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Africa : Democratic Republic of the Congo

(DEMOCRATIC REPUBLIC OF THE)

DEMOCRATIC REPUBLIC OF THE CONGO

Head of state and government: Joseph Kabila

Death penalty: retentionist

International Criminal Court: ratified

UN Women's Convention: ratified

Optional Protocol to UN Women's Convention: not signed

Overview - Covering events from January - December 2005

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Slow progress was made in building security, justice and respect for human rights after nearly a decade of war. Tens of thousands of people died in continuing conflict or from preventable disease and starvation. Extrajudicial executions and other unlawful killings, arbitrary arrests, unlawful detentions, acts of torture or ill-treatment, and life-threatening prison conditions were reported across the country. The security forces used indiscriminate or excessive force to break up political protests. Ethnic tensions were manipulated for political ends in politically or militarily strategic areas, including Katanga and North-Kivu provinces. Insecurity persisted in eastern Democratic Republic of the Congo (DRC), where war crimes were committed by Congolese armed factions and foreign armed groups from Rwanda and Uganda, including unlawful killings, rape, torture and the use of child soldiers. The government and the international community largely failed to address the immense humanitarian needs of a population brought about by insecurity, displacement and lack of access to humanitarian and medical care.



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Background

The transitional power-sharing government, created in 2003 and including members of the former government, major armed groups, opposition political parties and civil society, made little progress towards unification and a transition to democratic rule. Serious delays in the passing of electoral laws and the organization of elections planned for June 2005 resulted in the transition being extended to June 2006.

Factionalism and mistrust within the government contributed to continued tension and occasional armed conflict between military units supposed to be part of a unified national army. Integrating tens of thousands of members of former armed groups and the former army into the new army started in early 2005, as did the disarmament, demobilization and reintegration into civilian life of tens of thousands of other fighters. Former belligerents remained reluctant to dismantle their military structures, and integration was resisted in some areas. In North-Kivu hundreds of soldiers deserted before being persuaded to return to their units. The integration process was under-resourced, with no or minimal payment of salaries, and insufficient supplies of food, water and medical equipment to integration sites. Coordination was poor between the integration of fighters into the new army, led by the military, and the reintegration of demobilized fighters into civilian life, led by a civilian government body. Projects to support re-entry into civilian life, involving thousands of child soldiers, were still not fully identified or functional. In Ituri, a voluntary Disarmament and Community Reinsertion programme had disarmed over 12,500 combatants from former armed groups by the end of 2005 out of an estimated, but disputed, total of 15,000. However, most community projects to facilitate reinsertion into civilian life were considerably delayed or not undertaken at all, leaving thousands of demobilized militia members without access to alternative forms of employment. Thousands of other combatants, opposed to demobilization, were still at large.

The peacekeeping force of the UN Organization Mission in the Democratic Republic of the Congo (MONUC), with only some 16,000 troops at the end of 2005, continued to be overstretched. The governments of Uganda and Rwanda allegedly continued to channel support to armed groups, or factions of armed groups, that opposed the transitional government.

Unlawful killings

All armed forces and groups were responsible for unlawful killings, which were reported on an almost daily basis.

Government security forces used excessive and sometimes lethal force to break up public demonstrations. In January, scores of people in Kinshasa were killed or seriously injured by army and police units during protests at the postponement of the elections.

- On 30 June, the notional end date of the transition, 10 protesters in a number of cities were reportedly shot dead by the security forces.

North-Kivu

Armed groups that failed to engage in the military integration process continued to commit almost daily killings and other grave human rights abuses in North-Kivu, particularly in Rutshuru territory. Information emerged that hundreds of civilians had been killed, raped or tortured in Nyabiondo, in Masisi territory, and Buramba, in Rutshuru territory, in December 2004, following fighting between rival forces not integrated into the new army. Many abuses appeared to be ethnically motivated.

South-Kivu

Thousands of civilians were killed, raped and abducted, and child soldiers continued to be used, especially in the Walungu and Kabare territories of South-Kivu where Rwandan insurgents operated.

- On 9 and 10 July around 40 civilians, mainly women and children, were killed in Ntulumamba locality, reportedly by a group of armed Rwandan fighters.

Government forces were also responsible for killings, rapes and looting during counter-insurgency operations.

Ituri

Despite a significant improvement in security around Bunia town, the Ituri district was still affected by violence. On 25 February, nine UN peacekeepers were killed in Kafe, a region

believed to be the stronghold of several ethnic and political armed militias. Murder, rape and looting by the militias drove over 80,000 civilians from their homes to camps for the internally displaced, despite the presence of three integrated army brigades in parallel or joint security operations with MONUC forces.

Katanga

Katanga province experienced heightened instability and a sharp increase in killings, rapes, abductions and looting, mainly by mayi-mayi militia. In the north, frequent fighting between mayi-mayi and government forces resulted in massive population displacement. During an ethnic and political leadership contest, at least 65 people were detained incommunicado in April and May by military intelligence agents in connection with an alleged secession plot. A number were reportedly tortured or severely ill-treated. Most were released without charge. Others were still in detention in Kinshasa at the end of 2005.

Violence against women

Large numbers of women and girls continued to be subjected to rape and other forms of sexual violence by government forces and armed groups. In eastern DRC, girls under five and women over 70 were not spared. Rape was sometimes committed in front of the victim's children, family or community, and was often accompanied by other extreme forms of torture. In some cases, the girl or woman was killed or deliberately wounded. Few rape survivors had access to appropriate medical care.

- Bitombo Nyumba, a 56-year-old widow and mother of four children, died from her injuries and inadequate medical treatment in June 2005 after seven soldiers tortured and raped her in Fizi territory, South-Kivu.

Attacks on human rights defenders

In most areas the authorities remained hostile to human rights defenders. A number of prominent defenders were physically attacked, illegally detained or threatened.

- Pascal Kabungulu, Executive Secretary of the human rights organization, Heirs of Justice (Héritiers de la Justice), was shot dead by three armed men on 31 July at his home in Bukavu, South-Kivu. An official commission of inquiry failed to report its findings, and no suspected perpetrators had been brought to justice by the end of 2005.

Torture and ill-treatment

Torture and ill-treatment continued of detainees in the custody of the military, police and other security forces. It was frequently facilitated by the use of incommunicado detention. Among practices reported were sustained beatings, often with sticks, lengths of metal or rifle-butts; death threats or mock executions; prolonged suspension by the arms or legs from walls or doors; and the forcing of detainees to stare for long periods into strong sunlight.

Conditions in many prisons and detention centres, which were often overcrowded, insanitary and life-threatening, amounted to cruel, inhuman or degrading treatment. Deaths from malnutrition or untreated medical conditions were common. In some prisons, little effort was made adequately to separate children from adult inmates, or women from men. In many cases detainees were refused access to lawyers, family members or medical care, especially in pre-trial detention.

Impunity and lack of access to justice

Despite systematic violations of human rights, hardly any suspected perpetrators were brought to justice. No effort was made to exclude individuals suspected of grave human rights abuses from the new army, and people allegedly responsible for crimes under international law and other human rights abuses assumed key positions in the army and transitional institutions.

Victims of human rights abuses were blocked from pursuing legal action against the perpetrators by failings in the justice system. Few had the confidence in the system to lodge a legal complaint. They had to pay for the costs of summons and court proceedings. Authorities failed to protect victims and witnesses from intimidation or reprisals. Rape survivors, many of them living in the same communities or areas as their attackers, were particularly affected by the lack of access to justice, and lived in fear of further assault.

Justice officials operated with limited resources, without office equipment or even basic legal texts. Non-payment of police and judicial salaries had a demoralizing and corrupting effect.

Pre-trial detainees languished in prisons for want of funds to bring them to trial, including their transport to court. Political interference and pressure, sometimes accompanied by threats or dismissal, were exerted on judges, prosecutors and police officers.

Despite the introduction in 2002 of a revised military penal code, military courts and tribunals sometimes failed to respect international fair trial standards. In summary trials before such courts, defendants did not have full or adequate legal representation.

International justice

Two years after the prosecutor of the International Criminal Court announced that the Court would investigate crimes committed in the DRC since July 2002, investigations have yet to result in any international arrest warrants. The likelihood that only a handful of suspected perpetrators would be prosecuted underlined the necessity for comprehensive action by the DRC government to reform the national justice sector and take steps to end impunity, including by enacting appropriate legislation to implement the Rome Statute of the International Criminal Court.

Death penalty

Death sentences continued to be passed, mainly by military courts. Hundreds of prisoners remained under sentence of death, nearly all of them convicted after unfair trials by military courts. No executions were reported.

In March argument over abolition of the death penalty resurfaced during parliamentary debates on the new national Constitution. An early draft of the Constitution proposed abolition, but a majority in the Senate and National Assembly rejected the change.

Repression of freedom of expression

In advance of national elections, and as dissatisfaction with the transitional government grew, politically motivated harassment and detentions were used in an attempt to silence government critics. Members of human rights organizations, journalists and opposition activists were arbitrarily detained for denouncing human rights violations or criticizing the authorities. More than 40 journalists were detained, and many were charged with defamation. Others were threatened. Journalist Franck Ngyke Kangundu and his wife were shot dead in unexplained circumstances outside their home on 3 November. Dozens of opposition activists and some high-profile figures perceived as a political threat were harassed or detained.

AI country visits

In February and March, AI delegates visited North and South-Kivu, Oriental province and Kinshasa, and organized a workshop in Bukavu, South-Kivu, to support initiatives by local non-governmental organizations and address the issue of sexual violence against women. In November, delegates from AI and Front Line, an international foundation for the protection of human rights defenders, jointly visited North and South-Kivu and Kinshasa to assess the protection needs of human rights defenders.

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