

# Working with the Government to Transform Criminal Justice

## *IBJ's Activities Lead to Marked Decrease in Torture*

*“Even though our work is not yet finished, we have made noticeable progress. The use of torture as a method of investigation is decreasing. IBJ radio programs have raised national awareness of legal rights.” Astère Muyango, Country Fellow, Burundi*

### JUSTICE FACTS:

#### Burundi

Rule of Law (Percentile Rank):

15

2013 Prison Population:

6,477

72 per 100,000

Through a series of collaborations with Burundi's government, IBJ is helping to reshape the nation's criminal justice system to better protect the rights of those who come to face its authority.

In summer 2011, IBJ registered with both the Ministry of Foreign Affairs and the Ministry of Home Affairs, opening up the possibility for future partnerships with these ministries. IBJ was already working with the Ministry of Justice to combat the high rates of pretrial detention in Bururi and Muramvya provinces. We were also engaged in ne-

gotiations with the Ministry of Solidarity, Human Rights, and Gender to represent the victims of human rights violations. A memorandum of understanding with the ministry was signed in December 2012.

Additionally, IBJ has made great progress in its work with the High Court of Bujumbura to remake the juvenile justice system. In line with the Ministry of Justice's major policy plan released in early 2012, IBJ Burundi is helping Bujumbura courts to develop an approach to juvenile justice that is better suited to meeting the specialized needs of young people

in conflict with the law, including a speedier resolution of their cases.

IBJ has cultivated such goodwill with the government that it was granted access to detailed prison census information, enabling our lawyers to prioritize the cases of the most vulnerable accused, including women, juveniles, and those held the longest in pretrial detention.

Throughout 2011 and 2012, IBJ continued to provide criminal legal aid services to Burundians, including members of minority groups and those with particular vulnerabilities that make



Burundi lawyers participating in an exercise on cross-examination of witnesses at a training in Bujumbura in 2011

*“Police, prosecutors, judges, prison officials, and lawyers meet regularly at IBJ roundtables to discuss how to provide counsel to every accused person.” Astère Muyango, Country Fellow, Burundi*



Lawyer Oliver Ndayikengurikiye asking a question at the Bujumbura training

Photo courtesy of Krzysztof Pacon and Michal Wojtylak

them most likely to suffer human rights abuses – in all cases, those who could not otherwise afford to hire a private defense lawyer.

In 2012, IBJ also initiated visits to families of acquitted children to assess how these children spend their lives out of prison and to determine how well they are reintegrating with their communities after often lengthy detention. IBJ has also continued to hold lawyer trainings, roundtable discussions of justice sector stakeholders, and rights awareness campaigns respectively designed to improve defense attorneys’ skills, encourage debate on important criminal justice topics, and make Burundians knowledgeable about their legal rights.

A four-day training in Bujumbura July 2011 attracted about 65 participants. Follow-up events in September and November resulted in many lawyers committing to take cases of indigent criminal defense on IBJ’s behalf.

Since 2011, a new concept of humanizing criminal justice, advanced in a Ministry of Justice

policy, has taken hold within Burundi’s justice sector. This development followed IBJ roundtables focused on alleviating overcrowding in the country’s prisons.

Rights awareness campaigns utilizing posters, easy-to-understand pamphlets, one-on-one conversations with citizens, and half-hour radio shows have helped to ensure that ordinary Burundians know about the rights of the accused. By promoting these campaigns, IBJ has made it more likely that a person accused of a crime will demand that his rights be respected and report when they are not. In addition, an important principle advanced in these campaigns – that freedom must be the rule and detention the exception – has been incorporated into legislation proposing to amend the criminal procedure code.

Consistent with its ongoing commitment to raising public awareness, IBJ conducted weekly rights awareness radio shows from December 2011 to March 2012, in partnership with Radio Isanganiro and Radio Bonesha FM. During these programs, a spokesman for

the Supreme Court, judges, prosecutors, prison directors, and lawyers responded to questions from the public. There were an estimated 20,000 listeners per thirty-minute broadcast. Inspired by these programs, another radio station developed a program called Judiciary Chronicle to tackle different issues related to criminal justice. An IBJ lawyer has participated in this program many times.

Undoubtedly the greatest impact our activities have had is the marked decrease in torture since we began our work in Burundi. As a result of training provided by IBJ, Burundian lawyers have made it their standard practice to raise the issue of torture when first meeting their clients, and magistrates have begun to recognize their duty to uphold prohibitions against torture. This combination has led to decreased incidents of torture and other human rights abuses.

## *Justice Prevails in Muramvya*

IBJ Fellow Janvier Ncamatwi scored three major victories on behalf of the wrongly accused in the province of Muramvya during 2012.

In one case, a man who bought and sold cows brought some cows home that he had purchased. Unbeknownst to him, the cows had been stolen. Instead of arresting the seller, authorities took the man and his entire family - twelve members in all, including children - into custody.

Almost a year later, Ncamatwi heard about the case while visiting women and children detained in Muramvya's prison. Hearings were held in July 2012, and at the end of September, seven family members were released. When the police could not find the actual thief, the remaining five family members were also freed.

In another case, a 16-year-old boy was arrested on charges of raping a girl in the bushes. While a team of medical experts determined that sexual intercourse had occurred, there was no evidence pointing to rape. IBJ Country Fellow Astère Muyango and Ncamatwi became aware of the case during visits to Muramvya's prison in June. Ncamatwi succeeded in persuading the court to hear the case in private, in accordance with the provisions of the Convention on the Rights of the Child, and the boy was freed in November.

In the third case, a 17-year-old girl had sex with a man she did not know and became pregnant. She miscarried four months into her pregnancy. In May, she was arrested on a charge of infanticide and detained at Muramvya's prison.

The girl's case came to Ncamatwi's attention during a visit he made to the prison in early July. At a public hearing the following week, the prosecution requested that the girl be sentenced to life in prison in accordance with the provision of the Burundian Penal Code that mandates a life sentence for anyone who kills their own child. A different provision of the Penal Code prohibits life sentences for juveniles. The length of the sentence became a moot question, however, after Ncamatwi mounted a successful defense resulting in the girl's acquittal.

The girl was able to return to school. Her parents, who were not able to afford a lawyer by themselves, expressed their gratitude for the assistance provided by IBJ. They also explained that they had not previously understood the difference a good defense lawyer can make in securing a successful outcome at a trial.

These three cases exemplify the positive impacts IBJ lawyers are having on the lives of hundreds of accused in Burundi.



IBJ Fellow Janvier Ncamatwi sharing his thoughts on the commitment of lawyers to criminal defense at the Bujumbura training