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**Human Rights Council**

**Forty-second session**

9–27 September 2019

Agenda item Point 4

**Human rights situations that require the Council’s attention**

 Detailed Final Report of the Commission of Inquiry on Burundi[[1]](#footnote-2)\*

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\*\* Available in this translated version

Acronyms

AMISOM African Union Mission in Somalia

ACHPR African Charter on Human and Peoples’ Rights

AU African Union

CENI Independent National Electoral Commission

CNARED Conseil national pour le respect de l’Accord d’Arusha et la restauration d’un État de droit au Burundi

CNC National Communication Council

CNL Congrès national pour la liberté

CNDD-FDD Conseil national pour la défense de la démocratie-Forces de défense de la démocratie

CNIDH Independent National Commission for Human Rights

CNS National Security Council

CVR Truth and Reconciliation Commission

DRC Democratic Republic of the Congo

EAC East- African Community

EU European Union

Ex-FAB former Burundian Armed Forces

FDNB National Defense Forces of Burundi

FOREBU Forces républicaines du Burundi

FRODEBU Front pour la démocratie au Burundi

FNL Forces nationales de libération

MSD Mouvement pour la solidarité et le développement

NGO Non-Governmental Organisation

OHCHR Office of the United Nations High-Commissioner for human rights

PARCEM Parole et action pour le réveil des consciences et l’évolution des mentalités

PNB Burundian National Police

RED-Tabara Résistance pour un État de droit – Tabara

RTNB National Radio Television of Burundi

SNR National Intelligence Service

UNHCR Office of the United Nations High-Commissioner for Refugees

UPD-Zigamibanga Union pour la paix et le développement-Zigamibanga

UPRONA Union pour le progrès national

 I. Introduction

1. This report is the detailed version of the report A/HRC/42/49, presented at the forty-second session of the Human Rights Council pursuant to resolution 39/14, adopted on 28 September 2018. It should be read in continuation of the two previous reports A/HRC/36/54 and A/HRC/39/63 that the Commission presented respectively during the thirty-six and thirty-nine sessions of the Human Rights Council, as well as the accompanying detailed reports A/HRC/36/CRP.1 and A/HRC/39/CRP.1.

[…]

 **II. Human Rights Situation**

54. As in the previous reports, the information presented in this section is directly taken from the investigations conducted by the Commission since the extension of its mandate in September 2018. It mainly covers the violations and abuses perpetrated between May 2018 and the publication date of this report.[[2]](#footnote-3) The combined reading of the Commission’s three reports provides an overall view of the human rights situation in Burundi since April 2015 and its evolution, especially concerning the operational methods, the profiles of the victims and the main perpetrators.

1. **Main trends since June 2018**

55. The main human rights violations continue to have a political dimension and several were perpetrated in the wake of the May 2018 constitutional referendum or in the context of the preparation of the 2020 elections. With regards to civil and political rights, these violations concern the right to life, the right to liberty and security, the right not to be subjected to torture and ill-treatment, as well as cases of sexual violence and violations of the main civil liberties.

56. For the most part, the victims continue to be targeted for their support or their affiliation, alleged or actual, to a party other than the ruling party (*le Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie* – CNDD-FDD), including in relation to certain activities carried out by other political parties such as the campaign for a ” no ” vote during the constitutional referendum. Since the accreditation of the *Congrès national pour la liberté* (CNL) on 14 February 2019, with Agathon Rwasa as president, its members have been subjected to various violations of their civil and political rights.

57. Young men, accused of supporting or belonging to armed opposition groups, often following a trip or stay abroad, or in relation to their involvement, actual or alleged, in the protest against President Nkurunziza’s third term or in the 2015 security incidents, have continued to be specifically targeted.

58. Persons with no political affiliation or activities have also been targeted for refusing to join CNDD-FDD or its youth league, Imbonerakure, including in instances when their religious convictions prevented them from taking part in political affairs.

59. Similarly, persons suspected of not wanting to tow the Government line and that of CNDD-FDD with regards to the constitutional referendum, namely to vote in favour of the constitutional review, have also been targeted; as well as those who did not pay the mandatory financial contributions, mainly for the funding of the 2020 elections, even if this was due to lack of resources.

60. Family members and relatives of targeted persons have also been victims of violations, often deliberately, but at times accidentally or for opportunistic reasons, specifically in cases of sexual violence against women and girls during nocturnal attacks on their home.

61. Burundian nationals who had fled abroad and returned home under the assistance programme for repatriation since the beginning of 2017 were also targeted. More generally, several of them, once they arrived in their *colline* of origin faced widespread suspicion; at times real hostility from the local administrative authorities and Imbonerakure. A witness who had returned to Burundi after some time in exile, said:

*“Since our return, we live in insecurity. […] an official at the* colline *level […] called a meeting to tell people to remain vigilant. […] Such meeting was organised every week […] the request to remain vigilant is especially directed at authorities and Imbonerakure who must keep an eye on those who are returning. [This local offiical] said: ‘the traitors who are returning, we must follow them because we do not know what brings them back to the country’. […] As part from this call to vigilance, we had to identify ourselves and explain why we came back but because of such identification we became targets for Imbonerakure, whom we had to pay because they had stayed behind to build the country”.*[[3]](#footnote-4)

62. Several violations occurred in rural areas, in zones and *collines*, which are patrolled by the Imbonerakure who are working to control the whole population, particularly at the grassroots level, and compel their allegiance to CNDD-FDD. These efforts target primarily poor people, mostly farmers with limited means and formal education, whereas at the beginning of the crisis the repression was especially directed at political leaders, civil society representatives, including human rights activists, and students, who for the most part, resided in Bujumbura. However, human rights defenders remain targets as demonstrated by the confirmation on appeal, on 17 July 2019, of the 32-year prison sentence imposed on Germain Rukuki.

63. Violations can take multiple forms and are often cumulative and inflicted to the same household: summary executions, disappearances, including forced disappearances, arbitrary arrest and detention, torture and ill treatment, as well as sexual violence.

64. Imbonerakure, agents of the National Intelligence Service (SNR) and the police as well administrative officials in the *communes*, *zones* and *collines,* have been identified as the main perpetrators of the violations documented by the Commission during the current term of its mandate.

65. The victims and the witnesses often recognized the Imbonerakure who committed the violations since they lived in the same *commune*, *zone* or *colline*, and they were known as members of the CNDD-FDD youth league. In other cases, they identified the Imbonerakure by their distinctive clothing, which notably included parts of police or military uniforms or accessories, and they generally had sticks and clubs. A victim of sexual violence testified:

*“I knew two of the four […] because they lived close to home. One went by the name of [X] and the other [Y]. The two that I knew were Imbonerakure. They were often with the* chef de zone*”*.[[4]](#footnote-5)

66. Human rights violations have continued to be committed in a climate of widespread impunity, enabled by the dyfunctions of the judicial system,[[5]](#footnote-6) as well as the victims’ fear of reprisals or their general reluctance to submit complaints due to a lack of confidence in the Judiciary.

67. This situation as well as the fact that these violations were mainly committed by the Imbonerakure in rural areas, makes it more complicated to corroborate the numerous allegations of violations received.

68. The violations of civil liberties, which were numerous and regular at the beginning of the crisis and have persisted since then, have been on the rise since 2019, and they contribute to the acceleratied shrinking of democratic space, which is very concerning on the eve of the 2020 elections. In fact, the violations of the rights pertaining to the freedom of expression, opinion, information, association and assembly, as well as the rights to the freedom of movement and religion, have been numerous and some are directly linked to the laws governing different areas that were recently adopted.

69. The violations of social and economic rights affect the entire Burundian population, specifically in its right to an adequtate standard of living. However, the Commission noted that Burundian authorities and the ruling party did not hesitate to use the enjoyment of some social and economic rights as a tool for political gains, particularly the right to work, health and education by subjecting it to a prerequisite such as membership to CNDD-FDD and/or Imbonerakure, or the payment of various contributions.

 **B. Responsibilities**

 **1. Responsibility of the Burundian State**

70. As in the past,[[6]](#footnote-7) the Commission is in a position to conclude that under international law, the Burundian State can be held accountable for the acts and sortcomings identified in this report, which therefore constitute human rights violations.

71. State agents, particularly from the National Intelligence Service and the police,[[7]](#footnote-8) but also administrative officials that represent the State in the provinces, *communes*, *zones* and *collines*, and to a lesser extent the defence forces, were the perpetrators of numerous violations documented by the Commission. Their actions are directly attributable to the Stateof Burundi , pursuant to its obligation to respect human rights and therefore to ensure that its agents refrain from breaching the rights of individuals under the State jurisdiction.

72. Imbonerakure are the main perpetrators of the violations documented in this report. They often act alone or sometimes in the presence of representatives of law enforcement officials. They enjoy a considerable freedom of action that is granted to them by the Burundian authorities, since these authorities have the means to control effectively the Imbonerakure should they choose to do so. The Imbonerakure also enjoy near total impunity. Imbonerakure are still regularly – indeed, almost routinely – used to supplement or replace the security forces, particularly in rural areas, at the request or with the consent of members, including senior officials, of the National Intelligence Service, the police, the Office of the President and local authorities. Some have military material and equipment reserved in principle for the defence and security forces, such as items of military uniform,[[8]](#footnote-9) and accessories such as military headgear and boots,[[9]](#footnote-10) which attest to their central role within the formal and informal security structures of the Burundian State. When the conduct of the Imbonerakure is acknowledged and adopted by agents of the State,[[10]](#footnote-11) when they act on the instructions of such agents[[11]](#footnote-12) or when they act in “complete dependence” on or under the “effective control” of such agents,[[12]](#footnote-13) the Burundian State is directly responsible for their actions, still in virtue of its obligation to respect human rights.

73. In the rare cases in which Imbonerakure reportedly acted outside these scenarios, the general impunity they enjoy following their acts also means that the responsibility of the Burundian State is engaged, in conformity with its obligation to protect human rights. Indeed, the State must, when it is aware or should have been aware of violations or abuses committed by third parties, undertake effective investigations and prosecutions, which has not generally been the case.

 **2. Responsibility of armed groups and opposition political parties**

74. The Commission reiterated its requests to the Burundian Government for relevant information on incidents in which the involvement or the responsibility of armed opposition groups were suspected. The Government has persisted in its refusal to cooperate with the Commission. Consequently, and due to lack of access to victims and the repeated refusal of the Government to provide information, the Commission was not in a position to corroborate allegations received on the involvement of armed groups in human rights abuses. The lack of access to the victims of these abuses is not due to the impossibility of the Commission to access the Burundian territory, but rather to the fact that the victims are mostly people who are close to the authorities or hold functions within the State apparatus or within CNDD-FDD. Given the categorical refusal of the Government to cooperate with the Commission, these victims do not seek to contact or to share information with the latter.

 C. Violations of civil and political rights

[…]

 5. Civil liberties

 a) Freedom of expression and information

213. As per the past,[[13]](#footnote-14) most of the human rights violations committed since 2018 happened in a general context of indoctrination and control of the population aimed at silencing the opponents and suppressing any dissenting voice in relation to the policies and political line of the Government and CNDD-FDD.[[14]](#footnote-15) Consequently, almost all these violations can be analysed from the perspective of freedom of expression. However, in order to avoid repetition, this section will focus on the violations of the freedom of expression that targeted the media and journalists, as well as those that took the shape of hate speech and incitement to violence.

 (i) Control and censure of independent media

214. According to the Burundian Senate: “Burundi has a good tradition of respecting the freedom of expression and a very active civil society. Therefore, more than 20 public and private local radios, 5 community radios, 10 radio-television stations, 17 local news and communication agencies, 24 public and private periodicals, 26 internet sites, 8 web TV stations, 4 magazines and 12 professional press associations and bodies are operational. In addition to the local private radio stations, 4 foreign radio stations are authorised to broadcast freely in Burundi. In short, the total number of medias increased from 94 in 2015 to 122 in 2018, which translates to a substantial increase of 28 media entities in 3 years”.[[15]](#footnote-16) However, these numbers do not reflect independence of the media nor their capacity to work freely in searching and disseminating information, since the media are subject to real censure which led to the suspension and the closing of several independent radio stations.

215. Since the beginning of the 2015 crisis, private and independent medias have regularly been closed or suspended, and the few that stayed active are subject to excessive controls and restrictions by the authorities. Journalists have been subjected to pressure, threats and violence, some have also been victims of arbitrary arrest and detention and enforced disappearance, and many of them have been forced into exile.[[16]](#footnote-17) In July 2019, in an effort to increase the control on media, the Head of State appointed Brigadier General Emmanuel Miburo, President of the Board of Administration of the Burundian National Radio and Television (RTNB) ; Eric Nshimirimana, former head of Imbonerakure, as the RTNB Director-General and Secretary of its Board of Administration; and OPC1 Alfred Innocent Museremu, who had been appointed as the SNR security advisor on 29 December 2017, was appointed as a simple member of the RTNB Board of Administration.[[17]](#footnote-18)

216. The violations of the right to freedom of information, an essential component of the right to freedom of expression, have therefore persisted in Burundi. Since 2018, Burundi is ranked 159th out of 188 countries in the global press freedom index released every year by Reporters without Borders.[[18]](#footnote-19)

 - New law on the Press

217. The controls and restrictions imposed on media are aggravated with the new law on the press no. 1/19 regulating the media, which was promulgated on 14 September 2018[[19]](#footnote-20), in order to replace law no. 1/15 of 9 May 2015. The new law has provisions on the acquisition of the press card which limits access to the profession of journalism. It imposes strict conditions on the required level of education to obtain a press card, namely “at least a diploma at the baccalaureate level, issued by a school or a training institute in journalism; legally recognised with at least six months of practical professional experience in the media industry”.[[20]](#footnote-21) It shall be recalled that there are no specialised schools or training in journalism in Burundi. Holders of a diploma at the baccalaureate level combined with a certified training in a media entity or with three years of professional experience can also be recognised as professional journalists.[[21]](#footnote-22) In comparison, the 2015 law provided that journalists must have a diploma equivalent to a baccalaureate and a two-year professional training or experience.[[22]](#footnote-23)

218. With regards to publication and dissemination of information, the 2018 law imposes an outcome to journalists, who must only “publish balanced information […] whose source, origin, veracity and accuracy must be established and carefully verified”,[[23]](#footnote-24) with no reference to the ethics or professional conduct of journalism[[24]](#footnote-25). The obligation to present “balanced” information is an extremely vague notion for which there is no definition nor precise criteria, and which is not recognised by international standards established by the profession.[[25]](#footnote-26) It is precisely this legal provision that the Burundian authorities have regularly used in an abusive manner to sanction the last independent media.[[26]](#footnote-27)

219. The new law on the Press does not mention the “right of passage” which was until now given to press card holders in all the “places they are called to fulfil their mission to inform; notably access to areas reserved for the press, in stadiums, at airports and in courtrooms and generally to cover all official or public activities”.[[27]](#footnote-28)

220. The scope of application of the 2018 law covers all press houses, audio-visual and communication companies, all media including web based media as well as cinematographic companies present in Burundi even if their headquarters are outside the country.[[28]](#footnote-29) The law also stipulates that “no foreign newspaper or written periodicals can be created, published or printed without obtaining prior authorisation from the National Communication Council after submitting a written request”.[[29]](#footnote-30) Similarly, any film broadcast on the Burundian territory is henceforth “subject to prior authorisation by the National Communication Council”.[[30]](#footnote-31) In fact, during the session before the Senate in August 2019 to consider this draft law, discussions were held on the necessity “to put in place a policy to protect the country against programs that are contrary to the Burundian culture but also against information provided by radio stations such as *Humura* and *Inzamba* that are not recognised by the Burundian legislation”.[[31]](#footnote-32)

 Media censure by the National Communication Council

221. The National Communication Council (CNC), which is supposed to be an independent regulatory body for media, is in fact a censorship tool for the Government as its role is to control the media and the press and it has the capacity to impose heavy sanctions; such as suspension or license withdrawal against any media that has broadcasted any “unbalanced” information, namely information that does not espouse the Government line or that is perceived to be criticising the latter, notably the mention of human rights violations committed in Burundi.[[32]](#footnote-33)

222. On 29 March 2019, CNC withdrew the licence of the British Broadcasting Corporation (BBC)[[33]](#footnote-34) radio as a sanction for broadcasting the documentary *Kamwe Kamwe*, which revealed the existence of secret detention places throughout the country where illegally detained people had allegedly been tortured and then executed by SNR members. According to CNC, this documentary was “untruthful, defamatory and scathing for Burundi”. The decision to revoke the licence of BBC followed its 6 months suspension from 4 May 2018 after the broadcasting of the program Guest of the Week with Pierre-Claver Mbonimpa; which according to CNC had not respected the principles of balanced information and the rigorous verification of sources.[[34]](#footnote-35) This suspension was itself preceded by a warning following the broadcasting of a documentary on the decision of the central committee of CNDD-FDD to award the title of “Visionary” to President Nkurunziza.[[35]](#footnote-36)

223. On the same day, CNC also decided to suspend radio Voice of America (VOA) for an indefinite duration after having suspended it for 6 months from May 2018. The decision was justified by the fact that VOA had continued to employ a Burundian journalist; former director of the radio station Bonesha FM; who is officially wanted by the Burundian justice for his alleged participation “in the murderous violence that preceded the failed coup d’état of 13 May 2015”.[[36]](#footnote-37)

224. According to the two decisions of CNC, it is henceforth “strictly forbidden to any journalist, Burundian or of foreign nationality, operating on the national territory of Burundi, to provide directly or indirectly any information that can be broadcasted on VOA or BBC”.[[37]](#footnote-38)

225. In June 2019, during a press conference, the President of CNC, Nestor Bankumukunzi, advised that he was going to sanction the broadcasting on 2 June 2019 by Radio France Internationale (RFI) of an interview of a human rights activist, Marguerite Barankitse, in which she denounced the human rights situation in the country and the responsibility of the Head of State in that regard. According to CNC, her statements were injurious to President Nkurunziza.[[38]](#footnote-39)

226. On 10 July 2019, the President of CNC announced that a warning would be “issued to *Journal Iwacu* following the failings of the latter media in order to ensure that it complies with the law instead of persisting in its failures and remaining insensitive to the advice provided by CNC”.[[39]](#footnote-40) However, no concrete details or examples were provided on the so called failures of the *Journal*; one of the last independent newspaper still active in the country despite the exile of its director. *Iwacu* had already been sanctioned in April 2018 for having turned a blind eye to a comment of a reader “defaming” the Burundian national police by qualifying it as the “Presidential police”, as well as another comment qualifying the Republic of Burundi as a “Banana Republic with no education”. These facts had even been considered by CNC as constituting violations of the Constitution, and *Iwacu* had to close its comments page for 3 months.[[40]](#footnote-41)

227. Finally, on 6 July 2019, in view of the 2020 elections, CNC established a hotline where Burundians can send “messages evaluating the service of different radio and television stations working in Burundi […] focusing on aspects that can be improved […] in order to contribute to the strengthening of a free, professional and responsible press”.[[41]](#footnote-42)

228. CNC is not an independent body as demonstrated by the clumsiness that characterised the nomination decree for its members in May 2019. The original presidential decree n°100/073 of 15 May 2019 appointing the 15 new CNC members, already had the names of the five members that makeup its Bureau, whereas according to the law n°1/06 of 8 March 2018 on the missions, composition, organisation and functioning of CNC, the latter must be nominated internally by its own members. The authorities tried to rectify this blunder by publishing a new decree under the same code n°100/073, but dated 21 May 2019, without mentioning the members of its Bureau.[[42]](#footnote-43) The President of CNC, Nestor Bankumukunzi, was the one who had been initially nominated by the Head of State. Among the new members of CNC was the spokesperson of the Burundian police, Pierre Nkurikiye. In addition, the budget of CNC is incorporated in the budget of the Office of the President. Therefore, this Council has no financial autonomy outside of the Executive.

229. The suspicion and hostility of the representatives of the Government and the ruling party CNDD-FDD towards independent media is increasingly explicit. For example, during a public meeting with registered political parties, civil society and religious confessions and in the presence of several journalists, Anastase Hicuburundi, one of the members of the National Independent Electoral Commission (CENI), a member of CNDD-FDD, who is the commissioner responsible for electoral operations and settlements, accused the media “of having resumed their destabilisation efforts a year ahead of the general elections scheduled in 2020” because they mentioned human rights violations and namely; cases of arrest and detention of CNL members. He even went as far as requesting “CNC to block the road to these media who refused to tow the Government line”.[[43]](#footnote-44)

230. The restrictions to freedom of expression and information also impact statistics and data presented by international organisations which are rejected by authorities because they contradict the official position on economic development or peace and security throughout the country.[[44]](#footnote-45) For example, in February 2019, the organisation PARCEM launched a campaign *Ukuri ku biduhanze* (truth on the challenges that haunt the country) in order to identify the difficulties that Burundi faces in terms of malnutrition, poverty, epidemics or inflation with the objective of contributing “to reducing the manipulative speeches of some political personalities who have run out of ideas especially as the 2020 elections approach”.[[45]](#footnote-46) The organisation PARCEM used statistics from the Institute of statistics and economic studies of Burundi and those of international organization such as The World Bank and the World Health Organization. However, the Government accused PARCEM of “tarnishing the image of the country” and of “threatening peace and stability” with this campaign which presents data that contradict the official rhetoric and decided to suspend this organisation indefinitely.[[46]](#footnote-47)

 (ii) Control of and restrictions to the work of journalists.

231. As in previous years,[[47]](#footnote-48) independent journalists still present in Burundi continue to exercise their profession in a difficult ; and sometimes openly hostile ; environment and have been subject to pressure, threats and obstacles aimed at stopping them from carrying out their investigation work; namely on incidents that are political in nature, but also on daily life situations and suspicions of corruption.[[48]](#footnote-49) Many of these interferences were done by authorities, including at the local level, who did not hesitate to call security forces to arrest journalists or have threatened to do so. Some journalists opted to abandon investigations judged as too sensitive; for fear of what would happen to them.[[49]](#footnote-50)

232. In practice, journalists have difficulties moving around the country; their movements in provinces were monitored or controlled. Some were prevented from going to or prevented from carrying their investigative work in rural communes or *collines* by local administrative authorities. Others had to ask permission from the provincial Governor in order to be able to go to a given location.[[50]](#footnote-51) These obstacles are direct violations of the right to the freedom of movement[[51]](#footnote-52) and to the principle of “free passage” of journalists, essential to guarantee the freedom of information.

233. The independent journalists face a climate of mistrust and open hostility from the authorities.[[52]](#footnote-53) For example, in May 2019, a RTNB journalist, Claude Nshimirimana, was arbitrarily arrested and temporarily detained for having been accused of participating in an “illegal meeting”.[[53]](#footnote-54) Some journalists have been accused of communicating information to international or independent media including the BBC and VOA, which is prohibited by CNC.[[54]](#footnote-55) Statements from a local administrative authority reported by a direct witness perfectly reflect their attitude towards independent journalists:

“*These journalists are disruptors of public order”.*[[55]](#footnote-56)

234. In such a context any contact with independent journalists can be a source of problems for anyone.[[56]](#footnote-57) In that regard, the statement of the local administrative authority is eloquent:

“*The source […] will be arrested for interrogation. [They] were accused of having spoken to the journalists*”.[[57]](#footnote-58)

235. The situation is such that, for fear of reprisal, some journalists exercise self-censorship, feel compelled to leave the country or are constrained to work anonymously for their protection. A witness explained:

“*We found dead bodies that were tied up […]. [The journalists] did not dare to report it. Before 2015, this would have been frontpage news”.*[[58]](#footnote-59)

 (iii) Hate speech and incitement to violence

236. The Government has equated any statement from the media, NGOs and representatives of international organisations which differs from its official rhetoric on the political security and socio-economic situation of the country to a destabilisation attempt or an attack on its national sovereignty and it generally reacted quickly in order to condemn or denounce the authors.[[59]](#footnote-60) Conversely and as per the past; statements, songs and public declarations which incite intolerance and violence against any political formation other than CNDD-FDD; which were recently proffered; notably by local authorities and Imbonerakure, did not elicit any reaction from the authorities.[[60]](#footnote-61)

237. For example, on 17 April 2019, during a public meeting in Gasorwe commune led by the provincial Governor, a police commissioner in Muyinga province threatened to eliminate CNL political opponents, as well as members of their family if they held clandestine meetings in their homes:[[61]](#footnote-62)

“*Your Excellency, Mr. Governor, dear fellow citizens, I am now talking to people who organise nocturnal meetings. Whomever organises meetings at night. If you make the mistake of organising this meeting at your house and we get to know, you will be putting your family in danger. In addition, everyone knows that if you lock yourself in your house at 23:00 to hold clandestine meetings, me as the provincial commissioner, I no longer wish to be bothered. If you want to disrupt security […] I have with me what is required to solve that problem. I throw in two and I go on my way. Two [grenades] are enough. In fact, even two are too much. Do not expect that the provincial commissioner sends in a police officer [to make an arrest] during a clandestine meeting in a house. You spend a night there and we arrest you in the morning? That is in the past. If you want to disrupt security, we will settle it with you on the spot. Whether you are with your children, your wife; they will all perish [with you]. […] Your Excellency,* *Mr. Governor, I take responsibility for these words, let no one come looking for explanations later [should something happen]. Let the population in your province and the administrators take note, I am talking to them*”.[[62]](#footnote-63)

238. On 17 August 2019, during the “show of force” demonstrations, organised in Karuzi commune, Karuzi province, to celebrate the “official day for the youth league of the party CNDD-FDD, called  *Imbonerakure day*”, members of this league paraded while singing death threats to opponents of the party CNDD-FDD, qualified as *“*small recalcitrant men*”* and indicating that “one of these days we will cleanse them*”.*[[63]](#footnote-64)

239. Several other videos circulated on social media in which groups of children or Imbonerakure chanted songs containing threats to burn or eliminate anyone who would dare oppose the party in power namely in the context of the 2020 elections with several mentions that the party CNDD-FDD, symbolised by the eagle, will never leave power.[[64]](#footnote-65) The Commission was unable to authenticate the place, the date or the circumstances in which these videos were recorded but is concerned that such videos regularly and largely circulated in the country without any condemnation or denouncement of these utterances by the Burundian authorities who are usually prompt to do so for critical statements against them.

 b) Freedom of Association

240. In its previous report,[[65]](#footnote-66) the Commission mentioned that violations of the freedom of association mainly affected organisations active in the area of human rights who had seen their work hindered; namely through arbitrary detentions and arrests of their members or employees. The problematic legal framework that regulates national and international non-Governmental organisations since 2017 has been fully implemented by the Burundian authorities; which resulted in the increase of the Government control on these organisations and has given rise to violations of the freedom of association.

 (i) Control of non-governmental organisations

 - National NGOs

241. National NGOs regulated by the 2017 law on national non-profit organisations (ASBL)[[66]](#footnote-67) are subjected to the control of their activities by the ministry overseeing their activities and the latter must approve each of their activities. This law provides the Minister of Interior with broad authority to suspend national NGO based on vague motives of “disruptions of public order” or “undermining the internal security of the State”. Their resources are also controlled by the Government since foreign funds must transit by the Central Bank of Burundi and be accompanied by a document indicating their origin and their purpose.[[67]](#footnote-68)

242. For example, the Minister of Youth, Posts and Information Technology asked the Rotaract Club to suspend an international conference on peace in Burundi, scheduled for 22 to 24 May 2019 in Bujumbura, for “lack of collaboration with the ministry team”. The Minister took the opportunity to remind all that “all youth related activities or requiring the involvement of youth must necessarily obtain approval from the ministry”.[[68]](#footnote-69)

243. On 3 June 2019, the organisation *Parole et Action pour le Réveil des Consciences et Évolution des Mentalités* (PARCEM) was suspended for an indefinite period confirmed by the Minister of Interior because it had presented a critical report on the dire socioeconomic conditions in the country based on World Bank data and statistics that had been rejected by the Government.

 - Foreign NGOs

244. The Government control on the composition and the activities of foreign non-governmental organisations increased in 2018 with the effective implementation of some provisions of the 2017 law on foreign NGOs[[69]](#footnote-70) and the adoption of additional laws. The official purpose of the 2017 law is to ensure a better coordination of the assistance from foreign NGOs to Burundi; however, some provisions allow Burundian authorities to control closely their activities and to seize part of their resources. The Minister of Foreign Affairs recently recalled that the 2017 law was necessary because “it appears that, in fact, an important part of the assistance goes through NGOs and a large part is allocated to their operations to the detriment of development activities. The different *fora* held on the efficiency of assistance unanimously recognised that to be efficient: assistance must integrate the administrative and financial networks of the beneficiary countries. This is only possible if the Government obtains regular and verified reports on the nature and the scope of NGO interventions for a better coordination of these interventions”.[[70]](#footnote-71) Indeed, since 14 March 2016, the European Union had decided to suspend all direct financial support to the Burundian Government and redirected its funding to civil society organisations only. The 2017 law which requires foreign NGOs to transfer a third of their annual budget to an account with the Central Bank of Burundi offers an opportunity to the Burundian authorities to access foreign currency, even if it is only via the effects of official exchange rate.

245. Initially, some provisions of the 2017 law were not respected and the National Security Council, though only a consultative body of the Government in security matters, decided to suspend all activities of foreign NGOs for three months from 1 October 2018, in order to force them to re-register and seek a new agreement. The Minister of Interior explained that in order to continue to work, foreign NGOs had to have four documents: the agreement with the Foreign Affairs ministry, an implementation protocol for the program depending on their intervention area as well as an act in which the NGO commits to respect the national development programme (2018-2027), and another in which it commits to respect the banking regulation on currency exchange. Finally, he indicated that foreign NGOs must follow a progressive plan over three years in order to correct the ethnic and gender inequalities.[[71]](#footnote-72)

246. In fact, the 2017 law requires foreign NGOs to provide a list of their employees to the authorities indicating their ethnicity so that they can check that the quotas of 60 % Hutus and 40 % Tutsis are respected as well as a minimum of 30 % of women. While the ethnic quotas were indeed provided for in the Arusha Peace Agreement and the 2005 Burundian Constitution, they are only applicable to the executive and legislative powers as well as the security forces, in order to establish a “consociational” democracy[[72]](#footnote-73). The Constitution promulgated in 2018 has added quotas within the judicial system; but has no provisions for such quotas in the private sectors, such as international NGOs or private companies. Some foreign NGOs publicly announced their decision to leave the country rather than being subjected to requirements of keeping a record of their employees’ ethnic group, which they considered to be against their values. These are namely; *Handicap International Humanité & Inclusion*, *Avocats Sans Frontières* and *RCN Justice & Démocratie*.

247. On 17 July 2019, during the Council of Ministers, the Government adopted a decree presented by the Minister of Foreign Affairs on the “organisation, composition and functioning of the recruitment committees of local staff by foreign non-Governmental organisations in Burundi”. This decree established a procedural framework for the recruitment of local staff by foreign NGOs, and notably the necessary approaches to take into account the ethnic and gender aspects imposed by the 2017 law. The stated objective was to “correct the observed imbalances and contribute to the social cohesion”, and “is consistent with the Government policies and practices that the NGO are called to support”.[[73]](#footnote-74) Sanctions are planned for any failure to respect these provisions, including against candidates who would have lied about their identity or their ethnicity, or against members of the recruitment committees who fail in their obligations. A second decree on the “creation, composition, mission and functioning of a monitoring and evaluation interministerial committee of foreign non-Governmental organisations in Burundi” was also adopted during this council, which allows for increased Government control of the activities of foreign NGOs, officially in order to ensure a better coordination of the assistance provided by foreign NGOs.[[74]](#footnote-75)

248. On 25 June 2019, the Minister of Human Rights, Social Affairs and Gender, Martin Nivyabandi, convened a meeting in Bujumbura of UN organisations, foreign and national NGOs and explained that according to him “the level and quality of interventions by these organisations was not very satisfactory and should be improved”, as there is “a field coordination problem on the field where one finds several partners with the same objective, sometimes providing assistance to the same beneficiaries, which then leads to […] a waste of resources and a lack of efficiency in terms of information”. In addition, “planning […] is not coordinated with the concerned ministry”, and the Minister asked the partners of his ministry “to harmonise their plans and those of the national development plan”. He “insisted on the production of reports. He reminded the representatives of the organisations present in that meeting that the partners engaged to support the country in a given area must provide a report to the concerned ministry”.[[75]](#footnote-76)

249. The NGOs, national and foreign, are simply denied the right to organise freely and to determine their activities and objectives as well as the means to do so; and yet these are integral parts of their right to the freedom of association.[[76]](#footnote-77) On the contrary, the Government of Burundi considers that these NGOs are “under its tutelage” and that they are only allowed to work to support and complement the Government policies and can therefore only undertake activities that are approved by and convenient to the Government.[[77]](#footnote-78) In fact, it seems that there is some confusion amongst Burundian authorities on the role and the *raison d’être* of foreign NGOs and the difference between the latter and international organisations. During a meeting between the Head of State and provincial governors held on 7 August 2019, international organisations including the United Nations High Commissionne for Refugees and the Internal Organisation for Migrations were accused of not respecting the law on foreign NGOs,[[78]](#footnote-79) when these are UN agencies that are clearly not regulated by this piece of legislation. In addition, the Commission received a witness account alleging that national NGOs are now required to alert local authorities of their visits in provinces, and once in those provinces, Imbonerakure controlled their activities.[[79]](#footnote-80)

250. It is in that perspective that for several years, the Government supported the creation of an alternative civil society qualified as “citizen”, made up of local NGOs which are openly in favour of the Government and who echo official Government positions and adopt the Government language.

251. For example, the Integral Burundian Platform for the Efficiency of Development Assistance (PISC-Burundi) was created in 2011 and since its creation, it has criticised the Burundian civil society that deals with human rights issues, namely the *Ligue* ITEKA, FORSC, APRODH and OLUCOME. It accused them of being politicised and in favour of the opposition, of tarnishing the image of the country and of grabbing all the international funding without necessarily contributing to the development of the country.[[80]](#footnote-81)

252. In July 2017, PISC-Burundi and the Collective of the Associations of People Infected and Affected by HIV/AIDS (CAPES+) welcomed the improvement of the human rights situation in Burundi and the visible commitment of security forces and the judicial in improving these rights.[[81]](#footnote-82) On 20 March 2018, these two associations published a joint press release in which they criticised the oral presentation of the President of this Commission to the Human Rights Council on 13 March 2018.[[82]](#footnote-83) In April and October 2018, they explained that the inter-Burundian dialogue was no longer necessary given the “remarkable achievements on the political, economic and social levels”.[[83]](#footnote-84) Finally, on 9 April 2019, during a press conference held in Bujumbura, representatives of PISC-Burundi and CAPES+ criticised the declarations of the technical and financial partners of Burundi on 5 April 2019 in which they expressed concerns about the decision of the National Communication Council to withdraw the licence of BBC radio and to suspend VOA radio and called the Government to guarantee the freedom of association, information and expression. The two local NGOs explained that with such a declaration, the technical and financial partners were trying to undermine the democratic process and to disrupt peace. They added that themselves did not have any issues with the sanctions against the independent media.[[84]](#footnote-85) In June 2019, these two NGOs also denounced the statement of Mr. Smaïl Chergui, Representative of the African Union, made during the Security Council session of 14 June 2019, in which he stressed the need to hold an inclusive inter-Burundian dialogue in order to resolve the 2015 crisis.[[85]](#footnote-86)

 (ii) Political parties

253. The right to freedom of association includes “the right to establish organisations and associations involved in political and public affairs”, which is also an accessory element: essential in the exercise of the right of participation in public affairs.[[86]](#footnote-87)

254. In Burundi, the creation, organisation and functioning of political parties are regulated by the law no. 1/16 of 10 September 2011,[[87]](#footnote-88) which recognizes the possibility of political parties to create temporary coalitions in order to pursue common objectives, including in the framework of elections,[[88]](#footnote-89) as well as their right to assembly, to organise demonstrations and to campaign within the conditions setup by law, namely that these activities take place in venues outside of public administration, parastatal and private sectors and educational institutions.[[89]](#footnote-90) The registration of political parties is compulsory, requires submitting an application with the Minister of Interior which includes various information and documents.[[90]](#footnote-91) The statutes of political parties must include some indications, such as “the name of the political party; the basic principles and guidelines of the political party ideology, head office, composition, appointment procedure and the term of office of the governing bodies on the national level, commitment to respect the national charter, the Constitution, law, public order and decency, respect of the principles set out in article 22 of the present law by explicitly reproducing them, the internal organisation at the national level, funding sources, rules to follow for the modification of statutes, procedures for the dissolution of the political party and the devolution of its assets”.[[91]](#footnote-92)

255. The registration in February 2019 of the new opposition party of Agathon Rwasa, the *Congrès national de libération* (CNL), after months of administrative processes, raised hopes with regards to the opening of the political space. However, the first months of CNL existence were marked by several obstacles to its activities, notably with regards to the simple act of opening its offices throughout the country, which constitutes a form of violation of the right to the freedom of association.[[92]](#footnote-93) In fact, finding offices and opening communal and district headquarters has often been a laborious process because of the hostility of some local administrative authorities and CNDD-FDD, and several of these local headquarters have been vandalised or destroyed.[[93]](#footnote-94) Even the inauguration of the CNL offices in Bujumbura was postponed by a week pursuant to the decision of the authorities for vague “security reasons”[[94]](#footnote-95). One of CNL members explained the difficulties encountered by the party to open one of its communal headquarters:

*“CNL party wanted to open its office in commune and province [X]. On [Y] June 2019, they sent a letter to the Governor of the province […] seeking his permission. The Governor took two weeks to respond to us [and] sent us to the administrator of [the commune]. […] The communal administrator […] told us that he could not allow us to work in the colline […] for security reasons. […] the administration prohibited us (from working there) to stop people who might want to join us […] this administrative authority gave the order to landlords not to rent their houses to CNL to be used as their offices”.*[[95]](#footnote-96)

256. In addition, its members have regularly been targeted for intimidation, harassment, threats and several members were victims of torture and ill treatment, arbitrary arrest and detention, and some have disappeared or were executed in order to dissuade them from carrying out their functions within the party and to force them to stop.[[96]](#footnote-97)

 (iii) Violations of the freedom of association

257. The efforts to force the population, mostly men, to join the party CNDD-FDD or its youth league, Imbonerakure, have continued as per the past,[[97]](#footnote-98) whether they are already members of another political party or without political affiliation. This practice constitutes, in and of itself, a violation of the corollary of the freedom of association, which is the freedom not to associate with others.[[98]](#footnote-99) To that end, the Imbonerakure have frequently resorted to intimidation and threats, including death threats, arbitrary arrests, as well as torture and ill treatment, in the form of rape, disappearance or executions,[[99]](#footnote-100) amongst others, which constitute serious violations of human rights.[[100]](#footnote-101) As highlighted by a witness:

*“In January 2019, [the Imbonerakure] started again to aggressively recruit young boys and men who are still strong, but if you refuse, they would threaten you. The threats start slowly but become violent and then they threaten to kill you. They do not stop harassing you until you accept, or you decide to leave”.*[[101]](#footnote-102)

258. A victim explained the motives of her rape by Imbonerakure:

*“They accused me of being an opponent because I did not want to join the women’s league of the party CNDD-FDD. The Imbonerakure wanted to intimidate me and insult me in order to join the women’s league of the party. At one point, I had to go to the house of […] because of the intimidations. One evening, around 18:00, as I was going home from the market, I was stopped by […] young Imbonerakure. [… They] told me ‘You are a traitor. You do not want to join the party’s women’s league, we will teach you a lesson so that you give birth to an Imbonerakure’.”*[[102]](#footnote-103)

 c) Freedom of assembly

259. As in the previous report,[[103]](#footnote-104) the Commission noted that the freedom of opposition political parties to hold peaceful assemblies has regularly been violated. The holding of peaceful meetings by political parties in public places or in their offices is “essential in the context of elections” because this allows “the candidates to mobilise their members, to remind them of and spread their political messages”.[[104]](#footnote-105) According to international human rights law, the presumption must be in favour of holding such meetings which should only be subject to a procedure of notification and not of authorization, and any restrictions should be exceptional.[[105]](#footnote-106)

260. However, members of the opposition party, namely the members of CNL called *Inyankamugayo* (those who reject contempt), were not always able to organise public meetings, even when they had given prior notice to the authorities and had not received notices of prohibition. Some were arrested simply on account of being with several other CNL members, including in their homes, or for having allegedly organised or participated in “illegal meetings”.[[106]](#footnote-107) However, there is no such infringement or crime in the Burundian law, according to which public meetings are only subject to a system of prior notification and can only be prohibited or postponed for public order purposes.[[107]](#footnote-108) Meetings and political gatherings, in particular by CNL, have not been authorised or were postponed without any real justification other than a vague reference to security reasons.[[108]](#footnote-109) The Minister of Interior, Pascal Barandagiye, has declared that “no political party has the right to be active in any locality in Burundi in which it is not represented”.[[109]](#footnote-110) Consequently, because of fear, some members carry out their activities clandestinely; while others simply prefer to renounce any political activity.[[110]](#footnote-111) One of these militants explained:

*“It is impossible to continue with political activities. We had to stop all political activities in May 2018 because of the harassment. When two or three people from the opposition were talking amongst themselves, they were immediately arrested”.*[[111]](#footnote-112)

261. In effect, only the party CNDD-FDD and its youth league, the Imbonerakure, as well as the so called “citizen” civil society organisations loyal to the power in place, were able to freely exercise their right to freedom of assembly. They regularly organised protest marches and demonstrations in order to denounce statements or reports that they deemed “ arnishing to the image of the country” or that allegedly sought to “destabilise the country”.

262. For example, on 15 and 22 September 2018, such gatherings were held in several towns in Burundi to denounce the final report of this Commission;[[112]](#footnote-113) on 15 December 2018, the “citizen” civil society organised protest marches in order to protest against the documentary *Kamwe Kamwe* aired by BBC on 4 December 2018, which revealed SNR practice of torturing and executing people in various houses.[[113]](#footnote-114) On 29 December 2018, new protest marches were held to denounce the content of the Ugandan President’s letter to the Burundian President in which President Museveni criticised the refusal of President Nkurunziza to hold a dialogue with exiled opponents.

263. They also rejected the statements of the Conference of the catholic bishops delivered at the occasion of Christmas in 2018, criticising the situation of political intolerance in the country and the loss of the gains of the Arusha Peace Agreement, as well as the imposition of new religious practices by CNDD-FDD to all its members, such as collective prayers and weekly fasting.[[114]](#footnote-115)

264. On 8 June 2019, protest marches were organised afresh in order to criticise the French media RFI, TV5 Monde and the newspaper Le Monde which had aired an interview with the human right activist Marguerite Barankitse, in which she denounced the human rights situation in the country and pinned the responsibility to President Nkurunziza.[[115]](#footnote-116) On 29 June 2019, new demonstrations took place to denounce the report published a few days before by the International Crisis Group (ICG), *Burundi : à court d’option,*[[116]](#footnote-117) in which it was recalled that the 2015 political crisis was still unresolved and that ICG was concerned by the stalemate the country was in on the eve of the 2020 elections, as well as a report by Human Rights Watch[[117]](#footnote-118) denouncing the abuses against the political opposition in the country.

265. Persons were forced to participate in these demonstrations, namely the *taxi-vélo* and *taxi-moto* drivers, sometimes as part of community work.[[118]](#footnote-119)

266. In addition, meetings organised by CNDD-FDD, namely its youth league but also its women’s league, take place without any restrictions even when they take the shape of “a show of force” or collective sessions of physical exercise which often have a military dimension with the objective, or at least the impact, of intimidating the population.[[119]](#footnote-120)

267. Generally, the climate of fear was so widespread that people felt the need to participate in the meetings organised by the party CNDD-FDD or the local administrative authorities for fear of being labelled opponents to the power.[[120]](#footnote-121)

*“We had to participate in the party’s activities by force. During these meetings, they asked us to denounce those who are not from the party in […]. For every group of 10 houses, there is a weekly meeting organised by the party. Once a month, there was a meeting at the colline level. I attended both meetings. I sometimes participated in meetings at the communal level. It was the head of the party at the level of the group of 10 houses who led the meetings and sometimes there were authorities at the commune level that attended these meetings”.*[[121]](#footnote-122)

 d) Freedom of movement

268. Violations of the freedom of movement of the Burundian population continued to be observed throughout the country as in previous years,[[122]](#footnote-123) especially in border zones. In fact, on 7 May 2019, during a security meeting organised in commune Mutaho in Gitega province, the Head of State asked the administrative authorities, the security and defence forces, as well as the civil society and the population who are part of the security *quadrilogie*[[123]](#footnote-124), to remain vigilant and to “control the borders”. He also asked the “security authorities and the population to follow closely the population movements, to ensure that these movements are not likely to disrupt peace and security”.[[124]](#footnote-125)

269. Barriers, usually operated by Imbonerakure, have been put on the roads in order to control the movement of the population and to stop some people from leaving the country or to arrest them upon their return.[[125]](#footnote-126) Imbonerakure interrogate people on their travel motives in an atmosphere of general suspicion of any travel to or from abroad.[[126]](#footnote-127) A young man said:

*“I left Burundi on [X] 2018 […] There were barriers on the road to leave the country because it is the road that leads to Rwanda […] On the road, we found three barriers with Imbonerakure*. *[…] The second and the third barriers, were about 40 minutes apart. The barrier before the border was manned by several police officers and Imbonerakure. […] They were about 12 in total (around four police officers and eight Imbonerakure). We stayed there for about thirty minutes. The Imbonerakure searched the car. They asked us questions on the reasons for our trip to Rwanda*. *[…] One told me […] that I was leaving Burundi to join the rebellion and do what our fathers did”.*[[127]](#footnote-128)

270. Once at such a barrier, to be able to continue their journey, Burundians had to show their travel document, or sometimes a receipt confirming that they had paid their contribution for the 2020 elections, failing which, they would then pay varying amounts seemingly for the benefit of Imbonerakure themselves.[[128]](#footnote-129) These controls were often accompanied by acts of violence and intimidation by Imbonerakure.[[129]](#footnote-130) A witness gave a detailed account of what happened at one such barrier:

*“I was arrested at a barrier operated by four Imbonerakure. They were in civilian clothing. Two of them had some type of military beret. They were operating the roadblock. The latter was made up of a rope in the middle of the road. […] They introduced themselves as Imbonerakure. The two that did not hold the rope showed me their party membership card. […] I remember seeing the eagle symbol on the card and their photo. They said ‘We are the Imbonerakure of this region. We are responsible for controlling any movement to Tanzania’. After that, they asked me where I was coming from and to show my identity documents. Since I did not have travel documents, they asked me to give them money, and since I had no money, those with a membership card violently beat me with a sort of club and wanted to imprison me”.*[[130]](#footnote-131)

271. Another witness explained:

*“Before the referendum, there was a sort of harassment. We had to pay various compulsory contributions […] for the elections. It was 2,000 Burundian francs* [around 1 US dollar] *per person, even for children – I paid 6,000 Burundian francs* [around 3 US dollars] *for my wife, my child and me. […] Imbonerakure gave me a receipt after I paid that amount. There is no indication that the receipt comes from the party [CNDD-FDD]; and on that receipt, there is a stamp of the commune. You must carry the receipt with you at all times because you had to show it at various control points in order to pass”.*[[131]](#footnote-132)

272. Some local administrative authorities declared measures to restrict movements after 18:00 or 19:00 for girls and women only, with the official objective of “curbing unwanted pregnancies and debauchery”.

 e) Freedom of religion

273. The right to freedom of thought and religion is protected by international human rights law.[[132]](#footnote-133) This right includes the freedom to change one’s religion or belief and freedom, either alone or in community with others and in public or private, to manifest one’s religion or belief, through worship, teaching practice and observance of rituals. While it is possible to restrain the right to manifest one’s religion, the right to free thinking and conscience, to have or to adopt a religion of a conviction of one’s choice, is protected with no reservation.[[133]](#footnote-134) In addition, the right to the freedom of opinion[[134]](#footnote-135) guarantees that all forms of opinion are protected, including those with a religious dimension. Harassment, intimidation and stigmatisation, including arrest, detention, judgement or imprisonment for opinions professed by a person or any form of attempted coercion aimed at getting someone to hold or not to hold an opinion are prohibited.[[135]](#footnote-136)

274. In Burundi, persons were forced to take part in the constitutional referendum that took place in May 2019 or to join CNDD-FDD even if this was against their religious conviction of not taking part in public affairs.[[136]](#footnote-137) One of the victims explained:

*“One day, on [X] May 2018, a jeep with tainted windows came to the house and a man called me and he said, ‘we need you in the party’. I replied, ‘I cannot join the party because my religion forbids me from joining political parties’. I am protestant. I thought that we were done but he responded: ‘by will or by force, you will join the party’. In June 2018, I was coming from work with […] and a car stopped, and the same person called me […]. I remembered his face and he told me ‘Still not?’ and I answered ‘No, I still cannot because I am a born again’, [he said] ‘I know you are, but you will still join us’.”*[[137]](#footnote-138)

275. The right to freedom of religion also covers “the indispensable acts for religious groups to carry out essential activities, such as the freedom to choose their religious leaders, their priests and their teachers”*.*[[138]](#footnote-139)

276. On 7 May 2019, during a meeting in Mutaho, in Gitega province with the authorities within the security *quadrilogie* (administration, security, defence and justice) to evaluate the situation in the country, the Head of State recommended that with the elections approaching, the members of the *quadrilogie*  should “prevent deviations in the press and the churches”.[[139]](#footnote-140) At the same time, the Government sought to increase its control on diverse churches of the country, including by trying to intervene in the management of their internal affairs, in order to create divisions, in a way that is reminiscent of the divisive *nyakurisation* policy of the opposition political parties carried out by the authorities.[[140]](#footnote-141)

277. The Burundian branch of the Seventh Adventist Church is a victim of this practice. Pasteur Lamec Barishinga was nominated at the Head of this Church by regional bodies in November 2018, in accordance with its internal process. On 10 May 2019, he was arrested for “rebellion” with one of his deputies and 21 members of the congregation. In fact, the Minister of Interior refused to take act of his nomination and decided to maintain Pastor Joseph Ndikubwayo as the recognised holder of that position, whereas the latter had been revoked by the instances of the Adventist Church for serious misconduct, including embezzlement of funds. Pastor Joseph Ndikubwayo is close to power, in fact he was nominated in 2016 to the National Security Council of the Government.

278. On 13 May 2019, Ted Wilson, President of the International Adventist Church based in the United States, publicly denounced the violations of the religious freedom of the Church by the Burundian authorities who had imprisoned, beaten and intimidated its leaders and its members in order to prevent Pastor Lamec Barishinga from taking up his functions. The pastor, his deputy and congregation members were finally released at the beginning of June 2019. However, the institutional crisis within the Church is still unresolved.[[141]](#footnote-142) On 28 July 2019, in Cibitoke province at the headquarters of the evangelical mission in Buganda, pastor Joseph Ndikubwayo arrived; accompanied by representatives of the provincial administration and members of security forces in order to put in place the governing bodies of the mission. However, the congregation firmly opposed this attempt since they do not recognise this pastor as the legitimate leader of their Church. Fighting ensued and persons were wounded.

279. More generally, the relations between churches and the Government are tensed and Government allies have warned the religious leaders in order to discourage them from uttering pronouncement that are either critical or of a “political nature”.[[142]](#footnote-143) In April 2019, the catholic bishops made the decision to stop allowing speeches by political leaders during masses which are deemed incompatible with the religious mission.[[143]](#footnote-144) On 8 June 2019, during demonstrations organised by the “citizen” civil society organisations, one of their representatives denounced the participation of bishops in the political life of the country, including their repeated references to the Arusha Peace Agreement. Referencing the position of some bishops in 2015 with regards to President Nkurunziza’s third term, specifically the Archbishop of Gitega; Monseigneur Simon Ntamwana, he qualified the bishops as opponents of the Government:

*“We want to give a message. We request that you pass it onto the Church leaders. We ask them not to teach us the Arusha Agreement in churches. They should stop teaching us about war. They should not saw discord during the elections as they did in 2015. [...] They opposed the State and we know it. Your Excellency, the representative of the Pope here in Burundi, please communicate this message to your Episcopalian entities here in Burundi: we were surprised and shocked to hear a priest say to his congregation that voting for Nkurunziza is the same as being a slave. [...]And that is not all, there are also pastors. You know it. Do not say that we only denounce one group. There are also pastors who preached fasle news. They were PDC [Party Démocrate-Chrétien]. They spread fear amongst Burundians by saying that blood would flow, that no one should pray for Burundi, that there is a war”.*[[144]](#footnote-145)

280. Nevertheless, on 11 June 2019, the Conference of Catholic Bishops in Burundi decided to express its concern in relation to “the progressive increase of political intolerance which […] seems to be the reason behind clashes and deaths”.[[145]](#footnote-146)

281. On 15 August 2019, during the celebration that marked the catholic holiday of Assumption at the Mugera sanctuary in the province of Gitega, the President of the National Assembly, Pascal Nyabenda, urged the Church authorities not to meddle in politics and to remain neutral as they deliver their sermons. The Bishop of the Muyinga diocese, Monseigneur Joachim Ntahondereye, responded to him by saying that the duty of the Church is to faithfully preach the word of God even when the latter hurts.[[146]](#footnote-147)

 f) The right to take part in the conduct of public affairs

282. The right to take part in the conduct of public affairs is guaranteed by the international human rights law.[[147]](#footnote-148) It includes the right to vote and to be elected, and the right to have access to public service.[[148]](#footnote-149) However, the Burundian legal framework is not fully compatible with international human rights law and the Commission has documented violations of the right to vote freely in the context of the constitutional referendum of May 2018.

 (i) The right to stand as a candidate for election and to be elected to office

283. In Burundi, a new Electoral Code was promulgated on 20 May 2019,[[149]](#footnote-150), less than a year before the forthcoming elections of 2020. Officially, this new Electoral Code was justified by the need to conform to the law regulating the elections with the new Constitution promulgated on 7 June 2018. This new Electoral Code imposed significant restrictions to independent candidates to be recognised as such; as well as in relation to standing for elections at any level (presidency, parliament, commune and *colline*) and being elected to office. Given the strict authorisation regime for political parties in place in Burundi as well as the phenomenon of separation and division that they are prey to,[[150]](#footnote-151) the possibility of having independent candidates is nevertheless particularly important.

284. The Code drastically limits persons who can claim the title of “independent”, as it requires the non adherence to a political party for more than a year, and no leadership role in a political party for more than two years. It also requires one to have asserted “his independence from the usual political cleavages by proposing a personal social project”. The coalitions of independent candidates are not authorised.[[151]](#footnote-152) This reinforces the control of political parties on their members, as they can prevent internal disagreement knowing that an exclusion from the party (or threat of exclusion) within 1 or 2 years of an upcoming election, means that the person will not have the right to stand as a candidate, even independently.

285. The election of parliamentarians is done by proportional representation. In order to be elected as a representative, an independent candidate must have obtained more than 40 % of the votes in the electoral constituency in which he stood, which seems thoroughly unrealistic in the context of a proportional suffrage in which independent coalitions are prohibited. Candidates affiliated to political parties or to coalitions of political parties must, for their part, obtain only 2 % of the votes cast at the national level in order to be elected.[[152]](#footnote-153) CENI has the capacity to nominate representatives amongst political parties that have obtained at least 2 % of the votes, in order to guarantee the respect of ethnic and gender quotas imposed by the Constitution (60 % Hutus, 40 % Tutsis with a minimum of 30 % women).[[153]](#footnote-154)

286. In order to be elected to a position of Senator; the candidates; whether independent or members of political parties; must obtain more than 50 % of cast votes in the electoral constituency during the first two turns and, from the third turn, the majority of votes cast.[[154]](#footnote-155)

287. The independent candidates at the National Assembly or the Senate do not have the right to have a deputy and in case their seat become vacant; it will be attributed by CENI to a candidate on the list of one of the political parties that obtained the least votes during the elections, without organising partial elections.[[155]](#footnote-156)

288. Members of the communal councils are also elected by proportional representation; and an independent candidate must obtain more than 10 % of the votes cast; as opposed to only 2% for candidates put forward by political parties.[[156]](#footnote-157)

289. With regards to the financial guarantees required to stand for an election, the independent candidates are treated in a discriminatory manner in this area as well in order to stand for elections at the National Assembly. The deposit of 500,000 Burundian francs (approximately 270 US dollars) is refunded only if the independent candidate obtains 40 % of the cast votes in the constituency, whereas candidates from political parties can be reimbursed for their guarantee if the party obtains 2 % of the votes at the national level.[[157]](#footnote-158) For presidential election, the required financial guarantee was doubled and is now at thirty million Burundian francs (approximately 17,000 US dollars), which will be reimbursed to all the candidates including independent candidates who are declared ineligible by CENI or who obtained at least 5 % of the votes cast during the first round.[[158]](#footnote-159) The deposit of 400,000 Burundian francs (approximately 220 US dollars) for the election to the Senate is reimbursed to all the candidates who obtain 5 % of the votes cast in the constituency.[[159]](#footnote-160)

290. The provisions that impose specific constraints to independent candidates to stand for election or to be elected to office are contrary to the international human rights law which provides that the exercise of civil and political rights, namely that of taking part in the conduct of public affairs, and therefore to stand and be elected to public office; must not be linked to the adherence to a political party.[[160]](#footnote-161)

291. Finally, the new Electoral Code maintains the deprivation of the right to vote of persons under preventive detention,[[161]](#footnote-162) whereas these persons have not yet been condemned, and that according to the presumption of innocence, they should continue to fully enjoy all their civil and political rights.

 (ii) The right to vote freely

292. The right to take part in the conduct of public affairs[[162]](#footnote-163) includes the right to vote and to be elected, and the right to hold public office[[163]](#footnote-164) as the Human Rights Committee has clarified “Persons entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or plebiscite, and free to support or to oppose Government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the electors’ will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind […] Results of honest elections must be respected and implemented”.[[164]](#footnote-165)

293. During the constitutional referendum, there were several violations of this right because the Imbonerakure sought to constrain persons to vote and to choose “yes”, by intimidating them and threatening them and seeking to control the votes, including at the polling stations and in the voting booths.[[165]](#footnote-166) One of the participants to the referendum recounted how it unfolded:

*“I went to the polling station. […] They had built voting booths beforehand for anyone to go in and put what they wanted in the envelope. But on that day, there was an Imbonerakure who checked how you voted. […] For illiterate women,[the Imbonerakure] voted for them […] There was an Imbonerakure who checked what I wrote when I went to vote, i.e. when you entered in the voting booth, the Imbonerakure entered with you so you were two, you and the Imbonerakure […] and he told me ‘Vote for the Constitution, otherwise you will no return to [Y]’. I was forced to vote for the referendum, but I was not in favour of it, I was totally against it. […] The Imbonerakure were there to intimidate. There were two Imbonerakure who entered the [two] voting booths. […] And then other Imbonerakure who were outside walking amongst people who were lined up”.*[[166]](#footnote-167)

294. A minor who was forced to vote explained the proceedings on the day of the vote:

*“At the polling station, people were separated in two queues. One was made up of people suspected of being against the party in power. It was them who showed us where to line up and that queue was the most observed. They were policemen in uniform and Imbonerakure. I think the separation was done based on the voting intention because all my parents’ (FNL) friends and acquaintances were in the same queue. While we were queueing up, some said ‘Woe to whomever does not vote yes’. […] Inside the polling station, they would write the name of the person who was going to write their vote on the ballot. During the vote count, they knew exactly who voted yes, who voted no. The CENI employees would say ‘If you know how to write, write your own name on the ballot, if you do not know how to write, give us the ballot and we will write your name’. I wrote my own name on the ballot. I think that the persons on the other queue did not have to write their name”.*[[167]](#footnote-168)

295. Several other irregularities were also noted concerning the possibility of the opposition parties’ representatives to conduct their legitimate activities, despite being authorised to do so, such as assisting to the ballot count or the registration of the votes cast, since some “no” votes were not recorded.[[168]](#footnote-169) One of the opposition party representatives during the referendum explained:

*“I received documents stating that I was a representative. With these documents, I could access the [polling] stations. The day of the vote, the Imbonerakure did not want us to stay in the polling stations and we resisted […]. We stayed in the polling station and the Imbonerakure told us that if we resist, there would be consequences. During the vote count, the Imbonerakure did not want the ‘no’ votes to be counted”.*[[169]](#footnote-170)

[…]

 E. Violations of economic and social rights

315. In its previous report, the Commission detailed the effects of the political crisis on the economic situation and more specifically: the aggravation of the pre-existing economic problems such as the increase of the budget deficit, the increase of state expenditures without sufficient revenues, the reduction of external assistance, the excessive reliance on internal debt and a consolidation of the practice of assets grabbing and corruption. This deterioration of the economic situation has led to an increase in poverty in the population in a context of sharp rising costs and shortage of goods and products, including basic products. Despite this, the population faced a multiplication and increase of taxes, as well as the creation of various mandatory or so called “voluntary” contributions, which amplified the difficulties of daily life for most of the population. Violations of the right to adequate food and the right to freedom from hunger, the right to education as well as the right to work and trade union rights were also observed, sometimes on the discriminatory ground of victims’ political opinion.[[170]](#footnote-171)

316. As a result of this investigation, the Commission is able to confirm that the violations of economic and social rights have persisted, particularly the violations of the right to an adequate standard of living which has direct consequences on the enjoyment of the right to adequate food and the right to health, but also violations of the right to work and education, which are partly carried out on a discriminatory basis linked to political opinions.

 1. Right to an adequate standard of living

317. The right to an adequate standard of living includes “the right to adequate food, clothing and housing, as well as to a constant improvement of living conditions”.[[171]](#footnote-172) However, Burundi is one of the poorest countries in the world with 74.7 % of the population living in poverty.[[172]](#footnote-173) The country is classified 185th out of 189 for the Index of Human Development, life expectancy from birth is only 57.9 years and the middle income per inhabitant and per year - in purchasing power parity – is 702 US dollars.[[173]](#footnote-174) The country, in economic recession in 2015 and 2016, has seen a fragile recovery since 2017, because the political crisis has restrained its access to international assistance that it was strongly dependent on. This situation has led to a deficit of the trading balance, a lack of foreign currencies and an increase in the cost of living which is still felt by the entire population.

318. Despite this difficult overall economic situation and the increasing impoverishment of the population, the Burundian Government and the Burundian authorities, have continued to force Burundians to regularly pay various contributions, even when the latter do not necessarily have a legal basis.[[174]](#footnote-175) The objective of the main contributions required since the beginning of the year 2018 was to finance the “2020 elections” and they were partly compulsory and partly “voluntary”.[[175]](#footnote-176) Witnesses explained that the Imbonerakure did not hesitate to threaten, intimidate and even resort to the use of force when requesting payment for these contributions for the elections.[[176]](#footnote-177) In addition, people generally felt compelled to pay given that the payment receipts for these contributions were a prerequisite for access to various public services.[[177]](#footnote-178)

*“The last time that I contributed, was around [X] November 2018 in order to have the proof of residence in the province of [Y]. I sent a friend who worked close to the commune and he asked for the proof on my behalf. I could not show up for fear of Imbonerakure. The administrator of the commune asked him […] ‘Did you bring the 2,000 francs for contribution to the elections?’. He had to pay 2,000 Burundian francs* [around 1 US dollar] *to have the proof of residence”.*[[178]](#footnote-179)

319. On 30 June 2019, in his speech on Independence Day on 1 July 2019, the Head of State announced that since the required budget for the elections has been reached, the mandatory contributions were abolished and only the “voluntary” ones driven by patriotic emulation will be paid.[[179]](#footnote-180) However, the Commission has received information indicating that the mandatory contributions for the 2020 elections, especially the sums withheld at the source for civil servants, have continued to be collected.[[180]](#footnote-181)

320. Other than the elections contributions, Imbonerakure collected, by intimidation or by force, contributions for the construction of local headquarters of the ruling party, CNDD-FDD.[[181]](#footnote-182) A witness noted:

*“Imbonerakure also asked us to contribute to the party. They said that if we do not join the party, we should still pay contributions to the party. We had to pay 2,000 Burundian francs* [around 1 US dollar] *per household and per month. We received unstamped receipts. These contributions were for the party CNDD-FDD. We paid in July, August, September and October 2018”.*[[182]](#footnote-183)

321. Several refugees who returned in Burundi in the framework of the assistance programme for repatriation were forcibly stripped of their food kits and monies by Imbonerakure and local administrators or forced to catch up with their contribution payments that were unpaid during their exile. Judging by the perpetrators’ statements as reported by the witnesses, these were quasi-retaliatory actions against the returnees for having fled Burundi after 2015 and for not having participated in its development, nor contributed to the elections. They subsequently found themselves with no resources, and some were forced to flee again.[[183]](#footnote-184) A person who was repatriated to Burundi recounted what happened to them upon their return:

*“Imbonerakure continued to harass me and to take all that I had. I went to see the chef de colline a few days after my arrival. […] The chef de colline told me that as a returning refugee; I had no right nor voice. The rights of those who stayed in the country override those of the ones who left and returned”.*[[184]](#footnote-185)

322. This situation has important consequences on the standard of living of families whose head of household was killed or disappeared, because they have difficulties feeding themselves and keeping a lodging.[[185]](#footnote-186) A young man whose father disappeared said:

*“My mother does not work, she is a farmer. I had to work to provide for my mother and my brothers. I worked in the fields for 2,000 Burundian francs* [around 1 US dollar] *per day. We often slept hungry. With my father, we ate well, two to three times per day, but since his [disappearance], we eat once a day and even then, the food is hardly enough in quantity, and it is not filling. In the period 2017-2018, we were in that situation until I left Burundi. We lost weight, we became very thin. It was impossible to eat what we preferred because we could no longer afford it”.*[[186]](#footnote-187)

323. The level of poverty is such that the traditional solidarities tend to disappear and children who were orphaned, often girls, find themselves with no resources and left to fend for themselves. They tried to survive by doing housework, through marriage or find themselves on the street, and some then decided to leave the country.[[187]](#footnote-188) An orphan mentioned what happened to her after her parents were killed:

“*After they were killed, they chased me away from the house and I wandered through the streets, slept on the street, and lost my network of contacts and neighbours. […] I was able to stay in the house until the funerals, then the landlord came to tell me that I had to pay and then I left. I did not ask help from the authorities, I wandered the streets. I did not go to see the Nyumbakumi* [leader of the group of ten houses] *either. There was a lot of poverty; people saw that I was destitute, but because of poverty, no one was willing to help me”*.[[188]](#footnote-189)

324. This widespread poverty also has an impact on every one’s right to enjoy the best state of physical and mental health attainable.[[189]](#footnote-190) In fact, several Burundians are no longer able to buy medicine or to cover medical fees that they need, and some just simply renounced any medical treatment.[[190]](#footnote-191) A witness whose brother disappeared highlighted the following:

*“My mother is cardiac (has a heart condition) and she can no longer receive medical treatment. It was my brother who gave her money to buy medicine. Since his disappearance, she can no longer buy her medicine”.*[[191]](#footnote-192)

325. The states have the obligation to take “the necessary measures to assure […] the prophylaxis and the treatment of epidemic, endemic, professional and other diseases, as well as the fight against these diseases”.[[192]](#footnote-193) However, an increase of cases of malaria was noted in all the provinces of Burundi since the beginning of December 2018. Despite the statistics of the World Health Organisation (WHO) indicating 5,738,661 cases of malaria – nearly half of the Burundian population – including 1,801 deaths counted between 1 January 2019 and 21 July 2019,[[193]](#footnote-194) the Burundian Government refused to recognise the existence of an epidemic situation.[[194]](#footnote-195) Such a declaration would however have the advantage of increased support from the international community to tackle that situation, whereas shortage of medications is regularly reported. A cholera epidemic was declared by the Minister of Health in June 2019, mainly in Bujumbura Mairie and in Cibitoke province with 199 reported cases between 5 June and 28 July 2019, including the death of one person.[[195]](#footnote-196)

 2. Right to work

326. According to the International Covenant on Economic, Social and Cultural Rights, any person has the right “to the opportunity to gain his living by work which he freely chooses or accepts”[[196]](#footnote-197) and this right must be exercised “without any discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, wealth, lineage or any other grounds”.[[197]](#footnote-198) However, the recruitment in public and parastatal employ is done in a discriminatory manner based on political affiliation and not on experience or qualifications, including in the education, health, judiciary sectors or in public companies.[[198]](#footnote-199) A witness explained:

*“If you studied and you are an Imbonerakure, you will have the priority in the recruitment of a paid job. In all cases, the Imbonerakure have the priority, even uneducated Imbonerakure would be given something […] any unemployed person joins them to be able to find a job. [X] also joined the Imbonerakure to find a job; that is how he was given the job of a driver of a locally elected official”.*[[199]](#footnote-200)

327. Persons who are holding a job but are not members of the CNDD-FDD risk losing their job.[[200]](#footnote-201) A teacher explained:

*“If, for example, you are a teacher and you do not join the ruling party, you can be dismissed. […] I have colleagues who became Imbonerakure since May 2015 because they were forced to do so […] In order to dismiss a teacher, they first accused him of some infraction, such as having insulted the President of the Republic or possessing a fire arm. Then they put him in jail for six months, after which the law permits the director to dismiss the teacher. Several teachers were dismissed in that way”.*[[201]](#footnote-202)

328. The Government is trying to extend this discriminatory practice on access to employment based on political affiliation to foreign NGOs. It was also decided to put in place recruitment committees for local staff in foreign NGOs in Burundi. The official reason is to “correct the noted imbalances and contribute to the social cohesion”.[[202]](#footnote-203) However, analysts consider that the real objective of the Government is to be able to offer remunerated employment to members of CNDD-FDD.[[203]](#footnote-204)

 3. Right to education

329. In several educational institutions, students who did not pay the mandatory contribution for elections, demanded from each student of voting age, were prohibited to access courses. A witness explained:

*“Students in this school are 17 years old or older. If a student does not pay the contribution, they send him home. […] The director of the school gathered the students and announced the communiqué, and he told them that everyone must love the country and that whomever does not contribute is an enemy of the nation”*.[[204]](#footnote-205)

330. In fact, suspension and expulsion from schools had become so frequent that, on 9 February 2019, the Minister of Education had to ban that practice and requested the schools principals to find other ways to guarantee that students pay their contributions, without stipulating what those means should be.[[205]](#footnote-206)

331. While the law stipulates that educational institutions must be free from any political activity, students were deprived of schooling or were harassed or threatened by teachers and/or other students who are members of CNDD-FDD, due to their affiliation to a different party, or to force them to join or to show their support to CNDD-FDD or Imbonerakure. If they persisted in their refusal, they were deprived of schooling, unless they themselves abandoned school, including by fleeing the country.[[206]](#footnote-207) A former student explained:

*“At school, the students were forced to join CNDD-FDD and the head of class made it mandatory. There were also party meetings organised at school and not attending them would make life difficult. The pressure to join CNDD-FDD is everywhere in my village; it is as if there were no other political party. If you do not join the party, you are marginalised even socially. Not joining, is like withdrawing from society”.*[[207]](#footnote-208)

332. The female students at the high school that were accused of having scrawled the President’s photo were also deprived of any schooling for an indefinite time period after having been released; while the judicial proceedings for “disrespecting the Head of State” was ongoing. This constitutes a form of arbitrary sanction against them when they should be presumed innocent.[[208]](#footnote-209)

333. School drop-outs are frequent, mainly for girls, including in relation to early pregnancies, despite the official policy allowing the girls to reintegrate schools after delivery.

334. Even if primary school is free, there is still indirect fees for materials, uniforms or others, as well as school fees for higher classes.[[209]](#footnote-210) Consequently, several students were forced to drop out of school at various ages due to their family’s economic difficulties, including those that resulted from the killing, disappearance or fleeing of one of the parents, or member of the family who was the main breadwinner.[[210]](#footnote-211) The average length of schooling in Burundi is only three years.[[211]](#footnote-212) Two former students explained:

“*The life of my mother changed after the disappearance of my brother. It was* *[him] alone who provided for the needs of the family. I was at school, but I have since dropped out of school*”.[[212]](#footnote-213)

“ *I started school when I was nine years old and stayed in school for a year. I dropped out of school because of poverty*”[[213]](#footnote-214).

335. The quality of education suffers also from the desertion of qualified teachers, who are sometimes intimidated by some of their Imbonerakure students or other members of the teaching body who are also Imbonerakure, and their replacement is often based on political affiliation.[[214]](#footnote-215)

*“[The three Imbonerakure] were really poor. Initially, they joined because of poverty; they had no choice but to join if they wanted to find work. […] When they finished school, as a motivation, they recruited them as teachers and two or three years later, they were promoted to the position of school principal. […] All the young people who hoped to find jobs joined the ruling party. In Burundi, if you are a teacher, you are forced to join the ruling party; otherwise, they bring young Imbonerakure who need work to be teachers”.*[[215]](#footnote-216)

[…]

 5. Discrimination against women and girls

343. In its previous report, the Commission had analysed discrimination against women, particularly in the socio-economic domain, showing how women and girls are disproportionately affected by poverty due to persistent gender stereotypes within the family and society setting which restricts them to low income informal activities, and keeps them economically dependent on their husband.[[216]](#footnote-217) The Commission also note that despite significant progress made on the legal side with regards to gender equality, several discriminatory dispositions with regards to women still exist in the Burundian legislation,[[217]](#footnote-218) specifically in matters of family law. In addition, customary law and practices continue to govern some matters, namely matrimonial regimes and succession matters, perpetuating multiple forms of discrimination with regards to women, and sometimes, in violation of Burundian laws, or because the aspects concerned are not regulated by law. The Commission had finally concluded that the recent initiatives of the Burundian Government seemed to be guided by a paternalistic vision.[[218]](#footnote-219)

 a) Persistence of patriarchal gender stereotypes

344. In his report on the discrimination against women and girls in the cultural and family life, the Working Group on the issue of discrimination against women in law and in practice, notes: *“The family is a place of perpetuation of traditional values, it emanates from a patriarchal culture and is a fundamental institution to maintain patriarchy”.*[[219]](#footnote-220) Amongst the main stereotypes emanating from patriarchy and that can lead to discriminations against women are those linked to morality and sexual behaviour, those that present the woman as weak, as well as the stereotypes on gender roles within the family.[[220]](#footnote-221)

345. During the third term of its mandate, the Commission observed that gender stereotypes pertaining to private life, i.e. the expected and desired behaviour of women and men within the family, tend to be elevated into social norms in the context of public life, sometimes in contradiction with legal provisions or public policies aimed at promoting the rights of women and gender equality.

346. The National Gender Policy of Burundi established in 2012[[221]](#footnote-222) clearly mentions that the patriarchy is a traditional mode of social organisation in Burundi:

*“The man [...] incarnates the authority within the households, he makes the main decisions and provides means of subsistence to the members of his household. The woman, on her part, has the social responsibility of the domestic life; she takes care of the household chores and of the children and other members of the family”.*[[222]](#footnote-223)

347. This Policy also explained how the role of the man as head of household, and the position of subordination of the woman as the homemaker, translate in various social institutions and production activities, and generate important discrimination towards women in their exercise of fundamental rights.[[223]](#footnote-224) The families who, for some reason, end up with a woman as head of household, immediately find themselves in a position of increased vulnerability as a result of such a stereotypical approach to the role of women and its consequences in relation to the enjoyment of rights.

348. The moralisation campaign of the Burundian society initiated by the Head of State in 2017,[[224]](#footnote-225) and endorsed by members of the Executive, influential public figures or even public officials, has perpetuated, if not reinforced, the stereotypical conceptions of the role of women and the patriarchal dimension of the society.

349. This is notably visible through the speeches of the wife of the President of the Republic on official events such as the celebrations of international days or conferences for women and girls. For example, in her speech during the International Women’s Day, that she was presiding over in Gitega on 8 March 2019, the First Lady insisted “on the fact that national peace depends mainly on the peace that reigns in families” and “asked women to preserve peace in their households”*.*[[225]](#footnote-226)The Minister of Human Rights, Social Affairs and Gender, on his part, “ indicated that the woman is not only the pillar of the family, but also the pillar of the country, because sustainable development in a country starts at the household level”.[[226]](#footnote-227)

350. Previously, on the 26 October 2018, during the opening of the International Conference of Women Leaders, the First Lady declared “the Burundian woman is called to play a role next to her husband to contribute to the development of the country […] they must demonstrate that they are capable” and she asked the Burundian men “to support the woman because without a man she is nothing and can never succeed”.[[227]](#footnote-228)

351. The persistence of patriarchal gender stereotypes is particularly observed in the area of sexual morality and marriage and affects mostly girls and young women. Official measures put in place to “protect” them hinder their enjoyment of other rights, such as the freedom of movement or access to education.

*b) Early or unwanted pregnancies*

352. The issue of early or unwanted pregnancies amongst young women is an important problem for the Burundian society : as indicated by the frequent media publications on the subject as well as the public policies “zero pregnancy in school environment” and the programs developed for several years for the eradication of this phenomenon which leads to an important number of school drop outs amongst girls, and often results in their marginalisation and impoverishment.[[228]](#footnote-229) However, the magnitude of this phenomenon seems to be less important in Burundi than in other countries of the sub-continent, since according to UNFPA, the rate of fertility amongst 15 to 19 years old girls in Burundi was at 58 per thousand in 2018 compared to 95 per thousand on average in southern Africa.[[229]](#footnote-230) The causes of these pregnancies are multiple, varying from ignorance in sexuality which leads to “befriending” boys and the non usage of contraceptives to sexual violence perpetrated by some members of the teaching staff or by other men on the way to school.

353. Law n°1/13 of 22 September 2016 on the Prevention of, Victims Protection and Repression of Gender Based Violence has provisions for protecting the rights of students victims of gender based violence in schools, specifically their right to education, as well as provisions to punish their perpetrators.[[230]](#footnote-231)

354. However, the authorities’ speeches on the issue of pregnancies in schools tend to put the onus on the young girls, who allegedly engage in debauchery, rather than on the adults who have the authority over them, namely the teaching staff and the parents, but also the administrative and judicial authorities and the perpetrators of sexual violence, while regularly referencing law n°1/13 of September 2016.[[231]](#footnote-232)

355. In fact, despite this law which guarantees the right to education for the victims of gender based violence, in June 2018, the Minister of Education, Technical and Vocational Training issued a circular which excluded from the formal education system any girl victim of pregnancy or forced marriage - which in itself is a form of gender based violence recognised by the 2016 Law - as well as the male students responsible for the pregnancies.[[232]](#footnote-233) This circular came as a result of an exchange between the civil cabinet of the President of the Republic and the cabinet of the Education Minister. It triggered a wave of protests, and several civil society associations submitted a petition to the President of the National Assembly. The decision for a permanent exclusion was revised a month later by the Minister of Education, who announced a month later in a communiqué dated 27 July 2018, the establishment of a commission in charge of examining the requests for reintegration in the formal education system, and it authorised affected students to submit a request, but strictly within a two-week period following the publication of the communiqué. However, the Minister was not formally prohibiting the school principals from expelling the pregnant students or the students “responsible” for the pregnancy.[[233]](#footnote-234)

356. It is in this context that, on 7 june 2019, the principal of a technical high school expelled ten girls and one boy due to pregnancies, arguing that they “infringed school regulations”. In addition, the decision stipulates that 46 female students were forcibly subjected to pregnancy testing during the investigation. Forced or coerced pregancy testing of female students by school authorities in another school was also reported in the media.[[234]](#footnote-235) To the Commission knowledge, this decision was not contested nor suspended by Burundian authorities.

357. These discriminatory measures represent violations of the right to education.[[235]](#footnote-236) Moreover, when they target persons below 18 years of age, they represent children’s rights violations, notably the right to education but also the right to freedom from arbitrary interference in their private life, and unlawful attacks on their honor or reputation.[[236]](#footnote-237) The Special Rapporteur on torture had observed that “[virginity tests and] the expulsion of pregnant girls from schools, which often result in long-term harmful consequences, constitute forms of discrimination and ill-treatment”.[[237]](#footnote-238)

 *c) Curfew for women and girls*

358. In 2019, local administrators adopted disciminatory measures against women and girls, which restricted their freedom of movement, with the stated objective to restore morality. However, these measures, though incompatible with Burundian legislation, were not cancelled by Burundian authorities who had the ability and the duty to do so.

359. Thus, in February and May 2019, at least three communal administrators[[238]](#footnote-239) imposed movement restriction measures after 18:00 or 19:00 hours, targeting only or specifically girls and women, with the stated objective to fight against behaviors that are contrary to the Burundian culture, to curb unwanted pregnancies and to discourage adultery. One of these decisions came directly after the visit of the President of the Senate in the commune during which the Governor of the province stated that unwanted pregancies amongst students were a considerable problem.[[239]](#footnote-240) In one case, the communal administrator instructed the mixed security committees, in which Imbonerakure are involved, to fight against those behaviors.[[240]](#footnote-241) In another commune, the administrator stated that the offenders will be punished in an “ exemplary fashion”.[[241]](#footnote-242)

360. For example, one of these communal instructions stipulates *“the administrator declares that women and girls are no longer allowed to visit bars and markets past 19:00 hours if they are not accompanied by their legitimate husband. The administrator requests the authorities and the mixed security committees to fight against this shameful behaviour by chasing these unruly women and by denouncing them so that they are punished”.*[[242]](#footnote-243)

361. Another one declares more tersely that: “*Young women are forbidden from being outside past 18:00 hours”.*[[243]](#footnote-244)

362. Several civil society representatives reacted in the media, highlighting the discriminatory nature of these measures and their consequences on girls and women, particularly in rural areas. In fact, they generally need to do farm work in addition to their domestic or school obligations; for those who are able to attend school. All these tasks involve movement or may require that students find a well lit area to revise their coursework in the evening.[[244]](#footnote-245)

363. These measures represent violations of women’s rights and children’s rights.[[245]](#footnote-246) There are reasons to fear that the campaign to restore morality and Burundian values by the highest level of Burundian authorities will, in practice, result in a setback to women’s rights and gender equality in Burundi.

 **III. International crimes**

[…]

 B. Individual Responsibilities

374. The Commission still has reasonable grounds to believe that SNR agents, police as well as Imbonerakure, were the main presumed perpetrators of crimes against humanity committed during the period covered by this report. On this basis, the Commission updated the list of alleged individual perpetrators that it drew up during the initial mandate period.[[246]](#footnote-247) This list remains confidential, in the interest of protecting the Commission’s sources and respecting the principle of presumption of innocence of the alleged perpetrators. It will be turned over to the High Commissioner for Human Rights at the end of the mandate. In the meantime, the Commission reserves the right to share it.

375. The Commission continues to distinguish between direct responsibility and the indirect responsibility of military commanders and hierarchical superiors, including civilians.[[247]](#footnote-248) The information collected during this mandate allow the Commission to confirm the descriptions already presented in its previous reports of the hierarchical structures within SNR and the police, as well as the prevailing confusion between the state institutions, state entities and CNDD-FDD.[[248]](#footnote-249) The “Committee of Generals” remains the central element in the informal command structure of the security apparatus. It should be noted that in virtue of the Constitution promulgated on 7 June 2018, SNR is no longer officially part of the defence and security forces placed under the authority of the Government and the control of the Parliament, which comprise only the Burundi National Police and the National Defence Forces.[[249]](#footnote-250)

376. The organic law on the mission, organisation, functioning and composition of SNR and the law revising law n°1/05 of 2 March 2006 on the status of SNR personnel were adopted by the National Assembly on 28 May 2019, but have not yet been promulgated, nor made public at the time of the writing of this report. During the presentation of these draft laws to the Assembly, the Minister of Public Security, General Alain Bunyoni, confirmed that SNR is henceforth directly attached to the President.[[250]](#footnote-251) In fact, its budget has long been incorporated in the budget of the office of the President, but henceforth SNR is not under the authority of the Government or under the control of the Parliament, nor subject to respect the ethnic quotas provided for by the Constitution for the defence and security forces.

377. Such reorganisation of SNR is important from the point of view of personal criminal responsibility of President Nkurunziza for the crimes against humanity committed by SNR agents. In fact, in addition to the indirect criminal responsibility of the superior who “orders, solicits or encourages” the commission of a crime against humanity,[[251]](#footnote-252) the criminal responsibility of the latter is engaged when he remains inactive in the face of criminal actions of a subordinate placed under his authority or effective control. This implies that if the Head of State, who officially exercises effective control and authority on SNR, has deliberately neglected to take into account pertinent information relative to crimes against humanity perpetrated by SNR agents, and that he does not stop them nor reprimands them, or refers them to competent authorities, he can then be held criminally responsible for these crimes.[[252]](#footnote-253)

378. Finally, Imbonerakure have continued to play a central role with regards to the control and the indoctrination of the population, but also the persecution of real or assumed political opponents, often alone or in cooperation with the SNR, the police and the local administrative authorities who are for the most part members of CNDD-FDD. This attests clearly that the formal and informal security apparatus are interlocked and that there exists a confusion between the state institutions and those of the ruling party CNDD-FDD. The violations committed by Imbonerakure are therefore not only attributable to the Burundian State when they constitute violations of human rights,[[253]](#footnote-254) but can also constitute crimes against humanity of which the Imbonerakure bear individual criminal responsibility when these acts occur in the context of the policy setup by the Burundian State to silence the political opposition.

 IV. Risk factors

 A. Overview

379. The Burundian crisis, essentially political in nature, started in April 2015 with part of the population, the civil society, and some members of the opposition political parties including within the ruling CNDD-FDD, commonly known as “frondeurs”, opposing President Nkurunziza’s third term. These massive protests were immediately and violently repressed, but the repression against the opponents to the third term never really stopped. Since then, persons who were opposed or indifferent to the constitutional review adopted during the May 2018 referendum, or those who refused to join the CNDD-FDD party or its youth league for various reasons, were also considered as opponents to the President and to the ruling CNDD-FDD party. Consequently, they were the target of threats, acts of intimidation and retaliation which led to serious human rights violations, and crimes against humanity. On the eve of the 2020 elections, the Commission has decided that it was important to be forward looking and determine whether risk factors indicating a possible deterioration of the human rights situation were present in the current political context of Burundi characterized by the 2020 presidential, parliamentary and local elections.[[254]](#footnote-255)

380. To that end, the Commission analysed the most significant developments since the beginning of the 2015 crisis, in order to identify the current risk factors indicators. The Commission based this analysis on the indicators proposed in the Framework of Analysis for Atrocity Crimes developed in 2014 by the United Nations Office on Genocide Prevention and the Responsibility to Protect.[[255]](#footnote-256) It also took into account the methodological guidance note established by the Office of the United Nations High Commissionner for Human Rights in order to develop an early warning analysis and evaluation of the risks of a deterioration of human rights situation, which includes a directory of related risk factors and indicators,[[256]](#footnote-257) as well as the violence factors linked to the elections, internal and external to electoral processes, identified by the International Institute for Democracy and Electoral Assistance.[[257]](#footnote-258)

381. The Framework of Analysis for Atrocity Crimes identifies eight common risk factors for the occurrence of a genocide, crimes against humanity, war crimes and ethnic cleansing with indicators linked to each factor.[[258]](#footnote-259) It also includes two risk factors specific to the crime of genocide, two risk factors specific to crimes against humanity and two risk factors specific war crimes. The Commission chose to focus its analysis on the eight common risk factors. If there is a risk that atrocity crimes may occur, there is necessarily a risk of deterioration of the human rights situation and an increase of violations.

382. Risk factors are defined as conditions, such as behaviours, circumstances or elements, that create an environment conducive to the perpetration of atrocity crimes, or indicate the potential, probability or risk of their occurrence. Some are structural in nature, while others pertain to more dynamic circumstances or events, such as triggering factors. It is important to highlight that while not all risk factors need to be present to consider that there is a significant risk of atrocity crimes occurring, nevertheless these crimes are rarely committed in the absence of all or some of the risk factors that the Framework identifies. Furthermore, it is confirmed that the more risk factors, the greater the risk that atrocity crimes may be committed. Similarly, existence of a higher number of indicators of a particular risk factor, increases the importance and role of that factor in a given situation. On the other hand, the absence of a triggering factor or the existence of mitigating factors can prevent the perpetration of atrocities despite the presence of several risk factors. Monitoring the situation and warning of the possibility of atrocity crimes being perpetrated in a more or less near remain paramount, even if there is bound to be some uncertainty on what will occur. The warning can itself play a certain mitigation role or, in any case, lead to the adoption or identification of preventive measures that could be promptly implemented should the situation deteriorates.

 **B. Significant developments since 2015 and the current Burundian context**

 **1. Persistence of the 2015 political crisis**

383. As Burundi prepares for the next presidential, parliamentary and local elections in 2020, it is important to recall that the 2015 political crisis, resulting from the 2015 presidential elections, is still unresolved. The Burundian population continue to feel the impact of the crisis at various levels, including the absence of real prospects of a political solution.

 *a) Economic instability*

384. The unequal access to resources is a structural problem in Burundi, which predates the 2015 political crisis, and is linked to the weakness and the lack of diversification of the economy. The latter depends primarily on the agricultural sector and coffee exports, while at the same time arable land is rare and often disputed. This situation is conducive to the appropriation of power and political struggles aimed at securing the control of the country’s wealth and resources. The investments, mainly foreign ones, are still few owing to the lack of infrastructure, but also the poor overall economic governance and specifically the rampant corruption which affects all economic sectors. Prior to 2015, the country was amongst the poorest in the world and women were already particularly affected due to the persistence of gender-based stereotypes and the existence of discrimination, both in law and in practice, which limit their access to the labour market and the means of production.[[259]](#footnote-260)

385. However, the socioeconomic situation has worsened with the 2015 political crisis which led to the overall economic recession. The worrisome political and security situation led to the failure of some private sector funding. The budget deficit has further increased, particularly due to the suspension of numerous foreign aids as a result of human rights violations and the explosion of the domestic debt. Inflation increased as did the costs of basic goods and products. In 2016, Burundi went back to being “a country in a humanitarian emergency situation”, the Burundian population became poorer and an increasing number of Burundians are struggling to put food on the table.[[260]](#footnote-261)

386. Currently, the country’s socioeconomic situation remains fragile, although the economic recession was followed by a slight recovery in 2017. Poverty, which can be defined as a condition in which “a person is unable to attain a minimum standard of living which allows him to adequately participate in the society, due to the lack of revenues or consumption capacities […] particularly […] the lack of access to food, adequate education and health”,[[261]](#footnote-262) prevails within the Burundian population. The structural problems that hinder the economic development in Burundi have not been resolved, and the cyclical economic issues are closely linked to the political situation of the country; which remains uncertain on the eve of the elections. Obtaining or sustaining employment, mainly in the public and parapublic sectors, is subject to discrimination as it is conditioned by membership or support to the ruling party.[[262]](#footnote-263)

 *b) Persistence of the refugee issue*

387. One of the direct and particularly visible consequences of the crisis is the presence of nearly 350,000 Burundian refugees in neighbouring countries as of 31 July 2019.[[263]](#footnote-264) In fact, serious and massive human rights violations have pushed tens of thousands of people to flee the country to seek refuge mainly in Tanzania, Rwanda, DRC and Uganda, but also in countries further afield. The number of persons who left Burundi kept increasing between 1 April 2015 and 31 March 2018, date on which 430,938 Burundian refugees were registered in neighbouring countries.[[264]](#footnote-265)

388. Since 2017 and especially in 2018, the Burundian Government has sought to repatriate Burundian refugees by declaring that there was peace and security in the country. The Government sent representatives in refugee camps to convince them to return home. A tripartite agreement was signed on 28 March 2018 between Burundi, Tanzania and the United Nations High Commissioner for Refugees (UNHCR) in order to accelerate the return rate of the refugees. The UNHCR does not recommend the return to Burundi, but since September 2017 it has assisted refugees who chose to return home on a voluntary basis in order to ensure that the return is done in adequate security conditions. In December 2018, UNHCR adopted its strategic plan for Burundi covering the period 2019-2020 which integrates projections on returns and numbers of refugees still outside the country. It is planned that 116,000 Burundian refugees would return with the assistance of UNHCR and its partners, and that 278,000 refugees would remain at the end of 2019 and this number would fall to 175,000 by the end of 2020.

389. Difficult living conditions in the refugee camps, partly due to the lack of funding of the humanitarian crisis by international donors, as well as the reassuring and appeasing statements of Burundian authorities relayed by certain authorities in host countries have convinced some refugees to return. Between January and July 2019, 16,232 people returned to Burundi,[[265]](#footnote-266) in addition to some 58,000 Burundians repatriated between December 2017 and 31 December 2018 according to the UNHCR data. The number of returnees by mid-2019 was less than the anticipated 2,000 persons per week while at the same time 4,591 new arrivals were recorded between 1 January and 31 July 2019.[[266]](#footnote-267) The repatriation support program has in fact had some funding challenges but was mostly hindered by difficulties encountered by some returnees upon their arrival in Burundi, in particular a general climate of hostility towards them, as well as violent incidents and human right violations which forced them to flee again.[[267]](#footnote-268) This situation dissuaded other refugees from attempting to return.

390. In some neighbouring countries where the chances for Burundians to be registered as refugee are limited, or access to the process is difficult, Burundians arriving for the first time or who fled again after having tried to return to Burundi due to the hostile situation in the country, live in extremely difficult conditions. They don’t have access to assistance, including humanitarian assistance, and have to rely on the generosity of other refugees who are themselves destitute. On 24 August 2019, the Ministers of Interior of Burundi and Tanzania announced the signing of a confidential agreement to organize the return, voluntary or forced, of Burundian refugees and asylum seekers, at the rate of 2,000 persons per week, and if required, without the assistance of UNHCR. This announcement has the potential of having a destabilising effect on those who do not wish to return to Burundi as long as the violence and human rights violations that pushed them to leave the country persist and if their security is not guaranteed.

 *c) Widespread impunity for human rights violations*

391. Serious human rights violations, some of which constitute crimes against humanity, perpetrated in Burundi on a large scale since April 2015 have been outlined in the Commission reports: summary executions, disappearances, including forced disappearances, arbitrary arrests and detentions, torture and other ill-treatment as well as sexual violence. These violations mainly target people who are perceived – rightly or wrongly - as opponents of President Nkurunziza, the CNDD-FDD party or its youth league. Since 2015, human rights activists, journalists, members of opposition political parties, both men and women, were amongst the main victims., but now anyone in the population, including in rural areas, can be a target.[[268]](#footnote-269)

392. Impunity, defined as “the impossibility, de jure or de facto, of bringing the perpetrators of violations to account - whether in criminal, civil, administrative or disciplinary proceedings - since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims”,[[269]](#footnote-270) is the norm for human rights violations and crimes against humanity committed in Burundi since 2015.

393. In fact, despite a multitude of reports from national and international civil society organizations, as well international bodies, including this Commission, which revealed the magnitude and the persistence of human rights violations in Burundi, the authorities in Burundi have not taken any comprehensive measures to bring an end to these violations. On the contrary, they have denied their existence. For example, during meetings regarding the security of the country, the Head of State and the security *quadrilogie* have consistently expressed their satisfaction with the security situation. They only accepted to recognize the existence of some ordinary crimes, such as family conflicts, consumption of illegal substances and prohibited drinks, cases of rape and gender-based violence as well as thefts, including cases of armed robbery.[[270]](#footnote-271) The Burundian authorities have accused people who denounced human rights violations of trying to destabilize the country, and severely punished those who were under their jurisdiction, by accusing them, for example, of violating the country’s internal security or by deciding to suspend or close national NGOs.

394. Generally speaking, Burundian authorities have not carried out independent and effective investigation into violations and crimes committed since 2015, their perpetrators have rarely been prosecuted, except in cases that were highly publicised. Even in these cases, most judicial proceedings were unsuccessful. No form of reparations has been offered to the numerous victims, most of whom were too afraid to complain due to possible reprisal or did not see its usefulness given their mistrust of public institutions, particularly the police and the judiciary.[[271]](#footnote-272)

395. Such impunity is partly linked to the numerous structural and situational shortcomings of the judicial system, such as the lack of independence and capacity, widespread corruption, numerous and frequent interferences of the executive power in judicial proceedings, including acts of intimidation towards lawyers and magistrates, violation of criminal procedures and right to defence. However, it is primarily due to the collusion between the judiciary and the executive, which generally seeks to protect the perpetrators of the violations,[[272]](#footnote-273) namely police and SNR agents and especially Imbonerakure and, to a lesser extent since 2017, military personnel.[[273]](#footnote-274)

396. All these perpetrators, except members of defence and security forces whose loyalty was questioned during the attempted coup d’état on 13 May 2015 or the attacks against the military camps in December 2015, continued to benefit from the unwavering support of the authorities. The authorities continued to praise the qualities and the actions of Imbonerakure and to provide them with material support.[[274]](#footnote-275) For the last three years, an official day dedicated to Imbonerakure “Imbonerakure Day” has been organized annually in all the provinces of the country in the presence of members of Government and parliamentarians.[[275]](#footnote-276) Former leaders of Imbonerakure at the national level have also been appointed to important functions such as Ezechiel Nibigira as Minister of Foreign Affairs since April 2018, and Eric Nshimirimana as the Head of the Burundi National Radio Television (RTNB) since July 2019.

397. The SNR, also accused of involvement in numerous violations, has also been given a special status compared to other security forces in the 2018 Constitution. Its missions have been expanded “in order to embrace the entire national life with a view to respond fully to the needs of the citizen”, and the Minister of Public Security explained that it was necessary to clean up its image which has been historically vilified”.[[276]](#footnote-277)

398. Alleged perpetrators of violations and crimes continue to occupy positions of leadership within the security apparatus, while some have been recently promoted.[[277]](#footnote-278)

399. Beyond the importance of guaranteeing the victims’ right to truth including being informed of the fate of their missing family members as well as their right to reparation, there cannot be “just and sustainable reconciliation without an effective response to the need for justice”.[[278]](#footnote-279) The persistent and widespread impunity is therefore an impediment to the reconciliation of the Burundian population and the resolution of the 2015 political crisis.

 *d) Failure of the inter-Burundian dialogue process*

400. The political crisis that emerged from the candidacy of Pierre Nkurunziza to a third term and the repression that ensued have forced numerous Burundians into exile, including several political figures known as *frondeurs* of the CNDD-FDD, and representatives of civil society organisation.[[279]](#footnote-280)

401. All international community actors including representatives of the United Nations and the African Union have repeatedly insisted since the beginning of the crisis, on the necessity of an inclusive inter-Burundian dialogue in order to find a solution to the crisis while preserving the gains and the spirit of the Arusha Agreement.[[280]](#footnote-281) On 18 January 2018, during its Universal Periodic Review, several countries had recommended Burundi to engage in an inclusive dialogue with the opposition in order to find a solution to the crisis, recommendations not accepted by the Burundian Government.[[281]](#footnote-282) Members of the International Organization of *La Francophonie* (OIF) have also reiterated their support to the “efforts of the international community and most particularly the East African Community (EAC) in favour of an inter-Burundian political dialogue”.[[282]](#footnote-283)

402. In fact, in accordance with the principle of subsidiarity between the African Union and the sub-regional organisations on the continent, since July 2015, the East African Community (EAC) initiated and supported the organisation of an inter-Burundian dialogue under the auspices of President Yoweri Museveni as the Mediator and President Benjamin Mkapa as the Facilitator.[[283]](#footnote-284) Despite the unanimous support of the international community and the efforts made since then, the mediation has reached an impasse. The fifth and last round of inter-Burundian talks organised in October 2018 in Arusha was boycotted by the Burundian Government. The Facilitator concluded his mission on 1 February 2019 with the presentation of his final report at the Heads of State Summit of the East African Community, without this leading to the beginning of a solution or concrete achievements.[[284]](#footnote-285) The EAC simply took note of the report and decided that the Burundian question would be discussed at a later stage; without fixing a date nor appointing a new facilitator.

403. In its November 2018 report, the Facilitator gave an overview of the five sessions of dialogue that he organised between May 2016 and October 2018, recalling progress made; but mostly the obstacles and difficulties encountered. According to him, from the fourth session organized between 27 November and 8 December 2017, the main challenges came from the Burundian Government. That session was the first opportunity for all parties to the crisis to sit around the negotiation table – after having participated separately in the first three sessions – in order to discuss the four thematic priorities identified during the previous rounds, namely: the political issues; the constitutional, legislatives and electoral issues; the humanitarian questions and the socio-economic situation; and finally the security situation. However, the Government of Burundi, which had requested that the fourth session be immediately organised, demanded that no invitation be extended to the persons who are subjects of an arrest warrant by the Burundian judiciary. The Facilitator complied and this prompted members of the external opposition to cancel their participation to this session. Then, despite the fulfilment of their requirements, the Government of Burundi and the CNDD-FDD party sent only junior representatives.

404. The Facilitator also mentioned that the preparation of the fifth and last session was postponed to 19-24 October 2018 to comply with the decision of the Burundian Government that any activity be postponed to after the May 2018 constitutional referendum. Then, the Government requested that the session be further postponed to 24 October 2018 to allow the commemoration of the 25th anniversary of the assassination of President Ndadaye, scheduled for 21 October 2018. The Facilitator complied once again and planned the session for 24 to 29 October. The Government requested yet again the postponement of this session to the month of November 2018, arguing that the month of October was a period of national mourning. It also demanded that the work programme of that session be limited to the roadmap for the preparation of the 2020 elections signed in Kayanza in August 2018 by the sole opposition parties allied to the Government; and finally the authorities requested that an advance copy of the participants list be sent to them. The Facilitator considered that the Government of Burundi was not really interested in the dialogue and went ahead to organise the final session without the representatives of the Burundian Government, but with several representatives of the opposition and the civil society. The participants elaborated roadmaps for the crisis recovery and the preparation of the elections, on the basis of which the Facilitator prepared a consensual roadmap which, according to him, could bring stability to Burundi.

405. At the end of his term, the Facilitator expressed his concern regarding the political situation in Burundi, particularly in the run-up to the 2020 elections in the absence of any agreement to find a sustainable solution to the 2015 crisis. He noted that the internal dialogue process done in parallel by the Burundian Government was an indication of its lack of commitment to the EAC facilitation and mediation process, since the result of the internal dialogue was presented as a *fait accompli*. Similarly, the Government organised the referendum to revise the Constitution and, in so doing, amending some provisions of the Arusha Peace Agreement; while those issues were on the agenda of the inter-Burundian dialogue. Lastly, the Facilitator noted that the intransigent attitude of some members of the political opposition further weakened this process. Similarly, the fact that a regional Summit specifically dedicated to Burundi was not organised, the lack of a clear funding mechanism and a budget dedicated to the activities of the facilitation team, were also identified as obstacles.

406. In fact, the Burundian Government is in denial with regards to the reality of the 2015 crisis and more so with regards to its current persistence. For example, on 20 August 2018, in a message addressed to the Nation to mark the third anniversary of his election in 2015, President Nkurunziza declared “it was on 20 August 2015 when we were invested with the powers of leading Burundi, following free, transparent and peaceful elections”.[[285]](#footnote-286) Consequently, he refused to engage in a dialogue and to make concessions or to solicit the support of the international community in order to find a solution.

407. On the contrary, the Government constantly denounces the attention given to the political situation and the human rights situation in Burundi by various international and regional actors, as interference or attempts to destabilize the country. It has locked itself into a rhetoric of an international conspiracy theory mounted against it and according to which any initiative from the international community constitutes a threat or an infringement on its sovereignty.[[286]](#footnote-287) For example, on 22 may 2019, the First Vice-president of Burundi declared that an international conspiracy against Burundi had started five years ago but the mediation process had now concluded and the priority was the preparation of the 2020 elections.[[287]](#footnote-288)

 **2. 2020 Elections**

408. The holding of regular, transparent, free and fair elections is the fundamental principle of a functioning democratic Government,[[288]](#footnote-289) however, in and of themselves, they are not sufficient if they do not happen in an environment that promotes “the democratic practice and culture, the building and strengthening of governance institutions and the inculcation of political pluralism and tolerance”,[[289]](#footnote-290) as well as the “creation of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs”.[[290]](#footnote-291)

409. Several objective indicators help to establish if elections are free and credible, for example the fact that elections are organised at regular interval; that suffrage is universal and egalitarian; that the right of citizens to stand for elections is guaranteed in law and in practice; as is the right to setup political parties that are able to participate in equal measure in elections; that the electoral campaign happens in an open and fair context, free of administrative acts, violent actions or intimation of candidates, political parties or voters; that the access to media is not restricted nor discriminatory; that votes are done by secret ballot, that they are honestly counted and tallied and that results are made public; and finally that candidates who obtain the necessary number of votes are duly installed in office and permitted to remain in office until their term expires.[[291]](#footnote-292)

410. Beyond these specific elements to the electoral process itself, to be free, transparent, fair and credible, elections must take place in a “democratic space” in which the enjoyment of fundamental rights, particularly the rights of freedom of opinion, expression and information, and the rights to freedom of peaceful assembly and association and the right to participate in public life are guaranteed, respected and protected both in law and in practice. A truly democratic space implies that the State and the ruling party are clearly separate and distinct and therefore, no public resources are used for the benefit of a candidate or the ruling party, including the involvement of public officials and employees in the electoral campaign.[[292]](#footnote-293)

411. The preparation of the 2020 presidential and legislative elections in Burundi officially started in 2018 with the holding of the constitutional referendum on 17 May 2018, the signing of the roadmap for the elections preparation in Kayanza in August 2018 by CNDD-FDD and 24 opposition parties loyal to the Government, the collection of “voluntary” and mandatory contributions from the population for the organisation of these elections, the creation of the new Independent National Election Commission (CENI) and the progressive setup of its subdivisions at the provincial and communal levels, as well as the adoption of a new Electoral Code.[[293]](#footnote-294)

412. In addition, the CENI has already communicated the electoral calendar:

- 20 May 2020: Presidential election, elections of members of the National Assembly and of the communal councils;

- 20 July 2020: Elections of Senators;

- 24 August 2020: Elections of the members of the councils at the *collines* and neighbourhood levels.

413. Nevertheless, it is clear that the conditions for free, fair and credible elections are not met at this point in time.

*a) Shrinking of the democratic space*

414. The democratic space in Burundi started to shrink significantly from the beginning of the 2015 political crisis with the suspension or the closing of media organs, civil society organisations, the attacks against journalists and human rights activists and the increase of violations of civil liberties.[[294]](#footnote-295) The organisation of the May 2018 constitutional referendum and the ongoing preparation of the 2020 elections have triggered anew the shrinking of the democratic space with an increased control by the Government of the non-governmental organisations and censure of mediam while the independent national institutions that are competent in human rights matters, have lost all credibility[[295]](#footnote-296).

 (i) Closure of the Office of High Commissioner for Human Rights

415. On 5 December 2018, the Government of Burundi sent a letter to the United Nations Office of the High Commissioner for Human Rights requesting that its country Office in Burundi ceases its activities within two months. As a reminder, this Office had reduced its activities since 11 October 2016 as it awaited the renewal of the Headquarters Agreement between the United Nations and Burundi. In September 2017, the Burundian Government had however confirmed to the Human Rights Council its decision to “restore its complete cooperation with the Human Rights Council and the United Nations Office of the High Commissioner for Human Rights, including by providing full and complete cooperation with the Office of the High Commissioner in Bujumbura”.[[296]](#footnote-297) It appears that it was manoeuvring by the Government to attempt to block the renewal of the present Commission, given that a few months later, in January 2018, during its Universal Periodic Review, the Government did not accept the numerous recommendations to that effect that had been submitted for its consideration by various States.

416. On 28 February 2019, the Office was then closed, after 23 years in the country working to support the peace consolidation and the reform of the security and justice sectors, despite the regressions and countless difficulties. It had also contributed to the capacity building of some of the State institutions and the civil society in human rights related issues.

417. The Government of Burundi justified its decision by explaining that from now on, the country has national mechanisms for the protection of human rights, which in some way were going to take over from the Office of the High Commissioner for Human Rights with regards to all matters related to human rights. However, the closure of the office leaves a gap in terms of monitoring, defence and promotion of human rights in Burundi, which are rather crucial for maintaining a democratic space. Currently, the national human rights institutions are not able to fulfil these functions in a credible and effective manner. The international and national civil society is not in a position to carry out activities for the monitoring or promotion of human rights since it is closely monitored by the authorities.

 (ii) National Human Rights Institutions

418. There are three national institutions which are officially mandated to independently protect and promote human rights: The Independent National Commission for Human Rights (CNIDH); the National Observatory for the Prevention and the Rradication of the Crime of Genocide, War Crimes and Crimes against Humanity; and the Ombudsman.[[297]](#footnote-298)

 *- The Independent National Commission for Human Rights*

419. The CNIDH was created and given the mandate to uphold and promote human rights in the country.[[298]](#footnote-299) It can receive complaints and carry out investigations on human rights violations; carry out regular visits in detention centres and formulate recommendations in order to: improve the treatment and the conditions of the persons deprived of their liberty; prevent torture and other cruel, inhuman or degrading treatment or punishment; fight against rape and gender-based violence. It can also file a complaint with the Office of the Prosecutor on cases of human rights violations; provide or facilitate legal assistance to victims; and draw the Government’s attention on cases of human rights violations.[[299]](#footnote-300)

420. The CNIDH, which had enjoyed an “A” status with the Global Alliance of National Human Rights Institutions (GANHRI) since its creation, was downgraded to “B” status in November 2017, because it had not “taken a stand to promote the protection of human rights in response to credible allegations of gross human rights violations by authorities”, which demonstrated its lack of independence that had been a concern for several human rights mechanisms since 2014, including the fact that it does not have financial autonomy.[[300]](#footnote-301)

421. In fact, since 2015, the CNIDH has been more of a sounding board for official Government positions than an independent mechanism for the protection of human rights. For example, on 13 September 2018, it published a press release criticizing the report of this Commission of Inquiry submitted to the Human Rights Council,[[301]](#footnote-302) in which CNIDH expressed its outrage for the Commission’s mention of the President of the Republic delivering a hate speech. It also voiced its indignation at the fact that the Commission imputed liability to Imbonerakure for the most recent human rights violations. It refuted the existence of violations that took place in the context of the referendum as documented by this Commission and on the contrary declared standing up “as a witness of a clear improvement of the human rights situation throughout the country”.[[302]](#footnote-303)

 *- The Ombudsman*

422. The Ombudsman’s role is to receive complaints and carry out investigations related to mismanagement and violations of citizens’ rights by public officials or members of the judicial system.[[303]](#footnote-304) He must also ensure mediation between the Administration and the citizens and he has an observer’s role with regards to the functioning of the public Administration.

423. The lack of independence of the current Ombudsman, Édouard Nduwimana, who is in this position since November 2016, is obvious. He is a former Minister of Interior of President Nkurunziza and is known as the architect of the strategy to divide the opposition political parties from within (*nyakurisation*),[[304]](#footnote-305) as well as for his repressive policy towards media and civil society. Despite his new functions, he does not hesitate to publicly display his allegiance to the ruling party,[[305]](#footnote-306) such as his participation to the celebration of “Imbonerakure Day” on 17 August 2019, during which he congratulated the CNDD-FDD party and its leagues and pledged a heifer to the secretary of the Imbonerakure in the province of Kirundo.[[306]](#footnote-307)

424. With regards to the current situation, the Ombudsman confines himself to calling members of various registered political parties to cohabitate peacefully and live in harmony.[[307]](#footnote-308) He has often acted as the spokesperson of Government rhetoric and policies.[[308]](#footnote-309) For example, he expressed his satisfaction for the “inclusive character at social level” which allegedly characterised the referendum campaign and ballot, whereas, as documented by this Commission, several incidents, acts of intimidation and violence against political opponents were committed in the context of the constitutional referendum in May 2018.[[309]](#footnote-310) On 19 June 2019, endorsing the conspiracy theories of the international community targeting Burundi, he organised a press conference to criticise the intervention of the African Union representative Smaïl Chergui at the Security Council requesting the reopening of the inter-Burundian dialogue.[[310]](#footnote-311)

 *- National Observatory for the Prevention and Eradication of Genocide, War Crimes and other Crimes against Humanity*

425. Provided for by the Arusha Agreement and the 2005 Constitution,[[311]](#footnote-312) the National Observatory for the Prevention and the Eradication of Genocide, War Crimes and other Crimes against Humanity was only established in December 2017,[[312]](#footnote-313) and its members were appointed shortly after by the President of the Republic.[[313]](#footnote-314) The Observatory was at the outset conceived as an early warning mechanism to prevent atrocity crimes. This consultative body is officially responsible to observe the evolution of the Burundian society in order to prevent and eradicate acts of genocide, war crimes and other crimes against humanity, especially by suggesting measures to effectively fight against impunity for such crimes, including at the legislative level.

426. This Observatory is not independent either since its budget is included in that of the Presidency, and the Observatory’s President, Jean de Dieu Mutabazi, who is the leader of the party *Rassemblement des démocrates du Burundi* (Radebu), is close to the current leadership.

427. Its activities since its creation are quasi negligible. The Observatory had requested that international observers be invited during the constitutional referendum[[314]](#footnote-315) but the Government did not heed that call. It later refuted that acts of violence and human rights violations had been committed in the context of the same referendum.[[315]](#footnote-316)

428. Instead of taking into consideration the concerns expressed by various actors of the international community in relation to the possible deterioration of the human rights situation in the country, as a prevention and early warning mechanism against atrocity crimes should do as per its mandate, the Observatory denounced such concerns as infringement of national sovereignty.[[316]](#footnote-317) It also issued a statement on 25 June 2019 protesting the declarations of Smaïl Chergui, the Peace and Security Commissioner of the African Union, during the Security Council session. According to the President of this Observatory, the alarmist tone of Mr. Chergui describing Burundi as a country in a security and political crisis denotes “his deliberate desire to “harm” and to “tarnish the image of the country” and his declaration is in line with “the continuing destabilization efforts spearheaded by certain neo colonialists powers”. By his request to resume the inter-Burundian dialogue outside the country, the representative of the African Union was seeking to “torpedo democracy and the 2020 elections”.[[317]](#footnote-318)

 (iii) Control of the civil society

429. The existence of a dynamic, diversified and independent civil society, capable of acting freely, with intelligence and competence in the area of human rights is largely recognized as a fundamental element to ensure the sustainable protection of human rights, and in so doing, guarantee a democratic space necessary for the holding of free, fair and credible elections.[[318]](#footnote-319) In fact, civil society has an important role to play “in the establishment and maintenance of a solid democracy”, including in the framework of elections.[[319]](#footnote-320) Certain organisations can “work directly on electoral matters such as voter education, polling observation, the reform of electoral institutions and the accountability of candidates and elected officials”.[[320]](#footnote-321) More generally, it is important in an electoral context, that all civil society organisations are able to dialogue with potential elected officials, to attract attention on their concerns and interests in order to ensure that measures are put in place. They must be free to evaluate issues of public interest and to contribute to the public debate, to hold the Government accountable, to criticize Government policies and practices, to carry out investigations and advocacy on matters pertaining to governance such as corruption, but also to report on human rights violations and electoral fraud and to interact with international and regional human rights bodies.[[321]](#footnote-322)

430. Since 2018, Burundian authorities have increased their control of international and national NGOs, officially in order to ensure better coordination of the aid provided by NGOs. However, the authorities did not hesitate to suspend all international NGOs for three months from 1 October 2018 in order to compel them to seek accreditation again and to comply with the requirements of the 2017 law on foreign NGOs. The Government then decided to become involved in the international NGOs recruitment processes of national staff, mainly to ultimately influence the recruitment of supporters of the CNDD-FDD party.[[322]](#footnote-323)

431. The Government also sanctioned national NGOs by banning some of their activities or by suspending them, such as the organisation PARCEM, one of the last remaining civil society organisations still active, which was suspended indefinitely as of July 2019.[[323]](#footnote-324) Before the crisis, national NGOs, several of which were active in human rights matters, made up an active, solid, organized and representative national civil society. Since many of them opposed President Nkurunziza’s third term, they were, along with their members and representatives, amongst the main victims of the repression. Several of them have therefore been suspended or dissolved and several of their representatives and members were forced into exile in order to avoid arbitrary detention, perhaps even execution like some of their peers.[[324]](#footnote-325)

432. International NGOs, that published critical reports on the human rights situation or prepared advocacy papers related to it and who are outside Government purview, have been accused of being pawns bankrolled by countries bent on attacking the national sovereignty and on “torpedoing the 2020 elections in Burundi”.[[325]](#footnote-326)

433. The Burundian Government clearly has a peculiar understanding of the role of civil society and the organisations therein, which must not be independent and free “to decide and carry out activities of their choosing”.[[326]](#footnote-327) They must only serve the interest of the Government and support its politics and decisions. Since 2011, the Government has thus supported the creation of an alternate civil society- labelled as “civic” – composed of national NGOs that openly support the Government and serve as its sounding-board.[[327]](#footnote-328)

434. Threfore, civil society in Burundi is currently unable to play its role as the “cornerstone of a democratic society”.[[328]](#footnote-329)

 (iv) Media censorship

435. In order to guarantee the holding of free and credible elections, journalists and media must be able to work freely, without interference, intimidation or obstruction. Censorship must be prohibited, and media editorial independence must be respected. In fact, media have an important role to play in the context of elections, including relaying messages to political parties and candidates, monitoring and supervising the electoral process and providing voters with information on candidates and the electoral process.[[329]](#footnote-330)

436. The media currently present in Burundi are closely monitored and subject to genuine censorship by the National Communication Council (CNC). The profession of journalism is equally strictly regulated by the new legal framework governing media since September 2018, under the guise of professionalization, but breaking with recognized international standards of journalistic ethics and conduct. Many national radio stations and newspapers have been suspended or have had their licences revoked at the beginning of the 2015 crisis. Journalists who are still in Burundi, have continued to face serious challenges in the course of their work. They have been the target of pressure, threats and violence, which led several of them to seek refuge abroad; while others have been killed or disappeared.[[330]](#footnote-331)

437. Since the end of 2018, international radio stations have also been on the receiving end of warnings, suspensions or licence revocations, namely BBC, VOA and RFI. In July 2019, Iwacu, one of the last remaining independent media that is still operational, was warned by CNC, which accused the press group Iwacu of having published unbalanced and unsubstantiated information, but without providing additional information on these accusations. RTNB is now run by individuals who are close to the executive power.[[331]](#footnote-332)

438. Currently, the media present in Burundi is neither free, diversified nor independent. They can barely perform the fundamental duties of the media during an electoral process: since they would have to comment and debate political questions of public interest without censorship or restrictions. They should also be able to promote, criticize or oppose political ideas while working in an environment in which their security is guaranteed.[[332]](#footnote-333)

 *b) Clamping down the political space and political intolerance*

439. The African Charter on Democracy, Elections and Governance reaffirms that State parties should put in place measures to reinforce “political pluralism specifically by recognizing the role, the rights and the obligations of legally registered political parties including opposition political parties that must be guaranteed a status under the national law”.[[333]](#footnote-334) The Bamako Declaration adopted by Member States of the International Organization of La Francophonie, of which Burundi is a member State since 1970, recalls that “democracy assumes the existence of political parties enjoying equal rights before the law, free to organize and to express their opinions […] democracy goes hand in hand with a multiparty system”.[[334]](#footnote-335) A multiparty system in a context of political tolerance is therefore a prerequisite for the existence of a democratic society and the holding of free, fair, transparent and credible elections.

440. On 22 and 23 June 2017, a political retreat was organized by the Ombudsman and moderated by Mgr. Jean Louis Nahimana and Brother Emmanuel Ntakarutimana, in Kayanza, with the aim of drawing up conclusions, conduct guidelines as well as actions to be taken in the short, medium and long term, in order to allow the holding of peaceful elections in 2020, while working towards the establishment of a conducive socio-political climate and restoring trust amongst political leaders. The participants had already recognized the existence of “relative political intolerance” in Burundi, and that the political space was not equally guaranteed to political leaders and officials. The non-inclusive nature of CENI was noted, as well as the existence of the “youth movement affiliated to political parties who are manipulated by political leaders and officials”, as well as the fact that impunity continued to promote social crises in Burundi in a repetitive manner.[[335]](#footnote-336)

441. The roadmap for the 2020 elections preparation was signed a year later, on 3 August 2018, by the ruling party CNDD-FDD and 24 political parties loyal to the Government. The roadmap does not contain any commitment to solve the main issues identified during the June 2017 retreat. With regards to CENI, the commitment to improve its inclusiveness was limited to its local branches. Several conclusions in this roadmap echoed Government positions which refused to recognize the situation of humanitarian, economic, social and political crisis that resulted from 2015. For example, with regards to the refugees that fled in 2015 and who are encouraged to return, the roadmap explains that their exile was caused by “rumours spread during the 2015 elections”, that the human rights situation is “politicized for ulterior motives ”, that “false reports” on Burundi “continued to be produced with the support of some countries in the European Union” and finally that no “politician” is under prosecution in Burundi except the “putschists”.[[336]](#footnote-337) This roadmap has therefore contributed more to closing off political space on the eve of elections than guaranteeing a favourable and peaceful atmosphere during these elections.

 (i) A deceptive multiparty system

442. The freedom of establishment and activity of political parties is intrinsic to the freedom of association because the “political parties are in fact; the first avenue for the population to participate in the conduct of public affairs” and they “ensure the pluralism and the proper functioning of democracy”.[[337]](#footnote-338) The only possible restrictions to the establishment of political parties are those “prescribed or determined by law and which are necessary in a democratic society, in the interest of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”.[[338]](#footnote-339) The presumption must however remain in favour of the establishment of political parties.[[339]](#footnote-340)

443. Admittedly, there are numerous political parties registered in Burundi,[[340]](#footnote-341) some of which are officially part of the parliamentarian and extra-parliamentarian opposition, since the country has the peculiarity of legally and officially recognizing the political opposition and giving a full-fledged status to the leader of the opposition.[[341]](#footnote-342) However, since CNDD-FDD came to power, the majority or the main opposition political parties have been infiltrated in order to sow dissent in their midst and break them up into several wings, one of which will be loyal to the ruling power and ends up being the only one that is officially recognized. This well-known phenomenon has been named *nyakurisation*[[342]](#footnote-343) of political parties, in large part as a result of the manoeuvring of the former Minister of Interior and Patriotic Education from 2010 to 2015, Édouard Nduwimana, who is the current Ombudsman.

444. For example, *Union pour le progrès national* (UPRONA) has an officially recognised wing under the leadership of Abel Gashatsi, who supported the constitutional revision, called for a yes vote during the referendum, supported the exclusion of the CNARED platform from the inter-Burundian dialogue, and shares Government views on the “abuses of NGOs and independent media”. There is a separate wing of UPRONA led by Charles Nditije which has opposing views on all these issues. Similarly, the *Front pour la démocratie au Burundi* (FRODEBU) is divided into FRODEBU-*Sahwanya* and FRODEBU-*Nyakuri Iragi rya Ndadaye* which was further subdivided into Jean Minani’s wing with the external opposition and that of Kefa Nibizi close to CNDD-FDD. The party *Forces nationales de libération* (FNL) was broken up into three wings : that of Jacques Bigirimana (close to CNDD-FDD), that of Jacques Kenese FNL-*Iragi rya gahutu* and Agathon Rwasa’s movement, as he was elected at the National Assembly as an independent and then established a coalition and a parliamentarian group called *Amizero y’Abarundi* – until he established the party CNL, registered on 14 February 2019.

445. The registration of political parties with the Ministry of Interior is in fact compulsory and constitutes an actual authorization procedure by the authorities and numerous documents and information are required,[[343]](#footnote-344) whereas the international standards related to the right of freedom of association require simple procedures of declaration.[[344]](#footnote-345) The months long administrative procedures required for the registration of CNL[[345]](#footnote-346) perfectly illustrate this situation. A new political party, the *Mouvement des patriotes humanistes* (MPH), was also registered on 19 August 2019 by the Minister of Interior after having filed its application on 19 April 2019.[[346]](#footnote-347)

446. The Minister of Interior not only has the authority to award or refuse legal recognition to a political party, but he also has the authority to suspend or dissolve them. The opposition political parties (or one of their wings) that opposed the third term were thus suspended or dissolved and their leaders and some of their followers forced into exile because they were labelled criminals or insurgents bearing the responsibility of the 13 May 2015 *coup d’État.*[[347]](#footnote-348) For example, in October 2017, the Minister of Interior, Pascal Barandagiye, requested the dissolution of the MSD party, that he had previously suspended for 6 months in April 2017 due to its alleged support to the establishment of an armed group. The Minister also dissolved several other opposition parties even if they had limited popularity such as the PIT, *Vert*-*Intwari*, *Naddebu*, *Sonovi*, *Rusangi* and *Abahuza* alleging a variety of reasons.[[348]](#footnote-349) The *Conseil des patriotes* (CDP) was also suspended in July 2017 because it was accused of not being active enough and for having belatedly submitted their activity reports for the years 2015-2016 and 2016-2017. This suspension was finally withdrawn two years later, on 9 August 2019.[[349]](#footnote-350)

 (ii) Political intolerance

447. While the right to peaceful assembly requires, at most, a simple advance notice for large public rallies,[[350]](#footnote-351) and Burundian legislation recognizes the right of political parties to hold meetings, organize demonstrations and campaign,[[351]](#footnote-352) the climate of political intolerance is obvious and is increasingly denounced in Burundi by various actors.

448. On 21 August 2019, faced with challenges in carrying out its activities, harassment and violence against its members since its creation,[[352]](#footnote-353) CNL officially denounced the situation of political intolerance and the “abuses and excesses” perpetrated against its members and headquarters, namely by the youth affiliated to the ruling party, some local officials affiliated to the ruling power, as well as administrative officials and security officials at the local level; specifically within the mixed security committees.[[353]](#footnote-354) On the contrary, the police spokesperson has denied the political nature of the violence and incidents reported by the media, claiming that these were ordinary crimes and misdeameanours orchestrated by political authorities, while adding that members of CNL were the perpetrators of most of the recorded offences. He specifically accused them of attacking homes belonging to Imbonerakure and local authorities affiliated to CNDD-FDD, attacking and beating local administrative authorities, members of the mixed security committees and Imbonerakure and being responsible for the destruction of some CNL headquarters.[[354]](#footnote-355)

449. From April 2019, the party *Sahwanya*-FRODEBU has also denounced a serious and increasing climate of political intolerance in connection with election preparations, against its members and those of other political parties, specifically from local administrative authorities who want to create a climate of fear, and it has requested the international community to follow closely the political and security situation.[[355]](#footnote-356)

450. On 24 August 2019, during a meeting organized by the Minister of Interior and Patriotic Education with the representatives of officially registered political parties and provincial governors for the preparation of the 2020 elections, “most of the participants stressed the fact that the threat to the 2020 elections was closely linked to political intolerance and stigmatization as well as the implication of the administration in sabotaging the activities of political parties”. A code of conduct was adopted and includes the sensitization of youth affiliated to the political parties so that they adopt a behaviour of political tolerance, the opening of headquarters in accordance with the law and the suspension of meetings at night by political parties.[[356]](#footnote-357) Similarly, the climate of intolerance which prevents genuine political pluralism, has been denounced several times by representatives of the Catholic Church despite requests made by the official authorities to the Church not to interfere in political matters.[[357]](#footnote-358)

451. In conclusion, the political space is locked down by CNDD-FDD, which is the only party that is truly benefiting from freedom of assembly and the latitude to conduct its activities without any hindrance.

 (iii) Confusion between CNDD-FDD and State institutions

452. For elections to be considered just, there must be a clear separation between the ruling party and the State institutions, and public resources should not be used unfairly in favour of the ruling party.[[358]](#footnote-359)

453. In Burundi, the CNDD-FDD party in power since 2005, as well as its youth league of Imbonerakure and its women’s league are ubiquitous throughout the country, if only symbolically through the construction of multiple party branches at communal and *colline* levels. In fact, according to data obtained from the party itself, there are 60 communal branches and 1,800 in collines,[[359]](#footnote-360) several of which were recently built as part of the mandatory community work - which the Commission considers as a form of forced labour - or through contributions that are claimed forcefully and violently from the population.

454. This generalized and mandatory mobilization of the population in favour of the ruling political party perfectly illustrates the confusion that has evolved over time between CNDD-FDD and State institutions, primarily at the local level.

455. The administrative division in Burundi is relatively complex. The territory is divided in provinces, communes, zones, *collines* (called “neighbourhoods” in urban communes) and, at the lower echelon but informally, in groups of 10 houses (*Nyumbakumi*).[[360]](#footnote-361)

456. The commune is administered by the communal council and the communal administrator.[[361]](#footnote-362) Members of the communal council are elected for five years and elect their board composed of a president, a vice-president and a secretary who is also the communal administrator.[[362]](#footnote-363) The latter is the representative of the commune and its population, but also, of the State, and as such a civil registrar. He also exercises the general authority of police and can take any police measures that he deems necessary to maintain public order and security. He also has direct hierarchical authority over the police. He is remunerated by the State.[[363]](#footnote-364)

457. The *colline* (“neighbourhood” in urban communes) is administered by the *colline* (or neighbourhood) council and the *chef de colline* (or neighbourhood)[[364]](#footnote-365). The *colline* (or neighbourhood) counsellors are elected for 5 years and the counsellor who secured the most votes during the election becomes the *chef de colline* (or neighbourhood), who is “the facilitator of social harmony and development in his constituency”. As such, he receives an allowance from the *colline’s* budget.[[365]](#footnote-366)

458. By contrast, the *chef de zone* is appointed by the governor of the province (or mayor for urban communes), upon suggestion from the communal administrator after approval by the communal council. The *chef de zone* is the representative of the communal administrator in his constituency. He is responsible, inter alia, of leading and coordinating the development activities initiated by the commune in his zone; of assisting in the management of civil status matters; and ensuring the liaison between the population and the administrator.[[366]](#footnote-367)

459. The head of the ten houses groupings, *Nyumbakumi*, is elected amongst the residents of the area and is a traditional authority who is not officially recognized by the law regulating communal administration. He ensures the liaison between local administrative authorities and particularly keeping them informed of population movements including births, deaths and the presence of visitors, which must also be recorded in the household notebooks.[[367]](#footnote-368)

460. The CNDD-FDD party has a hierarchical structure which largely follows the above-mentioned administrative division, with party leaders at the provincial, communal and collines levels. The Imbonerakure also have a similar structure, parallel to that of the party and the administration. Presently, the majority of local authorities are members of the ruling party and many amongst them are also Imbonerakure. In addition, since the Imbonerakure are members of the mixed security committees, they are entrusted, almost officially, with the mission of public security in rural areas, which often takes the form of night patrols.[[368]](#footnote-369) On 23 August 2019, during a press conference, the spokesperson of the national police himself stated that “the youth” – implying the CNDD-FDD youth league - “must be the eyes and ears of the police and all the institutions”.[[369]](#footnote-370)

461. This interlocking of roles and functions reinforce the absence of distinction between the ruling party, local administration and the State security apparatus. A witness explained the confusion of roles in his colline:

“*A police car arrived, inside was the administrator of the commune [X]. He was the head of CNDD-FDD at the provincial level and he was also an Imbonerakure. […][Y], the chef de colline had been an Imbonerakure for the past five years. […] [Z] was the leader of the Imbonerakure on the colline. We knew it because it was openly discussed but also because when somebody did something wrong, he was the one who came to punish them. The chef de colline [Y] could give orders but the one who was feared and respected was [Z, the leader of the Imbonerakure]*”.[[370]](#footnote-371)

462. It is therefore difficult to know in what capacity a person, who is at the same time an administrative authority, a party official and an Imbonerakure as well as a member of the mixed security committee, is acting. A former *Nyumbakumi* highlighted the total confusion between the party and the administration as illustrated in meetings which are simultaneously party and administrative meetings:

“*The meetings took place every Saturday and I took part as Nyumbakumi. They would teach us about CNDD-FDD. […] During the Saturday meetings, births and deaths would not be discussed. Arrivals and departures were discussed by the chef de colline who had received the information from Nyumbakumi […]. These meetings […] took place at the colline, but they could also take place in the zone or the commune in the shape of larger ‘gatherings’. Some meetings at the colline were opened to all, others were strictly for the Nyumbakumi. They took place in the offices of CNDD-FDD branches. Until 2018, the Nyumbakumi not affiliated to CNDD-FDD could take part in the meetings for all Nyumbakumi of the colline. They made it clear to them that they were not ‘integrated’ in the meeting’s discussions […]. Today, it is not possible to be a local leader without being a member of CNDD-FDD. All this took another dimension because the meetings were held in the party headquarters at the colline or the commune level. When the meetings were exclusively for Nyumbakumi, they would give us civic lessons to disseminate. The meeting was always chaired by a senior authority, either the chef de colline or the communal administrator.[…] The subjects covered included civic education in favour of CNDD-FDD, distrust of other parties, all other topics of interest for the commune or the colline such as the contributions, the management of grazing spaces for the cattle and community works*”.[[371]](#footnote-372)

 (iv) Indoctrination of the population and show of force by CNDD-FDD

463. Such an interlocking of political, administrative and security structures facilitates the control of the population in its entirety. Specifically, this has taken shape with the controls exercised by Imbonerakure on the population to verify that people have registered on electoral lists, voted during the referendum, effectively paid up the forced and the “voluntary” contributions for the preparation of the 2020 elections.[[372]](#footnote-373) However, CNDD-FDD seeks to further increase its dominant position in the Burundian political space, including by recruiting new members, by force if necessary;[[373]](#footnote-374) and in multiplying “shows of force” on the whole territory since 2019.[[374]](#footnote-375) For example, on 27 April 2019, the Imbonerakure from Kinama zone, commune of Ntahangwa in the city of Bujumbura*,* organised a “show of force”.[[375]](#footnote-376) On 11 May 2019, it was the members of the CNDD-FDD women's League, the *Bakenyerarugamba*, who organized demonstrations in the city of Bujumbura as a “show of force” while chanting slogans such as “you cannot push a mountain”, the mountain symbolizing CNDD-FDD.[[376]](#footnote-377)

464. On 17 August 2019, for the third consecutive year, a day dedicated to Imbonerakure, named “Imbonerakure Day”, was organized throughout the country. It was largely presented as a “show of force” by the party.[[377]](#footnote-378) For the first time, groups of children aged 7 to 17 years, presented as *ibiswi vy’inkona* (children of the eagle) took part in the parade of various leagues of CNDD-FDD.[[378]](#footnote-379) This indoctrination of young people is new and demonstrates that the entire population is impacted.

465. CNDD-FDD feels the need to display a show of force because the new CNL party, which benefits from a certain popularity within the population, represents its main opponent within its traditional electoral base, composed mainly of Hutus. In fact, in Burundi, political violence has been a tool used in the past by political parties to mobilize members of a given community, because the show of force would prove the capacity and the will of the concerned party to protect its group members.[[379]](#footnote-380)

466. The history of elections in Burundi has also shown a certain tendency of CNDD-FDD to resort to strategies of violence as a means of political mobilization, particularly when there is a solid political opposition which leaned on the same community and/or the same ethnic group. Violence also has the objective of punishing the defectors, who are labelled as traitors, and to prevent possible future desertions.[[380]](#footnote-381)

467. It is therefore clear that CNDD-FDD party is already in full-fledged pre-electoral campaign and is in the process of mobilizing troops. However, while the elections are rapidly approaching, and specifically because the applications for the Presidential election must be submitted to CENI between 25 February and 5 March 2020, the party is yet to announce its candidate. Since CNDD-FDD is traditionally secretive, it is impossible to know how far the appointment procedure has gone or when it will take place. There has been uncertainty surrounding this nomination since the President’s announcement that he will not seek reelection. This situation is reminiscent of that of 2015 since it is only on 25 April 2015 that CNDD-FDD appointed President Nkurunziza as its candidate during the party’s Congress, when the candidates’ applications needed to be presented to CENI between 30 April and 9 May 2015 for the election initially scheduled on 26 June 2015.[[381]](#footnote-382) CNDD-FDD waited until the very last minute because they were unable to agree on an alternative candidate to Nkurunziza.[[382]](#footnote-383)

468. The lack of a declared candidate of the ruling party contributes to maintaining doubt in the minds of certain analysts and several Burundians with regards to the possibility of a fourth term of President Nkurunziza, despite his announcement that he would not seek re-election, reiterated several times by himself and his spokesperson. In fact, some of the President’s statements, initiatives and positions are sufficiently ambiguous to prompt speculations.

 (v) Abuses of power by the Head of State

469. By virtue of the new 2018 Constitution, the President of the Republic has broad powers at his disposal. Specifically, he exercises regulatory authority and ensures the enforcement of laws ; he appoints Government members and terminates their services ; he presides over the Council of Ministers; he is the Commander-in-chief of the defence and security forces; he appoints senior officials; accredits and recalls ambassadors as well as special envoys to foreign States; he has the prerogative of clemency; he can declare a state of emergency by decree-law and take measures required by these circumstances.[[383]](#footnote-384)

470. However, he does not hesitate to make decisions that go beyond these prerogatives, for instance when he appointed by decree the composition of the new Office of the National Communication Council – while these should be elected internally by members of this Council. In addition, he regularly circumvents state institutions by using opaque parallel structures such as the “committee of generals”.[[384]](#footnote-385)

471. He increasingly relies on the National Security Council (CNS), one of the “national councils” established under the Constitution to enable a “broad participation of citizens in the management of public affairs”.[[385]](#footnote-386) The Constitution clearly states that the CNS is “a consultative body which assists the President of the Republic and the Government in formulating a security policy, monitoring the state of national security, and devise defence, security and policing strategies in times of unrest. This Council carefully scrutinises the state of unity and national cohesion among the components of defence and security forces. It can also be consulted on any other national security issue”.[[386]](#footnote-387) The CNS is made up of 17 members, eight of whom are full members, namely: the President of the Republic, the two Vice-Presidents, the Minister in charge of Public Security, the Minister of Interior, the Minister of External Relations, the Minister of National Defence, and the Minister of Justice. The CNS Permanent Secretary is Major-General Silas Ntigurirwa, former AMISOM Commander from December 2013 through December 2014. He is also the former Executive Secretary of the National Commission for Demobilisation, Reinsertion, and Reintegration of Former Combatants from 2004 through 2008. The other nine members are appointed by the President. It is the CNS that banned the activities of all international NGOs for three months starting from 1 October 2018,[[387]](#footnote-388) although this Coucncil does not have decision-making power. Yet, this decision was endorsed and immediately enforced by Government without further questioning.

472. The new Constitution, promulgated on 7 June 2018 by the President of the Republic, was presented as “emanating from the will of the people [...] Burundians have just adopted a new Constitution which lives up to their expectations after some anachronistic articles of the former 2005 Constitution were amended and others revised. Moreover, new articles have been added to ensure that the Constitution conforms to our time and the laws in force in our sub-region, the East African Community. [...] In fact, this Constitution has been amended for the good, the honour and dignity of Burundi, and mostly to prepare a brighter future for generations to come”.[[388]](#footnote-389)

473. However, its implementation is marked by some level of inconsistency and uncertainty as it is not done following a clearly predefined schedule. For instance, the office of Prime Minister that is supposed to replace one of the Vice-Presidents has not been established[[389]](#footnote-390) while at the same time the right of former Presidents to become Senators was immediately repealed pursuant to the new Constitution. This is despite the fact that it was one of the provisions of the Arusha Agreement.[[390]](#footnote-391) Furthermore, some provisions are already obsolete, such as the one naming Bujumbura as the country’s capital, since the Government announced on 21 December 2018 that Gitega was the new capital of Burundi[[391]](#footnote-392). The provision on the country’s motto “Work, Unity, Fatherland”[[392]](#footnote-393) is *de facto* questioned following the President’s demands that the former monarchic motto “*Imana*, *Umwami*, *Uburundi*” (God, King, Burundi) be inscribed on every public building in replacement of the official motto, without any legal basis. Such personal abuses of presidential powers bring to light the weakness of State institutions, which are clearly not able to counteract or denounce them.

474. President Nkurunziza’s constant references to the monarchic period as a blessed era for the country, the imposition of the monarchic motto, including on CNDD-FDD offices, alongside a sufficiently ambiguous formulation of the new constitutional provision on the possibility of a return to monarchy,[[393]](#footnote-394) allow for speculation among analysts and Burundians as to the possibility of a restoration of the monarchy to the benefit of the Head of State, especially as he announced he will not take part in the next presidential elections.[[394]](#footnote-395)

475. President Nkurunziza’s grip spans beyond the political spectrum. He also wants to impose himself as the moral leader of the Burundian population whom he has decided to “moralize” through teachings strongly inspired by religion and near mysticism. In 2017, he launched a moralization campaign of the society, a national “advanced civil and psychosocial education” programme whose ultimate objective is to “cleanse the Burundian society from a disease inoculated by colonialism in its assimilated forms, particularly neo-colonialism, recolonisation and imperialism”. Given that the city of Bujumbura “has been more exposed to these colonial teachings” than the other parts of Burundi, the Head of State “has scheduled to pay five to six visits to each of the three urban communes that make up Bujumbura, and three visits to the other provinces”.[[395]](#footnote-396) Since then, he has multiplied moralization sessions during which participants are convened either based on their regional origin (“natives”, inhabitants from a particular commune), or based on their socio-professional category (elected and appointed authorities from a particular commune, civil servants of a ministry, or employees of a public corporation). Members of officially recognized political parties have also been called to participate.[[396]](#footnote-397) The *Sahwanya*-FRODEBU Party Representative, Léonce Ngendakumana, who refused to take part in such session was accused by State media of trying to destabilise the country.[[397]](#footnote-398)

476. These sessions are characterized by opacity as participants are neither allowed to bring along their phones, nor have any writing material, or any other device to record what has been said. In addition, questions are not allowed. However, over time, some aspects of these meetings were made public. These are sessions where the President teaches “the real history” of Burundi, according to which as a monarchy, Burundi was “a wonderful country, where milk and honey overflowed. Our country was politically, economically and socially stable and well organized”. All the problems the country currently faces have been caused exclusively by the colonisers and only the CNDD-FDD party brought democracy when it accessed power in 2005.[[398]](#footnote-399) In addition to the “historical” aspect, moralization sessions try to bring about a “change of mindset” which is consistent with the religious, traditional, and patriarchal ideas of society promoted by the President and his wife, who are evangelical “born again” Christians. In fact, the First Lady is a pastor with her own church named, *Eglise du Rocher* (Church of the Rock).[[399]](#footnote-400)

477. Some of the latest decisions taken by the President show signs of this religious and “moralistic” influence, such as the banning of free union and common-law marriages,[[400]](#footnote-401) compelling CNDD-FDD militants to devote themselves to fasting and prayers every Thursdays and to take part regularly in “prayer crusades” or “thanksgiving prayers”, irrespective of their religious background, including if they are atheists. He therefore imposes his personal religious practises on all his party members.[[401]](#footnote-402)

478. Religious and quasi-mystical references are innumerable in the Head of State’s speeches. For instance, during the thanksgiving prayer organized from 20 to 25 August 2019 by the presidential family in Bubanza province,[[402]](#footnote-403) he recounted how God protected him while he was a rebel fighter,[[403]](#footnote-404) he hosted seminars on topics such as the “characteristics of a youth who respects God”,[[404]](#footnote-405) “the value of God in the national life and the life of the youth”,[[405]](#footnote-406) as well as a “leadership” seminar entitled “obeying God and abiding to his will” where he develops 20 points on the importance of obedience.[[406]](#footnote-407)

479. Regular statements of a mystical and prophetic nature on the country’s destiny are regular features in his speeches and in his wife’s preaching and prayers. He thus proclaimed: “Burundi is under divine protection, nothing can shake it”, or “We would like to inform Burundians that in the year 2019, God will reveal many things so far unseen in Burundi. In the year 2019, we expect a new turn in our history, Burundi shall be endowed with special gifts from God. We will multiply these heavenly gifts, make the most of them, and they shall be a source of blessings and of prosperity from God Almighty, and we will accept to work with God”.[[407]](#footnote-408)

480. The idea that President Nkurunziza was appointed by God to lead Burundi is often implicit but also, explicitly mentioned by persons close to the Government.[[408]](#footnote-409) For instance, on 10 February 2019, according to Burundi’s Ombudsman, all inhabitants of the Rukago Holy Mary Parish should contribute to and participate in the 2020 elections, since every leader is elected according to the will of God.[[409]](#footnote-410)

481. Naturally, the logical conclusion is that opposing the President is equivalent to going against the will of God. This rhetoric has turned out to be the “gospel of truth” within the CNDD-FDD, where dissenting voices are not tolerated. This was illustrated by the fact that those who left the party in opposition to President Nkurunziza’s third term in office were considered as traitors and had to flee the country. Thus, it is difficult for some CNDD-FDD members to openly express any opinion contrary to the one voiced by the President.

 c) Legal framework for the elections

482. The legal electoral framework comprises laws, including the Constitution, and other statutory texts regulating or influencing an electoral process, namely laws on the establishment and functioning of political parties, voters’ registration laws, those on citizenship, statutory texts governing every aspects of the organization and holding of elections, from electoral campaign to post-electoral dispute settlement. In a more general sense, laws on the freedom to exercise civic liberties, which are fundamental for the organisation of free, fair and credible elections, as well as those ensuring the free participation of citizens in public affairs without fear of discrimination, can also be considered as part of this legal framework.[[410]](#footnote-411)

483. In order to comply with international standards, the electoral legal framework should reflect the following principles: voting should be universal, and therefore any restriction should be minimal and justified; the vote should be secret; the right to stand for election should be standardized and any form of restriction should be minimal and justified; the elections should be frequent; electoral authorities should be neutral and impartial; and candidates and political parties should be treated in a fair and equal manner.

484. To guarantee candidates, political parties, and voters’ trust and support of the electoral process, a good practice is to avoid introducing important changes to the electoral legal framework during the period preceding such elections in order to prevent confusion. Electoral rules should be established and disseminated well in advance to allow all the stakeholders to understand and master them.[[411]](#footnote-412) In addition, these fundamental instruments which govern the democratic life should be the result of a national consensus while complying with international standards.[[412]](#footnote-413)

485. In Burundi, the Electoral Code, which is the key element of the electoral legal framework, was revised in 2019[[413]](#footnote-414) through a non transparent process. Officially, the necessity of a new Electoral Code was justified by the need to align it with the Constitution of 7 June 2018. The new Electoral Code amending the one of 3 June 2014 was promulgated on 20 May 2019[[414]](#footnote-415) after its adoption by the National Assembly on 17 April 2019 and by Senate on 24 April 2019. However, only the draft bills adopted in January 2019 by the Council of Ministers circulated publicly until the Code promulgation. The *Sahwanya*-FRODEBU political party criticised the Government for its lack of transparency during consultations to amend the Electoral Code. According to its press release, the party representatives were invited to a consultation organized by Government on 3 January 2019, but no Government official honoured the appointment. It was through the press that *Sahwanya*-FRODEBU representatives learned about another consultative meeting that was organized on 4 January to which they were not convened. They also underscored that by this time the draft bills had already been sent to the Council of Ministers and that those consultations were just “pretence”.[[415]](#footnote-416)

486. As mentioned above, one of the most notable consequences of this new Electoral Code is the introduction of stringent requirements in order to be recognized as an independent candidate, to be allowed to run for elections in that capacity, and be elected[[416]](#footnote-417). However, it is important for this type of candidacy to be allowed to participate in any election considering the relatively complex procedure of registration of a political party by the Government.[[417]](#footnote-418)

487. Moreover, the Burundian legal framework now has restrictions on the exercise of the right to freedom of expression and information, the right to freedom of association and peaceful assembly, which are disproportionate and unnecessary in a democratic society.[[418]](#footnote-419) Thus, the legal framework is not able to guarantee that elections are free, fair, transparent and credible.

 d) National Independent Electoral Commission

488. In accordance with the African Charter on Democracy, Elections and Governance, African Union member States pledged to create and reinforce national independent electoral bodies to manage elections with impartiality.[[419]](#footnote-420) Through the Bamako Declaration, member States also reaffirmed that they would “ensure that the organization of elections, from the preparatory phase and electoral campaign through counting of votes and proclamation of results, including electoral disputes where necessary, shall be done in total transparency under the jurisdiction of credible bodies known by all for their independence”.[[420]](#footnote-421)

489. The Independent National Electoral Commission (CENI) has a key central role in the organization of the 2020 elections and the smooth running of electoral campaigns. It is the body that is officially in charge of making sure the electoral process is free, impartial, and independent[[421]](#footnote-422). More precisely, it is in charge of organizing every election by making sure it are free, fair and transparent by publishing provisional results within the legal time limits; promulgating the arrangements, code of conduct and technical details on the holding of elections; receiving and addressing the complains related to the abuse of electoral rules; making sure there is no incitement to ethnic violence during campaigns; and ensuring the respect of ethnic quotas.[[422]](#footnote-423)

490. The organization and functioning of CENI are laid down in decree n°100/125 of 27 August 2018. The administrative and financial autonomy of CENI are mentioned in the decree,[[423]](#footnote-424) with resources allocated in the form of annual subsidies derived from State budget, as well as funds received from bilateral and multilateral donors. CENI drafts an annual report of its activities and sends a copy to the President of the Republic, the Minister of Interior and to the Court of Auditors. It comprises five commissions (operations, electoral digitization and maintenance of equipment; legal matters and electoral disputes; electoral logistics and procurement; administration and finance; electoral education and communication) each under the supervision of a member. Each commission is sub-divided into services led by Heads of Service appointed by CENI.

491. The Electoral Commission should also include local offices which are called Independent Provincial Electoral Commissions (CEPI) and Independent Communal Electoral Commissions (CECI), with members appointed by members of the Commission directly above it. Membership of CEPIs should correspond to the number of communes in each province, headed by a President and an Officer in charge of the electoral equipment since each commune should be supervised by a member of CEPI. As for the 129 CECIs, five members are appointed for each commune for a total of about 645 for a one-year term.[[424]](#footnote-425) Members’ wages are decided by a joint ordinnance of the Minister of Territorial Administration and the Minister of Finance.[[425]](#footnote-426)

492. On 21 August 2018, the current seven members of CENI were appointed by the President of the Republic for a five-year non-renewable term,[[426]](#footnote-427) and they were sworn-in on 19 September 2018. Although the Constitution provides that their appointment should first be approved by an absolute majority in both houses of Parliament (a two-third majority was required by the former Constitution), it would be hardly conceivable that the Parliament do not validate the presidential choices considering its lack of independence *vis-à-vis* the President. Thus, it was no surprise to see that the National Assembly approved the CENI members proposed by the President with a 98.8 % majority.[[427]](#footnote-428)

493. These appointed members benefit from the same immunity as parliamentarians in office,[[428]](#footnote-429) but the ranks and benefits granted to them are determined by a decree of the Council of Ministers.[[429]](#footnote-430) CENI, as a body alongside its members are therefore under a form of structural financial dependence on the President.

494. The appointment of some individuals close to CNDD-FDD and the Government as CENI members was highly criticised. In fact, among these new members, there is its President, Pierre Claver Kazihise, who is the former Head of the Association for the Consolidation of Peace (ACOPA) - a civil society organization close to CNDD-FDD, which in 2014, publicly rejected accusations of human rights violations by Imbonerakure. This organization also denounced concerns raised by several Burundian NGOs and the international community on the preparation of the 2015 elections by describing them as political attempts to destabilize the country whereas the country is on “track to strengthen its democracy”.[[430]](#footnote-431) In his capacity as ACOPA President, he co-signed a joint letter written by 16 civil society organizations, said to be “civic” associations, sent on 13 September 2018 to the Secretary-General of the United Nations and to the Mediator of the inter-Burundian dialogue on the eve of its fifth session. In this letter, they requested that the new 2018 Constitution, the roadmap of the Kayanza elections or the composition of the CENI be not subject to discussion.

495. Among the other members who are close to the President, there is Philippe Nzobonariba, who was Secretary-General and spokesperson of the Nkurunziza Government from 2015 to 2018, now in charge of the Presidential communication; and Serge Ndayiragije, former Minister of Communication and Media, now in charge of the Presidential administration and finances.

496. In their new capacities, some CENI members made statements that raise questions about their neutrality and impartiality. For example, on 7 May 2018, Jean Anastase Hicuburundi requested the censure of independent media.[[431]](#footnote-432)

497. CENI is therefore not perceived as a body capable of fulfilling its mission in a neutral and independent manner. This perception further damages the population and political actors’ trust in Burundian institutions and their ability to guarantee that the next elections will be fair and credible.

 3. Misuse of history for political purposes

 a) Complexity of the ethnic issue

498. In Burundi, issues on ethnicity are deeply tied to the country’s history. No matter the origin of ethnic differences, a colonial legacy[[432]](#footnote-433) or a socio-traditional fact often used as a means to an end, it is nonetheless one of the aspects which have marked the recent history of the country. As a matter of fact, since independence, violence and political unrest that caused numerous human rights violations had generally an ethnic dimension. Presently, ethnic origin, which is traditionally determined by the father’s one, has become a social reality experienced by the majority of Burundians and one of the most important identification elements alongside the clan and the region of origin.

499. This ethnic dimension has been taken into account in the Arusha Peace Agreement and the 2005 and 2018 Constitutions, which all impose ethnic quotas in the defence and security forces and in Parliament. The 2018 Constitution went even further as it establishes quotas in the judiciary, and then Government imposed such quotas on international NGOs as well.[[433]](#footnote-434) These latest developments may sound contrary to the message repeated in the speeches of the Head of State, where he says ethnic groups are a colonial making void of any strong backing.

500. Whatever the case, atrocity crimes based on ethnicity left a legacy of suspicion and resentment vis-à-vis the other ethnic group amongst many Burundians. In the absence of a genuine reconciliation process and transitional justice, through which a historical account acceptable to the majority of both groups would be reached, there has been a tendency by each group to create its own memory, necessarily partial.

 b) Absence of reconciliation and transitional justice process

501. Following the Arusha Peace Agreement, the international community has deployed numerous measures to support the establishment of a transitional justice process that would lead to the introduction of measures to promote the search for truth, justice, reparation for victims, and prevention of subsequent atrocity crimes, and which would have “laid the groundwork for national reconciliation”. However, Burundian authorities only established a Truth and Reconciliation Commission (CVR) in 2014[[434]](#footnote-435) while the international judicial investigation commission, also provided for, is yet to be put in place.

502. The composition of CVR was criticised from the onset because it had no member from the civil society, thus it lacked “the required confidence and credibility”.[[435]](#footnote-436) In addition, any potential judicial proceedings were postponed by Government until the conclusion of the work done by CVR, which translates into an extension of the provisional immunity granted by the Arusha Agreement to those suspected of crimes. In 2018, by the end of its four-year term, CVR reported to have heard 70,000 victims and witnesses of the crises which marked Burundi since 1962, and identified close to 20,000 alleged suspects and 4,000 mass graves.[[436]](#footnote-437) The work done by CVR is *a priori* quantitatively impressive. It was however criticized for not being conducive to the victims’ involvement in the proceedings because of their fear of reprisals in the absence of protective measures offered to the victims, while the alleged perpetrators are either in power or involved in the procedures. More generally, the lack of information on the process did not help in alleviating the victims’ mistrust in the said process.[[437]](#footnote-438) In addition, CVR did not take into consideration the traditional obstacles preventing women from taking part in the process at the community level, thus neglecting to integrate a gender dimension in the process.[[438]](#footnote-439)

503. Considering the results produced by CVR, the Parliament decided to renew the Commission’s mandate for another four-year term, which is renewable, and entrusted it with the mission of “investigating and shedding light on serious human rights and international humanitarian laws violations perpetrated from 26 February 1885 to 4 December 2008”, thus covering the colonial era. It is also requested to rewrite the history of the country.[[439]](#footnote-440)

504. It is relevant to carry out such a task to establish a common historical narrative and national history, considering that currently each group has its own distinct and selective memory, which has instilled fear, lack of trust and suspicion between ethnic groups.[[440]](#footnote-441)

505. The President of CVR, Pierre Claver Ndayicariye, officially announced he wishes to fulfill the mandate given to the Commission in order to contribute to the national reconciliation. He admitted that “the burden of such a painful past seriously weighs on the population in general. This burden is so heavy to bear that it materializes exceptionally during specific periods of the year, around 29 April or 21 October, depending on the year and the grieving memories, when some victims’ organizations commemorate in their own way, the sad events which claimed the lives of their loved ones. Looking into the dark side of our history, one thing is obvious: Burundians from every ethnic group and every region are affected”.[[441]](#footnote-442)

506. However, Pierre Claver Ndayicariye is neither known for being impartial, nor independent from the Government. He was the President of CENI from 2010 to 2015, and therefore organized and supervised the controversial presidential election of 2015. He recently took a clear stance against journalists who reported human rights violations in Burundi, calling them: “Merchants of lies, you are doing a dirty job. You are a shame to humanity”.[[442]](#footnote-443) In April 2019, he stated: “Between April and May 2015, political and diplomatic manipulation received substantial funding in Burundi. The intensification of the plot against Burundian people passed through media disinformation”.[[443]](#footnote-444) Such statements as well as his past allegiance raise some doubts about his ability to adequately accomplish his task in an independent, impartial, and neutral manner, especially when it comes to recording historical facts which could finally help Burundian achieve a common vision of events that could be taught to future generations.

 c) Teaching of history in Burundi

507. Teaching history as a school subject is generally a means to convey “collective memory” or “collective identity” which helps to develop social cohesion through a sense of belonging alongside values that are a foundation of a national identity. Several countries whose history has been marked by difficulties and dissensions have decided not to teach history at all, or to teach only the pre-conflict period. However, such measures do not prevent the prevalence of often selective, traumatizing, and dramatic informal recounts in family settings and communities, thereby perpetuating former divisions and stereotypes, and instilling fear and mistrust.[[444]](#footnote-445) For instance, refugees who were victims of atrocity crimes and who lost their properties in 1972, have created narratives that circulate in refugee camps in Tanzania. These narratives tend to foster ethnic divisions and related stereotypes in a climate of fear, victimization and suspicion. This narrative was brought into Burundi after the civil war and can be heard in many speeches of current Government officials.[[445]](#footnote-446)

508. For a long period of time, Burundi chose not to introduce the country’s recent events into school curriculum.[[446]](#footnote-447) A witness recounts that:

*“History curriculum was elaborated many years ago [...] I studied history in 1997 and I know it has not changed since then. In this school curriculum, students are taught the various successions of kings right up to the last one in 1961 and the Presidents who served, but all that happened after 1962 is left out”.[[447]](#footnote-448)*

509. Since CNDD-FDD took power, and especially since the 2015 crisis, some teachers have been discussing the 1973 and 1993 crises, which are not officially in the school curriculum. They usually do it of their own volition with the political objective of convincing students of the need to maintain CNDD-FDD in power, and of recruiting them into the party. Similar approaches are very common in countries led by authoritarian regimes or in conflict countries as they tend to politicise the teaching of history “by intentionally using biased statements to create division in a bid to perpetuate enabling circumstances to maintain a status quo in the current distribution of power (political and economic) in place. In this case, education is used as a tool to create and develop social cleavages which constitute the root cause of intolerance, resentment, reinforced inequalities and forms of marginalisation (since access to education and curricula has been altered), thereby increasing risks of future atrocity crimes and violence”.[[448]](#footnote-449) A witness reported on the content of recent lessons that:

 *“[The history teacher] explained the history of Burundi in a way that portrays CNDD-FDD as a good thing, but what he said was not all necessarily true. There was a crisis in 1972 in Burundi which claimed the lives of many on both sides, and many Hutus fled the country to resettle elsewhere as refugees. [The history teacher] tells students [...] that the Tutsis beheaded the Hutus, seized their property and drove them out of the country. [...] He then went on to invite students to join CNDD-FDD, because it is thanks to this party that the Hutus can live peacefully in the country [...] He always blamed the Tutsis for what happened without mentioning what the Hutus themselves did. What he says about the Tutsis is correct, but not saying what the Hutus did is evidence that they want to portray CNDD-FDD party as good and Tutsis as bad”.[[449]](#footnote-450)*

 d) Use of history to achieve political gains

510. There is a version of the country’s history which has been established as true and disseminated by the Head of State himself, especially during his moralization sessions where he teaches the “true” history of Burundi. He explained that: “through the patriotic and civic education training programme, we have helped Burundians to separate the wheat from the chaff, to know the secrets and history of our country, and encouraged them to leave a strong legacy behind”.[[450]](#footnote-451) He also stated that “from 1962 through 1993, despite being independent, Burundians had not enjoyed the freedom they so longed for. Strangers still had a strong grip on Burundi. This could be seen through regimes that were supported by colonisers and brought to power through military coups, not allowing citizens the least opportunity to manage their affairs themselves. Since these regimes were characterized by dictatorship and all sorts of social discrimination as in the colonial era [...] the battle to regain and maintain an effective independence continued. Thus, patriotic Burundians demonstrated once again in 2005 that they wanted their independence by getting rid of dictatorial regimes which had taken power by force”.[[451]](#footnote-452)

511. Other persons close to the Government have also relayed simplified versions of the country’s recent history aligned with the President’s narrative that Burundi achieved real independence only after CNDD-FDD came to power in 2005, all previous Governments being labelled as “putschist, genocidal, or dictatorial Governments, marked by nepotism”.[[452]](#footnote-453)

512. In the presentation of chronological historical facts in Burundi by the President’s Communication Adviser during a Conference on the 2020 elections, held in Gitega on August 2019, there was an obvious imbalance in the manner to present Hutus and Tutsis victims:

“*1965 - Decapitated democracy*

*1969 - Killing of high-ranking Hutu military officials*

*1972 - Hutu genocide (300.000 Hutus & 5.000 Tutsis)*

*1988 - More than 50,000 Hutus killed by napalm*

*1993 - Decapitated democracy re-established*

*2015 - Failed military coup*”.[[453]](#footnote-454)

513. Each group having its own collective memory and the commemoration of only a few selected events while denying the victimhood of the other group pose a real danger. For example, the commemoration of the massive slaughter of a hundred Hutu students in 1995 was organized in 2019 by the University of Burundi, for which classes were suspended.[[454]](#footnote-455) On this occasion, the Association of Survivors of the June 1995 massacre decided to erect a memorial plaque, even though this runs counter to the will of CVR to have a common remembrance place for all victims.[[455]](#footnote-456)

514. The President of the National Council for National Unity and Reconciliation[[456]](#footnote-457), Ambassador Guillaume Ruzoviyo, obviously foresaw this danger as he called for the establishment of “collective commemoration” days for past crises in order to speed-up the reconciliation process in Burundi. He emphasised that “commemorations based on ethnic motives where each ethnic group will discreetly organize its own commemoration events, need to stop at all costs. […] This stage of the national reconciliation process […] could be consolidated through the erection of ‘collective monuments of national importance’ for past crises”.[[457]](#footnote-458)

515. The adoption of an official selective version of the country’s history tends to crystallise past grievances, thereby contributing to maintain divisions which some people may use to achieve their political objectives with the possibility of having serious consequences. For instance, the decision by the President to glorify “the heroic personality of Lieutenant-General Adolphe Nshimirimana” by renaming the road formerly known *as route du 3 September* after him,[[458]](#footnote-459) despite the fact that this former Head of SNR and informal leader of the Imbonerakure, close to President Nkurunziza, who was murdered on 2 August 2015, is a controversial character in Burundi since he was accused by many human rights defenders of being involved in multiple cases of human rights violations, especially since the beginning of the 2015 crisis.

516. The latitude of CVR to “rewrite” the country’s recent history in a bid to contribute to the national reconciliation therefore appears to be quite limited.

 4. Security uncertainties

 a) Existence of armed opposition groups

517. Several Burundian armed opposition groups,[[459]](#footnote-460) mostly present in Eastern Democratic Republic of the Congo (DRC), Rwanda, and Uganda announced from time to time that they would resort to taking up arms to “settle” the situation in Burundi by putting an end to President Nkurunziza’s regime, especially given the lack of prospective peaceful solution to the crisis which began in 2015, as well as to “protect the population”.[[460]](#footnote-461) Although the Commission has not received reports of either recent attacks or incidents on the Burundian territory by any of these armed groups, it is very concerned about these announcements and their possible manifestation.

518. Among the major Burundian armed groups, there is the Resistance Group for the Rule of Law (RED-Tabara) constituted of Burundian citizens, among whom demobilized fighters, police officers and army deserters, including civilian activists and youths from the opposition movement.[[461]](#footnote-462) This group has 500 to about 750 men dispatched across three brigades in the DRC.[[462]](#footnote-463) Some hours after the attack on Ruhagarika, Buganda commune, Cibitoke province, in the night of 11 to 12 May 2018, which claimed the life of 24 people, the Government accused RED-Tabara to be the perpetrator, but Red-Tabara rejected that accusation. According to the Group of Experts on DRC, most of RED-Tabaras new recruits would be coming from Burundi or from Burundian refugee camps, and receive upon arrival in the DRC, some military training including firearms handling and tactics. The RED-Tabara allegedly benefit from the support and funding from contacts in Burundi and other European countries.[[463]](#footnote-464) They allegedly collaborate with local armed groups like the Maï-Maï Kihebe since 2017 from whom they gather local intelligence and have safe passage of food and supplies, as well as the Maï-Maï Mushombe since 2018 at least, who fought by their side during a raid by the Burundian Army and Imbonerakure.[[464]](#footnote-465)

519. The Republican Forces of Burundi (FOREBU) are mainly made up of former military officers who fled after the failed military coup of 13 May 2015. They are settled mostly in the territories of Uvira and Fizi in DRC. Some rough figures show that they had between 300 and 500 men by May 2017 including some RED-Taraba deserters. Since 2017, the Congolese army organized several attacks against FOREBU and detained tens of fighters.[[465]](#footnote-466)

520. While RED-Tabara and FOREBU are both facing difficulties to get funding sources and buy weapons, they have not been able to agree on issues pertaining to command and control.[[466]](#footnote-467) However, there is some level of cooperation between these two groups as they meet periodically to exchange information and intelligence.[[467]](#footnote-468)

521. The Nzabampema wing of the National Liberation Forces (FNL) has settled in the Uvira territory in DRC, particularly on the high plateaus and plains of the Rusizi River. According to the Group of Experts, following the high number of Burundian Army deserters in early 2016, they have about 400 fighters.[[468]](#footnote-469) In its May 2016 report, the Group of Experts indicated that this armed group recruited in the Burundian communities living around the Rukoko forest area (north of the capital) and in refugee camps in South Kivu.

522. Available information on the strength of these armed groups, in men, weapons, equipment, and financial resources, as well as their potential political support are limited. It is therefore difficult to estimate accurately their capacity to conduct large-scale attacks on Burundian territory. According to several analysts, due to their constant reorganization and difficulty to move in Burundi, as well as to acquire weapons and supplies, these armed opposition groups might not be presently in a position to have a real impact on the situation in Burundi.[[469]](#footnote-470)

523. Nevertheless, Burundian authorities are very concerned about these armed groups and the eventual support they may have from the population. Case in point: the many young men coming back home from a trip or a journey abroad, who were accused of supporting or cooperating with one of these rebel groups.

524. The Group of Experts on the DRC equally recorded that some soldiers of the Burundian Army (FDN), alongside Imbonerakure were sent to fight these armed groups in Eastern DRC. There was a series of confrontations between the FDN and RED-Tabara in South Kivu in October and November 2018, in Kabere (Uvira territory) and its surroundings, and in January and February 2019 in Mulenge (Uvira territory) and its surroundings. These battles led to an increase in the number of displaced persons from 12,000 in November 2018 to 25,000 in January 2019. The FDN and Imbonerakure received support from at least two local armed groups: the Maï-Maï Mbulu and the Maï-Maï Kijangala. The former served as guides to lead them to the positions of the latter, which then provided them with intelligence about and led them to RED-Tabara sites. They might have even fought on their side in exchange for food, cash, ammunitions, and thereafter, weapons. Thus, the Group of Experts considered that the Burundian Government violated the sanctions regime on firearms.[[470]](#footnote-471)

525. On 6 February 2019, the DRC Armed Forces (FARDC) launched an operation against rebel groups acting in the high plateaus of the Uvira territory including Burundian groups. The FDN and Imbonerakure retreated back to Burundi during that same period. Captives from these Burundian armed groups who were arrested or surrendered were directly transferred to Burundi. The Burundian Government denied having sent soldiers in DRC.[[471]](#footnote-472)

 b) Regional tensions

526. According to the Group of Experts on the DRC, regular incursions into rebel positions by FDN and Imbonerakure coupled with their association to some Maï-Maï armed groups of the Uvira midpPlateaus have worsen the already tense and violent relations between and within local armed groups. In the middle of these groups fighting each other, there is risk of retaliation with detrimental consequences on civil population, peace and security in DRC.[[472]](#footnote-473)

527. Moreover, the Burundian Government maintains strained relations with Rwanda, by constantly accusing the country of being responsible for the Burundian crisis and of trying to destabilize the country, forcefully holding back Burundian refugees in its territory, and recruiting young Burundians into armed rebel groups.[[473]](#footnote-474) President Nkurunziza went as far as calling for a Summit to end the “conflict” with his Rwandan “enemy”.[[474]](#footnote-475) Thus, on 4 December 2018, the Burundian President sent a letter to the Ugandan President Yoweri Museveni, Acting President of the EAC and Mediator of the crisis in Burundi. Therein, he denounced the Final Report of the inter-Burundian Dialogue Facilitator, M. Mkapa, who considered the situation in Burundi as still alarming, although the problem was a regional one, in which “Rwanda is attempting to destabilize Burundi”. This strained relation has an impact on cross-border trade.[[475]](#footnote-476) The Ugandan President replied to him on 8 December 2018 by recalling the importance of the Arusha Peace Agreement guaranteed by the international community and the responsibility of political leaders to find solutions to crises. This epistolary exchange made public led to strained diplomatic relations between both countries, particularly on border-crossing issues, but they did not last for long.[[476]](#footnote-477)

528. Finally, many Burundian refugees in neighbouring countries told the Commission that they fear for their lives due to the alleged incursions of Imbonerakure and Burundian SNR officials in some refugee camps. They are suspected of looking for those who fled the country - mainly wanted political opponents and persons formerly close to the Government - in order to kill them. Refugees had stories about various security incidents which occurred in refugee camps perpetrated by “infiltrated” Burundian agents. In other cases, these emissaries were trying to convince and force refugees to return to Burundi.[[477]](#footnote-478)

 c) Uncertainties about the behaviour of defence and security forces and other related bodies

529. The Head of State made the following announcement in early 2019: “We will build the capacities of the defence and security forces and we will provide them with adequate equipment and material for them to face any difficult situation in the best possible manner”.[[478]](#footnote-479) However, he did not give details as to which forces shall be the first beneficiary of these measures as their situations vary, particularly in terms of their closeness to the President.

 (i) The Army

530. The Burundian Army, called National Defence Force (FDN), has been considered as the country’s stabilizing factor since the Arusha Peace Agreement under which it was turned into a multi-ethnic, apolitical and professional force. While enjoying the benefits of a good reputation which enabled them to take part in UN and AU peacekeeping operations, soldiers had an enviable social and economic status in Burundi. In the beginning of the crisis in 2015, soldiers demonstrated their professionalism when they refused to shoot the crowds during protests and even went on to protect them against the police and Imbonerakure.[[479]](#footnote-480)

531. The rotational deployment of soldiers in peacekeeping missions is a strategy introduced by the Burundian Government since 2007 to gain their loyalty. This is because these deployments constitute a significant financial manna for soldiers, while benefiting Government as well. Thus, in an army with a total of 30,000 men, close to 5,000 are deployed on a nearly constant basis in peacekeeping missions, particularly in the AU Mission in Somalia (AMISOM), but also to a limited extent in the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). Each AMISOM Burundian soldier officially earns USD 800 that is almost ten times more than what he earns back home. The deployment of Burundian troops in Somalia is financed by the European Union through the African Union, who then disburses the funds to the Burundian Government that redistributes them to the deployed soldiers, after making some deductions. Despite the Government deductions of USD 200, salaries are still enticing.[[480]](#footnote-481)

532. Despite its positive image, the Army has always been under a parallel command system close to CNDD-FDD, comprising former rebels, and the synergy between them and ex-FAB soldiers[[481]](#footnote-482) is still superficial. After the attempted coup of 13 May 2015, the Army was deeply divided. This exposed the underlying dissensions among soldiers and high-ranking officers from the rebellion, some of whom led the failed coup. Since then, the Government has tried to regain control of the Army by restructuring its command and putting in place several services like reserve units and the National Youth Service, which could help in placing some Imbonerakure. Tens of ex-FAB soldiers, often officers, who are considered as opponents by the Government, as well as some officers from armed and political movements of the former Hutu rebellion such as the FNL, were transferred, replaced, or placed on retirement. Some were even abducted, arrested, tortured and at times killed. The number of soldiers including officers who have deserted the Army since the beginning of the 2015 crisis, including at the end of their deployment abroad, is estimated between 600 and 2,000 men. Some are thought to have joined armed rebel groups in neighbouring countries.[[482]](#footnote-483)

533. Notwithstanding, the Government decided not to look into the involvement of some of the Hutu militaries who are members of CNDD-FDD in the attempted coup of 13 May 2015. They maintained their various positions due to the strong support they have among soldiers who are former FDD rebels and which dates as far back as the days of the rebellion. Thus, keeping these individuals in the Army and under the Government control was seen as a way of reducing further desertions.[[483]](#footnote-484)

534. Considering that the number of Tutsis entering the military academy is low, while ex-FABs are placed on retirement or progressively excluded, the 50-50 ethnic balance within defence and security forces provided for by the Arusha Peace Agreement and the Constitution is no longer respected[[484]](#footnote-485).

535. The decision of the African Union that only the Burundian Troops would be affected by the Security Council’s decision to reduce by 1,000 troops the total number of AMISOM soldiers, was very badly received by the Burundian soldiers and Government. The Head of State tried to get this decision revised by refusing to repatriate his soldiers, and even going as far as to threaten to remove all the Burundian soldiers from Somalia. He finally gave up and repatriated the 1,000 militaries.[[485]](#footnote-486) Some political analysts are of the opinion that the AU decision was linked to the Burundian Government’s intransigence with regards to the holding of an inclusive inter-Burundian dialogue. It would seem that many soldiers shared this opinion and hold the Government accountable for this loss of lucrative deployment opportunities. It would appear they made it clear during the last referendum by massively voting “no” to a constitutional amendment.[[486]](#footnote-487) The recent decision of the Security Council to further reduce the number of AMISOM soldiers by 1,000 men by 28 February 2020 can only be a source of additional concern for them.[[487]](#footnote-488) This occurs at a time when participation of the Burundian Army in peacekeeping operations financed by the European Union and the UN is increasingly decried by international non-Governmental organizations and Burundian human rights defenders.

 (ii) The police force

536. The Burundian National Police Force (PNB) is marked by the absence of team spirit, although the Arusha Peace Agreement provides an integration process of fighters from various armed political movements alongside a fusion of the former various police forces which had been managed separately by various Ministries. These include the gendarmerie, penitentiary police, judicial police, air and border police, and public security police. The process induced a mixing rather than integration of forces, and original solidarities led to the establishment of parallel command structures, thus making more complex hierarchical control of already complex police forces. In fact, some units, such as the one in charge of protecting institutions (API), are *de facto* attached to the President of the Republic and not the Minister of Public Security. The Director General of the Police does not have direct control over all the police forces due to the numerous Directorate Generals found within the Ministry of Public Security. “There is a spirit of victor and vanquished which has progressively gained grounds in the management and functioning of the Police. Former rebels remain the protégés and defenders of the political regime”.[[488]](#footnote-489) Not only is the police under the executive power more than the Army is, but it has absorbed a great number of CNDD-FDD fighters, and ethnic quotas provided for by the Constitution and the Arusha Peace Agreement are no longer respected. Its infamous generalized impunity and corruption makes it a security force which has lost the confidence of the population.

537. In 2005, mixed human security committees were established in some provinces as experiment to narrow the gap between the police force and the population. They comprised representatives of the “four pillars of security”, that is the police, the Administration, the Judiciary, and the population, including civil society representatives. These Committees were to provide a framework for early warning and prevention in terms of security. In 2014, an order signed by the Minister of Interior and the Minister of Public Security extended these Committees to all the provinces and diversified and extended their missions to dozens of diverse tasks, such as protecting the population against political and economic threats; enforcing the principle of accountability, transparency and answerability to the population; upholding human rights; investing in patriotic education; as well as information about the electoral process and family planning.[[489]](#footnote-490)

538. Imbonerakure quickly took-over control of these mixed security committees, as civil society representatives. As a result, these committees became “places where the misconduct of the ruling party’s youth wing was justified”. On a regular basis, some Imbonerakure replaced police officers on the field, conducting patrols, arrests and detentions, and committing crimes which are supported by administrative authorities, because they are members of the mixed security committees. With time, Imbonerakure went as far as defying the authority of the police, the local Administration, and even the Judiciary.[[490]](#footnote-491)

539. Even though the police is in principle considered close to the ruling party, it is *de facto* marginalized in some parts of the country where its missions have been taken over by the Imbonerakure who no longer show respect towards the police and do not hesitate to oppose its members. Beyond any doubt, this situation has an impact on the motivation of police officers and internal dynamics of this Force.

 (iii) The SNR

540. Until June 2018, the SNR was part of the established defence and security forces and as such, under the authority of the Government and the civilian oversight of Parliament. This was despite the fact that its budgets for functioning and equipment were incorporated in the President of the Republic’s budget. The 2018 Constitution places SNR outside the established defence and security forces, and as such is *de facto* exempted from civilian control and the 50% Hutus and 50% Tutsis ethnic quotas within defence and security forces enshrined in the Constitution. The SNR is now under the direct authority and control of the President.[[491]](#footnote-492)

541. On 7 June 2019, the Burundian Senate adopted two bills related to SNR presented by the Minister of National Defence: the organic bill on the missions, organization and functioning of SNR and the bill to amend law n°1/05 of 2 March 2006 laying down the statutes of SNR agents. The Minister explained that the first bill was necessary to modernize SNR in a bid to make it a professional and efficient force, capable of living up to national security challenges. Among the main innovations, the law would comprise the maintenance of secrecy about the SNR missions, from budgetary preparation to agents’ protection for service purposes and State security. It will also comprise widening the scope of SNR missions in order to fight current and potential threats to State security taking into consideration scientific and technological progress. The second bill aims to satisfy the need to provide the SNR officials with some incentives and guarantees of a more stable career.[[492]](#footnote-493)

542. Thus, SNR is a force with a special statute as compared to that of the police or the Army, and it is the only one with a formal direct relationship with the President of the Republic. This sudden reorganization of security forces, which has not been explained or justified, is a cause for concern.

543. There are still some uncertainties as to the potential role of these defence and security forces in the upcoming elections. For example, there is a group called “Defence and Security Forces” (FDS) created in 2019, which presents itself as comprising acting police and army officials. It stated that it is fighting against “dictatorship and tyranny” from President Nkurunziza and called on all members of the defence and security forces to join them as the cohesion and professionalism of those forces have been impacted by President Nkurunziza’s divisive policy.[[493]](#footnote-494) Such statements once again shed light on possible underlying tensions.

 C. Risk factor indicators

544. This review of most significant developments makes it possible to identify indicators that are themselves linked to the eight common risk factors identified in the Framework of Analysis for Atrocity Crimes.

545. Insecurity creates an environment that is conducive to atrocity crimes (risk factor 1). The existence of such an environment is suggested by the following indicators: many Burundians, both in the country and abroad, are living through a humanitarian emergency (risk factor 1 (c)); the transfer of power of 2015 triggered a major political crisis that has not yet been resolved (risk factor 1 (d)); there is a risk of political instability caused by probable power struggles within CNDD-FDD and by the existence of armed opposition movements (risk factor 1 (e)); political tension is being generated by an autocratic regime that engages in severe political repression of all its opponents, real or perceived (risk factor 1 (f)); there is economic instability caused by scarcity of resources (risk factor 1 (g)), a severe crisis in the national economy (risk factor 1 (h)) and the acute poverty of the population (risk factor 1 (i)).

546. Risk factor 2 is related to a history of serious human rights violations that, because they have not been prevented or punished, create a risk of further violations. The presence of this risk factor is revealed by the following indicators: past or present serious human rights violations (risk factor 2 (a)); acts of genocide, crimes against humanity and war crimes that have marked the country’s recent history (risk factor 2 (b)); a policy or practice of impunity for or tolerance of serious human rights violations (risk factor 2 (c)); the refusal or reluctance of the Government of Burundi to use all possible means to put an end to serious human rights violations (risk factor 2 (d)); the continuation of support by the Burundian authorities for groups accused of involvement in violations and the failure to condemn their actions (risk factor 2 (e)); the Government’s refusal to acknowledge serious human rights violations or its biased accounts thereof (risk factor 2 (f)); the absence of genuine reconciliation or transitional justice processes and the politicization of the work of the new Truth and Reconciliation Commission (risk factor 2 (g)); widespread mistrust of State institutions, particularly the security forces and the judicial system, as a result of impunity (risk factor 2 (h)).

547. Risk factor 3, the weakness of State structures, which negatively affects the capacity of a State to prevent, halt or prosecute atrocity crimes, is also present. National institutions, particularly the judicial, law enforcement and human rights institutions, lack sufficient resources and adequate representation (risk factor 3 (b)); the justice system is neither independent nor impartial (risk factor 3 (c));[[494]](#footnote-495) civilian control of the security forces (by Parliament) is not effective (risk factor 3 (d)); there are high levels of corruption or poor governance (risk factor 3 (e));[[495]](#footnote-496) the internal oversight and accountability mechanisms whereby victims can seek recourse for their claims are inadequate or ineffective, and the external mechanisms are virtually non-existent or almost inaccessible to victims (risk factor 3 (f)).

548. Risk factor 4 is the existence of reasons, aims or drivers that justify the use of violence against particular groups. From an early warning perspective, it is important to be able to identify motivations or drivers that could encourage groups to resort to widespread violence in an attempt to achieve their goals. This factor is shown to be present by: politically motivated acts that, as regularly recalled by members of the Government and CNDD-FDD, are aimed at the consolidation of power (risk factor 4 (a)); economic interests linked to the preservation of power, as power is the key to control over the distribution of resources (risk factor 4 (b)); real or perceived threats to the interests or objectives of the Government, including any form of disloyalty to the CNDD-FDD cause (risk factor 4 (e)); real or perceived membership of or support for armed opposition groups (risk factor 4 (f)); the ideology of CNDD-FDD, characterized by a view of the party as the embodiment of truth and thus belief in the supremacy of this political identity (risk factor 4 (g)); the politicization of past grievances, tensions or cases of impunity (risk factor 4 (h)); social trauma caused by past incidents of violence that, not adequately addressed, have aroused feelings of loss, displacement, injustice and a possible desire for revenge (risk factor 4 (i)).

549. Risk factor 5 refers to the capacity of potential perpetrators to commit atrocity crimes. This factor must be assessed in conjunction with other factors, such as those related to intent and motivation. In Burundi, this factor is gauged by: the availability of personnel and of arms and ammunition or of financial resources, public or private, for their procurement (risk factor 5 (a)); the capacity to transport and deploy personnel and to transport and distribute arms and ammunition (risk factor 5 (b)); the capacity to encourage or recruit large numbers of supporters – Imbonerakure, for example – from populations or groups and the availability of the means to mobilize them (risk factor 5 (c)); a strong culture of obedience to authority and group conformity, a culture by which CNDD-FDD and the Imbonerakure are characterized (risk factor 5 (d)); the presence of or links with other armed forces or with non-State armed groups (risk factor 5 (e)).

550. Mitigating factors are the internal and external elements that can contribute to preventing an escalation of violence, ending it or lessening its impact. The absence of such factors (risk factor 6) in Burundi is significant, as demonstrated by: the lack of a strong, organized and representative national civil society and of a free, diverse and independent national media (risk factor 6 (b)); the lack of access to international media (risk factor 6 (c)); the limited presence of the United Nations, international NGOs or other international or regional actors in the country with access to the people (risk factor 6 (d)); the lack of exposure to, openness towards or establishment of political or economic relations with other States (risk factor 6 (f)); the limited or even non-existent cooperation with international and regional human rights mechanisms (risk factor 6 (g)); the Government’s unwillingness to engage in genuine dialogue to resolve the 2015 crisis, make concessions or receive support from the international community (risk factor 6 (h)); the lack of a warning mechanism, as the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity does not serve as an independent mechanism of that sort (risk factor 6 (k)).

551. Risk factor 7 refers to enabling circumstances or preparatory actions, whether sudden or gradual, that provide an environment conducive to the commission of atrocity crimes or suggest that they may occur. The main indicators of this risk in Burundi are: the interference with vital State institutions, or measures that result in changes to their composition or balance of power, as is the case with regard to ethnic quotas (risk factor 7 (b)); the strengthening of the security apparatus or its reorganization or mobilization (risk factor 7 (c)); the expulsion or refusal to allow the presence of NGOs, international organizations, media or other relevant actors, or the imposition of severe restrictions on their services and movements (risk factor 7 (g)); the increase in the number of violations of the right to life, physical integrity, liberty or security of any person considered a political opponent since the onset of the 2015 crisis (risk factor 7 (h)); the increase in the number of serious acts of violence against women and children, or the creation of conditions that facilitate acts of sexual violence against them, including as a tool of terror (risk factor 7 (i)); the increased politicization of identity, past events or motivations for violence (risk factor 7 (m)); the increase in inflammatory rhetoric, propaganda campaigns or incitement to hatred targeting anyone considered a political opponent since the onset of the 2015 political crisis (risk factor 7 (n)).

552. Triggering factors (risk factor 8) are also present, as evidenced by the following indicators: measures taken by the international community are perceived by the Burundian authorities as threats to State sovereignty (risk factor 8 (c)); there was an abrupt or irregular transfer of power in 2015 (risk factor 8 (d)); attacks on the life, physical integrity, liberty or security of leaders, prominent individuals or members of opposition groups have been committed (risk factor 8 (e)); there is hate propaganda targeting political opponents (risk factor 8 (g)); presidential, parliamentary and local elections are scheduled for 2020 (risk factor 8 (h)); the commemoration, along ethnic lines, of past crimes, traumatic or historical incidents that could exacerbate tensions between groups (risk factor 8 (k)); acts related to the process for determining accountability for past atrocities that could be perceived as unfair (risk factor 8 (l)).

553. So far, the Commission had not considered that there has been a lack of support from neighbouring States when it comes to protecting populations at risk in need of refuge, particularly through forced repatriation or aid restrictions, which is indicator (6 j ) related to the absence of mitigating factors (risk factor n°6). However, the Commission is concerned by the announcement made by the Tanzanian Minister of Interior on 24 August 2019 that an Agreement had been reached between Tanzania and Burundi to organize the repatriation, including by force, of Burundian refugees and asylum seekers in Tanzania, despite the fact that their security cannot be guaranteed considering the prevailing situation in Burundi, as previously shown.[[496]](#footnote-497)

554. The Commission also considered that some indicators of these eight risk factors were only partially met. For instance, records of a security crisis caused by, among other factors, denunciation of peace agreements (indicator 1 b) of risk factor n°1. In fact, the Burundian Government did not formally withdraw from the Arusha Peace and Reconciliation Agreement for Burundi signed in 2000, but the new Constitution of 2018 has *de facto* abolished some key provisions of this Agreement that were enshrined in the 2005 Constitution. These include for instance the ethnic quotas within SNR and the full membership to Senate for former Presidents, which can have important consequences.

555. The Commission also considers that the absence of efficient measures to reinforce State institutions in Burundi is more a matter of lack of political will than lack of means to reform or reinforce those institutions, especially through regional or international support (indicator 3 i) of risk factor n°3 on the weakness of State structures.

556. Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations, (indicator 6 e) of the absence of mitigating factors (risk factor n° 6) is partially met since Burundi has a selective approach as to its participation, but it is rather linked to its lack of cooperation with international and regional organizations, particularly when it comes to human rights.

557. Finally, the Commission considers that the indicator on the creation of militias or paramilitaries groups, or an increased support towards these militias or groups (indicator 7 e) related to risk factor n°7 on enabling circumstances, is partially present. In fact, the Commission does not consider the Imbonerakure as a militia per say, given that they are not an armed paramilitary force organized like a professional army. Notwithstanding, they have a paramilitary dimension and many aspects of the way they operate are similar to those of militias designed like “a paramilitary organization which constitute the base of some totalitarian parties or dictatorships”,[[497]](#footnote-498) particularly those which are called “State militias, organized, recruited and for whom objectives and goals are set by the central Government itself. Based on a principle of “discharge”, the State bestows on a set of actors who then have legal powers to use force, the heavy task to control and maintain peace and order. The set objectives can be for defence or public purposes, such as ensuring the safety of citizens, as well as of private individuals and criminals, thereby enabling the State to act according to the principle of plausible deniability of any implication in violence perpetrated on populations”.[[498]](#footnote-499)

558. The Commission also noted that several factors of violence related to elections, both external and internal to the electoral processes[[499]](#footnote-500), are also present. These are: unfavourable socio-economic conditions; political and social exclusion (example of indicator: impunity, presence of long-standing rivalry between ethnic, religious, linguistic and cultural groups which have reached their apogee and have been materialised by violence during electoral periods); conflicts related to the evolution of power relations (example of indicator: a new Constitution which changes the relative power of political actors; lack of, or inefficient mechanisms to promote a culture of dialogue among political parties; lack of press freedom); gender-based discrimination and violence; presence of non-State armed actors; complaints of genocide, crimes against humanity and war crimes; human rights violations; unethical media exposure; a disputed electoral law (example of indicator; the compliance level to regional and international electoral standards and obligations; the level of confidence in the electoral law); poor performance of elections management bodies (OGE) (example of indicator; the level of confidence and reliability OGEs benefit from across the country; the degree of independence and composition of OGEs; the level of impartiality of OGEs; and the level of transparency in the activities of OGEs); inadequate measures to guarantee elections are organized safely (example of indicator: the level of trust by populations in security agencies (ASS); the level of indebtedness of ASS; provocative and violent actions from political parties (example of indicator: intimidation, threats, destruction of properties, attacks on physical integrity, abductions, killings and other acts of violence perpetrated against electoral actors, journalists, potential registered voters and voters; psychological and physical violence against vulnerable social groups such as women, children, ethnic and religious minorities, etc.; and the condition under which perpetrators of violence associated to political parties are sued).

560. The Commission also took into consideration early indicators of conflict-related sexual violence identified in the matrix developed by UN Action against sexual violence in conflict (UN Action) in 2011[[500]](#footnote-501). The objective of this matrix is to help protection actors to adjust their intervention strategies by taking proactive rather than reactive steps to prevent sexual violence, including in a context of political unrest.[[501]](#footnote-502)

561. The Commission notes that these early indicators of sexual violence are present in the context currently prevailing in Burundi: women have been victims of intimidation or physical violence, particularly sexual violence, for their (actual or perceived) participation in political activities related to the electoral process. This violence had as objective to punish them for their (actual or perceived) participation in an electoral process or in political activities. Moreover, the Commission also observes that there is a political context and a legal framework which provide enabling circumstances for sexual violence as indicated by the following indicators: cases of gender-based intimidation and electoral violence, inequality before the law related to the status and rights of women, and a discrepancy between law and practice regarding the security of women.[[502]](#footnote-503) The matrix further emphasises that: “The risk of conflict-related sexual violence will be particularly acute in a context of collapse of rule of law, where there is a history of impunity for sexual violence and where the structures that exist to protect the population and deter sexual violence are held in abeyance. Impunity/increased acceptance of sexual violence gives abusers a sense that, like the perpetrators of past crimes, they will go unpunished”, as it is the case in Burundi since 2015.[[503]](#footnote-504)

562. The eight common risk factors identified in the Framework of Analysis for Atrocity Crimes are clearly present in Burundi, and there is a significant number of indicators for each of them. This also applies to violence factors during electoral processes and indicators of sexual violence. Although the presence of those risk factors does not make it possible to draw conclusions about the likelihood of such atrocity crimes be committed, and if so, when or in what way any such crimes could be committed, it gives the international community an objective basis to grasp the reality of the situation in Burundi and the possible risks facing the country. Finding that several risk factors indicating a possible degradation of the human rights situation in Burundi do exist, as well as risk factors of political violence, requires to keep a close scrutiny on the developments in Burundi.

 **V. Conclusions and recommendations**

**563. In the light of its investigations, the Commission concludes that serious human rights violations – including crimes against humanity – have continued to take place since May 2018, in particular violations of the right to life, arbitrary arrest and detention, torture and other forms of ill-treatment, sexual violence, and violations of economic and social rights, all in a general climate of impunity. Violations of civil liberties are also on the rise.**

**564. The Commission remains the only independent and objective mechanism that investigates, documents and informs the international community about human rights violations and abuses in Burundi.**

**565. The crisis has been ongoing for more than four years, with no real prospects for a resolution. The daily living conditions of Burundians, in the country or not, are becoming worse and worse.**

**566. The 2020 elections pose a major risk. To ensure that they are peaceful, fair, free, transparent and credible, the Commission makes the following recommendations to the Burundian authorities:**

**a) Give effect to all the Commission’s previous recommendations, which are more well-founded and relevant than ever, including those concerning priority measures to end human rights violations and international crimes, combat impunity and improve the human rights situation in the country and the medium- and longer-term recommendations on reforms to the legal framework and the judicial system;[[504]](#footnote-505)**

**b) Conduct prompt, independent and effective investigations into the cases of violations documented by the Commission since 2015 with a view to creating a climate of trust and political tolerance conducive to inclusive participation in the electoral process;**

**c) Re-engage constructively and cooperatively with all international and regional human rights mechanisms and the Office of the United Nations High Commissioner for Human Rights, enabling them to carry out their human rights monitoring mandates fully and freely;**

**d) Ensure that national human rights mechanisms are institutionally and financially independent and build the capacity of their members;**

**e) Take the measures necessary to ensure that foreign and domestic NGOs can be freely established and organized and that they can operate freely, including by amending the laws regulating them;**

**f) Take the measures necessary to ensure freedom of information in the country and the right of local and international media to operate in accordance with international standards, including by amending the laws on the press and the National Communication Council;**

**g) Guarantee the effective enjoyment of civil liberties, including the freedoms of opinion, expression, access to information, association, assembly and religion, not least by ending all forced recruitment to the ruling party and its youth league;**

**h) Follow the Guidelines on Access to Information and Elections in Africa and the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples’ Rights;**

**i) Ensure that all political parties can engage in legitimate activities in complete freedom and security, in an environment of political tolerance, including by punishing any incitement to hatred and calls for violence against other political parties and their members;**

**j) Ensure, in practice, the right to participate in the conduct of public affairs without discrimination, in particular by amending the Electoral Code;**

**k) Ensure, in practice, the institutional independence of the Independent National Electoral Commission, including by amending the decree governing it to make certain that its composition is inclusive and balanced, and strengthen the capacity of its members at the municipal and provincial levels;**

**l) Provide access to independent international and regional election observers and ensure that they and national observers from civil society or political parties enjoy freedom of movement and action before, during and after the elections;**

**m) Follow the Guidelines for African Union Electoral Observation and Monitoring Missions;**

**n) Allow political opponents to return from exile to participate in the 2020 elections and guarantee their freedom and security, including by revoking warrants for the arrest of those who have not used or advocated violence;**

**o) Immediately release all political prisoners arrested and detained in connection with the exercise of their democratic rights;**

**p) Make the training provided to law enforcement agencies more robust to avoid ill-treatment and ensure the peaceful control of crowds;**

**q) Follow the Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa and the related training manual, both developed by the African Commission on Human and Peoples’ Rights;**

**r) End the impunity of the Imbonerakure by exercising control over them so as to ensure that the functions of the security forces or the judiciary are not usurped and put an end to their repressive activities and shows of force in the hills;**

**s) End all illegal contributions.**

**567. The Commission recommends that, whether they participate in the elections or not, all political parties in Burundi refrain from violence and incitement to hatred or violence, particularly against the backdrop of the 2020 elections.**

**568. The Commission recommends that opposition rebel groups refrain from violence and incitement to hatred or violence.**

**569. For the international community, including the African Union and the United Nations system, the Commission has the following recommendations:**

**a) Renew the mandate of the Commission for an additional year;**

**b) Continue to monitor developments in the human rights situation in Burundi in the context of the 2020 elections and, in accordance with the principles of prevention and early warning, carry out regular risk assessments to enable the development and use of appropriate response strategies in the event of deterioration;**

**c) Make every effort to ensure that an inclusive inter-Burundi dialogue is held to resolve the political crisis;**

**d) Support capacity-building for international, regional and national election observers;**

**e) Send regional or international observers only if their freedom of action is guaranteed in practice;**

**f) Ensure that all humanitarian aid reaches the population;**

**g) Respond to the appeal made by the Office of the United Nations High Commissioner for Refugees for funds for Burundi refugees;**

**h) Ensure that returnees are monitored in a sustained and more regular and transparent manner.**

**570. In particular, the Commission recommends that the United Nations system, in accordance with the initiative Human Rights Up Front, take stronger measures to promote human rights, under the mandates of the relevant agencies and programmes, and to collect and publish objective and reliable data on the situation in Burundi.**

**571. In view of the risk factors that have been identified, the Commission recommends that the States members of the Security Council keep Burundi on the Council’s programme of work and that the Council invite the Commission to report to it on its conclusions.**

**572. In view of the persistence of human rights violations in Burundi, the Commission recommends that Member States grant *prima facie* refugee status to Burundian asylum seekers and to ensure strict compliance with the principle of non-refoulement and protection of refugees.**

 Annexes

 Annex I

 Map of Burundi



 Annex III

 Previous Recommendations made by the Commission

 1. Recommendations made in 2018

106. The Commission recommends that the Government of Burundi take the following measures as a matter of priority:

 (a) Put an immediate end to the gross human rights violations being committed by agents of the State and Imbonerakure;

 (b) With the support of the international community, establish ad hoc mechanisms with a mandate to investigate human rights violations and to prosecute perpetrators of international crimes that are not being investigated by the International Criminal Court;

 (c) With the support of the international community, establish an independent body with a mandate to investigate the cases of disappearance reported since April 2015, locate potential mass graves, and exhume and identify the remains;

 (d) Take measures to ensure that victims of torture and women survivors of sexual violence have access to appropriate care, including free access to all sexual and reproductive health services and to psychological support;

 (e) Implement the Guidelines on Combating Sexual Violence and its Consequences in Africa adopted by the African Commission on Human and Peoples’ Rights;

 (f) Control price increases, in particular by reviewing duty and tax increases that are undermining the population’s right to an adequate standard of living and by abolishing contributions that disproportionately affect the poorest sectors;

 (g) Cooperate with international human rights mechanisms, in particular by:

 i) Resuming the practice of allowing special procedures mandate holders to conduct missions to Burundi;

 ii) Implementing the recommendations of the universal periodic review, treaty bodies and special procedures, including by establishing a national mechanism for reporting and follow-up.

 (h) Authorize the Office of the United Nations High Commissioner for Human Rights to resume all its activities in Burundi without hindrance;

 (i) Sign and implement the memorandum of understanding with the African Union and permit the full deployment of the 100 human rights observers provided for therein.

107. For the medium and longer terms, the Commission also recommends that the Government of Burundi:

 (a) Amend the Organization Act of 8 March 2018 amending Act No. 01/03 of 24 January 2013 on the mandate, composition, organization and functioning of the National Communication Council with a view to ensuring the latter’s independence;

 (b) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;

 (c) Amend the Code of Criminal Procedure to align its provisions with international standards, in particular the provisions on time limits for police custody and on oversight of detention, night-time and warrantless searches, the *flagrante delicto* procedure and the offence of “undermining the internal security of the State”, and provisions that grant de jure impunity to judges and to officers of the criminal investigation police (*police judiciaire*);

 (d) Put an end to arbitrary detention and improve conditions of detention by:

 i) Implementing the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa adopted by the African Commission on Human and Peoples’ Rights;

 ii) Ensuring that detention is subject to oversight measures for assessing its legality and compatibility with human rights.

 (e) In the absence of an independent and efficient judicial system, cooperate fully with the International Criminal Court in the investigation opened on 25 October 2017;

 (f) Undertake an in-depth reform of the judicial system to ensure its independence, impartiality and effectiveness, including by:

 i) Implementing the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa adopted by the African Commission on Human and Peoples’ Rights;

 ii) Publishing the conclusions of the national forum on the justice system held in 2013 and convening a meeting of justice-sector stakeholders and international partners to discuss follow-up action;

 iii) Increasing the budget for the justice sector and ensuring that it is managed autonomously;

 iv) Raising the pay levels of judges in the ordinary courts and increasing the resources and facilities available to them;

 v) Computerizing court registries;

 vi) Reviewing the composition of the Judicial Service Commission to ensure that the majority of its members are appointed by their peers;

 vii) Reviewing procedures for the appointment, assignment, evaluation and promotion of judges to ensure that such procedures are not dependent on the executive branch;

 viii) Ensuring strict observance of the principle that judges should have security of tenure;

 ix) Protecting and safeguarding the independence of the judiciary by prohibiting any interference in the administration of justice by Government authorities, members of the ruling party or members of the defense and security forces, and imposing penalties on anyone who influences or seeks to influence the administration of justice;

 x) Developing legal aid programmes for persons belonging to the most vulnerable groups;

 xi) Strengthening victim and witness protection mechanisms and improving their effectiveness in order to restore public trust and encourage witnesses to come forward without fear for their safety.

 (g) In consultation with the beneficiaries, establish a reparations programme for victims of human rights violations, ensuring that material, symbolic, individual and collective reparations are made available regardless of whether or not the perpetrators are convicted;

 (h) Establish the State fund for victims of torture provided for by law, in conformity with general comment No. 4 on the African Charter on Human and Peoples’ Rights, adopted by the African Commission on Human and Peoples’ Rights, concerning the right to redress for victims of torture and other cruel, inhuman or degrading punishment or treatment (art. 5);

 (i) Establish a compensation fund for victims of arbitrary and unlawful detention;

 (j) Reform the security sector by:

 i) Ensuring that outsiders are not involved in defense or security activities;

 ii) Clearly defining the roles of the various defense and security forces, in particular the National Intelligence Service;

 iii) Suspending members of the defense and security forces who are suspected of involvement in human rights violations until the relevant investigations and judicial proceedings have concluded;

 iv) Establishing rigorous and transparent selection procedures that include vetting mechanisms;

 v) Strengthening democratic civilian control over the defense and security forces, in particular the National Intelligence Service.

 (k) Meet its international obligations to respect, protect and fulfil economic and social rights by:

 i) Developing and implementing State budgets in such a way as to maximize the use of available resources to ensure that the human rights of the sectors impoverished by the political crisis are respected, in particular the rights to food, water and health care, and to develop indicators disaggregated by factors such as gender in order to better inform its policies;

 ii) In consultation with population groups working in the agricultural sector, including women, undertaking reforms with the aim of better protecting women’s rights and making better use of land for agriculture, and developing employment opportunities outside the agricultural sector;

 iii) Taking a rights-based approach to the settlement of land conflicts, including those involving persons who fled Burundi either before or after 2015;

 iv) Ending the inclusion of any political considerations in hiring processes for the civil service, State enterprises and public-private enterprises.

108. The Commission recommends that political parties and armed opposition groups refrain from engaging in any attacks on Burundian territory and from any speech calling for violence, and that they join the effort to find a lasting solution to the political crisis.

109. The Commission recommends that the African Union, in its efforts to find a lasting solution to the crisis in Burundi, give priority to respect for human rights and the rejection of impunity, as provided for in its Constitutive Act.

110. The Commission recommends that the technical and financial partners of Burundi:

 (a) Suspend, or maintain the suspension of, any direct budget support to the Government until such time as priority is given to the allocation of domestic resources for the fulfilment of the Sustainable Development Goals and the economic and social rights of the population, and effective measures are taken against corruption;

 (b) Ensure that grants and financing provided to the Government are earmarked for projects to meet the population’s needs, and ensure that such funding is managed effectively and transparently;

 (c) Regularly evaluate the impact of financial sanctions on the people of Burundi.

111. The Commission recommends that the guarantors of the Arusha Agreement, in their capacity as committed proponents of a lasting peace in Burundi, continue to seek a durable solution to the political and human rights crisis that will preserve and safeguard the achievements of the Arusha Agreement.

 2. Recommendations made in 2017

**1. The Burundian authorities should:**

144. Put an immediate end to the gross human rights violations being committed by agents of the State and Imbonerakure over which the State exercises control;

145. Investigate these violations, ensure that the alleged perpetrators are prosecuted promptly in accordance with credible, independent and fair procedures, and that the victims obtain just reparation, and, where the alleged perpetrators are agents of the State, suspend them from their duties pending the completion of the investigation and the judicial proceedings;

146. Take practical measures to bring about a rapid improvement of the human rights situation, in particular by:

• Withdrawing the warrants for the arrest of heads of media outlets, civil society organizations and political parties who have neither used nor advocated violence, and permitting their safe return to Burundi;

• Lifting the suspension and reversing the revocation of the licenses of media and civil society organizations, permitting them to resume their activities with complete independence and reviewing the laws adopted in 2017 concerning non-profit organizations and foreign non-Governmental organizations;

• Immediately releasing all political prisoners;

• Ensuring that every person arrested is detained in an official place of detention and that national and international observers are allowed to visit them;

• Ensure that criminal investigation officers (*officiers de police judiciaire*) are not authorized to conduct searches without a warrant, including at night, as envisaged in the draft amendments to the Criminal Code and the Code of Criminal Procedure;

• Ensuring that individuals lacking legal authorization, particularly the Imbonerakure, do not perform or participate in law enforcement activities, including in places of detention, and do not wear military or police uniforms or possess weapons;

• Prosecuting individuals who incite hatred or violence;

• Putting an end to threats, intimidation and acts of extortion by State officials and the Imbonerakure;

• Giving victims of sexual violence and torture access to medical and psychosocial services.

147. Undertake a thorough reform of the judiciary, in particular by:

• Publishing the conclusions of the General Convention on the Judiciary (États généraux de la justice) held in Gitega in 2013;

• Reviewing the composition of the Superior Council of Magistrates (Conseil supérieur de la magistrature) so that the majority of its members are designated by their peers;

• Reviewing the nomination, posting, evaluation and promotion procedures of magistrates so that they do not depend of the executive;

• Ensuring the respect of the principle of security of tenure for judges;

• Protecting and guaranteeing the independence of the judiciary by prohibiting all interference in their functions by Governmental authorities, members of the ruling party or security and defense forces, and imposing sanctions on those who influence, or seek to influence, the functioning of the judiciary;

• Developing legal aid programmes for the most vulnerable;

• Reinforcing the protection mechanisms for victims and witnesses, as well as their efficiency, in order to restore people’s confidence in the system and to encourage witnesses to testify without fear for their security.

148. Ensure that members of the defense and security forces respect human rights in all circumstances and serve the interests of the population as a whole, not solely those of the ruling party, in particular by:

• Reinforcing civilian control over the military and the independence of the competent organs created by the Constitution to supervise this control, in particular the Parliament, the National Human Rights Commission and the Ombudsman;

• Implementing civilian control over the National Intelligence Service (Service national de renseignement) in line with the Constitution;

• Conducting background checks, in particular on human rights, on defense and security forces and incorporating these measures into reforms of the recruitment and career progression of these agents.

149. Reconsider their decision to withdraw from the Rome Statute, cooperate fully with the International Criminal Court in the ongoing preliminary examination and, if an investigation is initiated, continue that cooperation, inter alia by ensuring the protection of victims and witnesses;

150. Authorize the Office of the United Nations High Commissioner for Human Rights to resume its documentation of human rights violations in Burundi, which has been suspended since October 2016;

151. Sign and implement the memorandum of understanding with the African Union and permit the full deployment of 100 human rights observers and 100 military experts that was decided upon in 2016;

152. Cooperate with United Nations human rights mechanisms by once again receiving special procedures missions and implementing the recent recommendations of treaty bodies;

153. Actively seek a lasting solution to the political crisis, inter alia through international initiatives to promote dialogue.

 **2. Political parties and armed opposition groups should:**

154. Put an immediate end to human rights abuses and acts of violence committed by their members;

155. Refrain from any incitement of violence and participate in the quest for a lasting solution to the political crisis in Burundi.

 **3. The Human Rights Council should:**

156. Extend the Commission’s mandate for a period of one year to enable it to conduct further and more thorough investigations in view of the persistence of gross human rights violations and abuses and the absence of other specific mechanisms capable of undertaking independent and thorough investigations into the human rights situation in Burundi;

157. Request the Office of the United Nations High Commissioner for Human Rights to report, at the forthcoming sessions of the Council, on the development of its cooperation with the Burundian Government.

 **4. The International Criminal Court should:**

158. Initiate, as soon as possible, an investigation into the crimes committed in Burundi in light of the conclusions contained in the present report and other information at its disposal.

 **5. The United Nations Security Council should:**

159. Take due account of the Commission’s conclusions, as well as persistence of gross violations of human rights, in any discussion on Burundi and, in this context, ensure the effective implementation of resolution 2303 (2016);

160. Refer to the International Criminal Court any international crime that might be committed in Burundi after 27 October 2017;

161. Impose individual sanctions against the principal alleged perpetrators of gross human rights violations and international crimes in Burundi.

 **6. The Secretary-General of the United Nations should:**

162. Ensure that respect for human rights and restoration of the rule of law are among the priorities of his Special Envoy for Burundi;

163. Ensure that no alleged perpetrator of human rights violations or international crimes in Burundi is recruited for United Nations peacekeeping missions.

 **7. The States Members of the United Nations should:**

164. Grant prima facie refugee status to Burundian asylum seekers and ensure strict re64ect for the principle of non-refoulement and refugee protection;

165. Prosecute, in accordance with the principle of universal jurisdiction, alleged perpetrators of international crimes committed in Burundi who are found to be in their territory;

166. Maintain, in the absence of any improvement in the human rights situation in Burundi, the individual sanctions and the suspension of direct aid to the Government;

167. Provide technical assistance inter alia in respect to autopsies, exhumations and identification of bodies, to enable the Burundian to conduct credible and independent investigations;

168. Support the establishment of specialized medical and psychosocial services, especially for victims of torture and sexual violence;

169. Support Burundian authorities in any judicial and security sector reform endeavors that they might wish to undertake in order to improve the human rights situation.

 **8. The African Union should:**

170. Retake the lead in seeking a lasting solution to the crisis in Burundi based on respect for human rights and rejection of impunity, as provided for in its Constitutive Act, and play an active role in that process;

171. Ensure that no agent of the Burundian State who is accused of human rights violations or international crimes is recruited for African Union peacekeeping missions;

172. Ensure that the full complement of African Union human rights observers and military experts is deployed rapidly in Burundi;

173. Consider, in the event that the current situation in Burundi persists, the application of Article 4 (h) of the Constitutive Act of the African Union, under which it is authorized to intervene in a member State in certain circumstances, particularly in the event of crimes against humanity.

 **9. The East African Community should:**

174. Ensure that a rapid improvement of the human rights situation is a priority in its mediation efforts.

 **10. The guarantors of the 2000 Arusha Agreement, in their capacity as committed proponents of a lasting peace in Burundi, should:**

175. Meet with a view to finding a lasting solution to the political and human rights crisis in Burundi.

 Annex IV – Indicators of common risk factors identified in the Framework of Analysis for Atrocity Crimes (A/70/741-S/2016/71)

[English only]

 Risk factor 1. Situations of armed conflict or other forms of instability

 (a) International or non-international armed conflict;

 (b) Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighboring countries, threats of external interventions or acts of terrorism;

 (c) Humanitarian crisis or emergency, including those caused by natural disasters or epidemics;

 (d) Political instability caused by abrupt or irregular regime change or transfer of power;

 (e) Political instability caused by disputes over power or growing nationalist, armed or radical opposition movements;

 (f) Political tension caused by autocratic regimes or severe political repression;

 (g) Economic instability caused by scarcity of resources or disputes over their use or exploitation;

 (h) Economic instability caused by severe crisis in the national economy;

 (i) Economic instability caused by acute poverty, mass unemployment or deep horizontal inequalities;

 (j) Social instability caused by resistance to, or mass protests against, State authority or policies;

 (k) Social instability caused by exclusion or tensions based on identity issues, their perception or extremist forms.

 Risk factor 2. Record of serious violations of international human rights and humanitarian law

 (a) Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations or individuals;

 (b) Past acts of genocide, crimes against humanity, war crimes or their incitement;

 (c) Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement;

 (d) Inaction, reluctance or refusal to use all possible means to stop planned, predictable or ongoing serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement;

 (e) Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions;

 (f) Justification, biased accounts or denial of serious violations of international human rights and humanitarian law or atrocity crimes;

 (g) Politicization or absence of reconciliation or transitional justice processes following conflict;

 (h) Widespread

 Risk factor 3. Weakness of State structures

 (a) National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties;

 (b) National institutions, particularly judicial, law enforcement and human rights institutions that lack sufficient resources, adequate representation or training;

 (c) Lack of an independent and impartial judiciary;

 (d) Lack of effective civilian control of security forces;

 (e) High levels of corruption or poor governance;

 (f) Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims;

 (g) Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors;

 (h) Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards;

 (i) Lack of resources for reform or institution-building, including through regional or international support;

 (j) Insufficient resources to implement overall measures aimed at protecting populations.

 Risk factor 4. Motives or incentives

 (a) Political motives, particularly those aimed at the attainment or consolidation of power;

 (b) Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources;

 (c) Strategic or military interests, including those based on protection or seizure of territory and resources;

 (d) Other interests, including those aimed at rendering an area homogeneous in its identity;

 (e) Real or perceived threats posed by protected groups, populations or individuals against interests or objectives of perpetrators, including perceptions of disloyalty to a cause;

 (f) Real or perceived membership of or support for armed opposition groups by protected groups, populations or individuals;

 (g) Ideologies based on the supremacy of a certain identity or on extremist versions of identity;

 (h) Politicization of past grievances, tensions or impunity;

 (i) Social trauma caused by past incidents of violence not adequately addressed and that produced feelings of loss, displacement, injustice and a possible desire for revenge.

 Risk factor 5. Capacity to commit atrocity crimes

 (a) Availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement;

 (b) Capacity to transport and deploy personnel and to transport and distribute arms and ammunition;

 (c) Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them;

 (d) Strong culture of obedience to authority and group conformity;

 (e) Presence of or links with other armed forces or with non-State armed groups;

 (f) Presence of commercial actors or companies that can serve as enablers by providing goods, services, or other forms of practical or technical support that help to sustain perpetrators;

 (g) Financial, political or other support of influential or wealthy national actors;

 (h) Armed, financial, logistic, training or other support of external actors, including States, international or regional organizations, private companies, or others.

 Risk factor 6. Absence of mitigating factors

 (a) Limited or lack of empowerment processes, resources, allies or other elements that could contribute to the ability of protected groups, populations or individuals to protect themselves;

 (b) Lack of a strong, organized and representative national civil society and of a free, diverse and independent national media;

 (c) Lack of interest and focus of international civil society actors or of access to international media;

 (d) Lack of, or limited presence of, the United Nations, international non-Governmental organizations or other international or regional actors in the country and with access to populations;

 (e) Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations;

 (f) Lack of exposure, openness or establishment of political or economic relations with other States or organizations;

 (g) Limited cooperation of the State with international and regional human rights mechanisms;

 (h) Lack of incentives or willingness of parties to a conflict to engage in dialogue, make concessions and receive support from the international community;

 (i) Lack of interest, reluctance or failure of States Members of the United Nations or members of international or regional organizations to support a State to exercise its responsibility to protect populations from atrocity crimes, or to take action when the State manifestly fails that responsibility;

 (j) Lack of support by neighbouring States to protect populations at risk and in need of refuge, including by closure of borders, forced repatriation or aid restriction;

 (k) Lack of an early warning mechanism relevant to the prevention of atrocity crimes.

 Risk factor 7. Enabling circumstances or preparatory action

 (a) Imposition of emergency laws or extraordinary security measures that erode fundamental rights;

 (b) Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups;

 (c) Strengthening of the security apparatus, its reorganization or mobilization against protected groups, populations or individuals;

 (d) Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm;

 (e) Creation of, or increased support to, militia or paramilitary groups;

 (f) Imposition of strict control on the use of communication channels, or banning access to them;

 (g) Expulsion or refusal to allow the presence of non-Governmental organizations, international organizations, media or other relevant actors, or imposition of severe restrictions on their services and movements;

 (h) Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them;

 (i) Increased serious acts of violence against women and children, or creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror;

 (j) Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation or forced displacement or transfer of protected groups, populations or individuals to camps, rural areas, ghettos or other assigned locations;

 (k) Destruction or plundering of essential goods or installations for protected groups, populations or individuals, or of property related to cultural and religious identity;

 (l) Marking of people or their property based on affiliation to a group;

 (m) Increased politicization of identity, past events or motives to engage in violence;

 (n) Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations or individuals.

 Risk factor 8. Triggering factors

 (a) Sudden deployment of security forces or commencement of armed hostilities;

 (b) Spillover of armed conflicts or serious tensions in neighbouring countries;

 (c) Measures taken by the international community perceived as threatening to a State’s sovereignty;

 (d) Abrupt or irregular regime changes, transfers of power, or changes in political power of groups;

 (e) Attacks against the life, physical integrity, liberty or security of leaders, prominent individuals or members of opposing groups; other serious acts of violence, such as terrorist attacks;

 (f) Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders;

 (g) Acts of incitement or hate propaganda targeting particular groups or individuals;

 (h) Census, elections, pivotal activities related to those processes, or measures that destabilize them;

 (i) Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters or epidemics;

 (j) Discovery of natural resources or launching of exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations;

 (k) Commemoration events of past crimes or of traumatic or historical episodes that can exacerbate tensions between groups, including the glorification of perpetrators of atrocities;

 (l) Acts related to accountability processes, particularly when perceived as unfair.

1. \* Original in French available at https://ohchr.org/Documents/HRBodies/HRCouncil/CoIBurundi/ReportHRC42/A\_HRC\_42\_CRP2\_EN.pdf [↑](#footnote-ref-2)
2. The Commission has extended the period for the violations of the right to life and cases of sexual violence – which are the most difficult to document – to include those committed since 1 January 2018. [↑](#footnote-ref-3)
3. JI-114. [↑](#footnote-ref-4)
4. TI-219. [↑](#footnote-ref-5)
5. See A/HRC/39/CRP.1, para. 462-579 and para. 296-314 of this report. [↑](#footnote-ref-6)
6. See A/HRC/36/54 and A/HRC/39/63. [↑](#footnote-ref-7)
7. Under article 268 of the Constitution promulgated on 7 June 2018, SNR is no longer part of the defence and security forces. The Commission is aware that some agents of the national police are seconded to SNR and that some persons work for SNR in an unofficial capacity. The identification of the main perpetrators of human rights violations in this report was based on their status (police or SNR) as they appeared or identified themselves to the victims or the witnesses and not based on their contractual relationship or their official duty. [↑](#footnote-ref-8)
8. HI-016, CI-010, TI-203, CI-011. [↑](#footnote-ref-9)
9. JI-098, HI-016, JI-065, CI-011, TI-203. In parallel, the authorities have since 2018 undertaken campaigns to collect and destroy the military equipment detained by private security companies ; thus demonstrating *a contrario* their tolerance or willingness to let the Imbonerakure hold onto their equipment. See: <https://twitter.com/BurundiSecurity/status/1141228655026352128>. [↑](#footnote-ref-10)
10. *Yearbook of the International Law Commission*, 2001, vol. II, part two (United Nations publication, sales No.: F.04.V.17 (part II)), International Law Commission, Articles on responsibility of States for internationally wrongful acts, art. 11, p. 26. [↑](#footnote-ref-11)
11. Ibid., International Law Commission, Articles on responsibility of States for internationally wrongful acts, art. 8, p. 26. [↑](#footnote-ref-12)
12. See A/HRC/39/54, para. 23 to 27. [↑](#footnote-ref-13)
13. See A/HRC/36/CRP.1, para. 390 and 392. [↑](#footnote-ref-14)
14. See para. 460-465 of this report. [↑](#footnote-ref-15)
15. Letter of the Burundian Senate to the French-Speaking Parliament of Brussels, dated 28 November 2018, to protest against the organisation “*journées du Burundi*”, available on: <https://www.uantwerpen.be/en/projects/centre-des-grands-lacs-afrique/droit-pouvoir-paix-burundi/ethnicite/ethnicite-pouvoir-conflit/>. [↑](#footnote-ref-16)
16. See A/HRC/36/CRP.1/Rev.1, para. 507-532 and A/AHR/39/CRP.1, para. 396-420. [↑](#footnote-ref-17)
17. Presidential decree n°100/113 of 3 July 2019 on the nomination of board members of RTNB. See also: Presidential decree n°100/261 of 29 December 2017 on the nomination of an official for the general administration of SNR. [↑](#footnote-ref-18)
18. https://rsf.org/fr/burundi. [↑](#footnote-ref-19)
19. The draft law was unanimously adopted by the National Assembly on 19 April 2018, and by the Senate on 16 August 2018, but the latter was not published nor shared before its promulgation. [↑](#footnote-ref-20)
20. Article 7 of the Law n° 1/19 of 14 September 2018. [↑](#footnote-ref-21)
21. Article 7 of the Law n° 1/19 of 14 September 2018. [↑](#footnote-ref-22)
22. The Minister of Communication clarified during the presentation of the draft law to the Senate that journalists currently employed without meeting the set requirements will need professional training for capacity building purposes in order to fulfil their mission but that they would not necessarily lose their job. Brief account of the session of 16 August 2018, <http://www.senat.bi/?p=6297>. [↑](#footnote-ref-23)
23. Article 52 of law n°1/19 of 14 September 2018. [↑](#footnote-ref-24)
24. Article 17 of law n°1/15 of 9 May 2015 provided: “In accordance with professional ethic and conduct, journalists are called to only disseminate balanced information from sources that are rigorously verified”. [↑](#footnote-ref-25)
25. See the Global Charter of Journalists of the International Federation of Journalists (IFJ) adopted during the 30th international congress of the IFJ in Tunis, on 12 June 2019 which completes the Code of Ethics of the IFJ on the conduct of journalists (1954), called the « *Déclaration de Bordeaux*», and the Ethical Code of Burundian medias adopted in 2014 available at: <http://cnc-burundi.bi/wp-content/uploads/2017/11/CODE-DE-DEONTOLOGIE-DES-MEDIAS-BURUNDAIS_EDITION-2014-1.pdf>. These international standards simply require the respect of the principles of freedom and honesty in the collection and publication of information and to ensure that the comments and critics are balanced, to distinguish clearly the information from comments and critics, to offer the accused persons an opportunity to reply and the obligation to rectify any error or inaccurate information. [↑](#footnote-ref-26)
26. See para. 221-230 of this report. [↑](#footnote-ref-27)
27. See article 7 of the Law n°1/15 of 9 May 2015. [↑](#footnote-ref-28)
28. Articles 3 and 4 of the law n°1/19 of 14 September 2018. [↑](#footnote-ref-29)
29. Article 30 of the law n°1/19 of 14 September 2018. [↑](#footnote-ref-30)
30. Article 42 of the law n°1/19 of 14 September 2018. [↑](#footnote-ref-31)
31. See the brief account of the plenary session of the Senate of 16 August 2018, available on: <http://www.senat.bi/?p=6297>. Humura and Inzamba are internet radios based abroad. [↑](#footnote-ref-32)
32. Article 77 of the law n°1/19 of 14 September 2018. [↑](#footnote-ref-33)
33. Decision of the CNC n°100/CNC/006/2019 of 29 March 2019 on the withdrawal of the operating licence of the radio service of the British Broadcasting Corporation. [↑](#footnote-ref-34)
34. Decision of the CNC n°100/CNC/007/2018 dated 4 May 2018. [↑](#footnote-ref-35)
35. Decision of the CNC n°100/CNC/071/2018 dated 16 March 2018. [↑](#footnote-ref-36)
36. Decision of the CNC n°100/CNC/007/2019 dated 29 March 2019 on the change of the decision 100/CNC/006/2018 of 4 May 2018 on the suspension of VOA radio service for six months. [↑](#footnote-ref-37)
37. Decision of the CNC n° 100/CNC/007/2019 of 29 March 2019 and the decision of CNC n°100/CNC/006/2019 of 29 March 2019. [↑](#footnote-ref-38)
38. <https://twitter.com/LeRenouveauBdi/status/1135587955014361088>. [↑](#footnote-ref-39)
39. http://cnc-burundi.bi/assemblee-pleniere-ordinaire-au-cnc-2/. [↑](#footnote-ref-40)
40. Decision of the CNC n°100/CNC/005/2018 of 10 April 2018 on the suspension of the « comments » page for three months of the online newspaper Iwacu. [↑](#footnote-ref-41)
41. http://cnc-burundi.bi/le-cnc-met-en-place-un-numero-de-telephone-pour-le-public/. [↑](#footnote-ref-42)
42. <http://www.rfi.fr/afrique/20190524-burundi-communication-president-mise-mal-apres-couac>. Decree of 21 May 2019 is available on the presidential online site: <http://www.presidence.gov.bi/wp-content/uploads/2019/05/decret-073-2019-3.pdf>; the image of the initial decree of 15 May 2019 that mentioned the members of CNC bureau was published on the twitter account of the pro Governmental newspaper « Le Renouveau » : <https://twitter.com/LeRenouveauBdi/status/1130510363223633920> [↑](#footnote-ref-43)
43. [https://www.voaafrique.com/a/un-commissaire-de-la-c%c3%a9ni-appelle-%c3%a0-barrer-la-route-aux-m%c3%a9dias-ind%c3%a9pendants/4908952.html](https://www.voaafrique.com/a/un-commissaire-de-la-c%C3%A9ni-appelle-%C3%A0-barrer-la-route-aux-m%C3%A9dias-ind%C3%A9pendants/4908952.html). [↑](#footnote-ref-44)
44. See also A/HRC/39/CRP.1, para. 686 on the Burundian authorities’ rejection of data on the humanitarian situation presented by humanitarian agencies. [↑](#footnote-ref-45)
45. <http://www.parcem.org/index.php/9-uncategorised/236-campagne-ukuri-ku-biduhanze>. [↑](#footnote-ref-46)
46. <http://www.rfi.fr/afrique/20190618-burundi-ong-parcem-suspendue>. [↑](#footnote-ref-47)
47. See A/HRC/39/CRP.1, para. 410-420. [↑](#footnote-ref-48)
48. JI-077, TI-231, TI-246, HI-020. [↑](#footnote-ref-49)
49. TI-231, JI-124. [↑](#footnote-ref-50)
50. TI-231, JI-124. [↑](#footnote-ref-51)
51. See para. 268-272 of this report. [↑](#footnote-ref-52)
52. HI-017, HI-020, JI-124, TI-246. [↑](#footnote-ref-53)
53. <https://www.voaafrique.com/a/4910314.html> ; https://www.ifj.org/fr/salle-de-presse/nouvelles/detail/category/safety/article/burundi-ifj-condemns-arrest-of-broadcast-journalist.html. [↑](#footnote-ref-54)
54. HI-005, HI-020. [↑](#footnote-ref-55)
55. JI-124. [↑](#footnote-ref-56)
56. JI-124, JI-125. [↑](#footnote-ref-57)
57. JI-124. [↑](#footnote-ref-58)
58. TI-231. [↑](#footnote-ref-59)
59. See para. 220-230 of this report. [↑](#footnote-ref-60)
60. See A/HRC/39/CRP.1, para. 429-438. [↑](#footnote-ref-61)
61. <http://www.rfi.fr/afrique/20190420-burundi-commissaire-menace-publiquement-eliminer-opposants> ; [https://www.voaafrique.com/a/un-haut-responsable-policier-menace-publiquement-d-%c3%a9liminer-des-opposants/4883155.html](https://www.voaafrique.com/a/un-haut-responsable-policier-menace-publiquement-d-%C3%A9liminer-des-opposants/4883155.html). [↑](#footnote-ref-62)
62. Informal translation of an audio recording obtained by the Commission. [↑](#footnote-ref-63)
63. Song in Kirundi, informal translation done by the Commission. See also JI-126. [↑](#footnote-ref-64)
64. <https://twitter.com/iburundi/status/1058675255466704897?s=12> ; <https://twitter.com/akanyegeri/status/1134022935184859136>. [↑](#footnote-ref-65)
65. See A/HRC/39/CRP.1, para. 439-448. [↑](#footnote-ref-66)
66. Law n°1/02 of 27 January 2017 on the organic framework of non-profit organisations (ASBL). [↑](#footnote-ref-67)
67. See A/HRC/36/CRP.1, para. 565-569. [↑](#footnote-ref-68)
68. <https://twitter.com/IntumwaNews/status/1131099256784400386>. [↑](#footnote-ref-69)
69. Law n°1/01 of 23 January 2017 on the general cooperation framework between the Republic of Burundi and the foreign NGOs. . [↑](#footnote-ref-70)
70. Official framework of the Council of Ministers of the 10 May 2019 during which three draft decrees on the functioning of foreign NGOs were presented by the Minister of Foreign Affairs: http://burundi.gov.bi/spip.php?article4280. [↑](#footnote-ref-71)
71. http://www.bujumbura.eu/2018/10/suspension-des-onge-le-ministre-de-l-interieur-clarifie-la-decision-du-conseil-national-de-securite.html. [↑](#footnote-ref-72)
72. See A/HRC/39/CRP.1, para. 69-78. [↑](#footnote-ref-73)
73. [https://www.presidence.gov.bi/wp-content/uploads/2019/07/Communiqué-Conseil-du-17-July -2019.pdf](https://www.presidence.gov.bi/wp-content/uploads/2019/07/Communiqu%C3%A9-Conseil-du-17-juillet-2019.pdf). [↑](#footnote-ref-74)
74. [https://www.presidence.gov.bi/wp-content/uploads/2019/07/Communiqué-Conseil-du-17-July -2019.pdf](https://www.presidence.gov.bi/wp-content/uploads/2019/07/Communiqu%C3%A9-Conseil-du-17-juillet-2019.pdf). [↑](#footnote-ref-75)
75. http://www.rtnb.bi/fr/art.php?idapi=3/2/147. [↑](#footnote-ref-76)
76. See the report of the special Rapporteur on the right to peaceful assembly and freedom of association, A/HRC/20/27, para. 65-67. [↑](#footnote-ref-77)
77. <http://www.rtnb.bi/fr/art.php?idapi=3/2/147>. [↑](#footnote-ref-78)
78. <http://rtnb.bi/fr/art.php?idapi=3/3/52>. [↑](#footnote-ref-79)
79. TI-164. [↑](#footnote-ref-80)
80. <https://burundi-agnews.org/societe-civile/burundi-naissance-dune-societe-civile-alternative/>. [↑](#footnote-ref-81)
81. <http://rtnb.bi/fr/art.php?idapi=1/4/129>. [↑](#footnote-ref-82)
82. <https://www.kabazawebtv.org/?p=3144&lang=fr>. [↑](#footnote-ref-83)
83. [http://www.en.igihe.com/politics-48/rights-groups-allied-to-burundi-Government-no.html](http://www.en.igihe.com/politics-48/rights-groups-allied-to-burundi-government-no.html) and <https://regionweek.com/burundi-politics-two-civil-societies-organizations-do-not-see-the-need-of-the-5th-round-of-inter-burundian-dialogue/>. [↑](#footnote-ref-84)
84. https://www.iwacu-burundi.org/pisc-burundi-and-capes-remontes-contre-le-groupe-de-partenaires-du-burundi/. [↑](#footnote-ref-85)
85. https://www.youtube.com/watch?v=9qDWgUhAeiU. [↑](#footnote-ref-86)
86. Human Rights Committee, General Comment n° 25 (57) on article 25 of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-87)
87. Law n°1/16 of 10 September 2011 on the revision of law n°1/006 of 26 June 2003 on the organisation and functioning of political parties. [↑](#footnote-ref-88)
88. Article 8 of the law n°1/16 of 10 September 2011. [↑](#footnote-ref-89)
89. Articles 11 and 38 of the law n°1/16 of 10 September 2011. [↑](#footnote-ref-90)
90. “A declaration of subscription to the Charter of National Unity signed by all the founding members ; a social project ; an application signed by the legal representative along with a list of all the founding members indicating their names, first name, identity card number, date and place of birth as well as the profession and function of each member, a declaration indicating the complete identity of the leaders ; proof of residence of the founding members and the leaders ; birth certificates and recent extracts from the criminal record as well as certificates of good conduct of the founding members and the leaders; the name and addess of the political party; notorised internal bylaws and regulations in two copies; the name of the legal representative and his/her deputy”, article 47 of the law n°1/16 of 10 September 2011. [↑](#footnote-ref-91)
91. Article 48 of the law n°1/16 of 10 September 2011. [↑](#footnote-ref-92)
92. For matters related to the organisation of political meetings, see para. 259-267 of this report. [↑](#footnote-ref-93)
93. DI-052, CI-065, HI-017. See also: <http://www.rfi.fr/afrique/20190730-burundi-cnl-imbonerakure-permanences-vandalisees>; <https://www.voaafrique.com/a/une-permanence-du-principal-parti-d-opposition-burundais-incendi%C3%A9e/4961824.html>. [↑](#footnote-ref-94)
94. <https://www.jeuneafrique.com/744238/politique/burundi-agathon-rwasa-denonce-les-restrictions-imposees-a-son-parti/>. [↑](#footnote-ref-95)
95. DI-052. [↑](#footnote-ref-96)
96. See para. 80, 106, 120-121, 149 and 180 of this report. [↑](#footnote-ref-97)
97. See A/HRC/39/CRP.1, para. 447-448. [↑](#footnote-ref-98)
98. See African Court on Human and People's rights, Tanganyika Law Society, the Legal and Human Rights Center and Reverend Christopher R. Mtikila c. Republic of Tanzania, 14 June 2013 ; African Commission on Human and People's rights, communication n° 355/07, Hossam Ezzat and Rania Enayet c. Egypt. [↑](#footnote-ref-99)
99. HI-002, HI-016, TI-213, TI-219, TI-223, CI-018, CI-042, CI-058, DI-009, DI-017, DI-018, DI-030, DI-035, DI-041, DI-044, DI-005. [↑](#footnote-ref-100)
100. See part C. Violations of civil and political rights, below. [↑](#footnote-ref-101)
101. DI-017. [↑](#footnote-ref-102)
102. TI-219. [↑](#footnote-ref-103)
103. See A/HRC/39/CRP.1, para. 449-450. [↑](#footnote-ref-104)
104. Report of special Rapporteur on the right to peaceful assembly and freedom of association, A/68/299, para. 16. [↑](#footnote-ref-105)
105. Report of special Rapporteur on the right to peaceful assembly and freedom of association, A/68/299, para. 24-25. [↑](#footnote-ref-106)
106. JI-123, JI-124. [↑](#footnote-ref-107)
107. Law n°1/28 of 5 December 2013 on the regulations for demonstrations on public roads and on public meetings art. 4 to 10. See A/HRC/36/CRP.1, para. 591-592. [↑](#footnote-ref-108)
108. HI-017, https://www.jeuneafrique.com/744238/politique/burundi-agathon-rwasa-denonce-les-restrictions-imposees-a-son-parti/. [↑](#footnote-ref-109)
109. <https://twitter.com/IntumwaNews/status/1141988875939848192>: “no political party has the right to be active in any locality in Burundi in which it is not represented” according to Minister Pascal Barandagiye. [↑](#footnote-ref-110)
110. TI-215, TI-216, TI-226, HI-003, HI-017. [↑](#footnote-ref-111)
111. TI-226. [↑](#footnote-ref-112)
112. A/HRC/39/63 and A/HRC/39/CRP.1. [↑](#footnote-ref-113)
113. https://www.youtube.com/watch?v=WZPkRLkUiYo. [↑](#footnote-ref-114)
114. <http://www.radiomaria.bi/message-de-la-conference-des-eveques-catholiques-du-burundi-pour-noel-2018/>. [↑](#footnote-ref-115)
115. <http://www.rfi.fr/emission/20190602-barankitse-marguerite-burundaise-refugiee-rwanda-guerre-civile-interethnique>; <http://www.tv5monde.com/emissions/episode/internationales-marguerite-barankitse>; see <https://www.bbc.com/afrique/region-48568133>. [↑](#footnote-ref-116)
116. <https://www.crisisgroup.org/fr/africa/central-africa/burundi/278-running-out-options-burundi>. [↑](#footnote-ref-117)
117. <https://www.hrw.org/fr/news/2019/06/12/burundi-abus-generalises-visant-lopposition>. [↑](#footnote-ref-118)
118. TI-226, JI-069, CM-008. [↑](#footnote-ref-119)
119. JI-077, JI-100. See also <https://twitter.com/IntumwaNews/status/1127107743528177666> ; <https://twitter.com/LeRenouveauBdi/status/1125133608753270784> ; <https://twitter.com/akanyegeri/status/1125114984474845184>; <https://twitter.com/RTNBurundi/status/1134916711004725254>. [↑](#footnote-ref-120)
120. JI-069, JI-114, TI-213. [↑](#footnote-ref-121)
121. TI-213. [↑](#footnote-ref-122)
122. See A/HRC/39/CRP.1, para.451-461. [↑](#footnote-ref-123)
123. The components of the *quadrilogie* are administrative authorities, high ranking officers from the defence and security forces, authorities from the judiciary and the population. Imbonerakure are included in the *quadrilogie* under the umbrella of civil society which is itself included in the “population” component. [↑](#footnote-ref-124)
124. <http://www.rtnb.bi/fr/art.php?idapi=3/1/215>. [↑](#footnote-ref-125)
125. TI-203, JI-063, JI-100, CI-055. [↑](#footnote-ref-126)
126. TI-190, TI-209, CI-051, CI-054, JI-071, JI-100. [↑](#footnote-ref-127)
127. TI-190. [↑](#footnote-ref-128)
128. TI-190, TI-209, TI-226, CI-003, CI-051, CI-054, CI-055, JI-071, HI-005. [↑](#footnote-ref-129)
129. TI-209, CI-054, JI-071. [↑](#footnote-ref-130)
130. TI-209. [↑](#footnote-ref-131)
131. TI-223. [↑](#footnote-ref-132)
132. Article 18 of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-133)
133. Human Rights Committee, General Comment n°22 (48) on article 18 of the International Covenant on Civil and Political Rights, para. 3. [↑](#footnote-ref-134)
134. Article 19 (1) of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-135)
135. Human Rights Committee, General Comment n°34 on article 19 of the International Covenant on Civil and Political Rights , para. 9-10. [↑](#footnote-ref-136)
136. CI-042, CI-058. [↑](#footnote-ref-137)
137. CI-042. [↑](#footnote-ref-138)
138. Human Rights Committee, General Comment n°22 (48) on article 18 of the International Covenant on Civil and Political Rights, para. 4. [↑](#footnote-ref-139)
139. <https://presidence.gov.bi/2019/05/07/reunion-devaluation-de-la-securite-autour-du-chef-de-letat-2/->. [↑](#footnote-ref-140)
140. See A/HRC/36/CRP.1/Rev.1, para. 185-186. [↑](#footnote-ref-141)
141. DI-055, <https://news.adventist.org/en/all-news/news/go/2019-05-16/commentary-what-seventh-day-adventists-face-in-burundi/>; <http://www.rfi.fr/afrique/20190515-burundi-eglise-adventiste-7e-jour-denonce-emprisonnement-responsables-branche-local> ; <https://www.voaafrique.com/a/lib%C3%A9ration-de-membres-de-l-%C3%A9glise-adventiste-/4922890.html>; <https://news.adventist.org/en/all-news/news/go/2019-05-13/appeal-from-seventh-day-adventist-world-church-president-for-urgent-prayer/>; https://news.adventist.org/en/all-news/news/go/2019-05-17/adventist-detainees-released-from-burundi-prison/. [↑](#footnote-ref-142)
142. LM-003, HI-020. See also CNDD-FDD communiqué dated 25 April 2019, available on: http://cndd-fdd.org/2019/04/25/declaration-du-parti-cndd-fdd-quatre-ans-apres-la-tenue-du-congres-qui-a-designe-son-excellence-pierre-nkurunziza-candidat-a-la-presidentielle-de-2015/. [↑](#footnote-ref-143)
143. <https://www.la-croix.com/Religion/Au-Burundi-eveques-interdisent-prises-parole-cours-messe-2019-04-23-1201017404>. [↑](#footnote-ref-144)
144. <https://twitter.com/Mutama2017/status/1137831692268449793>, Translation by the Commission of the extracts. [↑](#footnote-ref-145)
145. Final *Communiqué* following the ordinary plenary assembly of the Conference of Catholic Bishops of Burundi, dated 11 June 2019, available at : [http://www.eglisecatholique.bi/index.php/2016-10-03-18-35-17/communiques/502-communique-de-cloture-de-l-assemblee-pleniere-de-la-conference-des-eveques-catholiques-du-burundi-du-mois-de-June-2019](http://www.eglisecatholique.bi/index.php/2016-10-03-18-35-17/communiques/502-communique-de-cloture-de-l-assemblee-pleniere-de-la-conference-des-eveques-catholiques-du-burundi-du-mois-de-juin-2019). [↑](#footnote-ref-146)
146. http://www.rtnb.bi/fr/art.php?idapi=3/3/84. [↑](#footnote-ref-147)
147. Article 25 of the International Covenant on Civil and Political Rights, and article 13 of the African Charter on Human and Peoples’ Rights. [↑](#footnote-ref-148)
148. Human Rights Committee, General Comment n°25 (57) on article 25 of the Convenant, CCR/C/Rev.1/Add.7. [↑](#footnote-ref-149)
149. Law n°1/11 of 20 May 2019 on the modification of the law n°1/20 of 3 June 2014 on the Electoral Code. [↑](#footnote-ref-150)
150. See para. 442-446 of this report. [↑](#footnote-ref-151)
151. Articles 101 (m) and 128 of the Electoral Code. [↑](#footnote-ref-152)
152. Article 136 of the Electoral Code. [↑](#footnote-ref-153)
153. Article 108 of the Electoral Code. [↑](#footnote-ref-154)
154. Article 142 of the Electoral Code. [↑](#footnote-ref-155)
155. Article 113 of the Electoral Code. [↑](#footnote-ref-156)
156. Articles 182 and 185 of the Electoral Code. [↑](#footnote-ref-157)
157. Article 135 of the Electoral Code. [↑](#footnote-ref-158)
158. Article 104 of the Electoral Code. [↑](#footnote-ref-159)
159. Article 166 of the Electoral Code. [↑](#footnote-ref-160)
160. Article 25 of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-161)
161. Article 5 (1) of the Electoral Code. [↑](#footnote-ref-162)
162. Article 25 of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-163)
163. Human Rights Committee, General Comment n°25 (57) on article 25 of the Covenant, CCR/C/Rev.1/Add.7. [↑](#footnote-ref-164)
164. Human Rights Committee, General Comment n°25 (57) on article 25 of the Covenant, CCR/C/Rev.1/Add.7, para. 19. [↑](#footnote-ref-165)
165. CI-042, JI-067, JI-069, JI-096, JI-097, JI-100, TI-199. [↑](#footnote-ref-166)
166. JI-097. [↑](#footnote-ref-167)
167. CI-058. [↑](#footnote-ref-168)
168. TI-215, JI-096. [↑](#footnote-ref-169)
169. TI-215. [↑](#footnote-ref-170)
170. A/HRC/39/CRP.1, para. 580-721. [↑](#footnote-ref-171)
171. Article 11 of the International Covenant on Economic, Social and Cultural Rights. [↑](#footnote-ref-172)
172. World Bank: http://www.worldbank.org/en/country/burundi. [↑](#footnote-ref-173)
173. UNDP, *Human Development Index*, 2018. [↑](#footnote-ref-174)
174. See A/HRC/39/CRP.1, para. 634-646. [↑](#footnote-ref-175)
175. See A/HRC/39/CRP.1, para. 637-646. [↑](#footnote-ref-176)
176. TI-189, TI-208, CI-002, CI-014. [↑](#footnote-ref-177)
177. JI-097, JI-098. [↑](#footnote-ref-178)
178. JI-098. [↑](#footnote-ref-179)
179. See para. 41, <https://presidence.gov.bi/2019/07/02/message-a-la-nation-de-son-excellence-le-president-de-la-republique-a-loccasion-du-57eme-anniversaire-de-independance-du-burundi/>. [↑](#footnote-ref-180)
180. JI-079. [↑](#footnote-ref-181)
181. TI-182, TI-216, CI-067. [↑](#footnote-ref-182)
182. TI-208. [↑](#footnote-ref-183)
183. JI-111, JI-112, JI-113, TI-203, TI-210, TI-211, TI-223, CI-003, CI-054, DI-035, DI-046. [↑](#footnote-ref-184)
184. TI-211. [↑](#footnote-ref-185)
185. JI-093, CI-030, CI-031. [↑](#footnote-ref-186)
186. JI-093 [↑](#footnote-ref-187)
187. CI-005, CI-030, CI-031, CI-036. [↑](#footnote-ref-188)
188. CI-031. [↑](#footnote-ref-189)
189. Article 12 of the International Covenant on Economic, Social and Cultural Rights. [↑](#footnote-ref-190)
190. JI-087, TI-199, HI-005. [↑](#footnote-ref-191)
191. JI-087. [↑](#footnote-ref-192)
192. Article 12 (2) (c) of the International Covenant on Economic, Social and Cultural Rights. [↑](#footnote-ref-193)
193. https://apps.who.int/iris/bitstream/handle/10665/326159/OEW31-290704082019.pdf. [↑](#footnote-ref-194)
194. <http://www.rtnb.bi/fr/art.php?idapi=3/3/53> and <http://rtnb.bi/fr/art.php?idapi=3/3/52>. [↑](#footnote-ref-195)
195. https://apps.who.int/iris/bitstream/handle/10665/326159/OEW31-290704082019.pdf. [↑](#footnote-ref-196)
196. Article 6 (1) of the International Covenant on Economic, Social and Cultural Rights. [↑](#footnote-ref-197)
197. Article 2 (2) of the International Covenant on Economic, Social and Cultural Rights. [↑](#footnote-ref-198)
198. JI-058, JI-090, JI-100, TI-233, DI-050, TI-182. [↑](#footnote-ref-199)
199. JI-100. [↑](#footnote-ref-200)
200. CI-053, JI-066, DI-007. [↑](#footnote-ref-201)
201. JI-066. [↑](#footnote-ref-202)
202. See para. 244-247 of this report. [↑](#footnote-ref-203)
203. LM-003, CM-008, CM-007. [↑](#footnote-ref-204)
204. JI-066. [↑](#footnote-ref-205)
205. Referenced correspondence 6620/CAB/DGEFPFFGP/793/2019 dated 9 February 2019, See: http://www.burundi.gov.bi/spip.php?article4248. [↑](#footnote-ref-206)
206. DI-006, DI-012, TI-209, CI-037. [↑](#footnote-ref-207)
207. CI-037. [↑](#footnote-ref-208)
208. See para. 127 of this report. [↑](#footnote-ref-209)
209. CEDAW/C/BDI/CO/5-6, para. 34. [↑](#footnote-ref-210)
210. JI-087, JI-091, JI-093, TI-208. [↑](#footnote-ref-211)
211. UNDP, Human Development Index, 2018. [↑](#footnote-ref-212)
212. JI-087. [↑](#footnote-ref-213)
213. TI-168. [↑](#footnote-ref-214)
214. TI-233, JI-066. [↑](#footnote-ref-215)
215. JI-066. [↑](#footnote-ref-216)
216. A/HRC/39/CRP.1, para. 129-139. [↑](#footnote-ref-217)
217. Ibid. para. 136. [↑](#footnote-ref-218)
218. Ibid. para. 138. [↑](#footnote-ref-219)
219. A/HRC/29/40 para. 22. [↑](#footnote-ref-220)
220. A/HRC/41/33 para. 19. [↑](#footnote-ref-221)
221. Ministry of National Solidarity, Human and Gender Rights, *Gender National Policy of Burundi 2012-2025*, July 2012; available at: <http://www.presidence.gov.bi/wp-content/uploads/2017/04/politique_nationale_genre_png__2012-2025.pdf>. [↑](#footnote-ref-222)
222. Ibid. p. 10. [↑](#footnote-ref-223)
223. Ibid., p. 10. [↑](#footnote-ref-224)
224. See para. 475-477 of this report. [↑](#footnote-ref-225)
225. Burundi National Assembly, 8 March 2019 (in: <https://www.assemblee.bi/spip.php?page=imprimer&id_article=1966>). [↑](#footnote-ref-226)
226. See: <http://www.rtnb.bi/fr/art.php?idapi=3/1/18>. [↑](#footnote-ref-227)
227. Presidency of Burundi, 26 October 2018 (in : <https://presidence.gov.bi/2018/10/26/la-premiere-dame-ouvre-la-conference-internationale-des-femmes-leaders/>) [↑](#footnote-ref-228)
228. UNFPA, *Étude sur les grossesses en milieu scolaire,* November 2013 (available at : <https://burundi.unfpa.org/sites/default/files/resource-pdf/RAPPORTFINALETUDEGROSSESSESENMILIEUSCOLAIREAUBURUNDI_0.pdf>). [↑](#footnote-ref-229)
229. See: <https://www.iwacu-burundi.org/musigati-grossesses-en-milieu-scolaire-des-chiffres-inquietants/> [↑](#footnote-ref-230)
230. See articles 16, 17, 18 and 48 of the Law n°1/13 of 22 September 2016. [↑](#footnote-ref-231)
231. See the speech of the Minister of Human Rights, Social Affairs and Gender on the International Day of the Girl Child, on 11 October 2018 (in : <http://www.droitshumains.gov.bi/grossesse-zero-en-milieu-scolaire-souhait-du-ministre-burundais-en-charge-des-droits-humains/>). [↑](#footnote-ref-232)
232. Ministry of Education, Technical and Vocational Training, Communication n°620/CAB/DGEFPF/5176/2018 of 26 June 2018. [↑](#footnote-ref-233)
233. “A commission in charge of the reintegration and the transfer of students from *fondamental* and *post fondamental* levels is established. Contrary to correspondence n°620/CAB/DGEFPF/5176/2018 dated 26/6/2018 on fraudulent school documents in public and private schools, the commission will receive as usual girls victims of pregnancy during *fondamental* or *post fundamental* levels as well as male students responsible for pregnancies. The commission will accept such requests until 10/08/2018”, Communiqué of the Minister of Education, Technical and Vocational Training, 27 July 2018. [↑](#footnote-ref-234)
234. See : <https://www.iwacu-burundi.org/les-filles-ne-sont-pas-des-grands-enfants/>. [↑](#footnote-ref-235)
235. Article 13 of the International Covenant on Economic, Social and Cultural Rights; see also article 53 of the Burundian Constitution which guarantees equal access to education to all citizens, as well as the provisions of the 2016 law on gender based violence which aim to protect the victims’ right to education. [↑](#footnote-ref-236)
236. Articles 16 and 28 of the Convention on the Rights of the Child. [↑](#footnote-ref-237)
237. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2016, A/HRC/31/57, para. 46. [↑](#footnote-ref-238)
238. Official communiqués of the administrators of Nyabiraba commune (Bujumbura province), Muyinga commune (Muyinga province) and Musongati commune (Rutana province). RTNB published in a tweet on 1 March 2019 that the administrator of Giteranyi commune (Muyinga province) had stated “an instruction prohibiting young girls from going home after 19h00 had been adopted to prevent their exposure to risks of undesired pregnancies” (See: <https://twitter.com/RTNBurundi/status/1101443561940312066>). [↑](#footnote-ref-239)
239. Voir : [www.rtnb.bi/fr/art.php?idapi=3/1/54](http://www.rtnb.bi/fr/art.php?idapi=3/1/54). [↑](#footnote-ref-240)
240. Communiqué of the communal administration of Musongati, 6 May 2019. [↑](#footnote-ref-241)
241. Communiqué of the communal administration of Muyinga, 7 February 2019. [↑](#footnote-ref-242)
242. Communiqué of the communal administration of Musongati, 6 May 2019, translation by the Commission. [↑](#footnote-ref-243)
243. Communiqué of the communal administration of Nyabiraba, 25 Mars 2019, translation by the Commission. [↑](#footnote-ref-244)
244. See : <http://burundi-eco.com/couvre-feu-impose-aux-filles-les-administratifs-devraient-plutot-lutter-contre-toute-discrimination/#.XWfbLY9S_IU> ; <https://www.iwacu-burundi.org/musongati-un-couvre-feu-au-feminin-sur-la-sellette/>. [↑](#footnote-ref-245)
245. Article 2 (d), Article 5 (a), Article 10 of the Convention on the Elimination of all Forms of Discrimination against Women. They also represent violations of articles 25 and 33 of the Constitution, which enshrines the freedom of movement of Burundian citizens on the national territory, and of its article 22, which qui enshrines the principle of non-discrimination, namely on the basis of gender. [↑](#footnote-ref-246)
246. A/HRC/36/CRP.1, para. 703 to 711. As mentioned earlier in this report, only crimes under international criminal law engage personal responsibility. Violations of human rights engage the State responsibility, in as far as it can be demonstrated that one or several incriminating acts were committed by State’s agents or individuals or group of individuals acting under its orders. [↑](#footnote-ref-247)
247. Article 28 (para. 1 and 2) of the Rome Statute. [↑](#footnote-ref-248)
248. A/HRC/36/CRP.1, para. 158 to 183 and 706, 707, 708 and 710 and A/CHR/CRP.1, para 732 to 734. [↑](#footnote-ref-249)
249. Articles 248, 249, 251, 252 and 268 of the Constitution. [↑](#footnote-ref-250)
250. https://www.assemblee.bi/spip.php?article2032 fonctionnement-and-composition-des-snr.html. [↑](#footnote-ref-251)
251. Article 33 of the Rome Statute. [↑](#footnote-ref-252)
252. Article 28 of the Rome Statute. [↑](#footnote-ref-253)
253. See para. 72-73 of this report. [↑](#footnote-ref-254)
254. As a reminder, the presidential, parliamentarian and communal councils elections are scheduled for 20 May 2020, the elections of Senators are scheduled for 20 July 2020 while those of collines and neighborhood councils are planned for 24 August 2020.. [↑](#footnote-ref-255)
255. Atrocity crimes include genocide, war crimes, crimes against humanity and ethnic cleansing. Although the latter is not defined as an international crime per se, it encompasses acts that are characteristic of atrocity crimes. [↑](#footnote-ref-256)
256. OHCHR internal working document. [↑](#footnote-ref-257)
257. https://www.idea.int/data-tools/tools/electoral-risk-management-tool. [↑](#footnote-ref-258)
258. United Nations, *Atrocity Crimes Framework Analysis*, A/70/741-S/2016/71. [↑](#footnote-ref-259)
259. See AHRC/39/CRP.1, para. 119-215. [↑](#footnote-ref-260)
260. See AHRC/39/CRP.1, para. 585-670. [↑](#footnote-ref-261)
261. IDEA International, Guide on elections-related violence factors external to electoral processes, p. 7. [↑](#footnote-ref-262)
262. See A/HRC/39/CRP.1, para. 708-721; and para. 326-328 of this report. [↑](#footnote-ref-263)
263. See para. 39-42 of this report. [↑](#footnote-ref-264)
264. See A/HRC/39/CRP.1, para. 62-65. [↑](#footnote-ref-265)
265. https://data2.unhcr.org/en/documents/download/70865. As a reminder; 14,104 people had returned on 30 June 2019: https://data2.unhcr.org/en/documents/download/70281. [↑](#footnote-ref-266)
266. https://data2.unhcr.org/en/documents/download/70865. As a reminder; 3,603 had registered on 30 June 2019 (https://data2.unhcr.org/en/documents/download/70281). This number does not necessarily include all the new arrivals, since in some countries it has become impossible for Burundians to obtain the refugee status. The Minister of Interior in Burundi estimated that there are around 15,000 Burundian refugees in the camps in Tanzania who are in an irregular situation or non-documented -with no residence permit or refugee card- See: https://twitter.com/LeRenouveauBdi/status/1166576874711072769. Undoubtedly, some of the 15,000 persons were repatriated and were forced to flee the country again. [↑](#footnote-ref-267)
267. See para. 61, 107, 123, 152 of this report. [↑](#footnote-ref-268)
268. See A/HRC/36/CRP.1/Rev.1, para. 228-668; A/HRC/39/CRP.1, para. 244-461; and para. 81-83; 106-107; 123-124; 127; 147-153; 176-182 of this report. [↑](#footnote-ref-269)
269. Report of Diane Orentlicher, Independent Expert to update the Set of Principles to combat impunity - Updated set of principles for the protection and promotion of human rights through action to combat impunity, E/CN.4/2005/102/Add.1, p. 6. [↑](#footnote-ref-270)
270. <http://www.rtnb.bi/fr/art.php?idapi=3/3/91>, <http://www.rtnb.bi/fr/art.php?idapi=3/3/52>, <http://www.rtnb.bi/fr/art.php?idapi=3/1/215>, <http://www.rtnb.bi/fr/art.php?idapi=3/1/138>, <http://www.rtnb.bi/fr/art.php?idapi=3/0/213>, <http://www.rtnb.bi/fr/art.php?idapi=2/2/68>. [↑](#footnote-ref-271)
271. See A/HRC/36/CRP.1/Rev.1, para. 623-637; A/HRC/39/CRP.1, para. 516-521, 568-579; as well as para. 296-300 of this report. The Commission was informed of a single case in 2019 in which three Imbonerakure were condemned for the murder of a member of the pygmee community and they would still be in prison. [↑](#footnote-ref-272)
272. See A/HRC/39/CRP.1, para. 462-579. [↑](#footnote-ref-273)
273. See A/HRC/36/CRP.1/Rev.1, para. 240-241, 375-377, 411-412, 430, and 463-466; A/HRC/39/CRP.1, para. 252-254, 311-314, 322-324, 348-350 and 372-373; and para. 92, 110, 160, 199-202 of this report. [↑](#footnote-ref-274)
274. The Commission received corroborating information to the effect that military equipment; such as military boots, headgears, raincoats were distributed to various groups of Imbonerakure while these items are generally reserved for members of defense and security forces. In some cases, fire arms were also distributed; albeit on a temporary basis in some cases. [↑](#footnote-ref-275)
275. <http://www.rtnb.bi/fr/art.php?idapi=3/3/89>, <http://www.rtnb.bi/fr/art.php?idapi=3/3/52>, <http://www.rtnb.bi/fr/art.php?idapi=3/1/215>, <http://www.rtnb.bi/fr/art.php?idapi=3/1/138>, <http://www.rtnb.bi/fr/art.php?idapi=3/0/213>, <http://www.rtnb.bi/fr/art.php?idapi=2/2/68>. [↑](#footnote-ref-276)
276. <https://www.assemblee.bi/spip.php?article2032>. [↑](#footnote-ref-277)
277. Ministry of Public Security and Disaster Management, Ministerial Ordinance n°215/874 of 14 February 2019 appointing the heads of departments in regional police headquarters, provincial offices, commanders of specialized units and of the inspector of the national police. [↑](#footnote-ref-278)
278. Preamble, E/CN.4/2005/102/Add.1, p. 5. [↑](#footnote-ref-279)
279. See A/HRC/36/CRP.1/Rev.1, para. 81-105. [↑](#footnote-ref-280)
280. See A/HRC/36/CRP.1/Rev.1, para. 105-120 and A/HRC/39/CRP.1, para. 48-55, as well as para. 30-35, 45 of this report. [↑](#footnote-ref-281)
281. A/HRC/38/10, para. 137.72; 137.73; 137.74 and 137.77 and A/HRC/38/10.Add.1, para. 7. [↑](#footnote-ref-282)
282. Final Declaration of the XVII Summit of Heads of State and Government of the OIF held in Erevan from 11 to 12 October 2018. [↑](#footnote-ref-283)
283. A/HRC/36/CRP.1/Rev. 1, para.116-120; A/HRC/39/CRP.1, para. 49-51; and See para. 44 of this report. [↑](#footnote-ref-284)
284. https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/1119.pdf. [↑](#footnote-ref-285)
285. https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/gouv/200818.pdf. [↑](#footnote-ref-286)
286. See para. 10-14 and 33 of this report. [↑](#footnote-ref-287)
287. <https://regionweek.com/exclusive-burundi-has-been-under-international-conspiracy-for-four-or-five-years-says-1st-vice-president/>. [↑](#footnote-ref-288)
288. Article 25 of the International Covenant on Civil and Political Rights – and para. 9 of General Comment no. 25 of the Human Rights Committee; and also article 2 (3) of the African Charter on Democracy, Elections and Governance adopted on 30 January 2007. Burundi signed the Charter on 20 June 2007 but has not ratified it. According to international law regulating international treaties, as a signatory, Burundi is obligated to refrain from acts which would defeat the object and purpose of a treaty (Article 18 of the Vienna Convention on the Law of Treaties). See also point 2.3 of the 2000 Bamako Declaration of the International Organisation of La Francophonie, a regulatory text adopted by OIF Member States, including, Burundi: “Democracy requires, in particular, the holding, at regular intervals, of free, fair and transparent elections, based on the respect and exercise, without any hindrance or discrimination, of the right to freedom and physical integrity for every voter and every candidate, the rights to freedom of opinion and expression, especially through the press and other communications media, freedom of assembly and demonstration, and freedom of association”. [↑](#footnote-ref-289)
289. Article 2 (6) of the African Charter on Democracy, Elections and Governance; adopted on 30 January 2007. [↑](#footnote-ref-290)
290. Articles 2 (6) and (10) of the African Charter on Democracy, Elections and Governance; adopted on 30 January 2007. [↑](#footnote-ref-291)
291. See OSCE, *Handbook on Elections Observations*, Sixth edition, 2010. [↑](#footnote-ref-292)
292. OSCE, *Handbook on Elections Observations*, Sixth edition, 2010, p. 62. [↑](#footnote-ref-293)
293. A/HRC/39/CRP.1, para. 29-36; 637-646; and para. 282-290, 317-318 and 482-497 of this report. [↑](#footnote-ref-294)
294. A/HRC/36/CRP.1/Rev.1, para. 500-613. [↑](#footnote-ref-295)
295. A/HRC/39/CRP.1, para. 390-461; and para. 214-235 and 241-252 of this report. [↑](#footnote-ref-296)
296. Paragraph 10 of the Human Rights Council Resolution 36/2. [↑](#footnote-ref-297)
297. See A/HRC/36/CRP.1/Rev.1, para. 150-457. [↑](#footnote-ref-298)
298. Law n°1/04 of 5 January 2011. [↑](#footnote-ref-299)
299. <https://cnidh.bi/mandat>. [↑](#footnote-ref-300)
300. See A/HRC/36/CRP.1, para. 150 to 155 and A/HRC/39/CRP.1, para. 759. [↑](#footnote-ref-301)
301. A/HRC/39/63 and A/HRC/39/CRP.1 [↑](#footnote-ref-302)
302. <https://cnidh.bi/d%C3%A9claration%2Cde%2Cla%2Ccnidh%2Csuite%2Cau%2Crapport%2Cde%2Cla%2Ccommission%2Cd%E2%80%99enqu%C3%AAte%2Csur%2Cle%2Cburundi>. [↑](#footnote-ref-303)
303. Article 243 of the 2018 Constitution. [↑](#footnote-ref-304)
304. See para. 442-443 of this report. [↑](#footnote-ref-305)
305. <https://twitter.com/OmbudsmanBI/status/1113690268237291520>; <https://twitter.com/OmbudsmanBI/status/1126424492551614464>. [↑](#footnote-ref-306)
306. <https://twitter.com/OmbudsmanBI/status/1162806191912837120>. [↑](#footnote-ref-307)
307. <https://twitter.com/OmbudsmanBI/status/1162806025411543050>. [↑](#footnote-ref-308)
308. <https://twitter.com/OmbudsmanBI/status/1038086255706341377>, <https://twitter.com/OmbudsmanBI/status/1113827034759925761>, <https://twitter.com/OmbudsmanBI/status/1038086255706341377>, <https://twitter.com/OmbudsmanBI/status/1114157070302044161>. [↑](#footnote-ref-309)
309. <https://burundi-agnews.org/institutions/burundi-ombudsman-linclusivite-sociale-constatee-lors-du-referendum-2018/>. [↑](#footnote-ref-310)
310. <https://twitter.com/OmbudsmanBI/status/1141406557026099202>; <https://twitter.com/OmbudsmanBI/status/1141406574650503168>. [↑](#footnote-ref-311)
311. Article 268 of the 2005 Constitution. [↑](#footnote-ref-312)
312. Organic law n°1/25 of 23 December 2017. [↑](#footnote-ref-313)
313. Presidential Decree n°100/257 of 29 December 2017. [↑](#footnote-ref-314)
314. <https://www.aa.com.tr/fr/afrique/burundi-r%C3%A9f%C3%A9rendum-l-observatoire-de-pr%C3%A9vention-du-g%C3%A9nocide-demande-des-observateurs-internationaux/1076413>. [↑](#footnote-ref-315)
315. <https://ppbdi.com/index.php/ubum/imibano/10000-observatoire-national-pour-la-prevention-du-genocide-communique>. [↑](#footnote-ref-316)
316. <https://ppbdi.com/index.php/ubum/imibano/10000-observatoire-national-pour-la-prevention-du-genocide-communique>. [↑](#footnote-ref-317)
317. <http://www.ppbdi.com/index.php/extras/politique-cooperation-actualite-internationales/13638-onpgh-declaration-protestant-les-propos-du-commissaire-de-l-union-africaine>. [↑](#footnote-ref-318)
318. OHCHR and Carter Center, *Human Rights and Electoral Standards: an Action Pla*n, December 2017, para. 32-34; OSCE Handbook on Elections Observations. [↑](#footnote-ref-319)
319. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 42. [↑](#footnote-ref-320)
320. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 10. [↑](#footnote-ref-321)
321. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 42-55. [↑](#footnote-ref-322)
322. See para. 244-249 of this report. [↑](#footnote-ref-323)
323. See para. 243 of this report. [↑](#footnote-ref-324)
324. See A/HRC/36/CRP.1/Rev.1, para. 84, 93-96, 103, 563-585 and A/HRC/39/CRP.1, para. 325-334 and 442-446. [↑](#footnote-ref-325)
325. <https://twitter.com/LeRenouveauBdi/status/1132510625232576512>, <https://twitter.com/IntumwaNews/status/1131777993628635136>. [↑](#footnote-ref-326)
326. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 43. [↑](#footnote-ref-327)
327. See para. 250-252 of this report. [↑](#footnote-ref-328)
328. Human Rights Committee, *Boris Zvozskov and al. v. Belarus* (2001), CCPR/C/88/D/1039/2001, para. 7.2. [↑](#footnote-ref-329)
329. See UNDP, *Media and Elections, a Guide for Practitioners*, October 2013; IDEA international, *International Obligations for Elections*, 2014, pp. 201-211; the Carter Center, *Election Obligations and Standards Manual*, pp. 130-143; OSCE, *Handbook on Elections Observations*, p. 62. [↑](#footnote-ref-330)
330. See A/HRC/36/CRP.1/Rev.1, para. 507-533; A/HRC/39/CRP.1 para. 399-420. [↑](#footnote-ref-331)
331. See para. 215 of this report. [↑](#footnote-ref-332)
332. Human Rights Committee, General Comment n°25, para. 25. [↑](#footnote-ref-333)
333. Article 3 (11). [↑](#footnote-ref-334)
334. Article 2 (5) of the Bamako Declaration. [↑](#footnote-ref-335)
335. https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/230617.pdf. [↑](#footnote-ref-336)
336. https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/030818.pdf [↑](#footnote-ref-337)
337. The report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 30 and 32. [↑](#footnote-ref-338)
338. Article 22 (2) of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-339)
339. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 32. [↑](#footnote-ref-340)
340. See the list of registered political parties signatories of the 2020 elections preparation roadmap of Kayanza, signed on 3 August 2018:

 https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/030818.pdf. [↑](#footnote-ref-341)
341. Law n°1/25 of 14 November 2012 establishing the status of political opposition. This law recognises the right of the opposition to speak out on human rights abuses and violations and to denounce the abuses and other possible dysfunctions in the legislative, executive and judiciary powers, article 6 (d) and (e). [↑](#footnote-ref-342)
342. *Nyakuri* is a Kirundi word, traditionally used to qualify what is true, original, but which, in the recent past evolved and is used to refer to something “fake and pirated” due to the multiplication of “*nyakuri*” opposition wings which are pro-CNDD-FDD and pro-Government within the opposition parties. See Anne-Claire Courtois, *Le Burundi en crise : Pirates contre “ vrais ” combattants, Fondation pour la recherche stratégique, note* n°11/17 of 20 June 2017. See also A/HRC/36/CRP.1/Rev.1, para. 184-187. [↑](#footnote-ref-343)
343. See article 48 of law no. 1/16 of 10 September 2011 on political parties: a declaration subscribing to the Charter of National Unity signed by all founding members; a social project; a request signed by the legal representative accompanied the list of founding members citing names, first names, identity card numbers, date and place of birth as well as the profession and title of each member; a declaration of complete identity of the leaders; proof of residence of the founding members; birth certificates, recent criminal records as well as certificate of moral conduct of the founding members and the leaders; the name and address of the political party; notarised statutes and internal rules of procedure in duplicate; the name of the legal representative and his deputy. In addition, the statutes of political parties must have the following indications: the name of the political party; basic principles and the guidelines of the political party ideology; the head office; the composition, nomination process and term duration of the governing bodies at the national level; the commitment to respect the National Charter, the Constitution, the Law, public order and public morals; commitment to the principles laid down in article 22 of this law, explicitly; the internal organisation at the national level; funding sources; required procedures for the modification of statutes; the mode of dissolution and the devolution of the political party assets.  [↑](#footnote-ref-344)
344. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 31. [↑](#footnote-ref-345)
345. See para. 254-255 of this report. [↑](#footnote-ref-346)
346. Ministerial ordinance n°530/1605 of 19 August 2019 on the accreditation and conferment of legal personality of the political party called “*Mouvement des patriotes humanistes*” (MPH). [↑](#footnote-ref-347)
347. See A/HRC/36/CRP.1/Rev.1, para. 184-187. [↑](#footnote-ref-348)
348. Request of the Minister of Interior on 2 November 2017, see the ordinnance to unknown residency, RAP 64 of 30 July 2018. [↑](#footnote-ref-349)
349. Ministerial ordinance n°530/1548 of 9 August 2019 on the withdrawal of the suspension of the party CDP. [↑](#footnote-ref-350)
350. Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, A/68/299, para. 24. [↑](#footnote-ref-351)
351. Articles 11 and 38 of law no. 1/16 of 10 September 2011. [↑](#footnote-ref-352)
352. See para. 80, 106, 121, 149 and 255 of this report. [↑](#footnote-ref-353)
353. <https://twitter.com/BurundiCnl/status/1164203257750786053>. [↑](#footnote-ref-354)
354. <https://twitter.com/BurundiSecurity/status/1164815174018064386>. [↑](#footnote-ref-355)
355. Press release of 23 April 2019, available at:

 https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/pp/frod/230419.pdf. [↑](#footnote-ref-356)
356. <http://www.rtnb.bi/fr/art.php?idapi=3/3/114>. [↑](#footnote-ref-357)
357. See para. 279-281 of this report. [↑](#footnote-ref-358)
358. OSCE, *Election Observation Handbook*, sixth edition, 2010, p. 20. [↑](#footnote-ref-359)
359. [https://twitter.com/CnddFdd/status/11639271121406976010](https://twitter.com/CnddFdd/status/1163927112140697601). According to ministerial ordinance n°530/1848 of 30 December 2005 on the modification of the administrative division of the Republic of Burundi and the reference to the 2008 census, Burundi is divided into 129 communes, 2,910 *collines* and neighbourhoods. [↑](#footnote-ref-360)
360. Article 3 of law n°1/33 of 28 November 2014 on the revision of law n°1/02 of 25 January 2010 on the organisation of the communal administration. [↑](#footnote-ref-361)
361. Article 8 of law n°1/33 of 28 November 2014. [↑](#footnote-ref-362)
362. Articles 9-11 of law n°1/33 of 28 November 2014. [↑](#footnote-ref-363)
363. Articles 24-29 of law n°1/33 du 28 November 2014. [↑](#footnote-ref-364)
364. Article 8 of law n°1/33 du 28 November 2014. [↑](#footnote-ref-365)
365. Articles 43 and 47 of law n°1/33 du 28 November 2014. [↑](#footnote-ref-366)
366. Articles 59-61 of the law n°1/33 of 28 November 2014. [↑](#footnote-ref-367)
367. TI-213. [↑](#footnote-ref-368)
368. See para. 537-538 of this report. [↑](#footnote-ref-369)
369. <https://twitter.com/BurundiSecurity/status/1164815174018064386>. [↑](#footnote-ref-370)
370. CI-045. [↑](#footnote-ref-371)
371. TI-122. [↑](#footnote-ref-372)
372. See A/HRC/39/CRP.1, para. 250, 304-305, 344-345, 637-646, and see para. 81, 106 and 181 of this report. [↑](#footnote-ref-373)
373. See A/HRC/39/CRP.1, para. 250, 304-305, 344-345 and See para. 80-81, 106, 148, 177 of this report. [↑](#footnote-ref-374)
374. <https://twitter.com/LeRenouveauBdi/status/1147943343839764480>; <https://twitter.com/RTNBurundi/status/1134916711004725254>; <https://twitter.com/sinrenovat/status/1163048145288355843>. [↑](#footnote-ref-375)
375. <https://twitter.com/IntumwaNews/status/1122168986949574657>. [↑](#footnote-ref-376)
376. <https://twitter.com/RadioIsanganiro/status/1127128226789232640>. [↑](#footnote-ref-377)
377. <http://www.rtnb.bi/fr/art.php?idapi=3/3/89>; <https://twitter.com/LeRenouveauBdi/status/1163391594348912641>; <https://twitter.com/Cndd_Fdd_Mga/status/1162668488546226177>; [↑](#footnote-ref-378)
378. <https://twitter.com/CnddFddYouthBuj/status/1163343764095733761>; <https://twitter.com/CnddFddYouthBuj/status/1158675141997543424>; <https://twitter.com/Cndd_Fdd_Mga/status/1151405750318768128>; <https://twitter.com/LeRenouveauBdi/status/1147943343839764480>; <https://twitter.com/RTNBurundi/status/1134916711004725254>; <https://twitter.com/sinrenovat/status/1163048145288355843>. [↑](#footnote-ref-379)
379. Manuela *Travaglianti, Threatening your Own. Electoral Violence within Ethnic Groups in Burundi and Beyond*, A dissertation submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy, Department of Politics, New York University, January 2014. [↑](#footnote-ref-380)
380. Manuela Travaglianti, *Threatening your Own. Electoral Violence within Ethnic Groups in Burundi and Beyond*, A dissertation submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy, Department of Politics, New York University, January 2014. [↑](#footnote-ref-381)
381. The election was subsequently postponed to 15 July then 21 July, due to security incidents. [↑](#footnote-ref-382)
382. See A/HRC/36/CRP.1/Rev.1, para. 85-86, A/HRC/39/CRP.1, para. 91-93, LM-004. [↑](#footnote-ref-383)
383. Articles 108-116 of the 2018 Constitution. [↑](#footnote-ref-384)
384. See A/HRC/39/CRP.1, para. 733. [↑](#footnote-ref-385)
385. Article 275 of the 2018 Constitution. [↑](#footnote-ref-386)
386. Article 277 of the 2005 Constitution. [↑](#footnote-ref-387)
387. See paragraph. 245–246 of this report. [↑](#footnote-ref-388)
388. Speech made by President Nkurunziza to promulgate the new Constitution of the Republic of Burundi on 7 June 2018. [↑](#footnote-ref-389)
389. Article 129–142 of the 2018 Constitution. [↑](#footnote-ref-390)
390. Article 185 of the Constitution is now void of the provision which makes former Heads of State full members of the Senate, as provided by Article 180 of the 2005 Constitution. [↑](#footnote-ref-391)
391. Article 9 of the 2018 Constitution. [↑](#footnote-ref-392)
392. Article 11 of the 2018 Constitution. [↑](#footnote-ref-393)
393. Article 4 of the 2018 Constitution states: “The status and return to monarchy should be subject to a referendum”; while in the 2005 Constitution it stated that “The status and return to monarchy can be subject to a referendum”. [↑](#footnote-ref-394)
394. <https://www.dw.com/fr/nkurunziza-serait-il-tent%C3%A9-de-restaurer-la-monarchie/a-44153506>, <https://www.lemonde.fr/afrique/article/2018/06/07/au-burundi-pierre-nkurunziza-renonce-a-la-presidence-a-vie-mais-pas-a-la-royaute_5311261_3212.html>, <https://www.politiquemagazine.fr/monde/une-monarchie-au-burundi/>, [https://www.iwacu-burundi.org/burundi-le-pays-de-dieu-and-du-roi/](https://www.iwacu-burundi.org/burundi-le-pays-de-dieu-et-du-roi/). [↑](#footnote-ref-395)
395. <http://french.peopledaily.com.cn/Afrique/n3/2018/0421/c96852-9452168.html>. [↑](#footnote-ref-396)
396. <http://www.rtnb.bi/fr/art.php?idapi=3/2/188>; <http://www.rtnb.bi/fr/art.php?idapi=3/2/202>; <http://www.rtnb.bi/fr/art.php?idapi=3/2/207>, <https://twitter.com/CnddFdd/status/1134449514528542720>. [↑](#footnote-ref-397)
397. <https://twitter.com/IntumwaNews/status/1134459118130016256>. [↑](#footnote-ref-398)
398. Address to the Nation by the President of the Republic on the 57th Celebration of the National Day on 1 July 2019. [↑](#footnote-ref-399)
399. <https://www.la-croix.com/Monde/Afrique/Au-Burundi-derive-quasi-sectaire-regime-president-Pierre-Nkurunziza-2018-04-04-1200929074>. [↑](#footnote-ref-400)
400. <http://www.rfi.fr/afrique/20180110-burundi-unions-libres-passibles-sanctions>, <https://www.bbc.com/afrique/region-40059101>. [↑](#footnote-ref-401)
401. TI-122. [↑](#footnote-ref-402)
402. <http://www.rtnb.bi/fr/art.php?idapi=3/3/117>. [↑](#footnote-ref-403)
403. <https://twitter.com/RTNBurundi/status/1165308954731319298>. [↑](#footnote-ref-404)
404. <https://twitter.com/RTNBurundi/status/1165217661531426816>. [↑](#footnote-ref-405)
405. <https://twitter.com/RTNBurundi/status/1164813819597557761>. [↑](#footnote-ref-406)
406. <https://twitter.com/RTNBurundi/status/1164479507404902400>. [↑](#footnote-ref-407)
407. 2019 New Year Address by the President of the Republic. [↑](#footnote-ref-408)
408. Also, during the thanksgiving prayer of August 2019 in Bubanza, where the President declared he would lead praises to celebrate the liberation and divine protection which Burundi might be benefiting from, as well as the blessings of God who might have chosen him (informal translation by the Commission): <https://www.youtube.com/watch?v=1bx8HQK6h_c&feature=youtu.be>.

 He may have received the revelation about him ruling over Burundi while he was still in the bushes and when he converted as a born again: <https://www.lepoint.fr/monde/pierre-nkurunziza-president-du-burundi-par-volonte-divine-13-05-2015-1928289_24.php>. [↑](#footnote-ref-409)
409. <https://twitter.com/OmbudsmanBI/status/1094513397012533250>. [↑](#footnote-ref-410)
410. IDEA, *international, International Obligations for Elections*, pp. 59-60; The Carter Center, *Elections obligations and standards, an assessment manual*, pp. 38–50. [↑](#footnote-ref-411)
411. OSCE, *Handbook on elections observations*, p. 50. [↑](#footnote-ref-412)
412. Point 4. C-13 of the Bamako Declaration signed by La Francophonie Member States in 2000. [↑](#footnote-ref-413)
413. As a reminder, the Constitution was also amended in June 2018, following a referendum held on 17 May 2018 and a new law on the press was later enacted in September 2018. See para. 282-291 of this report. [↑](#footnote-ref-414)
414. Organic law No. 1/11 of 20 May 2019 to amend law n°1/20 of 3 June 2014 to lay down Electoral Code. [↑](#footnote-ref-415)
415. Press release available on the following link: https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/pp/frod/050119.pdf. [↑](#footnote-ref-416)
416. See paragraph. 254 of this report. [↑](#footnote-ref-417)
417. Law n°1/16 of 10 September 2011 on political parties. [↑](#footnote-ref-418)
418. See para. 213–272 of this report. [↑](#footnote-ref-419)
419. Article 17 (1) of the African Charter on Democracy, Elections and Governance. [↑](#footnote-ref-420)
420. Point 4. B-8 of the Bamako Declaration signed by member States of La Francophonie in 2000. [↑](#footnote-ref-421)
421. Article 90 of the 2018 Constitution. [↑](#footnote-ref-422)
422. Article 92 of the 2018 Constitution. [↑](#footnote-ref-423)
423. Article 3 of decree n°100/125. [↑](#footnote-ref-424)
424. CENI’s web link: [https://www.ceniburundi.bi/Organisation-missions-and](https://www.ceniburundi.bi/Organisation-missions-et). [↑](#footnote-ref-425)
425. Article 19 of decree n°100/125. [↑](#footnote-ref-426)
426. Presidential decree n°100/126 of 31 August 2018. [↑](#footnote-ref-427)
427. <https://twitter.com/Irabarutachane1/status/1034735795322712065>. [↑](#footnote-ref-428)
428. Article 12 of decree n°100/125. [↑](#footnote-ref-429)
429. Article 8 of decree n°100/125. [↑](#footnote-ref-430)
430. [http://www.arib.info/Acopa-Burundi-Seminaire-Bruxelles-22September2014.pdf](http://www.arib.info/Acopa-Burundi-Seminaire-Bruxelles-22Septembre2014.pdf). [↑](#footnote-ref-431)
431. <https://www.voaafrique.com/Burundi>, <https://afrique.lalibre.be/36073/burundi-pierre-nkurunziza-sera-t-il-quand-meme-candidat-en-2020/>; see paragraph. 229 of this report. [↑](#footnote-ref-432)
432. During the sessions he organized across the country, President Nkurunziza emphasized the fact that this was a colonial creation. <http://french.peopledaily.com.cn/Afrique/n3/2018/0421/c96852-9452168.html>. [↑](#footnote-ref-433)
433. See paragraph. 246–247 of this report. [↑](#footnote-ref-434)
434. Law n°1/18 of 15 May 2014 on the creation, mandate, composition, organization and functioning of the CVR. [↑](#footnote-ref-435)
435. A/HRC/21/46, p. 9. [↑](#footnote-ref-436)
436. See A/HRC/39/CRP.1, paragraph 98–118, and the Special Rapporteur on transitional justice A/HRC/30/42/Add.1. [↑](#footnote-ref-437)
437. Impunity Watch, *Restricted Access’ Promises and Pitfalls of Victim Participation in Transitional Justice Mechanisms - A Comparative Perspective*, July 2017. [↑](#footnote-ref-438)
438. Impunity Watch, *Gender and Transitional Justice in Burundi: Between Gender-based Role Attributions, Hierarchisation & Political Dynamics*, July 2018. [↑](#footnote-ref-439)
439. Law n°1/22 of 6 November 2018 amending law n°1/18 of 15 May 2014 on the creation, mandate, composition, organization and functioning of the CVR. Detailed in Articles 4, 6 (1) and 6 (4) (g). [↑](#footnote-ref-440)
440. See CVR President’s speech during an information meeting with international partners of the CVR on 30 January 2019 in paragraph 13. [↑](#footnote-ref-441)
441. CVR President’s speech during an information meeting with international partners of the CVR on 30 January 2019 in paragraph 4. [↑](#footnote-ref-442)
442. <https://twitter.com/burundi_cvr/status/1124063299476369409>. [↑](#footnote-ref-443)
443. <https://twitter.com/ndayicariye/status/1120997161100029954> . [↑](#footnote-ref-444)
444. The Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence and the Special Adviser to the Secretary-General on the prevention of genocide, *Joint study on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence*, A/HRC/37/65, paragraphs 74 and 75. [↑](#footnote-ref-445)
445. Manuela Travaglianti, *Threatening your Own. Electoral Violence within Ethnic Groups in Burundi and Beyond*, A dissertation submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy, Department of Politics, New York University, January 2014, p. 66. [↑](#footnote-ref-446)
446. JI-066, JI-060, JI-103, JI-063. [↑](#footnote-ref-447)
447. JI-066. [↑](#footnote-ref-448)
448. The Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence and the Special Adviser to the Secretary-General on the prevention of genocide, *Joint study on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence*, A/HRC/37/65, paragraphs 74 and 75. [↑](#footnote-ref-449)
449. JI-103. [↑](#footnote-ref-450)
450. 2019 New Year Address by the President of the Republic. [↑](#footnote-ref-451)
451. Address to the Nation by the President of the Republic on 30 June 2019. [↑](#footnote-ref-452)
452. <https://twitter.com/willynyamitwe/status/1161951483476291587>. [↑](#footnote-ref-453)
453. <https://twitter.com/willynyamitwe/status/1161957726571905025>. [↑](#footnote-ref-454)
454. <https://twitter.com/IntumwaNews/status/1138074524178636802>. [↑](#footnote-ref-455)
455. <https://twitter.com/IntumwaNews/status/1138427976742293504>. [↑](#footnote-ref-456)
456. Consultative body in charge of “conducting research and providing recommendations on every essential issue” pertaining to unity, peace, and national reconciliation - especially on those related to the priority missions of institutions.  [↑](#footnote-ref-457)
457. <http://french.china.org.cn/foreign/txt/2019-01/30/content_74423220.htm>. [↑](#footnote-ref-458)
458. Address to the Nation by the President of the Republic on 30 June 2019. [↑](#footnote-ref-459)
459. See A/HRC/36/CRP.1/Rev.1, paragraphs 188-193. [↑](#footnote-ref-460)
460. <https://www.ibtimes.co.uk/we-are-ready-war-burundis-rebel-groups-how-they-plan-topple-president-nkurunziza-1609043>. [↑](#footnote-ref-461)
461. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2016/466, paragraph 29-45 ; <http://www.rfi.fr/afrique/20160124-burundi-quels-sont-mouvements-rebelles-combattent-nkurunziza>. [↑](#footnote-ref-462)
462. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraph 84. [↑](#footnote-ref-463)
463. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraph 82. [↑](#footnote-ref-464)
464. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraph 85-87. [↑](#footnote-ref-465)
465. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2017/672/Rev.1, paragraph 46-50. [↑](#footnote-ref-466)
466. <https://www.ibtimes.co.uk/we-are-ready-war-burundis-rebel-groups-how-they-plan-topple-president-nkurunziza-1609043>. [↑](#footnote-ref-467)
467. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraph 83. [↑](#footnote-ref-468)
468. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2016/466, paragraph 42-45. [↑](#footnote-ref-469)
469. CM-004, <https://www.ibtimes.co.uk/we-are-ready-war-burundis-rebel-groups-how-they-plan-topple-president-nkurunziza-1609043>. [↑](#footnote-ref-470)
470. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraphs 66–88. [↑](#footnote-ref-471)
471. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraphs 66–88. [↑](#footnote-ref-472)
472. Group of Experts on the Democratic Republic of the Congo, Final Report, S/2019/469, paragraphs 79. [↑](#footnote-ref-473)
473. See the 2019 New Year Address by the President of the Republic. [↑](#footnote-ref-474)
474. [https://www.voaafrique.com/a/le-burundi-exige-un-sommet-r%c3%a9gional-sur-le-conflit-avec-son-ennemi-rwandais/4690895.html](https://www.voaafrique.com/a/le-burundi-exige-un-sommet-r%C3%A9gional-sur-le-conflit-avec-son-ennemi-rwandais/4690895.html). [↑](#footnote-ref-475)
475. <http://www.thenewhumanitarian.org/fr/analyses/2016/10/05/repercussions-de-la-crise-burundaise-les-rwandais-connaissent-des-difficultes>. [↑](#footnote-ref-476)
476. <http://www.rfi.fr/afrique/20181215-president-ougandais-voit-rouge-apres-lettre-president-nkurunziza-burundi>, <https://www.voaafrique.com/a/ouganda-troubles-diplomatie-president-yoweri-museveni-burundi-pierre-nkurunziza-respecter-communuate-d-afrique-de-l-est-mediatrice/4699298.html>. [↑](#footnote-ref-477)
477. JI-057, JI-059, JI-060, JI-076, JI-082, JI-092, JI-094, JI-095, JI-116, JI-117, DI-001. [↑](#footnote-ref-478)
478. 2019 New Year Address by the President of the Republic. [↑](#footnote-ref-479)
479. Africa Center for Strategic Studies, *Dismantling the Arusha Accords as the Burundi Crisis Rages On*,

13 March 2017, <https://africacenter.org/spotlight/dismantling-the-arusha-accords-as-the-burundi-crisis-rages-on/>. [↑](#footnote-ref-480)
480. International Crisis Group, *Au cœur de la crise burundaise IV : la rente du maintien de la paix en question*, 11 July 2017. [↑](#footnote-ref-481)
481. The term “ex-FAB” describes soldiers of the former Burundian Armed Forces composed mainly of Tutsis, part of which was absorbed into the National Defence Forces in compliance with the Arusha Peace Agreement. [↑](#footnote-ref-482)
482. International Crisis Group, Burundi, *The Army in Crisis*, African Report No. 247, 5 April 2017; the Belgian Office of Commissioner General for Refugees and Stateless Persons, *Burundi, Security Situation*, 3 July 2018, p. 16. [↑](#footnote-ref-483)
483. Yolande Bouka and Stephanie Wolters, *Analyzing post-transition violence in Burundi*, Central Africa Report, Issue 6, July 2016, p. 6. [↑](#footnote-ref-484)
484. Article 263 of the 2018 Constitution. TM-028, see also: International Crisis Group, *Burundi, The Army in Crisis*, African Report No. 247, 5 April 2017; <https://www.dw.com/fr/au-burundi-300-militaires-mis-%C3%A0-la-retraite/a-36994892>. [↑](#footnote-ref-485)
485. See paragraph. 46 of this report. [↑](#footnote-ref-486)
486. CM-004, LM-003. [↑](#footnote-ref-487)
487. Resolution 2472 (2019). [↑](#footnote-ref-488)
488. <http://libeafrica4.blogs.liberation.fr/2016/06/19/la-police-nationale-du-burundi-quelle-force-pour-quel-ordre/>. [↑](#footnote-ref-489)
489. Nadine Nibigira, *Les Comités mixtes de sécurité humaine au Burundi (CMSH) : un régime de sécurité communautaire dans un contexte de crise politique critique*, in Afrique and développement, Volume XLII, No. 3, 2017, pp. 231-248 [↑](#footnote-ref-490)
490. Idem. [↑](#footnote-ref-491)
491. The SNR is mentioned specifically Part XI (Article 268) of the Constitution which states that its missions, organization, and functioning are governed by organic law. The defence and security forces are governed by Part X of the Constitution, Articles 246–267, and now comprises the Burundian National Police and National Defence Forces alone. The SNR used to be included in the defence and security forces according to Article 245 of the 2005 Constitution. [↑](#footnote-ref-492)
492. [https://www.burundi-forum.org/la-une/actualites/adoption-de-deux-projets-de-Law-du-snr-par-le-senat/](https://www.burundi-forum.org/la-une/actualites/adoption-de-deux-projets-de-loi-du-snr-par-le-senat/). [↑](#footnote-ref-493)
493. <https://twitter.com/BurundiFds/status/1100811126344949761>. [↑](#footnote-ref-494)
494. A/HRC/39/CRP.1, paras. 462–579. [↑](#footnote-ref-495)
495. Ibid., paras. 179–215. [↑](#footnote-ref-496)
496. See paragraphs. 386-388 of this report. [↑](#footnote-ref-497)
497. Definition by *Dictionnaire Larousse*. [↑](#footnote-ref-498)
498. Samuel Tanner, *« Milices », Lexique du Réseau de recherche sur les opérations de paix de l’Université de Montréal*: <http://www.operationspaix.net/75-resources/details-lexique/milices.html>. [↑](#footnote-ref-499)
499. As identified by IDEA International. [↑](#footnote-ref-500)
500. Matrix: early-warning indicators of conflict-related sexual violence, <https://peacemaker.un.org/sites/peacemaker.un.org/files/MatrixEarlyWarningIndicatorsCSV_UNAction2011.pdf> [↑](#footnote-ref-501)
501. Analytical and conceptual framing of conflict-related sexual violence, <http://www.stoprapenow.org/uploads/advocacyresources/1321456915.pdf> [↑](#footnote-ref-502)
502. See matrix, pp. 9–12. [↑](#footnote-ref-503)
503. See matrix, pp. 11–12. [↑](#footnote-ref-504)
504. See annex III (A/HRC/36/54 and Corr.1, paras. 85–94, and A/HRC/39/63, paras. 85–86). [↑](#footnote-ref-505)