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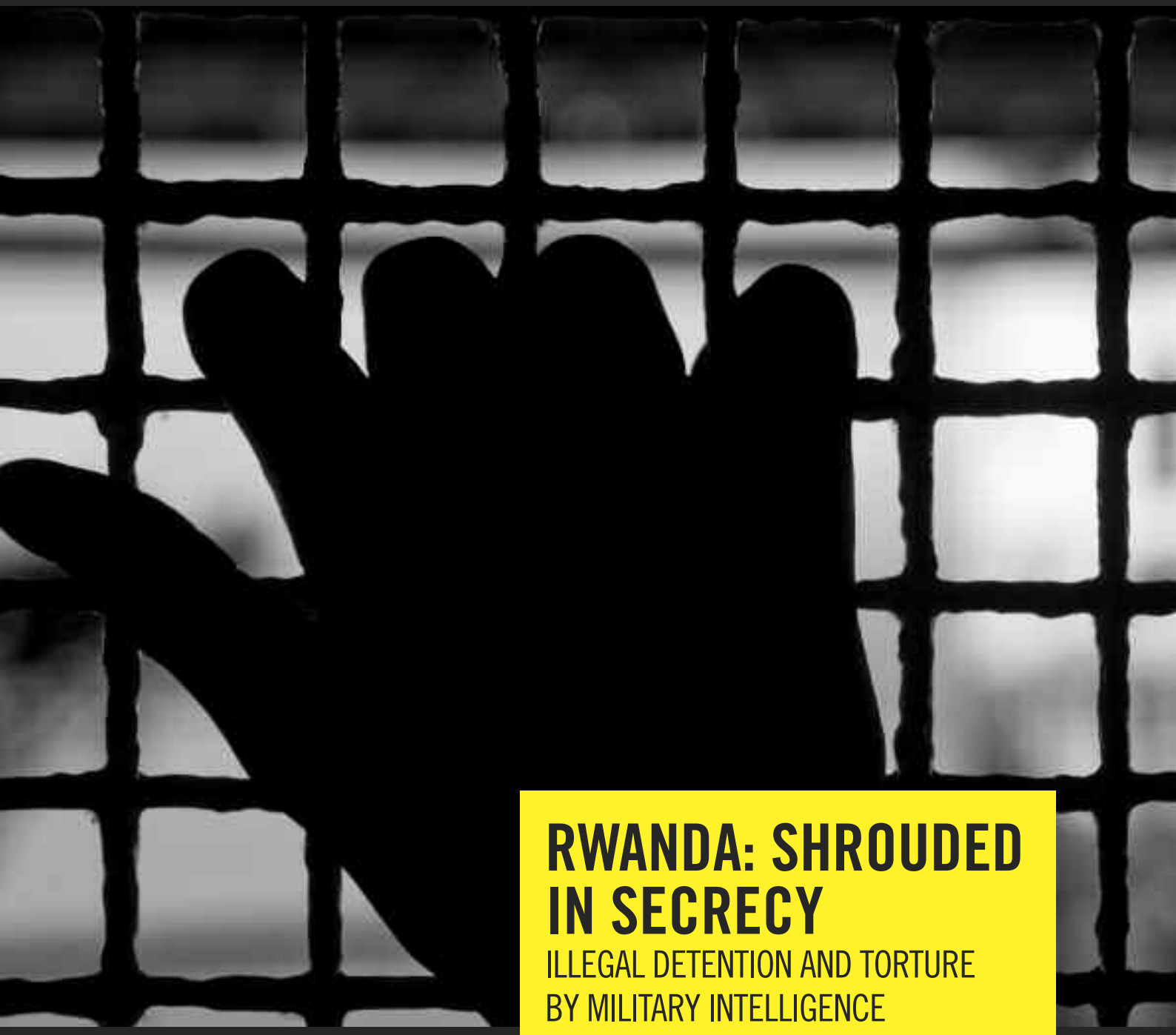

RWANDA: SHROUDED IN SECRECY

ILLEGAL DETENTION AND TORTURE BY MILITARY INTELLIGENCE

AMNESTY INTERNATIONAL

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GLOSSARY

ACHPR: African Charter of Human and Peoples' Rights

CNDP: National Council for the Defence of the People

DMI: Department of Military Intelligence

DRC: Democratic Republic of Congo

FDLR: Democratic Forces for the Liberation of Rwanda

ICCPR: International Covenant on Civil and Political Rights

MINADEF: Ministry of Defence

NSS: National Security Service

RCS: Rwanda Correctional Service

RDF: Rwandan Defence Force

RNP: Rwanda National Police

RPF: Rwandan Patriotic Front

1. INTRODUCTION

"Nine months at Kami, It is shameful for a state of law."
Civilian detained at Camp Kami without charge for nine months and alleged to have been tortured. March 2012, Kigali, Rwanda.

"[Eight] months went by without knowing if my husband existed or not."
Wife of man unlawfully detained and alleged to have been tortured by the military at Camp Kami. March 2012, Kigali, Rwanda.

SUMMARY

Progress over the last decade by the government of Rwanda in improving conditions of detention in prisons falling under the authority of the Rwanda Correctional Service (RCS) is being undermined by the parallel detention system run by the military. Scores of people are held in detention in military camps and the safeguards which protect detainees in police stations and other official places of detention are circumvented. Hidden from view, detainees have been unlawfully detained as well as reportedly tortured and otherwise ill-treated.

This report details unlawful detention, torture and other forms of ill-treatment and enforced disappearances, mostly of civilians, at the hands of Rwanda's military intelligence, known as J2. It is based on information gathered during more than two years of research, including seven visits to Rwanda. The report documents more than 45 cases of unlawful detention and 18 allegations of torture or other ill-treatment by Rwandan military intelligence in 2010 and 2011. Some individuals who were disappeared remain in secret detention in 2012. Amnesty International believes that the actual number of people who were detained and who were at risk of, or subjected to, torture and other ill-treatment during this period is higher than those documented here.

Amnesty International began to receive reports of enforced disappearances, torture and other ill-treatment by Rwandan military intelligence in March 2010. This spate of human rights violations happened as military intelligence launched investigations into threats to national security in the run-up to the August 2010 presidential elections. Grenade attacks, rare in recent years, multiplied after February 2010. Some security analysts attributed them to the Democratic Forces for the Liberation of Rwanda (FDLR), an armed opposition group based in eastern Democratic Republic of Congo (DRC).[1] Growing tensions within the Rwandan Defence Force (RDF) following the departure of the former army chief, General Kayumba Nyamwasa, in February 2010 also allegedly raised the spectre of potential security threats from within the army.

As part of the Rwandan authorities' investigations into security matters, individuals were arrested, often arbitrarily, by the military, sometimes acting in collaboration with the police. Those arrested were almost exclusively men aged between 20 and 45. Most of the cases documented here are of civilians, including demobilized military. Other cases include members of the Rwandan army or individuals suspected by the Rwandan authorities of belonging to the FDLR.

After their arrest, the men were detained incommunicado and interrogated by military intelligence. For their families, unable to confirm their whereabouts or if they were still alive, their loved ones had effectively disappeared. The authorities denied holding those arrested or did not respond to requests for information from family members or lawyers. During their detention by the military, often spanning several months, they were denied access to lawyers, family members and medical assistance. Some were reportedly subjected to torture or other ill-treatment.

Not knowing the whereabouts of their relatives had a tremendous psychological impact on the families of the disappeared. As those missing were almost exclusively men, and round-ups often included people from the same community, male family members were forced to live with the constant fear that they might be arrested next. Women – wives, mothers and sisters – bore the brunt of trying to locate their relatives.

At the time of writing in July 2012, Amnesty International believes that the number of new cases of unlawful detention of civilians by the military has fallen over the last year. However, the absence of investigations or prosecutions for the human rights violations documented here increases the likelihood that Rwandan military intelligence will revert to these practices each time that they perceive national security to be under threat.

Amnesty International urges the Rwandan government to immediately end the unlawful detention of civilians, disclose the fate or whereabouts of all those subjected to enforced disappearance, investigate allegations of torture and other ill-treatment, suspend those security officers alleged to be responsible for these human rights violations pending the outcome of investigations, and hold them accountable through criminal prosecutions.

METHODOLOGY

This report is based on seven research visits to Rwanda in September 2010, February, July and November 2011, and February, March and June 2012, as well as a trial observation between September 2011 and June 2012. Amnesty International also interviewed individuals previously illegally detained in Rwanda and their family members outside Rwanda at various times between 2011 and 2012. The report does not take into account developments after the end of June 2012.

Amnesty International conducted more than 70 face-to-face interviews for this report, including eight interviews with torture victims previously detained by the military. The organization also interviewed family members of individuals disappeared, unlawfully detained or tortured, as well as lawyers, members of civil society, and individuals who had observed court proceedings. Interviews were conducted in English or French, or from Kinyarwanda with the assistance of interpreters.

Through these interviews, Amnesty International documented more than 45 cases of unlawful detention for periods ranging from 10 days to nine months, primarily of civilians in military camps and other secret detention locations during 2010 and 2011. Two cases of enforced disappearances of more than two years were also documented. Amnesty International was able to cross-check the identities of these former detainees through various sources, including other detainees, lawyers, court documents and news reports. Amnesty International received single source information on tens of other former detainees but because of the lack of corroboration has not included them in this report.

This report documents 18 allegations of torture or other ill-treatment by Rwandan military intelligence and other security personnel. Restrictions on prison access made it impossible to ascertain the extent of torture and other ill-treatment of individuals previously detained by the military and later transferred to civilian prisons. For these reasons, Amnesty International believes that the number of people detained by the military at risk of torture, or who may have been subjected to torture or other ill-treatment, is higher than the number of cases documented.

Amnesty International gathered documentation related to criminal cases in military and civilian courts, including statements of arrest and court decisions and orders. The report also draws on Amnesty International's observation of the trial from September 2011 to June 2012 of those accused along with opposition leader Victoire Ingabire. They had been unlawfully detained at Camp Kami.

Amnesty International was unable to interview individuals currently detained in Rwanda. Since July 2011, Amnesty International has twice formally requested authorization to interview detainees and prisoners in private. Most recently, the organization requested permission to visit prisons in advance of arriving in the country. They requested private interviews with detainees in Kigali Central Prison, Ruhengeri Prison and Rubavu (commonly known as Gisenyi) Prison in March 2012. The organization's representatives were informed one working day before leaving Rwanda by the Ministry of Internal Security that they had the right to request authorization. However, they were told that under Rwandan law they could only interview detainees and prisoners in the presence of a prison guard. Amnesty International subsequently received a letter from the RCS authorizing the delegates to visit prisons on 4 April 2012, six days after leaving Rwanda.

The initial impetus for the report was a number of specific requests from family members for Amnesty International's help in finding their disappeared relatives. In researching these cases, details emerged of other men who had been subjected to enforced disappearance or who had been previously detained by the military. This report sheds light on the circumstances and conditions of their detention which remain shrouded in secrecy.

Many other individuals who had been detained by the military declined to speak to Amnesty International delegates for fear of retribution. Former detainees and their family members who shared their stories expressed fear of reprisals. To protect their identities, Amnesty International has excluded their names, other identifying details, and some interview dates and locations.

Amnesty International does not take a position on the guilt or innocence of those arrested.

Our concern is that they were subjected to a pattern of human rights violations: arrests in violation of the law, detention in secret locations, unlawful detention, often for several months, and a lack of access to lawyers, family members or doctors. This string of abuses violates the rights of the detained persons and renders them more vulnerable to torture and ill-treatment.

A letter summarizing the findings of this report was sent to the Rwandan Minister of Defence on 29 March 2012, with copies to the Director of Military Intelligence and the Minister of Justice, and a separate letter to the Minister of Justice. The letters requested an official response in order to reflect the Rwandan government's perspective in this report, as well as a submission to the UN Committee against Torture. The organization did not receive a reply.

Amnesty International visited Rwanda in June 2012 to seek an official response to these findings. The organization met with the RDF Spokesperson, the Rwandan Minister of Justice, a team from the National Public Prosecution Authority led by the Prosecutor General, an official from the Ministry of Foreign Affairs and a team from the RCS led by the Commissioner General.

Amnesty International expresses its profound gratitude to the individuals who shared their stories, sometimes at personal risk. We also thank the lawyers who generously shared their legal expertise and their experiences of representing clients previously detained by the military.

POLITICAL AND SECURITY CONTEXT

The ruling party in Rwanda is the Rwandan Patriotic Front (RPF), in power since 1994. The military has long played an important role in the country's history[2] and the RDF (army) currently retains an influential position within politics and society. While the army is best known for its involvement in the DRC conflicts or its contribution to peacekeeping such as in Darfur (Sudan), the RDF began to play a more visible role at home from 2010 onwards when it became more overt in detaining and arresting suspects.[3]

Events during the lead-up to the August 2010 presidential elections also brought the fragility of Rwanda's security to the fore. Grenade attacks, rare in recent years, multiplied. Prominent military officers, as well as soldiers, were arrested or went into exile. Killings and arrests of opposition politicians and journalists and the closure of newspapers reinforced a climate of fear.

Kigali was hit by three simultaneous grenade attacks on 19 February 2010, killing two people and wounding several.[4] At first, the Rwandan government attributed this to the FDLR,[5] but after General Kayumba Nyamwasa, a popular figure within the Rwandan army, fled a week later, the authorities shifted the blame to him.[6] According to Rwandan government statistics, 18 grenade attacks were carried out between December 2009 and March 2011, killing 14 people and injuring 219.[7] Grenade attacks continued after that sporadically.

Growing divisions emerged within the RPF party, as well as in the army. The primary catalyst for this was the departure of General Kayumba Nyamwasa on 26 February 2010. His flight

prompted the army to arrest and detain officers and soldiers suspected of being loyal to him. Exiled in South Africa, Kayumba Nyamwasa survived an assassination attempt on 19 June 2010.

Tensions also grew in 2009 and 2010 between the Rwandan government and supporters of Laurent Nkunda, the former leader of the Congolese armed group, the National Congress for the Defence of the People (CNDP). Arrested in January 2009, he officially remains under house arrest in Rwanda without charge or trial.[8]

At the same time as security worsened, a crackdown on the political opposition and media in advance of the elections was under way. Opposition politicians and journalists were arrested, accused of threatening state security for criticizing government policies. An opposition leader was beheaded in a gruesome attack in mid-July 2010, for which no-one was brought to justice. Journalists who covered these events touching on sensitive issues of state security had their papers closed. They too fled and one of their newspaper editors was murdered.[9]

It was against this backdrop that Rwanda's military intelligence rounded up scores of young men accused of threatening national security. For their families, unable to confirm their whereabouts, or whether they were alive, they had simply disappeared. The torture and other ill-treatment that some of these men reportedly experienced during their unlawful detention is documented in this report.

2. APPLICABLE RWANDAN AND INTERNATIONAL LAW

NATIONAL LAW

Rwanda's new Penal Code criminalizes torture as a standalone offence for the first time under Rwandan law. It came into force after its publication in the Official Gazette on 14 June 2012. Penalties for torture which range from six months to seven years, unless the torture results in the death of the victim, are too lenient.[10] This issue was raised by the Committee on Torture before the law was promulgated.[11]

Before June 2012, Rwanda did not specifically criminalize torture as an autonomous offence in its national law, but it was possible to prosecute perpetrators of torture for offences such as murder or assault. Rwanda's constitution guarantees the right to integrity and prohibits the use of torture without defining what torture is.[12] Past failure to criminalize all acts of torture as offences under national criminal law violated Article 4 of the Convention against Torture to which Rwanda is a state party.

Torture, outside the context of war crimes, crimes against humanity and genocide, is subject to a 10 year statute of limitations under Rwanda's code of criminal procedure.[13] This may impede justice for past cases of torture and may limit the ability of victims to seek reparations. Enforced disappearance is not yet defined as a crime under national law.

Confessions or evidence coerced through torture are inadmissible in court under Rwanda's evidence law. "Confessions or evidence obtained by torture or brainwashing" are prohibited in all courts, including specialized courts, such as military courts.[14] Rwanda's evidence law states that "a person cannot retract a judicial admission unless it can be proved that the

admission was a result of physical torture or it was a mistake of fact." [15] This provision should be amended in line with international standards, including by covering mental torture and ensuring that the burden is on the State to prove beyond reasonable doubt that such statements have been given of the person's free will.[16]

Rwandan criminal procedure law guarantees a person who is arrested and detained several rights, some of which are not followed by the military and military intelligence during arrests and detentions. Judicial police officers have 72 hours to transfer a criminal case file to the prosecution or release the individual arrested.[17] The accused should then be charged by the prosecution and brought before court to review the legality of detention within seven days or be released.[18] Detainees should be informed of the reason for their arrest and are entitled to access a lawyer and to inform another person of their arrest.[19]

Rules in Rwanda prohibiting detention in secret places and regulating detention of civilians in military custody are ill-defined. The Code of Criminal Procedure states that "persons on remand in custody shall not be subject to a release in a place other than the custody availed for that matter and located within the area the National Police or Military Police office is located. As for soldiers and their accomplices, that place shall be located near the office of Military Prosecution."[20] It does not define "accomplices" and so may leave civilians at risk of being detained in military facilities. Furthermore, it does not regulate the type of places where "soldiers and their accomplices" can be detained.

Rwandan counter-terrorism legislation goes beyond what is foreseen by the Rwandan Code of Criminal Procedure. Under Article 45 of the law on counter-terrorism "A police officer, a security agent or any other authorized person may arrest without warrant in case of clear reasons for suspecting such a person to have committed or attempts [sic] to commit acts of terrorism and shall hand him/her over to the nearest police station in a period not exceeding forty eight (48) hours."[21] This facilitates the likelihood of individuals suspected of crimes under this law being placed in unofficial and/or secret detention for periods of up to 48 hours. It effectively denies them access to legal counsel in the early stages of detention when they are at the greatest risk of torture or other ill-treatment. Detention in unofficial and/or secret places violates Rwanda's obligations under international law.[22]

As well as numerous shortcomings in Rwandan legislation, the human rights violations documented in this report also stem from a failure to respect existing laws.

INTERNATIONAL LAW

Rwanda is a party to international and regional treaties that prohibit torture and other cruel, inhuman or degrading treatment or punishment, and that otherwise protect the rights of individuals arrested or detained. These include the Convention against Torture, the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR).[23] The prohibitions on torture and other ill-treatment and on enforced disappearance are absolute and non-derogable; they apply in all circumstances without any exception.[24] The UN Security Council, General Assembly, and Human Rights Council have all repeatedly affirmed that all measures taken to counter terrorism must comply fully with states' obligations under international law, including particularly international human rights law, international refugee law, and where applicable, international humanitarian law.[25]

Rwanda is yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. In response to its Universal Periodic Review before the Human Rights Council in January 2011, Rwanda stated that it was in the process of ratifying both conventions.[26] Following Rwanda's initial review by the Committee against Torture, Rwanda's cabinet approved ratification of the Optional Protocol to the Convention against Torture on 13 June 2012.[27] At the time of writing, no progress had been made towards ratification of the Convention on Enforced Disappearances.

Once Rwanda has ratified the Optional Protocol to the Convention against Torture, it will have an obligation to establish a National Prevention Mechanism, an independent national body to conduct regular visits to places of detention. They may also receive occasional visits from the Subcommittee on Prevention of Torture and other Cruel, Inhuman and Degrading Treatment, who can provide concrete recommendations on how to prevent torture and ill-treatment.

WHAT WOULD RWANDA'S OBLIGATIONS BE UNDER THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE?

Enforced disappearance is defined in Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance which the UN General Assembly adopted in December 2006, as:

"the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

The Convention came into force on 23 December 2010 after it was ratified by 20 countries.

States that ratify the Convention commit themselves to conduct investigations to locate the disappeared person, to prosecute those responsible and to ensure reparations for survivors and their families. Under Article 17, which includes the prohibition of secret detention, they must implement numerous safeguards to prevent enforced disappearance, including through keeping detailed records of persons deprived of liberty. Any judicial or other competent authority or institution authorized for that purpose by the law of the state party concerned or any relevant international legal instrument to which the state concerned is a party should be able to consult these records. The records should note:

(*a*) The identity of the person deprived of liberty;

(*b*) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;

(*c*) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;

(*d*) The authority responsible for supervising the deprivation of liberty;

(*e*) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(*f*) Elements relating to the state of health of the person deprived of liberty;

(*g*) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;

(*h*) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

In addition, according to Article 18 of the Convention, and subject to the requirements mentioned in Article 19 and 20 of the Convention, relatives of the person deprived of liberty and their legal counsel should have access to at least information on:

(a) The authority that ordered the deprivation of liberty;

(b) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;

(c) The authority responsible for supervising the deprivation of liberty;

(d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;

(e) The date, time and place of release;

(f) Elements relating to the state of health of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.

State parties also have a responsibility to submit to the Committee on Enforced Disappearances a report on the measures taken to give effect to its obligations under the Convention. The Committee can also receive and investigate individual complaints, and may conduct a visit to the country when it receives reliable information indicating that a state party is seriously violating the provisions of the Convention.

Rwanda is still bound by the prohibition of enforced disappearances, as a rule of customary international law, and since any act of enforced disappearance inherently involves violations of a range of obligations under the ICCPR and the ACHPR.[28] Rwanda should adhere to the standards set out in the 1992 UN General Assembly's Declaration on the Protection of All Persons from Enforced Disappearances, which reflects the consensus of the international community against this human rights violation.

3. MANDATE AND LEGAL POWERS OF ARREST AND DETENTION BY THE MILITARY

Rwanda has several bodies responsible for ensuring national security. The RDF under the Ministry of Defence ensures external security. It is headed directly by President Kagame, who is Commander-in-Chief of the Army, seconded by the Chief-of-Defence Staff. The Rwanda National Police (RNP), led by an Inspector General of Police, maintains internal security.

Both the police and the RDF have their own intelligence branches, as does the President's Office. Within the army, this is the Department of Military Intelligence (DMI), known more commonly in Rwanda as J2.

Since early 2010, the role of the military and the police in arresting individuals suspected of threatening national security became increasingly blurred. In February 2010, Rwandan authorities created a Joint Operational Centre to facilitate information sharing between the RDF, RNP, National Intelligence and Security Service and the RCS.[29] The following month, March 2010, Amnesty International began to receive reports of enforced disappearances, torture and other forms of ill-treatment in military detention facilities. These joint operations may reduce oversight and confuse reporting lines, rendering accountability for abuses less likely.

Shortcomings in Rwandan legislation give rise to the arrests of civilians by the army and military intelligence, as well as the unlawful detention of civilians in military detention facilities. Rwandan counter-terror legislation, introduced in September 2008, provides for investigations on terrorism suspects to be conducted by the police, army, National Security Service or any other competent organ. It allows "security agents or any other authorized person", as well as the police, to conduct impromptu arrests and searches of individuals suspected of committing or attempting to commit terrorism. Under this law, the arresting official has 48 hours to hand over the suspect to the nearest police station. It defines terrorism in a broad way to include "being in the company of members of a terrorist group" as complicity in terrorism. This legislation came into force in April 2009 when it was published in the Official Gazette. [30]

Amnesty International requested information about the mandate and legal powers with regard to arrest and detention by the Ministry of Defence and its relationship to the DMI, the police and the Ministry of Justice, in a letter to the Minister of Defence in March 2012. The organization did not receive a response. In a June 2012 meeting the Military Spokesperson told Amnesty International that the RDF is supporting the police in the maintenance of law and order, including through joint patrols, but denied that the military detain civilians.[31]

4. SECRET AND INCOMMUNICADO DETENTION

DETENTION JOURNEYS TRAVERSING J2'S PARALLEL SYSTEM OF DETENTION

The Department of Military Intelligence (DMI), J2, operates a parallel system of arrest and detention. This system within a system is largely reserved for individuals suspected of threatening national security.

Detainees' detention journeys typically involved them being held in multiple locations. This made it harder to trace their whereabouts and rendered them more vulnerable to torture and other ill-treatment. Former detainees reported that they were blindfolded when transported from one location to another, and such transfers largely took place at night. One man described his transfer from the Ministry of Defence to an unknown location, which he later found out was Camp Kami: "They put me in a vehicle. After about an hour, they stopped the vehicle, and they took off the fabric from my eyes. They took off all my clothes and gave me a military uniform. I was handcuffed and put in a house."[32] Usually suspects were shunted

between different locations at the start and end of their military detention, but held for a prolonged period in one place in the middle.

DMI agents tried to conceal the location of some detention centres to detainees. A number of detainees developed relationships with their captors, eliciting information from them about where they were detained.

MINADEF

The Ministry of Defence (MINADEF) is a modern multi-story building in Kimihurura surrounded by swathes of neatly manicured gardens. Some of the men who were unlawfully detained passed through MINADEF for interrogations before being transferred to Camp Kami.

CAMP KAMI

Camp Kami is a newly renovated military camp situated in Kinyinya Sector on the outskirts of Kigali. The surrounding area is predominantly residential and overlooks the new housing developments of Nyarutarama. The area is known for the tall radio antennae of Deutsche Welle which dominate the local landscape.

Camp Kami had a notorious reputation for the torture and ill-treatment of detainees in the late 1990's and early 2000's.[33] Its name continues to instil fear among Rwandans. Officially, the camp now serves as an army barracks and a detention centre for Rwandan soldiers subject to disciplinary action, but Amnesty International has also documented several cases of civilians unlawfully detained there. The facility is used by the DMI for questioning individuals accused of threatening state security.

The part of Camp Kami where detainees are held is just a small section of the larger military barracks. It is comprised of different "houses" which former detainees called different "prisons" within Kami. Some detainees were kept in isolation for several days, but the vast majority were detained with a few others in small rooms. Former detainees reported to Amnesty International that approximately 60 detainees were held at Camp Kami in late 2010 and 2011. They based their estimates on conversations with their guards, as well as detainees who were responsible for preparing food for other prisoners; a task they said was reserved for RDF deserters.[34]

MUKAMIRA MILITARY CAMP

Mukamira military camp lies between Gisenyi and Ruhengeri.[35] Some suspects detained at Mukamira camp were brought over from the DRC, while others appear to have been arrested near Gisenyi. It houses a mix of civilians, demobilized FDLR fighters and FDLR apprehended in the DRC.

Amnesty International has reviewed judicial files of some former detainees of Mukamira military camp and interviewed their lawyers. The organization was obstructed in gathering detailed information on the camp though restrictions on visiting individuals formerly detained there and subsequently transferred to Gisenyi prison.

SAFE HOUSES

Amnesty International also received reports of a network of safe houses used to detain

suspects in Kigali. Safe houses are not permitted under Rwanda's code of criminal procedure.[36] They appear to be used to detain and interrogate higher profile personalities, including Rwandans with links to the DRC or dual Rwandan-Congolese nationals. Suspects were kept in secret detention in private houses, sometimes in bathrooms and handcuffed for extended periods of time. Two detainees reported to Amnesty International or their families that they had been interrogated by high-ranking officials from the DMI in safe houses.[37] Specific conditions were more difficult to verify than in military camps because detainees were isolated and typically did not have contact with co-detainees.

INCOMMUNICADO DETENTION

All former detainees told Amnesty International that they were held incommunicado in military custody for long periods of time – in many cases for more than two months and, in some cases, up to eight or nine months – before being presented to a prosecutor or court or being transferred to a civilian prison. During military custody, they were unable to contact a lawyer or relatives and their cases were not subject to judicial review.

Such incommunicado detention, which includes no access to lawyers, doctors, and relatives and no judicial review of the lawfulness of detention, violates Rwanda's obligations under international law, including guarantees against arbitrary detention and torture.[38]

TORTURE AND OTHER ILL-TREATMENT

For most detainees, interrogations by military intelligence officers focused on knowledge of threats to national security. Many were questioned about the 2010 and 2011 grenade attacks and funding of the FDLR. Others were asked questions about their personal, social and family relationships, including their relationships with other detainees.

SERIOUS BEATINGS DURING INTERROGATIONS

All individuals formerly detained in military facilities and their family members interviewed by Amnesty International reported that they were severely beaten by military officers during interrogations. One former detainee of Camp Kami said, "The interrogation, it is beating" and described his time at Camp Kami as a "living death".[39]

Some family members and lawyers reported seeing marks from beatings on their relatives or clients. One family member described the first time they saw their relative after a month's unlawful detention at Camp Kami, "His face, hands and legs were all swollen. We couldn't easily recognize him".[40] The individual concerned had not been charged by the prosecution or brought before a court during his time at Camp Kami.[41] The vast majority, however, said that no visible signs were left due to the months that had elapsed since the beatings took place, shortly after their arrest and in the immediate months that followed.

ELECTRIC SHOCKS

Three former detainees from Camp Kami recounted to Amnesty International that they were subjected to electric shocks during interrogations. Two of these detainees described that this happened to them on one occasion each. Both of them reported that military intelligence had used these devices during interrogations at MINADEF shortly after their arrest and prior to their transfer to Camp Kami. Both interrogations took place at night. The other man had been electrocuted after his transfer to Camp Kami.

One of these men said that a military official of the rank of Captain in the presence of other military officers placed an electric appliance on his back during an interrogation at MINADEF. He said:

"I was taken to another office. Everyone was there when they put this electric thing on my back and forced me to accept that I worked with the people throwing the grenades […] When I got to the point of dying, I told them to bring me a piece of paper [to sign], but they continued to torture me."[42]

Another man described being subjected to an electric shock during an interrogation, also at MINADEF:

"There are other rooms where they put you and you lose your memory. They ask you a question and when you find yourself again they ask you a question. When you return to normal, they sting you […] The electric thing they use is like a pen and they put it under your arms. It is like charcoal. When they sting you, all your body is electrolyzed and the entire body is paralyzed."[43]

According to one family member of a man who had been detained at Camp Kami, their relative was hit with electricity there, as those interviewing him tried to extract a confession. They reported that he explained this in hushed tones during a prison visit. They did not ask him questions about it, as they felt that they were being watched, and it "wasn't the time to say everything".[44]

THE "REGIME"

At Camp Kami, some detainees endured what inmates dubbed the "regime"[45] or "specialization", where they were kept alone in a room for up to a week. Their hands were handcuffed behind their back and their legs chained together. They were fed small morsels of maize, given minimal water and emerged in a weak physical state or traumatized.[46] One person who had been through "regime" said, "They say they will give you food if you confess".[47]

TORTURE THAT LEAVES NO MARKS

Amnesty International also documented cases of torture that left no physical marks, but inflicted severe harm, especially when endured for prolonged periods. The organization received three independent reports that some detainees at Camp Kami had bags placed over their heads during interrogations to restrict their breathing. Some of them reported being subjected to sensory deprivation.[48] Former detainees said they had things placed in their mouth to heighten pain and stop them screaming while they were beaten during interrogations. For one man this took place at the Ministry of Defence shortly after his arrest, for another it took place during his detention in a Kigali safe house. [49]

One former inmate of Kigali Central Prison told Amnesty International that "almost every Friday, new young men accused of threatening state security are brought to the prison". He

said, "Each of these prisoners says they were tortured, but they don't have scars. They say that the military tortured them, but did so in an intelligent way. Some say they were put in a room with water and they heat the water or they hit you with batons until you accept."[50]

FORCED CONFESSIONS

Many former detainees at Camp Kami and Mukamira military camp allege that they had been forced to confess to crimes or to sign statements under duress due to beatings or other forms of torture. Of over 10 lawyers interviewed by Amnesty International, six of their clients reported that they had been forced to make confessions.[51] One of these men recounted to his family that "he was interviewed many times there and many more times later. He said that he was hit and had to confess things. When the tortured reduced, he turned his back on what he had said."[52]

ENFORCED DISAPPEARANCES

Family members that Amnesty International met often had no information on the whereabouts of those believed to be subjected to enforced disappearance for a number of months. Many wrote to the authorities asking them to confirm that their relatives were under arrest and where they were detained. Different families addressed their correspondence to different authorities - the Rwandan National Security Service (NSS), the police, the President's Office, local military officials and local administrators – but the common pattern was that no family received an official response.[53] In some cases, the authorities denied holding them. In other cases, military or police officers verbally confirmed to family members that their relatives were detained by the military or military intelligence, but refused to notify them of the place of detention.

One family described their experience after their relative was arrested, "We were obliged to find the [local] Police Commander to ask if he had been arrested. He denied that this had ever happened. We then wrote a letter to the Criminal Investigation Department (CID). At the CID, the police told us that we had to go to a local police post. They gave us no assistance there. We went back and forth between different police stations with no results." With their letters in hand, they added, "We don't even know if he is still alive. Without being in touch, you just don't know."[54] After their family member was transferred to a civilian prison, they later found out that he had been detained in Camp Kami during this period.[55]

In another case documented by Amnesty International of a man abducted from his home, a family member wrote: "His mother is looking everywhere, in all security establishments of the Rwandan state (prisons, police stations etc…), as well as in hospitals, but in vain! Today with a sorrowful heart, she doesn't know who to address to see her son again." [56] After five months in detention at Camp Kami, he was released without charge.

FAILURE TO NOTIFY FAMILIES OF PLACE OF DETENTION – THE GRENADE TRIAL

In June 2010, 30 men were rounded up by the military and accused of involvement in grenade attacks in 2010 and earlier years.[57] Their families did not know where they were until they resurfaced in court eight months later. They had been unlawfully detained at Camp Kami for most of this period without being brought before a court to review the legality of their detention. The court which handled the pre-trial detention hearing of 29 of these men recognized that they had previously been illegally detained.[58]

The wife of one of these men said, "He [an army officer] told me that my husband is in the hands of the army […] From that day onwards I didn't look again for my husband, but I prayed a lot for him and hoped that he was still alive. I kept my lips sealed, but my heart beat so much because I was scared."[59] In another case, when a family member approached the local military to ask where their relative was detained, they were told he was "an enemy of the state" and "not to waste their time looking for him."[60] In a third case, the wife of a man arrested by the military said, "All those months went by without knowing if my husband existed or not."[61]

One Rwandan journalist present on the day of the bail hearing told Amnesty International, "According to some information, many people are detained in secret locations without contact with their families. At the trial of 29 accused of throwing grenades numerous people were at the court to see if they could find their relatives. A good number left disappointed without finding them. "[62]

Notifying family members of the whereabouts of the detained individual, bringing detainees before a judicial authority, and allowing access to lawyers, doctors and family members are important safeguards against enforced disappearance and torture or other ill-treatment.[63] The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has stated that, "In all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours."[64]

Amnesty International has documented two cases of individuals not seen since March 2010, both believed to have been subjected to enforced disappearance, as well as several other cases which amount to enforced disappearance at the time of detention. The Rwandan government rejected calls to investigate cases of arbitrary arrest and detention and enforced disappearances during its Universal Periodic Review (UPR) at the Human Rights Council in January 2011. They stated that, "Investigations that were conducted revealed that there are a few cases of irregular arrests and detentions which are corrected and responsible officials are punished in accordance with the law." [65]

Sheikh Iddy Abassi, a Congolese religious leader, was abducted from outside his home in Gisenyi on the evening of 25 March 2010. He was a former supporter of Laurent Nkunda, the former leader of the CNDP under house arrest in Rwanda without charge or trial since January 2009. Sheikh Iddy Abassi's family reported him missing to the local police and military on 26 March 2010, but he has not been seen since.[66]

Following Amnesty International's submission to the Committee against Torture, the Committee asked the Rwandan government delegation for details on Sheikh Iddy Abassi's whereabouts.[67] Mary Gahonzire, the Deputy Commissioner General of the RCS, said that Rwandan government investigations are ongoing, but indications pointed to Sheikh Iddy Abassi being in DRC.[68]

His whereabouts remain unknown.

Amnesty International has received credible information from three sources suggesting that Robert Ndengeye Urayeneza is detained by Rwandan military intelligence. The organization believes that for nearly a year, he may have been detained in a safe house in the Remera/Kimironko neighbourhood of Kigali and that the car he was driving at the time of his arrest may have been parked inside the compound.[69]

Robert Ndengeye Urayeneza, a dual citizen of Rwanda and the DRC, was last seen on 26 March 2010 around 6am when he dropped a family member at the Nyabugogo Bus Station in Kigali. On that morning, he was driving a Toyota Vista registration number RAA 060Y. He was supposed to go to his brother's home in Kigali, but never reached there. Family members tried to contact him by telephone later that morning. At first, he did not answer and by mid-morning, his phone was switched-off.[70]

Robert Ndengeye Urayeneza was living in Gisenyi and working as a businessman and on the Ecumenical Programme for Peace, Conflict Transformation and Reconciliation (PAREC) demobilization programme at the time of his disappearance. In previous years, Robert Ndengeye Urayeneza had been a soldier with the RPF in 1994 and then fought with the Rwandan army in the DRC in 1996 and 1997. Soon after his return to DRC, he formed his own armed group, the Front Patriotique Congolais (FPC) in the late 1990's. The group disbanded and later reformed before being integrated into the Armed Forces of the Democratic Republic of Congo (FARDC). Before integration, Robert Ndengeye Urayeneza was a self-styled general.

Robert Ndengeye Urayeneza's family reported him missing to the NSS on 27 March 2010, but have not received further news from the NSS on his whereabouts. On 7 May 2010, Robert Ndengeye Urayenza made a phone call saying that he was detained at an unknown location in Rwanda.

In October 2010, two months after a written request for information, the Rwandan police confirmed by telephone that Robert Ndengeye Urayeneza was not in police custody. They suggested that Amnesty International instead direct enquiries to the Ministry of Defence.[71]

The Rwandan Minister of Defence did not respond to letters from Amnesty International requesting information on Robert Ndengeye Urayeneza's whereabouts in November 2010 and March 2012.[72]

In response to a request from the Committee against Torture, Mary Gahonzire, the Deputy Commissioner General of the RCS, said that investigations are ongoing, but indications pointed to Robert Ndengeye Urayeneza being in DRC.[73]

Enforced disappearance is recognized under international law as a form of torture or other ill-treatment because of the extreme suffering experienced by people detained without contact with the outside world, and without knowing when or if they will be freed and allowed to see their families again.[74] Moreover, enforced disappearance is considered to violate the prohibition against torture and other ill-treatment not only with regard to the disappeared person, but also to his family members.[75]

The Committee against Torture expressed "concern about reports of detainees held in 'unofficial detention centres' without having been charged of a crime or brought before a court, nor having access to [an] independent lawyer and to a doctor." It required Rwanda to "ensure that no-one is detained in secret or unofficial facilities and prevent all forms of unlawful detention in its territory as well as initiate investigations into these allegations".[76]

Amnesty International calls on the Rwandan government to promptly conduct an independent and effective investigation into the existence and use of secret and/or unofficial detention sites, as well as acts of torture and other ill-treatment that may have taken place there. This investigation must ensure that those responsible are brought to justice, including those with command responsibility.

5. HABEAS CORPUS

Habeas corpus is a legal remedy through which a person deprived of her or his liberty can take proceedings before a court in order for that court to decide on the lawfulness of the detention and order her or his release if the detention is unlawful.[77] Literally translated as "you may have the body" it requires the detainee to be produced in court.[78] By compelling the authorities to bring the detainee to court it allows the court to ascertain whether acts of torture or other ill-treatment have occurred or may occur. Such a detention control mechanism, if functioning effectively, constitutes a fundamental safeguard against unlawful detention and torture.[79]

HABEAS CORPUS UNDER RWANDAN AND INTERNATIONAL LAW

HABEAS CORPUS UNDER INTERNATIONAL LAW

ICCPR Article 9 (4) - Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

HABEAS CORPUS UNDER RWANDAN LAW

Law N° 20/2006 of 22/04/2006 modifying and complementing the Law N° 13/2004 of 17/05/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 27/05/2006

Rwanda introduced habeas corpus as part of a series of judicial reforms in 2004.

Article 19 - Article 89 of the Law n° 13/2004 of 17/5/2004 relating to the Code of criminal procedure is modified as follows:

"When a person is detained unlawfully, any judge who is appointed to a court which is located near the place where the person is detained and whose competence covers the offences the detained person is alleged to have committed can, upon request by any interested party, order the officer who detained that person to appear and produce the detainee in order to indicate reason and manner under which he or she is detained.

A judge or magistrate then makes an order arresting or releasing the person on bail. He or she may also order the suspect to respect conditions provided for by article 102 of the Law n°13/2004 of 17/5/2005 relating to the Code of criminal procedure. The judge or magistrate may immediately cause to be punished any officer who unlawfully detained the person with the punishments provided for under the Penal Code".

HABEAS CORPUS IN RWANDA

Habeas corpus was introduced in Rwandan law as part of judicial reforms in 2004. Tharcisse Karugarama, the current Minister of Justice, was responsible for the first habeas corpus ruling in May 2005 when he was then President of the High Court. He ordered the police to produce a detainee held illegally.[80] When the police released the detainee instead of producing him before court, he sanctioned the state agents responsible.[81]

During this research, Amnesty International was unable to establish how many habeas corpus cases had been filed. The Rwandan government indicated before the East African Court of Justice that a number of such requests had been "adjudicated by Rwandan courts and competent jurisdictions have judiciously dealt with the matter."[82] Amnesty International wrote to the Minister of Justice requesting the number of habeas corpus requests filed in Rwanda in 2010, 2011 and 2012 and the outcome of these requests. The organization did not receive a reply.[83] In a June 2012 meeting, the Minister of Justice told Amnesty International that he did not know if statistics were kept on such cases.[84]

FEARFUL TO FILE HABEAS CORPUS

Amnesty International encountered a general perception among families of those subjected to enforced disappearance that filing habeas corpus would be ineffective at best and may even worsen the treatment of their relatives. One family member of a man disappeared said, "The way that they did the operation, they can just deny that they have him" and added, "You ask yourself is that a fight you want to take on?"[85] Another family member of a man subjected to enforced disappearance for over a year said filing habeas corpus equated to "taking the government to court" and they could not do that.[86]

Relatives also told Amnesty International that they could not present habeas corpus applications to the courts, as they feared for their own safety. They worried that other members of the family would be subjected to enforced disappearance. They expressed general security concerns for themselves and their children, as well as the risk of being stigmatized by their employer and losing their sole remaining income.[87]

RWANDAN GOVERNMENT'S RESPONSE TO A HABEAS CORPUS PETITION AT THE EAST AFRICAN COURT OF JUSTICE

One family too scared to file habeas corpus before Rwandan courts took their petition to the East African Court of Justice in Tanzania instead. The East African Court of Justice ruled that Rwanda had violated the East African Treaty.

Lieutenant Colonel Rugigana Ngabo, a Rwandan army officer was arrested by the military on 20 August 2010 and taken to an unknown location. Three days after his arrest, Rwanda's Military Spokesperson told Amnesty International that Lieutenant Colonel Rugiana Ngabo was detained at Kanombe Military Police.[88] Family members had visited Kanombe Military Prison, as well as Mulindi Military Prison, the day before and officials had denied holding the officer.[89] When asked if Lieutenant Colonel Rugigana Ngabo could have a lawyer, the Military Spokesperson hesitated and told Amnesty International "after some time it should be possible".[90] As the brother of former General Kayumba Nyamwasa, the case attracted significant media attention. Efforts by family members to trace his whereabouts failed.

Three weeks after her husband's arrest, Lieutenant Colonel Rugigana Ngabo's wife told Amnesty International that she had failed in her efforts to locate her husband and they had been met with a hostile response. She reported that an official from "J2", military intelligence, visited her office in the Kimironko neighbourhood of Kigali in early September and told her, "Cool down, don't talk".[91]

When no information was available on her brother's whereabouts after two and a half months, Lieutenant Colonel Rugigana Ngabo's sister, a Ugandan national, filed habeas corpus at the East African Court of Justice. The request stated that Lieutenant Colonel Rugigana Ngabo's wife was unable to file an application in Rwanda, as "her

attempts to follow up the detention of her husband has led to her being harassed into hiding".[92] Soon after the petition was filed, Lieutenant Colonel Rugigana Ngabo's wife fled the country and was granted refugee status outside Africa due to threats following her husband's arrest.[93]

On 21 January 2011, five months after his arrest, and over two months after the petition before the East African Court of Justice, Lieutenant Colonel Rugigana Ngabo was presented in court for the first time. At a subsequent hearing in January 2011, he was charged with crimes against national security under Article 166 of Rwanda's Penal Code. The Military High Court ruled on 28 January 2011 that Lieutenant Colonel Rugigana Ngabo had been "irregularly detained" but remanded him in pre-trial detention due to the gravity of charges against him.[94]

As with other pre-trial hearings in Rwanda for individuals who had been illegally detained for many months, the Military High Court ruled it possible to "regularize" the detention. This view was also reflected in Rwandan government statements which did not seek to condemn the original unlawful detention. In an affidavit submitted to the East African Court of Justice in this case, Rwanda's Minister of Justice and Attorney General stated: "In effect the mischief in relation to the irregular detention was cured by the decision of the Military High Court when it regularised the pre-trial detention."[95]

The East African Court of Justice ruled that the detention of Lieutenant Colonel Rugigana Ngabo "without trial and without at the very least, production of the Subject before a competent Court or Tribunal for a period of five (5) months" breached the East African Treaty.[96] The Rwandan government appealed this decision, but the East African Court of Justice's Appellate Division upheld the Court's original ruling in June 2012.[97]

Despite interviewing several people knowledgeable about the case, Amnesty International has been unable to establish where Lieutenant Colonel Rugiana Ngabo was detained after his arrest on 20 August 2010 and before his first court appearance on 21 January 2011.[98] The organization included this in a letter to the Rwandan Minister of Defence in March 2012, but did not receive a response.[99]

6. TRANSFER TO OFFICIAL PLACES OF DETENTION

Some former detainees held at Kami and Mukamira military camps were eventually brought before the prosecution and charged with terrorism or offences related to threatening state security. After being charged and denied bail, the men were transferred to official locations of detention and prisons falling under the RCS in the Ministry of Internal Security. Those who were detained in Camp Kami were normally sent to Kigali Central Prison, more commonly known as 1930. Those in Mukamira camp were transferred to Rubavu and Ruhengeri prisons. One man transferred after his ordeal at Camp Kami described it as "the resurrection, the start of life."[100]

In prisons falling under the authority of the RCS, family members were granted visiting rights. One family member described the first time he saw his relative, "I saw him for the first time in 8 months. We were happy to find him. We thought maybe he was dead."[101] For some relatives, though, seeing their family members emaciated after several months at Camp Kami was a harrowing experience. The wife of one man told us, "The first time I saw him, he was very thin, and his hair was like a child suffering from malnutrition."[102] Another said, "The first day I went to visit my husband, he had lost a lot of kilos. I was not interested to know where he had been for the important thing was to find him again. On other visits, he

told me that he had been detained at Kami and other military camps. As we didn't have much time, and we were under surveillance, he told me he was a survivor because he had been tortured for a long time and he had the luck to survive."[103]

Even once individuals had been transferred to prisons, for their relatives, many aspects of their detention remained shrouded in secrecy. The family of a military officer transferred to Kanombe Military Prison did not know where he had been detained in the five months preceding his transfer. They told Amnesty International that they had been reticent to ask questions during visiting hours in case this created problems: "Asking a lot of questions when there is nothing to be solved is another trauma."[104]

HUMAN RIGHTS PROTECTION MECHANISMS IN PRISONS

Rwanda's 13 prisons fall under the RCS, a body created in 2010 which merged the National Prison Service with the organization responsible for community service. The RCS has an internal prison inspection system which could identify indications of torture or other ill-treatment. The Commissioner General and Deputy Commissioner General of the RCS explained to Amnesty International that there are numerous other bodies that could pick up complaints from detainees, including the Senate, the Police, the Ombudsman and the National Human Rights Commission. In particular, the Deputy Commissioner General stressed that local mayors have an important role to play in registering complaints in prisons.[105]

The multitude of government organizations with responsibilities for monitoring prison conditions may create confusion about who has the ultimate responsibility for investigating allegations of torture or other ill-treatment or registering indications of torture or other ill-treatment, even in the absence of complaints. These mechanisms were not applied to the cases highlighted in this report, as individuals in military detention have no access to such safeguards.

7. TRIALS

FORCED CONFESSIONS AND TORTURE RAISED IN COURT BY DEFENDANTS

In most cases, detainees were charged with terrorism and threatening national security and transferred to prisons pending trial.[106] Many accused told judges that they had been severely beaten during interrogations while in military detention. Some said this had led them to confess under duress and subsequently retracted their confessions in court. Others told the court that they had been tortured but entered guilty pleas. In the cases Amnesty International documented, no accused took the risk of identifying in court the military officials who were responsible for their torture.

Though Rwanda's evidence law prohibits the use of confessions or evidence obtained through torture, it requires proof that judicial admissions are a result of physical torture. It states that "a person cannot retract a judicial admission unless it can be proved that the admission was a result of physical torture or it was a mistake of fact."[107] It does not define whether judicial admissions include those made before the transfer to the civilian prosecuting authorities took place.

Instead of requiring the Prosecution to prove that statements were made voluntarily, judges regularly asked the accused or their lawyers to prove they were obtained by torture. Given the length of time spent in military camps and the lack of access to medical treatment during this time, the accused were unable to provide medical evidence in support of their claims. In no cases documented by Amnesty International did judges order the Prosecution to get a medical report.[108]

A trial (known as the "grenade trial") of 30 people accused of involvement in a series of grenade attacks in 2010 and earlier years opened in the High Court in 2011. Several of the defendants stated in court that they had been unlawfully detained at Camp Kami for up to nine months. Most pleaded guilty, but several stated that they had been tortured while in military detention.[109]

The Higher Instance Court of Nyarugenge which decided to remand the accused in custody on 1 March 2011 found that their detention by the military for over eight months had been illegal. The court also noted that they had been interviewed by the Military Prosecution which was not competent to interview civilians. Despite qualifying their earlier detention as "illegal", the court decided to keep them in provisional detention, due to the serious nature of the charges.[110]

During the substantive trial the prosecution argued that the accused had been detained by the military because they were accused of belonging to the military, loosely defined as meaning an armed group.[111] The judgment indicates the various occupations of the men brought to trial, including university students, teachers, farmers, drivers and a nurse.[112]

Of the 30 accused, three told the High Court during the substantive trial that they gave false confessions under duress. A further three accused told the court that they had been severely hit during interrogations, but they had not confessed. Another accused maintained his confession, but said that he had been tortured while detained at Camp Kami. Commenting on the case, one lawyer told Amnesty International, "They tortured the people who didn't want to speak."[113]

In this trial, judges placed the onus on defendants to prove that they had been tortured, rather than requesting the prosecution to establish that the statements had been given voluntarily.[114] The court asked defendants for medical reports to prove torture, but the defendants had not had access to a doctor during the months they spent in military detention. One of the accused, Jean-Damascene Ngarambe, had confessed while in military detention to giving 12,000 Rwandan francs (approximately $20) to the FDLR. At his bail hearing before the Higher Instance Court of Nyarugenge he retracted this confession which he said was a result of torture. In the substantive trial at the High Court, he reiterated that he had made a forced confession while detained at Kami Camp. He was found guilty of giving approximately $20 to the FDLR and was sentenced to five years in prison.

In one particularly egregious case, an accused who maintained his guilty plea alleged that he suffered torture and other ill-treatment inflicted on his genitals at Camp Kami. He also said that he was repeatedly hit during his detention there and blindfolded for prolonged periods. He offered to show signs of the torture to the judges, but they refused and did not order the prosecution to investigate this further.

Despite the serious allegations of torture presented by a number of the defendants during the trial, the judgment makes no mention of torture. It refers solely to Jean-Damascene Ngarambe's allegations that he had confessed after being beaten. The judgment rejected these allegations claiming that the defendant had not been able to prove them.[115] In doing so, it unduly put the burden of proof on to the accused and violated Rwanda's obligations under

the Convention against Torture for the state to investigate torture.[116]

Several of the accused have appealed the verdict.

WILLINGNESS OF LAWYERS TO RAISE TORTURE ALLEGATIONS IN COURT

Defence lawyers for individuals charged with threatening national security and previously detained in military camps emphasized the sensitive nature of these cases. One lawyer with several years experience in legal practice said, "It is better to defend a genocide file than a threatening state security one." [117] Many of them refrained from asking their clients questions about where they were detained prior to being charged and the nature of detention conditions. When asked by Amnesty International about the nature of his client's interrogations at the military camp and who had interviewed his client, one lawyer responded, "I didn't see the importance of [asking] that."[118]

The reticence of lawyers to ask probing questions about detention conditions inhibited their ability to demonstrate in court that legal safeguards to prevent torture in military custody had been violated. One man, who had been allegedly tortured by military officials before and during his detention at Camp Kami, said that his lawyer "told me not to say things in court related to torture. My lawyer said they [the judges] would say that there was no proof and if you enter into the details of the torture that could create problems for you with the judge."[119]

WILLINGNESS OF JUDGES TO ASK PROBING QUESTIONS ABOUT DETENTION CONDITIONS

The trial of opposition politician, Victoire Ingabire, provides another example of where judges have failed to probe the detention conditions of defendants.

Victoire Ingabire, the president of the United Democratic Forces (FDU-Inkingi), was brought to trial in 2011 on a range of terrorism and speech-related charges. The terrorism-related charges are based, in part, on the testimony of four men tried alongside her, all of whom pleaded guilty. All the men – Major Vital Uwumuremyi, Lieutenant Colonel Tharcisse Nditurende, Lieutenant Colonel Noel Habyaremye and Captain Jean Marie Vianney Karuta – confessed to past involvement with the FDLR. The prosecution allege that Victoire Ingabire worked with the co-accused men to try to form an armed group, the Coalition of Defence Forces (CDF). The co-accused said that she held meetings with them in the DRC and the Republic of Congo and that she transferred money to them by Western Union through third parties.

The court did not properly test oral evidence given by the co-accused. During the limited questions that the court permitted the defence, it materialized that Lieutenant Colonel Tharcisse Nditurende and Lieutenant Colonel Noel Habyaremye had been unlawfully detained at Camp Kami for seven months before incriminating Victoire Ingabire. The defence managed to elicit that they were interrogated more than three times by individuals whom they presumed to be intelligence agents. The co-accused said that these interviews took place without the presence of a lawyer and Lieutenant Colonel Tharcisse Nditurende told the court, "I didn't know it even existed to be assisted by defence counsel."

The court prevented Victoire Ingabire's defence team from asking questions about detention conditions in Camp Kami, as the co-accused themselves had not lodged a complaint. They were unable to clarify if the co-accusers' evidence may have been coerced or induced. The

court made no efforts to obtain notes taken during the interrogations of the co-accused at Camp Kami, even though they might have contained exculpatory information potentially instrumental to Victoire Ingabire's defence, such as indications that the statements were not made voluntarily.[120]

At this writing, the High Court is yet to pronounce its verdict.

8. OBLIGATION TO INVESTIGATE ALLEGATIONS OF TORTURE AND OTHER ILL-TREATMENT

The abusive actions documented in this report have been possible because perpetrators expected their actions to go unpunished.

None of the individuals whose cases are documented in this report submitted a formal complaint to the Rwandan authorities about treatment in military detention. Those released from military custody – either without charge or after being acquitted by courts following a trial after their transfer to civilian prisons – were too scared to lodge complaints. They were scared for their security and were ostracized by their local communities. One man released after nearly a year in military detention told Amnesty International, "What worries me is that I am being followed [...]. Until now there aren't specific threats, but I am always in insecurity."[121] Another man detained by the military for two months without charge told Amnesty International in 2012 that he was asked to become an intelligence agent on his release. He chose to flee the country rather than submit to their request.[122]

Information from former detainees, their lawyers, family members and other organizations following these cases indicates that none of the torture allegations contained in this report have been investigated by the Rwandan authorities. Amnesty International wrote to the Rwandan Minister of Justice and Minister of Defence on 29 March 2012 requesting information on any state agents who have been investigated, prosecuted or tried by any Rwandan courts for direct participation in, or consent or acquiescing to, torture or other ill-treatment between 2010 and 2012 by year.[123] The organization did not receive a response.

Amnesty International discussed the obligation of the state to investigate allegations of unlawful detention and torture with several Rwandan government officials in 2012.

The Minister of Justice said that while he could not rule out the possibility of the state investigating and prosecuting those responsible for unlawful detention, the onus was on the individual to file complaints. He argued that "Nowhere in the world will you get a state suing itself. Individuals must hold the government to account". He added that individuals have sufficient protection in Rwanda to file a case against the state. Though individuals have a "right to fear", he said that this was "speculative" unless someone had encountered problems after filing a complaint for unlawful detention or allegations of torture by the military. He said that individuals should take the risk to file complaints and felt that sufficient legal guarantees were in place to protect them. [124]

Amnesty International also met with the Prosecutor General, Deputy Prosecutor General and three senior civilian prosecutors. The Prosecutor General said that the allegations documented in the organization's submission to the Committee against Torture were a "non-

issue".[125] Two senior civilian prosecutors felt that the onus was on individuals who alleged to have been tortured to file complaints themselves. The Deputy Prosecutor General told Amnesty International that "there is no torture in our country and we can't investigate on a false allegation". When asked about what mechanisms exist to investigate such complaints, he added, "It is up to the person who alleges to bring the evidence because in principle there is no torture in our country".[126] The Inspector General of the Prosecution also said that torture did not exist in Rwanda, but that the responsibility to investigate any allegations rests with the government.[127]

According to Article 13 of the Convention against Torture, to which Rwanda is a party: "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". There is no need for a formal complaint to be lodged to trigger this obligation from the State.[128]

In addition, the Rwandan authorities have an obligation to investigate torture and other ill-treatment, even if they do not receive a complaint from the victim or their family. According to Article 12 of the Convention against Torture: "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".[129]

Individuals with command control over military intelligence and other military personnel may be responsible for abuses under the principle of command responsibility. The Committee against Torture confirmed that "those exercising superior authority - including public officials - cannot avoid accountability or escape criminal responsibility for torture or ill-treatment committed by subordinates where they knew or should have known that such impermissible conduct was occurring, or was likely to occur, and they failed to take reasonable and necessary preventive measures. The Committee considers it essential that the responsibility of any superior officials, whether for direct instigation or encouragement of torture or ill-treatment or for consent or acquiescence therein, be fully investigated through competent, independent and impartial prosecutorial and judicial authorities".[130]

9. RWANDAN GOVERNMENT RESPONSE

Amnesty International tried to solicit input from the Rwandan government before publishing some of the findings presented in this report in a submission to the Committee against Torture. The organization has still not received a response to correspondence addressed to the Rwandan Minister of Defence, with a copy to the Director of Military Intelligence, and the Rwandan Minister of Justice on 29 March 2012.

At the Committee against Torture in Geneva in May 2012, Ambassador Soline Nyirahabimana responded to the allegations in Amnesty International's submission by saying, "We are not going to expand on these unsearched statements by people who do not know much about Rwanda."[131] In response to questions from the Committee, Mary Gahonzire, the Deputy Commissioner General of the RCS, denied that either civilians or military were detained at Camp Kami or Mukamira. She said that the Rwandan authorities have 13 prisons for

detainees and prisoners, 30 gazetted police stations, and one military prison, Mulindi, for people in the military. She affirmed that no people are held incommunicado in "unknown places" and invited the Special Rapporteur on Torture to visit Rwanda to verify this.[132] These statements contradict overwhelming evidence to the contrary including, for example, the High Court judgment in the "grenade trial" which notes that some of the defendants had been detained at Camp Kami.[133]

The Committee against Torture's Concluding Observations highlighted a number of concerns including: the sentences for torture in the draft penal code, since promulgated, which they found too lenient and did not cover all acts of torture; allegations of torture and ill-treatment; reports of secret detention places where individuals are held without charge or access to a lawyer or doctor for extended periods, as well as Rwanda's failure to provide information on cases of enforced disappearances.[134]

Amnesty International visited Rwanda in June 2012 to seek an official response to the patterns of violations documented in this report. The organization was unable to secure meetings with the Rwandan Minister of Defence, General James Kabarebe, the Rwandan Chief-of-Defence Staff, Lieutenant-General Charles Kayonga, or Military Prosecutor General, Major Kayijuka Ngabo.

The Rwandan Military Spokesperson, Brigadier General Joseph Nzambwita, told Amnesty International that the organization's findings were "categorically false". He stated that civilians are not detained at Camp Kami, and that the military always respect the 72 hours timeframe for charging military detainees. He stated that "I don't think we have a military that engages in torture" and that they are "better off when we are discussing peacekeeping."[135]

The Rwandan Minister of Justice also denied that there had been a systematic practice of detaining people unlawfully in Rwanda. After the grenades, in the context of a threat to national security, he acknowledged that there were some illegal detentions. He put this down to operatives going "into overdrive to get these guys arrested" which constituted "excessive zeal in the execution of a noble mission". With regard to Amnesty International's allegations of torture by military intelligence, the Minister of Justice said that the allegations were "off-the-mark" and had been fabricated. Though he did not rule out the possibility of the state investigating these allegations, he emphasized that individuals should hold the government to account by filing complaints themselves. [136]

Since Rwanda's review at the Committee against Torture, the government has taken some positive steps, including inviting the Special Rapporteur on Torture to visit Rwanda and Cabinet agreeing to ratify the Optional Protocol to the Convention against Torture. However, to date, no Rwandan official has committed to investigating the cases of unlawful detention and allegations of torture documented in this report.

10. RECOMMENDATIONS

To the Rwandan government:

- Ensure civilians, including demobilized military, are only detained in official detention facilities falling under the Ministry of Internal Security.

- Amend the Code of Criminal Procedure to explicitly prevent civilians, including demobilized military, from being detained in military detention facilities.

- Undertake a prompt review of Rwandan legislation governing counter-terrorism and national security to ensure compliance with international human rights standards, including by prohibiting the holding of a person in a secret and/or unofficial place of detention.

- Ensure all detainees, including those held by the military and intelligence services, are examined by an independent doctor as soon as they are arrested and have ongoing access to medical care while in detention.

- Ensure that all detainees, including military, are given access to legal counsel from the outset of detention and have access to legal counsel during all interrogations.

- Immediately undertake a public and impartial investigation into the use of safe houses as secret detention sites and the detention of civilians in military detention facilities, and ensure prompt and impartial investigations of allegations of torture and other ill-treatment in these detention places.

- Issue a public notice with full information about all places of detention, including their location, and end the detention of persons in a place that has not been officially declared a place of detention.

- Suspend any agents, including military officers, suspected of being involved in acts of torture or other cruel, inhuman or degrading treatment or punishment, including officials who have instigated, ordered, consented to or acquiesced in, condoned or otherwise participated in such acts of torture or other ill-treatment, regardless of rank, pending the outcome of impartial and independent investigations and ensuing prosecutions.

- Ensure that any statement obtained by torture or other ill-treatment is inadmissible in any proceedings, except in proceedings against a person accused of torture or other ill-treatment as evidence that the statement was made.

- Amend Article 110 of the 2004 Rwandan Law on Evidence in line with international standards, including by expressly stating that confessions obtained by mental, as well as physical, torture are inadmissible in any proceedings, and by ensuring that the burden is on the State to prove that such statements have been given of the person's free will.

- Amend the Code of Criminal Procedure to lift statutory limitations on torture.

- Train judges to ask probing questions about individuals who may have been detained in

secret or military facilities to ascertain when and by whom they were arrested, where they were detained, by whom, about what and how many times they had been interrogated, whether any records existed of these interrogations, whether they had access to a lawyer and independent medical assistance and if they had been subjected to torture or other ill-treatment.

- Train judges to summon authorities responsible for detention to probe the conditions and circumstances of detention and to subpoena records which may potentially include exculpatory evidence.

- Ensure that international and Rwandan human rights organizations have unhindered access to all Rwandan detention facilities and are able to interview detainees in private.

- Ensure that all victims of torture have an effective right to a remedy and reparations.

- Ratify the Optional Protocol to the Convention against Torture.

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

- Reveal the fate and whereabouts of Robert Ndengeye Urayeneza believed to have been subjected to enforced disappearance in March 2010 and believed to be detained by military intelligence.

- Reveal the fate and whereabouts of Sheikh Iddy Abbasi believed to have been subjected to enforced disappearance in March 2010.

To the Rwandan judiciary:

- Ensure confessions obtained under duress are not used as evidence in any proceedings, as required under Rwandan law and in accordance with international law.

- Ask probing questions of individuals – including defendants, co-accused and witnesses – who may have been detained in secret or military facilities to ascertain when and by whom they were arrested; where they were detained and by whom; about what and how many times they had been interrogated; if records exist of these interrogations; whether they had access to a lawyer and independent medical assistance and if they had been subjected to torture or other ill-treatment.

- Summon authorities responsible for detention to probe the conditions and circumstances of detention and to subpoena records which may potentially include exculpatory evidence.

To the Rwandan National Human Rights Commission:

- Initiate investigations and visits to any location in Rwanda, including Kami and Mukamira military camps, where there are reasonable grounds to believe, including following credible allegations, that unlawful detention and/or acts of torture are occurring, have occurred or may occur. Report publicly on these investigations, including if access is denied.

To foreign governments, especially development partners in the justice sector and military cooperation:

- Urge the Rwandan government to investigate all cases of unlawful detention, enforced disappearances, torture and other ill-treatment by the military, and to ensure that those responsible are brought to justice.

- Suspend any financial support to institutions or security forces involved in human rights violations.

ENDNOTES

[1] The Democratic Forces for the Liberation of Rwanda (FDLR) is an armed opposition group active in the Democratic Republic of Congo (DRC) composed of Rwandans, including some who were allegedly responsible for the 1994 genocide, as well as many more too young to have been involved in the genocide.

[2] See Frank Rusagara, *Resilience of a Nation: A History of the Military in Rwanda*, (Kigali: Fountain Publishers, 2009) for an overview of this from the RDF perspective. Rusagara, a former military historian of the RDF, now serves as Defence Attaché to the Rwandan High Commission in London.

[3] For information on recent human rights violations reportedly implicating the RDF in the DRC, refer to UN Group of Experts on the DRC, *Addendum to the Interim Report of the Group of Experts on the DRC*, 27 June 2012, S/2012/348/Add.1, http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/348/Add.1. For past allegations of gross human rights violations by Rwandan armed forces in the DRC, see Office of the High Commission for Human Rights, *Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003*, August 2010, http://www.ohchr.org/Documents/Countries/ZR/DRC_MAPPING_REPORT_FINAL_EN.pdf For details of Rwanda's contribution to peacekeeping including the African Union and UN Mission in Darfur (UNAMID) see the Rwandan Ministry of Defence website http://41.74.172.32/~modgov/?+-Rwandan-Peacekeepers-+ [all accessed 1 July 2012].

[4] Hereward Holland, "Grenade attacks kill 1, wound 30 in Rwandan capital", *Reuters*, 21 February 2010, http://af.reuters.com/article/topNews/idAFJOE61K02Z20100221?sp=true and Hereward Holland, "Grenade blasts kill one, injure 16 in Rwanda: police", *Reuters*, 5 March 2010, http://af.reuters.com/article/topNews/idAFJOE62404420100305?sp=true [accessed 1 July 2012].

[5] Agence France Press (AFP), "Police detain two following Rwanda grenade attacks", 20 February 2010, http://www.google.com/hostednews/afp/article/ALeqM5h8WIJPZrVFd5b010ZIazJs7u-2hA [accessed 4 May 2012].

[6] See statement by Martin Ngoga, Prosecutor General, in article by Gashegu Muramira, "Kayumba, Karegyeya behind terror attacks – Prosecution", *New Times*, 3 March 2010, http://www.newtimes.co.rw/news/index.php?i=14188&a=26509 [accessed 1 July 2012].

[7] Rwandan government statistics on grenade attacks carried out in Rwanda between December 2009 and March 2011 cited by UN Security Council, *Group of Experts report on the Democratic Republic of Congo*, UN S/2011/738, 2 December 2011, Annex 20, p. 194.

[8] The UN Group of Experts on DRC reported in June 2012 that although Laurent Nkunda is still officially under house arrest, the RDF had used to him to mobilize by telephone and through meetings a new Rwandan-sponsored rebellion in eastern DRC, known as M23. See UN Group of Experts on the DRC, *Addendum to the Interim Report of the Group of Experts on the DRC*, 27 June 2012, S/2012/348/Add.1, http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/348/Add.1, pp. 12 and 17 [accessed 1 July 2012].

[9] See Amnesty International, "Rwanda: End human rights clampdown before presidential elections",

AFR 47/003/2010, 24 April 2010 http://www.amnesty.org/en/library/asset/AFR47/003/2010/en/26e9e4e0-37b1-4e09-9191-96eb5ac72fa4/afr470032010en.html; Amnesty International, "Urgent Action: Investigate Murder of Rwandan Journalist", AFR 47/004/2010, 25 June 2010 http://www.amnesty.org/en/library/asset/AFR47/004/2010/en/f4cda145-08f6-4a5b-bd08-84e63dcc3630/afr470042010en.pdf; Amnesty International, "Pre-election attacks on Rwandan journalists condemned", 5 August 2010 http://www.amnesty.org/en/news-and-updates/pre-election-attacks-rwandan-politicians-and-journalists-condemned-2010-08-05; Amnesty International, "Rwandan journalists' imprisonment condemned", 5 February 2011 http://www.amnesty.org/en/news-and-updates/rwandan-journalists%E2%80%99-imprisonment-condemned-2011-02-05; Amnesty International, *Unsafe to Speak Out*, AFR 47/002/2011, 3 June 2011, http://www.amnesty.org/en/library/asset/AFR47/002/2011/en/ef7cd1a3-d1db-46da-b569-818b7555b83b/afr470022011en.pdf [all accessed 1 July 2012].

[10] Law N° 01/2012/OL of 02/05/2012, Organic Law Instituting the Penal Code, published in the Official Gazette on 14/06/2012.

[11] Committee against Torture, Concluding Observations on Rwanda, CAT/C/RWA/CO/1, 26 June 2012, paragraph 7.

[12] Constitution of the Republic of Rwanda, 4 June 2003, Article 15, paragraphs 1 and 2: "Every person has the right to physical and mental integrity. No person shall be subjected to torture, physical abuse or cruel, inhuman or degrading treatment."

[13] Law N° 13/2004 of 17/05/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 30/07/2004, Article 4; Committee against Torture, Consideration of reports submitted by State parties under Article 19 of the Convention: Rwanda, CAT/C/RWA/1, 16 June 2011, paragraphs 57 – 58.

[14] Law N° 15/2004 Relating to Evidence and Its Production, published in the Official Gazette on 19/07/2004, Articles 5 – 8.

[15] Law N° 15/2004 Relating to Evidence and Its Production, published in the Official Gazette on 19/07/2004, Article 110.

[16] Human Rights Committee's General Comment 32, paragraph 41 and Special Rapporteur on Torture, Report A/61/259, paragraphs 63 – 65.

[17] Law N° 13/2004 of 17/05/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 30/07/2004, Article 37; Law N° 20/2006 of 22/04/2006 modifying and complementing the Law N° 13/2004 of 17/5/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 27/05/2006, Article 9.

[18] Law N° 20/2006 of 22/04/2006 modifying and complementing the Law N° 13/2004 of 17/5/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 27/05/2006, Articles 13 and 20.

[19] Law N° 13/2004 of 17/05/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 30/07/2004, Articles 38 and 39.

[20] Law N° 13/2004 of 17/05/2004 Relating to the Code of Criminal Procedure, published in the Official

Gazette on 30/07/2004, Article 40.

[21] Law N° 45/2008 of 09/09/2008 Law on Counter-Terrorism, published in the Official Gazette on 06/04/2009, Article 45.

[22] Committee against Torture, Concluding Observations on the United States, CAT/C/USA/CO/2, 25 July 2006, paragraph 17; Human Rights Committee General Comment 20 on Article 7 ICCPR, paragraph 11; Human Rights Committee General Comment 29 on Article 4; ICCPR, paragraph 13(b); Special Rapporteur on Torture, Report E/CN.4/2003/68, paragraph 26(e); UN Declaration on the Protection of all Persons from Enforced Disappearance, UN General Assembly (UNGA) Resolution 47/133, Article 10(1); Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Working Group on Arbitrary Detention, Working Group on Enforced or Involuntary Disappearances, *Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism*, A/HRC/13/42, paragraph 292(a).

[23] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, 9 December 1975, ratified by Rwanda, 15 December 2008; ICCPR, entered into force, 23 March 1976, Article 7, ratified by Rwanda, 16 April 1975; ACHPR, adopted on 27 June 1981, entered into force, 21 October 1986, ratified by Rwanda, 17 May 1983.

[24] See, for example, Committee against Torture, Article 2(2), "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture"; ICCPR, Article 4, expressly stating that no derogation may be made from the prohibition of torture and other ill-treatment under Article 7 even "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed"; Human Rights Committee: General Comment 29 (2001), paragraphs 13(a),13(b) and 16; General Comment 31 (2004) paragraph 18; and *El Abani v. Libya* (26 July 2010) UN Doc CCPR/C/99/D/1640/2007, paragraph 7.3.

[25] See, for example, UN Security Council, Resolution 1456 (2003), Annex, paragraph 6; General Assembly, "United Nations Global Counter-Terrorism Strategy", Resolution 60/288 (2006), Annex; Human Rights Council, Resolution 19/19 (2012), paragraphs 1, 12, 13, 15; African Commission on Human and Peoples' Rights, Resolution 88 on "The Protection of Human Rights and the Rule of Law in the Fight against Terrorism", 5 December 2005, reaffirming in paragraph 2 "that African States should ensure that the measures taken to combat terrorism fully comply with their obligations under the African Charter on Human and Peoples' Rights and other international human rights treaties, including the right to life, the prohibition of arbitrary arrests and detention, the right to a fair hearing, the prohibition of torture and other cruel, inhuman and degrading penalties and treatment and the right to seek asylum". The African Union Convention on the Preventing and Combating of Terrorism states in Article 22(1), "Nothing in this Convention shall be interpreted as derogating from the general principles of international law, in particular the principles of international humanitarian law, as well as the African Charter on Human and Peoples' Rights."

[26] Human Rights Council, Seventeenth Session, Report of the Working Group on the Universal Periodic Review: Rwanda, A/HRC/17/4, paragraph 79.1.

[27] Electronic communication from the Rwandan Ministry of Foreign Affairs to Amnesty International confirming cabinet approval of the ratification of the Optional Protocol to the Convention against Torture, 14 June 2012.

[28] See, for example, Human Rights Committee: General Comment 29 (2001), paragraph 13(b); General Comment 31 (2004), paragraph 18; and *El Abani v. Libya* (26 July 2010) UN Doc CCPR/C/99/D/1640/2007, paragraph 7.3, "Any act leading to such a disappearance constitutes a violation of many of the rights enshrined in the Covenant." See also African Commission on Human and Peoples' Rights, *Amnesty International, Comité Loosli Bachelard and others v. Sudan*, No. 48/90 and others, 1-15 November 1999, paragraph 54; *Movement burkinabé des droits de l'Homme et des peoples v. Burkina Faso*, No. 204/97, 7 May 2001, paragraph 44; *Liesbeth Zegveld and Messie Ephrem v. Eritrea*, No. 250/2002, November 2003, paragraph 55.

[29] Rwanda National Police Force, "Armed and Security Forces mark two years of JOC existence",

21 February 2012, http://www.police.gov.rw/content/armed-and-security-forces-mark-two-years-joc-existence [accessed 1 July 2012].

[30] Law N° 45/2008 of 09/09/2008 Law on Counter-Terrorism published in the Official Gazette on 6 April 2009, Articles 17, 45, 22 ii.

[31] Amnesty International interview with Brigadier General Joseph Nzambwita, Spokesperson for the RDF, 14 June 2012, Kigali, Rwanda.

[32] Amnesty International interview with former detainee of Camp Kami, February 2012, Kigali, Rwanda.

[33] United States District Court for the District of Columbia, *United States of America v. Francois Karake, et al.*, Criminal Action No. 02-0256 (ESH), 17 August 2006, p. 135, https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2002cr0256-325 [accessed 1 July 2012]. Torture at Camp Kami between 2001 – 2003 is well documented in this US District Court ruling. In this case, charges were dropped against three Rwandans accused of murdering US citizens in Uganda after the judge concluded that their confessions had been coerced through torture at Camp Kami. According to Human Rights Watch, these cases were not subsequently investigated by the Rwandan authorities. Human Rights Watch, *Law and Reality*, 2008, p.85, http://www.hrw.org/sites/default/files/reports/rwanda0708webwcover.pdf [accessed 1 July 2012]. For testimony from individuals who had been detained at Camp Kami in the mid to late 1990's see Carina Tertsakian, *Le Château – The Lives of Prisoners in Rwanda*, Arves Books, 2008, pp. 232 – 233.

[34] Amnesty International interviews with former detainees of Camp Kami, February and March 2012, Kigali, Rwanda, and February and March 2012, location withheld.

[35] Mukamira military camp was also used in the late 1990's to unlawfully detain civilians who were tortured and subjected to other forms of ill-treatment. See Amnesty International, "Rwanda: No business of the military: unlawful, arbitrary detentions and ill-treatment of civilians in Mukamira military camp", AFR 47/01/00, February 2000, http://www.amnesty.org/en/library/asset/AFR47/001/2000/en/ee2ef188-dfc8-11dd-8e17-69926d493233/afr470012000en.html [accessed 1 July 2012].

[36] Law N° 13/2004 of 17/05/2004 Relating to the Code of Criminal Procedure, published in the Official Gazette on 30/07/2004, Article 40.

[37] Amnesty International interview with former safe house detainee, March 2012, location withheld; Amnesty International interview with family member of safe house detainee, March 2012, Kigali, Rwanda.

[38] ICCPR, Article 9(3) and 9(4); UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UNGA Resolution 43/173, principles 11, 15, 16, 17, 18, 19, 24, 37;

Human Rights Committee, *Aboufaied v. Libya*, Communication 1782/2008, paragraph 7.2; Human Rights Committee General Comment 20 on Article 7 ICCPR, paragraph 11; Committee against Torture, General Comment 2 on Article 2 UN Convention against Torture, paragraph 13; Special Rapporteur on Torture, Report E/CN.4/2004/56, paragraph 37 and Report A/HRC/13/39/Add.5, paragraph 156; Working Group on Arbitrary Detention, Report E/CN.4/2005/6, paragraph 76; UNGA Resolution 66/150, paragraph 22.

[39] Amnesty International interview with former detainee of Camp Kami, March 2012, Kigali, Rwanda.

[40] Amnesty International interview with family member of former detainee at Camp Kami, February 2012, Kigali, Rwanda.

[41] Amnesty International interview with lawyer, March 2012, Kigali, Rwanda.

[42] Amnesty International interviews with former detainee, February 2012, Kigali, Rwanda and March 2012, location withheld; Amnesty International interviews with former detainee, November 2011 and March 2012, location withheld.

[43] Amnesty International interview with former detainee, March 2012, Kigali, Rwanda.

[44] Amnesty International interview with family member of former detainee of Camp Kami, February 2012, Kigali, Rwanda.

[45] The term "regime" can also mean "diet" in French, but was used by Anglophone and Francophone interviewees alike.

[46] Amnesty International interviews with former detainees of Camp Kami, February and March 2012, Kigali, Rwanda and March 2012, location withheld.

[47] Amnesty International interview with former detainee of Camp Kami, March 2012, Kigali, Rwanda.

[48] Amnesty International interviews with former detainees of Camp Kami, February and March 2012, Kigali, Rwanda and March 2012, location withheld; Amnesty International interview with relative of former detainee of Camp Kami, March 2012, Kigali, Rwanda; Information from person present at provisional detention appeal hearing in the grenade trial, High Court of Kigali, 28 March 2011.

[49] Amnesty International interview with former detainee of Camp Kami, November 2011, location withheld; Amnesty International interview with former detainee of Camp Kami, March 2012, location withheld; Amnesty International interview with former safe house detainee, March 2012, location withheld.

[50] Amnesty International interview with former prisoner in Kigali Central Prison, March 2012, location withheld.

[51] Amnesty International interviews with several lawyers, February and March 2012, Kigali, Rwanda.

[52] Amnesty International interview with family member of former detainee of Camp Kami, March 2012, Kigali, Rwanda.

[53] For example, letters on file with Amnesty International dated March 2010 and February 2011; Letters viewed by Amnesty International dated March 2011 and October 2011.

[54] Amnesty International interview with family members of individual illegally detained, November 2011, Kigali, Rwanda.

[55] Amnesty International interview with family members of former detainee of Camp Kami, February 2012, Kigali, Rwanda.

[56] Electronic communication from relative of man disappeared in Rwanda, 16 May 2011.

[57] Many of these men were arrested in Rusizi District, Western Province, as part of a larger group that was rounded-up. Some were subsequently released without charge. According to the 2012 United States Country Report on Human Rights Practices in Rwanda for 2011, the original group numbered some 80 people, some of whom remained missing at the end of 2011, p.3, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186231#wrapper [accessed 1 July 2012].

[58] Court ruling on pre-trial detention, Higher Instance Court of Nyarugenge, 1 March 2011, Kigali, Rwanda.

[59] Amnesty International interview with wife of former detainee of Camp Kami, March 2012, Kigali, Rwanda.

[60] Amnesty International interview with family member of former detainee of Camp Kami, February 2012, Kigali, Rwanda.

[61] Amnesty International interview with wife of former detainee of Camp Kami, March 2012, Kigali, Rwanda.

[62] Electronic communication from Rwandan journalist present at the bail hearing, received 14 March 2011.

[63] See, inter alia, Committee against Torture, General Comment number 2, CAT/C/GC/2, paragraph 13; Human Rights Committee, General Comment number 20, paragraph 11; Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, Report to the 13th session of the Human Rights Council, Addendum 5, A/HRC/13/19/Add.5, paragraphs 156 and 259(a).

[64] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the 59th session of the UN Commission on Human Rights, E/CN.4/2003/68, paragraph 26(g).

[65] Human Rights Council, Report of the Working Group of the Universal Periodic Review – Rwanda, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/17/41/Add.1, 30 May 2011, paragraph 8; Amnesty International, "Rwanda: Respect freedom of expression and end arbitrary detentions and enforced disappearances", 17 June 2011, AFR 47/005/2011, http://amnesty.org/en/library/asset/AFR47/005/2011/en/e2002323-9c5d-4755-a50e-1915069f1ecd/afr470052011en.pdf [accessed 25 March 2012].

[66] Amnesty International interviews with individuals knowledgeable about the case, September 2010, Kampala, Uganda; Human Rights Watch press release, "DR Congo: ICC-Indicted War Criminal Implicated in Assassinations of Opponents", 13 October 2010, http://www.hrw.org/news/2010/10/12/dr-congo-icc-indicted-war-criminal-involved-assassinations-opponents [accessed 25 March 2012].

[67] Amnesty International, Briefing to the UN Committee against Torture, 48th Session, May 2012, AFR 47/003/2012, http://www.amnesty.org/en/library/asset/AFR47/003/2012/en/5a86119c-44e7-4d29-a984-ddbe3a2d23da/afr470032012en.pdf [accessed 1 July 2012].

[68] Statement by Mary Gahonzire, Deputy Commissioner General of the RCS at Rwanda's review by the UN Committee against Torture, 16 May 2012, Geneva, Switzerland.

[69] Amnesty International interviews with three people knowledgeable about the case, October 2010, Kampala, Uganda; February 2012, location withheld; and March 2012, Kigali, Rwanda.

[70] Amnesty International, "Reveal whereabouts of disappeared businessman", 27 January 2011, AFR 47/001/2011, http://amnesty.org/en/library/asset/AFR47/001/2011/en/f33e5bf1-a4ca-4251-b054-090a3dff83c4/afr470012011en.pdf [accessed 25 March 2012].

[71] Amnesty International letter to Emmanuel Gasana, Inspector General of the Rwanda National Police, 27 August 2010; Amnesty International phone call to Eric Kayiranga, then Spokesperson for the Rwanda National Police, October 2010.

[72] Amnesty International letter to General James Kabarebe, Minister of Defence, 4 November 2010; Amnesty International letter to General James Kabarebe, 29 March 2012.

[73] Statement by Mary Gahonzire, Deputy Commissioner General of the RCS at Rwanda's review by the UN Committee against Torture, 16 May 2012, Geneva, Switzerland.

[74] UN Declaration on the Protection of all Persons from Enforced Disappearance, UNGA Resolution 47/133, Article 1(2); Human Rights Committee, General Comment 31 on Article 2 ICCPR, paragraph 18; Committee against Torture, Concluding Observation on USA, CAT/C/USA/CO/2, paragraph 18; Human Rights Committee, *Aboufaied v. Libya*, Communication 1782/2008, paragraphs 7.3 and 7.4; Human Rights Committee, *El Abani v. Libya*, Communication 1640/2007, §7.3; Human Rights Committee, *Benaziza v. Algeria*, Communication 1588/2007, §9.3; Special Rapporteur on Torture, Report A/56/156, paragraph 14, and Report A/61/259, paragraph 56.

[75] For example, Human Rights Committee, *Celis Laureano v. Peru*, Communication 540/1993, §8.5.

[76] Committee against Torture, Concluding Observations on Rwanda, CAT/C/RWA/CO/1, 26 June 2012, paragraph 11.

[77] ICCPR, Article 9(4).

[78] See UN Body of Principles for the Protection of All Persons under Any Forms of Detention or Imprisonment, UNGA Resolution 43/173, principle 32(2).

[79] Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report on the visit to Honduras, CAT/OP/HND/1, paragraph 134; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Working Group on arbitrary detention, Working Group on enforced or involuntary disappearances, *Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism*, A/HRC/13/42, paragraph 292(b): "[…] In particular, effective habeas corpus reviews by independent judicial bodies are central to ensuring respect for the right to personal liberty. Therefore, domestic legislative frameworks should not allow for any exceptions from habeas corpus, operating independently from the detaining authority and from the place and form of deprivation of liberty. The study has shown that judicial bodies play a crucial role in protecting people against secret detention. The law should foresee penalties for officials who refuse to disclose relevant information during habeas corpus proceedings".

[80] Human Rights Watch, Law and Reality, p. 67, cites High Court, Kigali, Case No.RP.0161/05/HC/KIG., 26 May 2005.

[81] Amnesty International interview with Tharcisse Karugarama, Minister of Justice, 11 June 2012, Kigali,

Rwanda.

[82] East African Court of Justice, *Plaxeda Rugumba v. The Secretary General of the East African Community and the Attorney General of the Republic of Rwanda*, Amended Response to Reference filed by Minister Tharcisse Karugarama, 16 June 2011, paragraph 8 e).

[83] Amnesty International letter to the Rwandan Minister of Justice, Tharcisse Karugarama, 29 March 2012.

[84] Amnesty International interview with Rwandan Minister of Justice, Tharcisse Karugarama, 11 June 2012, Kigali, Rwanda.

[85] Amnesty International interview with family member of individual illegally detained, March 2011, Kigali, Rwanda.

[86] Amnesty International interview with family member of individual illegally detained, March 2011, location withheld.

[87] Amnesty International interview with family member of individual "disappeared", May 2010, Kampala, Uganda; Amnesty International interview with family member of individual illegally detained, September 2010, Kigali, Rwanda; Amnesty International interview with family member of individual illegally detained, July 2011, Kigali, Rwanda; Amnesty International interview with family member of individual illegally detained, November 2011, Kigali, Rwanda.

[88] Amnesty International telephone call to Jill Rutaremara, then Military Spokesperson for the RDF, 23 August 2010.

[89] Amnesty International interview with family member of Lieutenant Colonel Rugigana Ngabo, September 2010, Kampala, Uganda.

[90] Amnesty International telephone call to Jill Rutaremara, then Military Spokesperson for the RDF, 23 August 2010.

[91] Amnesty International interview with Peace Rugigana Uwasenga, wife of Lieutenant Colonel Rugigana Ngabo, September 2010, Kigali, Rwanda.

[92] East African Court of Justice, *Plaxeda Rugumba v. The Secretary General of the East African Community and the Attorney General of the Republic of Rwanda*, 8 November 2010.

[93] Amnesty International interview with Plaxeda Rugumba, sister of Lieutenant Colonel Rugigana Ngabo, March 2012, Kampala, Uganda.

[94] ODP 0006/011/HCM, Military High Court ruling on pre-trial detention matters, 28 January 2011.

[95] East African Court of Justice, Affidavit by Tharcisse Karugarama, the Attorney General of the Republic of Rwanda, 16 June 2011.

[96] East African Court of Justice, *Plaxeda Rugumba v. The Secretary General of the East African Community and the Attorney General of the Republic of Rwanda*, 1 December 2011, paragraph 42.

[97] East African Court of Justice, "Rwanda Loses Appeal Over Military Officer's Detention", 22 June 2012, http://www.eacj.org/rwanda_loses_appeal_over_officer.php [accessed 1 July 2012].

[98] Amnesty International interviews with person knowledgeable about the case, February 2011 and February 2012, Kigali, Rwanda; Amnesty International interview with Plaxeda Rugumba, sister of

Lieutenant Colonel Rugigana Ngabo, March 2012, Kampala, Uganda.

[99] Amnesty International letter to General James Kabarebe, Minister of Defence, 29 March 2012.

[100] Amnesty International interview with former detainee of Camp Kami later transferred to Kigali Central Prison, March 2012, Kigali, Rwanda.

[101] Amnesty International interview with family member of former detainee of Camp Kami, March 2012, Kigali, Rwanda.

[102] Amnesty International interview with family member of former detainee at Camp Kami, March 2012, Kigali, Rwanda.

[103] Amnesty International interview with wife of former detainee at Camp Kami, March 2012, Kigali, Rwanda.

[104] Amnesty International interview with family member of man detained by the military, March 2012, Kampala, Uganda.

[105] Amnesty International interview with Major General Paul Rwarakabije, Commissioner General, Mary Gahonzire, Deputy Commissioner General and Emmanuel Rukundo, Commissioner in Charge of Correctional, Social and Human Rights Cooperation, RCS, 14 June 2012, Kigali, Rwanda.

[106] Some individuals who had disappeared were eventually released without charge from detention in military camps.

[107] Law N° 15/2004 Relating to Evidence and Its Production, published in the Official Gazette 19 July 2004, Articles 5 – 8; Law N° 15/2004 Relating to Evidence and Its Production, published in the Official Gazette 19 July 2004, Article 110.

[108] Amnesty International interviews with several lawyers working on three different cases with a total of 44 accused, February and March 2012, Kigali, Rwanda.

[109] Information from person present at the provisional detention hearing at the Higher Instance Court of Nyarugenge, 1 March 2011; LIPRODHOR, "Rwanda: Procès Jean Bosco Ngarama placé en détention préventative de 30 jours par le Tribunal de Grande Instance de Nyarugenge pour diverses infractions notamment l'atteinte à la sécurite de l'Etat", 10 May 2011; Amnesty International interview with individual who had been accused in this case, February 2012, location withheld.

[110] Information from person present at the provisional detention hearing at the Higher Instance Court of Nyarugenge, 1 March 2011, Kigali, Rwanda.

[111] Information from person present at the trial, High Court, 28 November to 1 December 2011, Kigali, Rwanda.

[112] High Court judgment, RP0027/11/HC/KIG-RP0036/11/HC/KIG, 27 March 2012.

[113] Amnesty International interview with lawyer, March 2012, Kigali, Rwanda.

[114] Human Rights Committee, General Comment 32, CCPR/C/GC/32, paragraph 41.

[115] High Court judgment, RP0027/11/HC/KIG-RP0036/11/HC/KIG, 27 March 2012, paragraphs 123 and 125.

[116] See Committee against Torture, Concluding observations on Rwanda, CAT/C/RWA/CO/1, 26 June

2012, paragraph 23.

[117] Amnesty International interview with lawyer, March 2012, Kigali, Rwanda.

[118] Amnesty International interviews with several lawyers, February and March 2012, Kigali, Rwanda.

[119] Amnesty International interview with former detainee of Camp Kami, March 2012, location withheld.

[120] Amnesty International observation of trial of Victoire Ingabire and co-accused, High Court, 1 November 2011, Kigali, Rwanda.

[121] Amnesty International interview with former detainee of Camp Kami, location and date withheld.

[122] Amnesty International interview with individual formerly detained by the military, date and location withheld.

[123] Amnesty International letter to Tharcisse Karugarama, Minister of Justice, 29 March 2012; Amnesty International letter to General James Kabarebe, Minister of Defence, 29 March 2012.

[124] Amnesty International interview with Tharcisse Karugarama, Minister of Justice, 11 June 2012, Kigali, Rwanda.

[125] Amnesty International interview with Martin Ngoga, Prosecutor General, 13 June 2012, Kigali, Rwanda.

[126] Amnesty International interview with Alphonse Hitiyaremye, Deputy Prosecutor General and John Bosco Siboyintore, Head of the Genocide Fugitives Tracking Unit, 13 June 2012, Kigali, Rwanda.

[127] Amnesty International interview with Jules Marius Ntete, Inspector General for the National Public Prosecution Authority, 13 June 2012, Kigali, Rwanda.

[128] "The Committee observes that article 13 of the Convention does not require either the formal lodging of a complaint of torture under the procedure laid down in national law or an express statement of intent to institute and sustain a criminal action arising from the offence, and that it is enough for the victim simply to bring the facts to the attention of an authority of the State for the latter to be obliged to consider it as a tacit but unequivocal expression of the victim's wish that the facts should be promptly and impartially investigated, as prescribed by this provision of the Convention", Committee against Torture, *Blanco Abad v. Spain*, Communication No 59/1996, paragraph 8.6.

[129] UN Convention against Torture, Article 16(1) extends this scope of application of Articles 12 and 13 to other acts of cruel, inhuman or degrading treatment or punishment.

[130] Committee against Torture, General Comment No. 2, CAT/C/GC/2, paragraph 26.

[131] Opening presentation by Ambassador Soline Nyirahabimana, Rwandan Ambassador to the UN in Geneva at Rwanda's review by the UN Committee against Torture, 14 May 2012, Geneva, Switzerland.

[132] Statement by Mary Gahonzire, Deputy Commissioner General of the RCS at Rwanda's review by the UN Committee against Torture, 16 May 2012, Geneva, Switzerland.

[133] High Court judgment, RP0027/11/HC/KIG-RP0036/11/HC/KIG.

[134] Committee against Torture, Concluding Observations on Rwanda, CAT/C/RWA/CO/1, 26 June 2012, paragraphs 7, 10, 11 and 14.

[135] Amnesty International interview with Brigadier General Joseph Nzambwita, Spokesperson for the RDF,

14 June 2012, Kigali, Rwanda.

[136] Amnesty International interview with Tharcisse Karugarama, Minister of Justice, 11 June 2012, Kigali, Rwanda.

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RWANDA: SHROUDED IN SECRECY

ILLEGAL DETENTION AND TORTURE BY MILITARY INTELLIGENCE

Dozens of people in Rwanda suspected of threatening national security have been held in a network of secret detention centres around the country run by the military. In these camps, detainees were unlawfully held and were at risk of torture and other ill-treatment. Some are still held in secret detention.

Reports of enforced disappearances, torture and other ill-treatment by Rwandan military intelligence began to emerge in March 2010 as part of investigations into grenade attacks in Rwanda and other perceived security threats in the run-up to the August 2010 presidential elections. Individuals were arrested, often arbitrarily, by military believed to be acting in collaboration with the police. Almost all of them were men aged between 20 and 45, mostly civilians including demobilized military. Others were members of the Rwandan army or individuals suspected by the Rwandan authorities of belonging to the Democratic Forces for the Liberation of Rwanda, an armed opposition group based in eastern Democratic Republic of the Congo. For the families of those arrested they had effectively disappeared, held incommunicado and hidden from view.

This report is based on information gathered over two years during several visits to Rwanda. It documents more than 45 cases of unlawful detention and 18 allegations of torture or other ill-treatment by Rwandan military intelligence in 2010 and 2011. The actual numbers are believed to be far higher and some individuals who had disappeared are still in secret detention. Without the safeguards applied in official places of detention there are serious concerns for these detainees, and Amnesty International is urging the government to immediately end this practice of unlawful detention, disclose the fate or whereabouts of those subjected to enforced disappearance, investigate the torture allegations and bring those responsible for these human rights violations to justice.

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