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“JUST TELL ME WHAT TO CONFESS TO”

**TORTURE AND OTHER ILL-TREATMENT BY BURUNDI’S POLICE AND INTELLIGENCE
SERVICE SINCE APRIL 2015**

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Reconstruction of prisoner in police station prison cell as he is questioned by police officers holding him. © Tim Werwie, Amnesty International

I. SUMMARY

“They told me if you don’t confess, we’ll kill you. But I said how can I confess when I know nothing—you’ll have to just tell me what to confess to”.

A man who was detained and tortured by the National Intelligence Service in June 2015.

On a recent visit to Bujumbura, Burundi’s capital, Amnesty International met several former demonstrators who were in hiding. They feared arrest, but not just arrest: what they especially feared was torture. The many graphic descriptions of torture that Amnesty International heard from former detainees during that same visit suggest that these fears are well grounded. The use of torture and other ill-treatment against persons who belong to, or are perceived as belonging to, the political opposition seems to be spreading and worsening. Several sources, including several human rights activists, as well as Burundian civil servants, also told Amnesty International that torture was on the rise in Burundi.¹

Albert (not his real name), who participated in demonstrations over recent months, described his experiences in detail. Picked up at the end of May 2015 by Burundi’s state intelligence agency, the National Intelligence Service (Service National de Renseignement, SNR), he was subjected to severe beatings and other abuses. One of his worst experiences was being dunked in a hole full of dirty water so that he was unable to breathe.²

“When I arrived at their building,” Albert told Amnesty International, “they asked me two things: ‘where do you live?’ and ‘were you part of the protests?’ Because I live in Musaga, a neighbourhood seen as anti-government, I was in real trouble.”

Both the SNR and the Burundian National Police (PNB) are responsible for torture and other ill-treatment. Former detainees described being beaten with branches, iron bars, and police batons; and being stomped on, threatened with death, denied medical care, and verbally abused. In one particularly horrific case, a five-litre container full of sand was hung from a man’s testicles, causing enormous pain and swelling, and then the man was made to sit in a shallow layer of what he believed was battery acid, burning his skin severely.³

During visits to Burundi in May and July 2015, Amnesty International interviewed 11 men who reported being subjected to torture and other ill-treatment in two different locations in Bujumbura, as well as two other men who witnessed others being subjected to such treatment while being detained there. All of the men had been detained in the last few months, between late April and early August 2015. Amnesty International also spoke with two policemen, who confirmed some of the information gathered from former detainees. The names and identifying details of these sources have been withheld in the interests of their security, as many expressed fear of reprisals.

The accounts that former detainees gave of the number of people who were held in unlawful detention at the same time as them, as well as information from the UN’s human rights monitors, suggest that the cases of torture and other ill-treatment that Amnesty International has documented are part of a much larger problem of torture and other ill-treatment in detention.

¹ Amnesty International interviews with two different civil servants, Bujumbura, June 2015. Amnesty International interviews with two different human rights activists, Bujumbura, June and July 2015.

² Amnesty International interview with victim, Bujumbura, July 2015.

³ Amnesty International interview with victim, Bujumbura, July 2015.

Some of the demonstrators, opposition supporters, a human rights activist and a journalist, whose cases are documented in this report were arrested solely for exercising their right to freedom of expression, association, and assembly. Others were accused of participating in a rebellion or distributing weaponry. Amnesty International does not take a position on their innocence or guilt in relation to these accusations. Our concern is that detainees were subjected to a pattern of human rights violations: unlawful arrest and detention, torture and other ill-treatment, and a lack of access to lawyers, family members and doctors.

Amnesty International contacted SNR representatives who declined to comment on the findings of this report.⁴ Amnesty International also tried unsuccessfully to reach the Director General of the PNB by telephone on several occasions in August 2015 to seek his official response.

To date, there appears to have been no investigation into any of these cases of abuse.

II. BACKGROUND

On 26 April 2015, demonstrations broke out in Burundi's capital, Bujumbura, and continued until mid-June to protest against President Pierre Nkurunziza's decision to run for a third term in the July 2015 elections. Political tensions ran high as many Burundians saw this bid as unconstitutional and a violation of the 2000 Arusha Agreement which had brought an end to the country's civil war.

The police response to the demonstrations was marked by a pattern of serious violations, including of the right to life, freedom of association and peaceful assembly. They used excessive and disproportionate force, including lethal force, against protesters, at times shooting unarmed demonstrators running away from them. Even where children were present during demonstrations, police still failed to exercise restraint, and used tear gas and live ammunition.⁵

On 13 May, a group of military officers led by General Godefroid Niyombare staged an attempted coup and announced that President Pierre Nkurunziza had been dismissed. The following day, after heavy fighting between their supporters and factions of the army loyal to the President, the coup leaders announced that they had failed. On 25 June, General Philbert Habarugira, who participated in the failed coup, announced from exile in an online audio clip their intention to mount an armed rebellion against President Pierre Nkurunziza's government.⁶

On 24 July, President Nkurunziza was declared the winner of the presidential elections.

III. TORTURE AND OTHER ILL-TREATMENT BY THE SNR

Commonly referred to as "the Documentation," the SNR is one of the country's most feared institutions. The current head of the SNR is General de Brigade Etienne Ntakirutimana.⁷ However, until recently, several observers stated that General Adolphe Nshimirimana, the former long-standing head of the SNR, still had a pivotal role in SNR activities.⁸ General Adolphe Nshimirimana was in

⁴ Amnesty International phone calls with two different SNR representatives, August 2015.

⁵ See also Amnesty International, *Braving Bullets: Excessive force in policing demonstrations*, (Index: AFR 16/2100/2015), July 2015, <https://www.amnesty.org/en/documents/afr16/2100/2015/en/>.

⁶ Interview, <https://www.youtube.com/watch?v=DXVOe6iOmJo> (accessed 7 July 2015).

⁷ Decree no 100/40, dated 24 February 2015, http://presidence.gov.bi/IMG/pdf/decret_40.pdf (accessed 11 August 2015).

⁸ Amnesty International interview with journalist, May 2015. Amnesty International interview with police officer,

charge of the SNR for nearly a decade until he became chief security advisor to the Presidency.⁹ Amnesty International documented cases of torture and other ill-treatment, intimidation and harassment of political opponents during that period.¹⁰ On 2 August, unidentified men killed General Adolphe Nshimirimana.¹¹

The cases of torture and other ill-treatment under SNR detention documented here all took place at the SNR compound near Bujumbura’s cathedral. Amnesty International also interviewed two former detainees who had witnessed torture and other ill-treatment and who had talked with detainees held at this compound, all of whom also mentioned the use of torture and other ill-treatment, including beatings with pieces of rebar (the iron reinforcing bars used in building construction).

UN human rights monitors told Amnesty International that they regularly visit the SNR’s offices near the Cathedral, and that they have documented frequent cases of torture, as well as unlawful arrests and detentions.¹² In early June, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Burundi told Amnesty International they had documented nearly 50 cases of torture and other ill-treatment. On 7 July, the UN Secretary General’s report on the electoral observation mission in Burundi stated that “some 307 people have been arrested, including 14 minors. Most of those arrested have been subjected to torture and cruel, inhumane and degrading treatment by security officers (mainly police and intelligence agents)”.¹³

In the cases Amnesty International documented, the detainees did not have access to a lawyer and their families during their detention at the SNR’s compound. According to information received from lawyers, when individuals previously held by the SNR have alleged torture before court, the evidence obtained under such circumstances did not appear to have been declared invalid in spite of clear provisions in the Burundian Code of Criminal Procedure.¹⁴ To date, there is no investigation and nobody has been arrested for torture at the SNR.

Two different lawyers of detainees told Amnesty International they are not allowed access to the SNR’s compound.¹⁵ However, the Burundian Code of Criminal Procedure makes provision for a detainee to remain silent if his lawyer is not present and for a detainee to communicate freely with his lawyer.¹⁶ A leading Burundian human rights organization, the Association for the Protection of Human Rights and Detained People (APRODH), is no longer granted access to the SNR’s compound. At least one detainee says that he signed a document under duress.¹⁷

June 2015. Amnesty International interview with human rights observer, May 2015. Amnesty International interview with senior civil servant, June 2015.

⁹ Decree no 100/272, dated 28 November 2014, <http://presidence.gov.bi/IMG/pdf/9.pdf> (accessed 11 August 2015).

¹⁰ Amnesty International, “A step backwards - Torture and other Ill-Treatment by Burundi’s National Intelligence Service”, 23 August 2010, http://www.amnestyusa.org/sites/default/files/afr160022010en_0.pdf.

¹¹ Amnesty International, *Burundi: Shooting of human rights activist increases climate of fear*, 6 August 2015, <https://www.amnesty.org/en/latest/news/2015/08/burundi-shooting-of-human-rights-activist-increases-climate-of-fear/>.

¹² Amnesty International correspondence with OHCHR staff, July 2015.

¹³ Report of the Secretary-General on the United Nations Electoral Observation Mission in Burundi, 7 July 2015, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N15/204/56/PDF/N1520456.pdf?OpenElement>

¹⁴ Amnesty International interviews with two different lawyers, Bujumbura, July 2015. Law No. 1/10 of 3 April 2013 on the Reform of the Criminal Procedure Code (Criminal Procedure Code), Article 52, http://www.assemblee.bi/IMG/pdf/n°1_10_2013.pdf (accessed 11 August 2015).

¹⁵ Amnesty International interviews with two different lawyers, Bujumbura, July 2015.

¹⁶ Law No. 1/10 of 3 April 2013 on the Reform of the Criminal Procedure Code (Criminal Procedure Code), Articles 10 and 95, http://www.assemblee.bi/IMG/pdf/n°1_10_2013.pdf (accessed 11 August 2015). Amnesty International interview with civil servant, Bujumbura, July 2015.

¹⁷ Amnesty International interview with victim, Bujumbura, July 2015.

According to a lawyer, "those who are tortured are accused of participation in an insurrectional movement."¹⁸

THE ROLE OF THE IMBONERAKURE DURING ARRESTS BY THE SNR

The Imbonerakure is the youth wing of the National Council for Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD). While not a homogenous group, parts of the Imbonerakure were responsible for intimidation, harassment and violence, attacking and killing members of the political opposition with impunity in 2014, the year leading up to the elections. Allegations by the UN that some members of the Imbonerakure had been armed, though denied by the Burundian government, were never investigated by the authorities.¹⁹

One of the victims Amnesty International talked to, said an Imbonerakure member denounced him to the SNR and some Imbonerakure were involved in his arrest in May.²⁰ A man held at the SNR was also told by other detainees that the Imbonerakure had given information to the police for their capture.²¹ A civil servant told Amnesty International that the SNR uses the local Imbonerakure to identify the houses of demonstrators in their quarters before arrest.²² One human rights activist told Amnesty International that there is a list of people to be arrested and the Imbonerakure provide information to the SNR to facilitate the arrest of those who played an important role during the demonstrations.²³ In an email to Amnesty International on 13 August in response to questions about Imbonerakure and the SNR, an Imbonerakure representative stated that: "If any youth are used in any illegal activities, they must be held accountable. I think the SNR can use anyone, irrespective of ethnic or political membership, it depends on the objective and it is really down to them (the SNR). On our side, we mobilize youth for development, peace, tolerance and the resolution of conflict through dialogue and not violence".²⁴

INSTANCES OF TORTURE AND OTHER ABUSE

George (not his real name), who was arrested mid-May in the city centre of Bujumbura, told Amnesty International:

"I saw two pick-ups, one white and another was black. They stopped me and accused me of being involved in a crime. They took me in one pick up, there were at least two chiefs and four policemen. Others were in civilian clothes. They are the ones who stopped me. I was tortured four times at the Documentation. They took all the money I had with me. They put a tire around me and gave me three minutes to pray. I thought I was going to die. Then he asked one policeman to go and look for fuel. Then he kicked me three times. He started to jump up and down on me. He then took a metal bar to beat me. That's what I was beaten with on my butt. Up to now, I am learning how to sit again. I still have marks. I spent a week at the Documentation then I was

¹⁸ Amnesty International interview with lawyer, Bujumbura, July 2015.

¹⁹ Amnesty International, *Locked Down: A Shrinking of Political Space*, (Index: AFR 16/002/2014), July 2014, <https://www.amnesty.org/en/documents/afr16/002/2014/en/>.

²⁰ Amnesty International interview with victim, Bujumbura, May 2015.

²¹ Amnesty International interview with witness, Bujumbura, July 2015.

²² Amnesty International interview with civil servant, Bujumbura, July 2015.

²³ Amnesty International interview with human rights activist, Bujumbura, July 2015.

²⁴ Email from an Imbonerakure representative, 13 August 2015.

transferred to the prison. Here I have received visits from family members, but not at the Documentation".²⁵

Edouard (not his real name) who was briefly arrested in late May told Amnesty International that he was stopped while in the city centre by men in civilian clothes, some of them whom he identified as Imbonerakure members:

"They asked me 'do you organise people to take to the streets?' I said I didn't, which is the truth; I don't get involved in these things. They wanted to see what was in my phone and I refused because I had some things on my What's App. Then they asked for money. I tried to go to and see the police who were nearby but a chief of the Imbonerakure arrived and threatened the police who left me with these men. They said 'you will see who we are, you won't do these meetings anymore'. Someone [who appeared to be a General] arrived with four men dressed in civilian clothes. They took me in a jeep to the Documentation near the Cathedral. I thought it was all over. They read everything in my phone. They told me to go to the wall, to undress. There was blood on the wall. There was a man on the ground there who had already been badly beaten. They beat me up 30 times. They told me to give up all the names. After a while, they told me to dress and get inside a pick-up without plates. They drove me somewhere and one of them told me 'I don't want to see you in town again because I'll beat you'.²⁶

Albert, a former protester who was arrested at the end of May reported to Amnesty International to have suffered several forms of torture. He described being beaten while in detention on a daily basis by young individuals wearing civilian clothing. "They were dressed like they were going to the beach," he explained.

He said that he and other prisoners were beaten in a group, and that the men doing the beating used pieces of rebar, wooden sticks, and military belts. They aimed especially for peoples' joints — their knees and ankles.

On the first day of the three days that he was held, he said that his captors put him in a hole full of dirty water. The water reached his chest, and the men dunked him in it so that he could not breathe.

He continued:

"That evening, they put me in a tiny room. There was no room for me to lie down; I had to sleep sitting. The next day, they put me in another tiny room, this one with small rocks embedded in the floor. I spent the whole day there. On the third day, they brought me into a room with a pile of glass shards, and they threatened to cut me up with them. They asked me to write up a list of every single person I knew, and also to sign a document promising not to take part in protests anymore. I signed it".²⁷

Gustave (not his real name) who was arrested in early June told Amnesty International:
"A policeman and a man from the SNR arrested me and brought me to the SNR office. They told me 'we will cut your head, we'll kill you straight away

²⁵ Amnesty International phone call with victim, June 2015.

²⁶ Amnesty International interview with victim, Bujumbura, May 2015.

²⁷ Amnesty International interview with victim, Bujumbura, July 2015.

because you are promoting this". They said "we were looking for you, tell us the truth or we'll kill you." I saw young people being beaten up there".²⁸

Gustave told Amnesty International that he was released on the same day after people in his community talked with a local CNDD-FDD official.

Frank (not his real name), a young man who was arrested in June 2015, told Amnesty International:

"I was arrested by the police but the Documentation picked me up and they brought me to the Documentation office near the Cathedral. When I got there, they asked me who shoots at night in the quartier, who has weapons, where a leader of the demonstrators is. As I didn't answer, or said I didn't know, they beat me up. They used a metal bar, then they used electrical current on my hands (ring fingers) on different occasions".²⁹

David (not his real name), an older businessman explained to Amnesty International that he was arrested in late June upon his arrival from Kayanza at Gare du Nord, a bus station in the Kamenge area in Bujumbura. Brought to the SNR compound near the cathedral, he was accused of organizing night watches by local youth in the Mutakura neighborhood, and of giving them weaponry training.

"They began hitting me with iron bars," David said, showing Amnesty International the marks. "Then they asked me to undress. They took a five-litre container full of sand and tied it to my testicles. They left it on me for more than an hour; I fainted. After I came to, they made me sit in a shallow pool of battery acid. They poured about a litre container of battery acid on the ground and made me sit in it; it burned terribly".³⁰

David was held by the SNR for nearly a week. Amnesty International saw his injuries, which looked extremely serious.

Gaston (not his real name), who was held at the SNR at the end of June for a couple of days, told Amnesty International how he was arrested by the police then transferred by SNR staff to the SNR office near the cathedral in Bujumbura:

"We were about 15 people in the cell in total. Out of the 15, only three or four weren't tortured. Several of the people held there told me they had been beaten with pieces of rebar. One had a broken limb. He was accused of recruiting for, and participating in, a rebel movement. Three youth told me how they were made to look at the midday sun, and how they were beaten at the same time. People there are accused of participation in a rebel movement or of recruiting for a rebel movement".³¹

Thierry (not his real name), who was held at the SNR for 10 days beginning in late June, told Amnesty International:

"There are a lot of Movement for Solidarity and Democracy (Mouvement pour la solidarité et la démocratie, MSD) and National Liberation Forces (Forces

²⁸ Amnesty International interview with victim, Bujumbura, June 2015.

²⁹ Amnesty International interview with victim, Bujumbura, July 2015.

³⁰ Amnesty International interview with victim, Bujumbura, July 2015.

³¹ Amnesty International interview with witness, Bujumbura, July 2015.

Nationales de Libération, FNL) members at the Documentation. At one point, we were about 68 people kept in two rooms. People were really beaten badly. They would come at night, even at 3am, to pick up people and beat them".³²

In addition to perceived opposition members or demonstrators, at least one journalist has also been subjected to torture. On 2 August, Esdras Ndikumana, a Burundian journalist reporting for Radio France Internationale (RFI) from the scene where General Adolphe Nshimirimana was killed, was arrested by the SNR.³³

He talked to Amnesty International just after being released:

"I was taking pictures and asking questions at the site of the attack, when suddenly I was arrested by SNR elements who beat me up. They brought me to the Documentation and there, there were about six or seven people who had been arrested. I was beaten up again, for a long time; they used their batons, pieces of rebar; they kicked me. They beat me everywhere. I have a broken finger, the soles of my feet are very painful. Someone told me there I was lucky, that they could have killed me".³⁴

Esdras Ndikumana was released from detention after a few hours and had to seek medical care for his injuries. He eventually left Burundi.³⁵

IV. TORTURE AND OTHER ILL-TREATMENT AT "CHEZ NDADAYE"

Amnesty International received several testimonies of torture and other ill-treatment at a place known as Chez Ndadaye in Bujumbura. According to a policeman and UN human rights monitors, Chez Ndadaye is an operational command centre for the police.³⁶ It is known as Chez Ndadaye because the presidential palace that housed President Melchior Ndadaye, the country's first democratically elected president and first Hutu president, once stood there.

The police, in some cases the police in charge of Protection of Institutions (Appui pour la Protection des institutions - API), arrested and brought demonstrators or suspected demonstrators to Chez Ndadaye.³⁷ All four victims Amnesty International talked to said how, upon arrival at Chez Ndadaye, policemen wearing the blue uniforms of the regular police made them lie face down with their arms outstretched on both sides of their faces. The policemen then beat them all over, especially on their feet and their backs, with branches and/or truncheons. Two of the victims also said policemen walked over them. A policeman and one victim also explained that policemen at Chez Ndadaye used

³² Amnesty International interview with witness, July 2015.

³³ Amnesty International, *Burundi: Shooting of human rights activist increases climate of fear*, 6 August 2015, <https://www.amnesty.org/en/latest/news/2015/08/burundi-shooting-of-human-rights-activist-increases-climate-of-fear/>.

³⁴ Amnesty International phone call with Esdras Ndikumana, 2 August 2015.

³⁵ Amnesty International phone call with Esdras Ndikumana, 18 August 2015.

³⁶ Amnesty International phone call with policeman, July 2015. Amnesty International interview with OHCHR staff, Bujumbura, June 2015.

³⁷ The API is mandated to guard institutions, politicians and senior officials. The API forces wear a distinctive spotted blue uniform, which differs from the dark blue uniform worn by other police units. See also Amnesty International, *Braving Bullets: Excessive force in policing demonstrations*, (Index: AFR 16/2100/2015), July 2015, p.15, <https://www.amnesty.org/en/documents/afr16/2100/2015/en/>. Amnesty International interview with two different victims, Bujumbura, July 2015.

electric cables or wires to whip people.³⁸ Another policeman told Amnesty International that in mid-July he had met a young man who had been held at Ndadaye but who had since fled to Rwanda. He had been tied up, and beaten up and still had traces.³⁹

According to the first policeman and two victims, demonstrators were not kept overnight at Chez Ndadaye, but were beaten there before being transferred to the judicial police and/or police stations.⁴⁰ Gregory (not his real name) however told Amnesty International he was kept there for three days.⁴¹

Victims Amnesty International interviewed were not interrogated while at Chez Ndadaye, except in one case. It seems that the main purpose of beatings at Chez Ndadaye was to punish demonstrators for their actions. As Gregory explained, the police told him and others "we will beat you up until you no longer have the appetite to go in the street".⁴² According to some of the victims and a policeman, the police insulted or taunted the victims about their actions as demonstrators, and in one case, threatened to kill them.⁴³

The OHCHR carried out a planned visit to Chez Ndadaye on 12 June 2015, but did not observe any torture or beatings at the time.⁴⁴ Amnesty International interviewed victims who were beaten both before and after 12 June at Chez Ndadaye.

One policeman told Amnesty International some policemen are frustrated by the situation. He explained:

"Several policemen are not happy about what takes place at Chez Ndadaye and have complained to their superiors. Most of the perpetrators are those who were previously in the bush (ex-FDD). They beat protestors. Maybe around 10 people came through Chez Ndadaye every day. Police used their batons and electric wires to beat them. They'd say 'you who are against Nkurunziza, you are wasting your time, he'll be president forever'".⁴⁵

Justin (not his real name), a demonstrator, told Amnesty International that he was arrested a few days after the 13 May 2015 coup attempt:

"I saw about 15 people lying on their stomach under the sun. I was told to do the same. I was asked to take off my shoes and socks and the police used branches they cut from the trees. We were beaten, they told us not to look. The police walked on us, they beat us up. Among us, there were people from Musaga, Nyakabiga, Cibitoke, including innocent people (i.e. who had not taken part in the demonstrations). The rest were demonstrators. They beat us

³⁸ Amnesty International interview with victim, Bujumbura, July 2015. Amnesty International phone call with policeman, July 2015. See also International Business Times, "Burundi: Police tortured me with tear gas until I choked, says protester," 9 June 2015 (available at <http://www.ibtimes.co.uk/burundi-police-tortured-me-tear-gas-until-i-choked-says-protester-1505034>).

³⁹ Amnesty International interview with policeman, Bujumbura, July 2015.

⁴⁰ Amnesty International phone call with policeman, July 2015. Amnesty International interviews with two different victims, Bujumbura, July 2015.

⁴¹ Amnesty International interview with victim, Bujumbura, July 2015.

⁴² Amnesty International interview with victim, Bujumbura, July 2015.

⁴³ Amnesty International interviews with victims, Bujumbura, July 2015. Amnesty International phone call with policeman, July 2015.

⁴⁴ Amnesty International correspondence with OHCHR staff, July 2015.

⁴⁵ Amnesty International telephone interview with policeman, July 2015.

up with branches and some were running on us and they were shouting 'you the imbeciles, you the dogs'. Others were beating the back of our feet, which were on the floor. They were beating us everywhere, even on the head. We kept being beaten for three hours. Every time a new policeman arrived, he would come and beat us. They were saying we were putschists and not demonstrators. They said 'you the putschist, you the Tutsi.' The API brought more people in but it was the normal police who were beating us".⁴⁶

Justin told Amnesty International he managed to escape the same day.

Gregory (not his real name), who was also a demonstrator and who arrived at Chez Ndadaye around the same dates as Justin, was detained a few days in Chez Ndadaye:

"I was arrested two weeks after the demonstration, between 15 and 16 May. The policemen spotted me and I was brought to a small place within the BSR. I was then brought to Chez Ndadaye and stayed there three days. When we got to Chez Ndadaye, the policemen whipped us, beat us, walked on us with their shoes. [...] We were told 'if you die, can't you see your family will lose out?' The policemen would say to each other – 'they are crazy, they go in the street without weapons and only stones; we'll kill them all.' At night, we stayed in a container. There were two containers but we all stayed in the same container. There was no bed in the container, no blankets. Before we entered the container for the first time, we were asked where we came from but nobody took notes of it. We were around 20 people in total and over the three days I stayed, the police took a total of 13 people out at night and I never saw them again. We were seven people when I left. At night, we'd hear a pick-up coming around 9pm. I saw that the people in the pick-up were wearing the API uniforms. There was no violence in the container. The mornings, we would go to the bathroom, we didn't receive visits. We were beaten every day by the guards of the cachot. An officer was giving the order for us to be whipped with small electric cable or with their batons. We had to lie down on our stomachs, and we were beaten on our backs, buttocks and legs. We were beaten on the back of their feet. They used to say 'dogs of demonstrators' (les chiens de manifestants) we will beat you up until you no longer have the appetite to go in the street (to demonstrate)!'... I was later released and I went back to the demonstrations".⁴⁷

Marc (not his real name) who was a demonstrator, was arrested in early June by the police at his home:

"The police wearing spotted blue uniforms slapped me and I had to get in the car. They handcuffed me and we drove around the area looking for more demonstrators. They brought me to a place called Kwa Ndadaye (Chez Ndadaye). They took off the handcuffs and told me to lie down on my stomach. I asked them if they were going to kill me, and if I could I pray beforehand. Some policemen wearing spotted blue uniforms and others in full blue uniforms started beating me on the back, on the legs. They were really beating my ankles and my back. They used their batons (Indembo). They also used branches to beat me. They told me not to look up and be face down. They beat me maybe for one hour. Then they told me to lie on my back and look at the

⁴⁶ Amnesty International interview with victim, Bujumbura, July 2015.

⁴⁷ Amnesty International interview with victim, Bujumbura, July 2015.

sun for five or ten minutes. After this, they put me in a large metal trolley, the metal was really hot. They brought three other people who they beat just like me earlier, then told them to get inside the trolley as well. They beat our feet with the butt of their weapons. They told us 'it's you who think they can lead the third mandate? Which post will you get, you and you?' Then they threw a tear gas (blue/yellow) inside the trolley. If we screamed, they would beat our feet, head and back. Later they took us to the Judicial Police (in Bwiza). We were not beaten there".⁴⁸

The family of Marc later bribed the police and he was released.⁴⁹

Samuel (not his real name), who is a local human rights activist, was tortured in mid-June 2015. Amnesty International interviewed him on the day he was released.

Samuel told Amnesty International that he was arrested in Mugongo Manga commune, Bujumbura Rural Province after asking the police why they had arrested a 16-year-old boy. After being brought to Ijenda and beaten there, he was taken to Chez Ndayaye, where he was beaten once again.

Samuel described what his captors did to him:

"We arrived at Chez Ndayaye around 12:30pm. A local official told the police 'take these people and do what you have to do.' They made us lie on the ground, with our arms stretched out in front of us and with our hands handcuffed. Policemen dressed in full blue uniforms beat the boy and myself with their batons. They beat us on our back, buttocks and feet for 20 minutes. They were six policemen, and they took turns. I had problems walking for a week. I couldn't put my shoes on, because my feet were so swollen. Even putting my feet on the ground was difficult. They didn't have time to ask us anything, they just beat us. After this, we were brought to the judicial police for interrogation ... I wasn't beaten there. When I later asked the magistrate to let me see a doctor, the magistrate refused".⁵⁰

Samuel showed Amnesty International the bottom of his feet, which still showed traces of dried blood.

V. BURUNDIAN LAW

Under Burundi's Constitution, "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".⁵¹ According to the Burundian Code of Criminal Procedure, any statement or evidence obtained through torture is to be declared null and void.⁵² In cases of torture by state officials, and if a civilian case is brought forward, the State should provide full reparations and can also turn against the state official responsible.⁵³

⁴⁸ Amnesty International interview with victim, Bujumbura, July 2015.

⁴⁹ Amnesty International interview with victim, Bujumbura, July 2015.

⁵⁰ Amnesty International interview with victim, Bujumbura, July 2015.

⁵¹ Constitution of the Republic of Burundi of 18 March 2005, Article 25, http://justice.gov.bi/IMG/pdf/Constitution_de_la_Republique_du_Burundi.pdf (accessed 12 August 2015).

⁵² Law No. 1/10 of 3 April 2013 on the Reform of the Criminal Procedure Code (Criminal Procedure Code), Article 52, http://www.assemblee.bi/IMG/pdf/n°1_10_2013.pdf (accessed 11 August 2015).

⁵³ Law No. 1/10 of 3 April 2013 on the Reform of the Criminal Procedure Code (Criminal Procedure Code), Articles 289 and 290, http://www.assemblee.bi/IMG/pdf/n°1_10_2013.pdf (accessed 11 August 2015).

Lawyers representing individuals who allege to have been tortured by the SNR as well as a victim told Amnesty International that when their clients requested medical assistance in court, this was refused by the magistrates.⁵⁴ In at least one case, one man was not brought before a prosecutor within seven days, the timeframe stipulated by the Burundian Code of Criminal Procedure for the police to complete investigations and charge or release suspects. This timeframe can be extended for an additional seven days by a prosecutor.⁵⁵

VI. INTERNATIONAL AND REGIONAL STANDARDS

Burundi is bound by an array of international and regional treaties, including the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples’ Rights (ACHPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).⁵⁶

All of these binding instruments prohibit the practice of torture. Article 7 of the ICCPR states: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Its Article 10 requires that all persons “deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the human person.” Article 5 of the ACHPR provides: “All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.” Implementation of Article 5 of the ACHPR was detailed in the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines).

The Convention against Torture defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.⁵⁷

The Convention in its Article 2 states that: “1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. 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. 3. An order from a superior officer or a public authority may not be invoked as a justification of torture”.⁵⁸

⁵⁴ Amnesty International interview with two different lawyers, Bujumbura, July 2015. Amnesty International interview with victim, Bujumbura, July 2015.

⁵⁵ Law No. 1/10 of 3 April 2013 on the Reform of the Criminal Procedure Code (Criminal Procedure Code), Article 34, http://www.assemblee.bi/IMG/pdf/n°1_10_2013.pdf (accessed 11 August 2015).

⁵⁶ Burundi acceded to the ICCPR without reservations on 9 May 1990. It ratified the ACHPR on 28 July 1989. It ratified the CAT on 18 February 1993.

⁵⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted 10 December 1984, General Assembly resolution 39/46, entered into force 26 June 1987, ratified by Burundi 18 February 1993, <http://indicators.ohchr.org> (accessed 30 July 2015).

⁵⁸ Ibid.

Burundi is also bound by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Protocol's objective, as stated in its Article 1, is "to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment." Under Article 17 of the OPCAT, Burundi is required to establish a national preventative mechanism against torture within one year of its accession, whose powers would include regularly examining the treatment of detainees.⁵⁹ The Committee against Torture has recommended that Burundi "should initiate a participatory and inclusive process to designate or set up an independent and effective national preventive mechanism against torture as soon as possible."⁶⁰

VII. RECOMMENDATIONS

To the Burundian authorities:

- Remove from active duty anyone suspected of having committed crimes under international law such as torture until the allegations against them have been independently and impartially investigated.
- Ensure that no person is subjected to arbitrary, secret or incommunicado detention, and that the rights of detainees are respected in all cases in accordance with international human rights law.
- Ensure that victims of human rights violations and their families can obtain full reparation, in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Take immediate measures to prevent torture and other ill-treatment of detainees - such as maintaining an official register of detainees, upholding the right to receive independent legal assistance and independent medical assistance without delay and to contact relatives, and making judicial remedies available that such persons may use to challenge the legality of their detention or treatment.
- Establish an independent and effective national preventive mechanism against torture in accordance with the guidelines established by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Invite the ACHPR and UN Special Procedures to investigate allegations of torture by the SNR and Burundi Police.

To the AU Peace and Security Council:

- Ensure that AU human rights observers and other civilian personnel deployed in Burundi investigate allegations of torture and other ill-treatment.

⁵⁹ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), adopted 18 December 2002, General Assembly resolution A/RES/57/199, entered into force 22 June 2006, acceded to by Burundi on 18 October 2013, articles 1 and 17, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx> (accessed on 18 August 2015).

⁶⁰ Committee against Torture, Concluding observations on the second periodic report of Burundi, adopted by the Committee at its fifty-third session, 3–28 November 2014, CAT/C/BDI/CO/2, paragraph 19, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fBDI%2fCO%2f2&Lang=en (accessed on 18 August 2015).

To the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment:

- Urge the Government of Burundi to comply with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Urgently request to visit Burundi at the earliest opportunity and investigate cases of torture and other ill-treatment.

To the African Commission Special Rapporteur on Prisons and Conditions of Detention:

- Urge the Government of Burundi to comply with the Commission's Guidelines on the Conditions of Arrests, Police Custody and Pre-Trial Detention.
- Urgently request to visit Burundi at the earliest opportunity and investigate conditions of detention.

To the Chairperson of the African Commission's Committee for Prevention of Torture in Africa:

- Urge the Government of Burundi to comply with ACHPR's Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines).
- Request a visit to Burundi to promote the implementation of the Robben Island Guidelines by the Burundian authorities.
- Ensure that AU human rights observers and other civilian personnel deployed in Burundi investigate acts of torture in accordance with the Robben Island Guidelines.