

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI Index: AFR 35/001/2011
7 October 2011

Madagascar: Human rights must be at the heart of the road map to end the crisis

Amnesty International calls on the Malagasy transitional authorities to give more attention to the ongoing human rights violations and abuses and ensure that the respect and protection of human rights and fight against impunity are at the heart of the implementation of the road map to end the crisis in the country, signed by the Malagasy political leaders on 17 September 2011.

Amnesty International is concerned that members of the Malagasy security forces including the police, the gendarmerie and other security entities set up by the High Transitional Authority (*Haute Autorité de la Transition*, HAT) are still committing serious human rights violations including unlawful killings, cases of torture as well as unlawful arrests and detentions.

The organization is particularly concerned about reports of extrajudicial executions of suspected criminals by members of the Malagasy security forces. This is the case of three people who were shot dead on 8 September 2011 at around 10:00 in the morning, at the Europe Boulevard in the capital Antananarivo, by members of the Rapid Intervention Group (*Groupe d'intervention Rapide*, GRI), a component of the Malagasy police. Testimonies gathered by Amnesty International delegates in Antananarivo suggest that the GRI used lethal force against the three men who were reportedly unarmed when they were stopped by the police unit and they did not resist the police orders. They were a few meters away from the police members who shot and killed them while, according to testimonies of various bystanders who witnessed the incident, the police could have proceeded with their arrest.

Amnesty International is also concerned about the torture of taxi man Hajaharimananirainy Zenon, known as Bota, who was arrested by members of the Intervention Police Force (*Force d'intervention de la police*, FIP) in the night of 17 July 2011 at a place called Vatobe-Ankasina at 67^{ha} neighbourhood in Antananarivo. The victim was reportedly tortured by the police and died in detention. His body was later dropped at the Antananarivo general hospital morgue by members of the FIP in the morning of 18 July 2011.

The organization is concerned about arrests and prolonged detention without trial of perceived or real political opponents to the HAT. Some individuals arrested in 2009 are still held in detention without trial. This is the case of Rakotompanahy Andry Faly, former intern at the Malagasy Broadcasting System (MBS) radio station - that belonged to former president Marc Ravalomanana - who was arrested with three other MBS staff in Antananarivo on 23 June 2009 by members of the National Joint Commission of Inquiry (*Commission nationale mixte d'enquête*, CNME), a security body especially created by the HAT. The four were detained at the Tsiafahy maximum security prison since 7 July 2009. In July 2011, Andry Faly was transferred to the clinic of the Antanimora central prison in Antananarivo where he remained in detention at the end of September 2011 despite his medical condition that needs adequate attention. His repeated requests to be granted bail were turned down by the judicial authorities. He was arrested and charged with endangering state security following a suspicion that he was involved in **explosions of artisanal bombs that occurred in various places in Antananarivo in mid-2009**. Andry Faly

was among the 18 detainees who went on hunger strike in detention in 2010 calling for the Malagasy authorities to organize their trial within a reasonable time.

The prison conditions in the country are harsh and the rights of people in detention are not respected and protected. Detainees do not have access to adequate health care, food or sanitation. For instance, when Amnesty International delegates visited the Antanimora central prison in Antananarivo on 15 September 2011, the prison was overcrowded with 2,831 inmates for a prison with a maximum capacity of 800. Most of the detainees were on preventive detention. Women are separated from men but some women were detained together with their babies and young children, compromising their health, while pregnant detainees were left without adequate medical attention. Boys aged under 18 were detained in a separate facility but young girls were detained together with adult women.

Amnesty International calls on the Malagasy transitional authorities to immediately order an independent and impartial investigation to clearly determine the circumstances in which these and other human rights violations and abuses were committed. The outcome of the investigations should be made public. Members of the Malagasy security forces and other officials involved in ordering, condoning or perpetrating any human rights violations should be brought to justice. The investigation should also recommend to the authorities measures to prevent human rights violations in the future and ensure that those victims are provided with adequate and fair reparation.

The organization is also concerned about violations of the right to a fair trial in cases that involve opponents to the High Transitional Authority or people belonging or perceived to belong to the political party of former president Marc Ravalomanana. In some cases, suspects were denied the right to be brought promptly before a judge or to be tried within a reasonable time and in other cases the defendants were denied the right to legal defence.

Amnesty International is also concerned by the fact that some entities arrest, detain and investigate crimes without proper legal authority to do so such as the *Force d'Intervention Spéciale* (FIS). The organization calls on the HAT to immediately disband these entities and to leave the investigation of criminal offences to the existing law enforcement and judicial system, in particular the police and public prosecutors offices.

While Amnesty International notes the important political developments as reflected in the signing of the road map, it regrets that little attention is given in the roadmap to the prevailing human rights situation in the country. The organization calls on all parties involved in this process - including members of the international community - to make sure that the respect, promotion and protection of human rights as well as the fight against impunity for human rights violations and abuses have an important place in the implementation of the road map.

In order to ensure the promotion, protection and respect of human rights in Madagascar during this transitional period and beyond, Amnesty International calls on all the Malagasy transitional institutions to develop an effective human rights strategy within the framework of the road map.

The Transitional authorities must:

- Publicly affirm commitment to internationally recognized human rights standards and put an end to the ongoing human rights violations by law enforcement agencies;
- Ensure prompt and effective investigation and prosecution of all serious human rights violations and crimes before a competent, impartial and independent court in fair trial proceedings and without recourse to the death penalty;
- Ensure that victims of human rights violations and abuses committed during the political crisis have access to justice and receive reparation, including restitution, rehabilitation, compensation and guarantees of non-repetition;
- Ensure that the FIS and other bodies put in place by the HAT are disbanded and transfer their roles to the police, the gendarmerie and the national army accordingly;

- Ensure that any proposed amnesty law does not grant amnesty for crimes under international law and that amnesty is not accorded to perpetrators of violations and abuses before the victims have obtained justice by means of an effective remedy and that must have no legal effect on any proceedings brought by victims relating to their right to reparation;
- With the support of the international community and specifically the UN Office of the High Commissioner for Human Rights, ensure that the National Human Rights Commission is adequately resourced and effective.

Background

On 17 September 2011 the Malagasy political leaders under the mediation of the Southern African Development Community (SADC) signed in Ivato, near the capital Antananarivo, a road map in order to resolve the ongoing political crisis in their country. This signature followed several other failed political agreements signed by Malagasy politicians in order to find a solution to the current crisis.

Serious human rights violations and abuses including unlawful killings have been committed in the context of the ongoing political crisis. In February 2010, Amnesty International published a report entitled *Madagascar Urgent need for justice* (Index AFR 35/001/2010) that focused on human rights violations and abuses committed in the country from the beginning of the political crisis in December 2008 to January 2010. The report concluded that serious human rights violations were committed by members of the Malagasy security forces, including under former President Ravalomanana, who enjoyed almost total impunity while their victims did not have access to justice and a just and fair reparation process.

An Amnesty International delegation conducted a research mission in the capital Antananarivo from 9 to 22 September 2011. The delegates found that most of the human rights violations and abuses denounced in Amnesty International's previous reports continued to be committed by members of the Malagasy security services with almost total impunity and that very few of the recommendations formulated by the organization were effectively implemented by the Malagasy authorities.

Amnesty International delegates were able to meet and discuss these issues as well as the findings of their mission with various entities including the Malagasy national authorities. They met with the Prime Minister, the Minister of justice, the Minister of Foreign Affairs, the Minister of Armed Forces, the Minister of Internal Security in charge of the police force as well as the Minister of Communication. The delegation also met with diplomats accredited in Antananarivo, representatives of the political opposition, lawyers, journalists as well as with victims of human rights violations and abuses. They also had meetings with staff of the United Nations and international and local NGOs. They also visited the Antananarivo central prison.