

Report on the situation of human rights in Burundi

From 1 January to 31 March 2017



Regime of terror and the rule of impunity

April 2017

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1. Introduction

During the first quarter of 2017, the human rights situation in Burundi remained very worrying, despite statements by the authorities that peace and security prevail throughout the country. These statements made by the President of the Republic Pierre Nkurunziza himself at the end of 2016 were soon contradicted by the facts, starting with the assassination of the Burundian Minister of Water, Environment and Of Urban Planning, Mr. Emmanuel Niyonkuru, on 1 January 2017.

This first quarter of 2017 is a continuation of the serious, massive and systematic violations of human rights since the outbreak of the crisis in April 2015. It has been marked by political assassinations, extrajudicial executions, forced disappearances, arbitrary arrests, kidnappings and forced raids, torture and other inhuman and degrading treatment.

The bodies discovered near the capital city Bujumbura, and across the country, are often buried by the local administrative authorities with eagerness and without informing the families. This hinders further investigation to establish facts and responsibilities. These practices contribute to the strengthening of the impunity of perpetrators, which has become a constant in Burundi, particularly crimes committed by security forces or officials.

During this quarter, 80 cases of assassination were recorded by SOS-Torture, an average of 26 assassinations per month. This is undoubtedly undervalued, owing to the growing number of missing persons, the burial of corpses in hidden places, and persons detained in unknown locations.

The other major trend of human rights violations is the arbitrary arrests often made by National Intelligence Service (SNR) agents. Sometimes with the support of elements of the militia imbonerakure, the youth of the ruling party, the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) of President Nkurunziza. The targets of these arrests are in most cases young people from the protesting quarters, as well as members of the former "ex-FAB" majority Tutsi army, suspected of being opposed to President Nkurunziza's third term, and accused to support armed movements. In total, SOS-Torture was able to count 241 cases of arrests.

During this period, SOS-Torture noted an increase in arbitrary arrests targeting members of the FNL party, a branch led by Agathon Rwasa. Another practice that has become more and more frequent is the use of arrests by police agents to extort money from those arrested in exchange for their release.

The report also refers to the alleged attack on the Mukoni military camp on the night of 23-24 January 2017, which triggered or served as a pretext for organizing a repression of Tutsi soldiers from the former "ex-FAB" army "Including executions, cruel, inhuman and degrading treatment and a wave of arbitrary arrests across military camps throughout the country. The soldiers arrested in connection with this attack were subjected to an expeditious justice. Only three days after the alleged attack, seven soldiers, one policeman and ten civilians were sentenced to up to 30 years' imprisonment.

The deterioration of human rights in Burundi also affects Burundians who have sought refuge in the Democratic Republic of Congo (DRC) and Rwandans residing in Burundi. We can only recall the irregular extradition of many Burundians from the DRC. It was also noted the irregular expulsion of many Rwandans from Burundi.

The situation of impunity in Burundi is aggravated by the lack of independence of Burundian justice and other institutions of the country dedicated to the protection of human rights. Another concern is the numerous human rights violations in overcrowded prisons, with an occupancy rate of about 240%, and a constantly higher number of prisoners than convicted.

2. Violations of human rights: the use of terror to hinder any dissenting voice

The violations observed can be classified into two main categories: one deals with assassinations and extrajudicial killings and the other relates to arbitrary arrests, kidnappings and forced disappearances. The observation is that violence has become the daily lot of Burundians since the outbreak of the crisis in April 2015, and the culture of impunity has been consolidated. The climate of impunity in the country favors a greater number of crimes and is a factor that aggravates human rights violations in the country.

Most often, crimes are committed by members of the law enforcement agencies, or the Imbonerakure militias. Generally, when the victims are suspected or accused of being part of the opposition, the perpetrators of the crimes enjoy total impunity. In these cases, as soon as the bodies of the victims are discovered, the administration hastened to bury them without identifying them.

One of the greatest sources of concern about human rights violations is the systematic arrests and executions of Tutsi ex FAB soldiers by the SNR or other elements of the police, supported by the militia Imbonerakure. This trend can lead to a serious crisis. The case of the Muyinga camp attack is emblematic of the violent repression experienced by former Tutsi FABs.

During this first quarter, about 80 murders were recorded by SOS-Torture. A report always underestimated because certain deaths are not known or are not brought to the knowledge of SOS-Torture.

The second category of violations listed here is arbitrary arrests, torture and forced disappearances. Arbitrary arrests are mainly carried out by the national police and the SNR and target real or supposed political opponents, also composed of people residing in protesting quarters and regions, military and police officers from the former army (ex-FAB), and more the FNL militants, faithful to Agathon Rwaso. It is extremely worrying that the Imbonerakure militia arrogates to itself the prerogatives of the forces of law and order, and acts with the police and the administration at the same time or by supplanting them. These militiamen who squabble the whole country engage in all sorts of abuses against civilians, arresting, torturing, and even killing people they arrest.

The known record during this first quarter amounts to about 241 arbitrary arrests. This records is well below the reality, due to undocumented or undisclosed cases.

2.1. Assassinations, extrajudicial executions and forced disappearances

A little more than 80 cases of assassinations were documented during this quarter. In most cases, dead bodies are found and the killers have not been identified, enjoying total impunity. Then the administration hastened to bury the bodies without identifying them. One of the objectives of the documentation work of SOS-Torture is to allow one day the circumstances of the death of the various victims listed to be known.

The context of violence and impunity that characterizes the country is the breeding ground for a variety of criminals by its authors, almost always unidentified, as well as the methods and weapons used. In a few cases of murder, the perpetrators used white weapons, especially machetes, in other cases, grenades, and in the majority of cases, they are firearmed. The authors and motives are often unknown, except in cases where the profile of the victim may suggest that it is a political crime, as in the case of the murder of Mr. Emmanuel Niyonkuru, who was Minister of Water, Environment and Urbanism, killed on 1 January 2017. Mr. Emmanuel Niyonkuru was killed at point-blank range while returning to his home.

In another case of assassination, where political motives may be assumed, an armed group assassinated three persons in the Jimbi locality, Kavumu hill, Kanyosha commune in Bujumbura province on the evening of 14 January 2017. The victims are Serge



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Mpawenimana, Vincent and a young child. Both adults were known as members of the imbonerakure militia. According to the witnesses, the attackers wore uniforms similar to those of the Burundian police.

Another trend that emerges is when people are killed, and their bodies tied up are abandoned, on land or in waterways. In almost all cases, the administrative authorities hasten to bury them without any identification. More than thirty bodies were discovered under these conditions. One of the emblematic cases is that between six and eight bodies were found at Ruziba in Muha commune (south of Bujumbura) on 7 January 2017. The local administration immediately ordered the bodies to be buried without identification, making any further investigation difficult. No explanation was given by the administrative officials about the circumstances of the death of these people (see **SOS-Torture Burundi report No. 36: <http://sostortureburundi.org/wp-content/uploads/2016/10/SOS -TORTURE-BURUNDI-REPORT-N% C2% B036.pdf>**). In another case, the bodies of two unidentified men were discovered floating on Lake Tanganyika, not far from the banks, near the Kibenga Quarter, Kinindo Zone, Muha commune (south of Bujumbura), on 27 January 2017. The local administration said they were fishermen killed by hippos. No medical examination was carried out and the bodies of the victims were transferred to Gatumba, their supposed place of origin.

The activity of an armed group in the north-west of the capital, Bujumbura, on the border with the DRC, is the cause of numerous and frequent violations of the right to life. In this area, armed groups routinely make incursions into which people are taken hostage and taken away by the rebels. These groups steal and kill, in a targeted way. By way of example, an armed group attacked the area of Warubondo, Gatumba Zone, Mutimbuzi commune, Bujumbura province, on 15 March 2017, in the evening. These unidentified men shot dead Elias Nyandwi and a man named Jimmy. According to witnesses, the two victims were members of the Imbonerakure militia of the ruling CNDD-FDD party in Gatumba.

Moreover, as in many situations of political violence, a number of assassinations are committed by security and law enforcement officials. Among the cases reported, the most emblematic is that attributed to agents of the National Intelligence Service of Rutana. They executed Mr. Zachée Niyomwungere in Bukemba commune, Rutana province (southeast of the country), on 14 March 2017. The victim was a teacher at the basic school in Bukemba. He also worked as an informant of the SNR in this province. Witnesses reported that he was arrested on 9 March 2017 by the SNR officer in Rutana, Mr. Jovin Cishahayo, and then illegally detained at his home. Mr. Niyomwungere was tortured for days in this house by order of the provincial SNR officer. This person was never worried about these facts. In

addition, according to the information gathered, the alleged perpetrator of this crime would be a recidivist (see **SOS-Torture Burundi Report No. 55**: [http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture -Burundi-55-version-francaise.pdf](http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-55-version-francaise.pdf)).

The militia, who frequently arrogate to themselves the prerogatives of policing, commit atrocities, including crimes, as in the case where they arrested and lynched two suspected thieves on the Rangî hill, Bisinde zone Ruyigi Commune and province Ruyigi on 26 February 2017. The victims are Ramadhan and Nestor Manirakiza, accused of stealing a radio receiver and a mattress. Witnesses testified that the two men were arrested in possession of both objects. They were then tied up and beaten before being taken to Rangî. The two men continued to be beaten until death followed, while the place of execution was located at 3 kilometers from a police station. The perpetrators of this crime still enjoy total impunity.

The repression against members of the Tutsi ethnic group is also of great concern. It represents a trend in human rights violations. During this quarter, the alleged attack on Mukoni camp near Muyinga on the night of 23-24 January 2017 was used as a pretext for the extrajudicial execution of several soldiers and civilians. Given the extent of the violations that have taken place in the wake of this attack, the case will be developed separately.

Finally, violations of the right to life are also caused by weapons held by civilians as a result of their mishandling. In both cases, it was mainly children who lost their lives by manipulating grenades belonging to their parents.

2.2. Arbitrary arrest, kidnapping and forced disappearance: the omnipotence of the SNR

In view of the high number of arrests and their character, it is clear that in Burundi, arbitrary arrest and detention have become commonplace. This contradicts statements by the highest authorities that peace and security prevail throughout the country. Another proof, if need be, was that most arrests were made by police agents and SNR for various pretexts, their common denominator being the political character. The aggravating factor is that these arrests are sometimes carried out with the assistance of militiamen Imbonerakure. In some cases, they act alone, often with unprecedented brutality, leading to death. Every time the militiamen are present, the victims of arrests are subjected to inhuman and degrading treatment, often beaten or tied up.

Generally, arrests are politically motivated. During this first quarter of 2017, the FNL militants, the branch of Agathon Rwaswa, were the most targeted, throughout the territory. By way of illustration, agents of the National Intelligence Service arrested five (5) persons in the Jimbi locality, Kavumu hill, Muyira zone, Kanyosha commune in Bujumbura province, on 15 January 2017. The arrested persons are Thierry Duhabonimana, Kigoma, Diomede, Yves and another young man nicknamed 'Master'. According to information received, the young men arrested were all militants of the FNL (National Liberation Front) party, led by Agathon Rwaswa, current deputy speaker of the National Assembly.

Previously, another similar arrest had been carried out in Murwi commune. The head of the National Intelligence Service in this commune in the north-western province of Cibitoke arrested Felix Nzeyimana and Jean Petit Miburo in Bukirasazi zone of Murwi commune on 28 December 2016. These two men, Militants of the FNL pro-Agathon Rwaswa opposition party, were trapped, by invitation to share a drink with friends. An SNR vehicle, registered I6392A, was waiting for them and immediately shipped them to an unknown destination. Subsequently, the Murwi SNR official denied his involvement in the arrest.

Among the most targeted categories are persons accused of opposing the third term of Pierre Nkurunziza. For example, in Musaga, where these cases are frequent, a National Intelligence Service agent known as Joe Dassin arrested Faustin Ntahuga nicknamed "Mustafa" at 3rd Avenue in the Musaga zone (southern Bujumbura) on 3 January 2017. Witnesses indicated that he was forcibly taken into a civilian vehicle, he was leaving a mosque. According to the information gathered, the concerned person was accused by the SNR of having participated in the demonstrations against the third term of President Pierre Nkurunziza. But this does not constitute an offense under Burundian law. This form of arbitrary arrest is part of the methods of terror used by the security forces to silence any discordant voice.

Arbitrary arrests by the police and the SNR also target young people, the only accusation of "wanting to join the armed groups" or to supply them. In most cases, these arrests occur mostly in the north-west of the country, in the localities near Gatumba or in the province of Cibitoke. In Ndora, for example, agents of the National Intelligence Service arrested four young men, Bukinyana commune, Cibitoke province (north-western part of the country), on 10 March 2017. Those arrested were Claude Cizanye, Jean Pierre Tunga, Boniface Hakizimana and Frédéric Nyabenda. The four young men from Rango commune in Kayanza province (neighboring Cibitoke province in the north of the country) were tied up and then boarded in the SNR vehicle, plate number C 6392 A. They were accused of participating in armed groups. Generally, this type of charge is used to justify arbitrary arrests.



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The constantly targeted group is Tutsi, retired or still active. Active military personnel, either from peacekeeping missions or from garrisons, are arrested on the margins of the law by SNR agents who do not have the prerogatives to do so. Arrested persons face a very high risk of arbitrary detention, torture and extrajudicial executions. Thus, while the SNR does not have the prerogatives to arrest an active soldier, its agents arrested Major Elie Niyonkuru, an officer of the Burundian army, at his home in Kajiji quarter, Kanyosha zone, Muha commune (south of Bujumbura), on 12 January 2017. No reason for the arrest was provided. Major Niyonkuru was assigned to the Burundian peacekeeping mission in Somalia (AMISOM) and was on special leave following the deaths of his mother and sister. The major was released the next day after one night in the SNR cell. He was accused of attacking the internal security of the state, and he was released for lack of evidence.

Another milestone in the arrests is linked to tensions between Burundi and Rwanda. Regularly, people returning from Rwanda, especially young people, are taken from transport buses or arrested at their homes, and taken to unknown destinations. There have also been cases in which persons leaving for Rwanda are arrested and taken into custody without any other reason for their arrests than their destination.

In this context, on 30 January 2017, police agents arrested Nelson Manishimwe in Musaga zone (south of Bujumbura). This young man was arrested on the grounds that he had just returned from Rwanda (neighboring country) a few weeks before. Police officers also arrested at least thirty-five (35) Rwandan nationals in Mabayi commune, Cibitoke province (north-west of the country) bordering Rwanda, on 28 February and 1 March 2017. According to The witnesses, Imbonerakure militiamen of the ruling party, supported police agents during this operation. No arrest warrant was presented to those arrested, all accused of collaborating with the Rwandan authorities.

The arbitrariness erected more and more in orders shows that Burundi is sinking into a state of emergency, contrary to the declarations of normality by the highest authorities of the country. Yet these arrests are most often carried out by police agents about 50% of cases and 30% by the SNR, in an arbitrary manner, without a warrant.

Another sign of the arbitrary nature and seriousness of the human rights situation in the country is that arrests are also being carried out by militia members of the ruling party with full complicity with the administration and the police. Several cases of this kind have been reported during this quarter. Two examples are given here, by way of illustration.

In the Bweru commune of Ruyigi province, Imbonerakure militiamen arrested Pascal Foke and Kanamba on Bigombo Hill on 6 March 2017. The militiamen accused the two men of stealing the flag of the ruling party CNDD-FDD. According to eyewitnesses, the militiamen tied up the two men and then led them to the police cell. The two arrested men are activists of FNL party pro-Agathon Rwaswa. Instead of releasing them after their arbitrary and illegal arrest, Bweru police agents instead assisted the militias in their attempts to extort confessions from them.

A second incident took place on Kiramira hill, Rugombo commune, in the north-western province of Cibitoke, on 24 March 2017. Imbonerakure militiamen arrested Ferdinand Ndihondi and Jacques Nizeyimana, both members of the FNL of Agathon Rwaswa. According to the witnesses, the two arrested men were taken to the Kiramira detention cell, before a vehicle of the SNR provincial officer, registered D 6392 A, took them without warrant to the center of the Kiramira zone, Cibitoke Province.

2.2. Arrests and round-ups after the attack on Mukoni Military Camp: the overwhelming will to destroy the "ex-FAB" soldiers

The attack on the military camp of Mukoni resulted in a wave of arrests of active soldiers, originating only from the former Burundian army "Forces Armées Burundaises ex-FAB". In the aftermath of the Mukoni military camp attack, police agents and members of the army arrested six (6) persons in Muyinga commune, Muyinga province (northern part of the country) on 24 January 2017. This Arrived just some hours after the attack on Mukoni military camp near the town of Muyinga province. Those arrested included Ndabambarire, Eric and Ferdinand, all of whom were civilians who lived in the Mutaho displaced camp in the Gitega province, center of the country.

The other persons arrested a few hours after the attack are active soldiers. This is Master Corporal Fulgence Ndayikengurutse, who was assigned to the Mukoni military camp and a former member of the Special Brigade for the Protection of Institutions (BSPI), where he served as the driver of the Brigade commander. On January 25, 2017, it was the turn of Warrant Officers Nzojiyobiri and Harerimana to be arrested. They were also based at the Mukoni camp.

Military officers also arrested Master Corporal Richard Nkurunziza, who was posted to the Gitega 22nd Armored Battalion on January 24, 2017, at his position in Nyanzari, in Gitega province. He was taken to Muyinga the next day. He was accused of being involved in the attack on the Mukoni military camp. This soldier is also a former Burundi Armed Forces (ex-FAB).

Another arrested soldier is Master Corporal Amedee Niyukuri. He was stationed in Ngozi (northern part of the country) at his workplace on January 25, 2017. Like his comrades

chased during the week, he is from the former Burundian Armed Forces (FAB). On the same day, soldiers arrested Warrant Officer Ildephonse Nimubona at the Mutukura military camp in Cankuzo province.

Apart from the fact that the arrests were illegal, the defendants had no right to defend themselves. According to eyewitnesses, one of the defendants, Master Corporal Fulgence Ndayikengurutse, was tortured by the head of the intelligence service in Muyinga province, so that he could not sit or stand during the public hearing following the famous procedure of flagrante at the Muyinga Intermediate Court. He was lying on his stomach on the floor. He vainly asked the judges for medical and judicial assistance. Witnesses said that as a relief, a bucket was brought when Corporal Fulgence Ndayikengurutse began to vomit blood in the courtroom.

- 2.2. Atrociously suffering, Corporal Fulgence Ndayikengurutse implored the president of the siege to adjourn the trial on account of his state of health. He first asked for access to care in a hospital, because until then he had only had basic care provided by the prison dispensary.
- 2.3. Instead of demanding that the torturers of Corporal Fulgence Ndayikengurutse and his co-defendants be confounded, arrested and brought to justice, the judges of the Muyinga Intermediate Court closed their eyes to this inhuman and degrading treatment and decided to condemn the defendants without evidence of their participation in this supposed attack, nevertheless denied by the spokesman of the Burundian army.
- 2.4. The Intermediate court of Muyinga could not have the defendants appear in such state of health and without the assistance of a lawyer when the offense for which they are prosecuted is punished by at least twenty (20) years of imprisonment (Article 210 of the Code of Criminal Procedure of Burundi). In doing so the Court of First Instance, sowed serious doubts about his ability to say law, in complete independence.
- 2.5. More and more, this famous procedure of flagrante delicto, is often used to systematically violate the basic rights for a fair trial. Moreover, this flagrancy is contested because certain defendants were arrested in different localities (communes and provinces).
- 2.6. Many concerns are related to the health status of the convicted, including Master Corporal Fulgence Ndayikengurutse, and this situation is worsening in detention, far from any medical assistance.
- 2.7. Master Corporal Eric Ndagijimana (reg. 41953), arrested for the same case, on January 24, 2017, while in his barracks at the 221st Gitega Commando Battalion, was also tortured. After his arrest, he was sent to Muyinga to be expeditiously tried as the others, then transferred to the Mpimba prison in Bujumbura. This soldier was tortured, so much so that the body tissues at the back have been cut. Immediately afterwards, the victim could not sit down and had to remain in a position lying at the prison dispensary.
- 2.8. In total, at least thirteen (13) military arrests were made between 24 and 26 January 2017. The army must indicate where these soldiers are, their state of health and the charges against them. There are fears that the missing military personnel were subjected to extrajudicial executions, as was the case for Warrant Officer François Nkurunziza, who was found with two other unidentified persons near the Mukoni military camp, on 25 January 2017, when he was arrested by several witnesses (see SOS-Torture Burundi Report No. 59).

The total inertia and even complicity of the Muyinga public prosecutor's office and the prosecutor's office of the Republic of Burundi in the face of these extrajudicial executions and acts of torture is an argument in favor of an international investigation to establish the responsibilities in this case and in many others. The responsibility of the Burundian State is fully engaged in this case.

2.15. Torture, inhuman and degrading treatment: militias at work

These are cases of torture, inhuman and degrading treatment inflicted by administrative officials, police agents and especially Imbonerakure militiamen. As has been observed on many occasions, the latter assume the prerogatives of the police, with the complicity administrative officials, but sometimes by substituting themselves to them to commit abuses.

In the first case, the communal administrator of Gisuru, in the province of Ruyigi (East of the country), accompanied by the chief of police station of the commune, the judicial police officer (OPJ) of Gisuru, and militiamen, used its powers to suspend a peaceful meeting held in accordance with the law, led by a deputy from the Amizero y'Abarundi coalition and member of the FNL opposition party on 19 February 2017. The Imbonerakure militiamen who accompanied the Administrator beat violently the FNL militants present in the meeting.

In the few cases of cruel, inhuman and degrading treatment listed here, those committed by the Imbonerakure militias are the most numerous. Four incidents were reported, one of which occurred in Cibitoke province in the northwest and three in Ruyigi province in the east of the country.

On March 2, 2017, Jean Pierre Kwizera in Mparambo II zone, Rugombo commune, in the north-western province of Cibitoke, was struck by militias accused of stealing a bicycle. Instead of being handed over to the police, the militias replaced the judicial authorities.

In the province of Ruyigi, three incidents involving the Imbonerakure occurred.

On February 25, 2017, Emmanuel Sinzinkayo, a mechanic was having a drink in a bar. According to witnesses, the Chief of Muriza zone, Butaganzwa commune, also present, ordered Sinzinkayo to pour his drink on the ground. What he refused. The Chief zone then ordered the militias present to punish him. This was done with great zeal. It is the victim, in a critical condition, who was imprisoned in the police cell, to be released the next day, without justice being restored.

On 4 March 2017, Imbonerakure militiamen tortured and almost killed Nibogora a girl on the Ruharo sub-hill, Muhwazi zone, Nyabitsinda commune, Ruyigi province (East of the country). After being arrested by militiamen, the girl was tied up and hung on a tree and beaten with clubs. She was accused of stealing money. Since the girl is in critical condition, and remains paralyzed, her body fully edematous. The police did not make any arrests, the two men remained free, while the victim was in serious condition.

On March 18, 2017, militiamen Imbonerakure defeated Séverin Niyonzima, in Nyabitare zone, Gisuru commune, Ruyigi province (East of the country). The victim is a former militant of the opposition party Movement for Solidarity and Democracy (MSD) who went to Gisuru that day to take part in community work, dressed with a CNDD-FDD party. The militiamen Imbonerakure dragged him to the offices of the Gisuru commune, before beating him in front of the people who had come to take part in this work, and then undress him completely.

2.15. Forced evictions

Police agents ordered the demolition of the makeshift shelters of more than 260 carama homeless households in the Kinama zone of northern Bujumbura on 29 December 2016. The police ordered the families to destroy their own children Shelters. No reason was given, as the police simply ordered those evicted from the camp to board chartered trucks to be returned to their home provinces.

The procedure used to move these families was rushed. The administration did not prepare the reception areas where these families had to be relocated because they had just left the localities due to lack of housing. More than eight hundred (800) persons were involved in this expeditious expulsion.

Another similar case occurred to 500 families forcibly evicted from their households by soldiers on the Kagaragara hill, Buringa zone, Gihanga commune, Bubanza province in the west of the country, before the Ombudsman rehabilitated them a few days after their expulsion (see **SOS-Torture Burundi report No. 54:** <http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-ume%CC%81ro-543.pdf>).

In less than two months, on February 20, 2017, the administration of Bubanza province (west of the country) again forcibly evicted more than two thousand (2000) persons in five hundred (500) households. These persons had their land property in Kagaragara, in Buringa

zone, Gihanga commune. These persons claimed that they occupied these properties at the entrance to the Rukoko Natural Reserve for several years. Many of them claimed to have inherited them from their ancestors.

The first expulsion took place on December 18, 2016 (cf report No. 54 of SOS-Torture Burundi:<http://sostortureburundi.over-blog.com/2016/12/rapport-n-54-de-sos-torture/Burundi-published-the-24-December-2016.html>). As for the first time, this decision to dislodge so many families composed of men, women and many children, was rushed. The administration had not previously prepared another reception area for these families. It is an inhuman treatment that does not take into account the vulnerability of these inhabitants, especially children.

3. Situation carcérale : une capacité d'accueil doublement dépassé, des conditions de détention infrahumaines

« I have never seen human beings living under such condition ¹ (J Nelson Mandela at Mpimba Central Prison, 14 June 2000)»

The current prison situation could be worse than that described at the time by Nelson Mandela. It has worsened since the outbreak of the crisis in April 2015. Since detention has become the rule, the number of arbitrary detentions has increased considerably and the prison population has exceeded more than twice the Burundi prisons capacity. With all the consequences, in terms of living conditions of the detainees. In addition to arbitrary arrests, this situation is aggravated by the serious overruns of pre-trial detention and other violations of the rights of persons deprived of their liberty.

At the end of 2016, the number of detainees was 10,051, including 5,067 suspected and 4,869 convicted 108 minors and 73 babies kept with their mothers. With an accommodation capacity of only 4194, the occupancy rate was therefore about 240%, which implies extreme promiscuity, leading to inhumane living conditions.

The superiority of the number of detainees compared to convicts is another sign of the high level of arbitrary arrests, which are also regularly recorded. The Minister of Public Security announced in his annual report on 21 December 2016 that more than 7,000 persons had been arrested in 2016 only.

¹ About Nelson Mandela, after his visit to Mpimba prison, June 14, 2000, <http://reliefweb/report/burundi/negotiations-mandela-quitte-le-burundi-sans-résoudre-le-problème-des-prisons>.

It is important to note that the official number of prisoners in the country's prisons reflects only the number of official prisons. It does not include persons detained in police cells and the National Intelligence Service, not to mention those held in unofficial places of detention.

3.1. Release of prisoners as a measure of grace and slight reduction in the number of prisoners

The presidential pardon by the end of 2016 was intended to allow the release of about 2,500 detainees, benefiting only prisoners already sentenced to a sentence not exceeding five (5) years. Some political prisoners have also benefited from this presidential pardon, including 58 activists from the MSD (Movement for Solidarity and Democracy), who have been detained for nearly three years. Protesters opposed to the third term of Burundian President Pierre Nkurunziza in April and May 2015 are also affected by the measure. Hundreds of other opposition political detainees were to remain in custody, however, while their cases did not come before the courts.

As a result of this measure, on 10 February 2017, the prison population in Burundi has risen to 8,751 prisoners, to which are added 62 infants kept in prison with their mothers. Burundi does not have appropriate centers to accommodate these babies victims of the situation of their mothers. There is therefore a decrease compared to the situation prevailing on December 30, 2016. Despite this decrease, the prison situation remains worrying, with an occupancy rate that is still more than twice the capacity. of these 8,751 prisoners, 5,352 are in preventive detention and 3,399 convicted.

3.2. Detainees pardoned but held in custody

Among the prisoners who were to receive the presidential pardon were political prisoners, including 58 militants of the Movement for Solidarity and Democracy (MSD), detained following the demonstration on 8 March 2014 and some anti-third-party protesters arrested in April -May 2015.

Despite the implementation of the decree, by the end of January, some of the detainees eligible for this measure remained in custody, including eight (8) activists from the MSD party. The commission of the Ministry of Justice responsible for implementing the decree asked the persons concerned to appeal, but the latter did not give anything. He was confronted with the silence of the Committee, unable to explain to the applicants the reasons for this selective application.

3.3. Overall prison situation in Burundi in mid-March

In mid-March 2017, the prison population increased from 8,751 inmates to 8,683 inmates, a reduction of 68 inmates. Despite this slight decrease, the prison population remained very high, representing slightly more than double the carrying capacity. Moreover, the releases carried out within the framework of the presidential pardon, increased the ratio between the defendants and the convicts, ie 5,780 defendants (including 25 minors) for 2,903 convicted persons (including 36 minors). The high number of defendants can be explained by the sustained pace of arbitrary arrests and by the slowness of the judicial process.

Prison Situation Mid-March 2016:

Prisons	Accommodation Capacity	Number of detainees	Preventive detainees		Convicted		Preventive Minor detainees		Minors convicted		Infants		Occupancy Rate (%)
			M	W	M	W	B	G	B	G	B	G	
BUBANZA	100	353	199	11	134	9					3	5	90.40
BURURI	250	226	145	3	68	10					1	1	218.00
GITEGA	400	872	498	32	327	15					2	3	390.00
MPIMBA	800	3120	2485	82	512	41					9	6	521.00
MURAMVYA	100	521	314	13	186	8						3	127.67
MUYINGA	300	383	148	6	217	12					1	2	43.20
NGOZI (F)	250	108		24		78		4		2	1	9	267.50
NGOZI (H)	400	1070	523		547								159.75
RUMONGE	800	1278	945	6	313	14					1	1	66.29
RUTANA	350	232	96	3	123	10							155.00
RUYIGI	300	465	216	6	228	15							36.11
RUYIGI CENTER	72	26			134	9	9		1	7			40.28
RUMONGE CENTER	72	29			68	10	12		1	7			207.03
PARTIAL TOTAL	4194	8693	5569	186	2655	212	21	4	3	2	28	30	
TOTAL			5755		2867		25		36		58		



SOS – Torture/Burundi

Monitoring sur les cas de torture, les arrestations arbitraires, les disparitions forcées et les exécutions sommaires au Burundi

4. Transitional justice and the administration of justice: manipulation and politicization

4.1. Discovery of a mass grave in Mwaro

On 10 January 2017, human remains were discovered and unearthed on a site for the construction of a trades school on the Gasenyi hill in the Makamba zone of the Rusaka commune, Mwaro province (centre of the country). These are the bones of at least six persons judging by the number of skulls, which would date from several years.

Following this discovery, the Truth and Reconciliation Commission took responsibility for the management of the site to bury the remains and to try to determine the circumstances in which these persons were killed and buried in a mass grave. The TRC has expressed its willingness to continue its work, despite the political and security context in Burundi. Recent activities to unearth the remains of four mass graves in Mwaro province and the speech of the executive secretary of the commission announcing the continuation of activities of this kind throughout the country demonstrates to a sufficient extent the commitment of this commission to continue its work despite the current context. Everything indicates that it is not conducive to a proper process of truth and reconciliation as recommended by the population and according to the rules currently recognized in this field. It is clear that in the present circumstances such investigations are impossible or biased.

As a reminder, the establishment of the Truth and Reconciliation Commission (TRC) encountered several obstacles, notably the absence of a constructive consensus since the adoption of the law governing this commission until the election of its members. Today the independence of the commissioners is compromised. The reasons for this are, among other things, the absence of members of civil society, the lack of financial autonomy and the dominance of this commission by the members of the ruling party CNDD-FDD. This situation may lead to results desired by the authorities, but which will not correspond to the truth and therefore can not promote reconciliation.

3.1. Four lawyers, defenders of human rights, banned from the bar: an over-instrumentalization of justice

The Bujumbura Court of Appeal handed down its judgment in connection with the request to strike four Burundian lawyers Armel Niyongere, Vital Nshimirimana, Dieudonné Bashirahishize and Lambert Nigarura.

According to the information released on 16 January 2017 by Agnès Bangiricenge, spokesman for the Supreme Court of Burundi, Counsel Armel NIYONGERE, Vital

NSHIMIRIMANA and Dieudonné BASHIRAHISHIZE were delisted from the Burundian lawyers' list while Lambert Nigarura was suspended for a period of a year with prohibition from serving on the Bar Council for a period of five (5) years.

This judgment fell at a time when the Prosecutor was unable to specify the charges against each lawyer at the public hearing and the court's refusal to allow the defendants to be represented by the lawyers of their choice. This decision was therefore not substantiated either verbally or in writing, which necessarily constitutes a serious violation of the principle of the right to be heard, as enshrined in the laws, in this case the Constitution of the Republic of Burundi. Article 14, paragraph 3, the Universal Declaration of Human Rights, especially Article 10, the International Covenant on Civil and Political Rights, Article 14, the African Charter on Human and Peoples' Article 7 and many others.

This decision of the Court of Appeal demonstrates to what level Burundian justice is instrumentalized and has become a tool of repression against all those who are fighting for the respect of human dignity and democratic values in Burundi.

3.2. Obstruction of justice

The judges of the High Court of Muyinga (north of the country) have decided to release nine detainees arrested since 25 June 2015. They were prosecuted for 'mercenarism' by the Muyinga prosecutor's office in case RMP 15181 / N.J. RP 9299.

After the acquittal of these detainees by a judgment of the Muyinga High Court, the Prosecutor of the Republic in Muyinga, Ciza Patrice refused to apply the judgment, deciding instead to transfer them from Muyinga to the prison of Ngozi, On the grounds that he had appealed against the decision of the judges. The detainees were: Alexander Sindayikengera, Shabani Nshimirimana, Isaiah Nsengiyumva, Saidi Ndayihanzamaso, Gérard Sinibagiye, Radjabu Nduwayezu, Nestor Nduwimana, Esawu Ndayishimiye and Egide Nduwayo.

This refusal by the public prosecutor of Muyinga constitutes a flagrant and serious violation of the law, and in particular article 203 of the Code of Criminal Procedure, which provides that "An accused who is in preventive detention and acquitted or sentenced to a simple fine, shall be released immediately, notwithstanding an appeal, unless he is detained for any other cause. "

The violation of this legal provision by the public prosecutor of Muyinga shows to what extent Burundian justice is no longer able to reassure and protect litigants.

3.1. Victims of arbitrary arrests released due to lack of evidence

Ten persons arrested on 2 October 2016 in the Mutakura quarter, Buterere zone of Ntakangwa commune in southern Bujumbura were released on 13 February 2017 from the Mpimba central prison where they were arbitrarily arrested. They were arrested while attending a meeting of a prayer cell in a house on 9th Avenue (see **SOS-Torture Burundi Report No. 43**: <http://sostortureburundi.org/wp-content/uploads/2016/10/SOS-TORTURE-BURUNDI-RAPPORT-N%C2%B043.pdf>).

All these ten persons were released after more than four months of arbitrary and irregular detention, accused of attacking the internal security of the State. These are Nimubona Pierre, nicknamed 'Karikurubu', Ruvugana Josée (F), Yamuremye Oswald, Ndayishimiye Thomas, Ndikumana Selemani, Nyandwi Jean Marie, Migeru Polycarpe, Yombere Deo, Ndayizigiye Dionese and the Maria radio journalist Salvator Nahimana.

Also two persons arrested on January 30, 2017 on the hill Burambana, in the commune and province Muramvya (center of the country). Stany Ndayisaba and Patrick Nduwimana were released on 10 February 2017, after more than a week in the custody of Muramvya commune. They were accused of having had a dispute with a young affiliate of the Imbonerakure militia of the ruling party CNDD-FDD. Witnesses report that during the arrests, young militia accompanied police officers (see **SOS-Torture Burundi report No. 60**: <http://sostortureburundi.org/wp-content/uploads/2016/08/SOS-Torture-Burundi-nums%CC%81ro-60-en-Fr.pdf>).

3.2. Mpimba prison management refuses to enforce judicial decision

Mpimba prison in the Musaga zone (south of Bujumbura) has refused to release eight detainees who have been acquitted by the Mukaza intermediate Court since 3 February 2017. These detainees are Eric Bavugamenshi, Emmanuel Habarugira, Sadiki Nahimana, Dieudonné Niyonkuru, APC Tharcice Ndikumana (a policeman), Jean Flory Ndizeye, Nicaise Iradukunda and Carlos Kubwimana.

These eight persons were arrested in July 2016 in the town of Rumonge (south of the country) aboard a bus with dozens of others; And imprisoned for "illegal possession of weapons, participation in armed bands and interference with the internal security of the State". The judges of the Mukaza court did not find the charges convincing and ordered the acquittal of the eight men.

For more than a month and a half, the director of Mpimba prison, OPC2 Déogratias Bigirimana, refused to execute the decision of the judges, claiming to have received the order of the National Intelligence Service to maintain the eight (8) men in prison.

4. Promotion of human rights and fight against impunity

4.1. Downgrading of the Independent National Commission on Human Rights (CNIDH)

The Sub Committee on the Accreditation of National Human Rights Institutions decided to demote the Independent National Commission of Burundi "CNIDH Burundi" to status B for failing to honor its commitments to promote and protect human rights during the beginning of the violence related to the challenge of the third candidacy of Pierre Nkurunziza. The Burundi CNIDH was notified of this decision at the beginning of December 2016 and has a maximum period of one year to demonstrate that it complies with international principles, failing which the demotion will be effective.

4.2. Launching of a black list of judges and magistrates of the Public Prosecution Service who serve interests other than justice.

The SOS-Torture Burundi Organization has launched a campaign to identify judges and magistrates of prosecutors' offices who serve other interests than those of justice. The objective is to put them on a blacklist that will be used during the reform of the Burundian judiciary.

According to the relevant national and international texts, the magistrate must do justice in the respect of human rights. It is required to ensure that judicial proceedings are objective, impartial and fair

With this initiative, SOS-Torture will list all the judges and magistrates who no longer apply the law but obey the injunctions of the Executive to break the law. This list will be published on some sites. This initiative is a step in the fight against impunity and the prevention of human rights violations by law enforcement officials.

For those who wish to testify:

Please send your testimonials to the number whatsapp: +257 79 974 302

3.1. Lawyer's Collective for victims send their documents to the International Criminal Court.

On 17 February 2017, the lawyer's collective defending the families of victims of crimes against humanity and other criminal acts committed in BURUNDI, submitted their file containing hundreds of photographs, numerous unpublished documents, videos and testimonies as well as the Office of the Prosecutor of the International Criminal Court.

They also informed the Office of the Prosecutor that, as soon as the investigation opened by the Office of the Prosecutor, many witnesses are ready to testify before the investigators.

This collective is composed of the following lawyers: Alain Detheux, Armel Niyongere, Bernard Maingain and Lambert Nigarura.

4. Conclusions

Contrary to the declarations of the Burundian authorities affirming that peace and security prevail, the human rights situation is extremely worrying. In Burundi, arbitrary killings and arrests have become the daily lot of citizens. Terror is a state policy that aims to silence all dissenting ways. The National Intelligence Service arrogates to itself all the powers over the lives of the people, illegally. In this context, justice is instrumentalized to repress anything that seems to express a critical position vis-à-vis the power. This regime of terror relies on the Imbonerakure militiamen, which has become a formidable tool of repression. This militia has now acquired the prerogatives of the police, which it uses to arrest, kill, torture and terrorize real or supposed political opponents or simply in some cases for personal purposes.

The privileged targets of this permanent repression are persons perceived as a threat to the power in power. In the front line, the former army ex-FAB, still active or retired, mostly Tutsi. Then come the inhabitants of the protesting quarters, permanent targets of excavations, round-ups and arrests. Also, the FNL militants, Agathon Rwaswa's branch, are also increasingly victims of arbitrary arrests, harassment or even physical elimination.

In this context of serious violations of human rights, justice has become an instrument of repression of power, incapable of reassuring and protecting citizens. It obeys the injunctions of the SNR, sometimes imbonerakure, interposed. Human rights institutions have also failed seriously in their mission. It is within this framework that the CNIDH which has recently been demoted by the subcommittee on human rights.

There are many signs of the deterioration of the human rights situation. Ethnic tensions are constantly being accentuated by the highest authorities in the country. The risks of genocide are real and the situation can quickly degenerate if the international community does not

intervene quickly and effectively. As internal forces have become incapable of reversing the trend, it is important for the international community to ensure the implementation of the decisions and resolutions it has already taken with regard to Burundi within the framework of the responsibility to protect.

Human rights defenders remain committed to continuing their work of documenting and denouncing violations of human rights and the fight against impunity. The support of their work by international institutions for the protection of human rights and the fight against impunity is vital. In this regard, further investigations are necessary, through the Human Rights Committee, and the ICC. Such briefs should promptly lead to prosecution of serious human rights violations in Burundi, especially as Burundi has called for retribution

4. Recommandations

• To the Government of Burundi:

1. Immediately put an end to the regime of terror against dissenting voices, respecting the relevant provisions of the country's Constitution and the conventions that the country has ratified, with regard to the protection of human rights;
2. Conduct independent and thorough investigations to identify perpetrators of serious human rights violations;
3. Cooperate fully with national, regional and international human rights mechanisms, in particular the commissions of inquiry established by United Nations Human Rights Council resolution 33/24;
4. Waive the decision to withdraw from the ICC and suspend cooperation with the Office of the High Commissioner for Human Rights;
5. Cancel warrants of arrest against certain political and civil society figures;
6. 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;
7. Engage in an inclusive and genuine dialogue in order to find a lasting peaceful solution to the crisis in Burundi since April 2015.

• 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 ICC 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. To ensure the implementation of 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 United Nations Human Rights Council resolution 33/24 so that the Commission appointed for this purpose can carry out its mission in Burundi. Make it safe and free.