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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.<sup>1</sup>

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

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<sup>1</sup> 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.<sup>2</sup>

- **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.<sup>3</sup>

### ***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**

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

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