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## **“A Step Backwards” – Torture and other Ill-Treatment by Burundi’s National Intelligence Service**

### **Summary**

Reports of torture committed by agents of Burundi’s National Intelligence Service (*Service National de Renseignement*, SNR) decreased in recent years. This was a sign of remarkable progress in respecting human rights for an intelligence service that often operates with little regard for the law.

However, for a two week period in late June and early July 2010, torture re-emerged as a practice by Burundi’s intelligence service, a step backwards and a set-back in the respect and protection of human rights in Burundi. Drawing on three weeks of field research conducted by Amnesty International delegates in Burundi in July 2010, this briefing paper documents this re-emergence of torture.

From 23 June to 5 July 2010, human rights observers – including Amnesty International – documented allegations of torture of 12 individuals, committed by the SNR. Those tortured were members of opposition parties arrested on allegations of threatening state security in relation to a series of grenade attacks. The SNR, in collaboration with the police, used physical and psychological torture to try to extract information and force confessions.<sup>1</sup>

Amnesty International recognizes the responsibility of all states to protect their citizens; however, the Government of Burundi cannot use security considerations to justify or condone torture and other ill-treatment. Even during periods of insecurity or other emergencies, torture is always prohibited under international law.

The United Nations and the diplomatic community swiftly brought these cases to the attention of the Burundian Government.<sup>2</sup> Following their intervention, no further allegations of torture by the SNR have been reported to Amnesty International, though these allegations of human rights violations have so far gone unpunished. Without ending impunity, periods of political crisis or insecurity will continue to be marked by renewed degradation for respect of human rights.

Amnesty International calls on the Burundian government to suspend any agents suspected of being involved in torture, as well as officials who have ordered or condoned such torture, pending an independent and impartial criminal investigation. The investigation should result in the prosecution of those responsible.

Amnesty International also urges the new Burundian government to end impunity. President Pierre Nkurunziza’s inauguration on 26 August 2010 offers an opportunity to publicly affirm that tackling impunity will be a priority for the new government. President Nkurunziza should ensure that individuals selected for key positions in the new government have a track record of respecting human rights. His legislative agenda should include decisive action to curb impunity and to bring to justice persons responsible for human rights violations and abuses, both current and past.

### **Methodology**

Amnesty International delegates visited Burundi from 5 – 24 July 2010 to investigate a range of human rights concerns around the elections. Delegates conducted research in Bujumbura Mairie and in Ngozi and Gitega Provinces, including interviews with detainees in Mpimba, Ngozi and Gitega Prisons and in

the SNR detention facilities in Bujumbura. Interviews were conducted in private either in French or in Kirundi with French translation. For security reasons, the names of interviewees and some identifying details are withheld.

Amnesty International delegates interviewed a range of victims of human rights violations. They spoke with opposition politicians charged with threatening state security or accused of involvement in the grenade attacks, some of whom had been subject to the torture and other ill-treatment documented in this paper, as well as many others who had not been ill treated. They met with individuals who had witnessed key incidents of political violence.

The Amnesty International delegates had meetings with the Interior Minister and the legal advisor to the SNR. They interviewed representatives of local and international non-governmental organizations, journalists, diplomats and the United Nations.

## **Context**

### Political and human rights context

Renewed torture by the SNR took place amidst a deteriorating political and security situation following Burundi's municipal elections on 24 May 2010. The ruling party, National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), won 64 per cent of the vote. International and national election observers noted "irregularities", but found the elections to be broadly free and fair. Some election observers also noted pre-electoral intimidation. Opposition parties rejected the results claiming that there had been massive fraud, and in early June, they announced a boycott of the presidential elections of 28 June 2010. Their withdrawal left President Nkurunziza as the only candidate.

During the build-up to the elections, the CNDD-FDD and the National Liberation Forces (*Forces Nationales de Libération*, FNL) were reportedly responsible for unlawful killings and assaults of political opponents or critical members of their own parties. The CNDD-FDD mobilized their youth wing, the *Imbonerakure*, who were said to be often armed with sticks or clubs, and seen with state officials making arrests and carrying out community patrols. Opposition parties, including the Union for Peace and Development-Zigamibanga (*Union pour la Paix et le Développement-Zigamibanga*, UPD), the Movement for Solidarity and Democracy (*Mouvement pour la Solidarité et la Démocratie*, MSD) and the FNL were regularly banned from holding meetings.<sup>3</sup>

Campaigning for the presidential elections, which began on 12 June, was marked by political violence. Over 30 political party offices were burnt, primarily in the interior of Burundi with the vast majority belonging to the ruling CNDD-FDD party. Grenade attacks intensified, with at least 116 grenade attacks between 1 June and 8 July. Most of these happened after the presidential campaign began and almost half of these were in Bujumbura, the capital, and the surrounding neighbourhoods which comprise Bujumbura Mairie.<sup>4</sup> Many grenade attacks targeted the ruling CNDD-FDD party.

Political violence took place against a backdrop of a general deterioration in the human rights situation. There were a significant number of arrests of opposition party members. Some were arrested and later charged with threatening state security, as part of the government's investigations into the grenade attacks and destruction of party offices. Others were arrested for holding "illegal meetings" after unlawful restrictions were placed on the freedom of peaceful assembly of opposition politicians. The houses and offices of many opposition members were searched, but some such searches were conducted without the authorizations required under Burundian law. Authorities justified searches by arguing that they were necessary to look for weapons and evidence of intent to destabilize security.

### The SNR

The National Intelligence Service (*Service National de Renseignement*, SNR) has a broad mandate and often operates with little regard for the law. The SNR is popularly known amongst Burundians as "*La*

*Documentation Nationale*" after the organization which preceded it. It is also colloquially called the "presidential police", as its General Administrator, General Adolphe Nshimirimana, reports directly to President Nkurunziza.

In 2005 and 2006, allegations of torture attributed to SNR agents were never fully investigated and prosecuted.<sup>5</sup> Serious human rights violations, including torture, were committed against civilians perceived to be supporters of the FNL, then an armed opposition group. Intelligence agents were also reportedly implicated in extra-judicial killings in Muyinga in 2006<sup>6</sup>, but none were prosecuted, while 14 soldiers and one officer were convicted for this crime.

In recent years, the SNR has tried to improve its image. The UN and Burundian human rights groups have had enhanced access to detention facilities. Reports suggest a marked improvement in the treatment of detainees in SNR facilities and the near elimination of torture. The new 2009 Burundian penal code which criminalized torture under national legislation, as well as training administered under the UN Peacebuilding Commission (PBC), may have contributed to this improvement.

## **Torture**

### **Torture and other ill-treatment by the SNR – 23 June to 5 July 2010**

From 23 June to 5 July 2010, the SNR reverted to old practices of torture not seen in recent years. Over this period, 12 individuals were allegedly tortured by the SNR at their Bujumbura headquarters.<sup>7</sup> They had been arrested as part of the Burundian government's investigations into recent grenade attacks. Some of these individuals were arrested by the SNR; others were arrested in joint operations between the SNR and the police.<sup>8</sup> Most were charged with security related offences and transferred to Mpimba Prison, but at least one was released without charge.

Those allegedly tortured were opposition party members, including some in leadership positions within their parties. Some had secured elected positions in the municipal elections, but chose not to take up their seats. Most belonged to the FNL, an opposition political party registered in 2009 and formed out of the last armed opposition group to demobilize, but detainees belonging to at least two other opposition parties were also subjected to torture.

Detainees interviewed by Amnesty International gave consistent and credible accounts of being hit repeatedly by SNR agents during interrogations. They were slapped and kicked and hit with batons all over their bodies, including to their faces, feet and their genitals, while asked to respond to questions about their party structures, their party colleagues, and alleged plans to destabilize national security. In one particularly egregious case, a small part of the detainee's ear was cut and the detainee was reportedly forced to eat it. According to the detainee, as he tried to contain his nose bleed caused by the beating, he was forced to drink the blood flowing from his nose.

Those interviewed by Amnesty International appear to have been held incommunicado for at least a few days without access to medical care or a lawyer. They were brought before a Prosecutor within 7 days, the timeframe stipulated by the law for the police to complete investigations and charge or release suspects.

Physical torture was verified by the United Nations and national human rights organisations at the time. Information gathered by Amnesty International corroborated this and the organization has seen photographs consistent with the injuries incurred. Even the Legal Advisor to the SNR told Amnesty International that detainees may have sustained injuries, but claimed that these happened when the individuals concerned resisted arrest.<sup>9</sup>

During interrogations, suspects were also subject to psychological torture. They reported receiving death threats, as SNR agents attempted to extract confessions or information. At least one detainee says that he signed a document under duress.

One individual told Amnesty International:

*“They asked the police to dig a grave for me. They said I needed to choose between life and death. They told me to tell them about the grenades being thrown by the FNL during the campaign to save my life.”*

Another reported being hidden when BINUB staff members came to visit. He said he was bundled into a car and before being driven away was told to “pray for the last time”. They told Amnesty International that weapons were also placed in front of them during interrogations. This seemed to amount to an implicit death threat.

Detainees consistently cited senior SNR officials, as well as high-ranking police officials, as being present while they were tortured during interrogations. In some cases these senior SNR and police officials were alleged to have inflicted physical and psychological torture on suspects. In other cases, low-level SNR agents appear to have committed the torture, on the orders of, or with the consent of, their superiors.

Detainees were subjected to other ill-treatment and at least two detainees were imprisoned in toilets with handcuffs on consecutive days.

### **Burundi’s national and international human rights obligations**

Burundi acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) in 1993, which prohibits torture at all times and under all circumstances.<sup>10</sup> Burundi is also a signatory to the 1981 African Charter on Human and Peoples’ Rights which prohibits torture.<sup>11</sup> While Burundian authorities have a responsibility to protect people from acts of violence and to investigate the grenade attacks and prosecute those responsible, the Convention and Charter explicitly states that torture can never be justified.

Article 12 of the Convention against Torture obliges states to promptly and impartially investigate reports of torture even in the absence of a complaint filed by an alleged victim.<sup>12</sup> The Burundian government have so far failed in their responsibility to investigate these reports of torture. The Convention requires them to investigate and prosecute officials who consent or acquiesce to torture, just as those who commit the torture directly.<sup>13</sup> Victims of torture must also receive redress, including the means for rehabilitation.<sup>14</sup> States must also ensure that statements or confessions made as a result of torture are never used in court proceedings, except against a person accused of torture.<sup>15</sup>

Article 5 of the Universal Declaration of Human Rights states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.<sup>16</sup> Article 7 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Burundi in 1990, prohibits both torture and other ill-treatment and article 10 of the ICCPR recognizes the right of all persons deprived of their liberty to humane treatment.<sup>17</sup>

Since the promulgation of Burundi’s 2009 Penal Code, torture has also been criminalized under national law, bringing it into compliance with the Convention against Torture. Torture and other cruel, inhuman or degrading treatment are punishable by a prison sentence of ten to 15 years and a fine of 100,000 to 1,000,000 Burundian francs.<sup>18</sup> When torture is committed with the use of or threat of a weapon, it is punished by a 20 year custodial sentence.<sup>19</sup>

### **Reaction of the Burundian authorities**

Amnesty International presented their findings on torture by the SNR in a meeting with the SNR’s Legal Advisor, Jérôme Kantanta.<sup>20</sup> He said:

*“At a certain moment between 3 July and 5 July, there was noise here and there that there had been torture at the Service [SNR]. [...] There isn't this sort of thing. There isn't torture. It is already an infraction in our penal code.”*

According to Kantanta, those arrested were part of a network of people who wanted to destabilize the elections. He stated that many detainees had tried to resist arrest noting that, as one suspect was arrested, his entourage fired on SNR agents. The defendant concerned also told Amnesty International that the SNR had fired in the air at the time of his arrest.

Kantanta stated that any marks on the bodies of those concerned would be the result of injuries sustained at the time of their arrest. However, some of the physical injuries sustained by the detainees, such as badly swollen feet, appear to be the result of repeated prolonged beatings. The incision to one detainee's ear, as well as signs of psychological trauma, appears to be the result of torture and other ill-treatment during detention. As such, the physical injuries and signs of psychological trauma seem inconsistent with the explanation provided by the SNR's Legal Advisor.

When asked whether the SNR had launched an investigation into these allegations of torture, Kantanta said that they had not instigated either a criminal or an administrative enquiry. He claimed that, as the detainees had been transferred to Mpimba Prison, it would not be possible for the SNR to interview them and that would preclude a “balanced” enquiry. Kantanta did note that, when first confronted with these allegations by the UN, the SNR held an urgent meeting with the Deputy Administrator General and other SNR staff. Each person present at the meeting denied involvement in any torture. It seems that the SNR made no attempt to interview staff alleged to have been involved in torture on an individual basis or separate from their superiors.

The Interior Minister, Edouard Nduwimana, expressed disquiet at Amnesty International's findings, though he was not in a position to confirm or deny them. He stated that “occasionally” torture cases occur and that further training of law enforcement agencies was needed. The Minister did, however, express the view that “sometimes torture can get to the truth”.<sup>21</sup> Amnesty International calls on the government to condemn torture at all times and under all circumstances.

### **Intervention by the international community**

The UN has communicated with the Burundian authorities on details of torture cases naming those individuals alleged to have been involved. The UN has been working with the Government of Burundi to uncover the facts behind the allegations of torture, with the hope that the Burundian authorities will launch a criminal investigation.

Diplomats interviewed by Amnesty International were universal in their condemnation of torture by the SNR. One said:

*“They [the SNR] have had a better image these last years, but they have gone back to their old practices. It is a structure which has problems respecting the law.”*

Another said:

*“The SNR has made efforts to improve, but they have taken a step backwards.”*

Diplomats had raised their concerns with the Burundian authorities, including the SNR and the police. Many expressed a hope that the President, following the election, may remove officials implicated in these human rights violations from their positions pending criminal investigations.

## **Recommendations**

### **To the Government of Burundi**

- Unreservedly and publicly condemn torture, ill-treatment and other serious human rights violations.
- Declare that any official, including SNR agents and police, committing, ordering, consenting or acquiescing to torture and other ill-treatment will be prosecuted regardless of their rank.
- Suspend any agents suspected of being involved in torture and officials who have ordered or condoned such torture regardless of rank pending an impartial and independent criminal investigation.
- Promptly launch an independent and impartial criminal investigation into these torture cases, report publicly on such investigations, and prosecute any SNR, police and other state agents suspected of such crimes.
- Ensure all victims of torture have right to effective redress, including assistance in instituting proceedings against law enforcement officials responsible, reparations for harm suffered and appropriate medical care.
- Ensure Judicial Police Officers and Prosecutors note signs of torture and ensure that allegations or evidence of torture or other ill-treatment are promptly investigated.
- Ensure that confessions or evidence extracted by torture is inadmissible in court, except in proceedings against a person accused of torture or other ill-treatment.
- Ensure detainees held at SNR detention facilities are examined by an independent doctor as soon as they are arrested and have ongoing access to medical care while in detention.
- Ensure that all detainees are given access to legal counsel within 24 hours of detention and that they have access to legal counsel in all interrogations.

### **To the international community**

- Encourage the Burundian Government to ensure future compliance of SNR and other state agents with international human rights law and Burundian law.
- Urge the Burundian Government to suspend any agents suspected of being involved in torture and officials who have ordered or condoned such torture pending an impartial and independent criminal investigation.
- Continue to urge the Burundian Government to fully investigate the cases documented in this document, to report publicly on investigations and to prosecute agents suspected of such crimes.

### **To the United Nations Integrated Mission for Burundi (BINUB)**

- Continue to investigate and denounce violations of international human rights law and Burundian national law by the SNR and other state agents, and regularly raise these concerns with the government, pressing for specific actions to end abuses.

### **To the UN Security Council**

- Renew the mandate of the United Nations Mission for Burundi (BINUB).
- Ensure that BINUB has enough staff and resources to continue to conduct effective monitoring and reporting of human rights violations, including regular visits to detention facilities.

### **To the Independent Expert on the situation of human rights in Burundi**

- Conduct an investigation into these torture cases.
- Raise concerns of torture and other ill-treatment with the Burundian authorities.

**Endnotes**

- <sup>1</sup> Over the same period numerous other cases of torture and other ill-treatment of detainees in police detention facilities were documented by human rights observers. Amnesty International delegates were not able to follow-up on these cases during the visit to Burundi and they are therefore not addressed in this paper.
- <sup>2</sup> Interview with the Office of the High Commission of Human Rights (OHCHR), BINUB, 12 July 2010, Bujumbura, Burundi; Interviews with several diplomats, 8 July, 22 July and 23 July 2010, Bujumbura, Burundi.
- <sup>3</sup> Amnesty International, *Annual Report*, 2010.
- <sup>4</sup> Election period incident map, 1 June to 8 July 2010, BINUB.
- <sup>5</sup> Amnesty International, "Burundi: Briefing to the Committee against Torture", November 2006.[AFR 16/016/2006].
- <sup>6</sup> Amnesty International, "Burundi: Extrajudicial executions in Muyinga: former refugees were among the victims", Public Statement (AFR 16/019/2006), 21 November 2006.
- <sup>7</sup> UN statistics on file with Amnesty International.
- <sup>8</sup> SNR staff which have the status of judicial police officers (*officiers de la police judiciaire*, OPJs) have the power to arrest individuals. Other SNR agents, including demobilised former combatants (*demobilisés*) officially working for the SNR or loosely associated with the SNR do not have the power to arrest suspects.
- <sup>9</sup> Interview with Jérôme Kantanta, Legal Advisor to the SNR, 22 July 2010.
- <sup>10</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted 10 December 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force 26 June 1987, ratified by Burundi on 18 February 1993, Article 2.
- <sup>11</sup> African Charter on Human and Peoples' Rights, adopted 27 June 1981, entered into force 21 October, 1986, Article 5.
- <sup>12</sup> Convention against Torture, Article 12.
- <sup>13</sup> Convention against Torture, Articles 1 and 4.
- <sup>14</sup> Convention against Torture, Article 14.
- <sup>15</sup> Convention against Torture, Article 15.
- <sup>16</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc A/810 at 71 (1948), Article 5.
- <sup>17</sup> International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, G.A. Res. 2200A (XXI), 22 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976, ratified by Burundi on 9 May 1990, Article 7 and 10.
- <sup>18</sup> Loi No. 1 / 05 du 22 Avril Portant Revision du Code Penal, Article 205. Approximately \$80 - \$800 USD as of August 2010.
- <sup>19</sup> Loi No. 1 / 05 du 22 Avril Portant Revision du Code Penal, Article 206.
- <sup>20</sup> Interview with Jérôme Kantanta, Legal Advisor to the SNR, 22 July 2010.
- <sup>21</sup> Interview with Interior Minister Edouard Nduwimana, 21 July 2010, Bujumbura, Burundi.