

**Flygtningenævnets baggrundsmateriale**

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|---------------------------------|---------------------------------------------------------------------------|
| <b>Bilagsnr.:</b>               | <b>260</b>                                                                |
| Land:                           | Burundi                                                                   |
| Kilde:                          | Human Rights Watch                                                        |
| Titel:                          | Human Rights Watch Submission to the Universal Periodic Review of Burundi |
| Udgivet:                        | 20. juli 2017                                                             |
| Optaget på baggrundsmaterialet: | 11. september 2017                                                        |



## Human Rights Watch Submission to the Universal Periodic Review of Burundi

Publisher [Human Rights Watch](#)

Publication Date 20 July 2017

Cite as Human Rights Watch, *Human Rights Watch Submission to the Universal Periodic Review of Burundi*, 20 July 2017, available at: <http://www.refworld.org/docid/5970c68a4.html> [accessed 11 September 2017]

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### Summary

In late April 2015, the announcement by the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) that Nkurunziza would stand for a third term ignited protests in the capital Bujumbura, and later in other locations. Many Burundians believed that the president's third term violated a 2000 peace agreement that sets a maximum of two five-year presidential terms. Police suppressed the protests violently, shot dead dozens of demonstrators, and injured many others. Following a failed coup d'état by a group of military officers on May 13, the government intensified its crackdown on protesters. Police arrested hundreds of people, including suspected opponents, many arbitrarily, and detained them for prolonged periods without trial.

The political and human rights crisis that gripped Burundi in April 2015 deepened in 2016, as government forces targeted perceived opponents with increased brutality. The situation did not improve in the first half of 2017. Security forces and intelligence services-often in collaboration with members of the ruling party's youth league, known as *Imbonerakure*-were responsible for numerous killings, disappearances, abductions, torture, rape, and arbitrary arrests. Armed opposition groups also carried out attacks and killed ruling party members. Dozens of dead bodies, some mutilated, were regularly found across the country. The identity of the perpetrators was often unknown.

At least several hundred people have been killed, and more than 415,000 Burundians have fled the country since 2015, most to Tanzania, Rwanda, Uganda, and the Democratic Republic of Congo. The government has shuttered Burundi's once vibrant independent media outlets and left its dynamic civil society in tatters, with most opposition party leaders, human rights activists, and independent journalists forced into exile after repeated threats.

The justice system is manipulated by ruling party and intelligence officials and judicial procedures are routinely flouted. Since the 2012 UPR of Burundi, the prosecutor general's office has set up

multiple commissions of inquiry into human rights abuses, usually following critical reports by Burundian and international human rights groups or the United Nations. The Burundian government has used these commissions to try to show international actors that the justice system is able to investigate reports of abuses. However, these inquiries were biased and misleading, largely exonerating security forces and failing to hold those responsible to account.

Since the start of this crisis, earlier progress the country had made in instituting democratic and judicial reforms, and helping overcome the deep ethnic divisions which led to massacres and other grave abuses since 1993, has been seriously undermined.

This submission provides an overview of the human rights situation in Burundi with emphasis on violations since the current crisis began in April 2015. The submission outlines continuing concerns. This document is not intended as a comprehensive overview of the human rights situation in Burundi.

### 1. **Killings by Security Forces and Ruling Party Youth**

Since the crisis began in Burundi in April 2015, at least several hundred people have been killed by government security forces or members of the ruling party's youth league, known as the *Imbonerakure*.

One of the worst incidents was in December 2015. On December 11, opposition members, with support from some members of the military, attacked three military positions and a military training center in Bujumbura. Police, military, and armed *Imbonerakure* pursued the attackers into Nyakabiga and Musaga, two neighborhoods where residents had demonstrated in large numbers against President Pierre Nkurunziza's third term in 2015. In Nyakabiga, armed opponents engaged the security forces in a sustained gun battle. It is unclear how many were killed on each side. Police, military and *Imbonerakure* then forced their way into houses and ordered residents to show them where young men or combatants were hiding, some shouting ethnic slurs at Tutsi residents. They killed scores of people in Nyakabiga and Musaga and carried out large-scale arbitrary arrests. The following day, some victims were found lying side by side, face down; they appeared to have been shot in the back or the head.

Then-Prosecutor General Valentin Bagorikunda set up a commission of inquiry into the December 11 events. Summarizing its main conclusions on March 10, 2016, he did not mention killings of Bujumbura residents by the security forces. He claimed that those killed on December 11 were armed "combatants" wearing police or military uniforms.<sup>[1]</sup>

Before the current crisis began, in late December 2014 and early January 2015, the military and police, assisted by *Imbonerakure*, committed at least 47 extra-judicial executions following a clash with an armed group in Cibitoke province. Cibitoke borders the Democratic Republic of Congo where some Burundian armed opposition groups are believed to operate. The victims were members of the armed group who had surrendered, following gun battles with the security forces. Police, military, or *Imbonerakure* then shot or beat many of them to death.

Valentin Bagorikunda also set up a commission of inquiry to investigate the killings in Cibitoke, but the commission members failed to talk to key witnesses. Some local authorities intimidated witnesses, especially those who they believed had spoken to "foreigners", and warned them not to talk about these events. The commission's report, published in April 2015, was deeply flawed and misrepresented information collected from some witnesses. It claimed that almost all the combatants died during the fighting, with the exception of three who were killed by policemen acting on their own initiative. It stated that these policemen were arrested.

### Recommendations

- Give clear and public instructions to the security forces and intelligence services that extrajudicial killings will not be tolerated and that any individual suspected of carrying out, ordering, or in any way participating in unlawful killings will be brought to justice.
- Investigate the role of individuals in the security forces and intelligence services alleged to have participated in or ordered unlawful killings and suspend them from active duty until investigations have been completed. If there is sufficient and credible evidence, ensure that these individuals, as well as other individuals involved in such killings, are charged and tried, according to due process and in conformity with Burundian law.
- Investigate and prosecute *Imbonerakure* members suspected of crimes.
- Strengthen the independence of the judiciary, reinforce witness protection, and guard against political interference.

## 2. Torture and Disappearances

In 2016, there was a sharp increase in reports of torture by the intelligence services and the police, particularly of alleged opposition sympathizers. Intelligence agents beat detainees with hammers and steel construction bars, drove sharpened steel rods into their legs, dripped melting plastic on them, tied cords around men's genitals, and used electric shocks. Many tortured or injured detainees were denied medical attention.

Disappearances and covert abductions increased in late 2015 and early 2016. In December 2015, Marie-Claudette Kwizera, of the human rights group Ligue Iteka, was driven away in a vehicle thought to belong to the intelligence services. She has not been seen again.

In late July 2016, Jean Bigirimana, a journalist with the independent newspaper *Iwacu*, disappeared after leaving his home in Bujumbura for Bugarama, in Muramvya province. Unconfirmed reports indicate he was arrested by the intelligence services. In early August, two decomposed bodies were found in the Mubarazi River in Muramvya, one of which was decapitated and the other weighed down by stones. There was speculation that one of the bodies could have been Bigirimana but local authorities buried the bodies before determining their identities.

In July 2016, the UN Committee Against Torture held a special session on Burundi and raised serious concerns about torture and other violations. The Burundian delegation failed to show up on the second day to answer the committee's questions, instead sending a statement requesting more time to respond. The committee rejected this request and released its concluding observations in August 2016.

On January 24, 2017, unknown men allegedly attacked Muyinga's military base, Camp Mukoni. Twenty people were put on trial - seven soldiers, 12 civilians, and one policeman. Many were badly beaten and tortured during interrogations by the intelligence service, witnesses told Human Rights Watch<sup>[2]</sup>.

### Recommendations

- Immediately call for a halt to torture, including by publicly ordering *Imbonerakure* members to stop illegally detaining and ill-treating people.
- Seek the assistance of the UN Office of the High Commissioner for Human Rights and humanitarian agencies to identify victims of abuse who need medical assistance, and provide the necessary assistance, including specialized medical care outside their detention site.

## 3. Rape and Other Abuses by Ruling Party Youth

Members of the *Imbonerakure* and police, sometimes armed with guns, sticks or knives, raped women whose male family members were perceived government opponents. In some cases, *Imbonerakure* threatened or attacked the male relative before raping the woman. Women often continued to receive threats after being raped.

*Imbonerakure* and police raped women who attempted to cross into Tanzania, apparently to deter them from leaving Burundi.<sup>[3]</sup> *Imbonerakure* also set up roadblocks and check points in some provinces. They extorted money, harassed passersby, and, despite having no powers of arrest, arrested people they suspected of having links to the opposition. They also went door to door, extorting money from residents.

In early April 2017, a video emerged on social media showing about 200 members of the *Imbonerakure* gathered in northern Burundi, singing songs encouraging the rape of political opponents or their relatives.<sup>[4]</sup> Incitement to hatred, violence, and rape, particularly by the *Imbonerakure*, has become common in Burundi, almost always without condemnation by Burundian officials.

#### 4. **Mass Arrests**

Scores of opposition party members have been arrested, ill-treated, and illegally detained, and other detainees taken to unknown destinations. Police almost never produced warrants at the time of arrest.

Ruling party officials, police, and *Imbonerakure* arrested at least 16 members of the opposition party National Liberation Forces (FNL) at a bar in Kirundo province in March 2016. The police claimed they were conducting a political meeting without authorization. Many more FNL members were arrested in later months.

On March 8 and 9, 2014, 70 people, mostly members of the Movement for Solidarity and Democracy (MSD) opposition party, were arrested, many of them arbitrarily. On March 21, 48 MSD members received sentences ranging from two years to life imprisonment for various charges, such as "rebellion" and "participation in an insurrectionary movement." In recent years, many other MSD members were arrested in separate incidents, and accused of being criminals or of participating in an insurrection. In late January and early February 2017, Burundian authorities released 58 MSD members in the context of a presidential pardon, which was announced on December 2016.

Large-scale arrests, many of them arbitrary, continued throughout 2016. In May 2016, police arrested more than 200 young men and students in Bujumbura's Musaga neighborhood. Residents said the police ordered them to produce identity cards and "household notebooks," an obligatory register of all people living in each house. Police beat some detainees with belts and truncheons.

After a grenade attack in Bujumbura's Bwiza neighborhood in May 2016, the police detained several hundred people. Police spokesperson Pierre Nkurikiye told a local media outlet it was "normal" to arrest people near the site of a grenade explosion and "among those arrested, there may be perpetrators of the attack." Police officials said all those arrested were later released.

#### 5. **Abuses by Armed Opposition Groups**

Local journalists and human rights activists reported several grenade attacks and killings believed to have been committed by armed opposition groups. Other armed opposition attacks appeared to be more targeted and covert.

Unidentified people attacked several bars in Bujumbura and elsewhere with grenades. Burundian media reported that in May 2016, an attack on a drinks depot and bar in Mwaro province killed a judicial policeman and injured several customers. During the same attack, a guard at the ruling party offices in Ndava, in Mwaro, was also killed as the attackers attempted to burn down the building. Three men were arrested in connection with the attacks.

In Bururi province, unidentified gunmen shot dead several ruling party members in April and May 2016, including Jean Claude Bikorimana, on April 9. Three ruling party members were among four people shot dead at a bar on April 15; another attack on the same night killed a ruling party member, Japhet Karibwami, at his home.

## 6. Civil Society and Media

The country's once vibrant independent media and nongovernmental organizations have been decimated. In October 2016, the Interior Minister banned or suspended 10 civil society organizations that had spoken out against government abuses. Most leading civil society activists and many independent journalists remain in exile, after repeated government threats in 2015 and arrest warrants against several of them.

On January 20, 2015, Bob Rugurika, director of the private station *Radio publique africaine* (RPA), was arrested, days after his radio station broadcast a series of reports about the September 2014 murder of three elderly Italian nuns in Bujumbura. He was charged with conspiracy to murder, violating confidentiality in criminal investigations, harboring a criminal, and failing to uphold "public solidarity." The Court of Appeal ordered his release on bail on February 18.

In late April 2015, soon after protests against Nkurunziza's third-term bid started, the government closed RPA. It also stopped two other private stations, Radio Isanganiro and Radio Bonesha, from broadcasting outside the capital, disabled their telephone land lines, and prohibited all three stations from broadcasting live from demonstrations.

The day after the attempted coup d'état, on May 14, 2015, people presumed loyal to the president attacked the offices of RPA, Radio Bonesha, Radio Isanganiro, and Radio-Television Renaissance. Armed men in police uniforms threw a grenade in Radio Bonesha's office and destroyed its broadcasting equipment. The pro-ruling party Radio Rema FM was also attacked. The government announced an investigation into these attacks, the results of which are not known.

On August 3, 2015, an unknown gunman on a motorcycle shot leading human rights activist Pierre Claver Mbonimpa in the face, when he was in his car. Mbonimpa survived with serious injuries. An outspoken critic of government abuses, Mbonimpa, president of the Association for the Protection of Human Rights and Detained Persons (APRODH), had been arrested and detained for four months in 2014 when he was charged with endangering internal and external state security and using false documents.

Mbonimpa's son-in-law, Pascal Nshimirimana, was shot dead outside his house in Bujumbura on October 9, 2015, and his son, Welly Nzitonda, was shot dead on November 6, 2015, after being stopped by the police.

On August 2, 2015, members of the intelligence services severely beat Esdras Ndikumana, correspondent for Radio France Internationale and Agence France-Presse, as he was taking photographs at the murder scene of former intelligence chief Nshimirimana.

Antoine Kaburahe, director of the independent newspaper *Iwacu*, was summoned to the prosecutor's office in Bujumbura twice in November 2015 in connection with his alleged complicity in the May coup attempt.

## Recommendations

- Allow civil society activists and journalists, as well as international human rights organizations, to carry out their work without obstruction.
- Create the conditions required to allow civil society members in exile to return home in full security.

### 7. **Lesbian, gay, bisexual and transgender (LGBT) rights**

In April 2009, Burundi criminalized consensual same-sex conduct for the first time, despite opposition from the Senate and recommendations during the 2008 UPR that Burundi "reconsider the inclusion in the draft criminal code of the provision criminalizing same-sex sexual relations." Burundi also did not follow the recommendations made during the 2012 UPR to repeal these provisions. Article 567 of the penal code, which penalizes consensual same-sex sexual relations by adults with up to two years in prison, violates the rights to privacy and freedom from discrimination. These rights are protected by Burundi's Constitution and enshrined in its international treaty commitments.

## Recommendations

- Decriminalize consensual same-sex relations by revoking relevant articles of the Penal Code. Remove discrimination on grounds of sexual orientation or gender identity from other laws and state policies, including Burundi's educational policy.

### 8. **Non-Compliance with UN Commission of Inquiry on Burundi**

In September 2016, the UN Human Rights Council adopted a resolution to establish a commission of inquiry into human rights violations in Burundi since April 2015, and to determine whether they may constitute international crimes.<sup>[5]</sup> Burundian officials have so far refused to work with the commission. In June 2017, the Commission of Inquiry on Burundi stressed the "persistence of serious human rights violations," which it says are taking place "in a climate of widespread fear." The Commission added that their "initial fears concerning the scope and gravity of human rights violations and abuses" in the country since April 2015 had been confirmed.<sup>[6]</sup>

## Recommendations

- Cooperate with the Human Rights Council-mandated Commission of Inquiry on Burundi and allow its members unhindered access to the country and relevant sites and people.

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[1] RTNB Burundi, "Enquête menée par Resultats d'une Commission ad hoc sur les allégations d'exécution extrajudiciaire," March 10, 2016, video clip, Youtube, <https://www.youtube.com/watch?v=048rI7c0vgw> (accessed June 28, 2017).

[2] "Justice in Burundi: Torture First, Prosecute Later," Human Rights Watch dispatch, February 3, 2017, <https://www.hrw.org/news/2017/02/03/justice-burundi-torture-first-prosec...>.

[3] "Burundi: Gang Rapes by Ruling Party Youth," Human Rights Watch news release, July 27, 2016, <https://www.hrw.org/news/2016/07/27/burundi-gang-rapes-ruling-party-youth>.

[4] "A Vile Side of Ruling Party Youth League Members," Human Rights Watch dispatch, April 7, 2017, <https://www.hrw.org/news/2017/04/07/vile-side-ruling-party-youth-league-...>.



[5] "Act Swiftly to End Impunity in Burundi," Human Rights Watch dispatch, September 28, 2016, <https://www.hrw.org/news/2016/09/28/act-swiftly-end-impunity-burundi>.

[6] "Burundi: Persistence of serious human rights violations in a climate of widespread fear," Office of the High Commissioner for Human Rights press release, June 15, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21752&L...>

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