



The economic underpinnings of the Burundian State

In its resolution 42/26 (2019), the Human Rights Council requested the Commission of Inquiry on Burundi to investigate the « economic underpinnings of the State ». Its investigation shed light on some underlying practices which sustain the political power, including through human rights violations and explain, in part, the dire consequences of such practices on the population. The Commission calls on all persons, companies or institutions investing funds in Burundi to exercise the utmost due diligence.

CONTEXT

Depriving the national budget of resources has dire consequences for the population, as demonstrated by the fact that 74 % of the Burundian population is affected by multidimensional poverty. According to the national poverty threshold, approximately seven out of every ten Burundians live below the extreme poverty line; surviving on less than 1 USD a day. The large majority of Burundians are subsistence farmers; with agriculture employing 92% of the country's population and suffering from low productivity.

Before the crisis, the situation did not offer much scope for optimism. In 2015, the World Bank had estimated that Burundi was slated to become the poorest country in the world in 2030 and the seventh contributor to world poverty. This was particularly surprising and concerning given the small size of the country and its population of 11 million inhabitants.



ECONOMIC MALFEASANCE



In this context, based on its findings, the Commission of Inquiry is deeply concerned by indications of frequent cases of corruption, bad governance, misappropriation of public funds, including at the highest government level, and conflicts of interest and illegal acquisitions of interests which underpin the functioning of the Burundian economy. The various economic malfeasances identified by the COI are not isolated cases, but the fruit of a system which portrays a patrimonial conception of power and are directly linked to the violations of human rights committed since 2015. Given that access to wealth depends on the proximity to power, eliminating all political opposition may be considered necessary in order to maintain control over power and resources.

In particular, the Commission of Inquiry was able to identify corruption in the most lucrative sectors in Burundi, namely the mining sector, but also in sectors with lesser economic importance, such as malpractices linked to development assistance, cases of conflict of interest or illegal acquisitions of interest, malpractices in public procurement and fraud in the imports or exports of minerals in particular. All these practices and situations promote cases of illicit enrichment, namely of people close to power.



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CORRUPTION

There is widespread corruption in several sectors of the economy.

AFFECTED SECTORS

Mining sector:

The acquisition of mining exploration or exploitation permits was subject to payments of bribes (more often payments in cash, but also in kind) particularly in favour of the presidency of the Republic, under Pierre Nkurunziza's mandate and high officials of the ruling party, CNDD-FDD.

Public works sector:

Contracts for the construction of public infrastructure were awarded following payments of bribes by bidding companies to executive authorities and officials of the party CNDD-FDD.

Other sectors:

such the issuance of administrative documents, school registration or the acquisition of a scholarship.

MALFEASANCE AND BAD GOVERNANCE IN THE CONTEXT OF DEVELOPMENT PROJECTS FINANCED BY INTERNATIONAL ASSISTANCE

Some development assistance projects have led to expropriation in the public interest which were not compensated in a timely manner or for which the compensations are still inadequate. For instance:

The families expropriated for the construction of the presidential palace in Gasenyi from 2017 to 2019 were not compensated in advance.

The compensation amount allocated by the Government for the expropriations linked to the construction of Jiji and Murembwe dams raises questions.

A lack of transparency characterises the compulsory contributions for community development paid by mining companies in accordance with the Burundian State conventions. They are not recorded anywhere despite their substantial amount; which is ten times the annual state budget allocated to development. To date, they have not led to projects with a visible impact on the development of designated beneficiary communes.

CONFLICT OF INTEREST AND ILLEGAL ACQUISITION OF INTERESTS

The Commission has noted numerous cases of conflict of interest which encourage corruption, favouritism and illegal acquisition of interest.

In violation of article 42 of the Constitution, the prohibition of ministers to exercise another professional activity has been infringed upon several times.

High ranking officials or assistants to ministers have maintained or acquired shares in private companies operating in sectors under their purview.

PUBLIC PROCUREMENT

The public procurement sector is characterised by:

A serious lack of transparency: notices of public procurement are rarely published and web pages of several ministries' websites, which should be reserved for public procurement notices, are empty.

Abusive use of the practice of directly awarding contracts and numerous cases of favouritism.





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CUSTOMS FRAUD

Discrepancies between the official export declarations by Burundi and its partners' imports declarations in the UNCOMTRADE database have been noted. Such inconsistencies can be explained by smuggling affecting some sectors. The largest discrepancies are linked to gold. Considerable fraud also affects the exports of coltan and tungsten.

ILLICIT ENRICHMENT

The official remuneration of executive or administrative authorities is also shrouded in high opacity. These should be fixed by organic law or decrees which, if they exist, have not been published. Assets declarations before competent courts, prescribed by the Burundian Constitution, have not done for the last two mandates of President Nkurunziza. Several authorities have assets offshore or shares in foreign companies, but also in Burundi either under their own names or via a front name. Real estate belonging to authorities are leased to administration entities under their purview or influence.

LINK BETWEEN ECONOMIC MALFEASANCE AND THE REALISATION OF HUMAN RIGHTS

In view of the widespread multidimensional poverty in which the Burundian population lives, the effects of such economic malfeasance are very worrying. While official resources to help the vulnerable population are insufficient, multiple and diverse "contributions" have been demanded from the same population, often under duress or threats, which contributed to impoverishing them even further.

The economic malfeasance deprives the Burundian State of crucial resources:

To guarantee the State's fundamental minimum obligations to ensure the right to be free from hunger, to a free primary education, to basic healthcare and to shelter.

To finance the progressive realisation of economic, social and cultural rights, namely the rights to health, education, social protection and to an adequate standard of living.

To guarantee the protection and the promotion of civil and political rights, namely to guarantee an effective judicial system which is required for the protection of all fundamental rights.

As long as such practices persist, there will be no incentives for a thorough judicial system reform that will ensure the respect and protection of human rights.



RECOMMENDATIONS

TO THE BURUNDIAN AUTHORITIES

To take measures to effectively combat economic malfeasance, in particular by ensuring transparency, competition and the establishment of objective and pre-established criteria for the awarding of government contracts, as well as an effective system of domestic remedies, and to investigate allegations of cases of ill-gotten gains.

To become a party to the Extractive Industries Transparency Initiative and to implement the related standards.

To systematically publish the annual budget, as implemented.

To ensure that senior political and administrative officials systematically make a public declaration of their assets upon taking office and at the end of their term.

TO THE STATES AND INTERNATIONAL ORGANIZATIONS FUNDING INTERNATIONAL DEVELOPMENT ASSISTANCE PROGRAMMES

Strengthen their procedures to minimize the risk of misappropriation of funds and systematically investigate allegations that they receive in order to ensure that such assistance is fully utilized for the intended purposes and to the benefit of the intended beneficiaries.