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Mr. Ambassador,

In my capacity as Rapporteur for follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, allow me to refer to the examination of the initial report of Burundi (CAT/C/BDI/1) by this Committee at its 37th session, from 6 to 24 November 2006. At the end of that session, the Committee's Conclusions and Recommendations (CAT/C/BDI/CO/1) were transmitted to your Permanent Mission. In paragraph 31 of those Conclusions and Recommendations, the Committee asked, pursuant to its rules of procedures, that Burundi provide, within one year (by November 2007) further information regarding areas of particular concern identified by the Committee in paragraphs 9, 10, 19, 20, 21, 23 and 25 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Conclusions and Recommendations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it started with the authorities of Burundi on the implementation of the Convention. In this context, the Committee looks forward to receiving your response to this enquiry.

Accept, Mr. Ambassador, the assurances of my highest consideration.

A handwritten signature in cursive script, reading "Felice D. Gaer".

Felice D. Gaer
Rapporteur for Follow-up on Conclusions and Recommendations
Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture
(Extracts for follow-up)

BURUNDI

(...)

C. Subjects of concerns and recommendations

(...)

9. While it welcomes the planned reform of Burundi's judicial system, which was announced by the delegation of the State party, the Committee notes with concern that the current provisions of the Code of Criminal Procedure relating to police custody do not explicitly refer to the notification of rights, including the presence of a lawyer from the first hours in police custody and the medical examination of persons held in police custody. The Committee is also concerned at the lack of provisions on legal aid for disadvantaged persons. Moreover, the Committee is concerned at the length of police custody, which can last as long as 14 days, a period that is not in keeping with the generally accepted international norms on the subject. Finally, the Committee is deeply concerned at reports that there have been several hundred cases of illegal detention owing to the fact that persons were held in police custody longer than the period authorized by law (arts. 2 and 11).

The State party should amend the provisions of the Code of Criminal Procedure relating to police custody in order to ensure the effective prevention of violations of the physical and mental integrity of persons held in police custody, including by guaranteeing their right to habeas corpus, the right to inform a close relation and the right to consult a lawyer and physician of their choice or an independent physician during the first hours in police custody, as well as access to legal aid for the most disadvantaged persons.

The State party should, in addition, bring the practice of pretrial detention into conformity with the international standards relating to a fair trial and should ensure that the trial takes place within a reasonable time.

10. The Committee is alarmed at reports that torture is a widespread practice in the State party. According to these reports, which were not challenged by the delegation of the State party, several hundred cases of torture were registered between July 2005 and July 2006. Moreover, the Committee is deeply concerned at reports received concerning a high number of forced disappearances, arbitrary arrests and incommunicado detentions, the main perpetrators of which are allegedly officials of the National Intelligence Service. In this regard, the Committee is concerned at the dual mandate of the National Intelligence Service, which is responsible for State

security and is also active in criminal investigation, since this entails the risk that the Service might be used as a means of political repression (art. 2).

The State party should take effective legislative, administrative and judicial measures to prevent all acts of torture and all ill-treatment in any territory under its jurisdiction, including by ensuring that military personnel are not in any way involved in the arrest and detention of civilians. The State party should take steps, as a matter of urgency, to bring all places of detention under judicial control and to prevent its officials from making arbitrary arrests and engaging in torture. It should also include in its domestic legislation a provision clearly stipulating that an order from a superior officer or a public authority may not be invoked as a justification of torture.

Moreover, the State party should clarify, as a matter of urgency, the mandate of the National Intelligence Service within the framework of the ongoing reform of the judiciary in order to prevent any use of the Service as a means of political repression and ensure that its officials do not engage in criminal investigation.

(...)

19. The Committee is concerned at the lack of systematic and effective monitoring of all places of detention, notably through regular unannounced visits by national inspectors and a mechanism for legislative and judicial monitoring. The Committee is also concerned at reports that non-governmental organizations have limited access to places of detention (art. 11).

The State party should consider establishing a national system to monitor all places of detention and follow up on the outcome of such systematic monitoring. It should also ensure that forensic doctors trained in detecting signs of torture are present during such visits. The State party should also strengthen the role of non-governmental organizations in this process by facilitating their access to places of detention.

20. The Committee is deeply disturbed at reports of the murder of several people suspected of being supporters of the National Liberation Forces between November 2005 and March 2006, including Ramazani Nahimana, Jean-Baptiste Ntahimpereye and Raymond Nshimirimana. According to information received, those responsible for the murders are agents of the National Intelligence Service (art. 12).

The State party should inform the Committee in writing of steps taken to institute a prompt and impartial investigation of these murders and to punish the perpetrators, in accordance with article 12 of the Convention.

21. The Committee takes note of the negotiations under way between the State party and the United Nations with regard to the implementation of the recommendation of the assessment mission dispatched by the Secretary-General to Burundi in May 2004, adopted by the Security Council in resolution 1606 (2005) and aimed at creating a truth commission of mixed composition and a special chamber within Burundi's court system. The Committee is nevertheless concerned at the absence of impartial inquiries to establish the individual responsibility of perpetrators of acts of torture and cruel,

inhuman or degrading treatment, a situation that fosters a general climate of impunity. The Committee is also concerned at the absence of any measures to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation following the lodging of a complaint or the provision of evidence, as a result of which there have been very few complaints of acts of torture or cruel, inhuman or degrading treatment (arts. 12 and 13).

The State party should take urgent steps to combat impunity, in particular by establishing transitional justice mechanisms, in particular a truth and reconciliation commission and a special court, as recommended by the Security Council in its resolution 1606 (2005).

The State party should inform all persons under its jurisdiction, clearly and unequivocally, that it condemns torture and ill-treatment. It should take effective legislative, administrative and judicial measures to ensure that all allegations of torture and cruel, inhuman or degrading treatment will be the subject of prompt investigation, followed as appropriate by prosecution and punishment. All persons under suspicion of torture should be suspended from duty for the duration of the inquiry if it would place the investigation at risk for them to remain in their posts.

In addition, the State party should take the necessary steps to shed light on the Gatumba massacre and punish those responsible.

(...)

23. The Committee takes note of the announcement by the delegation of the State party that a department to assist torture victims has been created within the Ministry of Solidarity, Human Rights and Gender. It also notes the State party's intention to set up a compensation fund for torture victims with assistance from the international community. The Committee is nevertheless concerned at the absence to date of any measures to compensate victims of torture in judicial practice in Burundi. The Committee is also concerned at the failure to provide victims, including child soldiers, with the means to exercise the right to the fullest possible physical, psychological, social and financial rehabilitation (art. 14).

The State party should take urgent steps to facilitate the establishment of a compensation fund for victims of torture. The State party should also provide victims, including child soldiers, with the means to exercise their right to the fullest possible rehabilitation, including physical, psychological, social and financial rehabilitation.

(...)

25. The Committee notes with concern allegations of reprisals, serious acts of intimidation and threats against human rights defenders, particularly those who report acts of torture and ill-treatment (arts. 2 and 16).

The State party should take effective steps to ensure that all persons reporting torture or ill-treatment are protected from intimidation and from any unfavourable consequences that they might suffer as a result of making such a report. The Committee encourages the State party to strengthen its cooperation with civil society in its efforts to prevent and eliminate torture.

(...)

31. The Committee requests the State party to provide, within one year, information on measures taken in response to the Committee's recommendations, as contained in paragraphs 9, 10, 19, 20, 21, 23 and 25 above.

(...)
