



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the Human Rights Council 4<sup>th</sup> Session

### Reports of the Independent Expert on the situation of human rights in Burundi<sup>1</sup>

#### **Name of Mandate Holder**

Akich Okola

#### **Mandate**

The mandate was established in 1995 in response to the inter-ethnic violence that followed the attempted coup d'état in 1993, and the resulting mass exodus of people from Burundi. It was preceded by an agreement signed on 22 September 1994 by the High Commissioner for Human Rights and the Government of Burundi on the implementation of a major programme of technical assistance and advisory services in the field of human rights. The Independent Expert is expected to consider the human rights situation in Burundi and ensure the government is abiding by its commitments in this respect. The Independent Expert is also mandated to provide technical support for government in its efforts to improve the human rights situations in Burundi and follow developments in the peace process.

#### **Activities**

- Visits to Burundi from 7 to 14 October 2006 and from 14 to 27 January 2007, including visits to Mpimba prison, provinces of Muyinga, Ngozi and Ruyigi, the Batwa community of Zege in the province of Gitega, and a visit to Maison Shalom, an NGO in Ruyigi;
- A press conference on the Expert's findings from the visits to Mpimba prison and the provinces of Muyinga, Ngozi and Ruyigi.

#### **Annual Report<sup>2</sup>**

##### **Scope:**

The report addresses the general situation in Burundi, focusing particularly on persistent violations of civil and political rights; weak and inefficient administration of justice; delay in the establishment of transitional justice mechanisms; attempts at realising free primary education, and growing intolerance of the Government of Burundi towards criticism from opposition parties and civil society.

##### **Summary and Key Conclusions:**

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<sup>1</sup> Summary prepared by Betty Yolanda, ISHR; edited by Hannah Klein and Gareth Sweeney, Information Program, ISHR.

<sup>2</sup> A/HRC/4/5, 26 February 2007.

## General Situation

- Tensions escalated in July-August 2006 between the Government, opposition parties and civil society as a result of the detention of Burundi's former President, Domitien Ndayizeye, and the former Vice-President, Alphonse-Marie Kadege. They were subsequently acquitted.
- A ceasefire agreement was signed by the Government, *the Forces Nationales pour la Libération* (FNL) and its armed wing, *the Parti National pour la Libération du Peuple Hutu* (FNL-Palipehutu) on 7 September 2006. It has not yet been fully implemented.
- The Expert notes that in 2007, the relationship between the Government and the media is improving, and the media are able to make reports on public matters without interference from the Government.
- The ruling party is now becoming polarised into two groups and this may cause future instability.
- The Expert describes the investigation into the Musinga massacre, which led to a number of warrants for arrest being issued. These warrants have not been carried out on the grounds that further investigation is required. The Expert states that the only purpose of these investigations is to give the Government time to cover up the massacre.

## Transitional justice mechanism

- During his visits in October 2006 and January 2007, the Expert discussed the key issues of the establishment of a Truth and Reconciliation Commission (TRC) and a special tribunal with the Government and other stakeholders.
- The report notes that on the celebration of the Human Rights Day on 10 December 2006, the Head of State reiterated Burundi's commitment to set up the TRC. However, there was no timeframe set for its establishment. The Expert states that the delay of more than 18 months in establishing such a TRC and special tribunal is mainly due to the ambivalent attitude of the Government towards the special tribunal.<sup>3</sup>

## Human rights violations and abuses

- The report notes that, despite the ceasefire agreement, violations and abuses were still occurring across the country.
- **Violation of the right to life:** The Expert received information that besides the Musinga massacre, summary executions had also been conducted by the military forces and agents of the *Service national de renseignement* (SNR). No investigation has been conducted to identify the perpetrators and bring them to justice.
- **Violations of the right to physical integrity:** The Expert was informed of more than 200 cases of violations of the right to physical integrity during the reporting period committed by the police and the *Forces de defense nationale* (FDN). These can be attributed to the lack of political will to punish the perpetrators and the lack of training for the security forces.
- **Acts of torture** were also reported to be occurring in places of detention in Burundi. On his visit to the Mpimba prison, the Expert concluded that the prisoners had been physically mistreated.
- **Arbitrary and illegal arrests and detentions:** Violations included cases of prolonged stay in police custody, detention in illegal places, and lengthy pre-trial detention. After the signature of the ceasefire agreement, detentions based on minor charges became more frequent.
- **Violations of freedom of opinion and expression** increased from April 2006 to November 2006. Journalists were arrested and prosecuted on charges of "disturbing public order and security" and "revealing information about a judicial process".
- **Forced labour:** The Expert reports continuing cases of forced labour by some local administrators and police and military authorities in the provinces of Makamba, Bururi,

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<sup>3</sup> Discussions between the Government of Burundi and the United Nations have been going on for more than two years. The establishment of the commission and the tribunal was expected to be put in place in September 2005.

Bujumba, and Cankuzo. He was also informed that FDN soldiers were forcing children to regularly perform tasks for the soldiers. Internally displaced persons were also becoming the victims of forced labour in certain provinces.

- **Sexual violence:** During the last five months of 2006, 389 cases of rape of women and minors were reported. The Expert welcomes legal action against the perpetrators. However, impunity for the alleged perpetrators remains the norm.

#### **Administration of justice**

- The Expert notes that the Presidential Decree on the commutation of sentences for some categories of prisoners has not been implemented.<sup>4</sup>
- He emphasises that lack of equipment, poor training of staff, interference of politicians, and corruption have weakened the justice system.
- Detention centres and prisons are seriously overcrowded with poor sanitation.

#### **Alleged coup plotters**

- The Expert met with the 7 high-profile alleged coup plotters discussed above. All 7 believed the charges against them were entirely concocted by the Government.
- The Expert notes that the Government had promised to investigate the alleged acts of torture against these prisoners and punish the perpetrators.
- The Expert describes the judicial process involved in trying the 7 detainees. He welcomes the Supreme Court decision to release five detainees accused of preparing a coup. However, he also notes that 2 of the alleged plotters have been sentenced to 20 to 30 years in prison, and appeals to the judiciary in Burundi to correct this miscarriage of justice.

#### **The Muyinga massacre**

- The expert reports that, according to officials and human rights defenders, a group of approximately 30 people were arrested on suspicion of being members of the FNL in May 2006. In August 2006, 19 of their bodies were found in the Rivubu river. Some of them were beheaded.
- The Attorney-General assured the Expert that a commission had been appointed to carry out investigations into the tragedy. This report was submitted to the Attorney-General in 2006. The Attorney-General then claimed the report was not complete and called for further investigations.
- The human rights community expresses its great concern regarding the disappearances of the victims and the lack of political will to bring to justice all perpetrators.
- The Expert expresses concern at reports of threats against the families of the victims of the Muyinga massacre.
- The Expert deplores the lack of institutional will to shed light on the circumstances surrounding the forced disappearances and executions in Muyinga between May and August 2006, and the failure to bring the perpetrators to justice.

#### **Economic, social and cultural rights**

- The Expert states that the Batwa community remains marginalised and discriminated against in all areas of life in Burundi.
- Food security is a perennial problem in Burundi, due mainly to overpopulation. The Expert regrets the absence of information regarding massive population growth in the Poverty Reduction Strategy Paper (PRSP) prepared by the Government. The report mentions that many children were dropping out from school because of the famine.
- The Government has put in place a programme of free primary education and a programme to provide free health care for expectant mothers and children under 5 years of age.

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<sup>4</sup> The President issued this decree on 22 December 2006.

- The Expert expresses concern regarding corruption and embezzlement by Government officials and the ruling party, and the relationship between this corruption and poverty.
- The Expert welcomes the efforts undertaken by the Maison Shalom, an NGO in Ruyigi, in providing a foster home for orphans of war and ensuring professional training and reintegration to former combatants and other categories of young persons abandoned or neglected by their families.

#### **Promotion and protection of human rights**

- Numerous human rights awareness-raising and capacity-building activities have been conducted throughout the country by UN human rights monitors, together with NGO partners.
- Currently, the Penal Code is being revised in order to bring it in line with international standards. These revisions should include the abolition of the death penalty, the inclusion of international crimes and the improvement of protection for women and children, in particular by adding a legal definition of rape. The new Code is expected to be adopted by the Parliament and promulgated by the President during 2007.

#### **Key recommendations:**

##### **The Government of Burundi should:**

- Create a judicial commission to look into the Muyinga case; implement the findings of this commission and ensure that those responsible are sanctioned.
- Speed up the process of establishing the transitional justice mechanism.
- Conclude the investigations on the Gatumba massacre and bring the perpetrators to justice.
- Take measures to deal with the increasing incidents of sexual violence.
- Implement the ceasefire agreement signed on 7 September 2006 as soon as possible.
- Provide an environment in which the media and the civil society can work with greater freedom.

##### **The judiciary should:**

- Complete the preparation of two alleged coup plotters' trial record so that those convicted can file their appeal.

##### **The international community should:**

- Continue to assist Burundi to attain and consolidate peace.
- Continue to ensure that justice is done in the cases of those accused of planning a coup.
- Increase its support for humanitarian and development assistance in order to deal with the famine crisis in the northern part of Burundi.
- Support the Government of Burundi in the realization of the campaign against HIV/AIDS, priority development programmes and human rights.
- Support Maison Shalom's initiative.
- Increase support for the Burundian justice system, in particular regarding the transitional justice mechanisms and the establishment of a National Human Rights Commission.
- Release the funds pledged at the Paris, Geneva and Brussels conferences.
- Strengthen its role and civil society's role in the protection and promotion of human rights.
- Press the Government of Burundi to complete investigation regarding the Gatumba massacre and to prosecute the perpetrators of the massacre.
- Urge the Government to desist from taking measures that may destabilize Burundi.