

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI index: AFR 16/005/2010
28 December 2010

Burundi: Still no justice for Burundi massacre victims

The Burundian government should establish the long-awaited Special Tribunal within the Burundian justice system and the Truth and Reconciliation Commission (TRC) to hold those responsible for human rights violations before and during Burundi's armed conflict accountable.

Thousands of Burundians were killed during the conflict, in which all sides were responsible for serious violations of international humanitarian and human rights law. Impunity persists for past abuses. The Burundian government has been slow to act on its commitment to establish a TRC and Special Tribunal to investigate and prosecute those responsible for these crimes.

Exactly 10 years ago, on 28 December 2000, 21 civilians were killed as the "Titanic Express" bus was attacked en route from the Rwandan capital, Kigali, to Bujumbura. The attack took place in Bujumbura Rural, a former stronghold of the then armed opposition group, the Palipehutu-National Liberation Forces (Palipehutu-FNL). Those onboard were separated according to their ethnicity. Hutu were released, while Tutsi passengers and one British woman were killed. The Burundian authorities, diplomatic sources and some international organisations have attributed responsibility to the then Palipehutu-FNL. The FNL denies involvement. Ten years later, those responsible have not been investigated and brought to justice.

The Titanic Express massacre was only one in a series of mass killings during the civil war. In 2004, more than 160 Congolese refugees were killed at Gatumba with the Palipehutu-FNL claiming responsibility. In 2002, around 200 people were killed at Itaba by the Burundian army. In 1997, over 300 civilians were killed at Bugendana by the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), then an armed opposition group. There were large scale massacres of civilians in 1972, 1988 and 1993.

The Burundian government and the United Nations have been negotiating since 2006 on the modalities of setting up the Special Tribunal and the TRC based on plans first agreed in the Arusha Peace Accord of 2000. National consultations conducted by the Burundian government, the United Nations and civil society in 2009 showed strong Burundian support for these mechanisms.

Burundi's President Nkurunziza was officially presented with the report from the national consultations in November 2010. The delay in presenting the report, completed in 2009, was a stumbling block to the creation of the Special Tribunal and TRC. Amnesty International calls on the Burundian government to take immediate steps to establish these accountability mechanisms.

Amnesty International urges the Burundian government to respect their obligations under international law and to ensure that there is no amnesty for crimes under international law. Some Burundian government officials have expressed support for amnesty for serious crimes, including genocide, war crimes and crimes against humanity, if established. President Nkurunziza expressed willingness to move forward on the TRC in his inauguration speech in August 2010 following his re-election as President. The 2006 agreement between the FNL

and the Burundian government sought to rename the TRC, the “Truth, Pardon and Reconciliation Commission”.

Amnesty International calls on the Burundian government to establish the Special Tribunal, and ensure that it is mandated to independently investigate and prosecute serious human rights violations without prior referral from the TRC. Effective guarantees should ensure participation of victims, as well as reparations.

Background

Burundi’s civil war, which began in 1993, was initially between the Tutsi-dominated army and Hutu-led armed opposition groups. Many of the major parties to the armed conflict signed the Arusha Peace Accord in 2000 after a lengthy peace process. In late 2003, the Burundian government and the CNDD-FDD armed opposition group signed a ceasefire and power-sharing agreement. CNDD-FDD went on to win the 2005 elections. In 2004 Burundi ratified the Rome Statute of the International Criminal Court.

The Palipehutu-FNL, the last armed opposition group, signed a Comprehensive Ceasefire Agreement with the Burundian government in September 2006. The terms of the agreement were not fully implemented until 2009, when the Palipehutu-FNL became a political party, known as FNL.

The Arusha Peace Accord called for the creation of an international judicial commission of enquiry, as well as a TRC. In 2002, the former Burundian President wrote to the UN Secretary General endorsing the Arusha Peace Accord’s recommendations. In 2004, a UN Assessment Commission proposed a TRC and a Special Tribunal within the Burundian justice system to investigate and, if established, prosecute genocide, war crimes and crimes against humanity. The UN endorsed these recommendations in Security Council Resolution 1606 in June 2005.

The Burundian government signed an agreement with the UN in November 2007 to undertake national consultations to elicit the views of the Burundian population on the modalities of creating the TRC and Special Tribunal. The consultations, which took place in 2009, were led by a steering committee comprised of members of the Burundian government, the UN and Burundian civil society. The President availed himself to receive a copy of the report on the national consultations in November 2010.

The Arusha Peace Accord, signed by most parties to the conflict except the CNDD-FDD and FNL granted “provisional immunity” for “political crimes” committed prior to the agreement. Subsequent agreements extended “provisional immunity” to other former armed opposition groups, as well as government security forces, for “politically-motivated” crimes, excluding genocide, war crimes and crimes against humanity until the creation of a TRC and Special Tribunal. Provisional immunity does not apply to crimes committed by any group after the September 2006 ceasefire.

Negotiations between the Burundian government and the UN have so far failed to reach consensus on the independence of the Special Tribunal’s Prosecutor and on the relationship between the TRC and Special Tribunal.