



**SOS - TORTURE / BURUNDI**

*"Celui qui sauve une vie sauve l'humanité toute entière"*

***SOS-TORTURE/ BURUNDI***

***Report on the situation of human rights in Burundi***

***April 1 to June 30, 2017***



**Imbonerakure Militiamen : Authorised and unlimited Crimes**

**July 2017**

## 1. *Résumé Exécutif*

In the second quarter of 2017, as in the previous quarter, the human rights situation was characterized by numerous human rights violations, shrinking democratic space and the use of terror for Deter or repress whatever is considered political opposition. But for the Burundian authorities, everything is fine, peace and security prevail. In this regard, on 25 April 2017, the first Vice-President of Burundi, Gaston Sindimwo, declared " Peace is total in Burundi. It is an imaginary crisis, no displeasure to detractors. Nevertheless, there may be some incidents that can not harm national peace and national concord. Today, the crisis is behind us<sup>1</sup>.» "The frequency and regularity of human rights violations, which continue to be perpetrated in Burundi, are in total contradiction with these speeches.

From April to June 2017, SOS-Torture recorded 169 arbitrary arrests and 5 illegal arrests, 50 violations of the right to life, 13 tortured, 20 cases of sexual violence and 5 forced disappearances. All these crimes were committed with impunity. Among those arrested, 24 are members of the National Liberation Forces (FNL), the branch led by Agathon Rwaswa. Militants of the Movement for Solidarity and Democracy (MSD) and the Union for National Progress (UPRONA), wing of Charles Nditije, were also targeted..

This means that the restrictions on fundamental freedoms continue with the persecution of political opponents. On the top come the members of the FNL, the branch led by Agathon Rwaswa. For various pretexts, members of the opposition parties are regularly subjected to arbitrary arrests, carried out by the police, the National Intelligence Service, and and more often by the Imbonerakure, or the collusion of the two or of the three together. During the quarter in question, Ruyigi province was the scene of a special activism by the Imbonerakure who committed many harming acts, including acts of torture.

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<sup>1</sup> <http://www.rfi.fr/afrique/20170425-burundi-deux-ans-crise-candidature-nkurunziza-pays-impasse>, publié le 25 avril 2017.

Fundamental freedoms are likely to be more severely reduced by the adoption of the draft law on the revision of the Criminal Code and the Code of Criminal Procedure, presented by the Minister of Justice and Attorney General on 17 May 2017, during the counsel of ministers. The aim of this project is to authorize night searches and without any judicial warrant, paving the way for arbitrariness. This will certainly create a state of exception, in fact.

If international human rights law recognizes that governments can impose certain limits on the rights of individuals in extreme circumstances when a state of emergency has been declared, particularly when a country faces a threat of exceptional gravity, it provides the limitations to avoid abuses. Therefore, measures taken under a state of emergency must meet strict conditions: they must always be limited to the strict requirements of the emergency and they must in no case be applied in a discriminatory manner.

This desire to install a state of undeclared exception is in contradiction with the speeches of the highest authorities, who affirm that peace and security reign throughout the Burundian territory.

This risk of undeclared state of emergency is reinforced by the growing importance of the Imbonerakure militia in the country's grid and population. Indeed, the Imbonerakure militia assume the prerogatives devolved to the administration and the police, and as a result commit many abuses, including the persecution of political opponents, arbitrary arrests, torture. Some of their actions, observed during this period, are likely to have serious consequences for human rights.

At a gathering to celebrate the New Year in Ntega commune, Kirundo province, Imbonerakure singers incited rape of opposition girls and women to give birth to Imbonerakure. "Tera inda abakeba bavyare imbonerakure", which translates as "impregnant girls and women of the opposition so that they give birth to imbonerakure". The video taken on this occasion circulated on social networks and provoked many reactions, including the authorities of Burundi and the ruling party.

Initially, the authorities claimed that it was roomers, also assuring that these images were old. Finally, CNDD-FDD confirmed the authenticity of this video, in a statement published on

April 5, 2017, indicating that the video showed young people in Ntega who met to exchange the vows of 2017. According to this communiqué, this video Song is inconsistent with the mores and ideology of the CNDD-FDD. He condemned this discrepancy in language and said that the Disciplinary Committee was already working to determine responsibility for the punishment of the guilty parties<sup>2</sup>. However, since these calls for rape constituted crimes under Burundian law and international criminal law, the judicial authorities should have seized them, which until now has not been done. Other information received indicates that paramilitary Imbonerakure training has increased in various provinces of the country, more specifically in Cibitoke, Makamba and Rutana. In Cibitoke, training has taken place since March 2017, in all the municipalities of the province of Cibitoke. To avoid information leakage, these drives were moved to the forests of Mabayi and Bukinyana as well as in the Jimbi afforestation in Murwi commune<sup>3</sup>. In these sites, around 1,000 young militia are gathered. The training would be demobilized from the CNDD FDD as well as military and police officers from this former rebellion. The announced aim of these training sessions is to prepare these Imbonerakure to defend the country in the event of attack by rebel groups, because according to the trainers, the military are not all reliable. The training of these militiamen would be supervised by officer Joseph Mathias Niyonzima, nicknamed Kazungu, regularly quoted in serious violations of human rights. Some of these militiamen were deployed in the Democratic Republic of Congo in the Sange grouping. There are reports of ambushes on the roads of Gatumba and Gihanga in the west of the country, which would be strained by these Imbonerakure militiamen.

In the south of the country, there are also reports of paramilitary training in the provinces of Makamba and Rutana on Saturdays from 3 am in groups of 30 to 40. Each group would receive 5 to 10 guns<sup>4</sup>.

During the period under review, there was an increase in armed attacks, mainly in the northwest of the capital Bujumbura and in the capital itself where grenade attacks took

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<sup>2</sup> <http://observers.france24.com/fr/20170407-burundi-imbonerakure-jeunes-proches-pouvoir-chanson-engrosser-opposantes-video>, publié le 7 avril 2017.

<sup>3</sup> Pour plus de détails, consulter le rapport N°77 de SOS-Torture Burundi, publié le 3 juin 2017, <http://sostortureburundi.over-blog.com/2017/06/rapport-n-77-de-sos-torture-burundi-publie-le-3-juin-2017.html>.

<sup>4</sup> Voir Rapport N°72 de SOS-Torture Burundi, publié le 29 avril 2017, <http://sostortureburundi.over-blog.com/2017/04/rapport-n-72-de-sos-torture/burundi-publie-le-29-avril-2017.html>

place. These attacks resulted in loss of life and injuries. Among the victims were three young Imbonerakure from the locality of Gikoto, in Musaga, a southern quarter of Bujumbura, and other similar attacks targeted the Kamenge Quarter on numerous occasions. The perpetrators of these attacks have never been identified.

This second quarter was also marked by a wave of arbitrary arrests targeting some delegates of students of the University of Burundi who claimed the repeal of the presidential decree transforming the bursary into a loan and tightening the conditions of its grant. This decree, signed on 1 February 2017 by Burundian President Pierre Nkurunziza, transforms the Bursary into a loan<sup>5</sup>, reimbursable after the studies have been completed and tightened the conditions for its grant. As a result, students in public universities have fiercely opposed it and have decided to engage in an demonstration to obtain its repeal<sup>6</sup>.

On March 24, they gave a notice of strike, demanding the repeal of the decree. The warning period issued was due to expire on 5 April 2017, in the event that a favorable response had not been given to their claim. This warning and the threat of strike were called by the government as an insurrection and a fierce repression was organized to break the student movement.

To break this gap, the SNR will carry out kidnappings of well-targeted delegates and has remained silent on detainees' places of detention and grounds for arrest. This situation has caused many students to hide, fearing for their safety.

As part of this crackdown, two students were abducted in Bujumbura on 29 March 2017 by agents of the National Intelligence Service. One of the two was released in the evening while the other remained in the SNR cell. Subsequently, the police arrested eight other students on 1 April 2017 in various residences on the Mutanga campus of the University of Burundi<sup>7</sup>. On April 6, 2017, the eight (8) students were released without any explanation as to why they were detained.

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<sup>5</sup> Il s'agit du décret n°100/018 du 1<sup>er</sup> février 2017 portant réorganisation du système de gestion des bourses d'études et de stages, [www.presidence.bi](http://www.presidence.bi)

<sup>6</sup> <https://www.lavantgarde.fr/greve-etudiante-burundi>, 12 avril 2017.

<sup>7</sup> Pour plus de détails, lire le rapport N°68 de SOS-Torture Burundi: <http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-sume%CC%81ro-68-en-Fr.pdf>

Finally, five (5) students from the University of Burundi, among those arrested at different dates, appeared on 19 April 2017 before the counseling chamber of the Mukaza Intermediate Court in Bujumbura after spending several days in the National Intelligence Service (SNR) before being put under arrest warrant and taken to Mpimba prison in the Musaga Zone. They are accused of wanting to prepare an insurrectionary movement.

In addition to these arrests, authorities decided to chase for one year two students from the Normal High School (ENS) and eight (8) students from the University of Burundi (UB), signatories of the call to strike.

Arbitrary arrests have become a deterrent weapon to reduce any opposition. A part from political opponents, members of the former Burundi armed forces (formerly FAB) are still one of the main targets. In some highlighted cases, some arrested soldiers have been subjected to torture. Also, persons are arrested, especially in protesting quarters, on the grounds that they do not have a "housekeeping book". The latter was set up by the administration to control the movement and identity of the persons, without any legal basis. But the police and the Imbonerakure continue to arrest persons who do not have a housekeeping booklet or when it is incomplete and imposes fines on them.

With few exceptions, the administration of justice continues to be an instrument in the service of the government.

The fragrant example is the lack of prosecution against the SNR officer in Muyinga, who is under serious suspicion of torture of several active and retired soldiers, including Master Corporal Dieudonné Kwizera, who was assigned to the Mukoni military camp, In Muyinga and Alexis Nibaruta, a retired soldier. On 18 April 2017, Dieudonné Kwizera was arrested by the head of the SNR in Muyinga, Mr. Gérard Ndayisenga, tortured, then detained at the Muyinga prosecutor's office, who hastened to charge him for armed bands and attempted robbery . His relatives said that the prosecution sought to accuse him of having participated in the alleged attack on the Mukoni military camp in January 2017. Subsequently, the same head of the SNR in Muyinga arrested Mr. Alexis Nibaruta , A retired soldier, on 4 April 2017. The information received confirms that Mr. Alexis Nibaruta was tortured for four (4 days)

before being evacuated in critical condition to undergo surgery at the regional hospital of Ngozi following a hemorrhage, consecutive to the tortures suffered.

In the case of Master Corporal Alexis Kwizera, the Muyinga prosecutor's office did nothing to prosecute the alleged perpetrator of the torture. On the contrary, he acted in collusion with him to increase the state of the victim<sup>8</sup>. Also, the Muyinga Intermediate Court rushed to resort to the argument of flagrancy, four months after the facts, to pronounce the judgement on 3 May 2017, without giving to the accused the opportunity to prepare his case defense.

In another case, the Intermediate Court of Gitega handed down heavy judgements against seven (7) opposition activists of the FNL party, a branch of Agathon Rwaso, in a verdict rendered on March 30, 2017, in which two militants were sentenced to life imprisonment and five others to 20 years of criminal servitude. These militants were arrested on 23 March 2017 after the assassination of a man named Jacques Bukobero, who is the father of a leading businessman and leader of the ruling CNDD-FDD<sup>9</sup>. In this case also, the judges expedited the trial, giving no chance to the accused and their lawyers to prepare their defense.

These expeditious trials are organized in a hurry by invoking "Flagrancy" to justify the prompt handling of the case in question, in violation of the rights to defense of the accused. It has become clear that it is a stratagem to which judicial authorities resort, on an injunction of power, to condemn to heavy penalties all those who are considered as its opponents.

In addition to many cases of malpractices, it is important to note here the courage of the judges of Cibitoke Intermediate Court, which ruled and sentenced on 1 June 2017, three (3)

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<sup>8</sup> Pour plus de détails consulter, les rapports N°69 et 70 : <http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-nume%CC%81ro-69-en-Fr.pdf> et <http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-nume%CC%81ro-70-en-Fr.pdf>).

<sup>9</sup> Voir dans le rapport SOS-Torture Burundi N°67 : <http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-nume%CC%81ro-67-en-Fr.pdf>

members of the Imbonerakure militia in perpetuity for murder cases in Murwi commune, in the province of Cibitoke. When one knows the total impunity enjoyed by the Imbonerakure, and the terror they cause, including on judges and magistrates, this condemnation is an act of courage and independence, which it is important to mention and encouraged.

With regard to the fight against impunity in Burundi, on 14 June 2017, the Commission of Inquiry on Burundi made an oral presentation during the thirty-fifth session of the Human Rights Council in Geneva. According to the Commission, the human rights situation in Burundi is characterized by a generalized climate of fear, severe restrictions on civil liberties, a continuous climate of violence and violations committed in a more clandestine manner, hate speech and Population disturbance. Finally, the Committee stressed the cruel and brutal nature of the violations reported to it<sup>10</sup>.

## *2. Recommendations*

### **1. To the Government of Burundi:**

1. To put an end to the regime of terror which represses any discordant voice and to respect the Constitution of the country and the conventions that the country has ratified in the protection of human rights;
2. Immediately release all persons arbitrarily arrested for political reasons, including protesters, striking students, political opposition activists and sympathizers, among others;
3. Immediately halt the process of adoption of the draft Law on the Revision of the Penal Code and the Criminal Procedure Code, which would authorize night searches and without a judicial warrant that could reinforce the rule of arbitrariness;

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<sup>10</sup> La commission est composée de Fatsah Ougergouz (Algérie), Reine Alpini Ganzou (Benin) et Françoise Hampson (Royaume Uni). Elle a été mise en place par le Conseil des droits de l'homme des Nations Unies suite à la résolution 33/24 du 30 septembre 2016. Pour le résumé du rapport, consulter : <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=21760&LangID=F>



4. Ending the paramilitary training of the Imbonerakure and disarming those who have received firearms;
5. To instruct justice to prosecute the Imbonerakure who sang slogans inciting rape and prosecute all those who commit abuses in the country, following the example of the Judges of Cibitoke Intermediate Court.
6. To renounce the practice of systematically refusing to cooperate with human rights protection mechanisms at the national, regional and international levels, in particular the resolution 33/24 set up by the commissions of inquiry of United Nations General Assembly on Human rights;
7. Cancel warrants of arrest against certain political and civil society figures;
8. Immediately re-establish political parties, civil society organizations and the media in their rights to work unhindered in the country and to guarantee the freedom and security necessary for their full functioning;
9. Engage in an inclusive and genuine dialogue in order to find a lasting peaceful solution to the crisis in Burundi since April 2015, instead of pursuing the use of terror as a means of maintaining power.

- **To the East African Community:**

1. Take appropriate measures to ensure that Burundi strictly respects its commitments made within the community, in particular with regard to the movement of goods and persons;
2. As the sponsor of Inter-Burundi dialogue, take appropriate measures to engage the Burundian government in an inclusive dialogue with a view to a peaceful and lasting solution to the current crisis.

- **To the International Community:**

1. Initiate prompt and independent investigations within the framework of the International Criminal Court to identify those responsible for serious human rights violations in Burundi and to institute international prosecutions of persons and entities convicted of these crimes;

2. Ensure the implementation of UN Security Council Resolution 2303 in connection with the deployment of 228 UN police officers in Burundi to monitor the security situation and to support the Office of the United Nations High Commissioner for Human Rights in the collection of information on human rights violations committed in the country;

3. Take appropriate measures to ensure the full cooperation of the Burundian authorities in the framework of the United Nations Human Rights Council resolution 33/24 so that the Commission appointed for this purpose can carry out its mission to Burundi. Freely and safely.

### *3. Synopsis of the various violations noted during the second quarter of 2017 in the various SOS-Torture reports*

|                             | Rapport N° |    |    |    |    |    |    |    |    |    |    |    |    | Total |
|-----------------------------|------------|----|----|----|----|----|----|----|----|----|----|----|----|-------|
|                             | 69         | 70 | 71 | 72 | 73 | 74 | 75 | 76 | 77 | 78 | 79 | 80 | 81 |       |
| <b>Type d'infraction</b>    |            |    |    |    |    |    |    |    |    |    |    |    |    |       |
| Assassinats                 | 0          | 3  | 0  | 6  | 6  | 0  | 9  | 3  | 6  | 3  | 4  | 3  | 7  | 50    |
| Tortures                    | 6          | 1  | 2  |    |    | 2  |    |    |    |    |    | 2  |    | 13    |
| Arrestations Arbitraires    | 16         | 5  | 5  | 9  | 2  | 28 | 49 | 12 | 10 | 8  | 7  | 12 | 6  | 169   |
| Arrestations Illégales      |            |    |    |    |    |    |    |    |    |    | 1  |    |    | 1     |
| Disparitions forcées        |            |    | 2  |    |    |    |    |    | 2  |    | 1  |    |    | 5     |
| Violences faites aux femmes |            |    |    | 20 |    |    |    |    |    |    |    |    |    | 20    |