

I. Summary

At the end of 2006, just over 400 children between the ages of 13 and 18 were incarcerated in Burundian prisons, the majority of them awaiting trial. Countless more children were held in communal holding cells and police lock-ups, pending possible transfer to the prisons. In most regards children are treated as adults in both courtrooms and prisons and children's rights as guaranteed under international law are rarely respected.

There is no juvenile justice system in Burundi. The age of criminal responsibility is 13 and minors between 13 and 18 years old found guilty of a crime should benefit from a reduction in the sentence normally given to adults convicted of the same crime. There are no alternatives to incarceration for children and no services to help children once they are released from prison. In the end of 2006, more than 75 percent of detained children in Burundi were awaiting trial, many after months or even years of pre-trial detention. Some have been tortured to obtain confession. Most have no access to legal counsel.

Serious deficiencies in the judicial system affect all detainees in Burundi but fall particularly heavily on children who are entitled to special protection under international treaties ratified by Burundi. Children must be incarcerated only as a last resort and then, only for the shortest possible amount of time.

Prison conditions are deplorable for all prisoners in Burundi who lack space, adequate food, water, bedding and sanitary facilities. Insufficient food and lack of education particularly affect children, not just during their time of imprisonment but in years after. Contrary to standards in international law, children and adults are together for most of the day, leaving children vulnerable to physical and sexual abuse by adult prisoners.

The Burundian National Parliament is currently considering amendments to the criminal law, which if passed, fully implemented, and funded, would improve the treatment of children in conflict with the law. They would raise the age of criminal

responsibility to 15 years old and would provide alternatives to incarceration for all children.

The Burundian government should adopt and promptly implement these amendments as they represent a necessary first step towards improving the protection of children in conflict with the law. However, other practical measures must also be taken to ensure full realization of the rights of the child as protected under international law. While some of these measures are not costly, donors should provide material and other support to assist the Burundian government in this effort.

II. Recommendations

To the Government of Burundi

- Adopt and implement fully and promptly the proposed new penal code, raising the age of criminal responsibility and establishing community-based alternatives for rehabilitating children in conflict with the law. Ensure that incarceration is a last resort and is imposed for the minimum possible time.
- Establish a child-focused juvenile justice system that will fully and promptly implement international law and standards regarding children in conflict with the law. Ensure that appropriate alternatives to remand in custody and custodial sentences are in place nationwide.
- Investigate and if appropriate prosecute or otherwise sanction persons accused of physically or sexually abusing detained children.
- Immediately release all children held on charges of rebel collaboration and work with the United Nations Children's Fund (UNICEF) to provide them with appropriate services and follow-up care to reintegrate them into their communities.
- Ensure that children accused of crimes are brought promptly to trial.
- Ensure all children brought to trial are given free legal assistance.
- Provide access to primary school education for all children in prison.
- Establish a systemic social welfare mechanism for identifying and responding to children vulnerable to exploitation and abuse, including those who are at risk of coming into conflict with the law.

To United Nations (UN) Agencies working in Burundi, including the Integrated Office of the United Nations in Burundi (BINUB)

- Collaborate with the government in reforming the justice and prison systems as proposed by the Secretary General in his August 2006 report on the United Nations Operation in Burundi, including improving operation of the courts and reducing the time spent by detainees in pre-trial detention.
- Provide long-term assistance to the Burundian government in establishing a juvenile justice system, ensuring that UNICEF and/or other technically

appropriate United Nations field agencies continue support after the end of the BINUB mandate.

- Ensure that members of the Human Rights Section of BINUB and the BINUB child protection officer continue to actively monitor the treatment of children within the justice system and report their findings publicly.
- UNICEF should support the government and work with civil society to ensure that all children have adequate legal help in all phases of judicial investigations.
- UNICEF should support the government and work with civil society to ensure that children released from prison have necessary support to reintegrate into their communities.
- UNICEF should use its considerable global experience in developing child soldier reintegration programs to support the release from prison of children arrested for being associated with the National Liberation Forces (*Forces Nationales pour la Libération*, FNL), the immediate removal from demobilization camps of other children associated with the FNL, and their inclusion in age and gender appropriate schemes supporting their reintegration to the community.

To International Donors

Donors should designate specific funds for juvenile justice reform, including:

- to help implement the proposed amendments to the penal code, if adopted.
- to ensure the nationwide availability of adequate alternative measures to remand in custody and custodial sentences for children.
- to ensure legal and other counsel to children in conflict with the law.
- train police and law enforcement personnel on the rights of the child and on the handling of juvenile justice cases.
- improve basic living conditions in all detention facilities where children are held, ensuring separation of minors from adults as required by international standards.