



BURUNDI

# Mob Justice in Burundi

Official Complicity and Impunity

HUMAN  
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# **Mob Justice in Burundi**

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## I. Summary

*“If a thief steals, no trial is necessary. He is immediately killed.”*  
– C.I., Butaganzwa commune, Ruyigi province, July 7, 2009.

Simon Ruberankiko was burned alive by his neighbors on August 1, 2009. Ruberankiko, a 54-year-old HIV-positive man sick to the point he was no longer capable of working his own fields, had slipped out at night to steal food from the fields of a neighbor. Enraged at the theft of one bunch of bananas, local residents caught him, beat him, covered him with dry grass, and set him alight. Days before, another suspected thief was burned to death only a few kilometers away. No one was arrested for either killing.

The killing of Simon Ruberankiko took place in a rural *colline*<sup>1</sup> in Muyinga, one of the provinces of Burundi in which “mob justice”<sup>2</sup> is most common. In one four-month period in mid-2009, at least nine people were killed under such circumstances in Muyinga, and a tenth nearly suffered a similar fate, making Muyinga one of the most deadly provinces for alleged criminals in Burundi.

Police made some initial efforts to investigate Ruberankiko’s murder, but quickly gave up when they received no assistance from local administrative officials, whom they believed to be protecting the mob’s ringleaders. Most such assaults—there were at least 74 killings throughout the country in 2009, and at minimum another 59 in which victims were injured—lead to no police investigations at all.

Mobs killed these individuals for a variety of alleged offenses, including adultery, petty theft, armed robbery, rape, and murder. When researchers from Human Rights Watch and the Association for the Protection of Human Rights and Detained Persons (*Association pour la Protection des Droits Humains et des Personnes Détenues*, APRODH) asked local residents—including some who self-identified as participants in the killings—to explain why those suspected of crimes were so frequently killed rather than turned over to the police, the responses were nearly uniform. People said they had lost faith in a police force and judicial

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<sup>1</sup> *Colline* is literally the French term for “hill.” In Burundi, a *colline* is the smallest administrative unit, with about 10,000 residents.

<sup>2</sup> “Mob justice” is used here to refer to the beating or killing of a suspected criminal by a crowd, generally consisting of civilians. The word “lynching” is also sometimes used to describe this phenomenon in Burundi. There is no one standard French term in Burundi for the phenomenon; expressions used include “*la justice populaire*,” “*la vindicte populaire*,” and “*le lynchage*.”

system that have been derailed by corruption, incompetence, and inadequate resources. A frequent comment was, “When we apprehend thieves and turn them over to the police, they are freed two or three days later. So we decided to take justice into our own hands.”

The fact that mob justice is so rarely investigated, let alone punished, amounts to an implicit acceptance of this practice by state authorities. The state has an obligation under international law to provide security for all its citizens, including those who are suspected of crimes. But some officials, particularly at the local level, participate in mob justice themselves. Others turn a blind eye to it. Poorly trained, overwhelmed and under-resourced police fail to carry out investigations in many cases. Occasionally, they openly express support for those who would take justice into their own hands: a police chief in the commune of Mutaho, in Gitega province, told Human Rights Watch and APRODH that anyone who caught someone stealing at night could justifiably kill them.

The killings of suspected criminals detailed in this report take place in the context of a country emerging from conflict and plagued by desperate poverty. The 1993-2009 civil war destroyed infrastructure and weakened public institutions, as well as confidence in public administration. It left behind an embattled judicial system and a police force that had to be rebuilt from nothing.

Burundians expected that democratic elections in 2005 and the end of most combat in 2006 would bring about improved security, impartial justice, and a higher standard of living. Although there have been slight improvements in most Burundians’ sense of security, Burundi continues to be confronted by an explosive combination of poverty, the absence of an effective police force, the circulation of tens of thousands of small arms, and the insufficiency of economic and educational opportunities, particularly for the thousands of young ex-combatants whom the war left in its wake. These factors contribute to undiminished levels of criminality, ranging from petty theft to murder.

No reliable statistics on mob justice in Burundi existed before 2008, when the United Nations mission in Burundi—which had taken note of the problem of mob justice and investigated certain cases from its arrival in the country in 2004—began to systematically gather data on such killings and beatings. In spite of the lack of data, however, most Burundian observers suggested to Human Rights Watch and APRODH that mob justice was rare before Burundi’s 1993-2009 civil war, and that the phenomenon appeared to become more prominent during and after the war. The war desensitized the population to violence, they said. Because the end of war has not brought about a rapid establishment of the rule of law, and because the judicial system remains corrupt and under-resourced, Burundians who



are victims of crime expect neither protection from the police, nor justice from the courts, and often prefer to use force to protect themselves. In this context, mob justice has become standard practice in much of the country.

President Pierre Nkurunziza has denounced mob justice, but mixed signals from Burundi's top authorities diminish his message, including the population's vivid memory of open encouragement of mob justice by former president Domitien Ndayizeye, who held power from 2003 to 2005. Within the current administration, national police spokesperson Pierre Channel Ntarabaganyi has commended the public for using mobs to protect public security, and some local police chiefs and administrative officials have adopted similar language. These officials' statements and actions sometimes reflect efforts to portray themselves as "tough on crime" and thus consolidate popular support; in other cases, they reflect an apparently sincere belief that in the absence of effective top-down solutions to crime, "thieves deserve to be killed."

This report documents two principal ways in which mob justice and the government's response to it constitute human rights violations. First, state officials play a direct role in some killings and beatings; they directly contribute to them, for instance, by forming untrained "security committees" permitted to operate at the margins of the law; or they stand by and allow mob justice to occur. Second, in almost every case documented by Human Rights Watch and APRODH, police and judicial investigations into incidents of mob justice were inadequate or non-existent.

According to Burundian and international law, victims of crimes have a right to redress, which includes government investigations and access to justice, while suspected perpetrators of crimes have a right to due process and a fair trial. In many cases, Burundi provides neither. When suspected criminals are murdered, their families are denied justice by the failure to prosecute those responsible, creating a cycle of violence and impunity. The state, in the cases discussed in this report, has variously condoned, abetted, or failed to investigate the murders of alleged criminals.

The factors that contribute to mob justice, particularly those related to the functioning of the police and judicial system, also raise serious human rights concerns. The Burundian government has taken insufficient steps toward creating a police force and judicial system that can begin to restore the public's confidence. Some reforms are underway, and Burundi has successfully solicited significant support from donors to improve and modernize both institutions, but misuse and corruption diminish the effectiveness of donor support.

Human Rights Watch and APRODH recommend that the government put an end to impunity for perpetrators of mob justice, who should be held accountable like others responsible for serious crimes rather than having their actions justified away. The government, with the support of national and international organizations, should also undertake a broad popular education campaign aimed at both improving public understanding of the criminal justice system and discouraging mob justice. Donors should examine their support to the police and justice sectors, and take measures to ensure that corruption and mismanagement do not prevent resources from reaching the Burundian people and improving public security.

## II. Recommendations

### To the Ministry of Public Security and the National Police of Burundi

- Publicly clarify that acts of mob justice are illegal and will be prosecuted to the fullest extent of the law, resulting in prompt, thorough and impartial investigations and arrest of perpetrators, particularly “ringleaders.”
- Issue an order to all police officers that all criminal suspects are entitled to a thorough investigation of their case.
- Issue a statement to local administrative officials that the police will be monitoring the role of local administrative officials in instances of mob justice, and it will arrest those who are complicit in or attempt to cover up acts of mob justice.
- Discipline or prosecute as appropriate all police officers, regardless of rank, who fail to take all feasible and appropriate measures to protect criminal suspects from mob violence.
- Improve police coverage and effectiveness in responding to crime in areas where mob justice is more prevalent, particularly in rural or underserved areas of Burundi.
- Strengthen community policing and police familiarity with communities by decreasing the frequency of transfers of police officers from one location to another.
- Ensure that police are appropriately compensated for their work, that they have the tools and resources they need to engage in effective policing, and that police staffing is continually monitored.
- Monitor the use of police vehicles and communications equipment to ensure they are being used for policing functions and not for personal or other improper use. Mark police vehicles so that any misuse can be easily identified.
- Use the Inspectorate General of the Ministry of Public Security, the Police Anti-Corruption Brigade, and information from nongovernmental organizations (NGOs) to identify police officers suspected of corruption, particularly the soliciting of bribes in exchange for freeing persons in custody. Carry out thorough investigations of such police officers. Those implicated should be appropriately disciplined, including by dismissal, and those charged with corruption should be prosecuted in the Anti-Corruption Court.

## **To the Ministry of Justice and the Office of the Attorney General (Parquet Général)**

- Issue a statement to police and local officials that all credible allegations of criminal offenses should be promptly, thoroughly and impartially investigated, whether or not a complaint has been filed, and that all suspects have a right to due process in the criminal justice system.
- Investigate acts of mob justice, and prosecute suspected perpetrators, including in cases in which police do not initiate investigations.
- Prosecute as appropriate police officers and administrative officials who are complicit in or attempt to cover up acts of mob justice.
- Work with administrative officials to plan and execute a public education campaign aimed at reducing the incidence of mob justice by informing the public about criminal procedure, the role of victims and witnesses in advancing investigations, and the right to due process.
- Use the Inspectorate of Justice and the Police Anti-Corruption Brigade to investigate magistrates suspected of corruption, including the soliciting of bribes in exchange for freeing criminal suspects. Prosecute such magistrates as appropriate before the Anti-Corruption Court.
- Monitor the use of Ministry of Justice and Parquet vehicles to ensure they are being used for judicial purposes and not for personal or other improper use.
- Use Supreme Court training missions to provincial courts and tribunals as a mechanism for educating magistrates about their responsibility to prosecute mob justice.

## **To the Council of Ministers and the Parliament**

- Establish a commission consisting of judicial, police, and administrative officials to develop a national strategy to respond to mob justice. The national strategy should incorporate public education campaigns, strategies for ensuring the enforcement of relevant laws, mechanisms for improved collaboration and communication between police and judicial personnel, and relevant legal reforms.
- Ensure that the draft bill reforming the Criminal Procedure Code provides clarifications concerning the police responsibility to investigate crimes.

**To Local Administrative Officials (including Communal Administrators, *Chefs de Zone* or Sector, *Chefs de Colline* or *Quartier*, *Nyumbakumis*, and Local Council Members) and *Bashingantahe***

- Do not assault or otherwise ill-treat criminal suspects.
- Take all necessary measures to discourage and deter mob justice.
- Assist the police and judicial officials in investigations of mob justice.
- Work closely with police to establish functional systems for coping with crime, particularly in rural areas where policing and judicial mechanisms are insufficient.
- Work in conjunction with judicial authorities to educate the public about the criminal justice process.
- Assist, where possible, access of constituents to the justice system, such as by transporting victims and witnesses of crimes to the communal and provincial police and the courts.

**To the United Nations Integrated Office in Burundi (BINUB) and UN Agencies in Burundi, including the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Program (UNDP)**

- Identify the regions most affected by mob justice, and target police and judicial officials in those regions for training and assistance in improving public security and administration of justice.
- Contribute to efforts by Burundian and international nongovernmental organizations and Burundian media outlets to carry out popular education campaigns against mob justice.
- Use BINUB police advisors to train the Burundian police in properly responding to mob justice. Ensure that trainings of police include components addressing the obligation of police to investigate all serious crimes, whether or not a complaint has been filed, and the obligation to accord suspected criminals who are victims of violent crime the same protections as all other citizens.
- Improve monitoring of the use of any funds or other resources (including vehicles and communications equipment) dispensed to the National Police of Burundi to ensure that these resources are used appropriately and not for private use. Condition further material support on the establishment of effective monitoring mechanisms.

- Monitor activities carried out by institutions that have the capacity to investigate corruption, including the Anti-Corruption Prosecutor’s Office (Parquet), the Anti-Corruption Court, Inspectorate General of the Ministry of Public Security, and the Justice Inspectorate, to ensure that funds and resources provided to these institutions are properly managed and attain results.
- Fast-track the establishment of a proposed hotline, similar to “911”, that allows residents to make free phone calls to the police.

**To Bilateral Donors to Burundi’s Police and Justice Sectors, including the Netherlands, Belgium, France, the United Kingdom, Sweden, and the European Union**

- Provide targeted support for logistics, accommodations, and resources for police working in rural and peripheral urban areas where mob justice frequently occurs. Ensure that any funds and other resources donated to the police reach these rural and peripheral areas.
- Improve monitoring of the use of any funds and other resources (including vehicles and communications equipment) dispensed to the National Police of Burundi to ensure that these resources are used appropriately and not for private use. Condition further material support on the establishment of effective monitoring mechanisms.
- Ensure that support for the police and justice sectors includes a significant component dedicated to strengthening and ensuring the independence of the Inspectorate General of the Ministry of Public Security and the Justice Inspectorate.
- Support the work of nongovernmental organizations working in Burundi on corruption, budget monitoring, and transparency in the use of donor funds for Burundi’s police force and government at all levels.
- Ensure that trainings of police include components addressing the obligation of police to investigate all serious crimes, whether or not a complaint has been filed, and the obligation to accord suspected criminals who are victims of violent crime the same protections as all other persons.

### III. Methodology

Researchers from Human Rights Watch and APRODH, a Burundian nongovernmental human rights organization, carried out over 250 interviews on mob justice, most between July 2009 and January 2010. Intensive field research was concentrated in the provinces identified as having a high number of reports of mob justice: Bujumbura Mairie, Bujumbura Rural, Gitega, Muyinga, Ngozi, and Ruyigi. Several cases in other provinces, including Bubanza and Kirundo, were also investigated. For the remaining nine provinces in which intensive field research was not undertaken, APRODH observers collected basic data, which was used to confirm or supplement reports received from the media, other nongovernmental organizations, and the UN mission in Burundi.

Human Rights Watch and APRODH visited dozens of locations in which mob justice had been carried out, speaking with 12 victims, 26 victims' family members, 20 avowed or suspected perpetrators, and dozens of witnesses in order to seek explanations of why the assaults took place, how the authorities responded, and what impact the assaults had on individuals and the community.

Researchers also interviewed three governors, three governors' advisors, six senior police commissioners, ten communal police chiefs, 19 judicial police officers, 11 judicial personnel, 49 local administrative officials, seven representatives of Burundian and international nongovernmental organizations (NGOs), four representatives of major international donor organizations, five UN officials, a general in the Burundian army, and a representative of the National Intelligence Service (*Service National du Renseignement*, SNR). They also interviewed the chiefs of staff at the Ministry of Public Security and the Ministry of Justice, the prosecutor general of the Anti-Corruption Court, the director general of the national police, the minister of good governance and privatization, and the first vice-president of Burundi.

## IV. Overview of Local Administrative, Police, and Judicial Structures in Burundi

Various administrative, police, and judicial structures are mentioned throughout this report. The ways in which they function and interact are described briefly below.

### Administrative Structures

Burundi is divided into 17 provinces—16 mostly rural provinces, considered collectively as “the interior” of the country, and the capital, Bujumbura Mairie. At the head of each province sits a governor, appointed by the president, with the exception of Bujumbura Mairie, which has an appointed mayor.

Each province is divided into five to thirteen *communes*, run by elected communal administrators. A communal administrator is supported by an elected communal council of 25 members and two to five *chefs de zone*, each responsible for assisting the administrator in the governance of a certain section of the communal territory. The zones are further subdivided into *collines* (sometimes called *secteurs*), the smallest legally recognized administrative unit in Burundi. Each *colline* is run by an elected *chef de colline* and a *colline* council of five members. (Bujumbura and several other major cities are divided into *quartiers* rather than *collines*; they are run by *chefs de quartier*.)

Smaller administrative units exist, though they are not officially recognized by law. In some areas, each group of 10 households is loosely managed by a *nyumbakumi*. These individuals, elected by local residents, provide reports to the *chefs de colline* about security incidents or other incidents of note in their immediate neighborhood.

*Bashingantahe* (*mushingantahe* in the singular) also play a role in local administration and, particularly, conflict resolution. Traditionally, *bashingantahe* are local “wise men” (though they now include some women), individuals of high moral standing who are formally invested by their communities with the authority to arbitrate conflicts. The institution of *bashingantahe* was corrupted by decades of colonialism, dictatorship and war, but in some regions, maintained its salience, and in others, is in the process of being resurrected, though the relevance of *bashingantahe* is not universally accepted.<sup>3</sup> The Arusha Accord of

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<sup>3</sup> Bert Ingelaere, “Living Together Again: The Expectation of Transitional Justice in Burundi—A View from Below,” Institute of Development Policy and Management Working Paper, University of Antwerp, June 2009; Presentation by Bert Ingelaere, University of Antwerp researcher, Bujumbura, December 16, 2009, attended by Human Rights Watch researcher.



2000—the cornerstone of a series of peace agreements that eventually brought Burundi’s civil war to an end—recognizes the status of *bashingantahe* and proposes they operate at the *colline* level “to administer justice in a conciliatory spirit.” This provision is written into law, but the role of *bashingantahe* is not clearly defined.<sup>4</sup>

## Police Structures

Formally established on December 31, 2004 as part of a peace accord that brought together former judicial police, gendarmes, soldiers, and rebels, the Burundian National Police (*Police Nationale du Burundi*, PNB) is a civilian force operating under the Ministry of Public Security. It consists of four commissariats: the Internal Security Police (PSI), the Judicial Police (PJ), the Penitentiary Police, and the Police for Air, Borders and Foreigners (PAFE). Each commissariat has a commissioner-in-chief, based in Bujumbura and responding directly to the director general of the National Police, who in turn responds to the minister of public security.

Judicial police officers and security police officers share responsibility for the prevention and punishment of ordinary crime and are most regularly and directly in contact with the population. The judicial police investigate crimes, question suspects, and provide evidence to the prosecutor.<sup>5</sup> The security police guard public places, apprehend perpetrators, and, in conjunction with judicial police officers, execute search and arrest warrants issued by the prosecutor.<sup>6</sup>

Burundi is divided into five regional police commissariats, each headed by a regional police commissioner who coordinates police activities in three or four provinces. In turn, each province has a central police Commissariat, run by a commissioner, assisted by sub-commissioners for each of the four functional commissariats (PSI, PJ, PAFE and Penitentiary Police). Each commune, similarly, has one police post run by a head police chief (*chef de poste*) and sub-chiefs representing the judicial police and the security police. The sub-chief of the judicial police is often the only judicial police officer (OPJ) in a given commune, and therefore the only police officer authorized to carry out investigations. Several communes

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<sup>4</sup> Assumpta Naniwe-Kaburahe, “The institution of *bashingantahe* in Burundi,” in Luc Huyse and Mark Salter, eds., *Traditional Justice and Reconciliation after Armed Conflict: Learning from African Experiences*, (Sweden: International IDEA, 2008), pp. 160 and 170. The law that recognizes the *bashingantahe* is Law No. 1/004 of 14 January 1987, relating to the organization of judicial competences.

<sup>5</sup> Loi No. 1/020 du 31 Décembre 2004 portant création, organisation, missions, composition, et fonctionnement de la Police Nationale, art. 27.

<sup>6</sup> *Ibid.*, arts. 19-26.

have no OPJ, and depend on visits from OPJs based at the provincial commissariat. Most police posts have no motor vehicle.

Within each commune, police agents from the interior security police are dispersed among various positions, generally consisting of three police each. These police usually live in tents, and are rotated between positions after periods of several weeks. Police agents based at positions generally have no access to vehicles or communications equipment, other than their own cellular phones.

## **Judicial Structures**

Burundi's head prosecutor, the prosecutor general, is based in Bujumbura and responds to the minister of justice.

Each province has a *parquet* (attorney general's office), run by a provincial prosecutor, who is assisted by a number of deputy prosecutors, drawn from a pool of *magistrates-enquêteurs* (investigating magistrates). Every case that is transferred to the *parquet* is assigned to the prosecutor or a deputy prosecutor, who furthers police investigations and can either drop charges or bring a case to trial.

Each *parquet* corresponds to a *tribunal de grande instance*, which hears cases involving crimes committed in that province. These tribunals are presided over by panels of judge-magistrates. The tribunal assesses requests from prosecutors to hold suspects in preventive detention. It passes judgment at the end of a trial, and determines the sentence. Cases may be appealed to three appeals courts located throughout the country, and ultimately, to the Supreme Court, located in Bujumbura.

Each commune has a *tribunal de résidence* but these local courts can only hear civil, not criminal, matters. Thus, both victims and criminal suspects are often forced to travel long distances to the provincial capital in order for their cases to be heard.

## Case Study 1: Participation and Negligence in Mob Justice by State Officials in Buraza, Gitega Province, July 2009

Léocadie Irankunda is a subsistence farmer and mother of three children—pregnant with a fourth—in Buraza, Gitega province. On July 21, 2009, she provided shelter for the night to Cyprien Habonimana, a man from the *colline* in which she was raised before being married.

That night, the home of one of Irankunda’s neighbors was robbed. According to one resident, who took part in the mob killing:

The thieves came at night and forced the door. They beat an old man and his son and tied them up and took everything—hoes, calabashes. Children from the other room came to get me. I came to untie the family. The old man cried out, and people from the five surrounding sub-*collines* arrived with torches.

We pursued the thieves across the valley. People trapped one and beat him. Unfortunately, one died. The other is still alive.<sup>7</sup>

The alleged criminal who was trapped was Habonimana. He was caught in front of a local bar, and residents began beating him with clubs. One resident said approximately 2,000 people arrived to take part in or witness the beating.<sup>8</sup>

While Habonimana was being beaten, other residents, including a member of the elected *colline* council (who is also an appointed *mushingantaha*), went to the home of Irankunda, whom they suspected of complicity in the robbery. They shut her husband into his house, where he said he was kept “like a prisoner,” while Irankunda was “arrested.” (Those guarding Irankunda’s husband took advantage of the situation to steal 350,000 Burundian francs – approximately US\$300 – from the house.)<sup>9</sup>

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<sup>7</sup> Human Rights Watch interview with BS, resident of Buraza, Gitega province, August 26, 2009.

<sup>8</sup> Human Rights Watch interview with BH, resident of Buraza, Gitega province, August 26, 2009. On many occasions, Human Rights Watch and APRODH researchers asked witnesses to estimate how many people were present or took part in mob justice attacks. Researchers recognized that such estimates should not necessarily be interpreted literally, given the difficulties faced by any untrained observer in estimating crowd size; the low level of education of most Burundians; and the fact that most mob attacks took place at night. However, witnesses’ estimates can give a general sense of whether a crowd likely consisted of a handful, dozens, hundreds, or thousands of attackers.

<sup>9</sup> Human Rights Watch interview with Léocadie Irankunda’s husband, Buraza, Gitega province, December 8, 2009.

Irakunda was taken to the local bar, stripped, and tortured by her neighbors – including the member of the *colline* council, a state agent – while being questioned about her relationship to Habonimana and her alleged role in planning the robbery. Another local official, a *nyumbakumi*, stood by and watched as she was beaten, without notifying police or higher-ranking officials. Members of the mob struck Irakunda in the head with a machete and with stones; her vagina was cut with a knife; and her right hand was set on fire. She ultimately lost consciousness.

A communal official eventually arrived and was able to contact the police and put an end to the assault, although he himself was hit in the process. He took Irakunda and Habonimana to the hospital, where Habonimana died from his injuries, including club wounds and burns, the following day.<sup>10</sup>

Irakunda spent approximately six weeks in the hospital. Buraza’s judicial police officer (OPJ) arrested three suspects based on the testimony he had received from a witness, but did not carry out further investigations to corroborate the evidence. While the suspects were held at the local jail, 50-60 residents staged a “sit-in,” demanding that they be freed. According to one official, “They were saying the population should take justice into their own hands, because thieves come here often.”<sup>11</sup>

The suspects were provisionally freed, and the Gitega prosecutor’s office did not carry out thorough investigations to complete the police file. A magistrate told Human Rights Watch that although one of the initial suspects had given him the names of perpetrators, his ability to go into the field to carry out investigations and arrest suspects was inhibited by a lack of petrol.<sup>12</sup>

Irakunda was released from the hospital in early September and immediately jailed in Buraza. She told Human Rights Watch researchers that she spent a month in jail without ever being informed of the charges against her. In October, she was brought before a prosecutor, who saw that she was still seriously suffering from her injuries and asked who had tortured her. Instead of filing charges against Irakunda, he freed her and issued summonses for the people she cited as having arrested and beaten her. He instructed

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<sup>10</sup> Human Rights Watch interviews with Léocadie Irakunda, Bukirasazi, Gitega province, August 26, 2009, and Buraza, Gitega province, December 8, 2009.

<sup>11</sup> Human Rights Watch interview with Buraza official (name withheld), Buraza, Gitega province, August 26, 2009.

<sup>12</sup> Human Rights Watch interview with magistrate Terence Nahabakomeye, Gitega, August 26, 2009.

Irakunda to give the summonses to the communal administrator, who would in turn deliver them to the perpetrators.

According to Irakunda, when she took the summonses to the administrator, the administrator tore them up in front of her, saying “These people from Gitega have nothing to say about what happens here.” The administrator told Irakunda that she had already accepted money from the perpetrators to ensure that they would not be prosecuted, and explained that in any case, the population would not accept arrests of the perpetrators.<sup>13</sup> For administrators, in anticipation of elections in 2010, such arrests would be politically unpopular among their electorate.

In November, Irakunda returned to the prosecutor to explain what had happened. He promised to carry out a mission to Buraza shortly and arrest the suspects himself.<sup>14</sup> To date, that has not happened.

Asked why mob justice happens frequently in Gitega, provincial police commissioner Eustache Ntagahoraho told Human Rights Watch:

The population is not sensitized. They think that if someone is caught in the act of robbery, they have to beat them. The population accuses us of catching people and then freeing them; they use this as a justification.<sup>15</sup>

When Human Rights Watch met with Irakunda in December 2009, she continued to suffer from pain in her hip and on her head, which made it difficult for her to carry out farm work. Irakunda told researchers that she hoped the beating had not damaged her unborn fetus. According to her husband, Irakunda also suffers from problems with her memory: she got lost on a recent occasion and could not find her way home.<sup>16</sup>

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<sup>13</sup> Human Rights Watch interviews with Léocadie Irakunda and her husband, Buraza, Gitega province, December 8, 2009.

<sup>14</sup> Ibid.

<sup>15</sup> Human Rights Watch interview with provincial police commissioner Eustache Ntagahoraho, Gitega, August 26, 2009.

<sup>16</sup> Human Rights Watch interviews with Léocadie Irakunda and her husband, Buraza, Gitega province, December 8, 2009.

## V. Policing in Burundi: Impunity, Corruption, and the Incidence of Mob Justice

In 2008, the Center for Alert and Conflict Prevention (CENAP), a Burundian nongovernmental organization, published a report on the challenges to peacebuilding, based on a series of focus group meetings carried out throughout the country. CENAP noted:

The question of impunity was debated at length during the meetings, this practice being fertile ground for the observed increase in acts of violence, armed attacks, etc. Consequently, citizens hesitate less and less to carry out justice themselves [...]. Thus, the absence of an effective justice system that merits the confidence of the citizens may be in part responsible for the acts of mob justice and vengeance that have spread throughout the country, contributing to a climate of insecurity.<sup>17</sup>

Confidence in the police (*Police Nationale du Burundi*, PNB) is particularly low. A series of focus groups conducted in 2007 by the international organization DanChurchAid (DCA) and the National Council of Churches of Burundi (*Conseil National des Eglises du Burundi*, CNEB) found widespread dissatisfaction with the police's ability to keep Burundians safe. According to their report:

[T]he police are not thought to be very effective at protecting the community from crime. Even if a criminal is caught there is a perception that he will be released a couple of weeks later and that he is collaborating with the police or army. There is a widespread presumption that [...] the police lend weapons to criminals.<sup>18</sup>

Confidence in the police increased slightly between 2007 and 2009, according to studies by CENAP,<sup>19</sup> but anecdotal evidence suggests it has again declined in recent months as the PNB

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<sup>17</sup> Center for Alert and Conflict Prevention (CENAP), *Défis à la paix durable: Autoportrait du Burundi* (Bujumbura : CENAP 2008), [http://www.interpeace.org/images/pdf/burundi\\_country\\_note\\_26\\_nov\\_%202008.pdf](http://www.interpeace.org/images/pdf/burundi_country_note_26_nov_%202008.pdf) (accessed February 25, 2010), p. 28

<sup>18</sup> DanChurchAid and the Conseil National des Eglises du Burundi, "Rapid Assessment of the Impact and Perceptions of Small Arms in the Burundi interior," 2007, [http://www.smallarmssurvey.org/files/portal/spotlight/country/afr\\_pdf/africa-burundi-2007-1-Forbes-DCA-SALW.pdf](http://www.smallarmssurvey.org/files/portal/spotlight/country/afr_pdf/africa-burundi-2007-1-Forbes-DCA-SALW.pdf) (accessed February 25, 2010), p. 8, 14.

<sup>19</sup> CENAP, International Center for Transitional Justice, and the National Police of Burundi, "Les relations entre la Police et la Société Civile au Burundi: Rapport de l'atelier du 16 au 17 février 2009 à Bujumbura," 2009.

struggles with mismanagement and corruption scandals.<sup>20</sup> Burundi is one of the most corrupt countries in the world,<sup>21</sup> and the Burundian civil society organization Observatory for the Fight against Corruption and Economic Malpractice (OLUCOME) has identified a number of serious corruption scandals involving the police. Recent cases include the maintenance of lists of “ghost police officers” who had died or left the police force but whose salaries continued to be paid to higher-ranking officials, and irregularities in public procurement that have resulted in the provision of rotten food to low-level police agents.<sup>22</sup>

Human Rights Watch and APRODH interviews with dozens of Burundians in rural areas and in poor, marginal urban areas of Bujumbura reinforced these studies’ conclusions that many have very little faith in the police and the justice system’s abilities to ensure public security.<sup>23</sup> When police fail to address crime, members of the population, well-versed after years of war in the use of violence to solve problems, take justice into their own hands. Local officials, who buy into the same logic of violence or who hope to establish a “tough on crime” image among their electorate, are sometimes among the ringleaders, and count on benefiting from the same impunity that provokes mob justice in the first place.

Even where police and judicial authorities make efforts to prevent and investigate crime, the public’s lack of understanding of the legal process contributes to mob justice. Once someone has been arrested, he or she is often presumed guilty by the public. If the suspect is released on bail or due to lack of evidence, many Burundians, especially in rural areas, have difficulty understanding the release as anything other than a manifestation of the corruption or incompetence of police and magistrates, in part because corruption is in fact so widespread.<sup>24</sup>

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<sup>20</sup> Human Rights Watch interview with police official, Bujumbura, June 3, 2009, and with BINUB official, Bujumbura, December 20, 2009.

<sup>21</sup> Burundi ranked 168 out of 180 countries assessed by Transparency International in 2008. Transparency International, “Corruption Perceptions Index 2009,” [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009/cpi\\_2009\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table) (accessed November 21, 2009). The scale assesses public perceptions of the prevalence of corruption and ranks countries from 1 (perceived by its citizens as least corrupt) to 180 (perceived by its citizens as most corrupt).

<sup>22</sup> Human Rights Watch interview with OLUCOME President Gabriel Rufyiri, Bujumbura, September 3, 2009.

<sup>23</sup> See CENAP, *Défis à la paix durable*, pp. 28-35. This belief is not limited to rural Burundians: a World Bank-funded study in 2008 found that only 3 percent of public servants (*fonctionnaires*) find the justice system to be “fully satisfactory.” In part, this is due to corruption: 13 percent of people interviewed by the World Bank admitted to having on at least one occasion bribed a judge or registrar. CENAP, *Défis à la paix durable*, pp. 30, 34; Ministry at the Presidency in Charge of Good Governance, Privatization, the State Inspectorate General, and Local Administration, “Etude Diagnostique sur la Gouvernance et la Corruption au Burundi: Rapport d’Enquête,” Bujumbura, May 2008.

<sup>24</sup> Human Rights Watch interviews with communal administrator François-Xavier Nduwamungu, Nyamurenza commune, Ngozi province, July 24, 2009, and with Jean Bosco Makera, principal advisor to the governor, and Donatien Ntiyankundiye, provincial PNB commissioner, Ngozi, August 3, 2009.

Systems of parallel justice, established by rebel groups during Burundi's 16-year civil war, accustomed some Burundians to a more "expedient" form of justice than that provided by the courts. The war began as a conflict pitting ethnic Hutu rebel groups against an ethnic Tutsi-dominated military and later evolved into a struggle more along political than ethnic lines. The two main rebel groups—National Council for the Defense of Democracy-Forces for the Defense of Democracy (*Conseil National pour la Défense de la Démocratie—Forces pour la Défense de la Démocratie*, CNDD-FDD), and the National Liberation Forces (*Forces Nationales de Libération*, FNL)—carried out parallel administrations in certain regions. The CNDD-FDD did so until it won national elections in 2005; Ruyigi, a province in which there have been many incidents of mob justice, was one area in which it controlled territory toward the end of the war. In much of Bujumbura Rural, the FNL served as an alternative conduit for justice as late as 2008, sometimes under unofficial "arrangements" by which the national police policed by day, and the FNL by night. The FNL continued fighting until it converted into an opposition political party in 2009.

Both rebel groups had often beaten thieves whom they took into custody, and on occasion executed them—sometimes after a "trial" of sorts, sometimes summarily. In 2009, the first year in which such parallel justice systems no longer existed, Human Rights Watch and APRODH documented a high number of mob killings in communes that had been rebel strongholds.<sup>25</sup> In one case in Kanyosha (Bujumbura Rural), a resident explained why they decided to take justice into their own hands and kill a suspected goat thief: "In the past, people used to take thieves to the FNL, who beat them and made them pay a fine. Now, if there were theft during the day, people would take the person to the police, but if it were at night, they would beat them."<sup>26</sup>

Human Rights Watch and APRODH research suggests that the following conditions contribute to mob justice.

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<sup>25</sup> In Isale, Mubimbi and Kanyosha communes, all in Bujumbura Rural, residents and officials referenced the meting out of justice by the FNL as a factor linked to the occurrence of mob justice today. Human Rights Watch interview with interim communal administrator Hyacinthe Kuwahuraho, Isale commune, Bujumbura Rural province, August 19, 2009. According to one Mubimbi official, a group of men, including several former FNL combatants, appears to have taken on the responsibility of meting out justice in at least one *colline*; he described them as having established a "parallel administration." In July 2009 they killed a suspected thief, Salvator Bitwi, in a case described below. Parts of Itaba commune, Gitega province, also fit this pattern; Human Rights Watch interview with Communal Administrator Evariste Nzeyimana, Itaba commune, Gitega province, August 26, 2009.

<sup>26</sup> Human Rights Watch interview with anonymous resident of Bikwa *colline*, Kanyosha, Bujumbura Rural, August 20, 2009.



## Police Ineffectiveness in Providing Security

“The police are afraid to come here at night.”<sup>27</sup>

– Resident of Bujumbura Rural

The Burundian National Police (PNB) is a young corps, constituted at the end of 2004 to bring together former judicial police, gendarmes, soldiers, and rebels. The PNB is composed of 18,000 officers, brigadiers, and agents. Nearly half the police are former rebels, who have had very little professional training.<sup>28</sup>

Aware of its weaknesses, the PNB has solicited support in training and material resources from a number of donors and partner organizations, but in many cases has not put these resources to effective use. Ineffective policing leaves many Burundians with the sense that security has improved very little since the end of serious fighting in 2006.<sup>29</sup>

### *Distribution of officers*

A police audit carried out by a Belgian federal police team in late 2008 at the invitation of Burundi’s Ministry of Public Security identified numerous shortcomings in the effectiveness of the PNB and provided detailed recommendations. The audit noted, for instance, that police distribution throughout the country and among the different branches of the police seems “random,” rather than corresponding to actual security needs.<sup>30</sup> It argues that the overall number of police officers in Burundi is in principle sufficient to meet security needs, but police are concentrated in urban centers, with many of them dedicated to “guarding” provincial and regional police commissariats.<sup>31</sup>

Police Director Fabien Ndayishimiye told Human Rights Watch that the police concentration at commissariats had been a response to the exigencies of Burundi’s civil war, and that with the end of the war in April 2009, efforts to redistribute police had already begun.<sup>32</sup> But as of

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<sup>27</sup> Human Rights Watch interview with B.A., Kanyosha, Bujumbura Rural, July 20, 2009.

<sup>28</sup> See Human Rights Watch, *Every Morning They Beat Me: Police Abuses in Burundi*, April 2008, <http://www.hrw.org/en/reports/2008/04/29/every-morning-they-beat-me-o>.

<sup>29</sup> Peter Uvin, *Life after Violence: A People’s Story of Burundi*, (London: Zed Books, 2009) pp. 46-47.

<sup>30</sup> “The PNB does not face a problem in terms of force numbers in the short or medium term. The distribution of forces, however, does not always correspond to objective criteria, nor does it contribute to the establishment of community policing.” Ministry of Public Security, “Audit de la Police Nationale du Burundi, Octobre-novembre 2008,” results of an audit by a Belgian Federal Police team, published January 23, 2009, p. 11. See also p. 20.

<sup>31</sup> Ministry of Public Security, “Audit de la Police Nationale du Burundi, Octobre-novembre 2008”, p. 20.

<sup>32</sup> Human Rights Watch interview with Fabien Ndayishimiye, director general of the Burundian National Police, Bujumbura, December 22, 2009.

late 2009, police presence in the rural *collines* remained limited. This is in part due to logistical limitations. Despite much talk at the Ministry of Public Security of shifting to a system of community policing, police continue to lodge in barracks, rather than being integrated into communities. In rural police positions, they live in tents. Ndayishimiye told Human Rights Watch this is unlikely to change in the near future. The difficulty of life in these rural positions has a negative effect on police morale, and often leads police to prefer to be based in urban areas rather than rural ones, while the logistical difficulties of providing food and supplies to rural positions creates a disincentive for provincial police commissioners to insist on greater decentralization.<sup>33</sup>

The absence of police on the ground appears to contribute to a tendency for rural communities to take justice into their own hands. Inadequate police strength was a concern raised by a number of police and administrative officials in interviews with Human Rights Watch and APRODH, including in the communes of Gashoho (Muyinga province), Gisuru (Ruyigi province), and Nyamurenza (Ngozi province), all of which had multiple mob justice killings in 2009.<sup>34</sup>

Thus, at Benga market in Isale (Bujumbura Rural), where a suspected motorcycle thief was beaten to death (and a second narrowly escaped) in January 2009, a resident explained, “When the people trapped them, they were angry. There is no nearby police position. So people decided to punish them. Lately there had been robberies, ambushes of motorcycles and cars—people were tired of this. We believe justice was done.” Another added, “No one tried to save them. If anyone had wanted to, they would have been afraid because they too would have been beaten.”<sup>35</sup>

### *Difficult conditions at night*

In both rural and urban areas, the lack of police presence is particularly notable at night. On the night that one mob killing occurred in Bujumbura Rural, police did not intervene, although the noise of the crowd could be heard from several kilometers away and for several hours; one person who lived nearby described being kept up by the sounds of a “hunt [that]

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<sup>33</sup> Human Rights Watch interview with representative of a bilateral aid organization, Bujumbura, December 12, 2009.

<sup>34</sup> Human Rights Watch/APRODH interview with Nyamurenza Police Chief Paul Aaron Nahishakiye, Nyamurenza commune, Ngozi province, July 24, 2009; Human Rights Watch interview with Jean Bosco Makera, senior advisor to the Governor of Ngozi, Ngozi province, August 3, 2009; Human Rights Watch interview with Gashoho Advisor on Social Issues Daniel Manirakiza, Gashoho commune, Muyinga province, August 5, 2009; Human Rights Watch/APRODH interview with Egide Ndikuriyo, communal administrator, Gisuru commune, Ruyigi province, July 9, 2009.

<sup>35</sup> Human Rights Watch interview with residents of Isale, Bujumbura Rural, August 19, 2009.

continued throughout the night.”<sup>36</sup> A Bujumbura Rural resident explained, “The police didn’t come that night despite hearing noise, because it was night. The police are afraid to come here at night because there is no electricity.”<sup>37</sup>

Similarly, residents of Cibitoke commune in Bujumbura—a highly populated urban neighborhood that is particularly vulnerable to crime, being off the city electrical grid and pitch-dark at night—told Human Rights Watch they felt abandoned by the police.<sup>38</sup> In September 2009, a well-known thief called “King Kong” was caught stealing household goods on 15<sup>th</sup> Avenue in Cibitoke and was trapped by residents and beaten to death. A young man who confessed to participating in the murder told Human Rights Watch, “We call the police to help us, and they never come. So sometimes we have to punish [the thieves] ourselves. The police come when the battle is done.”<sup>39</sup> In December, on the same street, a man caught stealing a television was burned to death by the use of a rubber tire lodged around his neck, reminiscent of techniques to “ethnically cleanse” Cibitoke during Burundi’s civil war (see text box below). A woman in Mutakura, a nearby Cibitoke neighborhood where three mob killings took place on the same street between mid-2008 and mid-2009, explained simply, “Here in Cibitoke, when people catch a thief, they kill them directly.”<sup>40</sup>

### *Commitment and resources*

Police were seen as ineffective even in neighborhoods where they seemed present in sufficient numbers. In Buterere, a Bujumbura commune in which at least three alleged thieves were killed in 2009, an official said of one case, “People killed him because there was a lot of theft—they had decided to eliminate all thieves. They saw that the government can’t control the neighborhood [*quartier*]. I don’t know why the government can’t control it. The presence of police is sufficient, but they often can’t catch thieves.”<sup>41</sup>

Among other factors, police effectiveness may be inhibited by lack of transport and communications technology. Most police officers do not have any communications devices,

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<sup>36</sup> Human Rights Watch interview with A.R., Bujumbura, July 17, 2009.

<sup>37</sup> Human Rights Watch interview with B.A., Bujumbura Rural, July 20, 2009.

<sup>38</sup> A local official told Human Rights Watch that the lack of electricity in Cibitoke draws criminal elements from other neighborhoods. Human Rights Watch interview, Cibitoke, Bujumbura, June 30, 2009.

<sup>39</sup> Human Rights Watch interview with young man, Cibitoke, Bujumbura, October 13, 2009.

<sup>40</sup> Human Rights Watch interview with woman, Cibitoke, Bujumbura, July 2, 2007.

<sup>41</sup> Human Rights Watch/APRODH interview with local official, Buterere, Bujumbura, August 18, 2009.

so if they encounter security problems, they have no means to call for reinforcements.<sup>42</sup> Even if police were able to call for reinforcements, communal police officials generally do not have access to motor vehicles, particularly outside of Bujumbura, limiting their ability to mount a rapid response.<sup>43</sup> Vehicles attributed to provincial police commissariats are rarely made available for local policing. A number of vehicles provided by donors in 2008 had already been wrecked in collisions by late 2009; other vehicles were inaccessible due to lack of access to gasoline.<sup>44</sup> OLUCOME reported that a number of police vehicles were also used for private purposes or for partisan political activities organized by the ruling party, the National Council for the Defense of Democracy-Forces for the Defense of Democracy (*Conseil National pour la Défense de la Démocratie—Forces pour la Défense de la Démocratie*, CNDD-FDD).<sup>45</sup>

### *Criminal behavior by police*

Finally, police indiscipline and unlawful behavior also contribute to the failure to ensure public security. As one communal administrator complained, “The police need to reorganize their fashion of working. Some of them go off and get drinks at night when they’re supposed to be patrolling.”<sup>46</sup>

Worse, the police themselves have been involved in criminal activity, so in some places will not be seen as a force capable of stopping crime. Some police officers participate in armed bands at night; others rent out their uniforms and weapons to thieves.<sup>47</sup> Participants in CENAP’s 2008 study complained that police who take part in criminality are not sufficiently sanctioned; rather, “their superiors are reportedly content to transfer them to posts far from the places where they have committed crimes.”<sup>48</sup> A woman in Cibitoke commune who had witnessed a killing of an alleged criminal—and argued that it was justified—told Human

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<sup>42</sup> That communications technology is not used does not mean that it does not exist, however: the police have at least 1,200 radios, enough to ensure that there are a handful in every commune, but many are broken or remain in warehouses. Ministry of Public Security, “Audit de la Police Nationale du Burundi, Octobre-Novembre 2008”, results of an audit by a Belgian Federal Police team, published January 23, 2009, p. 50; Human Rights Watch interviews with a European diplomat, Bujumbura, December 17, 2009, and with a representative of a bilateral aid organization, Bujumbura, December 18, 2009.

<sup>43</sup> Ministry of Public Security, “Audit de la Police Nationale du Burundi, Octobre-novembre 2008”, pp. 50-51.

<sup>44</sup> Comments by police officials at BINUB human rights workshop attended by Human Rights Watch, Bujumbura, December 22-23, 2009.

<sup>45</sup> OLUCOME, “Rapport du 1er semestre 2009 adopté par l’Assemblée Générale du 30 août 2009 à l’Hôtel NOVOTEL,” [http://www.olucome.bi/download/Rapport\\_premier\\_semestre\\_2009.pdf](http://www.olucome.bi/download/Rapport_premier_semestre_2009.pdf), p. 18.

<sup>46</sup> Human Rights Watch interview with communal administrator, Bujumbura, June 30, 2009.

<sup>47</sup> CENAP, *Défis à la paix durable* p. 86.

<sup>48</sup> *Ibid.*, p. 93.

Rights Watch, “There’s a police position nearby, but sometimes they work with the bandits, because they are poor, too.”<sup>49</sup>

Police behavior is not entirely unsurprising, given the poor pay and conditions that can often lead to low morale. At one point in May 2009, police received food rations for just over half a month, and were left to fend for themselves for the rest of the month. Police spokesperson Ntarabaganyi told journalists this was due to lack of resources as well as delays by providers.<sup>50</sup>

### **Ineffectiveness in Investigations by Police and Prosecutors**

Many Burundians see police as ineffective not only in preventing crimes, but also in investigating them. The judicial system is subject to similar critiques.

Lack of transport is a significant factor in inhibiting investigations, particularly in rural areas. While police posts are scattered throughout the communes, judicial police officers (OPJs)—the only police qualified to investigate a crime—are usually only based at the communal center, and most communes only have one judicial police officer, who has no motor vehicle. A provincial official explained, “The OPJs have a lack of transport. They sometimes have to walk for hours to investigate a case, and then they abandon it.”<sup>51</sup> Experienced Burundian police have some background in how to work in a resource-scarce situation, but many of the best-trained OPJs were put into retirement in order to meet ethnic and political quotas, and the new arrivals were given little training.<sup>52</sup>

BINUB provided each provincial judicial police commissariat with a new vehicle in September 2008.<sup>53</sup> But the Ministry of Public Security refused to allow BINUB to put markings on the side of each vehicle indicating which police commissariat they belong to, an obvious rejection of transparency, and an indication that the vehicles might be used for purposes other than judicial police investigations.<sup>54</sup>

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<sup>49</sup> Human Rights Watch interview with S.O., Cibitoke commune, Bujumbura, October 13, 2009.

<sup>50</sup> Radio Publique Africaine broadcast, June 3, 2009.

<sup>51</sup> Human Rights Watch interview with Jean Bosco Makera, principal advisor to the Governor of Ngozi, August 3, 2009.

<sup>52</sup> Human Rights Watch interview with a representative of a bilateral aid agency, Bujumbura, December 18, 2009.

<sup>53</sup> “La PNB reçoit un don lui permettant d’être une police de proximité,” Agence Burundaise de Presse, September 20, 2008.

<sup>54</sup> Human Rights Watch interview, Bujumbura, December 20, 2009.

Other basic needs of communal judicial police officers are unmet, impeding their ability to work. For most of 2009, the government of Burundi provided OPJs with no paper, nor did they seek an official arrangement with a donor organization to do so. In order to ensure that OPJs could write up the results of their investigations, BINUB and international NGOs stepped in with impromptu donations of paper.<sup>55</sup> A representative of a donor organization was of the view that the Ministry of Public Security regularly undervalues the work of the judicial police, failing to provide them with the necessary means to do the work required of them.<sup>56</sup>

Frequent personnel changes also lead to inadequate investigations.<sup>57</sup> OPJs do not often stay in the same commune long enough to familiarize themselves with the security situation, and when an OPJ is transferred to another commune, in many cases there is no *“remise et reprise”* (handover): OPJs tend not to turn any case files over to their successors. Investigations on past cases are thus simply dropped, or must start over from scratch.<sup>58</sup> As one woman in Ngozi complained, “The police work well, but there are too many police transfers. New ones arrive who don’t know the situation. It would be good if they spent at least six months to a year here, but some spend less than one month.”<sup>59</sup>

When police arrest a suspect, they have seven days under the law to carry out initial investigations before they must either present the case file and the suspect to the prosecutor’s office (*le parquet*), or free the suspect, although investigations may continue. When files are turned over, though, poor communication between police and judicial officials means that prosecutors often make little effort to make sense of an incomplete or confusing police file.<sup>60</sup> First Vice President Yves Satinguvu acknowledged this problem, telling Human Rights Watch, “We’ve asked [police and prosecutors] to work together – when the office of the prosecutor finds a dossier is empty, they sometimes release the person

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<sup>55</sup> Comment by a BINUB representative at a BINUB human rights workshop, Bujumbura, December 22-23, 2009, attended by Human Rights Watch researcher.

<sup>56</sup> Human Rights Watch interview with a representative of a bilateral aid agency, Bujumbura, December 18, 2009.

<sup>57</sup> Personnel changes also mean that those police who benefit from donor-funded trainings are often then moved to a post or service where their training becomes irrelevant. Human Rights Watch interview with a representative of a bilateral aid agency, Bujumbura, December 18, 2009.

<sup>58</sup> Human Rights Watch interview with Jean Claude Bigirimana, judicial police officer, Isale, Bujumbura Rural province, August 19, 2009; Human Rights Watch telephone interview with Prudent Ngendakumana, judicial police officer for Gisuru commune, August 25, 2009.

<sup>59</sup> Human Rights Watch interview, Tangara, Ngozi province, July 23, 2009.

<sup>60</sup> Radio Nationale broadcast, June 18, 2009.

rather than contacting the OPJ. We meet with magistrates about this, telling them they should ask for complementary elements from the police.”<sup>61</sup>

Prosecutors, like police, also have difficulty carrying out investigations because of a lack of adequate resources, including vehicles and gasoline. In 2008, BINUB supplied each provincial prosecutor’s office with a vehicle. The Ministry of Justice provides 100 liters of gasoline per month, which is intended for use in investigations.<sup>62</sup> However, one magistrate complained this amount was insufficient (or perhaps, misused), explaining, “If the prosecutor has to go to Bujumbura that month, it finishes off the ration, so we have a problem getting out to the *collines* to conduct investigations.”<sup>63</sup>

The inability of both police and prosecutors to carry out effective investigations leaves some Burundians, particularly in rural areas, feeling that they have zero access to justice and that, in fact, the justice system is nonexistent. As one woman told an academic researcher,

If I met someone who did something bad to me, and we had a justice system, I could bring this person before the tribunal and the law would know how to punish this person. But there is no justice system here to study the question of punishment.<sup>64</sup>

## Release of Suspects

In July 2009, two men were caught in Kanyosha, a semi-rural commune on the periphery of Bujumbura, carrying two AK-47s assault rifles in a sack. A crowd of people suspected the two men were going to engage in a robbery, and decided to take the law in their own hands. Two residents who participated in killing the men explained their thinking to Human Rights Watch and APRODH:

We heard cries of alarm. Since we were organized, we were able to trap the armed bandits. We decided to kill them, because if we trap them and take them to the police, they would be freed. Everyone agreed that we should kill

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<sup>61</sup> Human Rights Watch interview with First Vice-President of the Republic Yves Sahinguvu, Bujumbura, August 24, 2009.

<sup>62</sup> Human Rights Watch interview with Ministry of Justice Chief of Staff Onésphore Baroreraho, Bujumbura, February 1, 2010.

<sup>63</sup> Human Rights Watch interview with magistrate at the Gitega prosecutor’s office (name withheld), Gitega, August 27, 2009.

<sup>64</sup> Interview with a returned refugee, cited by Peter Uvin, *Life after Violence: A People’s Story of Burundi*, (London: Zed Books, 2009), p. 155.

them... We killed them with sticks and stones... The police came after they were dead.

The men went on to cite a case in 2008 in which a thief, armed with a grenade and attempting to dig into a house in order to rob it, was caught and turned in to the police. He was freed several days later. It was at that point, they said, that “We decided to eliminate these people right away.”<sup>65</sup>

Burundians regularly complained that the police free detainees, either without charge or on bail (known in Burundi as “provisional release”),<sup>66</sup> even when there is adequate evidence that they have committed crimes. In some cases, corruption or incompetence leads to an unwarranted release. But in other cases, releases may be due to a strict adherence to criminal procedure. For average Burundians who are uninformed about criminal procedure, it is difficult to make this distinction.<sup>67</sup>

It was clear from Human Rights Watch and APRODH interviews that the *perception* that unwarranted releases are a frequent occurrence contributed to mob justice. One administrative official in a Muyinga commune told Human Rights Watch, “Mob justice is a new behavior here, due to the bad behavior of the police in Muyinga—they release suspects after two or three weeks. Now, when the population traps someone, they are automatically killed without bringing them before justice.”<sup>68</sup>

### *Corruption*

Human Rights Watch and APRODH received several accounts of criminal suspects who were able to bribe their way out of jail and being prosecuted. The president of OLUCOME, which runs a hotline for complaints of corruption, reported to Human Rights Watch that the

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<sup>65</sup> Human Rights Watch/APRODH interviews with residents of Kizingwe-Bihara, Kanyosha commune, Bujumbura, August 13, 2009.

<sup>66</sup> Releasing suspects on bail is a normal element of criminal procedure and is codified in Burundi’s criminal procedure code. However, Human Rights Watch and APRODH heard frequent complaints that most suspects who are released “provisionally” are never subsequently brought to trial. Human Rights Watch/APRODH interviews, Gisuru, Ruyigi province, December 8, 2009.

<sup>67</sup> Frequent jail and prison breaks also contribute to the sense that suspects easily escape justice. Detention facilities are overcrowded and poorly maintained, contributing to frequent prisoner escapes. In 2009, approximately 150 new detainees were added to the rolls each month, creating difficult living conditions and general disorder within the prisons; Human Rights Watch interview with Ministry of Justice employee, Bujumbura, September 3, 2009. Police, in a number of cases, have been accused of facilitating such escapes, as a result of bribery or of personal connections or allegiances to a particular suspect. Ngozi and Ruyigi prisons were particularly notorious for escapes in 2009—which correlated with their high levels of mob justice.

<sup>68</sup> Human Rights Watch/APRODH interview with administrative official, Muyinga province, August 6, 2009.



organization receives frequent complaints about police officers demanding bribes, saying “It’s become like a way of life.”<sup>69</sup>

Many of OLUCOME’s complaints were filed by those who paid bribes after being arbitrarily arrested or threatened with arbitrary arrest. Individuals who have actually committed crimes and then paid bribes are unlikely to report this, making it difficult to evaluate the extent of the problem. Further, denouncing corruption in Burundi is a dangerous affair; a prominent anti-corruption campaigner was murdered in April 2009, and others have been jailed, sending a clear message to average citizens who might denounce corruption.

But crime victims interviewed by Human Rights Watch and APRODH expressed a nearly unanimous belief that if a perpetrator has the resources, he or she can easily buy his or her way out of jail and prosecution, and some administrative officials agree. One communal administrator in Bujumbura said,

We all lament the way the judicial police operate. At times, the [police] free bandits and criminals—but those who have committed minor infractions rot away in jail. The criminal’s families offer something, and if they give something, the OPJ frees them. You may have killed someone, but if you give me a little something in the course of the interrogation, I may change the [interrogation record] and reorient the dossier.<sup>70</sup>

The belief that anyone can bribe their way out of being prosecuted has consequences. In Gashoho, Muyinga province, a so-called “notorious bandit,” Melchior Ntirandekura, was burned to death by a mob after participating in a band that carried out rape, robbery, and assault on July 26, 2009. Local residents said he had been arrested many times over the last several years, but suspected he paid bribes to police officers every time to get out. The belief that he has escaped justice many times, and would do so again, contributed to the mob’s decision to kill him.<sup>71</sup>

Similarly, a young man named Nzeyimana was killed around June 21, 2009 by a mob in Giteranyi, Muyinga province, after throwing a grenade into a wedding ceremony and killing

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<sup>69</sup> Human Rights Watch interview with Gabriel Rufyiri, president of OLUCOME, Bujumbura, September 3, 2009. BINUB’s human rights observers have also documented bribes paid by suspects to police officials; email communication to from BINUB official to Human Rights Watch, May 21, 2009.

<sup>70</sup> Human Rights Watch interview with communal administrator (name withheld), Bujumbura, June 30, 2009.

<sup>71</sup> Human Rights Watch interviews with residents, Gashoho, Muyinga province, August 5, 2009.

two people. According to a local official, he had been jailed twice previously for throwing grenades, but was released both times by Muyinga police, in spite of significant evidence against him. Neighbors began to suspect that he bribed the police. According to the official, several thousand residents participated or stood by and watched as he was stoned to death.<sup>72</sup>

High levels of corruption appeared to correlate with high rates of mob justice. A Burundian news agency identified Muyinga as having high levels of corruption among both police and magistrates.<sup>73</sup> In Gisuru, Ruyigi province, where at least five people were killed by mobs in 2009 and another was seriously beaten, the judicial police officer was transferred in July on suspicion of corruption; the person who held the post before him was transferred for the same reasons.<sup>74</sup> Other communes in Ruyigi were also cited as having high levels of both corruption and of mob justice.<sup>75</sup>

Police commissioner Louis Nkurikiye acknowledged that police corruption is one of the primary root causes of mob justice. He also noted that sometimes judicial police officers who have been bribed do not release a detainee immediately, but transfer to the prosecutor a case file that is completely lacking in evidence, causing the magistrate to release the detainee.<sup>76</sup>

The judicial system is also widely considered to be corrupt.<sup>77</sup> Burundian law permits police to hold detainees for seven days and carry out preliminary investigations before officially charging a suspect with a crime. At that point, the case file is transferred to the prosecutor's office, and the detainee is transferred to prison custody. Human Rights Watch and APRODH research found that the magistrates who take over investigations are sometimes cited for ordering the release of detainees as a result of bribery.<sup>78</sup> Magistrates have also accepted

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<sup>72</sup> Human Rights Watch/APRODH interview with Philbert Uwimana, advisor to the communal administrator, Giteranyi, Muyinga province, August 6, 2009.

<sup>73</sup> "Le phénomène de corruption persiste en province Muyinga," Agence Burundaise de Presse, February 20, 2009.

<sup>74</sup> Human Rights Watch/APRODH interview with Eliphaz Ntakarutimana, communal technical advisor (administrative and social), Gisuru, Ruyigi province, August 25, 2009.

<sup>75</sup> Human Rights Watch interview with Louis Nkurikiye, PNB commissioner in charge of information and communication, Bujumbura, September 4, 2009.

<sup>76</sup> Ibid.

<sup>77</sup> See, for instance, Ministry at the Presidency in Charge of Good Governance, Privatization, the State Inspectorate General, and Local Administration, "Etude diagnostique sur la gouvernance et la corruption au Burundi, Rapport d'enquête", Bujumbura, May 2008, pp.42-45.

<sup>78</sup> Human Rights Watch interviews with police official, Ruyigi, July 8, 2009; with J.S., brother of victim, Gisuru, Ruyigi, July 9, 2009; and with Evariste Nzeyimana, communal administrator, Itaba, Gitega province, August 26, 2009.

bribes to release already convicted and sentenced prisoners.<sup>79</sup> One police official complained,

The population is angry because the police often arrest people, even people who are caught red-handed, and send them to magistrates, and the magistrates are corrupted, and the people are freed and come back to their *collines*. So the people lose faith in the justice system.<sup>80</sup>

An employee at the Ministry of Justice explained judicial corruption by the fact that judges themselves pay bribes in order to receive positions. He explained, “Currently you have to pay one million Burundian francs [approximately \$850] to get a job at a *Tribunal de Grande Instance*. You give that money to a ‘sponsor’ who gets you in to the system. And the first thing the magistrate will try to do when they get into the system is to recuperate the money they paid out [by asking for bribes from suspects].”<sup>81</sup> The Chief of Staff at the Ministry of Justice vehemently denied such allegations of corruption.<sup>82</sup>

Detainees may also be freed, by either the police or the office of the prosecutor, because they are politically connected.<sup>83</sup> In Kanyosha, Bujumbura Rural, Nestor Nduwayezu was killed after he allegedly participated in the attempted murder of Adolphe Banyikwa, a prominent member of the FNL opposition party, in June 2009. Residents of the *colline* where the incident occurred—most of whom are FNL supporters—suspected Nduwayezu of working for Burundi’s intelligence service. An FNL member familiar with the incident explained, “The population knew that if the police intervened [to arrest Nestor], the next morning he would be freed.”<sup>84</sup>

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<sup>79</sup> “Arrestation d’un magistrat du parquet de la République à Kirundo”, Agence Burundaise de Presse, May 28, 2009.

<sup>80</sup> Human Rights Watch/APRODH interview with police official, Kinyinya, Ruyigi province, July 8, 2009.

<sup>81</sup> Human Rights Watch interviews with Ministry of Justice official, fall 2009. A BINUB official and a representative of a donor organization also told Human Rights Watch they had received reliable information about such corruption within the Ministry of Justice. The officials’ names and other identifying information are withheld because of the dangers inherent in denouncing judicial corruption in Burundi. In 2008, union activist Juvenal Rududura was arrested and detained for nine months after publicly stating that judges pay bribes in exchange for positions. He was provisionally released in 2009, but his case remained open as of this writing. In April 2009, an anti-corruption activist, Ernest Manirumva, was murdered; judicial authorities have collected evidence pointing to a role of police officials in his murder.

<sup>82</sup> Human Rights Watch interview with Ministry of Justice Chief of Staff Onésphore Baroreraho, Bujumbura, February 1, 2010.

<sup>83</sup> There are many such cases reported by Burundian media. In a case in November 2009, a member of parliament reportedly ordered police to release a man accused of child rape. Radio Publique Africaine broadcasts, November 17 and 18, 2009, summarized in the Organisation Des Médias d’Afrique Centrale daily media bulletins of November 17 and 18, 2009.

<sup>84</sup> Human Rights Watch interview with B.A., Bujumbura, July 21, 2009.

Other questionable releases of suspects result from both inadequate resources and poor judgment on the part of the police. In October 2008 in Kirundo province, a murder suspect was permitted to go home in search of food, because police do not receive rations to feed detainees (their families are expected to visit jails and provide for them). The suspect was subsequently killed by local residents.<sup>85</sup> Police spokesperson Pierre Chanel Ntarabaganyi told Human Rights Watch that police stations' inability to feed detainees is one of the primary reasons why detainees are freed. He cited this problem as a principal cause of mob justice.<sup>86</sup>

### *Lack of Awareness of Legitimate Reasons for Release*

Detainees are often released, without charge or on bail, for legitimate reasons. Most Burundians, unaware of the content of laws governing criminal procedure, assume that any prisoner release indicates corruption, or at best, a lack of concern from the police about public security in their regions.<sup>87</sup> As discussed below, police are required by law to carry out investigations into apparent crimes even without the filing of a complaint, but in practice they frequently do not do so. Many people do not realize that as a practical matter, victims and witnesses must come forward, first at the communal level and then at the provincial level to provide evidence against a suspect.<sup>88</sup> This lack of knowledge, combined with the failure of the police to investigate cases without a formal complaint, contributes to mob justice. As a communal administrator in Ngozi told Human Rights Watch: "If a criminal is caught and brought before justice, a few days or a week later he is freed, and he comes back and commits the same crime. The population doesn't understand why there is no justice, and they decide to take justice into their own hands."<sup>89</sup>

The lack of understanding of the judicial system not only contributes in itself to mob justice, but also creates an accountability vacuum in which corruption flourishes. Police commissioner Louis Nkurikiye explained, "When a suspect is arrested, the population thinks

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<sup>85</sup> Human Rights Watch interviews with communal administrator Marin Hitimana, judicial police officer Elie Nimubona, police chief Gedéon Ndayemeye, and family members of victim, Ntega, Kirundo province, October 23-24, 2008.

<sup>86</sup> Human Rights Watch interview with PNB spokesperson Pierre Chanel Ntarabaganyi, Bujumbura, November 27, 2009.

<sup>87</sup> The lack of awareness of criminal procedure, despite some efforts by local officials to "sensitize" the public about the law, may in part be due to extremely low literacy levels in Burundi. The civil society organization Observatoire d'Action Gouvernementale (OAG) estimated literacy in Burundi at 49% in 2006. OAG, "Evaluation de l'engagement dans la mise en oeuvre de l'éducation pour tous," September 2007, cited in CENAP, *Défis à la paix durable*, p. 99. In 2007 UNICEF estimated adult literacy at 59%. UNICEF, "Burundi: statistics", [http://www.unicef.org/infobycountry/burundi\\_statistics.html](http://www.unicef.org/infobycountry/burundi_statistics.html) (accessed January 26, 2010). CENAP suggests illiteracy is the fundamental cause of lack of understanding of the law; CENAP, *Défis à la paix durable*, p. 99.

<sup>88</sup> Human Rights Watch interview with Governor Pierre Bambasi, Muyinga province, August 5, 2009.

<sup>89</sup> Human Rights Watch interview with communal administrator François-Xavier Nduwamungu, Nyamurenza, Ngozi province, July 24, 2009.

it's over with—that they don't have to come and provide evidence against the person. When there is not much evidence, if a suspect pays a little to an OPJ, he is freed.”<sup>90</sup>

The Ministry of Public Security, in training courses for police, has emphasized that an important part of any police investigation is actively seeking out witnesses to a crime who are willing to testify.<sup>91</sup> Disregarding such trainings, the police tend to place too much emphasis on the unwillingness of victims and witnesses to come forward. But this lack of assistance from the public does contribute to the failure of the police to adequately investigate crimes and arrest suspects—and to suspects being released without charges having been filed.

Numerous officials also pointed to other barriers, both logistical and psychological, that impede victims' involvement in filing complaints. Lack of transport constitutes one such barrier. No state agency is responsible for access to justice for victims and witnesses, many who live hours' walk from a police station and can afford no other means of transportation.<sup>92</sup> In Gisuru commune, Ruyigi province—Burundi's second largest commune, in which at least five alleged criminals were killed in 2009, the highest recorded—an official said lack of transport to the courts was a serious obstacle to justice.<sup>93</sup>

Fear of reprisals, in the absence of any witness protection system, also constitutes a barrier to justice. A police commissioner in Ngozi explained, “The population carries out justice because they are afraid to come testify. We arrest people based on warrants, and transfer them to the prosecutor. If the population doesn't come to testify, the prosecutor frees those people. The population gets angry, and says the judicial system and the police don't do what they're supposed to do. Then, if they trap a criminal, they take justice into their own hands.”<sup>94</sup>

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<sup>90</sup> Human Rights Watch interview with Louis Nkurikiye, police commissioner in charge of information and communication, Bujumbura, September 4, 2009.

<sup>91</sup> Ministry of Public Security and RCN-Justice et Démocratie, “Cours de déontologie destine aux officiers de police judiciaire; Session de recyclage Juillet-Septembre 2005,” 2005.

<sup>92</sup> Nongovernmental organizations sometimes fill the void; for instance, the Burundian human rights organization APRODH transports rape victims to court hearings. Muyinga Governor Pierre Bambasi suggested that communal administrators, all of whom are endowed with a vehicle, should transport witnesses to meet with police and judicial officials. He pointed out that because communal administrators are the heads of recently established “security committees”, this should be one of their responsibilities. Human Rights Watch interview with Muyinga Governor Pierre Bambasi, Muyinga province, August 5, 2009.

<sup>93</sup> Human Rights Watch/APRODH interview with communal administrator Egide Ndikuriyo, Gisuru, Ruyigi province, July 9, 2009.

<sup>94</sup> Human Rights Watch interview with Ngozi Police Commissioner Donatien Ntiyankundiye, Ngozi province, August 3, 2009.

Another Ngozi official said:

We can do “sensitizations” [public education meetings], but the population is angry at the authorities, saying the authorities doesn’t punish sufficiently. If we tell them not to kill bandits, to instead catch them and bring them to the police, they won’t listen, because they see bandits who are caught and then freed. They are freed because the population doesn’t come to testify against them; they think that if a suspect is brought to prison, it’s finished. We try to educate them so that they come and file complaints, but sometimes they are afraid.<sup>95</sup>

Because of poor communication between the police, prosecutors, and the public, there is often confusion around the reasons why a particular detainee has been freed. A police official in Ngozi complained, “We have many cases where we transmit dossiers to the prosecutor and then the suspects are freed two or three months later, and we don’t know why. The magistrates are above us; we can’t go ask them.”<sup>96</sup> A BINUB official reported that she raised the problem to judicial officials in Makamba province, suggesting they inform police and communal administrators of the reasons why detainees were freed, so that they could in turn explain the releases to the public. The officials responded that they were “not answerable to” the police and communal administrators, rejecting the BINUB official’s suggestion that increased communication would benefit public security.<sup>97</sup>

Even when suspects are prosecuted, convicted and serve their time, one governor said that residents still have difficulty accepting their release, seeing this as evidence of the justice system not working. He said, “We have to prepare them psychologically for reintegrating people who have committed crimes back into the community.”<sup>98</sup>

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<sup>95</sup> Human Rights Watch interview with Jean Bosco Makera, senior advisor to the governor of Ngozi, Ngozi province, August 3, 2009. In Kanyosha, too, an official noted, “people are afraid to come and accuse someone face to face.” Human Rights Watch/APRODH interview with communal administrator Abraham Aoudou Bampoye, Kanyosha, Bujumbura, August 13, 2009.

<sup>96</sup> Human Rights Watch interview with judicial police officer Bucumi, Tangara, Ngozi province, July 23, 2009.

<sup>97</sup> Comment made by a BINUB human rights official at a meeting at the Office of the High Commissioner for Human Rights, Bujumbura, August 31, 2009.

<sup>98</sup> Human Rights Watch interview with Muyinga Governor Pierre Bambasi, Muyinga province, August 5, 2009. Bambasi said that before the war, constant rumors about sorcery occasionally led to mob justice in Burundi, but the so-called “rainmakers” who were often victim to this violence were much more likely to be simply beaten rather than killed.

## A Note on “Sorcery” Accusations and Mob Justice

In addition to the scores of suspected criminals who were killed or seriously beaten by mobs in 2009, similar mobs were reported to have attacked suspected “sorcerers” in dozens of cases.<sup>99</sup> These suspected sorcerers are often accused of using fetishes (objects said to hold evil powers) to cause “mysterious” illnesses or deaths, for which no other explanation is immediately available to many rural Burundians.<sup>100</sup> Such attacks, while worrisome, are not covered in this report for several reasons. First, Human Rights Watch and APRODH found that it is difficult to establish when the attack reflects a sincere belief that the victim is a sorcerer, and when it is a pretext for eliminating a rival, usually because of a land conflict.<sup>101</sup> Second, the improvements in the police and judicial systems which are necessary to mitigate mob justice would be insufficient in putting an end to cases in which people kill those they sincerely suspect of engaging in sorcery; long-term educational initiatives are also necessary.

Third, although Human Rights Watch and APRODH are not aware of any statistics on police response to killings of suspected sorcerers, police appear to be more proactive investigating such killings than in investigating the killings of suspected thieves. In the course of this research, Human Rights Watch and APRODH discussed sorcery-related killings with a number of police and administrative officials; none attempted to excuse away such killings, though their investigations often failed to produce results.

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<sup>99</sup> For instance, see “La sorcellerie et les bandits armés responsables de cinq personnes tuées à Muyinga et à Ngozi”, Agence Burundaise de Presse, November 11, 2009.

<sup>100</sup> Unlike some countries in which “witchcraft” accusations are disproportionately leveled against women, suspected sorcerers in Burundi include both women and men.

<sup>101</sup> CENAP’s 2008 study also identified cases of violence based on real beliefs in sorcery as well as cases in which “accusations of sorcery served as an alibi to get rid of a neighbor.” CENAP, *Défis à la paix durable*, p. 102.

## Security and justice in a post-conflict society

*Burundi is just emerging from war. The youth have seen a lot of bad things. They haven't yet seen that there are other alternatives to solve problems. Some were combatants, some witnessed violence, some lost their loved ones, and I think this affected them.*

— Government official, Ruyigi, July 7, 2009.

A number of Burundians interviewed for this report said that mob justice increased because of *la crise* (literally, the crisis), the term used to describe the worst years of the civil war in Burundi.<sup>102</sup> The war, one governor told Human Rights Watch, destroyed Burundians' faith in institutions and created a context in which they were increasingly likely to take justice into their own hands.<sup>103</sup> The government, by granting de facto impunity to perpetrators of mob justice and by failing to significantly improve public security, has not taken the necessary steps to put an end to this phenomenon in the post-war context.

Studies suggest, not surprisingly, that the war has had a profound impact on the psycho-social health of Burundians, and that trauma is deeply rooted.<sup>104</sup> Further, the war desensitized people to the use of violence as a means to resolve problems, including those related to land, property, or family disputes.<sup>105</sup> Extreme poverty, brought about in part by the war, raised the stakes of such disputes.<sup>106</sup> A recent study suggests that most Burundians' sense of security has increased since the end of major fighting in 2005.<sup>107</sup> But Human Rights Watch and APRODH's research suggested that when that fragile sense of security is threatened, disproportionate violence is often considered an acceptable response.

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<sup>102</sup> Others, however, contested this belief and recalled killings of alleged criminals from the period prior to the civil war; Human Rights Watch interview with T.U., Bujumbura resident, November 29, 2009. The lack of statistics on mob justice makes it difficult to verify whether an increase has in fact occurred.

<sup>103</sup> Human Rights Watch interview with Governor Pierre Bambasi, Muyinga province, August 5, 2009.

<sup>104</sup> Transcultural Psycho-Social Organization (TPO) internal database, cited by CENAP, *Défis à la paix durable*, p. 105.

<sup>105</sup> CENAP, *Défis à la paix durable*, pp. 112-113. A series of focus groups conducted by CENAP demonstrated that high proportions of Burundians were willing to use violence to resolve problems relating to land, property, or family disputes, which CENAP attributed in part to the war.

<sup>106</sup> The 2009 United Nations Human Development Index, with data from 2007, rates Burundi 174<sup>th</sup> out of 182 countries. See United Nations Development Programme (UNDP), *Human Development Report 2009 - Burundi* (New York: UNDP, 2009), [http://hdrstats.undp.org/en/countries/country\\_fact\\_sheets/cty\\_fs\\_BDI.html](http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_BDI.html) (accessed January 5, 2009). The index notes that the market cost of basic foodstuffs increased dramatically, in some cases doubling, between September 2006 and July 2008. The Global Hunger Index noted a dramatic increase in hunger in Burundi, with the second highest rate of hunger in the world in 2007. International Food Policy Research Institute, *2009 Global Hunger Index: The Challenge of Hunger: Focus on Financial Inequality and Gender Inequality* (Washington D.C.: IFPRI, 2009), <http://www.ifpri.org/sites/default/files/publications/ghio9.pdf> (accessed January 5, 2009). See also CENAP, *Défis à la paix durable*, p. 53.

<sup>107</sup> Presentation by Bert Ingelaere, University of Antwerp researcher, Bujumbura, December 16, 2009, attended by Human Rights Watch researcher



Although available statistics are insufficient to draw conclusions about a causal link between past conflict and current mob justice, mob justice often seems to occur in areas heavily affected by the war. Ruyigi, the province most afflicted by mob justice, was a significant battleground between 2001 and 2004. A local official in Nyabistinda commune, where four alleged criminals were killed in 2009, said, “This is an area that was very much affected by the war. People saw terrible things, and now when something happens, they resort to violence right away.”<sup>108</sup>

Similarly, Cibitoke commune in Bujumbura is plagued by mob justice, with at least five killings between September 2008 and December 2009. The Cibitoke police chief told Human Rights Watch, “The phenomenon of people taking justice into their own hands is linked to *la crise*. During that period, one killed as one pleased. Here in Cibitoke, it was serious. It was full of young delinquents who carried out ethnic killings. Sensitization [public education] will eventually change this, but it’s like people are still continuing to live *la crise*.”<sup>109</sup>

Indeed, Cibitoke was one of the most common locations of an earlier era of mob killings—public, ethnically motivated killings by groups of youth whom politicians organized into militias—that took place between 1993 and 1996. Many Burundians witnessed their first mob killings during the early years of the war. In Bujumbura, youth militias regularly snatched youth of the opposite ethnic group from the streets or from public buses and publicly beat them to death or subjected them to “necklacing,” a gruesome form of public killing in which tires were placed around the victim’s neck and set aflame.<sup>110</sup> Eric Niyonzima, a suspected thief, was burned to death in this manner in Cibitoke in December 2009.

The particular role of former combatants in mob justice was highlighted by several officials. Asked why mob justice happened frequently in Bujumbura Rural, a local official from Burenza *colline* explained, “It’s linked to the consequences of the war. This was a place that was very much affected. The last shot of the war was probably fired at Burenza. There are many former rebels, both ex-FDD and ex-FNL who have come back... When they trap a thief, they don’t want to take him to the police—they have the reflexes of war.” He said former combatants made up the majority of the male population in his *colline*.<sup>111</sup>

A senior Bujumbura Rural official echoed this assessment: “The phenomenon amplified with the war. It became banal. There were only very isolated cases before. Now, to protect itself, the

<sup>108</sup> Human Rights Watch/APRODH interview with Anatole Kabavamwo, *chef de zone* Nyaruganda, Nyabitsinda commune, Ruyigi province, July 8, 2009.

<sup>109</sup> Human Rights Watch interview with police chief Emile Cimpaye, Cibitoke, Bujumbura, August 11, 2009.

<sup>110</sup> See, for instance, UN Human Rights Commission, “Premier rapport sur la situation des droits de l’homme au Burundi présenté par le Rapporteur spécial, M. Paulo Sérgio Pinheiro, conformément à la résolution 1995/90 de la Commission,” November 14, 1995, <http://www.unhcr.ch/Huridocda/Huridoca.nsf/da0a46f6cf68ac62c125699100383d60/9f5a5219a4a907f2802566a200588e7e?OpenDocument> (accessed January 5, 2009).

<sup>111</sup> Human Rights Watch interview with Burenza *chef de colline* Apollinaire Nsengiyumva, Bujumbura, August 20, 2009.

population puts its trust in criminals who react more quickly than the police, such as the ex-FNL and ex-FDD: those who can eliminate people very quickly.”<sup>112</sup>

A police official said that the high number of former combatants in Burundi—young men who grew accustomed to killing throughout the war—is a factor. He said, “When mob justice happens, the killing is easy because there are so many demobilized combatants. Before, killing someone was considered very serious. This changed with the war. Killing is normal.”<sup>113</sup>

In the absence of any mechanism to ensure accountability for past war crimes, unresolved grievances related to the war may also play out in the form of mob justice. In Cibitoke province, Ismaïl Mvuyekure, who was said to lead a band of armed robbers, was beaten to death in July 2009. According to information gathered by APRODH, Mvuyekure had been recruited by the army in the 1990s to carry out killings of Hutus suspected of supporting the rebels. When the peace process began to advance, he turned to armed banditry. Because residents held a vendetta against him for his activities during the war, they were quick to kill him when he was caught stealing in 2009.

The possibility that Burundi’s civil war contributed to the high levels of mob justice in the post-conflict period does not by any means justify the phenomenon, nor the lack of action by police and administrative officials in confronting it. Rather, it suggests that mounting a coherent response to mob justice should be a priority for the Burundian government and other stakeholders. Analyzing the roots of the problem may assist in designing interventions that target certain provinces and communes (for instance, those most affected by war) and certain groups (for instance ex-combatants).

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<sup>112</sup> Human Rights Watch interview with Philippe Ciza, senior advisor to the governor of Bujumbura Rural, Bujumbura, September 1, 2009. Ciza added that in pre-colonial Burundi, a tradition existed according to which cattle thieves would be killed by local communities. However, he said, this was “brought under control,” and was only resurrected recently.

<sup>113</sup> Human Rights Watch interview with Louis Nkurikiye, PNB commissioner in charge of information and communication, Bujumbura, September 4, 2009.

## Case Study 2: Delivering Suspects to the Mob, Gisuru, Ruyigi Province, September 2009

The September 2009 killing of two police officers in Gisuru who were suspected of theft received national and international media attention. This was largely due to police spokesperson Pierre Channel Ntarabaganyi's statement to the media after the killings, in which he "thank[ed] the population for getting involved in maintaining the public order and security."<sup>114</sup> Human Rights Watch and APRODH investigations revealed that beyond Ntarabaganyi's statements, there were other actions taken by state officials that indicated an inadequate respect for the basic rights of crime suspects.

On September 5, 2009, an armed robbery took place at Muhindo *colline* in Gisuru commune, Ruyigi province. The following morning, local residents confronted two off-duty police officers, Oscar Barasokoroza and Antoine Nzeyimana, who were suspected of the robbery. A commune orderly retrieved a gun that one of them had apparently thrown into the bushes, and residents found grenades in the pockets of the other.

Residents disarmed the police officers and began beating them, dragging them toward the Gisuru police brigade, which apparently indicated some intention to turn them in to the police. As the crowd grew, the beating became more severe. Muhindo residents were joined by those from Murehe, where another young man suspected of robbery, Dominique Harutimana, had been beaten to death at exactly the same location in January 2009. Movement toward the police brigade halted as hundreds of residents gathered to throw stones.

The commune orderly fired the confiscated gun into the air to try to stop the violence and to alert the police, according to witnesses. Police heard the gunshots, and arrived from the nearby brigade. The communal administrator and his advisor also arrived in a pickup truck belonging to the commune.

By this point, according to witnesses, the two victims were in agony on the ground. However, instead of attempting to help them, as one witness said, "The communal administrator came, and then left with the police in the vehicle to search for two other thieves. The two police were dying and no one tried to take them to the hospital."<sup>115</sup>

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<sup>114</sup> "Burundi: deux policiers soupçonnés de vol lapidés par la population", Agence France-Presse, September 7, 2009.

<sup>115</sup> Human Rights Watch/APRODH interview with Y.S., Gisuru, Ruyigi province, December 10, 2009.

After one group of officials left in the communal pickup truck—eliminating any possibility that the lives of Barasokoroza and Nzeyimana might be saved—the Gisuru police chief began interrogating the dying victims in front of the angry crowd. A second witness described events to Human Rights Watch and APRODH:

A huge, angry crowd was gathered here. The police chief said to the crowd, “You shouldn’t kill them, I’ll take them to the police station.” The people said, “You’re just going to free them like you always do.” People kept throwing rocks. The police chief started interrogating them, and the people kept beating them. Each time the police chief walked to the road to see if the vehicle was coming back, people started beating them with sticks and stones. When the vehicle arrived, the two were already dead.<sup>116</sup>

In the vehicle were Donatien Manirakiza, a former FNL combatant, and Bigirimana, a trader, both of whom had apparently been denounced by the dying victims. Manirakiza told Human Rights Watch and APRODH that he was picked up while buying cassava. He said the truck contained soldiers, police officers, and the advisor to the communal administrator, as well as two demobilized combatants from the CNDD-FDD, the former rebel group that now holds power.<sup>117</sup> Manirakiza was tied with his arms behind his back; he also said he was tied with a rope around his neck. Rope marks on his arms and neck were visible when he was interviewed by APRODH a month later.<sup>118</sup>

According to Manirakiza,

They discussed it and decided to take me to [a place they referred to as] “Kwi Bambiro.” It’s a Kirundi expression meaning “at the place of the crucifixion.” That was where they had killed the others.

I saw two corpses on the ground, and a crowd of police, soldiers, and civilians .... One of the demobilized combatants, aided by the police, pulled me out of the truck by the cord around my neck.

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<sup>116</sup> Human Rights Watch/APRODH interview with U.A., Gisuru, Ruyigi province, December 10, 2009.

<sup>117</sup> Demobilized combatants should have no role in such security operations, but are often used, illegally, to back up police, particularly in carrying out politically motivated arrests. See Human Rights Watch, *Pursuit of Power: Political Violence and Repression in Burundi*, May 2009, <http://www.hrw.org/sites/default/files/reports/burundio509web.pdf>, p. 23.

<sup>118</sup> APRODH interview with Donatien Manirakiza, Ruyigi, October 2009.

I was tied up and sitting on the ground. The police chief and army chief started interrogating me. They asked if I knew the two victims, and showed me their badges. I said I knew one of them because he had worked at a position near where I lived. While they asked me questions, other people kept beating me with sticks and throwing rocks.

The provincial police commissioner arrived with the judicial police officer. I couldn't see well because I had been hit with a rock in the eye, but I heard people saying, "If we don't kill him now, he'll press charges against us or get vengeance." Someone, I don't know who, threw a big rock. I lost consciousness and woke up in the hospital.<sup>119</sup>

Manirakiza's statement raises serious concerns about the actions of police and administrative officials, who, rather than following proper procedure—which would involve taking Manirakiza directly to the communal jail and turning him over to the judicial police officer for questioning<sup>120</sup>—essentially delivered him into the hands of an angry crowd that had already killed two suspects. Officials explained to APRODH that they took Manirakiza to the scene of the killings because they wanted him to be identified by the two police officers, and had not realized the two were already dead.<sup>121</sup> (Bigirimana remained in the vehicle during the assault on Manirakiza and was unharmed.<sup>122</sup>) Given that the officials had seen the assaults on the suspects in progress and could have anticipated that Manirakiza would be met with the same treatment by the crowd, their decisions reflect grossly negligent disregard for Manirakiza's safety.

The officials apparently realized their error, and the police chief attempted to save Manirakiza by moving him into a building at some point during the questioning.<sup>123</sup> He also telephoned the provincial prosecutor and police commissioner. The latter arrived and was able to disperse the crowd and transport Manirakiza to safety.<sup>124</sup>

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<sup>119</sup> Human Rights Watch/APRODH interview with Donatien Manirakiza, Gisuru, Ruyigi province, December 10, 2009.

<sup>120</sup> Loi No. 1/015 du 20 juillet 1999 portant réforme du code de procédure pénale, art 58 ; Loi No. 1/020 du 31 décembre 2004 portant création, organisation, missions, composition, et fonctionnement de la Police Nationale.

<sup>121</sup> APRODH interviews with Gisuru police chief Guy Majambere and communal secretary Silas Havyarimana, Gisuru, December 15, 2009.

<sup>122</sup> Human Rights Watch telephone interview with Bigirimana, December 14, 2009.

<sup>123</sup> Human Rights Watch/APRODH interviews with Y.S., U.A., and G.G., Gisuru, Ruyigi, December 10, 2009.

<sup>124</sup> Human Rights Watch interview with Ruyigi prosecutor Nicodème Gahimbare, Ruyigi, December 11, 2009.

Manirakiza was hospitalized for two weeks and then jailed for five days before being cleared of all charges. He identified two people who had led the assault against him, and a magistrate issued two summonses. Extraordinarily, the magistrate handed them to Manirakiza to deliver to his assailants himself. Manirakiza told Human Rights Watch and APRODH that he didn't understand why this was his responsibility. He said: "The judicial system should pursue them... I can't pursue the case on my own. But so far the judicial system hasn't done anything."<sup>125</sup>

After the killings, police spokesperson Pierre Channel Ntarabaganyi told reporters candidly, "I may express a criticism of the population's application of mob justice, which is banned by the law. However, I have to thank the population for getting involved in maintaining the public order and security which had been disrupted by the two rogue policemen."<sup>126</sup> Ntarabaganyi told Human Rights Watch in December that he still stood by this statement.<sup>127</sup> A judicial official who opposed mob justice complained, "The police spokesperson's comments have incited the population to carry out justice."<sup>128</sup>

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<sup>125</sup> Human Rights Watch/APRODH interview with Donatien Manirakiza, Gisuru, Ruyigi province, December 10, 2009.

<sup>126</sup> "Burundi: deux policiers soupçonnés de vol lapidés par la population," Agence France-Presse, September 7, 2009.

<sup>127</sup> Human Rights Watch interview with Pierre Channel Ntarabaganyi, Bujumbura, December 2009.

<sup>128</sup> Human Rights Watch interview with judicial official (name withheld), Ruyigi, December 2009.

## VI. Involvement and Complicity of Officials in Mob Justice

The involvement and complicity of state officials in mob justice constitute serious violations of human rights. By participating in, condoning, facilitating, or covering up mob justice, officials hold responsibility for loss of life. They also deny criminal suspects due process and the right to a fair trial, abuse their power, and fail to meaningfully protect a population for which they are charged to provide security.

The officials who appear to be most frequently involved in mob justice in the cases identified by Human Rights Watch and APRODH are those elected at a local level, such as *nyumbakumis* (persons responsible for 10 households), *chefs de colline*, and *colline* and communal council members. *Bashingantahe*, locally invested through traditional ceremonies (or in some cases elected) “wise men” who resolve disputes and have a special status recognized by the state, were also cited by witnesses and victims. These officials have played a direct role in a number of mob killings, and are almost never prosecuted.

Police, soldiers, and communal administrators are also directly implicated in some cases, though infrequently. In the cases documented by Human Rights Watch and APRODH in 2009, police were much more likely to attempt to stop mob violence than to participate in it. While these positive police interventions should be recognized, they were generally followed by a failure to investigate those responsible. Although lack of resources contributes to this failure, lack of will on the part of state officials, including through corruption and misuse of state resources, also helps to explain why mob justice persists. In some cases, police have actively provided cover for perpetrators, as have administrative officials.

Some state officials have also encouraged mob justice through their public statements, and others through lending unconditional support to informal “security committees” that tend to resort to violence (see Case Study 3, below).

President Pierre Nkurunziza, elected in 2005, has, to his credit, denounced mob justice,<sup>129</sup> marking a positive departure from the position of his predecessor, President Domitien Ndayizeye, whose spokesperson Pancrace Cimpaye, in an unrepudiated public statement in 2004, encouraged Burundians to kill thieves. Although such killings were never technically lawful, they were described by Burundians as “law” or “policy,” and the Ndayizeye

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<sup>129</sup> Speech made in early 2009 and cited by Agence Burundaise de Presse. Human Rights Watch was unable to locate a full citation for the speech.

administration's tolerance of mob violence continues to influence Burundians: one person who had witnessed a killing and attempted to defend it explained, "President Nkurunziza changed this policy, but the people still have it in their heads."<sup>130</sup> A Red Cross volunteer in Bujumbura told Human Rights Watch, "The people say to themselves, 'In any case, it feels better if we kill them ourselves, and we justify this with the former law, even if the law has changed.'"<sup>131</sup>

As for the current administration, national police spokesperson Pierre Channel Ntarabaganyi's statement commending the perpetrators of the killing of two police officers suspected of crime in Gisuru (Case Study 2, above) demonstrates the ambiguity of the Burundian government's stance toward mob justice.

### Direct Role of State Officials

In June 2009, a man named Nzeyimana was beaten to death in Buhinyuza commune, Muyinga province. Among his alleged assailants was the *chef de colline*, Ernest Macumi. Nzeyimana was apparently suspected of criminal intentions solely because he wandered through Rugazi, a *colline* where he wasn't known and where there had been recent thefts. He was on his way to his grandfather's house in nearby Rugongo at about 8 o'clock in the evening.<sup>132</sup>

According to the commune police, the residents "caught" Nzeyimana and brought him before the *chef de colline*, Macumi. Macumi, who was reportedly drunk at the time of the incident, sent a friend to search for a rope to tie up Nzeyimana. Macumi used the rope to tie up Nzeyimana and, with some of his cohorts, beat him to death with objects including shoes and sticks.<sup>133</sup>

Macumi subsequently fled the commune, possibly to nearby Tanzania. Police arrested five suspects, including the man on whose property Nzeyimana was killed.<sup>134</sup> They were

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<sup>130</sup> Human Rights Watch interview with S.O., resident of Cibitoke commune, Bujumbura, October 13, 2009; Jean Marie Vianney Kavumbagu, "Deux présumés voleurs de motos brûlés vifs en pleine capitale", *Ligue des Droits de la personne dans la région des Grands Lacs*, February 15, 2005, <http://www.ldgl.org/spip.php?article314> (accessed December 21, 2009).

<sup>131</sup> Human Rights Watch interview with E.H., Cibitoke, Bujumbura, October 13, 2009.

<sup>132</sup> Human Rights Watch/APRODH interview with communal secretary, Buhinyuza, Muyinga province, August 6, 2009. None of the officials Human Rights Watch and APRODH interviewed about this case were aware of any criminal activity attributed to Nzeyimana.

<sup>133</sup> Human Rights Watch/APRODH interview with judicial police officer Fidèle Nifasha, Buhinyuza, Muyinga province, August 6, 2009.

<sup>134</sup> Human Rights Watch/APRODH interview with judicial police commissioner Thacien Manirakiza, Muyinga province, August 5, 2009.



transferred to the prosecutor's office on June 30 and admitted to witnessing the crime, but denied participation.<sup>135</sup> After they were provisionally released on July 23, there has been no progress in the case.<sup>136</sup>

Nzeyimana's killing was one of a number of cases in which local officials, including those holding elected office, were alleged to have participated directly in mob justice. The officials implicated in such cases, with the exception of the politically motivated cases discussed below, were generally not senior, but still in positions of authority. They included a member of a communal council, *chefs de colline*, members of *colline* councils, *bashingantahe*, and *nyumbakumis*. Local officials, who generally have little formal education and a limited understanding of the law, often seem to participate in mob justice for the same reasons as the general population—dissatisfaction with the police and the justice sector, and a belief that the people must protect themselves.<sup>137</sup> Electoral ambitions, and a desire to appear to be taking action against crime, may be another factor. Human Rights Watch and APRODH were not able to interview any local officials who admitted to participating directly in mob justice.

Victims of mob justice cases in which officials were implicated included Celestin Karenzo, a young man from Buterere commune, Bujumbura. Suspected of complicity in theft, he was beaten by a group of Buterere residents in April 2009. According to Karenzo, this group included a member of the communal council. When APRODH and Human Rights Watch saw Karenzo several days after the beating, he had serious injuries all over his face, head, and jaw.<sup>138</sup> Karenzo did not press charges, and local officials did not investigate the beating.

Léocadie Irankunda survived a beating in Buraza, Gitega province, by a group that allegedly included a *colline* council member and *mushingantahe*. Her friend, Cyprien Habonimana, died from the beating (see Case Study 1, above). The *colline* council member implicated was never arrested.<sup>139</sup>

In Mwumba, Ngozi province, two men were badly beaten in May 2009 when they were caught stealing coffee from a shop run by the son of a *chef de colline*. Accounts of the beating differed. One witness said the *chef de colline* was primarily responsible for the

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<sup>135</sup> APRODH interview with Muyinga judicial officials, August 11, 2009.

<sup>136</sup> Email communication from BINUB official to Human Rights Watch, January 7, 2009.

<sup>137</sup> Human Rights Watch interview with a representative of an international NGO working in Ruyigi, Bujumbura, July 12, 2009.

<sup>138</sup> APRODH interview with Celestin Karenzo, Bujumbura, August 18, 2009.

<sup>139</sup> Human Rights Watch interviews with Léocadie Irankunda, Bukirasazi, Gitega province, and with magistrate Terence Nahabakomeye, Gitega, August 26, 2009.

beating, hitting the suspects with branches and ordering other bystanders to assist. According to the witness, the *chef de colline* then falsely informed police that it was a case of mob justice. The *chef de colline's* son, meanwhile, told Human Rights Watch that the beating was spontaneously carried out by angry residents, and that he himself had taken part. He said he wished the thieves had been killed, declaring, "If you kill a thief, you haven't broken any law."<sup>140</sup>

Police, seeming to validate this logic, made no arrests.<sup>141</sup> Human Rights Watch and APRODH could not locate the *chef de colline* for comment on two visits to Mwumba. The communal police chief said he did not believe any local officials were involved, but that he did not carry out investigations because the two victims did not file a complaint.<sup>142</sup>

A member of the *colline* council was allegedly among those behind the killing of Gratien Masabarakiza, a suspected potato thief, in Ruyigi commune in August 2009. According to two witnesses, a neighbor noticed on August 24 that potatoes had been stolen from his fields the previous night. He and other men formed a group to investigate. The following day, four men, including a *colline* council member, went to Masabarakiza's house, where they carried out an illegal search. Masabarakiza fled while they were searching his house. They chased him down a hill and into a valley, rallying the population, until a huge crowd formed and killed Masabarakiza. Three men were arrested and charged with murder, and although they were provisionally released, the dossier remains open. However, the *colline* council member had not been arrested or charged as of February 2010.<sup>143</sup>

Masabarikiza's wife said that the accused had paid to be freed, and that on their release, they bragged about having killed her husband. His mother said, "I would have been ready to plant extra potatoes next season to give back to the victim of the theft. But they can't bring me my son back."<sup>144</sup>

Other cases documented in 2009 that allegedly involved direct participation by administrative officials included the following:

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<sup>140</sup> Human Rights Watch interview with Jonas Harerimana, Mwumba, Ngozi province, July 23, 2009. Harerimana did not state whether his father was present.

<sup>141</sup> Human Rights Watch/APRODH interview with S.C., Mwumba, Ngozi province, August 4, 2009.

<sup>142</sup> Human Rights Watch/APRODH interview with police chief Jerome Buregeya, Mwumba, Ngozi province, August 4, 2009.

<sup>143</sup> Human Rights Watch/APRODH interviews with Masabarikiza's family and neighbors, Ruyigi, December 8, 2009; Human Rights Watch interview with Ruyigi prosecutor Nicodème Gahimbere, Ruyigi, December 11, 2009.

<sup>144</sup> Human Rights Watch/APRODH interviews with Masabarakiza's family, Ruyigi, December 8, 2009.

- In Ruyigi province, a *nyumbakumi* and a *mushingantahe* were arrested in the beating death of Pascal Gasindi, a man caught stealing in Gisuru in June 2009.<sup>145</sup> They were subsequently freed, although a police official told Human Rights Watch they had confessed to their crimes.
- A *nyumbakumi* was cited as among those who allegedly killed Cayega and Ndireguheka, two suspected bicycle thieves, in Kinyinya (see Case Study 3, below). He was arrested, but subsequently freed.<sup>146</sup> A *sous-chef de colline*, also suspected in the crime, allegedly fled to Tanzania.<sup>147</sup>
- On June 15, a member of a group that attempted to carry out an armed robbery was caught and beaten to death at Rubenga, in Giteranyi commune, Muyinga province. A witness said that several *nyumbakumis* were present during the beating and did not attempt to put a stop to it. None of these individuals were arrested or interrogated, and none provided information to the police.<sup>148</sup>
- A *chef de secteur* and a *chef de colline* were accused of being among the ringleaders in the killing of a suspected thief in Bubanza province in July. They were arrested along with six other people.<sup>149</sup> The *chef de secteur* was subsequently released after being cleared by several of his co-accused who confessed to the crime; the *chef de colline* remained in pre-trial detention as of January 2010, charged with “lack of public solidarity” (being present at the scene of the crime and failing to attempt to prevent or report it).<sup>150</sup>

Unlike administrative officials, police and soldiers are only rarely cited as directly participating in mob justice. They have beaten and mistreated detainees and other civilians in cases not involving the participation of a mob—giving negative examples to the public as to how suspects should be treated—but appear much less likely than their administrative counterparts to join in or directly incite mobs.

Human Rights Watch and APRODH received only one credible report in 2009 of direct involvement by police in an act of mob justice. In Ryansoro, Gitega province, UN officials reported that a detainee suspected of rape had been beaten by a group that included both

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<sup>145</sup> Human Rights Watch/APRODH interviews with suspects, Gisuru commune, Ruyigi province, July 9, 2009.

<sup>146</sup> Human Rights Watch/APRODH interviews with residents of Kinyinya commune, Ruyigi province, August 25, 2009.

<sup>147</sup> Human Rights Watch interview with Ruyigi governor Cyriaque Nshimirimana, Bujumbura, July 12, 2009.

<sup>148</sup> Human Rights Watch/APRODH interview with E.N., Rubenga *colline* resident, Giteranyi commune, Muyinga province, August 6, 2009.

<sup>149</sup> Email communication from BINUB official to Human Rights Watch, August 4, 2009.

<sup>150</sup> Human Rights Watch/APRODH interview with Bubanza prosecutor Marc Manirakiza, Bubanza, January 22, 2010.

police and civilians.<sup>151</sup> A police commissioner, however, said that Ryansoro police claimed to have played no role in the beating, saying they had intervened to rescue him from the crowd.<sup>152</sup>

Likewise, soldiers of Burundi's army, the Forces de la Défense Nationale (FDN) were cited in cases of mob justice in 2007 and early 2008, but not at all in 2009. Through mid-2008, soldiers regularly engaged in the illegal arrest and detention of civilians; some of them were publicly beaten. For instance, in late 2007, five Tanzanians were arrested by a group of soldiers and civilians in Makamba province on suspicion of being poachers. They were seriously beaten, and one died of his injuries.<sup>153</sup>

Such cases dramatically decreased in late 2008. The FDN issued clear orders to military camp commanders that detention of civilians was prohibited, following advocacy from national and international human rights organizations aimed at pressing the FDN to cease arrests of civilians.

## **Mob Justice as Political Violence**

In several cases, police, administrative officials, and political party leaders have mobilized mobs to carry out violence for political reasons.<sup>154</sup> Members of the FNL, a former rebel movement that became a political party in April 2009, have been victims of such violence organized by the ruling party, CNDD-FDD. Two such cases took place in December 2008.<sup>155</sup>

In the first such incident, in Kayogoro, Makamba province, FNL members held an unauthorized meeting, threatened residents in order to compel them to participate, and held hostage for several hours two police officers and a civilian whom they suspected of "spying" on their meeting.

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<sup>151</sup> Email communication from BINUB official to Human Rights Watch, July 28, 2009.

<sup>152</sup> Human Rights Watch interview with Provincial PNB Commissioner Eustache Ntagahoraho, Gitega, August 26, 2009.

<sup>153</sup> A police official claimed the FDN had no role in the beating, but the victims said they were beaten by both soldiers and civilians. Email communication from BINUB official to Human Rights Watch, November 28, 2007; Human Rights Watch interviews with detainees and with Provincial Judicial Police Sub-Commissioner Athanase Nyankanzi, Makamba, December 14, 2007.

<sup>154</sup> This behavior has a historical background: during the war, in their carrying out of parallel administrations, both the FNL and CNDD-FDD occasionally settled personal or political scores by accusing a person of a crime and having them executed. Human Rights Watch interview with Philippe Ciza, senior advisor to the governor of Bujumbura Rural, Bujumbura, September 1, 2009.

<sup>155</sup> Human Rights Watch reported on these cases in its analysis of political violence in Burundi, *Pursuit of Power: Political Violence and Repression in Burundi*, May 2009, <http://www.hrw.org/en/reports/2009/06/03/pursuit-power>, pp. 38-42.

Police reinforcements broke up the meeting and began arresting suspected participants. Provincial and communal CNDD-FDD leaders rallied local residents who were angry at the FNL's behavior, and led a group of people—mostly former FDD combatants—in tying up and beating the FNL members. Witnesses said the police chief and communal administrator stood by and allowed the beatings to happen. Both officials later told Human Rights Watch that the victims were beaten by “the population,” attempting to mask the political nature of the beatings.<sup>156</sup>

In a second case, police, the communal administrator, and CNDD-FDD sympathizers in Nyamurenza, Ngozi province, organized a mob to attack FNL members who had allegedly held an illegal meeting. At least nine suspected FNL members were brutally beaten; one received medical treatment for his injuries and still bore scars several months later.<sup>157</sup> None of the perpetrators were held to account.

Such behavior by state officials may influence the public. One month later, in February 2009, residents of Nyamurenza, without prompting from state officials, beat to death three alleged thieves. Police stood by, apparently unable to stop the angry crowd, according to the communal administrator.<sup>158</sup>

## Unconditional Support for Untrained “Security Committees”

Even where local officials are not directly involved in mob justice, their responses to crime often create conditions that can make such killings more likely.

In several communes, local officials have organized unofficial “security committees.” These are distinct from the official security committees recognized by law, which consist of local police and administrative officials who meet weekly to discuss approaches to preventing crime. The unofficial security committees, organized at the *colline* level but sanctioned by communal authorities, usually consist of young men who carry out arrests on behalf of the

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<sup>156</sup> Human Rights Watch interviews with communal administrator Nestor Ntakarutimana and police chief Jerome Maniraho, Kayogoro, Makamba province, December 16, 2008. See Human Rights Watch, *Pursuit of Power: Political Violence and Repression in Burundi*, May 2009, <http://www.hrw.org/en/reports/2009/06/03/pursuit-power>, pp. 38-39

<sup>157</sup> Human Rights Watch interviews with victims, Nyamurenza, Ngozi province, January 21, 2009. See Human Rights Watch, *Pursuit of Power: Political Violence and Repression in Burundi*, May 2009, <http://www.hrw.org/en/reports/2009/06/03/pursuit-power>, pp. 40-42.

<sup>158</sup> Human Rights Watch interview with communal administrator François-Xavier Nduwamungu, Nyamurenza, Ngozi province, July 24, 2009.

police.<sup>159</sup> Human Rights Watch and APRODH documented the activities of such committees in parts of Ruyigi, Ngozi, and Bujumbura Rural, but they may also exist elsewhere.

Informal security committees were most often mentioned—and appeared to be the most prone to vigilante-like behavior—in Ruyigi province. There, in Kinyinya commune in May 2009, witnesses said that a security committee comprised of “young, strong men” arrested Cageya and Jean-Marie Ndireguheka, two men whom they suspected of stealing a bicycle, and beat them to death (see Case Study 3, below). This committee received support from the local administration, which then tried to cover up the committee’s role in the killing.

A similar “security committee” arrested and killed 25-year-old Dominique Harutimana in Gisuru, Ruyigi province, in January 2009. When residents learned that Harutimana had allegedly hidden several weapons in the bush, they suspected he planned to carry out a crime, “arrested” him at his home early one morning, and beat him to death. His father told Human Rights Watch and APRODH, “The population came at six in the morning to look for Dominique. There were more than 20 people – it was almost like a military attack. They told me to wake Dominique up and tied him up with a cord, with his arms behind his back... Later, some of those who took him came and said that I should come get the body because my son had died.”<sup>160</sup>

One young man who was a member of this “committee” said they had also arrested and killed suspected thieves in previous years.<sup>161</sup> Although he denied participating in the beating, he told Human Rights Watch, “Justice was done. They [authorities] should authorize the population to directly punish those who commit crimes, because the justice system just frees them.”

The same group who beat Harutimana eventually took him to the police brigade; he died shortly after. There were no arrests, despite ample evidence about who participated in the beating. The Gisuru judicial police officer claimed, “We couldn’t find the perpetrators.”<sup>162</sup> To Harutimana’s family, this seemed to amount to a tacit if not explicit authorization on the part

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<sup>159</sup> In some communes and *collines*, these groups are politicized: they are composed of groups of youth from the ruling party who are used in arresting or intimidating opposition members. In Human Rights Watch and APRODH’s research on mob justice, researchers did not encounter cases in which mob justice was carried out by such partisan groups, with the exception of the cases cited in the previous section, and one case in Karusi province in which a suspected thief was beaten by members of the CNDD-FDD youth league, *Imbonerakure*.

<sup>160</sup> Human Rights Watch interview with father of Dominique Harutimana, Gisuru, Ruyigi province, July 9, 2009.

<sup>161</sup> Human Rights Watch interview with witness, Gisuru, Ruyigi province, July 9, 2009.

<sup>162</sup> Human Rights Watch interview with judicial police officer François Niyongiko, Gisuru, July 9, 2009.

of the authorities to allow the killing. Harutimana’s teenage sister told Human Rights Watch and APRODH, “It makes me sad that he was killed, but it was the whole population against him. There’s nothing we can do.”<sup>163</sup>

In Tangara commune, Ngozi province, a police official told Human Rights Watch that administrative officials often mobilize the population to carry out searches for suspected criminals, without informing the police. This happened in a December 2008 case: when a bicycle and clothing were stolen from a home, the *chef de colline* organized search committees the following day, but did not inform the police. That night, residents caught and beat to death a suspected thief, Kitamosa Manirambona.<sup>164</sup> After such incidents, the police official said, “the population and local officials cover for each other.”<sup>165</sup>

Given the prevalence of mob violence in Burundi, without a police presence to ensure lawful behavior, the risk is high that such local search committees—composed of angry crime victims—will use violence when they encounter a suspect. A *chef de zone* in Tangara described another such killing in which local authorities had mobilized a search and then left the search parties to their own devices: “That evening, the police arrived late, because it was night. The population beat the thieves in the meantime because they were angry—and because when someone from the administration is not there, the population tends to do what they want.”<sup>166</sup>

In Nyamurenza, Ngozi province, men take turns carrying out nightly security patrols.<sup>167</sup> An informant told the *chef de colline* on February 23, 2009, at around 6 p.m., that his friends were planning a robbery that night. The *chef de colline* informed the three police based at a local police position. Without consulting their superiors—perhaps because of the communication difficulties described above—two of them decided to apprehend the alleged thieves, while the third stayed behind at the position. The two police officers organized a group of local residents, which witnesses estimated at 50 to 100 men, who went to the targeted house and hid in the bushes, waiting to “ambush” the thieves. According to a

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<sup>163</sup> Human Rights Watch/APRODH interview with sister of victim, Gisuru, December 10, 2009.

<sup>164</sup> Manirambona was an ethnic Twa, a group that is disproportionately accused of theft in Burundi. On several occasions in 2009, Batwa were beaten by people who suspected them of theft. Human Rights Watch/APRODH interview with Bucumi, Tangara judicial police officer, Tangara, Ngozi province, July 23, 2009.

<sup>165</sup> Human Rights Watch/APRODH interview with Bucumi, Tangara judicial police officer, Tangara, Ngozi province, July 23, 2009.

<sup>166</sup> Human Rights Watch/APRODH interview with *chef de zone*, Tangara, Ngozi province, July 23, 2009.

<sup>167</sup> Human Rights Watch interview with communal administrator François-Xavier Nduwamungu, Nyamurenza, Ngozi province, July 24, 2009.

witness, the intent was to arrest the thieves, not to kill them, but no contingency plan had been made in case the thieves resisted arrest. When the thieves were caught, one stabbed to death the resident who had grabbed him. Other residents then beat and stoned to death three of the other thieves, while the police stood by helplessly.<sup>168</sup>

In Mubimbi, Bujumbura Rural province, the communal administrator gave instructions to residents to arrest a well-known thief, Salvator Bitwi, if they saw him in the area. The residents proceeded to do so, but then beat him to death rather than turning him over to the police.<sup>169</sup> As a communal official put it, “He was beaten because people had known he was a thief for a long time. They didn’t want to take him to the police, because they were really tired of him and his group.”<sup>170</sup> In addition to the role of authorities in organizing the security committee that killed Bitwi, a police official also played a role in freeing the perpetrators, as discussed below.

The authorities sometimes make participation in such groups obligatory. In Nyabitsinda, Ruyigi province, a resident said that men are obligated to carry out nighttime rounds in groups of three or four. He said those who did not participate were fined by the local administration.<sup>171</sup>

At times, the administration did not appear to organize the rounds itself, but administrative officials were aware of them and did not appear to take measures to ensure that they did not result in killings or other violence.<sup>172</sup> Such was the case in Gitega province, which was subject to routine armed banditry in 2009 by a group led by another so-called “notorious bandit,” Cédric Mazoya.<sup>173</sup> Mazoya was of the Twa ethnic group, which makes up approximately one percent of Burundi’s population and has historically suffered

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<sup>168</sup> Human Rights Watch interview with communal administrator François-Xavier Nduwamungu, Nyamurenza commune, Ngozi province, July 24, 2009; Human Rights Watch/APRODH interview with residents of Nyamurenza, August 4, 2009.

<sup>169</sup> Human Rights Watch interview with Burenza *chef de colline* Apollinaire Nsengiyumva, Bujumbura, August 20, 2009.

<sup>170</sup> Human Rights Watch interview with communal secretary Désiré Misigaro, Mubimbi, Bujumbura Rural, August 19, 2009.

<sup>171</sup> Human Rights Watch/APRODH interview with S.N., Nyabitsinda, Ruyigi province, July 8, 2009.

<sup>172</sup> Human Rights Watch/APRODH interview with Nestor Manirakiza, advisor to the communal administrator, Giheta, Gitega, December 11, 2009.

<sup>173</sup> Mazoya was captured by police on January 26, 2010. According to the Burundian online journal *Net Press*, after his capture, a crowd gathered outside the jail where he was held chanting “Kill him!” He was subsequently shot to death by police in questionable circumstances. Police said that after they arrested him, Mazoya promised to lead them to an arms cache. When he then tried to run away, police said, they shot him. Both Burundian journalists and UN human rights monitors raised the possibility that Mazoya had been intentionally executed in order to prevent him from revealing the extent of police complicity in his band’s illegal activities. Meeting with UN human rights monitors and government officials, February 1, 2010, attended by a Human Rights Watch researcher.



discrimination.<sup>174</sup> His band's main activity appeared to have been carrying out armed robberies—sometimes with the complicity of the police<sup>175</sup>—but he also framed himself as a “liberator of the Batwa people.”<sup>176</sup>

In response, residents of the affected communes organized night rounds to search for the bandits. Participants in the rounds numbered as many as 30 people and they were armed with machetes and iron rods.<sup>177</sup>

On September 10, 2009, a group of Batwa was returning to Giheta at around 5:30 a.m. from a family gathering in a neighboring commune. One of them described the subsequent events:

We were coming back from the party [when] the people at Bihororo carried out an ambush at the river with machetes. We were afraid and ran. There were about 30 of them at first, and also about 30 of us, including women and children. The people chased us and intercepted us. Many more people joined and we couldn't flee anymore. They started to beat us. It was almost the whole village who was there. For several days there had been thefts, and they suspected us. [...] We were tied up and beaten. [...] One of our group was killed. He arrived last, and saw that others had already been beaten. He asked why, and they started to beat him too. He ran and they chased him. When they brought him back 20 minutes later, he was almost a cadaver. [...] I have headaches now and I can't carry anything on my head.<sup>178</sup>

The man who was killed was an 18-year-old named Jean Bukuru. Other beating victims included a 12-year-old boy and a 17-year-old girl.<sup>179</sup> Bukuru's mother, who was also beaten,

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<sup>174</sup> Minority Rights Group International has noted, “This group are still mostly landless and are among the poorest people in what is a very poor country. In testimonies gathered by MRG in Burundi in 2007, Batwa complained of many difficulties relating to land-rights, either through lack of title, discriminatory practises relating to allocation on the part of the authorities, or failure to recognise historic rights to land... Batwa also complained to MRG about discrimination in social services, especially in health and education.” Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples*, <http://www.minorityrights.org/?lid=4703> (accessed January 23, 2010); see also Minority Rights Group International, *The Batwa Pygmies of the Great Lakes Region*, 2000, <http://www.minorityrights.org/1056/reports/batwa-pygmies-of-the-great-lakes-region.html> (accessed January 23, 2010).

<sup>175</sup> See, for instance, “Le principal déstabilisateur de la sécurité dans le Sud du pays enfin capturé!” *Net Press* (Burundi), January 27, 2010.

<sup>176</sup> “Mazoya sème la terreur au centre du pays,” *Iwacu Journal*, December 20, 2009, [http://www.iwacu-burundi.org/index.php?option=com\\_content&view=article&id=365:mazoya-seme-la-terreur-au-centre-du-pays&catid=40:quotidien](http://www.iwacu-burundi.org/index.php?option=com_content&view=article&id=365:mazoya-seme-la-terreur-au-centre-du-pays&catid=40:quotidien).

<sup>177</sup> Human Rights Watch/APRODH interviews with residents of Giheta, December 11, 2009.

<sup>178</sup> Human Rights Watch/APRODH interview with Robat Ntakarutimana, Giheta, Gitega province, December 11, 2009.

<sup>179</sup> Human Rights Watch/APRODH interviews with victims and witnesses, Giheta, Gitega province, December 11, 2009.

watched him die before her eyes; she told Human Rights Watch and APRODH, “I saw my son being killed. There was nothing I could do other than cry. There was nothing anyone could do.”<sup>180</sup>

Some youth “security” groups are currently affiliated with political parties, both the ruling CNDD-FDD and various opposition parties. Common throughout the countryside, they may present a particular risk in triggering mob justice, even when no political issues are at stake, in that they see their role as “ensuring security.” Thus far, they do not seem to be frequent perpetrators of mob justice, apart from playing a role in the political cases above. However, in Gihogazi commune, Karusi province, a suspected thief was seriously beaten on August 28, 2009, reportedly by members of the Imbonerakure, the CNDD-FDD youth league. (The motives of the beating did not seem to be political.)<sup>181</sup> CNDD-FDD youth were also said to conduct night patrols in Gashoho, Muyinga province, recalling their behavior shortly before CNDD-FDD won elections in 2005.<sup>182</sup>

As elections approach in mid-2010 and partisan youth groups become increasingly present and active, there is a risk that such groups will play an increased role in mob justice, particularly given that such beatings and killings are often positively received by local residents who have been victims of crimes.

## Official Negligence

The difficulties for local authorities and police in preventing or stopping mob justice that is already underway cannot be underestimated. In a number of cases, some discussed below, police or local officials have attempted to put a stop to mass beatings, and have themselves been injured. In other cases, however, the failure of officials to protect victims of mob justice is evident.

For instance, BINUB reported that in Bururi province in August 2009, “a man was reportedly beaten up by a group of unidentified individuals who accused him of theft. The man was left seriously wounded, when the district chief [*chef de quartier*] reportedly passed by, but did not give him assistance. A few hours later, the victim died.”<sup>183</sup> Judicial authorities opened an investigation into the beating but had not made any arrests at the time of this writing.

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<sup>180</sup> Human Rights Watch/APRODH interview with mother of victim, Giheta, Gitega province, December 11, 2009.

<sup>181</sup> Email communication from BINUB official to Human Rights Watch, September 2, 2009.

<sup>182</sup> Human Rights Watch interview with police official, Gashoho, Muyinga province, August 5, 2009.

<sup>183</sup> Email communication from BINUB official to Human Rights Watch, September 11, 2009.

According to Burundian law, an official who fails to provide assistance in such a situation can be prosecuted for “lack of public solidarity.”<sup>184</sup>

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<sup>184</sup> Loi no. 1/05 du 22 Avril 2009 portant révision du code pénal, arts. 481-482.

### Case Study 3: Mob Justice by Youth “Security Committees,” Kinyinya Ruyigi Province, May 2009

Kinyinya commune in Ruyigi, next to Gisuusu, lies along the Tanzanian border in a region known for high levels of crime, including cross-border networks of thieves who ambush vehicles. In May 2009, several such ambushes had recently occurred. On the night of May 11, a much less serious crime took place: a bicycle was stolen from a shed belonging to Véronique Nyandwi, at Rusange *colline*, close to the center of Kinyinya. Two passers-by, according to Nyandwi, had asked to leave their bicycles there for the night. When they came back in the morning, one bicycle was missing.

Nyandwi, afraid she would be accused of complicity in the theft, sent someone to alert the *chef de colline* in Muvumu, just across the road. That evening, a “security committee,” which residents described as being composed as “young, strong men,” set out to catch the thieves and retrieve the bicycle. According to the judicial police officer in Kinyinya, the *chef de colline* gave orders to the security committee to conduct the search.<sup>185</sup> The communal administrator denied that a security committee even exists, but residents and other officials all acknowledged its existence and said it is regularly called upon by police and administrative authorities to help carry out arrests.<sup>186</sup>

The group of youth identified two young men, Cayega and Jean-Marie Ndireguheka, as suspects. According to Cayega’s mother, “They came at night and threatened to burn our house down if we didn’t say where Cayega was. [...] There were many people. The yard was full of youth, and some were drunk.” It is unclear where Cayega was taken that night, but his mother said that youth security committee brought him back to her house in the morning, along with Ndireguheka, and that he looked like he had spent the night in dirty water, and had wounds on his arms and legs. (When the youth came to get Ndireguheka, said his mother, “They took my son like they were taking a cow to lead it to the slaughterhouse.”<sup>187</sup>)

The youth security committee and other residents, including at least one official, a *nyumbakumi*, appeared to be trying to solicit a confession from the two men and determine

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<sup>185</sup> Human Rights Watch/APRODH interview with judicial police officer Gilbert Nintereste, Kinyinya, Ruyigi province, August 25, 2009.

<sup>186</sup> According to one resident, “There are youth who are solicited by the local administration to act in the absence of the police—a group of young, strong men who arrest people and take them to the police. This happens frequently.” Human Rights Watch/APRODH interviews, Kinyinya, August 25, 2009.

<sup>187</sup> Human Rights Watch/APRODH interview with mother of Jean-Marie Ndireguheka, Kinyinya, Ruyigi province, December 9, 2009.

where the bicycle was hidden. According to Cayega’s mother, “The *nyumbakumi* was threatening, ‘We’ll take you to Ijenda and bury you.’” (Ijenda is a nearby *colline* where, according to the mother, “the population has a reputation for being brutal.”)<sup>188</sup>

Instead, the group took them to a small wood just across the road. There, the beatings continued until the two men were dead. Their bodies were dumped in a hole in the ground and covered with dirt.<sup>189</sup>

The governor of Ruyigi, Cyriaque Nshimirimana, publicly condemned the killings. He told Human Rights Watch that the complicity of local authorities was evidenced by the fact that for a week, no one alerted the police to the killings.<sup>190</sup> A judicial official in Ruyigi similarly referred to the case as one of “complicity by the administration” and a probable “police cover-up.”<sup>191</sup> The police—who likely had some idea of what happened, given that the incident took place on a main road just two kilometers from the police post—delayed the initiation of investigations. When they finally did so, they arrested a group of seven people, including the *chef de colline*, who had apparently authorized the security committee to carry out the arrests, and the *nyumbakumi*, as well as the head of the youth security committee. But according to one police official, “about 500 people came to protest in front of the commune, to have them liberated, and we had to free them.”<sup>192</sup>

Only one suspect was transferred to prison, a former CNDD-FDD combatant named Didace Ntamirukiro. According to Ntamirukiro, whom Human Rights Watch interviewed in Ruyigi prison,

At 1 o’clock the next morning [after the other arrests], the police chief came to my house with another police officer, woke me up, and hit me. He said “Explain why you killed those people.” They hit me again – both of them – and searched my house. Then they took me to the police post and put me in jail. The others who had been arrested were still there.

Two days later people came to protest and said “If you’re arresting those people, you should arrest everyone.” The same day, the police chief freed the

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<sup>188</sup> Human Rights Watch/APRODH interview with Cayega’s mother, Kinyinya, August 25, 2009.

<sup>189</sup> Human Rights Watch/APRODH interviews with residents, Kinyinya, Ruyigi province, August 25, 2009.

<sup>190</sup> Human Rights Watch interview with Ruyigi Governor Cyriaque Nshimirimana, Bujumbura, July 12, 2009.

<sup>191</sup> Human Rights Watch interview, Ruyigi, December 11, 2009.

<sup>192</sup> Human Rights Watch interview with police official (name withheld), Kinyinya, July 8, 2009.

others. The police chief asked me for 30,000 Fbu [about \$25] to be freed. I refused. I don't know if the others paid something.<sup>193</sup>

When Human Rights Watch and APRODH visited Kinyinya in August 2009, police seemed to be carrying out a reconstruction of the facts. According to the judicial police officer, only Ntamirukiro and one other person—a *sous-chef de colline* (assistant to the *chef de colline*, an elected position) who subsequently fled to Tanzania—were responsible for the killing. There had been no mob, according to him.<sup>194</sup> This contradicted seven other accounts received by Human Rights Watch and APRODH during that visit and previous and subsequent visits. The intention seemed to be to bury once and for all any suggestion that officials were in any way involved or complicit in the murders.

No officials were held accountable for complicity in criminal acts by the youth security committee. Communal administrator Remy Nsengiyumva denied the existence of such a committee. Asked whether a band of young men was organized to search for suspects, he said simply, “That isn’t done.”<sup>195</sup>

However, the *chef de colline* told Human Rights Watch and APRODH, “Yes, it exists. They are not formally organized. They are young, strong men who are well known on the *colline*. When there’s a robbery, they intervene, because we don’t have enough police.”<sup>196</sup> Another resident said the group was in fact more formally organized, and coordinated by communal authorities.<sup>197</sup>

The father of one victim referred to the group as “*les Jeunes Gardiens de la Paix*” [young guardians of the peace], a reference to local self-defense militias created by the government during Burundi’s civil war. Though the militias were officially disbanded, they appeared to have simply taken on a new form in Kinyinya.<sup>198</sup> One resident said they numbered “five per *colline*” and that they were often “solicited by the administration to help resolve problems when the police aren’t available.”<sup>199</sup>

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<sup>193</sup> Human Rights Watch interview with Didace Ntamirukiro, Ruyigi, July 10, 2009.

<sup>194</sup> Human Rights Watch interview with judicial police officer Gilbert Ninteretse, Kinyinya, August 25, 2009.

<sup>195</sup> Human Rights Watch/APRODH interview with communal administrator Remy Nsengiyumva, Kinyinya, August 25, 2009.

<sup>196</sup> Human Rights Watch/APRODH interview with Muvumu *chef de colline* Sylvestre Baragahorana, Kinyinya, August 25, 2009.

<sup>197</sup> Human Rights Watch/APRODH interview with resident, Kinyinya, August 25, 2009.

<sup>198</sup> Human Rights Watch/APRODH interview with father of victim, Kinyinya, August 25, 2009.

<sup>199</sup> Human Rights Watch/APRODH interview with resident, Kinyinya, Ruyigi province, August 25, 2009.

Judicial police officer Gilbert Ninteretse, too, said that the security committee existed and that the *chef de colline* had given it orders to carry out arrests. Reminded that such arrests are illegal, he said he did not see anything wrong with them, explaining, “That’s the system here—we work with youth security committees. They do the same things at Gisuru. We normally collaborate well with them.”<sup>200</sup>

Cayega and Ndireguheka’s parents held the authorities responsible for the killing. They said they had little hope for justice, given that the perpetrators were close to those running the commune. Ndireguheka’s mother, a widow, said her son’s death had left her in desperate poverty. When asked whether she was actively seeking justice for his killing, she lamented, “Whom can I go to for justice? I can’t do anything against those people. They took it upon themselves to punish people in the place of the administration. Maybe the administration told them to kill the thieves.”<sup>201</sup>

Months later, despite promises from administrative authorities to arrange for the Red Cross to exhume the bodies and give them a dignified burial, they remained in the common grave. The mother of one of the victims, pointing out the common grave, said sadly, “He was my last child left. I had five. All the others died in childhood.”<sup>202</sup>

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<sup>200</sup> Human Rights Watch/APRODH interview with judicial police officer Gilbert Ninteretse, Kinyinya, August 25, 2009.

<sup>201</sup> Human Rights Watch interview with mother of victim, Kinyinya, December 9, 2009.

<sup>202</sup> Human Rights Watch/APRODH interview with mother of victim, Kinyinya, August 25, 2009.

## VII. State Failure to Investigate and Prosecute Mob Justice Cases

*I still want the police to do investigations. People steal millions and are freed—I don't know why my brother was killed for a simple bike.*

– Brother of victim of mob justice, Tangara commune, Ngozi province, July 23, 2009.

When individuals decide to take justice into their own hands in Burundi, they can generally count on the fact that they will not be held accountable. Anecdotal evidence suggests that perpetrators of mob justice are very rarely apprehended or prosecuted. More typical is the experience of Merida Ndikumana, whose son, Omer Cimpaye, was killed by a mob in Ruyigi province in April 2009. She recounted what happened when her son was killed:

I was at the house. People came to tell me my son was killed, and that I should find a mat, to proceed to his burial. I went to the market and found his body. No one really explained to me what happened. They said they didn't know how he was killed. The police just told me there was a fight with another person. My son was 23. He was still young. [...] The police didn't do investigations to find out who killed him. The only thing they did was to come and tell me to get the corpse and bury it.

I don't know why the police didn't do investigations. It was during the day, there were many people. I don't know why they didn't find the people who were responsible for this. I would have liked the police to be able to identify the people who did this. No [judicial police officer] ever came to talk to me.<sup>203</sup>

When another relative went to the police to follow up on the case, he got a disappointing answer: “The police knew a lot. But they said ‘This affair is already finished, the investigations are done. Since they both died, there's no reason to go further—the communal authorities decided not to pursue it.’”<sup>204</sup>

All too often, and throughout all the provinces in which Human Rights Watch and APRODH carried out research, police or communal authorities made routine decisions not to “go

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<sup>203</sup> Human Rights Watch/APRODH interview with Merida Ndikumana, Nyabitsinda, Ruyigi province, July 8, 2009.

<sup>204</sup> Human Rights Watch interview with relative of victim, Gitega, December 7, 2009.



further” with investigations on mob justice. This happened even when victims were alive and could have easily been interviewed. In Gitobe, Kirundo province, Jocelyne Nshimirimana was badly beaten in June 2009 and stabbed three times in the legs because she was caught stealing bananas in a field. Nshimirimana was hospitalized at a health clinic. There, she told police the names of her assailants. The Gitobe judicial police officer claimed to Human Rights Watch that he had informed local police and the *chef de colline* Tonga of the names of suspects to be arrested. He said that unfortunately, the suspects appeared to have fled.<sup>205</sup>

But according to the *chef de colline*, the police never gave him any names, and no one had fled the *colline*.<sup>206</sup> Residents said police never carried out any investigation to identify Nshimirimana’s assailants.<sup>207</sup> The names provided by the Gitobe OPJ to Human Rights Watch did not even match the names cited by Nshimirimana. It was unclear whether the OPJ was intentionally obstructing investigations or whether he was simply uninterested in the case. Nshimirimana told Human Rights Watch she would have liked to seek justice, but beyond giving information to the police, she was not sure what else she could do.<sup>208</sup>

In Tangara, Ngozi province, where 20-year-old Daniel Harindintwari was “killed for a simple bike,” a local administrative official told Human Rights Watch and APRODH that when police arrived on the scene to evacuate Harindintwari’s body and take two other victims to a nearby health clinic, they made no efforts to question local residents. Yet local residents were quick to give Human Rights Watch and APRODH the names of alleged ringleaders. While they may have been more reluctant to give such information to the police, apparently police never even asked for this information.<sup>209</sup> Harindintwari’s brother told Human Rights Watch and APRODH, “I think the police knew who killed Daniel, but that they were corrupted in order to not arrest them.”<sup>210</sup>

After interviewing local residents in July 2009, Human Rights Watch and APRODH met with the Tangara judicial police officer and told him there were witnesses who could testify as to

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<sup>205</sup> Human Rights Watch/APRODH interview with judicial police officer Elie Nimubona, Gitobe, Kirundo province, August 7, 2009. The same judicial police officer supplied both Human Rights Watch and court officials with information that proved false about a mob justice case in Ntega commune in October 2009.

<sup>206</sup> Human Rights Watch/APRODH interview with Melchiade Maniratunga, *chef de colline* Tonga, Gitobe, Kirundo province, August 7, 2009.

<sup>207</sup> Human Rights Watch/APRODH interviews with residents of Tonga *colline*, Gitobe, August 7, 2009.

<sup>208</sup> Human Rights Watch/APRODH interview with Jocelyne Nshimirimana, Vumbi, Kirundo province, August 7, 2009.

<sup>209</sup> Human Rights Watch/APRODH interviews with *chef de zone* and with family member of mob justice victim, Tangara, Ngozi province, July 23, 2009.

<sup>210</sup> Human Rights Watch/APRODH interview with brother of mob justice victim, Tangara, Ngozi province, July 23, 2009.

the identities of the ringleaders. The judicial police officer promised to follow up by contacting the witnesses, but never did. In February 2010, Human Rights Watch telephoned the judicial police officer to ask whether investigations had advanced. He responded that the case was “too old.”<sup>211</sup>

Human Rights Watch and APRODH identified several reasons that officials fail to investigate and prosecute mob justice.

### Protecting Local Power Brokers

When local administrative officials, soldiers, or ruling party activists are directly involved or complicit in mob justice, “negative solidarity”—an informal arrangement of mutual covering up of bad behaviors<sup>212</sup>—may make police reluctant to arrest those who hold power locally. The same applies to informal power brokers, such as small businesspeople. Corruption here may also be a factor.

Examples include the politically motivated mob beatings carried out by CNDD-FDD members in Makamba and Ngozi, discussed above, in which police did not arrest any suspects. In the killing of suspected bicycle thieves in Kinyinya, discussed in Case Study 3 above, administrative authorities’ refusal to share information with the police—and the police’s subsequent unwillingness to carry out thorough investigations—may have also been influenced by the possible involvement of local power brokers, including a *chef de colline*, a *nyumbakumi*, and members of a youth security committee.

In Gisuru, according to local officials, judicial police officer François Niyongiko ordered the release without charges of at least four suspects of mob justice in mid-2009. Two of them were local power brokers—a *nyumbakumi* and a *mushingantahe*; according to another police official, they were freed despite having confessed to participating in the killing of Pascal Gasindi, a suspected thief, in June 2009.<sup>213</sup>

Niyongiko also reportedly gave provincial judicial officials inaccurate information that resulted in the release of two men suspected of inciting a crowd to kill Athanase Ciza in

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<sup>211</sup> Human Rights Watch telephone interview with Tangara judicial police officer Bucumi, February 2010.

<sup>212</sup> Burundian citizens and officials often refer to “negative solidarity” to explain the practice of state officials—or, at times, civilians—covering for each other in the commission of criminal or otherwise questionable acts.

<sup>213</sup> Human Rights Watch/APRODH interviews with a local administrative official and a police official, Gisuru, Ruyigi province, August 25, 2009, and with a judicial official, Ruyigi, August 26, 2009.

February 2009.<sup>214</sup> Ciza, according to both Gisuru residents and judicial sources, was drinking heavily in a bar one day when he was recruited by two members of his extended family to murder Leonard Samakere, another extended family member with whom they had a personal conflict related to land.<sup>215</sup> Residents said they had heard that the three men went to Samakere's house late at night, with Ciza in the lead. They said that Samakere, however, saw the attackers approach and stabbed Ciza in the leg with a spear.<sup>216</sup>

Ciza reportedly began running, and his accomplices, apparently seeing an opportunity to cover their role in the attempted killing, cried out "Thief! Thief!" Neighbors came from their houses and joined forces to capture and kill Ciza. According to one resident,

Ciza started running and fell in the ravine. The population thought it was a thief. Ciza said "No, it's me, Ciza, let me explain." But then [one of his accomplices] came and said "No, it's a thief, kill him." They wanted to kill him so he wouldn't talk. [The other accomplice] then gave the first strike with a machete.<sup>217</sup>

Both the OPJ and the communal administrator, interviewed by Human Rights Watch, made no reference to this version of events and framed the killing as a more straightforward case of mob justice, but residents of Gisuru said the officials knew what had happened and were attempting to cover up for the two perpetrators because they were wealthy and influential.<sup>218</sup> The two men were in fact arrested, but were freed by the prosecutor's office because the OPJ had provided insufficient information in the case file. Corruption, discussed further below, may have also played a role: a member of Ciza's family said, "I think they corrupted the magistrate or the police to get released, because they have money. My family is very poor and we can't do anything about it."<sup>219</sup>

A new magistrate took over the case in July 2009 and told Human Rights Watch he was aware of the actual role of the two perpetrators.<sup>220</sup> He took on a more active role in

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<sup>214</sup> Ibid.

<sup>215</sup> Human Rights Watch/APRODH interview with residents, Gisuru, Ruyigi province, July 9, 2009, and with a judicial official, Ruyigi, July 2009.

<sup>216</sup> Human Rights Watch/APRODH interview with residents, Gisuru commune, Ruyigi province, July 9, 2009.

<sup>217</sup> Human Rights Watch/APRODH interview with resident, Gisuru, July 9, 2009.

<sup>218</sup> Human Rights Watch/APRODH interview with residents, Gisuru, July 9, 2009.

<sup>219</sup> Human Rights Watch/APRODH interview with family member of victim, Gisuru, July 9, 2009.

<sup>220</sup> Human Rights Watch interview with magistrate Parfait Ngendakumana, Ruyigi, July 10, 2009.

investigating the case than the police and his predecessor, and one of the suspects was re-arrested and charged in December 2009. As of this writing he was awaiting trial on murder charges.<sup>221</sup>

## Succumbing to Public Pressure

In several cases, Human Rights Watch and APRODH found that individuals suspected of participating in mob justice were arrested, but then released without charge by police who succumbed to public pressure.

In Mubimbi commune, Bujumbura Rural, Salvator Bitwi was beaten to death by an angry mob—acting on the encouragement of local officials, as noted above—after he was caught stealing in nearby Kababaza. He was caught and beaten with sticks all along the road from Kababaza to Burenza, his home *colline*. At his house, he was presented before his father, who apparently did not defend him. Neighbors joined in the beating, and Bitwi eventually died.<sup>222</sup>

The *chef de colline*, who had arrived when the beating was underway and was unable to stop it, wrote down the names of 64 people who were present and seemed to be involved. He turned this list over to the police, who asked him to bring in the suspects for questioning. As he explained to Human Rights Watch,

The next day I went to the [communal police station] with the 64 people. But nearly 150 people came along. The first person to be interrogated said “Yes, we beat him, because he steals and is always freed. We think you are behind this, so we had to punish him ourselves.” The first six people to be interrogated all said basically the same thing.

The OPJ decided to arrest the first six and put them in jail. But the others refused to leave, saying that they too should then be arrested. Eventually they left, but they came back the next day. They had a sort of protest, saying that all of them should be arrested since all of them had beaten him. Everyone saw that there was a popular uprising, and that the situation was at risk of degenerating.

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<sup>221</sup> APRODH interviews with judicial officials, Ruyigi, January 2009.

<sup>222</sup> Human Rights Watch interview with Communal Secretary Désiré Misigaro, Mubimbi, Bujumbura Rural province, August 19, 2009.

The communal administrator’s advisor, the parish priest from Mubimbi, and the OPJ tried to calm people down. But the three of them eventually made a decision and the OPJ was obliged to free the six detainees.<sup>223</sup>

Police confirmed that they had arrested six suspects who confessed to the killing.<sup>224</sup> One official said that the overwhelmed local police officers called the provincial police commissioner and that it was he who gave an order to release the six suspects. As the official explained, “The police had proof that they were responsible, but freed them anyway to maintain good relations with the population.”<sup>225</sup> Police told Human Rights Watch that investigations were still underway, but the suspects had not been rearrested as of December.<sup>226</sup> Corruption may be a factor here as well: a police official told Human Rights Watch that the provincial police commissioner had accepted bribes. The commissioner was, in fact, demoted in November 2009 after repeated allegations of corruption.<sup>227</sup>

In Kinyinya, where Jean-Marie Ndireguheka and Cayega were beaten to death on May 13 for stealing a bicycle (see Case Study 3, above), a police official explained, “We arrested two *chefs de secteur*, but about 500 people came to protest in front of the commune, to have them released, and we had to free them.”<sup>228</sup>

Public pressure can take on dangerous forms. One governor told Human Rights Watch that police are often afraid to do investigations into mob justice because they fear being killed.<sup>229</sup> Similar, administrative officials at the *colline* level—those most likely to have information about perpetrators of mob justice—are often afraid to denounce them. A police official said this attitude arises from “fear of being considered to be complicit with the criminal.”<sup>230</sup>

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<sup>223</sup> Human Rights Watch interview with Apollinaire Nsengiyumva, *chef de colline* Burenza, Bujumbura, August 20, 2009.

<sup>224</sup> Human Rights Watch interview with judicial police officer Jean Marie Niyongabo, Mubimbi, Bujumbura Rural province, August 19, 2009.

<sup>225</sup> Human Rights Watch interview with communal secretary Désiré Misigaro, Mubimbi, Bujumbura Rural province, August 19, 2009.

<sup>226</sup> Human Rights Watch interviews with communal secretary Désiré Misigaro and judicial police officer Jean Marie Niyongabo, Mubimbi commune, Bujumbura Rural province, August 19, 2009, and with *chef de colline* Burenza, Apollinaire Nsengiyumva, Bujumbura, August 20, 2009.

<sup>227</sup> Human Rights Watch interview with police official, Bujumbura, December 23, 2009.

<sup>228</sup> Human Rights Watch/APRODH interview with police official, Kinyinya, Ruyigi province, July 8, 2009.

<sup>229</sup> Human Rights Watch interview with Governor Cyriaque Nshimirimana, Ruyigi, August 26, 2009.

<sup>230</sup> Human Rights Watch interview with Louis Nkurikiye, PNB commissioner in charge of information and communication, Bujumbura, September 4, 2009

## “The Police Thought It Was Justified”

Many police and other authorities share the implicit, and sometimes explicit, understanding that mob justice is an acceptable means to respond to criminality. Police reports on security sometimes include comments in neutral language to the effect that: “The robber was trying to escape, but was caught and killed by the population.” Such language suggests the police see mob justice as a somewhat acceptable alternative to apprehension by the police. These attitudes have sometimes been reinforced by high-level public statements, such as police spokesperson Pierre Channel Ntarabaganyi’s congratulations to the populace in Ruyigi for killing two suspected thieves (see Case Study 2, above).

A chief of police in Mutaho commune, Gitega, expressed this opinion openly to Human Rights Watch and APRODH researchers, who visited Mutaho to investigate three killings and a serious beating that took place in one four month period, making Mutaho one of the worst communes for mob justice. On April 24, 2009, François Gahungu, known as “Layilayi,” was caught stealing bananas. He was armed with a machete. Police chief Edouard Nahimana told Human Rights Watch and APRODH that two men caught him and “immobilized” him with several blows; they then called on their neighbors, who came and beat him to death. Despite the fact that the beating continued long after Layilayi was immobilized, Nahimana qualified the killing as “self-defense.” Nahimana interviewed witnesses who confessed to the killing, but saw no need to arrest them. He explained, “There were no investigations to be done. It was the population who did it. They said themselves, ‘We killed Layilayi.’ They said this openly. They said they defended themselves. The case is done with.”<sup>231</sup>

Layilayi’s family learned of his death the following morning. According to one family member, “We went to the hospital and found he had already been buried. We asked why the authorities had buried him without informing his family. The police chief said he was buried like that because he was a thief. We asked for him to be buried with dignity, but the police chief refused. He scared us and chased us away.”<sup>232</sup> Family members said several men were arrested in conjunction with the killing, but that they paid bribes and were released the same or the following day. There were no further investigations, and family members found no officials who were interested in receiving their complaint. “All the leaders in Mutaho were united against us,” one said.<sup>233</sup>

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<sup>231</sup> Human Rights Watch/APRODH interview with police chief Edouard Nahimana, Mutaho, Gitega province, August 27, 2009.

<sup>232</sup> Human Rights Watch/APRODH interview with Layilayi’s family members, Mutaho, Gitega province, August 27, 2009.

<sup>233</sup> Ibid.

Mutaho's police chief told Human Rights Watch and APRODH that any citizen who caught someone stealing at night was justified in killing him or her, adding, "If someone came at night to steal from me, I'd kill them."<sup>234</sup> This kind of attitude filters down to the population. Residents in Itaba, where members of a group who killed a suspected thief called Nyandwi, seemed to believe it was perfectly justified to kill thieves at night, though perhaps not during the day:

We beat the guy in order to get information about the whereabouts of the other bandits. We didn't want to kill him. We just wanted the names of the bandits he was with. But we don't regret it. He was a thief and a killer. He deserved what he got. [...] We found another, [but] we didn't beat him because ... it was already daytime. It's forbidden for us to punish people during the day.<sup>235</sup>

In Bujumbura's Cibitoke neighborhood in September 2008, residents trapped a man who had stolen a cellular phone and cut him in the Achilles' tendon with a machete, leaving him permanently disabled. A local official told Human Rights Watch, "The police came and took [the victim] to the hospital. The people who injured him told the police that they did it because he was a thief. Everyone knew who did it. The police didn't arrest anyone because they thought it was justified."<sup>236</sup> Two other acts of mob justice took place on the same street in 2009, and neither led to investigations or arrests.

The provincial police commissioner of Ruyigi felt that the poor investigations carried out in the wake of the killing of suspected bicycle thieves Cayega and Ndireguheka, discussed in Case Study 3 above, stemmed from a similar attitude. He said, "The local administration supports and defends this kind of behavior, saying, 'These people are hard-core thieves' ... [T]hey said they couldn't intervene when the population killed those people. They supported the population in carrying out justice."<sup>237</sup>

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<sup>234</sup> Human Rights Watch/APRODH interview with police chief Edouard Nahimana, Mutaho, August 27, 2009.

<sup>235</sup> Human Rights Watch interview with perpetrators of mob justice, Itaba, Gitega Province, August 26, 2009. Because of the difficulties faced by police in ensuring public security at night, discussed above—and perhaps also due to a history in some areas of rebel groups taking control of security after dark—many residents of areas with high rates of mob justice told Human Rights Watch and APRODH that they felt it was necessary to take security into their own hands at night.

<sup>236</sup> Human Rights Watch interview with local official (name withheld), Bujumbura, August 10, 2009.

<sup>237</sup> Human Rights Watch interview with Provincial PNB Commissioner Louis Ndayihimbaze, Ruyigi, July 10, 2009.

A high-ranking police official in Ngozi, told Human Rights Watch that there, too, some administrative officials in Ngozi accept mob justice as a reasonable response to theft and do not take actions to discourage it.<sup>238</sup>

A military official in Muyinga told Human Rights Watch, “Administrators here are proud of bandits being killed. They talk about it in the Wednesday security meetings we hold.”<sup>239</sup>

## Absence of Complaint

Families of victims—or victims who survive mob justice—are often reluctant to file complaints with police or prosecutors. Some feel that because of their family members’ (or their own) criminal activity they do not have a right to justice. Crime suspects who have survived mob justice feel that they are imperiling their own cases by pressing charges against those who mistreated them.

Police are required by law to carry out investigations regardless of the formal filing of complaint, but often fail to do so.<sup>240</sup> This negligence happens in all types of cases, not just cases of mob justice. But because in mob justice cases victims and families are more likely not to file complaints, this general shortcoming in police procedure becomes more acute, and contributes to a particularly high level of impunity for mob justice cases.

For instance, in Kanyosha, Bujumbura Rural, a young man nicknamed “Bau”<sup>241</sup> was killed on the night of June 26, 2009. The man on whose property he was killed was arrested and spent a week in jail, but was then released on the grounds that the family members had not come to the police station to file a complaint. The Kanyosha police chief told Human Rights Watch, “The family of the victim didn’t come and file a complaint. We can’t do investigations if there’s no complaint.”<sup>242</sup>

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<sup>238</sup> Human Rights Watch interview with high-ranking police official, Ngozi, July 22, 2009.

<sup>239</sup> Human Rights Watch interview with high-ranking military official, Muyinga, August 5, 2009.

<sup>240</sup> According to an experienced Burundian attorney, articles 1-5 of the Code of Criminal Procedure—a law currently being reformed, in part due to its lack of clarity about the role of judicial police—should be interpreted as imposing a requirement on police to investigate all crimes. Police can suspend investigations due to lack of evidence that a crime has been committed. However, if evidence suggests a crime has been committed, police must compile evidence and transmit the case file to the prosecutor’s office. The prosecutor’s office has greater discretion in determining whether charges should be pursued. Human Rights Watch interview, February 2, 2010. See also Loi No. 1/015 du 20 juillet 1999 portant réforme du code de procédure pénale, art 1-5.

<sup>241</sup> The police chief and the communal secretary provided Human Rights Watch with two different names for the victim: Hervé Ntahnkuriye and Simon Baboneyo. Human Rights Watch was unable to ascertain the victim’s name with certainty.

<sup>242</sup> Human Rights Watch interview with police chief Leopold Magenge, Kanyosha, Bujumbura Rural, August 20, 2009.



Interviews with the family members of victims illustrate the difficulty in filing complaints. Audifax Ndayizeye was killed in Buterere, Bujumbura Mairie, in September 2009. A demobilized FNL combatant, he had been suspected in the frequent thefts that took place in his neighborhood. After a neighbor was killed in the course of a robbery on September 17, residents alleged that Ndayizeye was responsible. Four neighbors went to his house on the following day, tied him up, beat him to death in a nearby clearing, and set his body on fire.<sup>243</sup> Police and local authorities left the burned body exposed for an entire day. A brother who lives across town said that when he arrived the next day to find out what had happened, “the body was already being eaten by dogs.”<sup>244</sup>

Ndayizeye’s wife said that after the killing, she continued to be harassed and threatened by neighbors. She explained, “They think I have things my husband stole.” Although she could name the people who had “arrested” her husband, initiated the beating, and purchased the gasoline to burn his body, she was afraid to report this to the police. The police, several of whom arrived while the beating was underway, initiated no independent investigation.<sup>245</sup>

In Gisuru, Ruyigi province, popular pressure combined with the absence of a formal complaint was used to justify inaction by the authorities. In January 2009, Dominique Harutimana was “arrested” at his home by a group of neighbors, accused of plotting armed robberies, and beaten to death. A police official said, “No one filed a complaint. We wanted to take up our own investigation, but in view of maintaining good relations with the population, the [communal] administrator did not allow us to do so. [...] The administration felt the people had to eliminate a danger in the society.”<sup>246</sup>

Human Rights Watch and APRODH asked Harutimana’s father if he had considered filing a complaint. He responded, “The police didn’t do any investigations to find out who killed him and I didn’t really try to follow the affair, because everyone here said he was a thief. I’m just a simple peasant; I don’t have the force to resist the entire community. [...] The justice system does its work; there’s nothing I can do.”<sup>247</sup>

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<sup>243</sup> Human Rights Watch interviews with wife and neighbors of Audifax Ndayizeye, Buterere, Bujumbura, October 12, 2009.

<sup>244</sup> Human Rights Watch interview with brother of Audifax Ndayizeye, Bujumbura, November 19, 2009.

<sup>245</sup> Human Rights Watch interview with wife of Audifax Ndayizeye, Buterere, Bujumbura, October 12, 2009.

<sup>246</sup> Human Rights Watch/APRODH interview with François Niyongiko, judicial police officer, Gisuru, Ruyigi province, July 9, 2009, and with a government official, Bujumbura, July 12, 2009. Niyongiko was later transferred to another post subsequent to accusations of corruption.

<sup>247</sup> Human Rights Watch/APRODH interview with father of Dominique Harutimana, Gisuru, Ruyigi province, July 9, 2009.

In Mutaho, Gitega province, 20-year-old Pierre Nsengiyumva was killed in June 2009 after he allegedly attempted to break into a home. Police never bothered to inform his wife of his death; she was informed by neighbors. She told Human Rights Watch and APRODH, “I was afraid to go to the police. People told me that if I went to the police, I would have more problems. Because of these threats, I was afraid to press charges. If they hadn’t scared me, I would have gone to find out what happened to my husband.”<sup>248</sup> Police Chief Edouard Nduwimana, cited above, told Human Rights Watch and APRODH that he knew who had killed Nsengiyumva, but did not take any action against them.<sup>249</sup>

Sometimes families filed complaints at the communal level, but when they met with difficulties there abandoned the case rather than taking it to higher levels. Emmanuel Ngenzebuhoro, a 19-year-old domestic worker, was visiting his father in Butaganzwa, Ruyigi province, when he was caught by a crowd who suspected him of having stolen 60 kilograms of beans. Ngenzebuhoro was beaten to death; his body was thrown in the river and was never recovered.

A soldier who attempted to stop the beatings provided testimony to the police, resulting in five arrests. But the suspects were released without charges three days later. Ngenzebuhoro’s father told Human Rights Watch, “I don’t know why they were freed; they probably corrupted the police. The police didn’t explain why they freed them.”<sup>250</sup> The soldier who had provided testimony was transferred to another position shortly thereafter, and no authority made an effort to track him down. Ngenzebuhoro’s father lamented, “My nephew suggested I take the affair to Ruyigi—but I am afraid that if I do continue with the dossier, those people could come and eliminate me.”<sup>251</sup>

### “Amiable Resolution”

In some cases, victims who have survived mob justice do not come forward to accuse their assailants because of an implicit or explicit agreement with those against whom they committed the initial crime. Thus, in Kanyosha, Bujumbura Rural, residents sliced off the top of M.X.’s ear after he was caught stealing a goat. Though the crime against M.X. was of greater gravity than the unarmed theft he had carried out, M.X., afraid of being arrested or

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<sup>248</sup> Human Rights Watch/APRODH interview with wife of Pierre Nsengiyumva, Mutaho, Gitega province, August 27, 2009.

<sup>249</sup> Human Rights Watch/APRODH interview with police chief Edouard Nahimana, Mutaho commune, Gitega province, August 27, 2009.

<sup>250</sup> Human Rights Watch interview with father of Emmanuel Ngenzebuhoro, Butaganzwa, Ruyigi province, December 7, 2009.

<sup>251</sup> Human Rights Watch interviews with father of Emmanuel Ngenzebuhoro and with a neighbor, F.F., Butaganzwa, Ruyigi province, December 7, 2009.

killed, declined to press charges, and police never did investigations to determine who had assaulted him. (The perpetrators had also killed M.X.'s accomplice, Jean-Marie Nyandwi.<sup>252</sup>) In exchange for his silence, M.X. was not charged for stealing the goat.<sup>253</sup>

In Gihosha, Bujumbura, a man was beaten by a mob because he was caught running through the streets at 3 a.m. The beating was serious enough that the victim required hospitalization. Police arrested five suspects, but a judicial police officer in Gihosha freed them after they agreed to pay the victim's hospital bills.<sup>254</sup> Questioned about this decision by Human Rights Watch, the OPJ admitted it was in violation of the law.<sup>255</sup>

## Government Obligation to Investigate

The government of Burundi, whether through the police or other state agency, has an obligation under international law to investigate and prosecute criminal offenses.

The failure of police to register and investigate criminal offenses that deprive persons of their basic human rights violates Burundi's obligations under the International Covenant on Civil and Political Rights (ICCPR).<sup>256</sup> The UN Human Rights Committee, which monitors the compliance of states that are party to the ICCPR, has stated that governments must ensure that victims have "accessible and effective remedies" to vindicate their rights under the treaty.<sup>257</sup> This obligation applies even when such violations are committed by private actors.<sup>258</sup> According to the Human Rights Committee, "A failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. Cessation of an ongoing violation is an essential element of the right to an effective remedy."<sup>259</sup>

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<sup>252</sup> Human Rights Watch interview with B.W., Kanyosha, Bujumbura Rural province, August 20, 2009.

<sup>253</sup> Human Rights Watch interviews with communal secretary Ferdinand Nkunzimana, with M.X., and with residents, Kanyosha, Bujumbura Rural province, August 20, 2009.

<sup>254</sup> Human Rights Watch interview with judicial police officer Claude Manirakiza, Gihosha, Bujumbura, September 1, 2009.

<sup>255</sup> *Ibid.*

<sup>256</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. Burundi ratified the ICCPR in 1990.

<sup>257</sup> UN Human Rights Committee, General Comment No. 31 on article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/74/CRP.4/Rev.6 (2004), para. 15.

<sup>258</sup> According to the UN Human Rights Committee, "[T]he positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities." General Comment No. 31, para. 8.

<sup>259</sup> *Ibid.*, para. 15.

The Basic Principles and Guidelines on the Right to a Remedy and Reparation, adopted by the UN General Assembly in 2005, call upon states to “[i]nvestigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible,” and “[p]rovide those who claim to be victims of a human rights [...] violation with equal and effective access to justice, as described [...] irrespective of who may ultimately be the bearer of responsibility for the violation.”<sup>260</sup> Accordingly, the government must investigate and provide an effective remedy for crimes implicating the right to life, protection from torture and inhuman treatment, protection of the person, home and family from unjust attack, and discriminatory treatment.<sup>261</sup>

Failure to investigate serious crimes also violates Burundian law. The law establishing the National Police of Burundi sets out the police obligations to investigate crimes, to apprehend perpetrators, and to protect people and their property.<sup>262</sup> The Code of Criminal Procedure requires that judicial police open investigations into crimes, regardless of whether or not a complaint is filed.<sup>263</sup>

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<sup>260</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (Dec. 16, 2005), principles 3(b)-(c).

<sup>261</sup> ICCPR, arts. 6, 7, 17.

<sup>262</sup> Loi No. 1/020 du 31 Décembre 2004 portant création, organisation, missions, composition, et fonctionnement de la Police Nationale, art. 18, 27.

<sup>263</sup> Loi No. 1/015 du 20 juillet 1999 portant réforme du code de procédure pénale, art 1-5; see also footnote 238, above.

## VIII. Responses of Burundian Government

The Burundian government's response to mob justice has been mixed. Although officials have at times condemned mob justice, no coherent state response has been mounted to address what is a major cause of murder in Burundi.

The role of police and local administrative officials in stopping or attempting to stop individual incidents of mob justice is often positive and should not go unnoted. Human Rights Watch and APRODH received numerous reports in which officials attempted to break up mobs intent on meting out punishment, often seriously risking their own safety in the process. Claude Nahimana, a young man who was seriously beaten by a crowd of motorcycle-taxi drivers who suspected him of stealing a motorcycle, told Human Rights Watch, "I wouldn't have gotten out of there alive if the police weren't there."<sup>264</sup> Police and administrative officials were themselves subjected to violence while trying to stop attacks on alleged criminals in many locations, including Bujumbura Rural, Muyinga, and Ruyigi.<sup>265</sup> FDN soldiers have also attempted to stop these attacks.<sup>266</sup>

In Itaba, Gitega province, a *chef de colline* told Human Rights Watch that he protected two suspected thieves from a mob that had killed another member of their group. He said,

The population had knives and machetes. They stabbed one thief and left him for dead. Another thief came to seek refuge at my house around 3 a.m. He said the people wanted to kill him. I let him in. One hour later, the crowd arrived at my house [on their way to find] another thief. He was sought by the crowd. They went to his house. They wanted to kill him.

I said the people didn't have the right to kill him. I took him to my house as well and said "We'll have to let the administration handle it." I phoned the police. At six in the morning they came with the communal administrator and took the two thieves to jail.<sup>267</sup>

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<sup>264</sup> Human Rights Watch interview with C.N., Bujumbura, October 12, 2009.

<sup>265</sup> Human Rights Watch interview with Philbert Uwimana, advisor to the communal administrator, Giteranyi, Muyinga province, August 6, 2009; and with Gédéon Mpitabavuma, *chef de colline* Rweza, Bujumbura Rural, October 8, 2009; Human Rights Watch/APRODH interviews with residents of Butaganzwa, Ruyigi province, July 8, 2009.

<sup>266</sup> Human Rights Watch/APRODH interviews with S.D., C.I., and F.F., witnesses to killing of Emmanuel Ngenzebuhoro, Butaganzwa, Ruyigi province, July 7, 2009 and December 7, 2009.

<sup>267</sup> Human Rights Watch interview with *chef de colline* Sygesbert Simbagoye, Itaba, Gitega province, August 26, 2009.

A police officer in Ruyigi described the non-negligible difficulties police face in responding to mob justice. Omer Cimpaye was killed by a market full of angry people in Nyabitsinda commune on April 28, 2009, after he stabbed a friend of his in what appeared to be a dispute over a debt. As the police officer described it,

We tried to bring the perpetrator to the police post to protect him, but the population followed and beat him with sugar cane. Even we were beaten. Eventually, by the market, he died. [...] We were pursued by everyone from the market when trying to save the perpetrator. Everyone wanted to kill him. We were just two police. The population was determined that he be killed.

The *chefs de colline* who were at the market tried to help us, but the population was able to grab him from our hands. They were saying “If we let the police take him, they will save his life.” He was hit on the head and started to lose blood. It was young, strong men who were beating him and killed him.

We couldn’t arrest anyone. There was such tension that we almost had to use our weapons. After [Cimpaye] died, the population dispersed. ...We were overwhelmed and worried about our own security. We ourselves were injured; the *chef de poste* was bleeding. We were struggling against a population that had it in for us because they said we would save him.

We couldn’t identify the people who did it, or arrest family members of one of the victims, who we believe may have been involved. It was difficult to target anyone because almost the whole market was involved, and also because it would create tensions.

At that time there were only three police for the whole zone – now there are eight. It’s not sufficient even with eight. The zone is vast. We have no vehicle and no radio. Even the commune post doesn’t have a radio or car.<sup>268</sup>

The police officer’s account demonstrates both the positive efforts made by some officials to stop mob justice and the challenges they face, as well as the compromises they make in order to prevent “tensions.” As noted above, Cimpaye’s family members said police did

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<sup>268</sup> Human Rights Watch/APRODH interview with police officer, Nyabitsinda, Ruyigi province, July 8, 2009.

know who carried out the killing, and they objected to the fact that police did not conduct investigations. Investigations, in the cases documented by Human Rights Watch and APRODH, were the exception; inaction was the rule.

In responding to killings by mobs after the fact, some police or administrative officials have conducted “sensitizations” or public education meetings to instruct the local population not to engage in this behavior.<sup>269</sup> Their effectiveness seems to vary. One woman in Tangara told Human Rights Watch with apparent conviction that after such a meeting, “We’ve decided that never again will the people do justice here.”<sup>270</sup> On the other hand, after the alleged bicycle thieves were killed in Kinyinya, the Ruyigi governor told Human Rights Watch, “The population said that justice was done—that they were thieves. I tried to sensitize them, but [...] the population said they didn’t regret anything.”<sup>271</sup>

Public education may be one part of a multi-pronged strategy to approach mob justice. However, it should not consist simply of lectures delivered to the population. The international nongovernmental organization DanChurchAid carried out research in 2007 to determine what approaches might result in the attitudinal change necessary for the public to be convinced to turn in small arms. Participants in their focus groups said that interpersonal communication, possibly from volunteers trained from among “religious, demobilized, youth or women’s group leader[s],” might be effective in relaying a pro-disarmament message. Radio was seen as an important way to back the messages diffused by community leaders, while theater, radio soap operas, and film projections followed by discussions were also seen as effective. Notably, “participants did not consider posters or leaflets to be of great use in promoting behavior change.”<sup>272</sup> Such research should be taken into account in planning a national strategy to address mob justice.

The Ministry of Justice, with assistance from BINUB and other partners, began drafting a new Code of Criminal Procedure in 2006 after the old code, promulgated in 1999, proved to be inconsistent with a revised constitution and police law. But as of February 2010, revisions of the code had not yet been finalized. Chief of Staff Onésphore Baroreraho said the revisions would likely be completed, and the draft code submitted to the Council of Ministers and then to Parliament, within the next several months. In the meantime, according to

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<sup>269</sup> Human Rights Watch interview with *chef de zone*, Tangara, Ngozi province, July 23, 2009.

<sup>270</sup> Human Rights Watch interview with local resident, Kananira *colline*, Tangara, Ngozi province, July 23, 2009.

<sup>271</sup> Human Rights Watch interview with Ruyigi governor Cyriaque Nshimirimana, Bujumbura, July 12, 2009.

<sup>272</sup> DanChurchAid and the Conseil National des Eglises du Burundi, “Rapid Assessment of the Impact and Perceptions of Small Arms in the Burundi interior,” 2007, [http://www.smallarmssurvey.org/files/portal/spotlight/country/afr\\_pdf/africa-burundi-2007-1-Forbes-DCA-SALW.pdf](http://www.smallarmssurvey.org/files/portal/spotlight/country/afr_pdf/africa-burundi-2007-1-Forbes-DCA-SALW.pdf) (accessed February 25, 2010)

Baroreraho, the Ministry of Justice is planning to air a series of radio broadcasts aimed at educating the public about criminal procedure, starting at some point in 2010.

Even well-planned public education is unlikely to result in lasting change. For it to be effective, at least two other key changes are necessary. First, perpetrators of mob justice can no longer enjoy impunity for their crimes, especially when those perpetrators include state officials. Second, the government needs to address the underlying causes of mob justice, notably the critical lack of confidence in the police and judiciary. The government must ensure that police are sufficiently present in high-crime areas and that police and prosecutors carry out prompt, pro-active investigations into crimes. It must conduct serious probes into corruption allegations, improve transparency regarding use of resources, and ensure improved access to justice for victims and witnesses.



## **IX. International Actors and Burundian Civil Society**

International stakeholders have not paid a great deal of attention to mob justice in Burundi. One notable exception is the human rights section of the UN mission in Burundi, BINUB. BINUB human rights monitors have followed cases of mob justice since 2004, systematically collecting data on cases since 2008, and have brought a number of cases to the attention of Human Rights Watch.

Both BINUB and bilateral donors provide significant funding to the police and justice sectors—the sectors whose failings are most likely to contribute to mob justice. But no bilateral donor has focused on the problem of mob justice itself. Donors and other stakeholders should recognize that mob justice is a serious human rights issue in its own right, especially when state officials are involved or complicit. They should also recognize that mob justice is a proxy indicator for policing and justice systems that are still inaccessible to the vast majority of Burundians, especially those in poor rural areas and marginal urban neighborhoods. Such an understanding of mob justice could assist donors in targeting their interventions and evaluating progress in policing and justice in Burundi. Donors and other stakeholders, particularly those who are members of “sector groups” on justice and security, should mount a coordinated, twofold response to mob justice: first, by encouraging immediate measures to end impunity for mob justice, and second, by contributing to structural reforms that will address underlying weaknesses in the police and justice sectors.

Donors have funded “sensitizations” and awareness campaigns on various subjects related to human rights, gender-based violence, disarmament, and political participation, among others. A similar campaign to deter mob justice—aimed at local administrative officials as well as police and justice sector officials—would be a welcome intervention.

### **Police**

The Netherlands is the principal donor to the National Police of Burundi. In April 2009, the Dutch government signed an eight-year cooperation agreement with the police. It provides for training, radio maintenance equipment, infrastructure, and means of transport, including vehicles for provincial police commissariats and bicycles for communal police posts (a potentially useful means of transportation in Burundi, given the lack of roads that are accessible to motor vehicles and the high cost of petrol, assuming that the police, particularly the judicial police officers who investigate crimes, are willing to use them). The

agreement also includes support for the Inspectorate General of the Ministry of Public Security, including its own transportation and communications equipment. The agreement provides for certain conditionalities related to the respect for human rights: continued disbursement of funds is contingent on monitoring and evaluation by independent experts, and an ongoing dialogue between the Netherlands and Burundi on subjects including political neutrality of the police, professionalism, accountability to civilian authorities, and respect for human rights. While the attention to human rights is laudable, such a dialogue should also address steps being taken by the police to address the general failure to protect the population.

Belgium and France also both provide police training. Belgium is carrying out a series of one-week training modules in which all police agents participate. Modules to date have addressed human rights, crowd control, and appropriate use of force, and a current module on election security is underway in conjunction with the Netherlands. Belgium is also currently conducting an intensive six-month training course for judicial police officers, which includes investigation techniques, and France, too, provides training to the officer corps.

The Netherlands has funded a police advisor who works within the national police, and Belgium has provided technical assistance, for example, in the form of the 2008 police audit. BINUB's security sector reform section also provides several police advisors. The Egyptian government has invited police officers to Cairo for training, and the Swiss government has funded a Belgian organization, RCN-Justice et Démocratie, to carry out training in investigation techniques for judicial police officers.

The UN, through the Peacebuilding Fund, has provided US\$6.9 million to the police. Funds have gone toward vehicles, uniforms, communications equipment, documents on police ethics, training in both human rights and logistics, and a census of the police, carried out in conjunction with the International Center for Transitional Justice. The establishment of an emergency telephone number (equivalent to 911 in the United States) is envisioned by the project, but has not yet been implemented.

## **Justice**

The justice sector receives significant funding from the British Department for International Development (DFID), the Belgian government, and BINUB. Donors have funded the training of magistrates, the construction of tribunals, and the provision of vehicles to the justice sector. The Belgian Technical Cooperation has provided personnel to serve as technical advisors within the Ministry of Justice. BINUB has financed a project aimed at decreasing

prison overcrowding, funding teams of lawyers and human rights activists who work within prisons to identify cases in which detainees are eligible for parole. The Peacebuilding Fund has contributed to the establishment of an Anti-Corruption Court and Prosecutor's Office.

Several representatives of donor organizations, in interviews with Human Rights Watch, remarked that the Ministry of Justice has been slow to allow donor-funded initiatives to move forward. In one instance, donors were willing to fund a series of trainings for magistrates. However, the Ministry of Justice did not want to accept the trainings if the donors did not pay participants *per diems* that greatly exceeded their normal salaries. As of this writing, the issue remained unresolved.<sup>273</sup>

### **Gaps in Donor Support**

Donor funding to police and justice sectors, however, has not gone far in addressing the failings in these institutions that contribute to mob justice. As noted above, few police or magistrates have been prosecuted for corruption. Police who are suspected of taking bribes are much more often moved to another jurisdiction. Donors to the justice sector are aware of high levels of corruption, but have not identified measures through which they could use their leverage to more closely monitor it.

Donors are not involved to a high degree in supporting or training local administrators, including those who are most likely to be involved as perpetrators of mob justice, such as *nyumbakumis* and *chefs de colline*.

### **Burundian Civil Society and Media and International NGOs**

Few international NGOs involved in the justice sector in Burundi have directly addressed the problem of mob justice, though a number of NGOs do work in the justice sector, which could contribute to diminishing mob justice and impunity. *Avocats Sans Frontières*, a Belgian organization that provides legal assistance to victims of torture, among others, has taken on several cases of mob justice that have involved the participation of state officials. *RCN-Justice et Démocratie* has worked to educate both police and the public about criminal law and procedure. Two other NGOs, *Global Rights* and *ACCORD*, provide legal advice to residents of rural areas.

Burundian human rights organizations including *APRODH* and *Ligue Iteka* have actively condemned mob justice, and all major Burundian written press outlets and radio stations,

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<sup>273</sup> Human Rights Watch interview with a representative of a donor organization, Bujumbura, January 24, 2010.

including national radio, have regularly reported on such killings. While most news reports are critical of mob justice, occasionally such reporting has been unhelpful. The Agence Burundaise de Presse, reporting on one mob killing, stated that after a young man on drugs killed two neighbors, “The angry neighbors had no other choice to save the situation other than to lynch the killer. They [im]mobilized him, tied him up, and beat him with clubs until he died.”<sup>274</sup> In general, however, media reporting has begun to contribute to raising the national profile of the problem of mob justice. If journalists and editors are vigilant in ensuring that their reporting, in all cases, promotes the rule of law and condemns mob justice—while promoting healthy debate on its cause and possible solutions—they may be able to play a significant role in decreasing the incidence of mob justice and challenging the official complicity and impunity that sustain it.

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<sup>274</sup> “Lynchage d’un assassin devenu fou sous l’effet d’une grande dose de cannabis,” Agence Burundaise de Presse, February 12, 2009.

## Annex: Mob Justice Cases Resulting in Death, 2009<sup>275</sup>

	Location	Date	Victim	Alleged Crime of Victim	Role of State Agents	Police/Judicial Follow-up <sup>276</sup>
<b>Bubanza Province</b>						
1	Mpanda	July 21	Nestor Yamuremye	Theft	<i>Chef de colline</i> was reportedly present and did nothing to stop the killing.	8 arrests, including <i>chef de secteur</i> and <i>chef de colline</i> ; <i>chef de secteur</i> was freed, but 7 suspects remain in pre-trial detention.
<b>Bujumbura Mairie</b>						
2-3	Buterere	May 6	Eric and Donat	Attempted burglary	Police attempted unsuccessfully to stop the killing.	Investigations, but no arrests
4	Buterere	September 17	Audifax Ndayizeye	Theft and murder	Police were present but did not intervene, and left body to be eaten by dogs.	No investigations or arrests
5	Cibitoke	February 10	Man, name unknown	Theft of motorcycle; murder (threw grenade into crowd chasing him, and killed a bystander)		No investigations or arrests
6	Cibitoke	June 11	Young man, name unknown	Armed robbery		No investigations or arrests
7	Cibitoke	September 18	"King Kong"	Theft of household items; member of armed group		No investigations or arrests
8	Cibitoke	December 21	Eric Niyonzima	Theft of television and other household goods		No arrests
9-10	Kanyosha	July 11	Boniface and Hakizimana	Walking through neighborhood with AK-47s in a sack		No arrests

<sup>275</sup> Human Rights Watch and APRODH believe this is a fairly comprehensive list of all mob justice killings in Burundi in 2009 (excluding those based on sorcery accusations), although there is a possibility that we have failed to document a certain number of cases. This list is based on information from state authorities, UN staff, local NGOs, and journalists working in all provinces of Burundi.

<sup>276</sup> In some cases, Human Rights Watch and APRODH were unable to ascertain whether police investigations took place, or received conflicting reports from police and other sources; in these cases, we could only determine whether or not there had been arrests.

Bujumbura Rurale Province						
11	Isale	February 26	Jacques Nkeshimana	Theft of motorcycle		No investigations or arrests
12	Kanyosha	April 25	Jean Marie Nyandwi	Theft of goat		Suspected accomplices, who were also beaten, informed police of perpetrators' identities, but police did not carry out investigations or arrests.
13	Kanyosha	June 4	Nestor Nduwayezu	Attempted murder of prominent FNL member		No arrests
14	Kanyosha	June 25	Hervé Ntahonkuriye, aka "Bau" <sup>277</sup>	Attempted burglary		Police arrested one suspect but freed him because "no one filed a complaint."
15	Mubimbi	July 11	Salvator Bitwi	Suspected of "preparing a robbery"; had reportedly committed previous robberies and rapes		Police arrested six suspects, but freed them due to popular pressure and possible corruption. The police commissioner who ordered release of suspects was later demoted. Case was transferred to prosecutor, who summoned the same suspects, but they did not report to her office. She reported that she could not go and arrest them due to lack of petrol.
16-18	Muhuta	November 22	3 people	Murder		Suspects arrested; follow-up unknown
Bururi Province						
19	Rumonge	May 6	Jean Ndikumana	Poisoning a child (possibly a "sorcery" accusation)		Police arrested 9 suspects, currently in pre-trial detention.

<sup>277</sup> One source provided the name "Simon Bamboneyo" for the victim rather than "Hervé Ntahonkuriye" It was not possible to verify with certainty the victim's names.

20	Rumonge	August 29	Man, name unknown	Theft of household goods	A <i>chef de secteur</i> passed the dying victim and made no effort to save him	<i>Chef de secteur</i> was interrogated, but not arrested; police say other suspected perpetrators fled and that investigations continue.
<b>Cibitoke Province</b>						
21	Buganda	January 22	Ismail Mvuyekure	Attempted armed robbery with group of five thieves		No arrests
22	Mabayi	July 10	Man, name unknown	Theft of cassava flour		No arrests
23	Murwi	August 1	Jean Claude Ntaconayigize alias "Rukara"	Rape		No arrests
<b>Gitega Province</b>						
24	Buraza	July 21	Cyprien Habonimana	Theft of money and household goods	A member of the <i>colline</i> council reportedly participated in the killing	Investigations underway; three people arrested (not including <i>colline</i> council member), but freed.
25	Giheta	September 10	Jean Bukuru	Participation in armed band (the victim, a Mutwa, was wrongly suspected of being part of armed group led by Cédric Mazoya)		Three suspects arrested and in pre-trial detention
26	Itaba	January 27	Nyandwi	Theft of money, beer, beans and chickens	<i>Chef de colline</i> protected two accomplices from being killed	No investigations or arrests
27	Mutaho	April 24	Francois Gahungu, aka "Layilayi"	Theft of bananas	<i>Chef de colline</i> unsuccessfully tried to stop killing; police chief refused to allow dignified burial	Police arrested three suspects, but freed them 1-2 days later, after they allegedly paid a bribe.
28	Mutaho	May 10	Man, name unknown	Theft of cassava in a field		No investigations or arrests
29	Mutaho	June 12	Pierre Nsengiyumva	Attempted burglary		No investigations or arrests

30-31	Ryansoro	Unknown	Nyandwi and his son	Participation in armed band (victims were suspected of being part of armed group led by Cédric Mazoya)		Police arrested several suspects; currently awaiting trial.
<b>Karuzi Province</b>						
32	Gihogazi	January 17	Bukuru	Debt		Police arrested one suspect, but freed him several days later; no further investigations.
<b>Kirundo Province</b>						
33	Busoni	August 14	Miburo	Theft of bananas		Police arrested three suspects, currently in pre-trial detention.
34	Vumbi	November 22	Young man	Arson		No investigation or arrests
<b>Makamba Province</b>						
35	Makamba	February 12	Ndikunkiko	Theft of bananas		No arrests
<b>Muramvya Province</b>						
36-37	Bukeye	April 1	Niyokindi and Ndimurwanko	Participation in armed band		No arrests
38	Kiganda	July 29	Man, name unknown	Participation in armed band		No arrests
<b>Muyinga Province</b>						
39	Buhinyuza	June 14	Nzeyimana	Suspected of theft because he walked through a <i>colline</i> at night where he was unknown.	<i>Chef de colline</i> reportedly led the mob that tied up and beat to death the victim.	Police arrested five suspects, but released them; according to prosecutor's office, investigations continue. The <i>chef de colline</i> fled the area.
40	Gashoho	July 26	Melchior Ntirandekura	Robbery and rape		No arrests
41	Gashoho	August 1	Simon Ruberankiko	Theft of bananas		No arrests
42	Gasorwe	September 16	Tabu Bigirindavyi	Banditry		Police arrested 4 suspects; 2 were freed and 2 remain in prison. The case remains open at the prosecutors' office.
43-44	Gasorwe	October 1	Mbasha and an unknown man	Armed robbery		Police arrested 4 suspects, but all were freed.
45	Giteranyi	June 15	Man, name unknown	Armed robbery		No arrests



Ngozi Province						
46	Giteranyi	Around June 21	Nzeyimana	Throwing grenades at a wedding ceremony	Local officials attempted to intervene to stop the killing.	No investigations or arrests
47	Gashikanwa	September 17	Man, name unknown	Ambushed a bicyclist		No investigations or arrests
48	Kirembe	August 16	Leonard Ngendakumana	Theft of bananas		No investigations or arrests
49	Marangara	August 12	Gervais Nzeyimana	Theft, murder		No investigations or arrests
50	Ngozi	May 17	Mamert Hakizimana	Participation in an armed band		Unknown
51	Ngozi	September 18	Man, name unknown	Robbery		No arrests
52-54	Nyamurenza	February 23	Gervais Nzitunga and two other men	Robbery, murder	Police organized 50-100 local residents to trap thieves, based on an informant's tip.	No arrests, despite police presence at time of killing
55	Nyamurenza	December 2	Marthe Nyabenda	Theft of corn from a field		One suspect arrested; follow-up unknown
56	Ruhororo	September 24	Dieudonné	Banditry	<i>Chef de secteur</i> initially suspected of complicity, but then released.	Two people, including the <i>chef de secteur</i> , were arrested but then freed by police. The prosecutor's office took over investigations and says that several suspects fled, but investigations continue.
57	Tangara	February	Daniel Harindintwari	Theft of bicycle		No investigations or arrests. In August 2009, Human Rights Watch and APRODH informed police that local residents could name the perpetrators, but police took no action to follow up. In February 2010, police told Human Rights Watch there was nothing more they could do because it was an "old case."
Rutana Province						
58	Bukemba	September 10	Paul Ndayiragije	Theft of 11 goats		Unknown

Ruyigi Province						
59	Butaganzwa	June 4	Juvenal Karorero	Adultery		Police arrested six suspects, but all were freed by the prosecutor.
60	Butaganzwa	June 15	Emmanuel Ngenzebuhoro	Theft of beans		Police arrested six suspects, but all were freed after a soldier who had identified them was transferred to another post.
61	Bweru	July 21	Mucanda	Theft of bicycle		Four suspects were arrested and freed on bail by prosecutor's office; case is ongoing.
62	Gisuru	January 20	Dominique Harutimana	Planning an armed robbery		No investigations or arrests, although the same crowd that beat Harutimana delivered him to a police station and was known to police.
63	Gisuru	February	Athanase Ciza	Theft or murder		Two suspects were arrested, but then freed, due to police manipulation of information in case file. The prosecutor's office re-arrested one suspect; the case is ongoing.
64	Gisuru	June 20	Pascal Gasindi	Theft of household goods	<i>Chef de colline</i> and <i>nyumbakumi</i> reportedly participated in beating.	Police arrested the two suspects, but reportedly freed them in spite of their confessions.
65-66	Gisuru	September 6	Oscar Barasokoroza and Antoine Nzeyimana	Theft of money	Police and administrative officials chose to use communal vehicle to pursue other suspects rather than evacuating injured mob justice victims, leaving them to die.	No investigations or arrests. Police spokesperson thanked public for killing suspects. A magistrate reportedly gave arrest warrants to a victim to deliver to suspects himself.
67	Gisuru	November 17	Emmanuel Ndikumana	Theft of money, murder	Police tried to intervene to protect him, but were slapped by members of crowd.	No arrests

68	Gisuru	November 20	Daniel Ngenzirambona (suspected accomplice of Ndikumana, above)	Theft of money, murder		No arrests
69-70	Kinyinya	May 13	Jean-Marie Ndireguheka and Cayega	Theft of a bicycle	<i>Chef de colline</i> authorized a group of youth to hunt for thieves. Local officials initially attempted to cover up the murder.	One suspected in pre-trial detention; other suspects freed by police, allegedly after paying bribes.
71	Nyabitsinda	February 11	Gerard Misago	Murder	Police were present; role unclear	No investigations or arrests
72	Nyabitsinda	April 28	Omer Cimpaye	Murder	Police attempted to intervene to stop the killing.	No investigations and arrests, though police were present and, according to victim's family, could identify the perpetrators.
73	Nyabitsinda	August 10	Jean Bunuku	Arson		Police arrested seven suspects, who remain in pre-trial detention.
74	Ruyigi	August 25	Gratien Masabarakiza	Theft of potatoes	A <i>colline</i> council member reportedly participated in the killing.	Police arrested three suspects, who were freed on bail; case is ongoing.
75	Ruyigi	September 8	Berchmas Ndikumana	Burglary		One suspect arrested and in pre-trial detention.

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# Mob Justice in Burundi

## Official Complicity and Impunity

In 2009, at least 75 Burundians were killed by angry mobs who suspected them of crimes, ranging from petty theft to murder.

Such killings rarely result in investigations, amounting to an implicit acceptance of mob justice by state authorities. State officials have been involved in some incidents of killings and beatings; they have contributed to them directly, for instance, by forming untrained “security committees” permitted to operate at the margins of the law; or they have stood by and allowed mob justice to occur.

When researchers from Human Rights Watch and the Association for the Protection of Human Rights and Detained Persons (APRODH) asked local residents why they so often took justice into their own hands, respondents said they had lost faith in a police force and judicial system that have been derailed by corruption, incompetence, and inadequate resources.

When it comes to suspected criminals, the Burundi state has failed to abide by its obligation under international law to provide security for all citizens. Although President Pierre Nkurunziza has denounced mob justice, mixed signals, including from police officials who have attempted to justify the practice, have undermined his message.

Human Rights Watch and APRODH are calling on the government to end impunity for perpetrators of mob justice, who should be held accountable like others responsible for serious crimes. The government should undertake a broad popular education campaign aimed at improving public understanding of the criminal justice system and discouraging mob justice. Finally, the government should address the failings in the police and judicial system that contribute to such killings.

*Léocadie Irankunda was beaten unconscious by a mob, including a local official, who accused her of theft. She shows the scars on her head and the torn blouse she was wearing when she was assaulted. The mob killed her suspected accomplice, Cyprien Habonimana.*

All Photos © 2009 Martina Bacigalupo

