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REPUBLIC OF BURUNDI

Briefing to the Committee against Torture

Introduction

From 8 to 10 November 2006, the Committee against Torture (Committee) is scheduled to examine Burundi's initial report on the implementation of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). This briefing summarizes Amnesty International's concerns with regards to Articles 1, 2, 4, 11, 12, 13, 14, 15 and 16 of the Convention against Torture, which the organization believes have been breached by Burundi.

The present briefing focuses on the following concerns:

1. Incidence and patterns of torture and ill-treatment within the Burundian criminal justice system;
2. The failure of current national law to define torture and to align the Penal Procedure Code and the Penal Code with international human rights standards, specifically the Convention against Torture (Articles 1, 2, and 4 of the Convention against Torture);
3. Failure to ensure the initiation of prompt, thorough and impartial investigations into allegations of torture or other ill-treatment and to ensure the right of victims and their families to make complaints after having been subjected to torture and ill-treatment (Articles 12, 13 and 16 of the Convention against Torture);
4. Failure to ensure reparation, including fair and adequate compensation, for victims of torture and ill-treatment inflicted by police or other state officials (Article 14 of the Convention against Torture);
5. The use of statements allegedly obtained as a result of torture or ill-treatment as evidence in criminal proceedings (against defendants other than the alleged perpetrators of the acts of torture or ill-treatment) and the absence of a prompt, thorough and impartial investigation into such allegations (Article 15 of the Convention against Torture);
6. Excessive use of force by police, amounting to inhuman and degrading treatment, and inhuman or degrading conditions of detention (Article 16 of the Convention against Torture).

1. Incidence and patterns of torture and ill-treatment within the Burundian criminal justice system

Burundi acceded to the Convention against Torture in 1993, yet Amnesty International is concerned over the persistence of torture and cruel, inhuman and degrading treatment or punishment at the hands of the state authorities. Throughout 2006, Amnesty International has documented allegations of torture by the *Documentation Nationale* (intelligence services) the National Police Services and other military and security forces.

Ill-treatment and torture in police and military custody remain widespread. Torture methods most frequently reported include severe and sustained beatings using electric cables, sticks and other heavy implements, beatings on the joints, the soles of the feet and the genitals, kneeling on bottle tops, stabbings, tying in excruciating positions, humiliation and intimidation, including death threats or other psychological forms of torture and ill-treatment. Other techniques documented by Amnesty International include scalding with boiling water and melted plastic bags, breaking of bones and simulated executions. Some detainees have been so severely tied or beaten that their limbs have subsequently been amputated.¹

Patterns and incidence of torture have remained consistent during the review period for this briefing paper (2003-2006). Annual reports published by Amnesty International since 2003 has indicated that high levels of torture have persisted from 2003 to the current year.

Other examples demonstrate how government troops have used torture to extract confessions from detainees. Torture and ill-treatment is particularly acute during the early stages of detention in military and police detention centres, particularly as people are often held incommunicado in illegal places of detention and/or without access to families, lawyers and human rights and humanitarian organizations.

Torture and ill-treatment of persons suspected of being members or supporters of armed political groups

People suspected of being members or supporters of armed political groups, more recently those suspected of links with the FNL (Forces Nationales de Libération – National Liberation Forces), have been particularly vulnerable and are systematically subjected to beatings, tied in excruciating positions for long periods, stabbed, threatened with death and deprived of food.

- Around 30 Burundi and Congolese nationals were arrested at the end of October 2005 allegedly because they were suspected of involvement with the FNL. Allegations were made at the time both by human rights monitors and the national media that a number of those arrested had also been beaten and injured by the state authorities. A

¹ Amnesty International, *Burundi: A critical time. A Human Rights Briefing on Burundi* (AI Index: AFR 16/002/2004)

sizeable portion of those arrested came from the Kinama Commune, north of Bujumbura. The detainees were held at the Documentation Nationale (intelligence services) headquarters or other internal security police stations. The detentions were seemingly arbitrary and infringed standards of international law and the Burundian penal procedure code.²

- **Désiré N**, aged 18, from Kanyosha commune, Rural Bujumbura was arrested on 17 July 2003 in Bujumbura. A mason, he had reported for work in Bujumbura. He was stopped in central Bujumbura by a soldier and asked to produce his identity document, which he did. Because he was a young Hutu from outside the capital he was immediately considered suspect, arrested and taken to a military detention centre in Mutanga district, Bujumbura, where his arms and feet were reportedly tied together behind his back and to his feet in an excruciating position known as *kabuha budege* (the airplane position) and he was beaten. The soldiers reportedly threatened to blow him up with a grenade and made as if they would stab him with a bayonet. However, the commander from another battalion arrived, and **Désiré N** was taken away to the *1e bataillon d'intervention*, 1st Intervention Battalion. He was detained for nine days during which he was unable to eat as his face was too swollen after the beating. He was released without charge. In late September 2003, he was still unable to work.³

Deaths in detention as a result of torture

Since 2002, Amnesty International and other human rights groups have documented scores of cases of death in detention as a result of torture.

- In July 2002, Sergeant **Paterne Mpfukamensabe** was beaten to death in Ngagara military barracks, Bujumbura, after being arrested following a dispute with another soldier. The barracks commander initially claimed that the officer had died from a severe stomach upset. However, the body showed injuries to the face, head and back.
- Prior to their ascension to power, the CNDD-FDD (*Conseil National pour la Défense de la Démocratie - Forces pour la Défense de la Démocratie* - National Council for the Defence of Democracy - Forces for the Defence of Democracy), lead by Pierre Nkurunziza, operated a parallel “police” force throughout 2004 which issued summonses, conducted searches and abducted scores of people. Most of those abducted and detained appeared to be suspected by local CNDD-FDD commanders of links with the FNL. Many suspects were beaten, often severely, and several were reported missing or killed. **Apollinaire Ndayiziga, Augustin Barakamfitiye and**

² Amnesty International, Burundi: Security considerations should not prejudice human rights (AI Index: AFR 16/011/2005)

³ Amnesty International, *Burundi: A critical time. A Human Rights Briefing on Burundi* (AI Index: AFR 16/002/2004)

Ntabatamwaka were reportedly beaten to death by members of the CNDD-FDD in June 2004. **Zacharie Ndiwenumuryango**, alias Hussein, aged 23, reportedly died on 24 September 2004 in a CNDD-FDD place of detention after being badly ill-treated.⁴

Sexual violence, rape and other forms of violence against women

Sexual violence, including rape, has been widespread both during and after the conflict in Burundi. The perpetrators are largely members of the Burundian armed forces and armed political groups. The Burundian authorities and leaders of armed political groups have shown an alarming lack of will to hold their forces accountable.

- In one of the worst affected areas during 2003, government armed forces and the CNDD-FDD committed scores of rapes in Ruyigi province, as well as other human rights abuses and looting, in a pattern of reprisal and counter-reprisal. Many women and girls were also raped in front of their families, including their children, adding to the trauma.⁵
- **Eugenie S**, aged 15, and **Lucie N**, aged 16, were raped in separate incidents by soldiers in Bisinde, Ruyigi zone in September 2003. Eugenie was walking back from the market when a soldier reportedly stopped her and forced her into the bushes, and raped her. He told her to say that she had been raped by the FDD (CNDD-FDD). Lucie was also reportedly raped by a soldier who threatened her with a gun. She was returning home alone from a wedding when she came across a group of soldiers on patrol. She had been reportedly raped three months earlier by one of a group of eight CNDD-FDD fighters who broke into her family house demanding money. She and her family were also beaten. Both girls say they are shunned by their community.⁶

Other forms of physical violence against women are also prevalent within the Burundian criminal justice system:

- In January 2003, 13 people were arrested in Songa commune, Bururi province, on suspicion of links with an armed political group. At least four of those arrested were ill-treated at a military position, including two elderly women who were beaten on their hands with an iron bar.⁷

⁴ Amnesty International, Burundi: Annual report 2005 (AI Index: POL 10/001/2005)

⁵ Amnesty International, *Burundi: Urgent need to protect women and girls from rape* (AI Index AFR 16/008/2004)

⁶ Amnesty International, *Burundi: Rape - the hidden rights abuse* (AI Index: AFR 16/006/2004)

⁷ Amnesty International, *Burundi: Annual report 2003* (AI Index: POL 10/001/2003)

Torture of children

Age is no protection against torture in Burundi. Children have been subjected to severe and sustained beatings using electric flex, sticks, and other improvised weapons, beatings on the joints, the soles of the feet; some had been cut or stabbed with bayonets or knives; tied in excruciating positions for long periods of time; some had been threatened and intimidated, or subjected to death threats or other psychological abuse. Few had received any sort of medical care. Amnesty International noted in 2006 that children remain at grave risk from human rights violations, including torture and ill-treatment in the early stages of detention.

- **Jean Claude Nibugoyi**, was approximately 16 years old in November 2002 when he was arrested in Giheta zone, Marangara commune, on suspicion of involvement in a number of robberies, including an armed robbery, was reportedly whipped with electrical wire on his legs; his arms were tied behind his back with the elbows forced together and the tip of his right finger was broken while in gendarmerie custody in the days which followed his arrest.⁸
- **R.**, aged 14, was arrested in January 2004, accused of robbery, and sentenced in May 2004 to 30 months' imprisonment. He said that during his initial six months' custody, he was beaten with a metal rod and a stick by a police officer. When AI delegates met him in January 2005, they saw the scars on his arms.⁹

Children are also at risk of sexual abuse in prison. While the issue of sexual abuse remains shrouded in secrecy, and the extent of the problem is not known, the practice of detaining children with adults exposes them to the risk of abuse. While those in detention remain reluctant to admit to having been sexually assaulted, former prisoners have been more open, confirming male sexual abuse, including rape, and forced prostitution. Boy detainees appear to be particularly vulnerable to sexual abuse as girls attain a degree of protection where they are held in women's wings. Several boys said they had been approached by other prisoners who said that they would pay to have sex with them. Others complained of, and said they were frightened by, sexual activity by adults in their room.

⁸ Amnesty International, *Burundi: A critical time. A Human Rights Briefing on Burundi* (AI Index: AFR 16/002/2004)

⁹ Amnesty International, *Burundi: Annual report 2006* (AI Index: POL 10/001/2006)

2. The failure of current national law to define torture and to align the Penal Procedure Code and the Penal Code with international human rights standards, specifically the Convention against Torture (Articles 1, 2 and 4 of the Convention against Torture)

Amnesty International is concerned that there is currently no definition of torture in Burundian legislation. As stated in the State party initial report “the Criminal Code does not adequately deal with the issue of torture because torture has not yet been made a criminal offence.” (Paragraph 33).

As suggested in the state party initial report, acts of torture are punishable under ordinary law, under articles 145 to 150 and article 153 of the Criminal Code, as well as specific regulations applying to police and armed forces. Amnesty International is concerned that article 145 stipulates: “Those who use torture or commit acts of barbarity in the execution of the crimes defined in this section shall be liable to the death penalty.” Amnesty International opposes the death penalty in all cases, without exception, as a violation of the right to life and as the ultimate cruel, inhuman or degrading punishment.

3. Failure to ensure the initiation of prompt, thorough and impartial investigations into allegations of torture or other ill-treatment and to ensure the right of victims and their families to make complaints after having been subjected to torture and ill-treatment (Articles 12, 13 and 16 of the Convention against Torture)

Amnesty International is concerned that the number of investigations conducted into reports and complaints of torture or ill-treatment is substantially lower than the number of incidents reported.

It is extremely rare that the authorities take any action against members of the security forces or other state officials responsible for torture and ill-treatment. Members of the security forces convicted of torturing detainees to death have, for instance, been allowed to continue in their functions.

The current national justice system functions poorly. The weak capacity of the judicial system does not guarantee the right to victims of an effective remedy, including the right to complain and have their case promptly and impartially examined by the competent authorities. In fact, the majority of reported cases of torture are not investigated, and hence not prosecuted. Human rights organisations have often questioned the impartiality and independence of the judiciary, which further limits the victim’s recourse to justice.

- **Alphonse-Marie Kadege**, the former Vice-President of Burundi, was allegedly kicked repeatedly on his body by police officers in an interrogation room on 2 August, 2006. During a visit on the same day, Alphonse-Marie Kadege's wife was granted access to see her husband at the Intelligence Services Headquarters in Bujumbura, the Burundian capital. As she was being led to an interrogation room where he was being held and approached the entrance to the room, she reportedly saw one of two police officers kicking her husband on his body. She was then reportedly denied access to the room and asked by the Intelligence Services to leave immediately. Alphonse-Marie Kadege and six other detainees were all arrested by the Burundian Intelligence Services, *la Documentation Nationale*, between 31 July and 3 August 2006. The seven people, who were all prominent members of Burundian society, were accused of being involved in a coup plot to overthrow the government of Burundi. All were detained at the Intelligence Services Headquarters in the capital, Bujumbura. Despite complaints made by the wife of Alphonse Kadege, no substantial investigations have taken place by the state authorities into the allegations of torture.¹⁰

Transitional justice - Impunity for crimes of torture and other crimes under international law

In July 2002, the former president of Burundi, Pierre Buyoya, addressed a letter to the Secretary-General which supported the recommendations of the Arusha Peace and Reconciliation Agreement (August 2000) and requested the establishment of an international judicial commission of inquiry in Burundi. During May 2004, a United Nations Assessment Mission visited Burundi and officially published the findings in March 2005. The report recommended the setting up of a national and truth commission with a mixed composition of both national and international components and a special chamber within the court system of Burundi. This special chamber, also selected of international and national elements, was to form part of the Burundian legal system. The UN Security Council adopted Resolution 1606 on 20 June 2005, which endorsed the recommendations contained in the UN assessment mission report. On 26 February 2006, a UN mission travelled to Bujumbura to begin negotiations with the Burundian government on the modalities of setting up the two accountability mechanisms. Since the negotiations took place however progress to establish such mechanisms have been slow, and so far, no official plan of action has been formulated.

Many of the human rights abuses and violations in Burundi were linked inextricably to the armed conflict.¹¹ The failure of successive governments to investigate and bring to justice

¹⁰ Amnesty International, Burundi: Urgent Action No. 210/2006 (AI Index AFR 16/012/2006)

¹¹ The first democratic elections were held in 1993 and were won by the Hutu-dominated Front for Democracy in Burundi (FRODEBU). A few months after the elections, the FRODEBU leader, Melchior Ndadaye, was assassinated by Tutsi army officers. The President's death was the beginning to years of heavy conflict. In August 2000, all but two armed political groups signed the Arusha Peace Accords. The CNDD-FDD and the FNL, however, continued fighting. The CNDD-FDD signed a peace agreement in 2003 and the FNL on September 7, 2006. The peace still, however remains fragile.

those responsible for large scale killings and other crimes under international law has fundamentally undermined the rule of law in Burundi. The vast majority of human rights violations and abuses, including torture, during the conflict have not been investigated. The cases below are an illustrative example of this pattern of impunity.

- On 6 May 1994, Amnesty International reported the alleged torture of **Emile Bucumi, Sadiki Likango, Joseph Nyandwi, Sadiki Ndikumana, Théogène Uwimana, Pontien Ndayegam, Pierre Nzisabira, Jean-Marie Nibirantije, Alexandre Manirakiza** and 18 others. The detainees were arrested on 29 April 1994 by members of the security forces during an operation to disarm armed civilians in Kamenge suburb of the capital, Bujumbura. The detainees were among hundreds of Kamenge residents who were ordered to leave the suburb in an attempt to disarm and arrest civilians in possession of firearms. They were not been charged with any specific offences or brought before a judicial authority. They were first detained at the police training school known as *Ecole nationale de police* (ENAPO) and subsequently transferred to the BSR.

A source informed Amnesty International that the detainees appeared to have been severely beaten and had suffered other forms of cruel, inhuman or degrading treatment. Some had swollen feet or faces, while others had their arms in slings. Some had wounds on their knees reportedly as a result of being forced to kneel on sharp objects.

According to the latest information gathered by Amnesty International, no independent investigation has been carried out on these events and no one has been brought to justice for the alleged torture.¹²

- **Astère Baranyigera**, a 36 year-old teacher was arrested on 31 December 1997 and held at the *Brigade spéciale de recherche* (BSR), Special Investigation Brigade, in the capital, Bujumbura. He was reportedly subjected to beatings at the time of his arrest on 31 December 1997 and tortured in custody. Astère Baranyigera, a teacher at Mugeru Minor Seminary in Gitega province, was on his way to regularise payment of his salary when he was arrested by soldiers and taken to a cell at SOGEMAC market in Bujumbura. He was reportedly severely beaten by the soldiers. He was subsequently transferred to the BSR. Astère Baranyigera was released on 15 January 1998.

According to the latest information gathered by Amnesty International, no independent investigation has been carried out on these events and no one has been brought to justice for the alleged torture.¹³

¹² The arrests at the end of April 1994 occurred in the context of the violence which engulfed most of Burundi in the aftermath of an attempted coup in October 1993.

¹³ In 1993, Astère Baranyigera was an active member of the *Front pour la démocratie au Burundi* (FRODEBU), Front for Democracy in Burundi, whose leader, former President Melchior Ndadaye was killed by government soldiers in October 1993. He was also Ndadaye's official photographer. In 1996,

- **Jean Minani**, was accused of killing Lieutenant Colonel Lucien Sakubu, a former mayor of Bujumbura was awaiting trial by the criminal chamber of the Appeal Court in Bujumbura when Amnesty International representatives met and interviewed him at the BSR shortly after his arrest in March 1995. He had been severely beaten and told the Amnesty International representatives that he had confessed to killing Lieutenant Colonel Sakubu under torture although he denied that this was true. In August 1995, when Jean Minani appeared before the Prosecutor General he reportedly denied the killing and stated that he had only "confessed" because he had been tortured. After Amnesty International members took action on the case, an investigation into the torture allegations was promised. However, according to the latest information gathered by Amnesty International, no independent investigation has been carried out on these events and no one has been brought to justice for the alleged torture. Jean Minani was later acquitted of all charges as the statement appeared to be the only evidence linking him to the crime. The death penalty would have been imposed as punishment.¹⁴

Prosecution of rape

Most victims of rape in Burundi currently face insurmountable obstacles in trying to bring suspected perpetrators to justice. Many women who have been victims of rape or other forms of sexual abuse are too intimidated by certain cultural attitudes and state inaction to seek redress. Those who do seek justice are confronted by a criminal justice system that ignores, denies and even condones violence against women and protects perpetrators, whether they are state officials or private individuals and by hostility from their families and communities, given the stigma attached to rape. The near total impunity granted to members of the armed forces - whatever their crime - discourages many from even attempting to begin legal action against members of the armed forces suspected of having committed rape.

- **Domitille Bukuru** was 13 when she was reportedly raped by a soldier from Nyamaboko position, Kanyosha, Bujumbura.¹⁵ She was carrying water when the soldier told her to drop it and bring food to the position. She was scared but followed him. He began to ask her questions, including her age and where she lived. At the end of the road, they met a man who asked where she was going. The soldier made the man kneel down and threatened to kill him. She and the soldier left together to the Kizingwe river. She asked where they were going, as the other soldiers had taken a different route. He said they were taking a shortcut and would catch up with them later. He told her she couldn't run as fast as a bullet and she should lie down and do as he said. She started to protest. He reportedly threatened to kill her and told her to get undressed. She started to cry. Her mother had

he fled into exile in the Democratic Republic of Congo, from where he recently returned to Burundi. He was subsequently employed as a teacher at Mugeru Minor Seminary. Amnesty International, *Burundi: Urgent Action No. 05/1998* (AI Index AFR 16/01/1998)

¹⁴ Amnesty International, *Burundi: Justice on trial* (AI Index 16/003/1998)

¹⁵ The research for this case was retrieved in 2003 to 2004.

followed her, and she could hear her mother calling for her. The soldier reportedly told Domitille to be quiet or be killed. Then he reportedly raped her. Others who had noticed her leaving also followed her and the soldier started to shoot at them.

Although the soldier had a gun, people, including her brother, surrounded, overpowered and beat him. They then took him to Kanyosha gendarmerie station (*brigade*). Three of the group, including one of Domitille's brothers, were then detained at the station and reportedly seriously beaten. They were held for several days before being released. The soldier was released without charge. Domitille received no assistance. The Commander of the gendarmerie station said nothing was wrong with her and that she should go home, even though she was bleeding and barely able to walk. A day later, she got treatment, including one month's medication. Eight months later she had an HIV test, which was negative. However, she remains deeply traumatized. The children at school and in her community make fun of her.

She and her family pressed charges. However, the soldier was transferred to another part of the country and twice did not turn up in court. When Amnesty International interviewed her last, the case had not progressed. According to the latest information gathered by Amnesty International, no independent investigation has been carried out on these events and no one has been brought to justice for the alleged torture.¹⁶

4. Failure to ensure reparation, including fair and adequate compensation, for victims of torture and ill-treatment inflicted by police or other state officials (Article 14 of the Convention against Torture)

Article 132 of the Code of Criminal Procedure stipulates that: "When acts of torture are proven and the accused has been convicted, the victim shall be entitled to redress commensurate with the injury suffered. Similarly, in the event of a malicious prosecution, the complainant shall be ordered to pay damages if the party concerned so requests."

Amnesty International is not aware that any formal procedures are currently in place for obtaining compensation for victims of torture and their families. The organisation is concerned that Burundian law does not contain provisions recognizing the responsibility of the state to guarantee reparation, including compensation, for victims of torture by state officials.

¹⁶ Amnesty International, *Burundi: Rape - the hidden rights abuse* (AI Index: AFR 16/006/2004)

5. The use of statements allegedly obtained as a result of torture or ill-treatment as evidence in criminal proceedings (against defendants other than the alleged perpetrators of the acts of torture or ill-treatment) and the absence of a prompt, thorough and impartial investigation into such allegations (Article 15 of the Convention against Torture)

Under Article 15 of the Convention against Torture, Burundi is required to “ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made”.

Amnesty International is concerned that reluctance on the part of prosecutors to investigate promptly, thoroughly and impartially allegations of torture or ill-treatment by police may result in statements obtained by these methods being used as evidence in court.

In the following case involving four Rwandans, it was alleged that members of the *Brigade spéciale de recherche* (BSR), gendarmerie special investigations unit, were reported to have used torture to extract confessions that were later used in the *Tribunal de Grande instance* (TGI), the High Court.

- Simon Munyakazi, Apollinaire Mwiseneza and Francis Maheshi, four Rwandan nationals, were arrested, charged and tried following a bank robbery in the Burundian capital, Bujumbura, on 29 January 2004. Following from what Amnesty International believes was an unfair trial, the four men were found guilty of stealing a considerable amount of money, killing the driver transporting money for the bank, wounding a soldier by shooting him in the leg and the theft of a getaway vehicle.

The men reported to have been badly treated during questioning at the *Brigade spéciale de recherche* (BSR), gendarmerie special investigations unit, in Bujumbura. The men were reportedly held in isolation and handcuffed day and night since their initial arrest, in addition to being ill-treated during their detention (see below) and the judicial investigation. They were also held in total darkness, in individual cells without electricity. Human rights groups were denied access to the men while they were at the BSR.

The trial, which lasted approximately three hours, was held on 23 February 2004 at the *Tribunal de Grande instance* (TGI), the High Court, in Bujumbura. The men were reportedly unable to find a Burundian lawyer willing to represent them. The court turned down their request for lawyers from Rwanda and ordered the men to represent

themselves. The four men were found guilty by the High Court and all received the death penalty.

Once convicted, the men had the right to appeal to the Court of Appeal under the Burundian Code of Criminal Procedure. The appeal was delayed three times. In one instance, the appeal was delayed for three days to permit the defendants to have a chance to examine their case files. In another case, two of the defendants were ill and could not appear before the court, while a third refused to appear in protest against being continually handcuffed. The hearing started on 14 April 2004, in spite of the fact that one of the defendants was ill and could not appear before the court. The defendants retracted their confessions, saying they had been extracted under duress, and claimed that they had been tortured during their initial detention and interrogation, including by being bound in uncomfortable positions for prolonged periods. The confessions were presumably used as evidence to convict the men and to subsequently impose the death penalty.

The Bujumbura Court of Appeal confirmed the four men's death sentence on 12 May 2004.

The men were then given the opportunity to appeal to the Cassation Chamber of the Supreme Court. However, before the appeal was heard, James Gakuru was reportedly killed as he attempted to flee Rumonge prison in the capital Bujumbura in February 2005. Francis Maheshi, who was reportedly with him at the time, is said to have escaped. According to the latest information retrieved by Amnesty International, the appeals made by Simon Munyakasi and Apollinaire Mwiseneza to the Cassation Chamber of the Supreme Court were unsuccessful and the death sentence was upheld.¹⁷

6. Excessive use of force by police, amounting to inhuman and degrading treatment, and inhuman or degrading conditions of detention (Article 16 of the Convention against Torture)

Amnesty International has reported on the undue repression of the right to freedom of expression in Burundi, including intimidation of journalists and human rights defenders. As the case illustrates below, Amnesty International has received reports that excessive use of force, amounting to ill-treatment, was used by the police.

¹⁷ Amnesty International, *Burundi: Urgent Action No. 04/2004* (AI Index AFR 16/09/2004) Amnesty International, *Burundi: Urgent Action No. 04/2004* (AI Index AFR 16/16/2004) Amnesty International, *Burundi: Urgent Action No. 04/2004* (AI Index AFR 16/17/2004) Amnesty International, *Burundi: Urgent Action No. 04/2004* (AI Index AFR 16/02/2005)

- Around thirty journalists and human rights monitors were held -- and some severely assaulted -- by police officers after a press conference in Kinindo, Bujumbura on 17 April 2006. When the conference ended, the police officers asked journalists to hand in their tapes and recording equipment so that the information could be checked. The condition was that anyone who did so would then be able to leave the premises. The journalists refused to comply with the orders to hand over their equipment. One journalist, Charles Nshimiye, tried to escape to hand his tapes over to his colleagues waiting outside. A police officer allegedly stopped him from leaving and physically assaulted him. According to reports, the police officer then stood back and took aim at Nshimiye with his gun, but was prevented from shooting when his colleagues intervened. On hearing the news, other journalists started to arrive in order to investigate the reports of the incident taking place. An estimated 50 police officers were stationed outside to seal off the premises. Several journalists were reportedly beaten by police officers with the butts of their Kalashnikov guns or with their truncheons. Chantal Gatore, a journalist for Radio Isanganiro, was beaten up and taken to hospital. The use of force exercised by police officers on this occasion was clearly excessive and tantamount to cruel, inhuman and degrading treatment.¹⁸

Conditions of detention in Burundi's prison fall far short of internationally recognized standards despite reports of improvement over recent years.

In particular, prisons are seriously overcrowded and continue to lack basic facilities, including medical care, and provide barely minimum food supplies. While Burundi's prisons have a total capacity of approximately 3,650, there are nearly 8,074 people currently in prison¹⁹. Many of the prison buildings are in poor condition, and in the current economic climate, it is unlikely that without further international assistance they will be improved.

Although many prisoners who are unable to supplement their diet with food from outside remain under-nourished, and are therefore particularly vulnerable to diseases prevalent in conditions of close confinement, mortality rates generally have fallen dramatically in prisons as a result of detainees having access to clean water and some medical care.

Such improvements do not in the main affect all places of detention, in particular those controlled by the gendarmerie and military, and those in provinces or communes far from the capital. Access by human rights and humanitarian groups is routinely denied to military and paramilitary places of detention.

¹⁸ Amnesty International, Burundi: Journalists and human rights monitors under attack AI Index (16/004/2006)

¹⁹ These figures are comprised from Bubanza, Bururi, Gitega, Mpimba, Ngozi, Rumonge, Muramvya, Muyinga, Ngozi (F), Ruyigi and Rutana prisons. These figures were featured in the initial report, however were based on 2003 statistics.