at the trial, the charge of murder was dropped and lesser charges of breaching public solidarity (*manquement à la solidarité publique*) and failure to follow orders (*violation de consignes militaires*) were introduced.

The two army officers were acquitted of the first charge. They were found guilty of failing to follow orders on the grounds that they had failed to give a report of the incident and that even though they had received orders to fire on combatants in the area, it should have been clear that they were firing on an unarmed civilian population.

In contradiction of international humanitarian law, the military prosecutor had reportedly argued that as civilians who were in the area at the time had previously been given the order to leave whenever combatants were present, the armed forces were justified in considering them to be legitimate targets. In fact, combatants had already left the area shortly before the armed forces began killing civilians.

BACKGROUND INFORMATION

An Amnesty International delegation led by Irene Khan, visited Burundi in September 2002, shortly after the massacre. The delegation met eye-witnesses and survivors, including a six-year-old girl, herself shot as she ran from her burning home, and the sole survivor of her family. It also met others including Burundian human rights groups investigating the killings, President Pierre Buyoya and other senior government representatives, who promised that justice would be done.

The Burundian authorities initially claimed that the victims had been killed in crossfire between the army and combatants from the *Conseil National pour la Défense de la Démocratie - Forces pour la Défense de la Démocratie* (CNDD-FDD), National Council for the Defence of Democracy - Forces for the Defence of Democracy. As more details came to light, it became clear that the army was solely responsible for the killings; that CNDD-FDD fighters had already left the area; that the civilian population had been deliberately targeted; and that most of the victims had been shot at point blank range. Others had been shot as they attempted to flee, or burnt alive in houses where they had hidden.

The Itaba massacre was only one in a series of mass killings by the armed forces in Burundi last year alone. More than 500 unarmed civilians including scores of children were extra judicially executed in 2002.

Despite hundreds of such killings each year, very few soldiers even face trial for human rights violations. In the rare prosecutions that do take place, convicted defendants receive disproportionately light sentences, which are not only insulting but serve to reinforce the impunity of the armed forces.

Military jurisdictions are simply not capable of bringing to justice those accused of human rights violations. However, the inherent weaknesses of military courts persist because they are tolerated by the highest authorities who furthermore largely fail to acknowledge or condemn human rights violations by their forces.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in French or your own language:

- stating that unless the impunity of the Burundian armed forces is ended, they will continue to believe that they are above the law and extrajudicial executions, such as those which occurred in Itaba, will continue;
- adding that failure by the Burundian authorities to end this impunity, will give the impression that they condone extrajudicial executions by their forces;

Calling on the Burundian authorities to:

- reopen investigations into the Itaba massacre, to ensure that a full, independent and impartial investigation is carried out, and that all those responsible are brought to justice in accordance with international standards for fair trial, and without recourse to the death penalty;
- publicly condemn human rights violations including extrajudicial executions by their forces and to make clear that such violations are criminal offences for which they will be prosecuted;
- urgently reform the military justice system, which is in its present form incapable and unwilling to bring to justice members of the armed forces responsible for human rights violations.

APPEALS TO (Please note that it can be difficult to get through to these numbers but please keep trying):

President:

Son Excellence Pierre BUYOYA,
Président de la République,
Présidence de la République,
BP 1870 Bujumbura, Burundi.

Faxes: + 257 22 81 50

Salutation: Monsieur le Président de la République / Your Excellency

Vice-President:

Monsieur Domitien NDAYIZEYE,
Vice-Président,
Présidence de la République,
BP 2800 Bujumbura, Burundi.

Faxes: + 257 22 64 24

Salutation: Monsieur le Vice-Président / Your Excellency

Minister of Justice:

Monsieur Fulgence DWIMA BAKANA,
Ministre de la Justice et Garde des Sceaux
Ministère de la Justice, Bujumbura, Burundi

Faxes: +257 21 86 10

Salutation: Monsieur le Ministre / Dear Minister

Minister of Defence

Général-Major Vincent NIYUNGEKO
Ministre de la Défense nationale
Ministère de la Défense nationale, Bujumbura, Burundi

Faxes: +257 24 47 09

Salutation: Monsieur le Ministre / Dear Minister

COPIES TO:

Minister of Human Rights:

Monsieur Alphonse BARANCIRA,
Ministre des Droits de la Personne humaine, des Réformes institutionnelles et des Relations avec
l'Assemblée nationale, Ministère des Droits de la Personne humaine, Bujumbura, Burundi.

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and to diplomatic representatives of BURUNDI accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 8 April 2003.