



“We flee when we see them”

Abuses with impunity at the National Intelligence Service in Burundi

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Map of Burundi



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I. Summary

In the year to September 2006, Burundi's state intelligence agency, now called the National Intelligence Service (Service National de Renseignement, SNR) appears to have been responsible for the extrajudicial execution of at least 38 individuals, and has tortured and arbitrarily detained some 200 more. These serious abuses have been perpetrated largely with impunity.¹

A new government took office in August 2005 but its first year in power was marked by continued conflict with the last remaining active rebel group, the National Liberation Forces (Forces Nationales pour la Liberation, FNL). A harsh campaign to punish FNL supporters led to many civilians being mistreated by government forces, particularly agents of the SNR.

Current legislation grants SNR agents a vague and broad investigative mandate, and subordinates agents to two different authorities, the head of the SNR and the office of the Prosecutor. The head of the SNR reports directly to the president of Burundi.

The intelligence agents are known to be particularly brutal in carrying out their missions and to often act outside the law. There is no mechanism of external oversight by Parliament, and human rights monitors have only rarely been granted access to detainees inside of SNR detention facilities over the past year.

Recently, government authorities have arrested one SNR agent and an SNR associate on suspicion of having committed abuses in two particularly egregious cases in which investigations are reportedly underway. The SNR agent's arrest was in connection with the "disappearance" and presumed killing of some 30 people in July and August 2006. In the other case, five arrests were made for the execution of four men who were in state custody at the time of their deaths, and one of those arrested

¹ Since Human Rights Watch, local human rights organizations and the human rights monitors of the United Nations Operation in Burundi (ONUB) have not been given regular access to detention facilities of the intelligence service, this estimate is based on interviews with individuals who have been released from custody or who have been transferred to another detention facility, and on information gathered from detention registers at the SNR on one occasion.

was found to be carrying an affidavit of affiliation with the SNR. Much more action is needed to investigate and prosecute abuses.

Civilian prosecutors should seek to establish responsibility at all levels of the chain of command in any investigations involving SNR abuses. If convictions for charges of killings and torture are rendered by the Burundian court, compensation should also be awarded to the victims and their families as provided for by Burundian national and international human rights law.

Legislation regulating any intelligence service should clarify the specific powers of agents and subject the service to close supervision generally by the executive, and by judicial authorities during investigations, arrests and detentions, as well as to more intensive scrutiny by Parliament.

This report is based on field research carried out by Human Rights Watch researchers in Burundi from October 2005 to October 2006. Names of victims and witnesses have been withheld in the interests of their security.

II. Recommendations

To the Government of Burundi

- Promptly investigate SNR arrest and detention practices, including their compliance with Burundian and international human rights law, and prosecute all cases of serious violations by SNR agents, whatever their rank.
- Amend the law establishing the SNR to define its powers more clearly and increase judicial supervision over the activities of regular and irregular agents of the SNR.
- Create a standing parliamentary committee for security and intelligence affairs that will exercise civilian oversight over the SNR.
- Take all necessary measures—such as through public statements, training programs and disciplinary actions and criminal prosecution—to ensure that SNR agents act in accordance with Burundian law and international human rights law.
- Revise the criminal code to ensure that all acts of torture are offenses under the criminal law.
- Close SNR detention facilities. Transfer all those detained to a regularly constituted detention facility and have them brought before an independent tribunal to have the lawfulness of their detention reviewed.
- Until SNR detention facilities are shut down, allow officers of the Prosecutor's office, United Nations Operation in Burundi (ONUB) human rights officers, and representatives of human rights organizations access to them and to meet privately with all detainees.
- Ensure that the SNR does not distribute weapons to any civilians, including demobilized combatants.
- Institute a witness protection program to ensure that all witnesses and members of their families who testify in cases involving SNR agents are fully protected from harm and threats of harm. Discipline or prosecute as appropriate those officials implicated in threatening or harming witnesses and their families.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

To Donor Governments

- Urge the Burundian government to investigate fully the cases documented in this report, to report publicly on such investigations, to prosecute any agents of the SNR suspected of such crimes, and to ensure future compliance of SNR and other state agents with international human rights law.
- Urge the Burundian government to provide unhindered access to the detention facilities of the SNR for ONUB human rights officers and human rights groups.

To the United Nations Operation in Burundi

- Continue to investigate and denounce violations of international human rights law and Burundian national law by agents of the SNR, and to share results of investigations with relevant Burundian officials and make findings public.

To the UN Security Council

- Ensure that the mandate of the Human Rights Section of the future Integrated United Nations Mission for Burundi (Bureau Intégré des Nations Unies au Burundi, BINUB) includes investigating and monitoring violations of international human rights law.
- Ensure that BINUB has sufficient personnel and resources from the start of its mandate on January 1, 2007, to carry out effective monitoring of human rights violations.

III. Context

After more than a decade of civil war in Burundi, the largest rebel group, the National Council for the Defense of Democracy—Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie—Forces pour la défense de la démocratie, CNDD-FDD) won parliamentary and local administrative elections in 2005, and CNDD-FDD leader Pierre Nkurunziza ran unopposed in the indirect election for the presidency. Nkurunziza and others promised that his government would be committed to human rights.²

Nonetheless, since the elections members of the state security forces have been responsible for serious human rights violations, often while pursuing alleged combatants and supporters of the FNL, the one rebel group that was still fighting the government. Hundreds of civilians were arbitrarily arrested and detained, and some have been tortured and killed by police, military, and intelligence agents.³ Human rights groups and ONUB⁴ human rights monitors denounced these abuses as violating Burundian and international law.⁵

After months of discussions, the government and the FNL signed a ceasefire agreement on September 7, 2006. Although a comprehensive peace accord has not yet been signed and demobilization of FNL combatants lags behind schedule, Burundi is closer to peace than at any time in the past 13 years.

² “Burundi: President lays out new policy,” *IRINnews*, August 29, 2005, <http://www.irinnews.org/report.asp?ReportID=48797> (accessed October 9, 2006).

³ Human Rights Watch, *Burundi - Missteps at a Crucial Moment*, November 4, 2005, <http://hrw.org/backgrounder/africa/burundi1105/>; Human Rights Watch, *Warning Signs: Continuing Abuses in Burundi*, February 27, 2006, <http://hrw.org/reports/2006/burundio206/>.

⁴ The United Nations Operations in Burundi (ONUB) began activities on June 1, 2004, pursuant to UNSC resolution 1545. ONUB is mandated to monitor implementation and investigate violations of ceasefire agreements, provide security at disarmament assembly sites, collect and dispose of weapons, protect civilians under imminent threat of physical violence; to carry out institutional reforms as well as the constitution of the integrated national defence and internal security forces and, in particular, the training and monitoring of the police; and to complete implementation of the reform of the judiciary and correction system. United Nations Security Council, Resolution 1545 (2004), S/RES/1545 (2004), <http://daccessdds.un.org/doc/UNDOC/GEN/No4/359/89/PDF/No435989.pdf?OpenElement> (accessed October 18, 2006) paras. 5-7.

⁵ “Burundi: Iteka Denounces Rights Violations” *IRINnews*, October 21, 2005, <http://www.irinnews.org/report.asp?ReportID=49673> (accessed October 9, 2006).

The National Intelligence Service and rule of law

Since the new government took power in August 2005, the National Intelligence Service and its former incarnation the Documentation Nationale⁶ are documented as having committed torture and are strongly incriminated in having carried out extrajudicial executions, crimes for which those responsible have so far escaped punishment. One resident of the capital Bujumbura told a Human Rights Watch researcher,

The [SNR] agents make people afraid. The people don't support them. We run when we see them. . . . A lot of arrests happened without reason.⁷

In March 2006, President Nkurunziza signed two new laws governing the structure and personnel of the SNR that had been adopted in the January session of parliament.⁸ The new law on the functions of the SNR states that its mission is “research, centralization, and exploitation of all information of a political, security, economic, and social nature necessary for the government to act to guarantee the security of the state.”⁹ It mandates the SNR to investigate a broad range of unlawful acts, from terrorism to threats to the environment.¹⁰

The SNR is headed by a general administrator and a deputy general administrator; both have the rank of minister and are nominated by the president with the approval of the Senate.¹¹ The general administrator reports directly to the president, an

⁶ Previously the intelligence service was known as the Surêté Nationale, but was referred to informally as the Documentation Nationale. It was originally established by Décret no 100/90 de 14 juillet 1984 portant réorganisation et Fonctionnement de la Surêté Nationale and Décret no 100/91 du 14 juillet 1984 portant statut de Personnel de la Surêté Nationale.

⁷ Human Rights Watch interview, Bujumbura, August 30, 2006.

⁸ “Adoption de l'ordre du jour de la session extraordinaire de l'Assemblée nationale,” Agence Burundaise de Presse, January 18, 2006.

⁹ Loi No 104 du 2 mars 2006 portant creation, organisation et fonctionnement de service national de renseignement, art. 3: “Le Service National de Renseignement a pour mission la recherche, la centralisation, et l'exploitation de tous les renseignements d'ordre politique, sécuritaire, économique et social nécessaires à l'information et a l'orientation de l'action du Gouvernement en vue de garantir la sûreté de l'Etat.”

¹⁰ Ibid.

¹¹ Ibid., arts. 4 and 5.

arrangement that has led people to talk of the SNR as the “presidential police.”¹² Since the new government took office, Gen. Adolphe Nshimirimana, an FDD¹³ combatant during the war, has headed the Documentation Nationale and then the SNR from its inception in March. General Nshimirimana’s own security escort was implicated in extrajudicial executions and torture in 2005 and some victims reported that General Nshimirimana himself was present during interrogation sessions involving torture.¹⁴ Col. Leonidas Kiziba, the deputy administrator, was an officer of the Burundian army and was previously a military prosecutor.

SNR agents wear civilian clothes but are supposed to carry identity cards identifying them as SNR agents.¹⁵ In addition to regular staff, the SNR pays others, many of them former FDD combatants, who deliver information or provide other services on an occasional basis.¹⁶ On March 30, Colonel Kiziba, speaking on Radio National after a meeting in Kayanza with SNR agents from around the country and attended also by President Nkurunziza, was reported as saying that “crimes of which some agents are accused are mostly perpetrated by informants who are not themselves members of the service” (see also below).¹⁷

As part of the Arusha Accords (the power-sharing agreement between warring parties signed in 2000), government forces in Burundi are currently required to maintain strict ethnic balances. The National Police and the military cannot have more than 50 percent of their members drawn from any one ethnic group. This was included to remedy large ethnic imbalances that had been present in government forces and had contributed to instability in the past. However, the special status of the SNR is

¹² Ibid., art. 11. According to Article 117 of the Burundian constitution, the president himself is guaranteed immunity for all official acts except in case of high treason.

¹³ The FDD (*Forces pour la défense de la démocratie*) is the name of the armed rebel group which was a precursor to the current ruling political party, the CNDD-FDD.

¹⁴ Human Rights Watch, *Missteps at a Crucial Moment*, pp. 11-12; U.S. State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2005: Burundi,” March 8, 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61557.htm> (accessed September 28, 2006).

¹⁵ Loi No 1/05 du 2 mars 2006 portant du personnel du service national de renseignement, arts. 5-10. According to this new law on the personnel of the SNR, staff is ranked as inspector, officer and administrator, in ascending order of power.

¹⁶ Human Rights Watch, *Missteps at a Crucial Moment*, p. 11.

¹⁷ Radio-Télévision nationale du Burundi (in French), March 30, 2006, reproduced (in French and in English translation) in United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Morning News Brief, March 30, 2006, http://www.reliefweb.int/ochaburundi/am_brief/bur300306.htm (accessed September 29, 2006).

underlined by its exemption from the ethnic quotas. The Arusha Agreement stipulates that “[t]he composition of the intelligence service shall be such as to enable the service, given its special nature, to preserve the secrecy of its operations while allowing for control by the National Assembly.”¹⁸

Ambiguous powers and dual chain of command

The law establishing the SNR gives its agents vague powers to take all “legal measures necessary to accomplish their mission” of protecting state security, a scope that leaves wide latitude for action.¹⁹ It also charges them with “investigating legal cases and submitting them to the prosecutor for prosecution.”²⁰ SNR agents have the competences of Officers of the Judicial Police (Officiers de Police Judiciaire, OPJ)²¹ who also are charged with investigating crimes, submitting evidence to prosecutors, making arrests, and carrying out the warrants of the prosecutor.²²

OPJs, including SNR agents, are supposed to operate “judicially under the orders of the public prosecutor [ministère public]” in carrying out investigations and preparing criminal cases.²³ This arrangement creates a double chain of command: ordinary OPJs are subject to the police hierarchy (commissioner general of the Judicial Police, director general of the Police, and minister of interior) as well as to the prosecutor, while SNR agents are subject to the general administrator and the president, as well as to the prosecutor.

Lack of oversight

SNR agents have used the ambiguity inherent in this arrangement to operate with little control from the Prosecutor’s office, detaining persons as they wish. The

¹⁸ The Arusha Peace and Reconciliation Agreement for Burundi, http://www.usip.org/library/pa/burundi/pa_burundi_08282000_pr3ch2.html (accessed October 10, 2006), Protocol III, art. 14. The Parliament of Burundi is made up of two chambers, the National Assembly and the Senate.

¹⁹ Loi No 1/04 du 2 mars 2006 portant création, organisation et fonctionnement du service national de renseignement, art. 7.

²⁰ *Ibid.*, art. 8.

²¹ Loi No 1/05 du 2 mars 2006 portant du personnel du service national de renseignement, art. 13.

²² Loi No. 1/08 du 17 mars 2005 portant code de l’organisation et de la compétence judiciaires. arts. 142-147.

²³ Loi No. 1/020 du 31 decembre 2004 portant creation, organisation, missions, composition et fonctionnement de la police nationale, art. 31.

prosecutor of Bujumbura, who according to the law is charged with directing agents of the SNR for judicial matters, told a Human Rights Watch researcher that he rarely works with SNR agents; he said that he contacts them when an accused person whom he is seeking is very difficult to find.²⁴ Commenting on Burundi in March 2006 the UN secretary-general noted that “weaknesses in the command and control structure” of the intelligence services, as well as those of the military and police, contributed to the significant number of human rights violations and common crimes being committed.²⁵

In seeking possible solutions to the problem of oversight of the SNR, a Human Rights Watch researcher spoke to some members of the National Assembly. Deputy Jean Marie Ngendahayo, a member of the CNDD-FDD, agreed that a parliamentary committee on intelligence with oversight over the SNR could improve the situation. He noted that perhaps parliamentarians would be less likely to feel intimidated by the SNR than some judicial officials, and could ensure the support of the government to officers of the Prosecutor’s office during investigations.²⁶

Should a parliamentary committee on intelligence be established, it is crucial that it be comprised of various political parties, to ensure that the SNR serves the interests of all Burundians. Ending the abuses of the SNR will also require both amending the law to define their powers more clearly and increasing supervision over their activities, while allowing the judiciary the independence to carry out criminal investigations of SNR agents.

²⁴ Human Rights Watch interview with Prosecutor of Bujumbura Mairie Stanislas Nimpagaritse, September 29, 2006.

²⁵ United Nations Security Council, Sixth report of the Secretary-General on the United Nations Operation in Burundi, S/2006/163, March 14, 2006, <http://www.un.org/docs/sc/sgrepo6.htm> (accessed October 10, 2006).

²⁶ Human Rights Watch interview with Deputé Jean Marie Ngendahayo, September 27, 2006.

IV. Extrajudicial executions by the SNR

Intelligence agents are believed to have been involved in the killing or presumed killing of at least 38 people over the past year. There were at least three individuals killed in three separate incidents from November 2005 to March 2006, four people killed in Kinama in August 2006, and 31 people are currently missing and presumed dead in Muyinga with several bodies and body parts having been found in a local river.

The killing of Ramazani Nahimana²⁷

In early November 2005 agents of the Documentation Nationale (the SNR's former name—see above) arrested 16-year-old Ramazani Nahimana, a resident of Buhinyuza neighborhood of Kinama, Bujumbura. He was held for several days in the jail run by the Documentation Nationale. During the time of his detention, Nahimana was severely beaten, according to one witness who was also in detention at the time.²⁸ On November 23, local residents found Nahimana's body propped up against the outer wall of a house with several bullet wounds in the face and chest; there were at least four bullet holes in the wall of the house behind his body.²⁹ The official explanation provided by the military spokesman was that he had been shot while trying to flee, but evidence at the scene and witness testimony collected by Human Rights Watch did not fit that explanation.

Members of Nahimana's family report being intimidated by demobilized former FDD combatants working informally for the Documentation Nationale and as a result, they have not filed a complaint against the Documentation Nationale/SNR.³⁰ The prosecutor has the legal authority to initiate an investigation, even in the absence of a complaint,³¹ but he has not done so and there have been no arrests in the case.

²⁷ For more details of this case, see Human Rights Watch, *Warning Signs: Continuing Abuses in Burundi*, p. 4.

²⁸ Human Rights Watch interview, Bujumbura, December 16, 2005.

²⁹ Human Rights Watch interview, Bujumbura, December 9, 2005.

³⁰ Human Rights Watch interviews, Bujumbura, December 1, 2005, and September 26, 2006.

³¹ Loi No. 1/08 du 17 mars 2005 portant code de l'organisation et de la competence judiciaires, art. 134.

In response to a February 2006 Human Rights Watch report in which Nahimana's case was included, an aide to President Nkurunziza, Philippe Nzobonariba, confirmed to the Associated Press that there had been some isolated cases of human rights violations, torture and executions, but that they had been committed by undisciplined soldiers and police elements who would be prosecuted.³² He did not mention the role of Documentation Nationale agents in human rights violations, nor did he address Nahimana's killing.

The killing of Jean-Baptiste Ntahimpereye

On March 2, 2006, residents of Mutimbuzi commune, Bujumbura-rural province, found the naked body of Jean-Baptiste Ntahimpereye. According to witnesses, he appeared to have been strangled and there was a large head wound.³³ The day before, Ntahimpereye had been arrested by men in civilian clothes while he was transporting some materials to a school he was renovating.³⁴ According to several witnesses, he was taken to CNDD-FDD party headquarters where he was detained, in violation of the Burundian code of criminal procedure code which does not recognize political party headquarters as legitimate detention facilities.³⁵ The following day, when family members attempted to find him, the head of the local police post, known only as "Isaac," told them that Ntahimpereye had been summoned by General Nshimirimana to the SNR the night before.³⁶ At the SNR, family members were told that Ntahimpereye was not present. Family members spent the next day searching for Ntahimpereye until learning that a body likely to be his had been found. Family members identified his body at the morgue of Roi Khaled Hospital.³⁷

The case attracted attention in part because Ntahimpereye worked as a cook for an employee of the European Commission. On March 6, the head of the European Commission delegation in Burundi wrote to the minister of foreign affairs asking for an

³² "Burundi trying to stop torture, government says," Associated Press, February 28, 2006.

³³ Human Rights Watch interview, Bujumbura, March 16, 2006.

³⁴ Ibid.

³⁵ Ibid, and Human Rights Watch interviews, Bujumbura, March 9 and August 30, 2006.

³⁶ Human Rights Watch interview, Bujumbura, March 9, 2006.

³⁷ Ibid.

investigation.³⁸ On March 15, Minister of National Solidarity, Human Rights and Gender Françoise Ngendahayo condemned the killing of Ntahimpereye and said that the perpetrators would be brought to justice.³⁹ The family of Ntahimpereye filed a complaint with the prosecutor of the Tribunal de Grande Instance of Bujumbura⁴⁰ on April 13. A member of the prosecutor's staff told a Human Rights Watch researcher that police have not cooperated with the investigation: superior officers claimed not to be able to identify "Isaac" and phone numbers provided for him have failed to connect. On September 15 and 18, the prosecutor twice sent a summons addressed to this "Isaac" at the police post where Ntahimpereye has last been seen alive, but no one appeared in response.⁴¹ The SNR has denied ever having detained Ntahimpereye and none of its agents has been questioned.⁴² There have been no arrests in the case.

The killing of Raymond Nshimirimana

Raymond Nshimirimana,⁴³ a 21-year old student at the Lycée Municipal in Buterere commune, was killed in Mubone while coming home from school on March 26, 2006.⁴⁴ Witnesses stated that a toddler wandered into the street causing a large truck to slow down near where Nshimirimana and his friends were walking. The pickup truck, carrying over 20 men in civilian clothes, stopped. Some of the men carried firearms. After a brief exchange between Nshimirimana and the man in the passenger seat, a man with an AK-47 Kalashnikov assault rifle and another with a pistol got out of the truck. Nshimirimana began running away from the scene. One witness told a Human Rights Watch researcher,

³⁸ Note Verbale from the Chief of Delegation of the European Commission to the Minister of Foreign Affairs of Burundi. No 236/2006, March 6, 2006.

³⁹ Radio Publique Africaine (in French), March 15, 2006, reproduced (in French and in English translation) in OCHA Morning News Brief, March 15, 2006, http://www.reliefweb.int/ochaburundi/am_brief/bur150306.htm (accessed September 28, 2006).

⁴⁰ The Tribunal de Grande Instance (TGI) is the court of first instance for criminal matters in Burundi, except in cases involving high-ranking government members who have a "privilege of jurisdiction" in a higher court. There are 17 TGI in Burundi, one for each province. Henceforth, the prosecutors of the TGI will be referred to as prosecutors and the Procureur General de la République will be referred to as attorney general.

⁴¹ Human Rights Watch interview, Bujumbura, September 28, 2006.

⁴² Ibid.

⁴³ There is no familial relation between Raymond Nshimirimana and Gen. Adolphe Nshimirimana who heads the SNR.

⁴⁴ Human Rights Watch interview, Bujumbura, March 31, 2006.

The guy with the pistol yelled “Shoot,” to the guy with the Kalash. Raymond had run [a long way] by then but when the guy with the Kalash shot, Raymond fell to the ground. The bullet hit him in the back.⁴⁵

School friends attempted to take Raymond Nshimirimana to the hospital by bicycle but he died a few minutes after the incident.⁴⁶

Local residents said to Human Rights Watch that they recognized some of the men in the truck as employees of the SNR and informants working occasionally for the SNR.⁴⁷ Several witnesses identified one of the men as “Egide,” a former FNL and FDD member who is well known in the community for having denounced persons as FNL supporters and caused their arrest by the SNR.⁴⁸ He has been allegedly implicated in other cases of extrajudicial execution documented by Human Rights Watch, including the case of Ramazani Nahimana, above.⁴⁹ Another witness reported that they had heard people associated with the SNR bragging in a bar one evening about killing Raymond Nshimirimana.⁵⁰ One SNR agent told a Human Rights Watch researcher that another SNR agent had killed Nshimirimana. He also said that there had been no investigation of the killing by the agency.⁵¹

Raymond Nshimirimana’s family filed a complaint with the prosecutor of Bujumbura in July 2006.⁵² According to the magistrate charged with the case, he attempted to verify whether “Egide” was in custody at any jail in the Bujumbura area but as of late September had not carried out any other investigations. He said that he intended to do so.⁵³

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Human Rights Watch interview, Bujumbura, March 31, 2006.

⁴⁸ Human Rights Watch interview, Bujumbura, March 31, 2006.

⁴⁹ Human Rights Watch interviews, Bujumbura, December 1 and 9, 2005.

⁵⁰ Human Rights Watch interview, Bujumbura, March 31, 2006.

⁵¹ Human Rights Watch interview, Bujumbura, June 12, 2006.

⁵² Human Rights Watch interview, Bujumbura, September 26, 2006.

⁵³ Human Rights Watch interview, Bujumbura, September 28, 2006.

The killing of four men in Kinama

On the morning of August 15, 2006, the bodies of Salvator Nizigiyimana, Rénovât Niyonzima, Didace Ngendandumwe, and Moise Mugenzi were found in Kinama commune, Bujumbura, shot several times. The four had been arrested on August 4 on suspicion of being FNL members by two police officers and a demobilized FDD combatant said to work for the SNR. Monitors of the Burundian nongovernmental organization (NGO) League Iteka interviewed the four men on August 9 and 10 in the Kinama commune jail.⁵⁴ On August 14, the same demobilized FDD combatant came to the Kinama jail in a taxi and was followed by a pickup truck. He took the four men away to Kanga, also in Kinama, where the local residents heard yelling and many shots were fired.⁵⁵ One resident described to Human Rights Watch researchers the scene the following morning:

I saw four bodies. They all had cuts or lines around the mouth and at the elbows, marks that they had been recently tied up and gagged. There was a lot of blood everywhere. I counted 24 spent shells around the bodies. I think that they were sprayed with bullets there by someone moving the gun around.⁵⁶

On August 29, a representative of the director general of police told a Human Rights Watch researcher that five people had been arrested in this case.⁵⁷ Our researcher obtained a copy of a document carried by one of the persons at the time of his arrest. Signed with the name of General Nshimirimana and on SNR letterhead, the document is dated May 30, 2006. It says that the bearer

has been charged by the Service National de Renseignement with identifying and arresting criminals of the FNL-PALIPEHUTU and other troublemakers who perturb the security of the country throughout the

⁵⁴ Human Rights Watch interview, Bujumbura, August 21, 2006.

⁵⁵ Human Rights Watch interview, Bujumbura, August 30, 2006.

⁵⁶ Ibid.

⁵⁷ Human Rights Watch interview, Bujumbura, August 29, 2006.

Republic of Burundi. The military and the national police are requested to render him assistance.⁵⁸

When Human Rights Watch contacted the bearer of this document in the prison after his arrest, he refused to speak, saying “each institution has its own way of functioning and if you want to know more, you must speak with my superiors.”⁵⁹

Witnesses had previously told Human Rights Watch that demobilized FDD combatants have been seen in the neighborhoods of Kinama and Kamenge in the capital, carrying pistols that they use to intimidate people and telephones that they use to communicate with the SNR.⁶⁰

Deputy Administrator of the SNR Col. Leonidas Kiziba confirmed to Human Rights Watch in April that informants are given “encouragement” to hand over information to the SNR but said that informants cannot make arrests and are not formally employed by the SNR.⁶¹ The document being carried by the informer arrested in connection with the Kinama killings would appear to contradict this. Colonel Kiziba denied to us that any informants had been given weapons.⁶²

“Disappearances” and killings in Muyinga

In late July 2006, some families from the communes of Buhinyuza, Muyinga and Giteranyi in Muyinga province began reporting to Burundian human rights organizations that family members had been arrested and could not be found.⁶³ At the same time, people living along the nearby Ruvubu river began seeing bodies and

⁵⁸ Document on file with Human Rights Watch.

⁵⁹ Human Rights Watch interview, Mpimba central prison, Bujumbura, September 6, 2006.

⁶⁰ Human Rights Watch interviews, Bujumbura, October 18-20, 2005, and March 16, 2006.

⁶¹ Human Rights Watch interview with Col. Leonidas Kiziba, April 6, 2006. After two meetings this year to discuss human rights concerns (in January and April), SNR officials have been unwilling to meet further with Human Rights Watch researchers. Human Rights Watch attempted to reach Colonel Kiziba for comment before publication of this report but he did not come to one scheduled meeting and did not answer his phone several other times. He did not return phone messages left with his assistant.

⁶² Human Rights Watch interview with Col. Leonidas Kiziba, April 6, 2006.

⁶³ Human Rights Watch interview, Muyinga province, August 30, 2006.

body parts in the river. Muyinga is a province that has been at peace for almost three years and is not known to face any imminent threat of attack from any rebel group.

ONUB human rights monitors dispatched to the scene found at least four bodies in the river near Nyoko, Muyinga commune, on August 25 and three more soon after.⁶⁴ Human Rights Watch researchers saw bodies in the river near Mageni, Muyinga commune, on September 1. As news of these events spread, the governor of Muyinga announced on the radio that no detainees had been killed in his province.⁶⁵

Witnesses reported that some 30 persons had been detained by soldiers, sometimes in conjunction with SNR agents and the police, between May and August 2006.⁶⁶ One woman said to Human Rights Watch that she and her husband were asleep at 3 a.m. on May 1 when 20 soldiers came to take her husband away. When she looked for him at the army's Camp Mukoni in Muyinga, soldiers told her that he was there but did not allow her to see him. She said,

The soldiers wouldn't let me leave food for him, only money. I got a note back from my husband saying that he was alive. I went often and brought him money but I never saw him. Then one day, weeks ago, they told me he wasn't there anymore. They wouldn't give me any information. I haven't seen him since he was arrested in May.⁶⁷

A neighbor told a Human Rights Watch researcher that he had seen the body of this woman's husband in the river.⁶⁸

When one man was taken by soldiers on July 12, a family member followed them to the office of the SNR in Muyinga and later saw the man taken from the office and

⁶⁴ Human Rights Watch interviews with ONUB human rights officer, August 28 and September 26, 2006.

⁶⁵ Radio-Télévision nationale du Burundi (in French), August 30, 2006, reproduced (in French and in English translation) in OCHA Morning News Brief, August 30, 2006, http://www.reliefweb.int/ochaburundi/am_brief/bur300806.htm (accessed September 28, 2006).

⁶⁶ Human Rights Watch interviews, Muyinga province, August 31 and September 1 and 2, 2006.

⁶⁷ Human Rights Watch interview, Muyinga province, August 31, 2006.

⁶⁸ Human Rights Watch interview, Muyinga province, August 31, 2006.

driven away in a SNR vehicle.⁶⁹ When family members sought news of the detained man from the local administrator, they were told that he was alive but being held for interrogation in an unspecified location.⁷⁰ A relative said of the detained man,

I think that [he] was killed because I haven't seen him in more than six weeks and there are bodies in the river. Recently, the administrator told me not to go to the military positions and ask about [him] anymore. He told me to farm my fields so I wouldn't die of hunger.⁷¹

The Ruvubu river winds around the northeastern edge of Burundi traversing the National Park of the Ruvubu, a nature preserve located in Muyinga province but bordering Cankuzo province and Tanzania. In the park, there is a military position near a bridge leading over the river to Cankuzo. The park is not inhabited but tourists occasionally spend the night there, as do local residents looking for grazing animals that have gone astray. One man who spent the night in the park in July told a Human Rights Watch researcher that he saw a white truck pull up to the bridge and turn around late in the evening. He said,

I saw headlights and I heard voices. The headlights were facing me so I had to stay hidden. Then I heard screams, very loud, screams of agony. There were many voices at the same time screaming. I heard the sound of something dragging, and then more cries of agony. I heard it over and over again. It was the worst sound I had ever heard. After a while, the screams stopped and the vehicle drove back in the direction it had come from. Later, people found bodies in the river, and then I understood what I had heard.⁷²

This explanation of the “disappearances” was echoed by another witness who was detained in the same jail at Camp Mukoni and described having witnessed groups of people being taken out of the jail late at night by high-ranking military authorities

⁶⁹ Human Rights Watch interview, Muyinga province, August 31, 2006.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Human Rights Watch interview, Muyinga province, September 1, 2006.

and the head of the SNR in Muyinga on three different occasions. Those detainees never reappeared. He told Human Rights Watch that when he inquired as to what had happened to those removed from the jail, one soldier informed him that they had been stabbed with knives and thrown in the Ruvubu river. The witness said that he was himself tied up and driven near to the river late at night, but he managed to escape.⁷³

ONUB human rights monitors, Burundian human rights organizations, and Human Rights Watch have compiled a list of 31 people reported disappeared by their families. However, it appears that the number of possible victims may increase as families continue to report disappearances.⁷⁴ Ascertaining the number and identity of victims found dead in the river by ONUB, Burundian and international human rights monitors and by local residents is difficult because the bodies are in an advanced state of decomposition. There are also crocodiles present in the river, which may explain why some bodies are found in pieces.

Following pressure for investigations into these incidents from Burundian and international human rights monitors, the Military Prosecutor dispatched investigators. Two military officers were arrested on September 6 and 12 and Dominique Surwavuba, head of the SNR in Muyinga province, was arrested on September 13.⁷⁵ Surwavuba is charged with kidnapping and complicity in assassination.⁷⁶

Staff of the Attorney General (Procureur General de la République), two appeals courts, and the Military Prosecutor are continuing investigations in Muyinga and have interrogated family members of the disappeared, the two military officers who have

⁷³ Human Rights Watch interview, Bujumbura, October 6, 2006.

⁷⁴ Human Rights Watch interview with ONUB human rights officer, September 26, 2006.

⁷⁵ “Arrestations d’un cadre du SNR accusé de participation au meurtre de 16 personnes,”

Agence Burundaise de Presse, September 13, 2006. Radio Publique Africaine (in French), September 14, 2006, reproduced (in French and in English translation) in OCHA Morning News Brief, <http://ochaonline2.un.org/Default.aspx?tabid=5844> (accessed September 28, 2006).

⁷⁶ Human Rights Watch interview with ONUB human rights officer, September 26, 2006.

been arrested, as well as at least eight other soldiers and the commander of the 4th Military Region.⁷⁷ Despite mounting evidence, no other arrests have been made.

The action taken with respect to Surwavuba is the first time that the current government has arrested a high-ranking SNR agent for grave violations of human rights. The arrests in Musinga and in Bujumbura for the killings in Kinama represent a positive step towards ending impunity. Many other cases have gone without any investigation or arrest, however, and agents who are known to be human rights violators remain on active duty. General Nshimirimana has never been publicly questioned about the at least 38 killings or “disappearances” in which his agents have been implicated since he took office in September 2005.

After the arrest of Surwavuba, the prosecutor of Musinga received threatening telephone calls, and has consequently received additional police protection.⁷⁸ Civilian and military prosecutors must have the independence to carry out impartial investigations in these cases. The protection of witnesses who come forward with relevant information is also vital to the quality and integrity of the investigations. Accountability for these crimes could have a lasting impact on the protection of human rights and the credibility of the SNR in Burundi.

⁷⁷ Human Rights Watch interview with member of the office of the Military Prosecutor, Bujumbura, September 25, 2006.

⁷⁸ “Le chargé des renseignements à Musinga sous les verrous, le procureur de la République de cette province sous les menaces,” *Net-Press*, September 13, 2006.

V. Torture by agents of the SNR

Human Rights Watch has learned of at least 13 cases of torture in the SNR facilities in the past year. Burundian human rights organizations League Iteka and the Burundian Association for the Protection of Human Rights and Detained Persons (Association pour la Protection des droits humains et des personnes détenues, APRODH), and ONUB human rights monitors have documented numerous other cases of torture at the SNR as well.⁷⁹ One victim has described the most senior leaders of the SNR directing his interrogation and looking on as he was tortured. Another has claimed that the head of the SNR personally participated in torturing him.

Most victims were young men, arrested without a warrant and suspected of collaborating with FNL rebels. One older woman was arrested and tortured by SNR agents for cooking fish for armed members of the FNL.⁸⁰ While some victims of torture were eventually transferred to the prison system, many were released without charge. In August 2006, several prominent political leaders were arrested by SNR agents on suspicion of attempting to mount a coup. Agents of the SNR were reportedly involved in torturing the detainees during interrogation sessions.

At the March 30 meeting of SNR agents with President Nkurunziza, mentioned above (see section III, Context), three agents were reported to have been excluded from the meeting by the president after they admitted to having mistreated detainees.⁸¹

⁷⁹ Human Rights Watch, *Missteps at a Crucial Moment*, pp. 10-12. Human Rights Watch, *Warning Signs: Continuing Abuses in Burundi*, pp. 5-7. See also United Nations Security Council, Sixth report of the Secretary-General on the United Nations Operation in Burundi, S/2006/163, March 14, 2006, <http://www.un.org/docs/sc/sgrepo6.htm> (accessed October 10, 2006), which states, "Credible testimonies from numerous detainees held by the intelligence services before their transfer to police cells indicate that they were tortured during interrogation." See also Association pour la Protection des droits humains et des personnes détenues, "Situation des personnes détenues par la Documentation Nationale dans différents lieux," October 2, 2006, www.aprodh.org (accessed October 9, 2006); League Iteka, "La torture est une triste réalité dans les cachots de la documentation nationale." October 18, 2006, http://www.ligue-iteka.africa-web.org/article.php3?id_article=688 (accessed September 29, 2006); and "Burundi: Iteka Denounces Rights Violations," *IRINnews*, October 21, 2005, <http://www.irinnews.org/report.asp?ReportID=49673> (accessed October 18, 2006).

⁸⁰ Human Rights Watch interview, Bujumbura, December 16, 2005.

⁸¹ Radio-Télévision nationale du Burundi (in French), March 30, 2006, reproduced (in French and in English translation) in OCHA Morning News Brief, March 30, 2006, http://www.reliefweb.int/ochaburundi/am_brief/bur300306.htm (accessed September 29, 2006).

According to the information available to Human Rights Watch, however, the three agents are still working at the SNR.⁸²

Torture of suspected FNL supporters

One Kinama resident and member of the opposition party the Front for Democracy in Burundi (Front pour le démocratie au Burundi, Frodebu) stated that he had been detained five times by agents of the SNR during and after the election period in the summer and fall of 2005. During one detention, he was severely beaten with an electric cable by members of General Nshimirimana's bodyguard. He showed Human Rights Watch large cuts and bruises extending from his thighs to his back.⁸³ Another man whose brother was suspected of being an FNL member was arrested and detained on October 26, 2005, by SNR agents and questioned about his brother's whereabouts. He was beaten in a small room (referred to as "the morgue") inside the jail of the SNR, until he lost consciousness. He told Human Rights Watch that when he awoke, he was told to get on the ground and General Nshimirimana placed rocks in his mouth so that he couldn't scream. He was then beaten again until he lost consciousness. He was transferred to the holding cells of the Interior Security Police (Police de Sécurité Intérieur, PSI) and then released by a member of the prosecutor's office who was conducting a regular jail inspection on December 2, 2005, and noticed his wounds.⁸⁴

In January 2006 a local official and Frodebu member was summoned to the SNR and questioned by an SNR chief of service about his knowledge of the FNL's whereabouts. When he denied knowledge of the rebel movements, he was told to remove his shirt and trousers and lie down on the floor. The chief of service then ordered another agent to beat the detainee with a baton; he was hit several times. The victim told Human Rights Watch,

After six hits, I begged him to stop and asked him why he was doing this, why he thought I was lying to him. I said I didn't know anything.

⁸² Human Rights Watch interview, Bujumbura, June 12, 2006.

⁸³ Human Rights Watch interview, Bujumbura, October 20, 2005.

⁸⁴ Human Rights Watch interview, Bujumbura, December 13, 2005.

After I said this, he got angrier and said he would hit me 30 more times, but if I cried out it would be more because those hits wouldn't count and he then began to hit me again.⁸⁵

He was released after receiving more beatings, and was never charged with a crime.⁸⁶

Torture of alleged coup plotters

In early August 2006, agents of the SNR arrested seven former high-level officials and opposition political leaders, including former Vice President Alphonse Marie Kadege, Déo Niyonzima, the president of the Party for the Reconciliation of the People (Parti Pour la Réconciliation du Peuple, PRP), and Col. Damien Ndarisigaranye, a member of the Burundian military.⁸⁷ They were suspected of plotting a coup. Several days later family members who were allowed to visit them reported having seen evidence that the detainees had been mistreated.⁸⁸ In comments to the BBC, Kadege's wife said that she had seen her husband lying on the floor with a man standing on him. She also claimed that agents had broken her husband's arm.⁸⁹ After Kadege's lawyer, Isidore Rufyikiri, asked the intelligence service to provide a medical report on the condition of his client, he too was arrested by SNR agents.⁹⁰ Members of the Burundian Bar stopped work for a week beginning on September 22 to protest this arrest, labeling it an arbitrary detention.⁹¹

Human Rights Watch researchers, ONUB human rights officers and Burundian human rights monitors tried repeatedly to visit these detainees, without success. On August 3,

⁸⁵ Human Rights Watch interview, Bujumbura, January 27, 2006.

⁸⁶ Ibid.

⁸⁷ "Burundi: Former VP, ex-rebel leader arrested over coup plot," *IRINnews*, August 1, 2006, www.irinnews.org/print.asp?ReportID=54927 (accessed October 9, 2006).

⁸⁸ "Burundi detainees allege torture," *BBC News Online*, August 4, 2006, <http://news.bbc.co.uk/2/hi/africa/5244982.stm> (accessed October 9, 2006).

⁸⁹ Ibid.

⁹⁰ Letter from Maitre Isidore Rufyikiri to the administrator general of the National Intelligence Service, August 2, 2006.

⁹¹ Declaration de l'Assemblée General du barreau du Burundi, September 22, 2006. The bar members also cited the "constant deterioration of the Burundian justice system, characterized by violations of the law by those charged to apply them" as a motivation for the strike.

a monitor from League Iteka was allowed to see them and on the basis of his observations confirmed reports that the three detainees had been tortured.⁹² A joint declaration issued by 10 human rights NGOs working in Burundi noted that “Mr. Kadege had been suspended by his hands and feet and beaten with a leather belt by agents of the SNR and Mr. Niyonzima had been beaten with a baton on the lower back and arm during interrogations. Colonel Ndarisigaranye was beaten on the back.”⁹³

Minister of National Solidarity, Human Rights and Gender Françoise Ngendahayo also visited the detainees on August 4 and told the media that she had seen signs that they had been tortured, though she did not precisely state what she saw.⁹⁴ The next day, Minister of Communications Karenga Ramadhani told the press that Minister Ngendahayo had been speaking only for herself, not for the government.⁹⁵

The three detainees each filed a complaint of torture with the Attorney General. Déo Niyonzima’s complaint, seen by a Human Rights Watch researcher, states that both the SNR administrator General Nshimirimana and the deputy administrator of the SNR, Colonel Kiziba, were aware of the torture.⁹⁶ The complaint alleges that Colonel Kiziba told Niyonzima to “tell them everything or he would be beaten” and General Nshimirimana said that he must “say everything or he would suffer.” Colonel Kiziba allegedly then told two agents who were present to ask questions about the coup and names of accomplices. When the detainee didn’t reveal relevant information, six other agents entered the room, carrying various batons, electric cables and steel pipes. Niyonzima then alleges that he was beaten for several minutes on the lower back, legs and feet. According to his complaint, he was interrogated and beaten during another three sessions in similar circumstances, including with Colonel Kiziba present each time.⁹⁷

⁹² Joint NGO declaration including Human Rights Watch, “An appeal to the government of Burundi to stop torture, and other cruel, inhumane or degrading treatment immediately,” August 5, 2006, <http://hrw.org/english/docs/2006/08/04/burund13916.htm>.

⁹³ Ibid.

⁹⁴ Esdras Ndikumana, “Burundi denies torture claims,” *News24*, August 8, 2006, http://www.news24.com/News24/Africa/News/0,,2-11-1447_1978380,00.html (accessed September 28, 2006).

⁹⁵ Ibid.

⁹⁶ Document consulted by a Human Rights Watch researcher.

⁹⁷ Ibid.

Once the detainees had been transferred to the central prison in Bujumbura, Human Rights Watch researchers observed marks and scars on the body of the complainant consistent with his explanation of the events.⁹⁸ He had large scars on his shoulders and back. According to the prosecutor of Bujumbura the complaints are being investigated.⁹⁹

Legal provisions and government reactions to torture

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), to which Burundi became a party in February 1993, prohibits torture at all times and under all circumstances.¹⁰⁰ State parties undertake to adopt “effective legislative, administrative, judicial or other measures to prevent” torture.¹⁰¹ Burundi is a party to the 1981 African Charter on Human and Peoples’ Rights, which prohibits torture.¹⁰² The Burundian constitution guarantees that “no one will be subjected to torture,”¹⁰³ and the law establishing the intelligence service specifically prohibits SNR agents from using torture, or cruel, inhuman and degrading treatment.¹⁰⁴

The Burundian criminal code does not contain a criminal offense of torture. In the isolated cases where government agents have been brought to justice for physically mistreating detainees, they have been charged as individuals with the crime of “voluntary bodily injury.”¹⁰⁵ The prosecutor of Bujumbura indicated that if he were faced with a case in which a state agent carried out mistreatment on orders from a superior, he would charge both the person who gave the order and the person who executed it with “voluntary bodily injury” but he said that he has never dealt with

⁹⁸ Human Rights Watch interview with Déo Niyonzima, Mpimba central prison, Bujumbura, September 6, 2006.

⁹⁹ Human Rights Watch interview with Prosecutor of Bujumbura Mairie Stanislas Nimpagaritse, September 29, 2006.

¹⁰⁰ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 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 June 26, 1987, ratified by Burundi on February 18, 1993, art. 2.2.

¹⁰¹ Convention against Torture, art. 2(1).

¹⁰² African Charter on Human and Peoples’ Rights, art. 5.

¹⁰³ Constitution of Burundi, March 18, 2005, art. 25.

¹⁰⁴ Loi No 1/05 du 2 mars 2006 portant du personnel du service national de renseignement, art. 69.

¹⁰⁵ Decret-Loi No. 1/6 du 4 avril 1981 portant reforme du code pénal, arts. 146-150: “Des lésions corporelles volontaires.”

such a case.¹⁰⁶ Such a charge does not draw a distinction between the acts of private citizens and those either working as state agents or acting under orders of state agents. As currently written, the statute fails to encompass a component of mental suffering or incidents where physical wounds are not inflicted.

According to the information available to Human Rights Watch, no intelligence service agents have been indicted for physically mistreating a detainee between September 2005 and September 2006. When questioned about specific cases of torture involving SNR agents, Colonel Kiziba stated that one agent had been given an “administrative sanction” of one month without pay for beating a local official with a baton during an investigation.¹⁰⁷ Colonel Kiziba also mentioned that the SNR was currently preparing three cases against three SNR agents so they could be prosecuted for ill-treatment of detainees, but he would not state the names of the accused or the dossier numbers, and a Human Rights Watch researcher was unable to find records of these cases. Staff of the Prosecutor’s office was unaware of any pending cases of this nature.¹⁰⁸

On August 17, President Nkurunziza gave a speech in which he restated the government’s determination to stop destabilization of the state. Regarding the status of human rights protections, he stated that the situation was “satisfying, despite some exceptions... It’s better than before and the security services must continue to improve their performance.” He went on to declare that “those whose rights have been violated should file complaints... and their cases will be analyzed and judged.”¹⁰⁹ Lacking in his speech was the recognition that the state was obligated to investigate reports of torture or extrajudicial execution by SNR agents even in the absence of a complaint brought by an alleged victim.

The Convention against Torture obliges state parties to investigate and prosecute allegations of torture. Article 4 states that: “Each State Party shall ensure that all acts of

¹⁰⁶ Human Rights Watch interview with Prosecutor of Bujumbura Mairie Stanislas Nimpagaritse, September 29, 2006.

¹⁰⁷ Human Rights Watch interview with Col. Leonidas Kiziba, April 6, 2006. At an earlier meeting, on January 27, 2006, Colonel Kiziba admitted that there had been “isolated cases of torture at the SNR.” Human Rights Watch, *Warning Signs: Continuing Abuses in Burundi*, p. 6.

¹⁰⁸ Human Rights Watch interview, Bujumbura, September 29, 2006.

¹⁰⁹ “Message de Son Excellence le Président de la République au Peuple Burundais et aux amis du Burundi,” speech of President Pierre Nkurunziza, August 17, 2006.

torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.” Article 13 states: “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.” Article 12 obliges states to act even where a torture victim does not initiate the complaint: “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”

The UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2001) sets out standards for conducting impartial investigations into allegations of torture. Principle 2 provides that complaints of torture or merely reports of torture with some basis must be investigated: “States shall ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated. Even in the absence of an express complaint, an investigation shall be undertaken if there are other indications that torture or ill-treatment might have occurred.” Victims and their family members who provide testimony to such an investigation are entitled to protection under Principle 3: “Alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation.”¹¹⁰

There are no provisions for court appointed lawyers in Burundian law, despite Burundi having ratified the International Covenant on Civil and Political Rights (ICCPR) which requires free legal counsel for those without means.¹¹¹ All lawyers are either provided by NGOs or privately contracted by clients. Burundi is one of the poorest countries in

¹¹⁰ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”), August 9, 1999. The United Nations General Assembly in its resolution 55/89 of February 22, 2001, drew the attention of governments to the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Principles) emanating from the Istanbul Protocol.

¹¹¹ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Burundi on May 9, 1990. art. 14(3)(d).

the world¹¹² and few people have the resources for private legal counsel who can draft complaints alleging ill-treatment and press the case through the criminal justice system. In this context, the government has a particular responsibility to ensure criminal investigations of alleged torture by government officials.

¹¹² Burundi was ranked 169 out of 177 countries in the world in the United Nations Human Development Report of 2005. United Nations Development Programme (UNDP), Human Development Report 2005 (New York: United Nations Development Programme, 2005), http://hdr.undp.org/reports/global/2005/pdf/HDR05_HDI.pdf (accessed September 28, 2006).

VI. Illegal detention by agents of the SNR

The government has failed to provide effective oversight of SNR detention facilities. In Bujumbura itself, the SNR operates at least two detention facilities, one in the Rohero 1 neighborhood and another next to the office of the General Prosecutor.

By law, public prosecutors are mandated to visit detention facilities in their jurisdictions.¹¹³ The prosecutor of Bujumbura confirmed that he has had access to SNR facilities on occasional inspection visits, but according to others of his staff who sought to visit the sites, magistrates and prosecutors have sometimes been refused admission by SNR staff.¹¹⁴ One noted, “There are many jails and cells inside the SNR compound. They operate completely outside the law. We really don’t know what is going on in there.”¹¹⁵ The International Committee of the Red Cross had access to the main SNR facility on two occasions in May and September 2006.¹¹⁶ ONUB human rights monitors have not had access to the detention facilities of the intelligence service since December 2005, and local and international human rights investigators who report publicly on their findings have not been allowed to visit the facility, leaving detainees deprived of basic safeguards against potential serious human rights violations.¹¹⁷

Under Burundian criminal procedure law, a person may be detained by judicial police for one week, extendable to two weeks in cases of “unavoidable delay” (*sauf prorogation indispensable*) and then must be charged or released.¹¹⁸ It appears that at least three alleged FNL combatants have been held without charge at the SNR for

¹¹³ Loi No 1/015 du 20 juillet 1999 portant reforme du code de procédure penale, arts. 27 and 61.

¹¹⁴ Human Rights Watch interview, Bujumbura, September 28, 2006.

¹¹⁵ Ibid.

¹¹⁶ Confirmed via telephone with the International Committee of the Red Cross, September 28 and October 9, 2006.

¹¹⁷ The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by UN General Assembly resolution 43/173 of December 9, 1988 (Body of Principles), states, in principle 29: “In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.”

¹¹⁸ Loi No 1/015 du 20 juillet 1999 portant reforme du code de procédure pénale, art. 60.

months. Aloys Nzabampema was taken into custody on November 8, 2005,¹¹⁹ and has not been transferred to another detention facility or released. One witness previously held at the SNR facility told Human Rights Watch researchers that Nzabampema was still there in mid-August 2006.¹²⁰ Two other allegedly high-level FNL leaders have been held since July 4 by SNR agents.¹²¹ These men may have been involved in serious violations of international humanitarian law. If credible grounds for prosecution exist, authorities should charge them and bring them to trial. If not, they should be released. According to the Bujumbura prosecutor, the SNR has said that the three will be sent to a demobilization center for FNL combatants administered by the Ministry of Defense, but as of late September military sources said that they had not arrived there.¹²²

Human Rights Watch has documented numerous other cases of suspected FNL combatants now in the regular prison system and held beyond the statutory limit for pre-trial detention.¹²³ Unlike those held by the SNR, however, these detainees have been held in sites regularly visited by human rights observers from NGOs and the human rights division of ONUB.

In April, Deputy Administrator of the SNR Colonel Kiziba told Human Rights Watch that the SNR was working to improve its image and reputation and that SNR facilities would no longer be used as sites for detention but rather only for collecting information.¹²⁴

¹¹⁹ "Capture d'Aloys Nzabampema," *Afrique Centrale Info*, Bulletin No 25, November 14, 2005, http://www.abarundi.org/actualite/nat3/aci_171105_1.html (accessed October 9, 2006); Radio-Télévision nationale du Burundi (in French), November 18, 2006, reproduced (in French, and in English translation) in OCHA Morning News Brief, November 18, 2005, http://www.reliefweb.int/ochaburundi/am_brief/bur181105.htm (accessed on September 28, 2006).

¹²⁰ Human Rights Watch interview, Bujumbura, September 6, 2006.

¹²¹ "Burundi arrests top rebel commanders," Agence France-Presse, July 5, 2006; "Que peut donner le Palipehutu-FNL," *Intumwa*, No. 104, July 15-30, 2006.

¹²² Human Rights Watch interview, Bujumbura, September 29, 2006.

¹²³ Human Rights Watch, *A Long Way from Home: FNL Child Soldiers in Burundi*, June 2006, <http://hrw.org/backgrounders/africa/burundio6o6/>.

¹²⁴ Human Rights Watch interview with Col. Leonidas Kiziba, April 6, 2006. At that time, according to the official register, there were 12 people being held at the SNR. There have been arrests by SNR agents since that time, but it is unclear how many people are currently being held.

In defense of his agency, Colonel Kiziba said that before the change in government in August 2005 the Documentation Nationale had had a bad reputation and that the services of the state intelligence agency were abused under the previous regimes. He felt that the current employees of the SNR had inherited a bad reputation that was no longer warranted. At the end of the April 6 meeting, Colonel Kiziba agreed to a date when Human Rights Watch researchers and ONUB human rights officers could visit the detention facilities of the SNR, but on the appointed date no one was allowed access.¹²⁵

Burundi is a state party to the International Covenant on Civil and Political Rights (ICCPR), which requires that a state specify the legal basis on which individuals may be deprived of their liberty and the procedures to be used for arrests and detentions (Article 9). Only arrests and detentions conducted in accordance with such rules are considered lawful, thus restricting the discretion of individual arresting officers. The prohibition against arbitrary arrest or detention also means that deprivation of liberty, even if provided for by law, must be necessary and reasonable, predictable, and proportional to the reasons for arrest.

The ICCPR also requires an arresting authority to promptly communicate to detainees any charges against them. A person can at first be lawfully held without charge but he or she must be charged within a reasonable time. In Burundi the permissible period is no more than two weeks.

International human rights law also obliges the state to provide redress for violations of the right to liberty of the person and to security of the person. In the words of the ICCPR, “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”¹²⁶

¹²⁵ Human Rights Watch interview with ONUB human rights officer, September 29, 2006.

¹²⁶ ICCPR, art. 9.5.

VII. Training of SNR agents

In April 2006, General Nshimirimana requested ONUB to provide training in human rights to employees of the SNR.¹²⁷ In May and June, ONUB staff carried out three- and five-day workshops for administrators and officers of the SNR. The sessions focused on basic law enforcement and aspects of human rights related to investigations and, according to ONUB, “provided examples of unlawful behavior by intelligence service agents such as arrests without warrant, torture and ill-treatment.”¹²⁸

ONUB also held a training session for members of the SNR who would act as future trainers of other SNR agents. One of the attendees of this workshop has since that training session been accused in the torture of the alleged coup plotters in the first week of August.¹²⁹

Clearly, stopping human rights abuses by the SNR will require more than training. While training is useful to the institutions of the new government, proper investigations into abuses and arrests will send a strong message that human rights violations such as torture and extrajudicial killing will not be tolerated.

¹²⁷ United Nations Security Council, Seventh report of the Secretary-General on the United Nations Operation in Burundi, S/2006/ 429, June 21, 2006, <http://www.un.org/docs/sc/sgrepo6.htm> (accessed October 10, 2006).

¹²⁸ Email communication from ONUB human rights officer to Human Rights Watch, September 26, 2006. A Human Rights Watch researcher was invited and agreed to attend one training session on June 21 and answered questions posed by SNR agents about our methodology and mandate.

¹²⁹ Human Rights Watch interview with ONUB human rights officer, September 27, 2006.