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Africa : Burundi

REPUBLIC OF BURUNDI

Head of state: Pierre Nkurunziza (replaced Domitien Ndayizeye in August)

Death penalty: retentionist

International Criminal Court: ratified

UN Women's Convention: ratified

Optional Protocol to UN Women's Convention: signed

Overview - Covering events from January - December 2005

Background : [Human rights violations](#) : [Human rights abuses by the FNL](#) : [Violence against women](#) : [Death penalty](#) : [Kassi Manlan verdict](#) : [Administration of justice](#) : [National Truth and Reconciliation Commission](#) : [Juvenile justice](#) : [Refugees, returnees and the internally displaced](#) : [AI country visits](#)

Local, legislative and presidential elections were held, signalling the end of Burundi's transition period, although armed conflict continued in two provinces. Government forces committed serious human rights violations including arbitrary arrests and detentions, rape and extrajudicial executions. An opposition armed group committed abuses including unlawful killings. Sexual violence against women, including rape, persisted. The Burundi authorities forcibly returned more than 5,000 Rwandan asylum-seekers, and reportedly allowed Rwandan soldiers into the country to take them back to Rwanda. At the end of 2005, 499 detainees were under sentence of death.

Background

2005 saw a series of elections. On 28 February, a national referendum on the Constitution produced a "yes" vote of more than 90 per cent. However, negotiations between the political parties relating to the electoral code and the schedule for local and legislative elections stalled. The UN Secretary-General and regional leaders intervened, setting a deadline of August to complete the electoral process, and the President called local elections on 3 June,



Burundi

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(AI Index: AFR 16/006)

[Burundi: Gatumba massacre for justice](#)
(AI Index: AFR 16/010)

[Burundi: Fragile peace pressured to return](#)
(AI Index: AFR 16/008)

[Burundi: Security concerns prejudice human rights](#)
(AI Index: AFR 16/011)

[All documents on Burundi](#)

legislative elections on 4 July and the presidential election on 18 August.

The former armed opposition group, the CNDD-FDD, won the local elections with more than 55 per cent of the vote, and in the legislative elections gained 59 of the 118 seats in parliament. On 26 August, Pierre Nkurunziza, leader of the CNDD-FDD, became President, ending the transitional period that started in 2002.

Armed conflict continued throughout 2005 between one armed group, PALIPEHUTU-FNL, known as the FNL (Forces nationales de libération), and the government armed forces (Forces de défense nationale, FDN) in the provinces of Bujumbura rural and Bubanza, despite the presence of 5,634 UN peacekeeping soldiers serving with the UN Operation in Burundi (ONUB). The FNL still refused to negotiate a ceasefire agreement with the government.

Human rights violations

Government armed forces composed of former CNDD-FDD fighters and soldiers of the former Burundi armed forces (Forces armées burundaises, FAB) were responsible for serious human rights violations. Civilians in Bujumbura rural and alleged FNL members were subjected to abuses including arbitrary arrests and detentions, rape and extrajudicial executions.

- On 14 May in the commune of Isale the FDN allegedly shot dead 17 FNL fighters who were reportedly unarmed.

After the election, the security forces and the national intelligence agency (Documentation nationale) undertook operations to secure the borders with the Democratic Republic of the Congo (DRC) and to counter the FNL. During these operations, they frequently detained Burundi and DRC nationals arbitrarily.

- On 24 September, a Congolese refugee from the Banyamulenge community was arrested in the town centre of Bujumbura by intelligence agents. He was held for more than three weeks without being told the legal basis for his arrest.
- During the week beginning 3 October, intelligence agents arrested two local civil servants and dozens of other people in Bujumbura for allegedly being FNL members. According to reports, several of them were beaten and injured in detention.

Human rights abuses by the FNL

Throughout 2005, the FNL threatened and intimidated the civilian population in the provinces of Bujumbura rural and Bubanza, often demanding shelter or food.

During the election period, low-level government officials and civilians suspected of collaborating with government armed forces were killed by the FNL. Between 6 March and 6 June, the FNL reportedly killed at least six local administrative staff in Bujumbura rural province and abducted three others. Several political members of CNDD-FDD were beheaded and rural families were targeted for merely speaking with soldiers.

- On 16 June, a group of 11 combatants, reportedly belonging to the FNL, entered a Protestant church service in Muyaga, Muhuta commune. Once inside, they closed the doors and windows of the church and fired into the congregation. Eight people were killed and 30 others were wounded.
- A single mother was attacked on 14 August at her home in the province of Bujumbura rural by armed FNL combatants who accused her of working for the government. According to her statement, to punish her, they buried her child alive, physically assaulted her and tied her to a tree. She only managed to escape after three days.

During the second half of 2005, the FNL sought to expand its activities in other provinces, notably Bubanza and Ngozi, often with the help of local officials.

Violence against women

Rape and other forms of sexual violence persisted despite the implementation of a ceasefire in most areas of the country.

- On 20 August, H.A., a 16-year-old girl from the commune of Murwi, Cibitoke province, was raped. The alleged perpetrator was arrested but then immediately released.

According to the human rights department of ONUB, in 2005, only one out of every three

women raped lodged a complaint. Of these, the majority dropped their case before anyone was brought to justice.

Death penalty

At the end of 2005, 499 detainees were under sentence of death. The last executions, of seven civilians, took place in 1997, but courts continued to pass death sentences.

Kassi Manlan verdict

On 3 May, the Bujumbura appeals court sentenced to death four people accused of taking part in the assassination of Dr Kassi Manlan, the representative of the World Health Organization, in November 2001: Emile Manisha, the former commandant of the public security police station; Colonel Gérard Ntunzwenayo, the assistant commissioner in charge of Documentation nationale; Aloys Bizimana, the former commandant of the Kiyange brigade; and Japhet Ndayegamiye, the official in charge of Documentation nationale. Three other men were sentenced to life imprisonment, two of whom had been in prison at the time of the murder. Two men were sentenced to 20 years in jail: Expert Bihumugani, head of a private security firm, and Athanase Bizindavyi, Director of the central prison of Bujumbura.

Administration of justice

The justice system continued to suffer from lack of resources and inadequate training for personnel. There were frequent complaints of corruption at national and local levels.

- On 10 July 2005, detainees in Rumonge prison went on strike to protest against the indefinite detention of prisoners without trial. Some detainees accused of ordinary criminal offences had been waiting for more than five years for a trial.

Trials of people accused of participating in the violence which followed the 1993 assassination of former President Ndadaye continued.

National Truth and Reconciliation Commission

Legislation establishing a National Truth and Reconciliation Commission (NTRC), passed in December 2004, mandated the NTRC to establish the truth about acts of violence committed in the course of the conflict since 1962, specify which crimes had been committed, other than genocide, and identify both perpetrators and victims of such crimes. In a report published in March, the UN Secretary-General raised doubts about the credibility and impartiality of the NTRC and addressed the feasibility of establishing an international judicial commission of inquiry. It recommended amending the composition of the NTRC by including an international component (originally it was to comprise 25 members, all Burundians) and setting up a special chamber within the court system of Burundi. This chamber would be competent to prosecute those bearing the greatest responsibility for the crime of genocide, crimes against humanity and war crimes, and would be composed of national and international judges. In November, the new government designated a delegation of eight members to establish an NTRC in collaboration with the UN.

On 15 November, the authorities set up a commission to identify political prisoners. Composed of 21 members, its tasks included defining political prisoners and formulating recommendations.

Juvenile justice

In most prisons, children endured harsh and overcrowded conditions. Some child detainees reported acts of sexual abuse; many were malnourished and had lost contact with their families. Several suffered cruel, inhuman or degrading treatment.

- R., aged 14, was arrested in January 2004, accused of robbery, and sentenced in May 2004 to 30 months' imprisonment. He said that during his initial six months' custody, he was beaten with a metal rod and a stick by a police officer. When AI delegates met him in January 2005, they saw the scars on his arms.

Although Burundi ratified the African Charter on the Rights and Welfare of the Child in 2004, and its national legislation includes provisions specific to children, the authorities failed to take into account children's special status. Magistrates and penitentiary authorities did not receive the necessary training on how to implement the laws that apply to children.

Refugees, returnees and the internally displaced

Between April and November, more than 10,000 Rwandans fled their country to seek asylum

in Burundi (see Rwanda entry). The Burundian authorities initially registered the asylum-seekers and requested assistance from the UN High Commissioner for Refugees (UNHCR). However, at the end of April, Burundi changed this approach under pressure from Rwanda. On 27 April, in breach of its regional and international obligations, the government declared that the Rwandans would not be granted asylum, and in the following days and weeks soldiers rounded up asylum-seekers, placed them in trucks and forced them to go back to Rwanda. As early as 25 May, more than 7,000 of them had found their way back to Burundi. The Burundian authorities then reportedly allowed Rwandan soldiers to enter the country, to destroy the asylum-seekers' makeshift camps and to forcibly repatriate them once more. On 13 June, Burundian officials described these people as "illegal immigrants".

After the elections, the new government declared that there would be no forcible returns and that it would allow UNHCR to assist asylum-seekers. However, the authorities continued to refer to them as "illegal immigrants".

Between January and December, UNHCR facilitated the repatriation of some 60,000 Burundian refugees (returnees), bringing the total number to 300,000 since 2002. The lack of land available in Burundi caused problems for returnees trying to regain their former property.

- Marthe Misago, a 28-year-old widow, fled Kirundo province in Burundi in 1994. She returned in 2004 with her four children. Her mother-in-law, who had taken over her land, refused to return it and threatened to kill her if she tried to recover it. Marthe Misago asked the authorities to intervene but by the end of 2005, her case was still unresolved.

At the end of 2005, more than 120,000 people still lived in internally displaced people's camps, mainly in the northern and eastern provinces. Meanwhile, the populations of Bujumbura rural and Bubanza continued to face short-term displacement. Many of them were too frightened to spend the night in their homes because of armed attacks.

AI country visits

AI delegates visited Burundi in January, July and October.

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