

# **BURUNDI**

## **Commitment to human rights is essential**

An Amnesty International appeal to participants of the  
International Donor Conference on Burundi, Belgium, 13-14  
January 2004

Following the entry of Burundi's main armed political group, the CNDD-FDD (Nkurunziza) into a new more inclusive government in November 2003, an important conference for the future of Burundi will take place in Belgium in January 2004. The conference is co-sponsored by the Government of Burundi and the United Nations Development Programme (UNDP). The conference will discuss a program of international aid to support the transition to peace and the social and economic reconstruction of Burundi.

Amnesty International believes that it is essential that conference participants and those more broadly involved in ending armed conflict, supporting the transition to peace, or responding to the human rights and humanitarian crises in Burundi take fully into consideration the abuses and injustices that have fuelled the conflict in their deliberations. A political settlement must be underpinned by a determination by all parties to end the human rights and humanitarian crises. Only when fundamental human rights issues are addressed can a durable political settlement and peace be sustained.

Since it is true that the peace is neither complete nor stable, without strong international support, even pressure, to see through political settlements and to finance programs essential to quelling the armed conflict, Burundi may slide back into further violence and human rights tragedy. The opportunity provided by the entry of the CNDD-FDD (Nkurunziza) into the government should not be wasted. The sporadic support provided by many countries in the recent past will not be sufficient to see Burundi out of the current humanitarian and human rights crisis. Furthermore, the continued fighting by PALIPEHUTU-FNL (Rwasa) (referred to hereafter as the FNL) should not provide a pretext for the international community to disengage or only partially engage with addressing human rights in Burundi.<sup>1</sup>

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<sup>1</sup> Amnesty International takes no position on the legitimacy of armed conflicts, and thus none on the legitimacy of the FNL's continued military activity. It calls for all parties to respect the rules of international humanitarian law which protect the lives and rights of civilians and non combatants in times of war.

The international community must fully assist the Government of Burundi in ensuring that its institutions embrace reforms and measures that will guarantee respect for human rights and promote social justice.

It is essential that the new Transitional Government of Burundi, as well as other political leaders and civil society in Burundi, assisted by regional and international actors who have supported the peace process so far commit themselves to fundamental human rights questions such as addressing impunity and accountability.

Amnesty International is publishing a human rights briefing on Burundi, *Burundi: A critical time* (AI Index: AFR 16/002/2004) in conjunction with this appeal. The briefing has a particular focus on the administration of justice, unlawful killings, violence against women, the right to health and some of the consequences of the proliferation of small arms in the country.

Below Amnesty International sets out a number of recommendations on key human rights issues that the organization believes are in vital need of assistance and support as part of any international effort to rebuild Burundi's infrastructure. The recommendations are made based on Amnesty International's long-term work and analysis of the situation in Burundi.

Amnesty International urges those taking part in the Belgium conference to consider take these recommendations into consideration and to ensure that the expertise of specialist agencies of inter-governmental organizations and non-governmental organizations be made available to implement these recommendations.

## **1 COMBATING IMPUNITY**

Impunity lies at the heart of the Burundian crisis. Any real move towards respect for human rights requires confronting and addressing the human rights abuses that have and continue to be perpetrated, fuelling the armed conflict and other political violence. The key to addressing impunity in Burundi lies largely with a reinforced national civilian judicial system and with an urgent reform of the military justice system.

### **1.A Reinforcing the judicial system**

The single most critical challenge in promoting social justice and respect for human rights will be to ensure the proper functioning of Burundi's national justice system. The present system is under-resourced and prone to political interference and ethnic discrimination. The fairness of trials continues to be undermined by lack of defence and prosecution witnesses, inadequate time for the preparation of defence arguments, constant deferrals, dearth of resources to investigate cases properly and the lack of capacity to support the right to a full appeal. Many individuals, including minors, accused of serious crimes that carry heavy sentences still appear before tribunals without legal assistance.

In addition to addressing existing challenges – not least the over 5,000 people awaiting trial and thousands of unsafe convictions, including over 450 people sentenced to death without the right to appeal, often after unfair trial – there is also a clear need to ensure that human rights abuses committed during the transitional period following a peace agreement are immediately investigated and the perpetrators brought promptly to justice. Such efforts would also demonstrate a clear break with Burundi's past, in which a climate of impunity has encouraged further abuses.

Amnesty International therefore urges the international community to provide assistance and sufficient additional resources to the Burundian judiciary to enable it to carry out its vital role in upholding human rights, and addressing the root causes of future human rights abuses.

For the sake of Burundi's future, it is important that a national justice system should operate with impartiality and independence and uphold the interests of all Burundians equally. Disregard for the problems facing the justice sector have already yielded very tangible consequences: communities around Burundi are increasingly resorting to mob justice, including lynching, apparently because they do not believe in the justice sector's ability to render justice impartially. Measures and resources to strengthen and reinforce the Burundian justice system must therefore be made a priority.

In September, legislation devolving the jurisdiction of capital cases and cases punishable by life imprisonment from the criminal chambers of the Court of Appeal to the High Court was passed, effectively introducing a right to appeal.<sup>2</sup> However, while welcome, the measure has significant resource and training implications, if the lower courts are to be able to respond to the huge numbers of cases waiting to be tried, and if trials are to meet internationally recognized standards for fair trial.

In particular Amnesty International believes that international financial and material resources should be made available to enable:

- the strengthening and proper resourcing of the Office of the Public Prosecutor to enable it to operate more effectively, including processing complaints of human rights violations, initiating legal action against suspected perpetrators, including members of the armed forces, and ensuring that arrests, detentions and prosecutions are carried out in accordance with international law and standards;
- further training including in international human rights standards to existing members of the judiciary;

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<sup>2</sup> Amnesty International has campaigned since 1998 for a right to appeal in all cases. Defendants whose cases were tried in the first resort by the Court of Appeal had only the right to submit a plea to the cassation chamber of the Supreme Court on the grounds of gross error of fact or law. If successful, the case was sent back to retrial. Due to the technical – and limited - nature of the procedure, few cases were successful, or even admissible, particularly for defendants without legal representation.

- the recruitment and training of new investigators, magistrates, prosecutors, judges and other judicial officials;
- the possible secondment of foreign judicial experts to assist the national judiciary, to support its expansion and reform;
- a thorough judicial review of existing cases, particularly of individuals who have been held in long-term detention without trial, and those whose cases were tried by the Courts of Appeal between 1996 and 2003;
- providing specific training to the judiciary and law enforcement bodies in the thorough investigation and prosecution of cases of sexual violence;
- promoting women's access to justice generally; and
- incorporating international treaties to which Burundi is a party into Burundian domestic law.

### **1.B Reform of the military justice system**

Domestically, the failure to investigate, hold accountable and bring to justice members of the armed forces suspected of being responsible for gross human rights violations is almost absolute and has been extensively documented by Amnesty International. Justice has been applied selectively, and with political and ethnic bias, and the armed forces have as a consequence largely been able to escape justice, both in civilian and military courts.

Amnesty International urges the Burundian government and its legislative institutions to debate and enact legislation and the international community to support measures to reform military justice based on the following recommendations:

- Military courts should have the power to try only military personnel accused of exclusively military offences, and should not have the power to impose the death penalty. The jurisdiction for human rights violations committed by military personnel on active duty, particularly against civilians, should be transferred to ordinary civilian courts;
- Torture, ill-treatment and unlawful killings committed by military personnel on duty should be categorized and punished, according to the law, as criminal offences, and be tried in civilian courts;
- Civilian jurisdictions should have the necessary resources and political support to investigate abuses against civilians by members of the armed forces; and
- Civilians should not in any circumstances be tried by military courts.

If military courts should continue to hear cases beyond the scope of military discipline offences, steps should be taken to ensure the following:

- Both in law and in fact, military investigators and judges are independent from the military hierarchy;

- Appeals against sentence and conviction by military courts should be heard by a civilian court of appeal.

### 1.C Other measures

The August 2000 Arusha Agreement provides a framework for addressing impunity, both domestically and internationally. However, ultimately the framework is contradictory. While promoting a message of no impunity, in reality negotiators sought immunity for their own support bases. Many fear that the temporary immunity granted to returning political exiles and others including CNDD-FDD (Nkurunziza) combatants and members of the armed forces, responsible for human rights abuses, war crimes and crimes against humanity will in effect become permanent. The international community must continue to engage with the fight against impunity in Burundi and not allow this to happen.

Commission of Inquiry. International support for measures to end impunity through international mechanisms is far from clear. In accordance with the Peace Agreement, the Burundian Government requested the United Nations Security Council to establish an international judicial Commission of Inquiry to investigate genocide, war crimes, other crimes against humanity and participation in coups d'état. However, the Security Council appears merely to have filed the request, and activists who have attempted to clarify the Security Council's positions have received contradictory information. Some sources claim that the establishment of the Commission of Inquiry is being blocked, because, if the Commission were formed and its mandate executed, in all likelihood it would request an international tribunal for Burundi, something with the United States of America, amongst others, opposes.

- Amnesty International strongly urges the international community, and particularly the Security Council, to establish an international judicial Commission of Inquiry empowered to fulfil its mandate independently and effectively.

International Criminal Court. The Government's own commitment to international justice is far from clear. The bill authorizing ratification of the Rome Statute of the International Criminal Court was adopted in June by the National Assembly but withdrawn from the Senate after the government announced its intention to make an Article 124 declaration providing that for a period of seven years Burundi would not recognize the Court's jurisdiction over war crimes committed in Burundi or by its nationals. The Constitutional Court upheld a challenge by the National Assembly to the government's intervention and the bill was submitted to the president for signature. It was unclear at the end of the year whether the president had ratified the Statute.

- Amnesty International urges the Government of Burundi to ratify the Rome Statute without conditions as a further affirmative step to promote justice and support the fight against impunity, and to pass implementing legislation.

While these international measures, and the proposed Truth and Reconciliation Commission, may ultimately form part of a package of measures to tackle impunity, they should not be the main focus. Amnesty International considers that they should supplement, not replace, measures to create an independent, extensively reformed and strengthened national criminal justice system.

## **2 TRAINING POLICE AND ARMED FORCES TO RESPECT HUMAN RIGHTS**

Amnesty International urges the donor conference to assist in the provision of a human rights training and monitoring program for Burundi's police service and armed forces. Such a program of training and monitoring will be crucial in preventing future human rights violations and should include training in human rights protection, in proper procedures for arrest and detention, in the importance of performing their roles independently of political considerations, and in the clear separation of policing and military functions.

Under the provisions of the Peace Agreement and the October 2003 cease-fire agreement, the broad framework for reform of the armed forces and police service is set out, including the effective disbandment of the paramilitary gendarmerie. In principle, members of the security forces responsible for human rights abuses will be identified and excluded, although to Amnesty International's knowledge there is as yet no clear procedure to handle this mammoth task, given the abysmal human rights record of all forces.

Investigations should also be undertaken simultaneously into allegations of human rights abuses by commanders and lower ranking individuals, who should be excluded from the force, and prosecuted if sufficient evidence can be advanced, as outlined in section 1.

Training programmes should focus on ending policing methods and procedures that facilitate torture, extrajudicial executions and "disappearances", such as the use of incommunicado detention and the use of unofficial places of detention. Training must be given and its implementation monitored to ensure that up-to-date registers of all detainees are maintained in every place of detention and that these registers are made available to relatives, lawyers, judges and official bodies.

Efforts should be made to recruit women officers into the police force and equip the police force with the necessary equipment and training to respond to and investigate crimes of sexual violence effectively.

The *Gardiens de la Paix*, a poorly trained, unpaid armed militia, which includes many former child soldiers, responsible for numerous human rights abuses, should be disbanded. Its members demobilised and reintegrated into civilian society, or integrated into the armed forces if they have attained the age of 18. Law enforcement functions should be entrusted to professional police officers trained in human rights.

### **3 REINTEGRATION OF DEMOBILIZED FORCES**

Without a clear focus on reintegrating combatants into society, an incentive will remain for individuals to return to combat or engage in criminal activities. Given the scant economic opportunities, high population density, land scarcity and abundance of small arms in the region, a demobilization program with sufficient and long-term political and financial support will go far to stabilize Burundi by neutralizing potential sources of insecurity.

The international community, the Government of Burundi and leaders of Burundi's armed political groups should manifest long-term commitment to the sustainable demobilization and reintegration of combatants, including children, women and girls who may have been engaged in the war without having been directly involved in combat. Amnesty International urges donors and the Burundian government to devote particular attention to the following aspects:

- Providing all demobilized combatants with education, job creation and medical support programs, including psychological counselling, as necessary. Disabled or ill ex-combatants should receive additional benefits to rehabilitate and reintegrate them into their communities;
- Assisting ex-combatants to establish alternative livelihoods, rather than receiving one-off cash payments. Demobilized combatants should be consulted during the design and implementation of the programs to ensure sustainability and appropriateness to their needs;
- Establishing a monitoring body that is accountable, independent, well-financed and empowered to supervise the reintegration, including social acceptance and economic self-reliance, of those demobilized. The monitoring body should likewise verify that combatants remain demobilized, rather than returning to combat, and have not kept weapons. Findings by the independent monitoring body should inform the ongoing implementation of the demobilization and reintegration process;
- Considering the special rehabilitation and reintegration needs of child soldiers, including adults who were recruited as children. Child soldiers (including those not directly involved in combat) should have education and job training made available, in addition to psychological counselling for them and their families, as well as other forms of medical support and assistance;
- Paying special attention to the needs of women and girls who were involved in combat, often as "wives" or sexual slaves of combatants. Women and girls should be interviewed separately and discreetly, provided with alternatives to returning to their home communities, and should be empowered to make independent decisions about their future marital and family status; and
- Staying the course, and insisting that demobilization, reintegration and rehabilitation programs are adequately funded, implemented and monitored for as many years as there is a need for their continuation.

Amnesty International urges the international community to subsidize the reintegration and rehabilitation of all former combatants and to manifest a lasting commitment to the full and responsible implementation of this process.

#### **4 PROMOTION OF WOMEN'S RIGHTS**

An effective program promoting women's access to justice, health care, land and economic rights and supporting women victims of human rights violations will enable all Burundians to reap the benefits of peace equally.

Women have suffered disproportionately during the conflict and have been targets of violence and degrading treatment as a result of their gender. Human rights and medical organizations attest to the shocking increase of sexual violence since the beginning of the conflict, perpetrated by the Burundian regular army, the *Gardiens de la paix*, armed political groups and bandits. Sexual violence also appears to have become more prevalent in domestic contexts, including rape of very young children. A concomitant increase in HIV/AIDS and other sexually transmitted diseases has affected victims of such violations.

Widows or women living alone have been particularly vulnerable to raids and sexual violence during the protracted conflict. In addition, they often face difficulties asserting their economic rights, as legislation and customary law may exclude them from inheriting land or benefiting from economic activities.

Bearing in mind the prolonged suffering of many women in Burundi, Amnesty International urges donors and the Burundian government to take concrete measures to support change in the following areas:

- invest in long-term and in-depth training of the members of the Burundian Armed Forces to ensure that they do not commit or condone rape;
- build the capacity and integrity of the security forces and judiciary to ensure that allegations of rape by the security forces are promptly investigated and where founded, the alleged perpetrators are brought to justice. Measures should include:
  - the issuing of clear guidelines to law enforcement agencies stating that deterring women from reporting acts of violence will not be tolerated and insisting on the duties of law enforcement officials to investigate acts of violence against women, whoever the perpetrator;
  - provide specific training to all judges and lawyers in relevant areas of international human rights law to enhance the understanding of violence against women from a human rights perspective, and to ensure its effectiveness in the prosecution of acts of violence against women;
  - the provision of training on handling cases of sexual violence; the use of medical and forensic evidence; and international human rights standards;

- the recruitment and training of women police officers in sufficient numbers to counter a culture of discrimination and to allow specialization on cases of violence against women;
- promote women's participation in institutions and representative government to push an agenda mindful of the needs of women and girls;
- pay particular attention to ensuring that a higher proportion of women and girls receive education, and are educated about their rights; and
- review inheritance, land and marriage legislation and practice to promote the equitable access of women to economic and social rights.

## **5 PROMOTING THE RIGHT TO HEALTH - INCREASING ACCESS TO HEALTHCARE FOR THE POOR**

A restructuring of health policy and infusion of resources are necessary to ensure the access of the population, impoverished by years of war, to regain adequate standards of health and healthcare. Amnesty International urges the international community, including multilateral donors, and the Burundian government, to commit themselves to resuscitating a health system that is failing its supposed beneficiaries.

The past ten years of insecurity have taken their toll on the health of the population in a number of ways: physical wounds caused by war-related injuries; degraded health due to diminished access to fields and markets, through insecurity, and pillaging of food stocks; vulnerability to disease aggravated by sleeping outdoors, often in the cold or rain, repeated displacements, fatigue, malnutrition and, for refugees and IDPs, poor sanitation; destruction of health centres and inaccessibility to healthcare due to insecurity; looting of pharmaceuticals; widespread sexual violence and the attendant transmission of HIV/AIDS and other diseases.

At the same time, incomes in Burundi have fallen, leaving a destitute population unable to afford medical treatment or even examination. Only one to two state doctors serve each province, and are responsible not only for treating patients but also for providing administrative oversight. The population has reportedly increasingly resorted to traditional healers, for several reasons: these healers may be cheaper, the population's faith in the health services has diminished, and health centres may be located in areas of insecurity.

During a period when the Burundian population has been most in need of adequate and affordable healthcare, in 2002 the government of Burundi, instituted policies of cost-recovery in the health centres. As a result, very few Burundians are now able to afford services provided by state health centres. If it were not for the assistance provided by humanitarian organizations, many Burundians would have no access to healthcare whatsoever. Women about to give birth are often required to pay a deposit before they are admitted in the event they may need a caesarean section, and may be effectively imprisoned in the health centre until they pay their bills—sometimes by resorting to selling their family land plots.

- Amnesty International urges the international community to infuse necessary resources to revive the health sector and radically improve the access of the poor to health care; this initiative would necessitate reprioritising World Bank directives to defend the access of impoverished Burundians to basic standards of health.

## **6 REDUCING THE AVAILABILITY OF SMALL ARMS**

The regional upsurge in insecurity during the past decade and intense international arms trafficking has left the region awash with small arms. As the price of weaponry has decreased, the value of life has been correspondingly diminished. Ambushes, armed robbery, rape and killings perpetrated with small arms have not only violated individuals' basic rights but perpetuated insecurity and severely diminished prospects for human and economic development in the country.

Small arms reduction programs, such as collection and destruction, should be pursued in conjunction with demobilization projects in order to put small arms beyond use. Without curbing the prevalence of guns and grenades, crimes perpetrated with the aid of these arms will continue to undermine peace and diminish the population's confidence that institutions are capable of ensuring their safety. In provinces such as Kayanza, armed robbery, much of it perpetrated by former soldiers who deserted with their weapons or by *Gardiens de la Paix*, represents the single greatest threat to security.

- Amnesty International urges the international community not to undermine efforts in demobilization, reinforcing justice and rehabilitating infrastructure by overlooking the destabilizing impact of small arms, including guns and grenades. Individual donors should carefully monitor the involvement of their own citizens, airports and corporations in arms trafficking in addition to financially and technically supporting arms reduction programs in the region.

## **7 PROTECTING THE RIGHTS OF CHILDREN**

Large numbers of children have suffered abuses of their human, social and economic rights in the course of Burundi's armed conflict and protracted economic crisis. Many have been victims or witnesses of gross human rights abuses, such as being recruited—often forcibly—to fight in government or armed opposition forces. Others have been coerced to serve as sexual slaves, porters or labourers in these forces. Some of the children who manage to escape from these forces find themselves treated not as victims of war crimes but as criminals themselves, and may be detained, tortured or ostracized following their escape.

Nearly all of Burundi's children have suffered the effects of war, particularly their ability to be educated, to receive adequate nutrition and healthcare and to live in security. The prevalence of weapons and fighters in the country, dearth of social programmes and erosion of social networks exposed many girls to sexual violence, often perpetrated with impunity.

The number of orphans in Burundi skyrocketed during the ten-year conflict, and threatens to increase further following the explosion of HIV/AIDS in the country.

Children's rights have also been abused at the hands of the law, and children, including a number of children under the age of criminal responsibility, have been spared none of the abuses inflicted on adults in the name of justice – namely, arbitrary arrest and detention, torture and ill-treatment, long term detention without trial, unfair trial and poor prison conditions. Children have not been protected from sexual abuse from fellow inmates in prison.<sup>3</sup> The number of children in detention is however relatively small, and many of the abuses listed here would be easily preventable, if due attention were paid to them.

In Amnesty International's view, the international community cannot allow, and the Great Lakes region cannot bear, another lost generation left to perpetuate the cycle of armed conflict and instability. Amnesty International therefore urges donors to support measures that will aid these children to recover from the suffering they have endured, to restore their rights and allow them to play a full part in the reconstruction of their society. In particular, consideration should be given to the following:

- reinforcing the provision of education in Burundi and in refugee camps in other countries;
- establishing programs to provide adequate medical care and psychological counselling for traumas and abuses suffered by Burundi's children;
- creating programs for the orderly demobilization and rehabilitation of children who have been actively involved in the conflict as child soldiers (including those who are now aged 18 or older) including reuniting them with their families and promoting their psychological rehabilitation, as well as educational and social reintegration;
- ensuring that all persons involved in the administration of juvenile justice receive training on international human rights standards including the Convention on the Rights of the Child (Children's Convention), to which Burundi is party;
- actively promoting within these services understanding of and respect for the core concepts of protection, non-discrimination, child participation and the child's "best interests" which underlie international protection for children's rights;
- ensuring that non-governmental organizations (NGOs) and other civil society organizations with direct experience of children's issues and human rights are involved in the development of policies, legislation and other measures to protect the rights of children;
- enabling the judiciary to prioritize examination of the case files of children, particularly those detained for excessively long periods without charge or trial, and provisionally release those against whom there is little substantiating evidence, or who are detained for minor offences; and

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<sup>3</sup> For further information please see *Amnesty International's report, Burundi: Poverty, isolation and ill-treatment – juvenile justice in Burundi* (AFR 16/011/2002, September 2002).

- providing training to the judiciary in line with Burundi's international obligations with regard to children's rights including on ensuring that sentencing is proportionate to the crime and takes into consideration the age and best interests of the child.

## **8 PROTECTION OF REFUGEES AND THE INTERNALLY DISPLACED**

Successive refugee and IDP crises and the failure of the international community to resolve these crises successfully, have been a major contributing factor to the cycle of conflict experienced throughout the Great Lakes region in recent years and partially provoked the crisis in Burundi in 1993. The successful achievement of durable solutions including resettlement and full reintegration of IDPs and returning refugees (which would include the equitable arbitration of land issues) are of central importance to sustainable peace. Amnesty International therefore urges international donors to pay special attention to this issue, following a year that has seen increasing and alarming declines in the allocation of resources both to refugees in Tanzania and to long-term and short-term IDPs in Burundi. Statements made by UNHCR officials in 2003 have been particularly worrying as they have suggested that host countries and the international community is eager to rid itself of the responsibility for protecting the rights of refugees, in contravention of their obligations. At present, Burundi cannot be described as having experienced the durable change in conditions that is the prerequisite to encouraging repatriations.

It should be underlined that even in the event of a durable peace, not all refugees will be willing or able to return. Other durable solutions to their plight need to be available. The responsibility will fall on all the governments and international organizations concerned to ensure that, in accordance with internationally-recognized principle of *non-refoulement*, repatriations of refugees to Burundi take place on a strictly voluntary basis and that voluntary repatriation should only be promoted or encouraged when the human rights and security situation in Burundi allows for refugees to return in complete safety and dignity. No such conditions exist in most areas of Burundi at the moment, and Amnesty International is concerned that a mass return of refugees—whether forced or not—could prove disastrous for the stability of Burundi and the safety of the refugees themselves. During the past year, many refugees in Tanzania have been returning to Burundi spontaneously due to the increasingly harsh conditions of the camps, including food insecurity, curtailed trade opportunities and mobility around the camp area and an upsurge of rape and theft.

At present, despite monitoring and research that demonstrate the near-total lack of preparation by the Burundian government and international actors for possible massive refugee returns, few concrete steps have been taken to ensure that refugees will be able to return and be reintegrated into Burundian society in conditions of dignity. Additionally, incidents of violence and theft perpetrated against voluntary returnees from Tanzania have been increasing alarmingly.

While monitoring mechanisms have improved, it remains unclear what practical benefits refugees and IDPs have reaped as a result of these undertakings. Monitors routinely mention the absence of special assistance for pregnant women, unaccompanied minors, the sick and the disabled, the inability of returnee children of receiving education free-of-charge, as is their right. There are inadequate mechanisms to handle land disputes, and difficulties in obtaining identity cards and documents attesting to their eligibility to additional government assistance.

Reintegrating and ensuring the protection of IDPs and refugees<sup>4</sup> who choose to return to Burundi after a durable peace settlement poses an enormous challenge that should not fall solely or disproportionately on the Burundian authorities. The costs and responsibilities of protecting and promoting the reintegration of these groups should be shared by the international community, as should the costs and responsibilities of providing continuing protection for refugees who choose to remain outside Burundi's borders.

With these concerns in mind, Amnesty International urges the international community to

- provide sufficient financial assurance to countries hosting large numbers of Burundian refugees, particularly Tanzania, to ensure that these states do not at any time contemplate unlawful *refoulement* of refugees and to ensure that they do not encourage voluntary returns before conditions in Burundi allow for safe returns.

In addition, and in line with international standards for refugee protection and the UN Guiding Principles on Internal Displacement, international assistance should be directed towards:

- ensuring the protection of IDP and refugee populations and provision of their essential humanitarian needs, now and as they return to their home communities, including putting in place plans, facilities and resources for the sustained monitoring of returning IDPs and refugees before any return is promoted or encouraged;
- ensuring that the rights of refugees and IDPs are respected in full, including the right to freedom of movement and association, the right not to be forcibly returned to or resettled in any place where their life, safety, liberty and, or health would be at risk, the protection of their property, and the right of families to remain together;
- the adoption of measures to address needs identified through enhanced monitoring of the displaced and returning population in Burundi, particularly the special needs of unaccompanied minors, pregnant women, the sick and the disabled;

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<sup>4</sup> There are more than 500,000 Burundian refugees currently sheltered by neighbouring countries. The conflict has also led to the internal displacement of hundreds of thousands of other Burundians including around 280,000 people living in camps for the displaced. A further 100,000 people are estimated to be temporarily displaced on a regular basis.

- programmes to manage the return and successful reintegration of IDPs and refugees. These programs should include measures to aid the reunification of families, the provision of identity documents, the provision of education and training, especially for children, and measures to enable IDPs and returning refugees to take part in economic activity and the full range of social and political rights;
- fortifying the judicial system or instituting temporary land tribunals to rule on disputes over land and property rights, including addressing issues of compensation, in an independent, non-discriminatory fashion;
- ensuring that women have access to land and that all laws and customary practices support the right of women to inherit land; and
- assisting the Burundian authorities to establish an independent and impartial mechanism which will enable returning IDPs and refugees to challenge any denial of their right to return to their place of origin.

## 9 IMPROVING CONDITIONS OF DETENTION

Despite improvements in some prisons, conditions in many of Burundi's prisons and detention centres remain harsh and in some cases amount to cruel, inhuman and degrading treatment. Some prisons remain dangerously overcrowded and unsanitary. Medical care is often inadequate, prison food insufficient and access to clean drinking water is not always guaranteed. Conditions in Burundi's communal, gendarmerie detention centres and military detention sites (official and unofficial) are much worse<sup>5</sup>; while ill-treatment and torture has reportedly been diminishing, inmates may still be beaten, made to kneel on bottle-caps, tied or restrained in excruciating positions, burned with melted plastic and ill-treated by other methods. In some cases, women and minors are held together with men, or may be separated only at night, and are thus susceptible to sexual assault or may be drawn into prostitution to supplement their food rations. In some prisons, minors in detention sleep in shifts at night, while others stand, because the floor-space is insufficient to accommodate all of them at once.

Amnesty International urges the donor conference to provide financial and material aid to improve Burundi's prisons and detention centres to international minimum standards. Such assistance should be provided in cooperation with international humanitarian organizations and national NGOs such as the *Association Burundaise pour la Défense des droits des Prisonniers* (ABDP), Burundian Association for the Defence of Prisoners' Rights, the *Association Burundaise pour la Protection des Droits humains et des personnes détenues* (APRODH), Burundian Association for the Protection of Human Rights and Detainees, and the *Ligue ITEKA*, Burundian League for Human Rights.

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<sup>5</sup> Detainees in these locations additionally run a grave risk of torture and ill-treatment and may be denied food. They are therefore vulnerable to malnutrition and succumb more easily to disease.

## **10 SUSTAINING HUMAN RIGHTS MONITORING**

By working to promote respect for human rights, independent national human rights organizations are integral to securing lasting peace and reconciliation in Burundi. These organizations have performed and will continue to perform an invaluable role in monitoring and reporting on human rights abuses as well as promoting social justice and the respect for human rights.

The international community should consider devoting technical and financial assistance to these organizations and to support their work in any practicable way, enabling the organizations to strengthen and expand their work. The commitment of international political support is equally important in protecting these organizations from reprisal, harassment or interference, to which they may be especially vulnerable during the transitional period following a peace agreement. Independent media that covers human rights issues should likewise be encouraged and supported.

Furthermore, the UN Office of the High Commissioner for Human Rights in Burundi should be maintained and expanded, including its provision of judicial assistance, and given adequate financial and material resources to enable it to carry out its tasks fully and efficiently. However, its current operations should be reviewed as a matter of priority to assess where and how it could be more effective and to assist in making regular public reports on the human rights situation.