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# BURUNDI

## Punishing the population - reprisal killings escalate

### I INTRODUCTION

In December 2001, one month after its inauguration, Amnesty International submitted a memorandum to the new Transitional Government of Burundi, appealing for it to place human rights issues at the forefront of institutional reform and government policy<sup>1</sup>. While it is perhaps too soon to judge the willingness of the Transitional Government as a whole, and of its leaders in particular, to end decades of abuse, the government representatives met by Amnesty International since November 2001 have expressed commitment to improving the human rights situation within the country. Such statements of support for human rights are, however, contradicted by an alarming catalogue of human rights abuse in a context of escalating armed conflict.

Amnesty International visited Burundi in March 2002 to collect information and to discuss the human rights situation in the country with government officials. This report contains some of the findings of that mission. It does not reflect all Amnesty International's concerns and is issued primarily in response to an increase in extrajudicial executions and the need for urgent action to prevent further deaths.<sup>2</sup>

In 2002 alone, over 100 unarmed civilians have been extrajudicially executed in a systematic pattern of reprisal killings by government troops during or following so-called counter-insurgency operations. None of these killings are known to have been investigated, or even publicly condemned, by the highest state authorities. The extent of this failure amounts to government acquiescence in a well-established pattern of extrajudicial executions. Mass and indiscriminate reprisals committed with impunity by the Burundian armed forces against the Hutu civilian population have been extensively documented in previous Amnesty International reports.<sup>3</sup>

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<sup>1</sup>*Burundi: An opportunity to confront torture and impunity - Memorandum to the Transitional Government of Burundi and to the international community* (AI Index: AFR 16/043/2001, December 2001).

<sup>2</sup>In addition to obtaining information on recent extrajudicial executions and other unlawful killings, the organization also received substantial information on torture, arbitrary arrest, and the continuing weaknesses of the Burundian justice system. Amnesty International reports on torture and on children in detention are planned for later in the year.

<sup>3</sup>For further information please see *Burundi: Between fear and hope* (AFR 16/007/2001, March 2001); *Burundi: No respite without justice* (AFR 16/12/99, August 1999); *Burundi: Insurgency and counter-insurgency perpetuate human rights abuses* (AFR 16/34/98, November 1998); *Burundi: Forced relocation: new patterns of human rights abuses* (AFR 16/19/97, July 1997); and *Burundi:*

It is imperative that the Transitional Government make clear that extrajudicial killings and reprisals against the civilian population are unacceptable and implement immediate measures to end the practice. Unless human rights abuses and violations of international humanitarian law which are carried out during the transitional period are promptly and impartially investigated, the perpetrators brought to justice and victims provided with redress, there is a real danger that the new institutions will be corrupted and undermined. A key opportunity to prevent future violations will have been wasted. While limited state resources and the context of armed conflict inevitably make tackling the complex human rights crisis more difficult, they cannot be used to condone, justify or ignore violations.

Leaders of armed political groups are equally failing to prevent or even condemn human rights abuses by their combatants, demonstrating indifference to the future of human rights in the country. Armed political groups, which have also killed scores of civilians during the same period, must also make real their professed commitment to human rights, not least by issuing clear public instructions to their combatants to refrain from unlawful killings, torture and ill-treatment including rape, the recruitment and use of child soldiers and looting.

## II CONTEXT

The tortuous process of negotiation which led to the August 2000 Agreement for Peace and Reconciliation in Burundi (Peace Agreement) as well as the ambiguities and weaknesses of the agreement itself are well-known<sup>4</sup>. In particular, the Peace Agreement is weakened by the apparent lack of commitment to it by some of the signatories, its failure to resolve the question of reform of the armed forces, and the fact that the two currently active armed political groups, the *Forces nationales de libération* (PALIPEHUTU-FNL), National Liberation Forces, and the *Conseil National pour la Défense de la Démocratie - Forces pour la Défense de la Démocratie* (CNDD-FDD), National Council for the Defence of Democracy - Forces for the Defence of Democracy, did not take part in the negotiations and are not bound by the agreement.<sup>5</sup>

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*Struggle for survival* (AFR 16/07/95).

<sup>4</sup>An Amnesty International report, *Burundi: Between hope and fear* (AFR 16/007/2001) published in March 2001 contains a summary of the process leading to signature of the Peace Agreement as well as comments on provisions of the agreement relating to human rights.

<sup>5</sup>The Hutu-dominated armed opposition groups currently active are the CNDD-FDD and PALIPEHUTU-FNL. The CNDD-FDD has been led by Pierre Nkurunziza since the expulsion of Jean Bosco Ndayikengurukiye in October 2001. The CNDD-FDD was formed in 1998 after Jean Bosco Ndayikengurukiye, former commander in chief of the *Forces pour la Défense de la Démocratie* (FDD), Forces for the Defence of Democracy, the armed wing of the *Conseil National pour la Défense de la Démocratie* (CNDD), broke away from the original movement taking with him many FDD fighters. The

Since August 2000, progress towards implementation of the Peace Agreement has been painfully slow, hampered not only by escalating armed conflict but also by mistrust between signatories. The Transitional Government, which was inaugurated only in November 2001, itself is weakened by the same divisions and personal rivalries that undermined the Arusha negotiations.<sup>6</sup> To all intents and purposes negotiations are on-going. Divisions within the National Assembly are also apparent, and it has yet to pass important legislation provided for under the Peace Agreement, including legislation on temporary immunity for returning political leaders, the prevention and prosecution of acts of genocide and creating a *Commission nationale pour la réinstallation des sinistrés*, National Commission for the Return and Integration of Disaster Victims (including the internally displaced and refugees).

The Transitional Government did not come to power with great credibility and is under great pressure to prove itself quickly. Many potential aid donors have made signature and implementation of a cease-fire a pre-condition of releasing substantial financial aid. The economic situation is dire, with fundamental economic and social rights such as the right to health and education an illusion for the majority of Burundians. Failure to protect the population from constant attacks by both armed political groups as well as its own armed forces is also undermining its chances of success.

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CNDD was formed in exile, following the October 1993 assassination of President Ndadaye, by former FRODEBU and FRODEBU-allied political parties. The CNDD led by Léonard Nyangoma claims to retain a fighting force although it has not been militarily active for some years.

The *Forces nationales de libération* (PALIPEHUTU-FNL), National Liberation Forces, referred to mainly as the FNL is led by Agathon Rwasa, who replaced Kossan Kabura who was expelled from the movement in February 2001. At the time of writing, persistent rumours of the death of Agathon Rwasa are circulating in Burundi. PALIPEHUTU-FNL have denied the rumours. PALIPEHUTU-FNL split in the early 1980s from the Hutu opposition party, the *Parti pour la libération du peuple hutu* (PALIPEHUTU), Party for the Liberation of the Hutu People. PALIPEHUTU, formed in 1980 and headed by Etienne Karatasi, retains a small, apparently inactive, fighting force. The *Front pour la libération nationale* (FROLINA), Front for National Liberation, another breakaway faction of PALIPEHUTU, led by Joseph Karumba, also has a small number of combatants, known as the *Forces armées populaires* (FAP), Popular Armed Forces, also apparently non active.

<sup>6</sup>Under the terms of the Peace Agreement, for the duration of the three year transitional period, legislative power will be exercised by the Transitional National Assembly and the Senate, a new body with important constitutional powers. Executive power will be exercised by the President of the Republic assisted by a Vice-President. President Pierre Buyoya, a Tutsi, and Vice-President Domitien Ndayizeye, a Hutu, and at the time of his nomination, formerly Secretary General of the main Hutu-dominated political party, the *Front pour la démocratie au Burundi* (FRODEBU), Front for Democracy in Burundi, will hold office for the first 18 months of the transitional period. They will be replaced in the second half of the transition (also 18 months) by a Hutu President and Tutsi Vice-President.

Since the installation of the Transitional Government, conflict has clearly escalated. The Burundian armed forces have launched several major military operations designed to crush the armed political movements and destroy their bases. The Transitional Government is reported to have bought significant quantities of arms from China and eastern Europe, and newly acquired helicopters have been used extensively in major military operations in Rural Bujumbura province. Likewise, reports suggest major infiltration of armed opposition combatants from Tanzania and the Democratic Republic of Congo (DRC), and several parts of the country are experiencing sustained fighting or insecurity.

The Transitional Government has repeatedly stated publicly that obtaining a cease-fire is its priority, and there have been a series of meetings in Tanzania, South Africa and Ethiopia with some or all of the protagonists. However, it is far from guaranteed that all key actors in the Transitional Government, Burundian armed forces, and armed political groups consider a cease-fire to be in their short-term interests.

Little concrete progress has been made with either of the two most active armed political groups, PALIPEHUTU-FNL and CNDD-FDD.<sup>7</sup> In November 2001, the PALIPEHUTU-FNL and CNDD-FDD issued a statement setting out a joint statement on their preconditions, including the release of all political prisoners, closure of regroupment camps and disbanding of a government militia, the Peace Guards, *Gardiens de la Paix*. Hope expressed by some observers that this might facilitate the process of negotiation have not yet been fulfilled.

In March 2002, as PALIPEHUTU-FNL was being called to attend a round of meetings, the Burundian armed forces reportedly attacked the house of the movement's spokesperson in Rural Bujumbura. PALIPEHUTU-FNL promptly threatened retaliation raising fears of further human rights abuses and armed conflict. In May, persistent rumours of the involvement of senior government and FRODEBU officials in a plot to assassinate the leader of PALIPEHUTU-FNL, Agathon Rwaswa, circulated in Bujumbura. At the time of writing the fate of Agathon Rwaswa remains unclear. Whatever the truth of such accusations, the accusations have added to the climate of instability and political tension, and Amnesty International is concerned that they may generate further human rights abuses and reprisals.

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<sup>7</sup>Representatives of three other armed political movements, the *Conseil National pour la Défense de la Démocratie* (CNDD), National Council for the Defence of Democracy, *Front pour la libération nationale* (FROLINA), Front for National Liberation, and *Parti pour la libération du peuple hutu* (PALIPEHUTU), Party for the Liberation of the Hutu, which are currently not militarily active, and Jean Bosco Ndayikengurukiye, former leader of the CNDD-FDD who was expelled from the CNDD-FDD in October 2001 and who reportedly retains a small number of combatants, are also participating in the cease-fire negotiations. The CNDD, FROLINA and PALIPEHUTU also signed the Peace Agreement and have posts either in the government or National Assembly.

Jean-Bosco Ndayikengurukiye, expelled leader of the CNDD-FDD, has appeared keener to negotiate some sort of settlement. The focus on the former CNDD-FDD leader seems likely to spark further armed conflict in Burundi as currently active opposition forces assert their relevance and military strength. In May, the CNDD-FDD accused South African Vice-President Jacob Zuma of sabotaging the negotiations (in part by favouring negotiations with Jean-Bosco Ndayikengurukiye) and of bias and called for the talks to be relocated to Tanzania.

It seems clear that peace is still a distant prospect. Many ordinary Burundians have expressed to Amnesty International their fear that while they are desperate for the war to end -- not least in the hope that an end to the armed conflict will bring greater respect for human rights and greater economic security -- once again the future of the population may be sacrificed by a small number of powerful people within the armed forces, government and armed political groups who do not perceive peace as beneficial to their personal political ambitions or economic interests.

It is in this context that serious human rights abuses and violations of international humanitarian law continue to occur on a daily basis.

### **III EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS IN CONFLICT ZONES**

International law considers extrajudicial executions and other unlawful killings to be gross or flagrant human rights violations. Burundi has ratified numerous international and regional human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (African Charter) which guarantee the right to life and prohibit unlawful killings, torture and ill-treatment.

The Geneva Conventions of 1949 and its Additional Protocols II of 1977 protect civilians and persons detained in a conflict by forbidding murder, torture, hostage-taking, humiliating and degrading treatment and the passing of sentencing without judgments pronounced by properly constituted courts and other judicial guarantees. Common Article 3 to the four Geneva Conventions provides for the protection of persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms or who are otherwise hors de combat and requires such persons to be treated humanely. Common Article 3 explicitly prohibits violence to life and person including mutilation or any form of indecent assault of pillage, outrages upon person dignity and carrying out of sentencing and executions without certain judicial guarantees. Additional Protocol II adds provisions regarding the protection of civilians from the dangers arising from military operations, and particularly the protection of children during armed conflict.

The cardinal rule of humanitarian law is that civilians must not be the object of attack. Civilian status is lost only where the person takes an active part in hostilities, not merely on the basis of support or affiliation.

Parties to an armed conflict are bound to respect international human rights and humanitarian law. They will be responsible for violations of these law by their own armed forces, and for violations by other irregular forces under their “overall control”.

The international community has affirmed that individuals can be held criminally responsible under international law for war crimes committed in violation of Common Article 3 and Additional Protocol II. For example, the Rome Statute of the International Criminal Court includes a list of war crimes (when committed in internal armed conflict) in its jurisdiction. These war crimes include *inter alia*: murder of all kinds, mutilation, cruel treatment, torture and hostage taking, committed against those who take no active part in the conflict, intentionally directing attacks against the civilian population as such or against individual civilians not taking part in hostilities.

#### **i) Extrajudicial executions by government armed forces**

The following cases are illustrative of an entrenched pattern of deliberate and violent reprisals against the unarmed civilian population.

To Amnesty International’s knowledge, no member of the armed forces has been arrested in connection with the killings described in this section of the report. The repeated nature of the killings, as well as their scale, show clearly that these are not isolated human rights violations, and they cannot be dismissed as the acts of individual soldiers. Through their silence and inaction, government authorities appear to be condoning serious human rights violations, and as such Amnesty International considers the killings documented in this section of the report to be extrajudicial executions.

#### **Extrajudicial executions in Rural Bujumbura**

An increase in armed conflict in Rural Bujumbura in 2002 has seen a corresponding increase in the killing of unarmed civilians.

On 3 January 2002, a large contingent of soldiers from the 17<sup>th</sup> Infantry Battalion, accompanied by a PALIPEHUTU-FNL deserter who they were using as an informant, arrived on Gacaca *colline*, Gonvyi sector, apparently seeking to arrest people suspected of links to

PALIPEHUTU-FNL<sup>8</sup>. Much of the population had already fled in panic, fearful of the presence of large numbers of soldiers. Apparently angry at the failure of their operation, the soldiers turned against the few civilians who had remained in the area, deliberately and arbitrarily shooting and killing **Frédéric Habonimana** and his wife, **Sylvane Banyankiyubusa**. Soldiers also cut the throat of their three-year-old son, **Vianney**. Another woman was hospitalized after being hit by a bullet as she fled. Several houses were also looted. In reprisal for these killings, the informant and his adult son, were reportedly abducted and unlawfully killed by PALIPEHUTU-FNL combatants.

Around 10 January, the Burundian armed forces began a week-long operation against PALIPEHUTU-FNL fighters in the Nyambuye area, Kanyosha commune. Civilians found in the area appear to have been indiscriminately targeted. During the search operations, five unarmed civilians, including two women, **Anasie**, aged 35, and **Bikamunda**, aged 45, were shot dead and a number of others, including three children under the age of seven, wounded by bullets.

On 25 January, soldiers from Mutambu, Rugembe and Busenge positions surrounded Muhuta and Mugera zones. The population was grouped together and forced to help the soldiers track down the PALIPEHUTU-FNL. Eight civilians, **Damien Bankuwiha**, **Elie Ndimzemenshi**, **Michel Ntunze** and **Minani**, all from Muhuta commune, and **Jérôme**, **Gaspard Ntunanyi**, his son **Pascal** and granddaughter **Evelyne**, aged seven, all from Kabezi commune, were extrajudicially executed in the course of the operation.

On 3 March, PALIPEHUTU-FNL combatants ambushed a group of government soldiers in Burima II sector, killing at least two soldiers and wounding one. In reprisal, soldiers, reportedly from Mutambu military position, came to Karehe *colline* during the night, and killed eight civilians. The victims included **Bruno Nzigobanyanka** and **Michel Bakizimwansi** and **Marie Ntahgomvukiye**. As the reprisal attack drew to a close, **Musa Ndikuriyo** and his four children were killed in the early hours of 4 March. A number of houses were also set on fire.

Government troops killed four civilians on 6 March on Musongo *colline*, Kabezi commune in reprisal for a PALIPEHUTU-FNL ambush on a military convoy in the area. One woman, **Nizigiyimana**, locked herself in her house in a futile attempt to hide from the soldiers. Soldiers forced their way into her house and cut her throat. A 10-year-old girl, **Venacie**, was shot dead, with her three-year-old nephew whom she was carrying on her back.

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<sup>8</sup>*Colline* (hill) is a local administrative division of a commune. Administratively, a commune breaks down into a number of smaller units: zone, sector, *colline* and *sous-colline*.

Soldiers from Rugembe position attacked Gasarara, Mbare, Muhuha and Kivurira *collines* in Nyabibondo zone, Nyabiraba commune, Rural Bujumbura, on 19 March. Returning from the operation -- the outcome of which is not known -- soldiers reportedly extrajudicially executed 23 civilians on Kivurira *colline*. The victims included: **Mathieu Nahimana**, aged 50; his brother, **Bruno Ciza**, aged 48; **Donatien Nzoynabona**, aged 25; **Pierre Bazirya**, aged 85; and a young boy, **Marcien Bamporubusa**, aged 13, all of whom were from Kivurira *colline*. The others killed had fled Gasarara and Mbare *collines* and were hiding on Kivurira *colline*.

### **Extrajudicial executions in Bubanza Province**

On 26 February 2002, a group of CNDD-FDD combatants ambushed a military convoy, killing six soldiers from Gayiro military position, Kivyuka zone, Musigati commune, Bubanza province. Two civilians travelling in the military convoy were also killed. The killings were part of a cycle of revenge and violence sparked in mid-February when the Burundian armed forces extrajudicially executed a senior CNDD-FDD official, **Louis Sinabajje**, and his girlfriend.

Louis Sinabajje had apparently left the security of the Kibira forest, a long-time base of the CNDD-FDD, to visit his heavily pregnant girlfriend in Munanira sector, Musigati commune. Soldiers were, however, informed of Louis Sinabajje's visit. The house was surrounded during the night and Louis Sinabajje and his girlfriend taken from the house and extrajudicially executed.

Following their murder, tracts circulated in the area stating the CNDD-FDD's intention to revenge his death and on 26 February, CNDD-FDD combatants ambushed and killed soldiers from Gayiro military position (the position believed to be responsible for the killing of Louis Sinabajje). The response of the Burundian armed forces was brutal. Within hours, soldiers from Gayiro position had come to the area and called the population together. They then opened fire on the crowd, killing 30 people. Twenty-seven other people were injured. Soldiers also looted scores of houses and shops and destroyed plantations of coffee and other crops.

Those killed include: **Dismas Hitimana** (15); **Nizigiyimana** (15); **Sinzotuma** (19); **Firmin Nzitimbanje** (20); **Donatien Nduwimana** (26); **Eugénie Bucumi** (50); **Immaculée Bankezankize** (52); **Sophie Ntawuhezuburundi** (50); **Angèle** (55); her husband (60); her son (27); her grandson (eight). **Ephrème Rubabako**; **Bernard Nyandwi**; the son of **Buhaye**; **Dieudonné Ntsubira**; **Minani** and three members of his family; **Ntawurishira** and five members of his family; **Gérence Kubwimana** (35); **Etienne Ntayandenga** (62); **Sophie Namukecuru** (70); and **Maurice Ndabigeze** were also killed.

To Amnesty International's knowledge, the Burundian authorities have not investigated the mass killing to identify members of the Burundian armed forces who took part with a view to bringing them to justice.

A further 27 civilians were killed during a military operation in Gihanga, Bubanza province, on 6 April. Soldiers were apparently informed that CNDD-FDD combatants were staying in Gihanga town. In the early hours of 6 April, soldiers surrounded the area and began searching houses, calling on occupants to open up. The soldiers came under fire from one house. The response of the Burundian armed forces appears to have been both indiscriminate, deliberate and punitive. Nine houses in total were set alight and destroyed, killing eight people. The burnt bodies of three children were found in two houses. A man, **Ndarwarukanye**, and four members of his family died after being trapped in their burning house. It appears soldiers also opened fire deliberately and indiscriminately on fleeing civilians killing 18.

## **ii) Unlawful killings by armed political groups**

Both main armed political groups continue to carry out serious human rights abuses, including ambushes on civilian transport in which civilians have been killed, other unlawful killings, and torture and ill-treatment including rape. Suspected informants and those who fail to contribute financially to their movements have been deliberately targeted. The killings reported on in this section of the report are illustrative of many others.

On 6 November 2001, Munini town in Bururi Province was attacked by CNDD-FDD combatants. Eighteen civilians, including eight children under the age of 10 and a new born baby, were deliberately and arbitrarily killed. Houses and shops were also looted and set alight.

Most of the 18 civilians appear to have been killed indiscriminately. However, when combatants failed to find a nurse who had been overheard making critical remarks about the CNDD-FDD, they killed his wife, **Marguerite Nahimana**, aged 28 and her children, **Rodrigue**, aged four, and **Igor**, aged two. Other civilian victims were: **Fidèle Niyongabo**, aged 38; **Job Ndayishimiye**, aged 26; **Jean Claude Mukosi**, aged 30; **Léonidas Muyenge**, aged 33; **Noel Ndayikesa**, aged 17; **Denise Banshayeko**, aged 40; a boy, **Ndayigiamiye**, aged 10; **Constance Budodoye**, aged 19 and her 14-day-old baby; **Désiré Banshayeko**, aged eight; **Misago**, aged 19; **Jonathan Nibitonga**, aged nine; **Eric Irakoze**, aged 12; **Francine Ndikhokurwayo**, aged six.

In December 2001, Amnesty International wrote to the CNDD-FDD leadership raising this and other cases of human rights abuses alleged to have been committed by its combatants. No reply was received and, to Amnesty International's knowledge, senior CNDD-FDD officials have never acknowledged human rights abuses by their combatants.

This year alone at least seven low-level government officials including the heads of Buhurika, Musigati, Kivyuka, Muyebe, Masha and Gature sectors have been killed in Bubanza province by opposition combatants; all were killed apparently for failing to "sufficiently contribute" to the armed opposition or as some other punitive measure.

In mid-January, a man **Havyarimana**, was shot dead by PALIPEHUTU-FNL combatants in Migera zone, Rural Bujumbura, while they attempted to abduct him as he left a bar in which he had been drinking with government soldiers. He was apparently suspected of collaborating with armed forces and of passing information on PALIPEHUTU-FNL activities to locally-based military. Following his death, soldiers shot indiscriminately at civilians as they “looked for the rebels”. Two unarmed civilians, **Musagirije** and **Mathieu Bishire**, were killed and six others, including three girls aged between five and 10, were wounded as they fled the shooting.

Two unarmed civilians were killed in Kamenge district, Bujumbura on 22 March when a group of combatants, presumed to be members of PALIPEHUTU-FNL, looted the district. Those killed appeared to have been deliberately killed and not caught in crossfire.

Seven other unarmed civilians are reported to have been killed by CNDD-FDD combatants on *Musenyi colline*, Cendajuru commune, Cankuzo province on 2 and 3 April, during attacks on the *colline*.

**Jean-Bosco Rutagengwa**, a Twa member of the Senate, was one of at least eight civilians, including three women, who were killed in an ambush on a public transport minibus at Mageyo, Rural Bujumbura, some 20km from the capital, on 22 May 2002. A further eight civilians were also reportedly wounded. PALIPEHUTU-FNL fighters are reported to have opened fire on the minibus. According to some reports, the motive for the attack was the failure of the bus driver or owner to provide money to PALIPEHUTU-FNL.

In addition to deliberate and arbitrary killings of civilians, tension within PALIPEHUTU-FNL and political conspiracy has led to further human rights abuses. Although at the time of writing the situation remains unclear and information is still emerging, in May 2002, at least three people, **Anicet Ntawuhiganayo**, PALIPEHUTU-FNL spokesperson, and two FRODEBU members, **Alexandre Niyonzima** (a former PALIPEHUTU member) and his brother **Hyacinthe Nibigira**, suspected of involvement in alleged plot to assassinate PALIPEHUTU-FNL leader Agathon Rwasa, are reported to have been arrested, questioned, tortured and killed on the orders of senior PALIPEHUTU-FNL commanders. The head of state and other senior government officials and FRODEBU officials have subsequently been accused by PALIPEHUTU-FNL of involvement in the alleged plot.

#### IV ENTRENCHED IMPUNITY YET TO BE CHALLENGED

Decades of impunity have institutionalised recourse to violence against the civilian population by the security forces. The failure to address human rights violations is almost complete and is a significant factor in the on-going political crisis. The failure by successive governments to

investigate and bring to justice those responsible for large scale killings and other grave human rights violations has cost the lives of several hundred thousand Burundian civilians, while hundreds of thousands of others have been displaced or forced into exile. Others have turned to vengeance, themselves perpetrating human rights abuses.

The extrajudicial executions and other unlawful killings documented in this report show that the need to hold the security forces accountable for human rights violations is as acute as ever. However, military courts which currently have the jurisdiction to investigate allegations of human rights violations by members of the armed forces, are failing to do so. This failure is compounded by the failure of the Transitional Government to condemn recent extrajudicial executions.

In its December memorandum, Amnesty International wrote, *“At present, military jurisdictions have proved themselves to be unwilling and incapable of investigating and bringing to justice members of the armed forces suspecting of having committed human rights violations. In the rare prosecutions which have taken place, military defendants have received disproportionately lower sentences compared to those imposed on civilians for similar offences, have been acquitted in procedures that amount to blatant miscarriages of justice, or have been convicted but have continued to exercise their functions. In other extremes, soldiers have been denied their right to appeal and executed after summary and unfair trials, apparently as a means of score-settling within military ranks.”*

The Minister of Defence, who responded in writing, and the Military Prosecutor, whom Amnesty International delegates met in March 2002, strongly rejected criticism of military jurisdictions contained in this Memorandum. In a meeting with the Military Prosecutor, the Prosecutor acknowledged that some human rights violations had been carried out by members of the armed forces. He stated, however, that they were isolated cases and that members of the armed forces responsible for human rights violations were severely punished. The Military Prosecutor pointed out that there are hundreds of soldiers in detention. However, according to Amnesty International’s information, the majority are being prosecuted for purely military offences, and the military justice system is yet to pursue effectively soldiers suspected of serious human rights violations. Soldiers who have perpetrated human rights violations against the unarmed civilian population are brought to justice only in very few, mainly high profile, cases.

To Amnesty International’s knowledge the human rights violations mentioned in this report are yet to be investigated by the Burundian authorities, and those responsible are yet to be brought to justice despite the Burundian government’s obligations to investigate and bring to justice suspected perpetrators of human rights abuses.

## **V CONCLUSION**

Despite claims by the Transitional Government and leaders of armed political movements to respect human rights, mass killings of unarmed civilians are escalating alarmingly. It is imperative that the Transitional Government of Burundi take immediate action to end reprisal extrajudicial executions of unarmed civilians by the armed forces and to bring those responsible to justice. The failure of senior government figures to condemn repeated mass violations of human rights is tantamount to condoning their committal.

Leaders of armed political groups must also take responsibility for the on-going human rights abuses. Amnesty International is extremely concerned at the level of violence which continues to be directed at the unarmed civilian population and other non combatants by armed political groups, as well as the total failure of such leaders to condemn human rights abuses by their combatants. Each week seems to bring new evidence of the armed political groups' willingness to disregard basic human rights.

The human rights abuses described in this report cannot be justified or excused by the context of on-going armed conflict. Nor is the accountability of governments for extrajudicial executions diminished by the commission of similar abhorrent acts by armed political groups. The principle that no human rights abuse can be used as justification for further human rights abuses is equally true and applicable to leaders of armed political groups. Failure to address these abuses risks undermining any hope of improving respect for human rights during the transitional period

Amnesty International has developed a series of practical recommendations which it believes could contribute to ending extrajudicial executions and other unlawful killings by government armed forces and armed political groups. Implementation of these measures would demonstrate the reality of the Transitional Government's and armed political groups' professed commitment to human rights.

## **VI RECOMMENDATIONS**

### **i) Recommendations to the Transitional Government of Burundi**

Immediate measures should be taken to end extrajudicial executions and deliberate and arbitrary killings by the security forces, as well as the apparent acquiescence of the Transitional Government of Burundi.

- c) the highest government officials must make clear that extrajudicial executions and other unlawful killings of unarmed civilians by the security forces will not be tolerated, not only by public statements to that effect but also by carrying out thorough and independent

investigations into reports of extrajudicial executions, making public the results of these investigations and ensuring that individuals suspected of responsibility for ordering or carrying out extrajudicial executions are immediately suspended from their duties AND brought to justice;

- C officials with chain-of-command responsibility who order or tolerate extrajudicial executions by those under their command should be held criminally responsible for these acts;
- C in the light of the failure of military courts to adequately investigate and bring to justice military personnel accused of involvement in human rights violations, the jurisdiction for criminal offences committed by military personnel on active duty should be transferred to ordinary civilian courts;
- C the Public Prosecutor's Office should be strengthened and better resourced, so that it is able to operate more effectively in initiating inquiries into human rights violations, and the corresponding legal action, and to monitor investigations;
- C investigators should have adequate financial and technical resources and the authority to make on site visits to military camps, bases, and sites of alleged abuses; and to compel the attendance of witnesses and production of documents, with the power to impose criminal sanctions on those who fail to comply;
- C the security forces should be explicitly ordered to identify to public prosecutors and judges, officers and soldiers cited in reports of human rights violations; to keep records, which are accessible for investigation, on identities of officers and soldiers deployed on counter-insurgency patrols; to record the identities of personnel who participated in arrest, detention and interrogation of detainees.

**ii) Recommendations to the leaders of armed political movements**

The leaders of armed opposition groups should issue immediate public instructions to their combatants to end killings of civilians, and the summary executions of captured soldiers; Amnesty International is calling on the leaders of armed political groups to also:

- C make real their professed commitment to human rights by publicly acknowledging and condemning human rights abuses committed by their combatants;
- C order all combatants to abide by international humanitarian law, in particular Common Article 3 to the four Geneva Conventions of 1949 and Additional Protocol II;

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- C implement specific measures which conform to the standards of international human rights and humanitarian law to prevent human rights abuses, such as;
    - C ensuring that all forces under their control are trained and ordered to respect and adhere at all times to basic principles of humanitarian law;
    - C investigating allegations of abuses to determine responsibility for any such abuses and ensuring that those responsible are removed from any position in which they may commit human rights abuses against civilians and those who are *hors de combat*;
    - C ensuring that command structures are established, respected and held accountable, and to this end maintain records.

### iii) Recommendations to the international community

The international community, including diplomatic representatives, senior government officials, those involved in the on-going search for a political and military settlement, inter-governmental organizations and national government aid donors, has a key role to play in holding the Transitional Government accountable, and in supporting efforts to end the human rights and humanitarian crisis.

In particular, the international community should:

- C make it clear that reprisal extrajudicial executions of unarmed civilians are violations of international human rights and humanitarian law and cannot be tolerated;
- C express concern to the highest Burundian authorities at their acquiescence to serious human rights violations including a well-established pattern of extrajudicial executions;
- C maintain pressure on the Transitional Government of Burundi to investigate human rights violations and to bring to justice those responsible. To this end, it should request the Transitional Government to provide regular and up-to-date information on action taken to prevent human rights violations, including extrajudicial executions and other unlawful killings, and details of investigations and judicial proceedings against those responsible;
- C condemn human rights abuses by armed political groups, and use all available channels to intercede with the leaders of such groups to prevent their reoccurrence and to encourage such forces to abide by international humanitarian law;
- C ensure that transfers to the Transitional Government of Burundi, or to Burundian armed political groups of military, security or police equipment, technology, training or personnel are not authorized unless it can be guaranteed that they will not contribute to human rights violations.

The international community should also:

- C urgently assist in the reconstruction of an effective justice system;
- C promote and provide practical human rights training within the security forces to ensure greater professionalism and respect for human rights;
- C support and strengthen the UN Office of the High Commissioner for Human Rights in Burundi to ensure that it has enough resources and political support to carry out its tasks efficiently and independently. Resources should be allocated to provide as secure working conditions as possible and to ensure that frequent and comprehensive reports of its findings are published. The findings published should include information on the way in which competent bodies carry out investigations into allegations of human rights abuses, and the remedies applied;
- C support independent human rights organizations including by providing financial and other material resources.