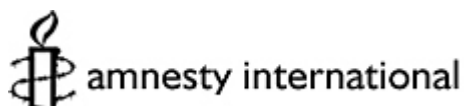


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Amnesty International Report 2009 - Burundi

Head of state: Pierre Nkurunziza
Death penalty: retentionist
Population: 8.9 million
Life expectancy: 48.5 years
Under-5 mortality (m/f): 178/156 per 1,000
Adult literacy: 59.3 per cent

Harassment and intimidation of political opponents, journalists and human rights defenders increased, often in violation of the right to freedom of expression. Soldiers were prosecuted for the killings of civilians in 2006, but other grave human rights violations committed in the past remained unaddressed and the government failed to break the cycle of impunity. Despite reforms to the judicial system, significant problems remained in the administration of justice. Rape and sexual violence, despite their prevalence, were rarely investigated and prosecuted. A large number of children were detained without trial.

Background

A political crisis started in February when opposition parties refused to attend the National Assembly following the dismissal of the First Vice-President, Alice Nzomukunda, by the ruling party, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD). Divisions within the CNDD-FDD, leading to expulsions and defections, resulted in the party losing its majority in the National Assembly and paralysis in the government. In May the President of the National Assembly, a member of the CNDD-FDD, asked the Constitutional Court to remove 22 former CNDD-FDD members. The Court ruled that, according to the Constitution, the 22 could not sit in the National Assembly as "independent" members. The move was widely considered anti-constitutional and a serious breach of the judiciary's independence.

Negotiations on the ceasefire implementation between the government and the opposition National Liberation Forces (FNL) were slow. In April and May, renewed clashes between the FNL and the government took place on the outskirts of the capital, Bujumbura, and the surrounding western provinces.

On 10 June, the two sides signed the Magaliesberg Communiqué and jointly pledged to

secure peace and negotiate the number of FNL positions in key state institutions. However, during the second half of 2008, the Joint Verification and Monitoring Mechanism, the body charged with implementing the September 2006 Comprehensive Ceasefire Agreement, made little progress. The government rejected the FNL's terms for the allocation of civil service and parliamentary positions. The FNL refused to omit the reference to ethnicity from the name of its political party (Palipehutu-FNL) ahead of elections in 2010, a reference which the government said violated the Constitution. Demobilization of FNL troops was behind schedule.

A draft revision of the criminal code, which included important provisions for the improvement of human rights – including addressing torture and sexual violence was awaiting discussion at the National Assembly.

Poverty was exacerbated by high commodity prices and unemployment. The agricultural yield in certain rural areas was low and limited the local population's access to food. Returning refugees also placed an additional burden on limited resources. The prevalence of small arms, large numbers of newly demobilized fighters and a high crime rate all contributed to a prevailing sense of insecurity.

Unlawful killings

Security forces unlawfully killed civilians in the context of security operations against the FNL. Human rights abuses were also committed by the FNL, including unlawful killings and rape.

- On 5 May, members of the army entered a family home in the commune of Muhuta, in Bujumbura Rural province, where they suspected FNL members were living. One of the soldiers reportedly opened fire, killing the mother of the household.
- Three FNL soldiers went to the commune of Mutimbuzi, in Bujumbura Rural province, to search for new recruits in June. They reportedly visited a member of a local Hutu youth organization, but he refused to help them. The soldiers threw a grenade into his house, killing his wife.

Justice system

The government and the UN took steps to reform and strengthen the judicial system, including building and renovating magistrates' courts, training magistrates, addressing overcrowding in detention facilities and reducing the backlog of cases. However, significant problems remained. The judiciary lacked independence and was influenced by the executive. Corruption was reported. Judicial staff were inadequately trained and had on occasion little understanding of the law. The judicial system was ill-equipped and needed further financial and material resources. The local population had little confidence in the justice system and resorted to mob justice on numerous occasions.

Conditions of detention remained poor and prisons were overcrowded. Access to food and health care was severely limited and detainees were often kept in highly insanitary conditions. Personal and legal information on detainees was poorly managed by prison authorities.

Children were held in police detention facilities and prisons, in violation of arrest and detention procedures. They were held together with adult detainees and so exposed to sexual and physical abuse. Many juvenile detainees were held without trial, in conditions amounting to cruel, inhuman and degrading treatment and without access to health care or education. One international organization estimated that 80 per cent of juvenile detainees were awaiting trial.

Arbitrary arrests and detentions

The authorities frequently detained individuals without charge in violation of the legal maximum custody limit of 14 days. Officials without a working knowledge of the law frequently arrested people arbitrarily. Many of those arbitrarily arrested were suspected of supporting the FNL.

- In April, 782 people were arbitrarily arrested following renewed clashes between the FNL and the National Defence Forces. The police arrested individuals whom they suspected of sympathizing with or supporting the FNL, often with no legal basis for the detention.

Torture and other ill-treatment

Human rights monitors reported that the National Police were responsible for beating detainees and other citizens. Members of the security forces had scant working knowledge of human rights despite ongoing training provided by the UN and local human rights organizations.

- Jean Claude Nkuzimana from Kinama commune, Bujumbura, was walking home on 1 July when he was stopped by five police officers drinking at a local bar. One officer asked him for a cigarette. When he refused, the five officers beat him severely.
- A young man was arrested on 9 June for fraud in the Commune of Gisozi, Mwaro Province. When he was caught trying to escape, seven police officers reportedly beat him with the butts of their pistols and kicked him. He needed hospital treatment for his injuries.

Violence against women and girls

There was a high incidence of rape and other sexual violence against women and girls. For example, a centre run by the NGO Médecins sans Frontières in Bujumbura received an average of 131 rape victims a month in 2008. There was an increase in reports of rapes of girls, often by schoolteachers. By contrast, the UN reported a decrease in incidents of rape by members of the security forces.

Perpetrators – who were often known by the victim – did not fear prosecution and impunity remained the norm. Women survivors of sexual violence lacked confidence in the judicial system. The families of victims often reached an "amicable settlement" outside court with the suspected perpetrator.

- A 15-year-old girl was raped by her schoolteacher on 20 March in the Commune of Kanyosha, Bujumbura. The teacher had asked her to take a mobile phone to his home. The girl pressed charges against the teacher who was detained.

Freedom of assembly

The government prevented opposition parties from holding meetings without prior authorization. The authorities enforced such decisions through local administrations, which were under increasingly tight control by the executive. On 6 October, the Interior Minister signed a ministerial decree which stipulated that opposition parties could only hold meetings at designated times. It also required opposition parties to formally ask, in writing, for permission from the local administration to hold meetings. The local administration was granted powers to reject such requests if they deemed the meetings would disturb "order and public security".

Two leading opposition parties, the National Council for the Defence of Democracy (CNDD) and Front for Democracy in Burundi (FRODEBU), publicly denounced the decree and asked for it to be withdrawn.

- On 11 November, 21 members of the Union for Peace and Development (UPD-Zigamibanga) were arrested and detained by the local administration in the province of Ngozi. The detainees were accused of holding meetings without the authorization of the local authorities.

Freedom of expression

The authorities were increasingly intolerant of criticism, and relations between civil society and the government were tense.

- Alexis Sinduhije, President of the political opposition group, Movement for Security and Democracy (Mouvement pour la Sécurité et la Démocratie), was arrested and detained on 3 November after holding a party meeting. On 11 November, he was charged with "contempt of the head of state" for calling into question the President's development policies.
- Juvénal Rududura, Vice-President of the trade union of non-magistrate staff, was arrested on 15 September after a radio interview in which he accused staff at the Ministry of Justice of providing positions in return for bribes.
- Journalist Jean-Claude Kavumbagu was arrested on 11 September and charged with defamation. He alleged in an article that the cost of President Nkurunziza's trip to see the opening ceremony of the Beijing Olympics caused some civil servants' salaries to be paid late.

Impunity – the Muyinga trial

On 23 October, the Muyinga military tribunal convicted 15 soldiers of killing 31 individuals between July and August 2006. The trial heard that they were first detained at Muyinga military camp and then taken to the banks of the Ruvubu River, where they were extrajudicially executed by members of the intelligence service. Fourteen soldiers received sentences varying from two years to life imprisonment. The former Commander of the Fourth Military Region, Colonel Vital Bangirinama, who reportedly gave the orders, had fled the country and did not attend the trial. He was found guilty in his absence and was sentenced to death. The outcome of the trial was welcomed by Burundian civil society and the international community as an important step in addressing impunity.

Transitional justice

The government, in conjunction with the international community and civil society, took few steps to establish a Truth and Reconciliation Commission and a Special Tribunal to investigate and prosecute the most serious crimes committed during Burundi's conflicts.

National consultations lasting 12 months were scheduled to start in June and funds from the UN Peacebuilding Commission were allocated for this purpose. However, meetings of the Tripartite Committee – established in November 2007 to oversee the process and made up of UN, government and civil society delegates – were postponed, mainly because members failed to attend and sessions were cancelled by the president of the committee. National consultations were rescheduled to start on 1 March 2009.

International scrutiny

On 24 September, the UN Human Rights Council extended the mandate of the Independent Expert on the Human Rights Situation in Burundi until a "national and independent human rights commission" was established. Concerns were raised by civil society about whether a future human rights commission would operate independently, without interference or intimidation from the authorities.

There was no clear timeframe for the establishment of the human rights commission.

Refugees – returns

Between 1 January and 31 December, 95,050 Burundian refugees returned, principally from Tanzania, of whom 30,818 were refugees who had fled in 1972.

There was an increase in land disputes, especially involving returning refugees who left in 1972. Land disputes were highest in the south, especially in the provinces of Bururi and Makamba. The government set up a National Commission on land and other properties in 2006, but its work was hampered by its lack of legal jurisdiction over disputes and the number of complaints. By October 2008, the commission had recorded 11,200 land disputes and resolved 2,279.

Amnesty International visit

An Amnesty International delegation visited Burundi in November for research.

Amnesty International reports

- Burundi: Submission to the UN Universal Periodic Review – Third Session of the UPR Working Group of the UN Human Rights Council (14 July 2008)
- Rape in Burundi – demand justice now! – 21 July 2008

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