



General Assembly

Distr.: General
12 August 2021
English
Original: French

Human Rights Council

Forty-eighth session

13 September–1 October 2021

Agenda item 4

Human rights situations that require the Council's attention

Report of the Commission of Inquiry on Burundi*

Summary

Since President Ndayishimiye took power, the democratic space has remained closed and tolerance for criticism remains limited, but the dynamics of relations between Burundi and the international community have changed. Notwithstanding a few isolated symbolic gestures in the area of human rights, no structural reform has been undertaken to durably improve the situation. Serious human rights violations have continued to be committed by State officials and members of the Imbonerakure with the acquiescence of the authorities or even at their instigation. The rule of law continues to be progressively eroded and the risk factors for a deterioration in the human rights situation, though improved in some cases, remain present overall.

* The annexes to the present document are reproduced as received, in the language of submission only.



Contents

	<i>Page</i>
I. Introduction	3
A. Mandate	3
B. Cooperation with the Commission.....	3
C. Methodology.....	3
D. Applicable law	4
II. Main developments in international and regional bodies	4
A. United Nations	4
B. Other entities.....	5
III. Human rights situation	5
A. Human rights violations and abuses in the context of security incidents.....	6
B. Media	7
C. Civil society	7
D. Opposition political parties	8
E. Returnees	9
F. General population.....	10
G. Justice	11
H. Economic underpinnings of the State	12
I. Rule of law.....	13
J. Responsibilities.....	14
IV. International crimes.....	14
A. Constituent elements and types of crimes.....	14
B. Individual responsibility	15
V. Risk factors.....	15
A. Overview	15
B. Risk factors	16
VI. Conclusions and recommendations	18
Annexes	
I. Carte du Burundi	20
II. Correspondance avec le Gouvernement du Burundi	21
III. Recommandations antérieures faites par la Commission	24
IV. Indicateurs des facteurs de risque communs identifiés dans le Cadre d'analyse des atrocités criminelles (A/70/741-S/2016/71).....	43
V. Document	51

I. Introduction

A. Mandate

1. The Commission of Inquiry on Burundi was established by Human Rights Council resolution 33/24, adopted on 30 September 2016, to conduct a thorough investigation into human rights violations and abuses committed in Burundi since April 2015, determine whether any of them may constitute international crimes, identify their alleged perpetrators and formulate recommendations for ensuring that the perpetrators are held accountable for their acts. There have been four one-year renewals of the Commission's mandate. In keeping with the provisions of Council resolution 45/19, the Commission submitted the present report to the Council on 6 October 2020 and gave an oral presentation at the Council's forty-sixth session in March 2021.

2. Doudou Diène (Senegal) has been Chair of the Commission since 1 February 2018, and Françoise Hampson (United Kingdom of Great Britain and Northern Ireland) has been a member since 22 November 2016. Lucy Asuagbor (Cameroon), who was appointed on 5 March 2018, resigned from the Commission on 24 March 2021 due to the demands of her new national functions.

3. The Commission remains the only independent international mechanism capable of conducting impartial investigations into human rights violations committed recently in Burundi and providing in-depth analysis of the human rights situation in the country. It faced particular challenges during this reporting period. The Commission regrets, *inter alia*, that its work was adversely affected by the liquidity crisis at the United Nations, the ensuing staff reductions and the recruitment freeze, which delayed the establishment of its secretariat. These elements, together with the travel restrictions resulting from the coronavirus disease (COVID-19) pandemic, had an impact on the conduct of investigations in the field, especially those related to the economic underpinnings of the State and to gender-based and sexual violence.

4. The present report covers the human rights violations and abuses committed since the investiture of President Evariste Ndayishimiye on 18 June 2020 and examines notable developments in the areas of human rights, the fight against impunity and corruption, and the rule of law. The analysis of risk factors has been updated. The final conclusions of the investigations are detailed in a separate document.¹

B. Cooperation with the Commission

5. The Human Rights Council urged the Government of Burundi to cooperate fully with the Commission, to authorize it to conduct visits to the country and to provide it with all the information necessary to carry out its mandate. The Commission pursued its efforts to establish a dialogue with the authorities of Burundi, including with a view to exchanging relevant information, but the Government of President Ndayishimiye has not officially replied to the Commission's letters.

C. Methodology

6. Despite the specific difficulties it encountered, the Commission held 170 targeted interviews with victims, witnesses and other sources living in Burundi and other countries. It has thus gathered over 1,770 statements since the start of its mandate.

¹ A/HRC/48/CRP.1 (available on the Commission's website at the following address: <https://www.ohchr.org/EN/HRBodies/HRC/CoIBurundi/Pages/CoIBurundi.aspx>).

7. The Commission continued to apply the same methodology and the same “reasonable grounds to believe” standard of evidence, both of which are fully consistent with internationally accepted guidance and practice for this type of inquiry.²

D. Applicable law

8. The applicable law still consists of international human rights law, international criminal law and anti-corruption treaties.³ Burundi remains a party to the same conventions as before.

9. Burundi remains bound by obligations under customary international law concerning international crimes and under the Rome Statute of the International Criminal Court for the period from April 2015 to 27 October 2017, the date on which its withdrawal from the Rome Statute became effective.⁴ The Commission refers to the definitions of crimes set forth in the Rome Statute that are reflected in the Criminal Code of Burundi.

II. Main developments in international and regional bodies

A. United Nations

1. Human rights mechanisms

10. The Government has not authorized the Office of the United Nations High Commissioner for Human Rights (OHCHR) to reopen its country office and only accepts capacity-building and technical cooperation from the United Nations Subregional Centre for Human Rights and Democracy in Central Africa.

11. There have been no recent visits to Burundi by special procedures mandate holders, nor are any visits planned despite requests from several among them. Two joint communications were sent to Burundi by special procedures mandate holders regarding cases of alleged human rights violations, including the enforced disappearance, arbitrary arrest and detention, torture and murder of Burundian refugees in Tanzania and the arbitrary detention and enforced disappearance of Burundian refugees who had been forcibly repatriated to Burundi.⁵

12. The Working Group on Arbitrary Detention has adopted four opinions in which it found that the cases before it amounted to arbitrary detention, including those of four ex-FAB (officers of the former Burundian army) who were arrested in August 2015 and have been held in pretrial detention ever since.⁶ The Government of Burundi refused to cooperate with the Working Group. The Working Group on Enforced or Involuntary Disappearances, for its part, has before it 250 cases concerning Burundi.

2. Security Council

13. On 4 December 2020, the Security Council removed Burundi from its programme of work and decided that the country would be covered in the Secretary-General’s regular reports on the Great Lakes region and Central Africa.⁷ The Council based its decision on the progress made in the country, while underscoring that much remained to be done to bring about national reconciliation, promote the rule of law and an effective and independent

² See Office of the United Nations High Commissioner for Human Rights, *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice*, document HR/PUB/14/7.

³ A/HRC/36/54 and Corr.1, paras. 9–11. See also A/HRC/36/CRP.1, paras. 37–50, and A/HRC/45/CRP.1, para. 654 (documents available on the Commission’s website).

⁴ International Criminal Court, *Rome Statute of the International Criminal Court*, art. 127.

⁵ AL BDI/2/2020 and AL BDI/1/2021.

⁶ A/HRC/WGAD/2020/40, A/HRC/WGAD/2020/55, A/HRC/WGAD/2020/56 and A/HRC/WGAD/2021/9.

⁷ See S/PRST/2020/12.

judicial system, preserve the democratic space and ensure respect for fundamental freedoms. It also noted that human rights violations remained a concern.

3. Office of the Special Envoy of the Secretary-General for Burundi

14. The Office, which was established in 2015 to support the country in consolidating peace, officially ceased its activities on 31 May 2021. In November 2020, the Government of Burundi demanded its closure by 31 December 2021, while the Secretary-General called for it to remain operational under a modified mandate. In fact, in his report on the strategic assessment mission for United Nations engagement in Burundi dated November 2020, the Secretary-General noted that he had received assurances from President Ndayishimiye that his Government was prepared to discuss the topic.⁸

B. Other entities

15. In November 2020, on the basis of the elections held in 2020 and the commitments made by the new authorities, the International Organization of la Francophonie decided to resume multilateral cooperation with Burundi, which had been suspended since April 2016.

16. On 27 April 2021, the Peace and Security Council of the African Union decided to remove Burundi from its agenda and to terminate the mandate of the African Union Human Rights Observers and Military Experts Mission in Burundi on 31 May 2021.

17. In June 2021, the Global Alliance of National Human Rights Institutions restored A status to the National Independent Human Rights Commission of Burundi (NIHRC), meaning that the institution theoretically functions independently. However, in its 2020 annual report, NIHRC reported only a few minor violations of civil and political rights during the elections and no violations of the right to life and civil liberties or cases of kidnapping and enforced disappearance. While it reports cases of arbitrary detention and violations of the right to a fair trial, as well as a handful of cases of torture and sexual violence, none of them are linked to the elections. The Commission therefore expresses reservations about these findings. It does stress, however, that an NIHRC delegation contacted it in April 2021, thus enabling the bodies to discuss their respective work. The Commission hopes that its new accreditation will encourage NIHRC to demonstrate in practice that it is truly independent, in particular by addressing all cases of violations, including the most sensitive ones, even if it has to carry out its mission in a closed democratic space that warrants more than ever a national human rights commission that is independent and operational.

III. Human rights situation

18. Human rights violations have continued but on a smaller scale than during the elections. The democratic space remains closed and the authorities tightly control the media and civil society despite some isolated symbolic gestures of openness by the President. The violations documented chiefly targeted members of opposition parties and individuals suspected of being involved in armed attacks or of collaborating with armed groups but also, to a lesser extent, returnees and the Burundian population in general. Agents of the National Intelligence Service, placed under the direct responsibility of President Ndayishimiye, were the main perpetrators of executions, enforced disappearances, arbitrary arrests and detentions, and torture in connection with armed attacks and have continued to operate with absolute impunity. Police officers of the Rapid Mobile Intervention Group and members of the Imbonerakure were also involved in some of the cases of execution, arrest and torture.

⁸ S/2020/1078, para. 68.

A. Human rights violations and abuses in the context of security incidents

1. Increase in security incidents

19. Since August 2020, security incidents have regularly been reported in Burundi, including armed clashes and exchanges of gunfire between members of the security forces, sometimes supported by the Imbonerakure, and armed groups that are often unidentified. Attacks on civilians by armed groups, some precisely targeted and others random, have also been reported. For example, vehicles and their occupants were riddled with machine gun fire and set on fire on the road between Gitega and Bujumbura on 9 May and 26 June 2021, and grenades were thrown into a crowd in Bujumbura on 25 May 2021.

20. The Burundian authorities, which did not systematically publish the official tolls of these incidents, referred to the first incidents as “criminal acts” but, since 25 May 2021, have spoken of “acts of terrorism”. Although they did make legitimate efforts to seek the perpetrators, in the process of doing so, they committed serious human rights violations.

2. Right to life⁹

21. Men suspected of belonging to or assisting armed groups involved in security incidents have been executed by police officers or agents of the National Intelligence Service. Others have died in detention after being tortured by these same State agents. No credible investigation into these incidents has been launched. The acts constitute violations of the obligation of Burundi to respect and protect the right to life.

22. Several people suspected of being involved in one way or another in security incidents that occurred in their region, notably members of the Congrès national pour la liberté (CNL), have been victims of enforced disappearance. Some of them reappeared in prison a few weeks later, often after having been tortured by intelligence agents. For the period during which they were missing, these individuals were removed from the protection of the law and were therefore victims of enforced disappearance. The fate of several other missing persons remains unknown. The Commission was unable to determine whether the authorities’ suspicions about the individuals’ involvement in attacks were based on objective evidence or were purely a function of their political affiliation or ethnic background. In most cases, they were arrested by police officers or intelligence agents and placed in the custody of the National Intelligence Service.

23. The Commission also received credible allegations of violations of the right to life. Some members of the Imbonerakure, members of the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) with local administrative responsibilities and some of their relatives appear to have been killed deliberately by unidentified armed men. Groups of unidentified armed men are reported to be also responsible for random attacks resulting in the loss of many civilian lives. The Commission was unable to identify the perpetrators, as victims with ties to CNDD-FDD were reluctant to cooperate in inquiries regarding the targeted attacks and the Government refused to share information on the investigations that had been initiated.

3. Right to life and physical integrity

24. Many people have been arbitrarily arrested and detained following security incidents; either they have been accused of collaborating with or supporting armed groups by, for instance, “giving them food”, often on the sole basis of their political affiliation or ethnic background, or they have been accused in the place of a relative who was wanted for these same reasons. Most of these individuals were detained by the National Intelligence Service and subjected to severe torture, including of a sexual nature, and to ill-treatment.

⁹ See paragraphs 36, 51 and 52 of the present report for other cases of violations of the right to life.

B. Media

25. The main advances made since President Ndayishimiye's accession to power concern the media. The Government has taken measures to loosen restrictions on the press; however, being more symbolic than structural, these measures cannot effectively or durably guarantee freedom of information and expression.

26. On 24 December 2020, President Ndayishimiye pardoned the journalists of the Iwacu press group who were arrested in October 2019 and convicted of "a failed attempt of complicity in undermining the internal security of the State" for exercising their profession. On 28 January 2021, he affirmed in front of media professionals his commitment to a free and responsible press and requested the National Media Council to find solutions that would allow suspended media outlets to resume their activities.

27. On 12 February 2021, the comments section of the Iwacu website was able to reopen, but direct access to the website from within Burundi remains barred. On 19 February, the sanctions imposed against Bonesha radio were lifted and its new management committed to preventing all "professional misconduct". On 21 April 2021, four media outlets, including Isanganiro television, were authorized to resume broadcasting. On 16 June 2021, BBC radio, which had been suspended since March 2019, was "authorized to reapply for a broadcasting licence". However, no noteworthy progress has been made with regard to Voice of America, which has also been suspended since 2019.

28. Journalists who dare to criticize the Government and its actions or to expose poor governance continue to be vilified. Journalists, including their movements, are closely surveilled by the National Media Council, which stands ready to punish any "deviation" and has no qualms about holding directors of media outlets accountable. Journalists are forced to self-censor, principally out of fear of suffering the same fate as the Iwacu journalists who were arbitrarily detained, and some have been intimidated or threatened while gathering information.

29. Furthermore, seven Burundian journalists living in exile were convicted in absentia of undermining State authority, murder and damage to property in connection with the attempted coup d'état of 13 May 2015 and were sentenced to life imprisonment. This judgment of the Supreme Court, dated 23 June 2020, was not made public until 2 February 2021. By way of reminder, in special criminal case No. 100, referred to as the RPS 100 case, 34 alleged coup instigators living in exile, including journalists, human rights defenders, lawyers, CNDD-FDD critics and military personnel, were prosecuted and convicted without representation by counsel. Their assets, which had been seized by the courts in May 2019, were sold at auction in November 2020.

30. The official media do not think critically and refuse to call into question government actions or to report on sensitive incidents such as the bodies that are regularly found in public areas and cases of rights violations.

31. The Government announced that the 2018 Press Act would be amended to regulate online media and community radio stations and to prevent "content that is contrary to Burundian culture" from circulating on social media. In other words, the only planned structural measure is actually aimed at tightening press controls.

C. Civil society

32. The positive points of note with regard to civil society are generally ad hoc symbolic gestures. On 2 April 2021, Parole et Actions pour le Réveil des Consciences et l'Évolution des Mentalités was authorized to resume its activities after being suspended in June 2019 for "tarnishing the country's image" by publishing a report critical of the socioeconomic situation in Burundi. Human rights defenders Nestor Nibitanga and Germain Rukuki were released on 27 April 2021 and 30 June 2021, Mr. Nibitanga after a presidential pardon and Mr. Rukuki following his second trial on appeal.¹⁰

¹⁰ See also paragraph 55 of the present report.

33. However, the Government has taken measures aimed more at strengthening its control over the activities and functioning of civil society organizations than at reopening the democratic space. The Burundian authorities consider civil society's sole purpose to be to assist them, thereby denying the very principle of freedom of association, which includes the freedom to choose which objectives to pursue and how to achieve them. For example, the Government has decided to limit operating expenditure within projects funded by technical and financial partners, chiefly by aligning salaries with those in public entities in Burundi. In February 2021, the Government warned foreign non-governmental organizations active in Bubanza Province that they would be subject to inspections to check, *inter alia*, what they had delivered, the ethnic composition of their staff, the salary and benefits of their expatriate staff and the extent to which the recruitment committees introduced by the Government were involved in their hiring procedures. The authorities are thus making full use of their means of oversight.

34. In addition, five human rights defenders, lawyers and representatives of non-governmental organizations living in exile have been convicted in absentia and sentenced to life imprisonment in connection with the RPS 100 case and their assets have been confiscated and sold.

D. Opposition political parties

35. After the elections, the many abusive restrictions and violations of the freedoms of association, peaceful assembly and expression that were directed at opposition parties, including CNL, were relaxed, including the bans on organizing gatherings and meetings and on opening offices. This can be explained by the fact that CNL scaled back its activities after the elections and no longer represents an imminent threat to the party in power, especially since it is not a part of the Government or of the National Assembly or Senate Bureaux.

36. Sporadic incidents have nonetheless been reported in a few provinces; for instance, several CNL offices have been ransacked, including in June 2021. It remains difficult, if not, in some localities, impossible, for CNL to hold meetings. Some opposition militants have been harassed or ill-treated by members of the Imbonerakure in retaliation for their political engagement and others have been intimidated into joining CNDD-FDD. Some have been arbitrarily arrested and detained in connection with their political activities and, in some cases, have been tortured or ill-treated during their arrest and detention, although the number of such cases has fallen. Some active CNL members were victims of enforced disappearance in the months following the elections; they were seen for the last time being taken away by State agents or members of the Imbonerakure. Although at least one of the individuals was later found in detention, the fate of the other victims is unknown.

37. Hate speech against opponents has by and large been replaced by official calls for tolerance in politics, but there are still occasional statements conflating opponents with "enemies of the State". President Ndayishimiye himself has blown hot and cold on this subject, recognizing the right to freedom of expression for political parties only to denounce those who do not support the Government as "foreign government agents". He appears to tolerate the political opposition only if it agrees to work with his Government.

38. Opposition deputies who have dared to question or criticize government actions have borne the brunt of this mistrust for political opponents, which appears to be deeply entrenched among CNDD-FDD dignitaries. For instance, former deputy Fabien Banciryanino, a rare critic under President Nkurunziza's regime, was arrested on 2 October 2020 and prosecuted for rebellion, false accusation and undermining the internal and external security of the State. On 7 May 2021, he was sentenced to a year's imprisonment.

39. While political violence has generally subsided, this is not necessarily a sign of greater political tolerance. No structural measures have been taken to ensure that the perpetrators of violence during the elections are punished or to prevent such actions from recurring, including during the next elections. Following the elections, the Imbonerakure were reportedly instructed to stop using violence against opponents, but they can still be called up at any time by the authorities and CNDD-FDD. In fact, since the armed attacks in the spring of 2021, CNL members are, in some places, once again being closely watched by the

Imbonerakure. As noted previously, following these attacks, some CNL members were accused of collaborating with the rebels or of possessing weapons, but it has not been possible to ascertain whether this was due to their political affiliation or on the basis of objective evidence.

E. Returnees

40. As at 30 June 2021, 276,275 Burundians officially remained refugees in neighbouring countries and 164,990 Burundian refugees had been repatriated under the tripartite voluntary repatriation programme launched in 2017, including 42,299 since January 2021.¹¹ The refugees returned primarily from Tanzania (129,535) and Rwanda (28,212), where repatriation operations began in August 2020.¹²

41. The climate of hostility and suspicion towards returnees has abated because, according to several witnesses, instructions were issued to local administrative chiefs and the Imbonerakure to ensure a better reception for returnees – a major challenge if the Government is to achieve its goal of large-scale refugee returns. However, in June 2021, the Conference of Catholic Bishops noted with regret that returnees were not being well received in certain localities and were being intimidated and oppressed.¹³

42. Some recent returnees have been mistreated, including by members of the Imbonerakure. Certain returnees who had been politically active in the past have been accused of collaborating with armed groups, and some of them have been arbitrarily arrested and detained, then tortured in detention. Sometimes, the fear of being sought by the authorities, arrested or killed has led refugees – including some who had come by their own means to explore the possibility of returning to Burundi under the tripartite programme – to return to their host country.

43. There remain considerable barriers to the socioeconomic reintegration of returnees, as chronic poverty in the country makes for unstable reception conditions. Government pressure to step up the pace of returns has exceeded the absorption capacity of reception areas. An estimated 70 per cent of returnees are in serious humanitarian need and 23 per cent are in extreme humanitarian need.¹⁴

44. Returnees face, inter alia, a lack of livelihoods, shelter and land and limited access to schools and health-care services, as well as security problems including land and intrafamily disputes that have gone unresolved due to justice system dysfunctions. They also experience harassment, persecution and discrimination on the part of local communities and others.¹⁵ Households headed by women are even more vulnerable and encounter specific difficulties.¹⁶ In 2021, 22 per cent of returnees believed that the security situation in Burundi had not improved since they had fled.¹⁷

¹¹ See <https://data2.unhcr.org/en/dataviz/57?sv=13&geo=0>.

¹² See “Voluntary Repatriation of Burundian Refugees” at <https://data2.unhcr.org/en/documents/details/87857>.

¹³ See www.eglisecatholique.bi/index.php/fr/vie-de-l-eglise1/communiqués/communiqué-de-cloture-de-l-assemblée-plénière-de-la-conférence-des-évêques-catholiques-du-burundi-du-mois-de-juin-2021.

¹⁴ Office for the Coordination of Humanitarian Affairs, “Burundi – Aperçu des besoins humanitaires” (Overview of humanitarian needs) 2021, p. 38. Available at https://reliefweb.int/sites/reliefweb.int/files/resources/hno_2021-burundi_v10_.pdf.

¹⁵ United Nations Development Programme (UNDP) and Office of the United Nations High Commissioner for Refugees (UNHCR), 2021 Burundi Refugee Return and Reintegration Plan, p. 14.

¹⁶ Office for the Coordination of Humanitarian Affairs, “Burundi – Aperçu des besoins humanitaires” (Overview of humanitarian needs) 2021, p. 74.

¹⁷ UNDP and UNHCR, 2021 Burundi Refugee Return and Reintegration Plan, p. 14.

F. General population

1. Socioeconomic situation

45. The overall situation of the Burundian population in terms of its enjoyment of economic and social rights remains preoccupying. An estimated 84 per cent of the population lived under the poverty line in 2019, with an annual per capita income of US\$ 260.¹⁸ In 2020, the cost of basic goods such as beans, rice and corn rose, mainly due to the border closures intended to prevent the spread of COVID-19 and to various natural disasters that damaged crops. In 2021, an estimated 2.3 million people in Burundi are in need of humanitarian assistance, and 661,000 are in acute need. The areas of greatest need are food security (2 million people) and nutrition (704,000 people, 63 per cent of whom are children), but also access to health care, water, sanitation, hygiene, shelter and education. These figures are up slightly from 2020, when 1.7 million people were in need.¹⁹

46. Burundi is particularly vulnerable to natural disasters. In 2020, 100,000 people were affected by natural disasters, including 44,222 who were displaced by them.²⁰ In terms of health, access to health-care services is jeopardized by the population's limited financial means and an inadequate network of medical facilities that cannot provide the breadth of services required.²¹ President Ndayishimiye's pledge to ensure that all 119 communes have a hospital has yet to be fulfilled. Burundi took steps to curb the spread of COVID-19 as early as the summer of 2020 and announced at the end of July 2021 that it would finally authorize the population to get vaccinated. Cooperation with the World Health Organization has resumed, with the arrival of its new representative in April 2021.

47. In 2021, an estimated 176,000 people (of whom 98 per cent are women) need protection, including from sexual and gender-based violence. However, most health-care centres do not have the resources or skills necessary to provide victims with appropriate care specific to their needs. Comprehensive emergency services are insufficient and hard to access, with only six integrated centres in the entire country, whose operational capacity has dropped significantly since World Bank funding came to an end.²² Women and girls living in extreme poverty run a greater risk of being exposed to sexual violence and often adopt harmful survival strategies, such as prostitution, which further heighten their risk of being subjected to sexual and gender-based violence.²³

48. According to estimates by humanitarian actors, more than 160,000 children aged between 3 and 16 years old, including 80,000 girls, risk not being enrolled in school or having their schooling interrupted in 2021 owing to their family's extreme poverty and to limited education services resulting from poor infrastructure and insufficient numbers of teachers. The environment remains unconducive to learning, with an average of 75 students per class (133 in Bujumbura Mairie Province) and a lack of teaching materials, water and electricity. Violence in schools, including sexual violence and unwanted pregnancy, are further specific barriers to girls' education. In 2020, more than half of children aged between 4 and 19 years old in the provinces bordering Tanzania were not enrolled in school.²⁴

¹⁸ See World Bank Group, *Macro poverty outlook for Sub-Saharan Africa: country-by-country analysis and projections for the developing world*, available at:

<http://pubdocs.worldbank.org/en/720441492455091991/mpo-ssa.pdf>, p. 211, and Office for the Coordination of Humanitarian Affairs, "Burundi – Aperçu des besoins humanitaires" (Overview of humanitarian needs) 2021, p. 14.

¹⁹ Office for the Coordination of Humanitarian Affairs, "Burundi – Aperçu des besoins humanitaires" (Overview of humanitarian needs) 2021, p. 32.

²⁰ Ibid., p. 21; and www.unicef.org/burundi/stories/dire-straits.

²¹ Office for the Coordination of Humanitarian Affairs, "Burundi – Aperçu des besoins humanitaires" (Overview of humanitarian needs) 2021, p. 78.

²² Ibid., p. 76.

²³ Ibid.

²⁴ Ibid., pp. 67–68.

2. Main violations

49. Despite severe poverty, the population has again been forced to make payments – often with no legal basis – in order to finance public infrastructure, contribute to development or support the party in power, on penalty of being denied access to public services and spaces or the issuance of administrative documents. A so-called “voluntary” contribution was set up by civil servants in at least one province to fund a football tournament in memory of President Nkurunziza. Some people have also been threatened because they were not contributing enough to CNDD-FDD.

50. Since Évariste Ndayishimiye came to power, the Imbonerakure have reportedly been instructed to stop committing violent acts against the population and usurping the functions of the police. The number of incidents involving members of the Imbonerakure has indeed fallen in several provinces, except in those along the border and those that are the scene of armed attacks, where they remain mobilized by the authorities to ensure security, including, for instance, through the joint committees. They continue to patrol these areas at night, which gives them the opportunity to rob those whose path they cross. On 30 June 2021, the defence forces received a written internal order to rely on “armed political movements” to neutralize armed gangs,²⁵ in what is essentially official acknowledgement of the fact that the CNDD-FDD youth league is armed and provides support to the defence forces.

51. Corpses have regularly been found in public areas, including near roads and waterways. The local authorities have continued to bury them without seeking to identify the deceased or to investigate the cause of death and possible perpetrators even though most of the bodies present signs of violent death. According to the Iteka League, 554 people, including 118 women, were reportedly killed during President Ndayishimiye’s first year in power; 250 of the bodies were found in public areas.²⁶

52. Due to the authorities’ serious mishandling of this situation, it is impossible to differentiate between cases constituting violations of the right to life attributable to State agents or the Imbonerakure and cases constituting ordinary criminal offences such as murders linked to land or family disputes and offences committed for base motives, which are commonplace and committed with absolute impunity – especially when the victims belong to an opposition party. The authorities’ conduct in itself constitutes a violation inasmuch as, by refusing to launch credible and impartial investigations into these cases, they are failing in their obligation to protect the rights to life and to an effective remedy. The authorities’ ongoing silence about this situation could even be interpreted as tacit acquiescence to these practices, particularly when the victims do not belong to CNDD-FDD.

G. Justice

53. There has been no notable progress in the fight against impunity. The first convictions in the summer of 2020 were not really followed by others that would have marked a clear departure from past practice. Although police officers and military personnel have been convicted of ordinary offences, which were often committed under the influence of alcohol, and members of the Imbonerakure have been arrested for serious violations, a good number of them were later released and/or “punished” internally. The outcome of proceedings for those still in detention remains uncertain. Agents of the National Intelligence Service and other State entities known for their involvement in numerous human rights violations have reportedly been arrested and detained. However, the opacity surrounding such proceedings makes it impossible to know whether this is in connection with past actions, other crimes and offences or an internal settling of scores.

54. There are persistent dysfunctions in the justice system, including corruption, influence peddling, interference by various authorities and CNDD-FDD members, non-compliance with legal procedures and deadlines, failure to enforce judicial decisions, in particular release

²⁵ See annex V to the present report.

²⁶ See https://ligue-iteka.bi/wp-content/uploads/2021/06/Lettre_au_President_Evariste_Ndayishimiye_du_18_juin_2021.pdf.

orders, and inertia in certain proceedings. Victims of violations continue to be deprived of effective remedies and to be subjected to threats and intimidation.

55. The judiciary's lack of independence is long-standing, but its instrumentalization for political or diplomatic gain has worsened under President Ndayishimiye, as clearly illustrated by the timeline in the Germain Rukuki case. The Supreme Court ruling quashing the first appeal decision that upheld his 32-year prison sentence was handed down on 30 June 2020, 12 days after President Ndayishimiye's investiture. The second appeal hearing took place on 24 March 2021, after initial steps forward in the dialogue with the European Union. The decision of the Appeals Court, which should have been rendered within a month, was not promulgated until 21 June 2021, a few hours after the Ambassador of the European Union announced that the process of lifting sanctions on Burundi had been initiated.

56. No structural measures have been taken to resolve these issues. On the contrary, the review by the Supreme Council of Justice will expand and institutionalize the means through which the executive branch may control the judiciary. The Supreme Council of Justice, led by the Head of State, will be responsible for overseeing the quality of judicial decisions and the measures used to enforce them and will even have the power to take corrective measures. At the end of July 2021, the Governor of Bujumbura Province announced that he wished to have control over judicial decisions and their enforcement. The Government also plans to abolish the specialized anti-corruption entities, namely, the Special Court and the Special Brigade, which some observers consider to be a step backwards in the fight against economic malfeasance.

H. Economic underpinnings of the State

57. In its previous report,²⁷ the Commission noted that corruption, misappropriation of public funds, conflicts of interest and illegal protection of interests underpin the functioning of the Burundian economy, thus depriving the State of the resources necessary to finance the protection and realization of human rights.

58. President Ndayishimiye, in acknowledgement of the problem, made the fight against corruption one of his priorities. However, thus far, reforms have been rather modest, even questionable, such as the plan to abolish the specialized anti-corruption entities. Here too, the steps taken have for the most part been symbolic gestures, such as the dramatic ousting, on 1 May 2021, of the Minister for Trade, Transport, Industry and Tourism, whose actions were apparently "putting the country's economy at risk", and the mass dismissal, in spring 2021, of public servants accused of misappropriating funds, without thorough investigations or judicial proceedings having been conducted. While it remains to be proven whether such decisions act as deterrents, these collective punishments certainly have an arbitrary feel. Given the current state of affairs, and in the absence of a credible structural reform, the Commission has reasonable grounds to believe that corruption – whether of the kind that affects the daily lives of the population or large-scale corruption – remains endemic in Burundi.

59. Moreover, the Head of State's attitude has on occasions been ambiguous – for example, when he prevaricated over the asset declaration expected of public officials, despite it being required under the Constitution, and when he stated that only acts of corruption committed after he took office would be investigated, de facto entrenching impunity for prior acts.

60. Nonetheless, there have been noteworthy developments in the mining sector. The Commission had observed that obtaining mining licences was contingent on the payment of large sums to high-level officials and that the lack of transparency around the annual aid earmarked for community development, combined with a lack of visible achievements on the ground, raised questions about possible misappropriation. However, President Ndayishimiye has ordered an audit of the mining sector, probably in reaction to the 2019 recommendations of the National Security Council, according to which mining companies were not fulfilling their commitments and issued biased reports on their production. On 8 April 2021, the

²⁷ A/HRC/45/32.

Government banned Rainbow Mining Burundi from exporting the rare earth elements it mines in Gakara. This decision was taken following allegations that the company was making false claims about the prevalence of rare earths and about actual sale prices. On 15 April 2021, the Prime Minister denounced the practices of mining companies that “robbed the country of its natural resources”. On 1 July 2021, the President announced that mining concession agreements that had been established in unlawful conditions and/or contained loopholes would be suspended or terminated so that natural resources could truly be put towards the country’s development. In mid-July 2021, the Government suspended the activities of mining companies, accusing them of breaking mining agreements and adding that the agreements were not sufficiently profitable for Burundi and should be renegotiated.

61. Threatening to unilaterally withdraw from mining agreements could well lead to more advantageous agreements for the country. However, negotiations have to be led with absolute transparency if they are to have an impact on corruption. Otherwise, the renegotiations are likely to bring opportunities for further payments to high-level officials. In the interest of all parties concerned, any measures intended to fight corruption or regulate mining activities must be adopted in keeping with the rule of law.

I. Rule of law

62. The rule of law is based on three axioms: the State acts by way of the law; the State is subject to the law; and the law of the State has certain intrinsic attributes.²⁸ Despite President Ndayishimiye’s desire to promote the rule of law, which has been seriously undermined for several years, it continues to be eroded by increasing disrespect for procedures and laws.

63. Officials at the highest levels have openly authorized or accepted infringements of the Constitution and law. For example, ministers have not discharged their constitutional obligation to declare their assets. The President, who initially insisted that this should be done rapidly, later stated that such declarations were neither realistic nor feasible, only to then announce, on 9 June 2021, that the forms were now available and the declarations could be made. He has yet to confirm, however, whether the ministers have filled in their declarations. Furthermore, pursuant to the Arusha Peace and Reconciliation Agreement for Burundi, the Constitution establishes ethnicity quotas for the main institutions and the defence and security forces but, according to various estimates, the quotas are no longer being met anywhere apart from in parliament.²⁹

64. Other agencies have exceeded their competence by taking decisions without respecting legal procedures. For instance, in February 2021, the Ministry of the Interior, Community Development and Public Security accused the tax collectors of Bujumbura city authority of misappropriating funds and announced that all of them would be replaced. On 9 April 2021, he announced the mass dismissal, with immediate effect, of the 119 communal accountants accused of complicity in the tax collectors’ actions. In February 2021, he decided that shop stalls located near to public markets had 10 days to shut down and relocate inside the markets, even though most of them were operating legally. In July 2021, the Minister of Justice announced the mass dismissal of *tribunal de résidence* (local court) judges following complaints from the public. The President of the Senate called for unmarried couples who lived together to be imprisoned and put to work in the fields. In addition, local authorities have been multiplying taxes and contributions of all kinds, often without any legal basis.

65. By contrast, legitimate decisions have not been fully enforced or implemented. For example, the authorities did not begin to apply the presidential pardon that was theoretically granted to 5,200 prisoners in March 2021 until mid-April. By early July 2021, only 2,600 pardoned prisoners had been released, and some of them were apparently rearrested shortly thereafter while others were kidnapped and declared missing. Some judicial decisions have

²⁸ J. Chevallier cited by E. David, “Conclusions générales”, dans *L’État de droit en droit international* (“General findings”, in *The rule of law in international law*), Brussels symposium of the French Society for International Law, Paris, Pedone, 2009, pp. 435–436.

²⁹ <https://ligue-iteka.bi/wp-content/uploads/2021/03/Situation-po-ethnique-26-mars-2021.pdf>.

not been enforced, including, in particular, orders for release on bail pending trial and orders for release following acquittal. For instance, Germain Rukuki should have been released immediately after the Appeals Court rendered its verdict, but he did not leave prison until a week later, after pressure from civil society, NIHRC and the European Union. Other decisions, however, such as the one to destroy constructions considered anarchic or illegal, were enforced almost immediately, without the persons concerned being given an opportunity to contest them or a reasonable period to comply.

66. President Ndayishimiye either directly or implicitly approved these decisions, which were taken without legal basis, in contempt of procedure and without any possibility of recourse being left open for the persons concerned. Such practices, no matter how legitimate the decision, undermine the principles of the rule of law, legal certainty and the separation of powers.

J. Responsibilities

1. Responsibility of the Burundian State

67. The Burundian State can be held accountable for acts constituting human rights violations committed by agents of the State, particularly officers of the National Intelligence Service and the police, and also for acts committed by the administrative authorities that represent the State at various levels.

68. The Imbonerakure often act alone, sometimes in support or instead of the security forces, in the presence of agents of the State, with their acquiescence or at their request. The Burundian authorities allow them considerable latitude in their activities, despite having the means to control them. Some Imbonerakure are in possession of material and equipment reserved for the defence and security forces, which attests to their central role within the formal and informal security structures of the State. The Burundian State is directly responsible for actions taken by the Imbonerakure at the instruction, or under the full authority or effective control, of agents of the State. Outside these scenarios, when the Burundian State fails to undertake effective investigations and prosecutions, its responsibility to protect human rights is engaged.³⁰

2. Responsibility of armed groups

69. The Commission gathered information on a recent case of violation of the right to freedom, security and physical integrity involving several victims, including children, which was committed in Burundian territory by an unidentified armed group. Armed groups are reportedly also responsible for serious violations of the right to life in the context of armed attacks, but the Commission was unable to gather sufficient information to corroborate the facts and potentially identify the assailants, in part due to the Government's refusal to cooperate.

IV. International crimes

A. Constituent elements and types of crimes

70. The Commission still has reasonable grounds to believe that crimes against humanity, as defined in the Rome Statute of the International Criminal Court, continued to be committed in Burundi after the elections. These include imprisonment and other serious forms of deprivation of liberty, torture and politically motivated persecution, primarily targeting political opponents and, in some cases, their relatives.³¹

71. These acts continued to be committed in various provinces by different actors with similar *modus operandi*, for the purpose of weakening the political opposition. Such incidents

³⁰ A/HRC/39/CRP.1, paras. 229–237 (document available on the Commission's website).

³¹ A/HRC/36/CRP.1, paras. 682–691.

can therefore be described as “systematic attacks” deliberately targeting civilians. The alleged perpetrators of these international crimes were undoubtedly informed of this purpose, including through instructions received from various levels of CNDD-FDD and the local authorities, and therefore necessarily understood the context of their actions.

B. Individual responsibility

72. The Commission has updated its list of alleged perpetrators of crimes against humanity, which remains confidential in order to protect its sources and respect the presumption of innocence. However, the Commission reserves the right to share the list.

V. Risk factors

A. Overview

73. Since 2019, the Commission has examined risk factors for a potential deterioration of the human rights situation in Burundi³² using the Framework of Analysis for Atrocity Crimes.³³ This approach is consistent with the principles of early warning and prevention. The presence of these risk factors, as measured using objective indicators, does not, however, determine the probability of atrocity crimes being perpetrated. Other relevant developments, in addition to those mentioned in the section on the human rights situation, are detailed in the analysis below.

74. President Ndayishimiye fully embraces the legacy of President Nkurunziza, for whom he has nothing but praise and on whom he has conferred, despite his death, the title of Supreme Guide of Patriotism. The Burundian authorities always present the human rights violations committed since 2015 as “misunderstandings” and “divergences of views” that should be put aside. By entrenching impunity for perpetrators and the lack of remedies for victims in this way, the authorities are closing the door on any lasting reconciliation. Furthermore, the authorities refuse to cooperate with international human rights mechanisms and to discuss related matters. Any mention of violations is considered a politically motivated attack aimed at tarnishing the country’s image. The authorities reject all independent international observation missions on human rights issues and agree only to technical cooperation. Religion and politics remain tightly intertwined; for example, President Ndayishimiye, like his predecessor, holds frequent thanksgiving prayers.

75. However, the President has not hesitated to break with Nkurunziza’s legacy in other domains, for instance in seeking to normalize relations with Rwanda, the European Union and the international community by conducting several official visits to African countries.

76. The consociational democracy ushered in by the Arusha Agreement envisaged the participation of the political opposition, and President Nkurunziza’s successive Governments did include a few ministers from the opposition. However, the current political institutions, from the central to the local level, are completely dominated by CNDD-FDD. The services of the Office of the President have been reorganized to place eight specialized agencies, including the Bank of the Republic of Burundi, the National Intelligence Service, the Permanent Secretariats of the National Security Council and the Supreme Council of Justice, and the General State Inspectorate, under the direct oversight of the President. This concentration of power in favour of CNDD-FDD and the President is part of a locked political and democratic space devoid of any real checks and balances. The CNDD-FDD-controlled parliament adopts bills almost unanimously and is not a space for discussion or a means of overseeing the executive branch.

77. Debate and disagreement are only possible within CNDD-FDD. Tensions between the hard-line wing, which includes Prime Minister Alain-Guillaume Bunyoni and the new

³² A/HRC/42/CRP.2, paras. 379–562 (document available on the Commission’s website) and A/HRC/45/CRP.1, paras. 743–769.

³³ A/70/741-S/2016/71.

Secretary-General of the party, Révérien Ndikuriyo, and the more flexible wing led by President Ndayishimiye are possible and likely. These tensions could explain some of the President's inconsistencies and about-faces and why some of his decisions are not implemented.

78. The Truth and Reconciliation Commission has continued to exhume the mass graves containing victims of the 1972 massacres but not those connected to other crises that have marked the country's post-independence history. Between April and June 2021, the Senate organized conferences on the events of 1972, which led to urgent calls to consider the massacres as constituting genocide against the Hutu. The indisputably one-sided and biased view of the country's history that dominates the transitional justice process magnifies the risk of the events being remembered from an ethnic perspective and the victimization of one ethnic group in relation to the other. Unsurprisingly, these activities have reignited conflicts within Burundian society, thus increasing the risk of incitement to ethnic hatred. On October 2020, the Government conducted a survey of all public servants containing questions on sensitive issues including ethnicity, without offering any guarantees as to how the information would be protected and used or explaining why the questions were necessary.

B. Risk factors

79. The analysis of risk factors shows that the situation in Burundi still calls for special vigilance. The following indicators attest to the presence of forms of instability that generate an environment conducive to atrocity crimes (risk factor 1): a security crisis caused by acts of terrorism and increased security incidents (risk factor 1 (b)); a humanitarian emergency for Burundians in the country and abroad caused by natural disasters or epidemics (risk factor 1 (c)); political tension caused by an autocratic regime or severe political repression (risk factor 1 (f)); economic instability caused by scarcity of resources (risk factor 1 (g)); severe crisis in the national economy (risk factor 1 (h)); and acute poverty (risk factor 1 (i)).

80. However, some indicators have improved. While the political crisis stemming from the lack of a peaceful transfer of power in 2015 has not been resolved, the 2020 elections and statements aimed at normalizing relations between Burundi and the international community have made it a less critical problem (risk factor 1 (d)). Moreover, the allegations of widespread electoral fraud in 2020 do not appear to have had an impact on the Government's perceived legitimacy (risk factor 1 (d)).

81. Risk factor 2 relates to a history of serious human rights violations that, because they have not been prevented or punished, create a risk of further violations. Therefore, this structural factor, which is linked to a lack of political willingness and institutional capacity to tackle impunity, remains significant due to: serious past or present violations of human rights (risk factor 2 (a)); the 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 to use all possible means to put an end to these violations (risk factor 2 (d)); continued support for groups accused of involvement in serious violations or failure to condemn their actions (risk factor 2 (e)); biased accounts or denial of serious human rights violations (risk factor 2 (f)); absence of an impartial and inclusive reconciliation or transitional justice process (risk factor 2 (g)); widespread mistrust in State institutions as a result of impunity (risk factor 2 (h)).

82. Risk factor 3, which relates to weakness of State structures and calls into question the State's capacity to prevent, halt and prosecute atrocity crimes, also remains present: lack of resources and adequate representation in judicial, law enforcement and human rights institutions (risk factor 3 (b)); lack of an independent and impartial judiciary (risk factor 3 (c)); lack of effective civilian control of security forces (risk factor 3 (d)); high levels of corruption or poor governance (risk factor 3 (e)); inadequate or ineffective internal oversight and accountability mechanisms and virtually non-existent or inaccessible external mechanisms for victims (risk factor 3 (f)).

83. Risk factor 4 is the existence of reasons, aims or other drivers that justify the use of violence against specific groups. Several indicators of this risk factor remain present: political

motives aimed at the consolidation of power (risk factor 4 (a)); economic interests linked to the conservation of power (risk factor 4 (b)); political opponents perceived as a threat to the interests or objectives of the Government or as disloyal to the country (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 over all others (risk factor 4 (g)); the politicization of past grievances or cases of impunity (risk factor 4 (h)); social trauma caused by unresolved past incidents of violence that have aroused feelings of loss, displacement, injustice and a possible desire for revenge (risk factor 4 (i)).

84. Risk factor 5, which refers to the capacity of potential perpetrators to commit atrocity crimes, remains present: availability of personnel and arms and ammunition, or of public or private financial resources 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 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 among CNDD-FDD and the Imbonerakure (risk factor 5 (d)); the presence of other armed forces or non-State armed groups (risk factor 5 (e)).

85. The absence of mitigating factors (risk factor 6) persists, notwithstanding a few gestures by the authorities in respect of the media, which remain insufficient to guarantee a free and independent press. The following indicators are present: lack of a strong, organized and representative national civil society and of a free, diverse and independent national media (risk factor 6 (b)); lack of access to international media (risk factor 6 (c)); limited, even non-existent, cooperation with international and regional human rights mechanisms (risk factor 6 (g)); lack of willingness of the Government to engage in dialogue, make concessions and receive support from the international community, including on human rights issues (risk factor 6 (h)); lack of support by some neighbouring States to protect the Burundian population in need of refuge (risk factor 6 (j)); lack of a national early warning mechanism (risk factor 6 (k)).

86. The question of the country's cooperation and engagement with the international community, the United Nations, international non-governmental organizations and other international or regional actors (risk factors 6 (d) and 6 (f)) has become complex. On the one hand, the country has redoubled diplomatic efforts to normalize its relations with the countries of the region and with international and regional organizations, including the European Union, but, on the other, it opposes any cooperation on political or human rights issues, as is apparent in the closure of the Office of the Special Envoy of the Secretary-General for Burundi and the refusal to authorize the reopening of the OHCHR country office.

87. Risk factor 7 relates to a climate and circumstances conducive to violence and human rights violations, including the politically motivated exploitation of identity, past events or motives to engage in violence. The main indicators are: interference with vital State institutions, or measures that result in changes to their composition or balance of power, as is the case with the introduction of ethnic quotas (risk factor 7 (b)); the mobilization of the Imbonerakure in areas that are the scene of security incidents (risk factor 7 (e)); persistent violations of the right to life, physical integrity, liberty or security of political opponents (risk factor 7 (h)); the politicization of identity, though there are fewer provocative statements and propaganda or incitement to hatred campaigns with a political and/or ethnic dimension (risk factor 7 (m)).

88. Triggering factors (risk factor 8) lessened after the 2020 elections, and there have been positive developments regarding other indicators: the success of the Burundian authorities' diplomatic overtures to the international community, whose measures are no longer systematically perceived as threatening to the State's sovereignty, except for those concerning human rights (risk factor 8 (c)); repeated allegations of fraud during the 2020 elections have not undermined the legitimacy of the governing power (risk factor 8 (d)); acts of incitement or hate propaganda targeting political opponents officially dropped after the elections (risk factor 8 (g)).

89. However, there remain: serious acts of violence (risk factor 8 (e)); the issue of remembrance and official commemoration of past crimes or of traumatic or historical

incidents based on ethnicity that could exacerbate tensions between groups (risk factor 8 (k)); and acts related to the process of determining accountability for past atrocities could be perceived as unfair (risk factor 8 (l)). Furthermore, it remains to be seen what will come of the public service survey and the upcoming population survey in the light of the fears and criticism elicited by the questions on ethnicity (risk factor 8 (h)).

VI. Conclusions and recommendations

90. After more than a year in power, President Ndayishimiye and his Government have markedly improved relations between Burundi and the international community, but there has been little meaningful change in terms of human rights. Symbolic, sometimes sensational, gestures have been made, but these will not serve to advance the fight against impunity and corruption in the long term or to reopen the democratic space. Serious human rights violations have continued to be committed by State officials and members of the Imbonerakure at the instigation or with the acquiescence of the authorities. While the risk factors have improved, they nonetheless all remain present.

91. The Commission therefore makes the following recommendations to the Burundian authorities:

(a) To implement the Commission's previous recommendations, in particular those regarding the priority measures to be taken to put an end to human rights violations and international crimes, combat impunity and economic malfeasance, reopen the democratic space, guarantee civil liberties, reform the judicial system and control the Imbonerakure;³⁴

(b) To publicly recognize the human rights violations committed in Burundi since April 2015, seek and punish the perpetrators and grant reparations to the victims;

(c) To guarantee the security, freedom and physical integrity of political opponents and their relatives, journalists, members of civil society, human rights defenders and returnees and ensure that they are not subjected to acts of violence, intimidation, harassment or any form of discrimination, including in the exercise of their fundamental freedoms;

(d) To ensure that perpetrators of armed attacks are pursued in conformity with fundamental rights and legal procedures and without discrimination;

(e) To permanently stop the Imbonerakure from usurping the functions of the security forces and the judiciary and to prosecute and punish, as an example, those involved in violations;

(f) To establish a national torture prevention mechanism, in line with international standards, whose first task would be to prevent torture by agents of the National Intelligence Service;

(g) To fully cooperate with international and regional human rights mechanisms, including on sensitive matters, authorize them to conduct independent monitoring activities and, to this end, reopen the OHCHR country office;

(h) To take measures to effectively combat corruption, in particular by implementing the recommendations of the Implementation Review Group of the United Nations Convention against Corruption;³⁵

(i) To guarantee transparency and good governance in the management of resources derived from mining activities;

(j) To ensure that the Truth and Reconciliation Commission conducts its work in a professional, inclusive, impartial, objective, transparent, balanced,

³⁴ See annex III to the present report.

³⁵ CAC/COSP/IRG/2019/CRP.17.

upstanding and credible manner so as to make a genuine and lasting contribution to national reconciliation;

(k) To take urgent steps to restore the rule of law by ensuring that the law is enforced, including within Government and State institutions, and that the separation of powers is respected;

(l) To guarantee the population's right to life with dignity,³⁶ as well as its economic and social rights, particularly the right to a decent standard of living, *inter alia* by drawing up and implementing State budgets to the maximum of available resources.

92. The Commission recommends to the armed groups that they cease committing human rights violations and acts of violence against State institutions and civilians.

93. The Commission makes the following recommendations to the international community:

(a) To keep following the human rights situation in Burundi, in particular through an independent international mechanism capable of objectively monitoring the human rights situation in the country;

(b) To ensure that refugees are not forced to return to Burundi under the tripartite voluntary repatriation programme, especially given the deterioration in living conditions, and that returns are voluntary, dignified and safe;

(c) To support independent civil society organizations in the field of human rights in Burundi, including those located abroad, in conducting investigations into human rights violations in the country and publishing reports on their findings;

94. The Commission makes the following recommendations to the technical and financial partners of Burundi:

(a) To put in place procedures to minimize and eliminate the risk of economic malfeasance in connection with development assistance projects;

(b) To prioritize projects designed to reduce risk factors on a lasting basis and to improve transparency and accountability in the management of public finances.

³⁶ Human Rights Committee, general comment No. 36 (2018), para. 26.

Annexes

I. Carte du Burundi



II. Correspondance avec le Gouvernement du Burundi



United Nations

Nations Unies

COMMISSION D'ENQUÊTE SUR LE BURUNDI

OHCHR • PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND

www.ohchr.org/EN/HRBodies/HRC/CoIBurundi • TEL: +41 22 917 9313 • E-MAIL: coiburundi@ohchr.org

Genève, le 20 Janvier 2021

REFERENCE: 2021/COIBRD/Lettre/04

Excellence,

J'ai l'honneur de me référer à la résolution 45/19 du Conseil des droits de l'homme des Nations Unies, adoptée le 6 octobre 2020, par laquelle le Conseil a décidé de proroger le mandat de la Commission d'enquête sur la situation des droits de l'homme au Burundi.

J'espère que la transition politique et la mise en place des nouvelles institutions à l'issue des élections de 2020 vont permettre l'instauration d'un dialogue constructif entre la Commission d'enquête et les nouvelles autorités burundaises, conformément à l'esprit de coopération voulu par le Conseil des droits de l'homme, et ainsi contribuer, à terme, à améliorer la situation des droits de l'homme dans le pays et à lutter contre l'impunité.

À cet égard, je note avec satisfaction la grâce présidentielle accordée le 23 décembre 2020 aux quatre journalistes d'Iwacu ainsi que la tenue de plusieurs procès à l'encontre d'auteurs de violations graves des droits de l'homme, y compris certains membres des forces de défense et de sécurité et de la ligue des jeunes du parti CNDD-FDD. Dans un souci d'impartialité et d'objectivité, la Commission d'enquête souhaiterait recevoir des informations plus détaillées sur ces récents développements, ainsi que toute information utile à la compréhension de la situation des droits de l'homme au Burundi, afin de préparer son rapport final qui sera présenté au Conseil des droits de l'homme lors de sa 48^{ème} session en septembre 2021.

Je vous adresse donc en annexe une liste de points relatifs à la situation des droits de l'homme au Burundi au sujet desquels la Commission souhaiterait obtenir des clarifications et plus d'informations. Certains d'entre eux avaient déjà fait l'objet d'une demande à votre Gouvernement dans le cadre de mes correspondances datées du 2 avril 2019 et du 4 février 2020, qui sont malheureusement restées sans réponse.

Son Excellence
Monsieur Rénovat Tabu
Ambassadeur extraordinaire et plénipotentiaire
Représentant permanent de la République du Burundi
auprès de l'Office des Nations Unies
et des autres organisations internationales à Genève
Rue de Lausanne 44
1201 Genève
mission.burundi217@gmail.com



COMMISSION D'ENQUÊTE SUR LE BURUNDI

PAGE 2

Par ailleurs, je me permets de souligner les recommandations faites par la Commission d'enquête dans son dernier rapport qui sont les plus à même d'avoir un impact direct et tangible sur la situation des droits de l'homme au Burundi, ainsi que les mesures prioritaires qu'elle a identifiées afin d'atténuer les principaux facteurs de risque à l'issue de la transition politique de 2020¹. Ce sont en effet les éléments à l'aune desquels la Commission va pouvoir examiner l'évolution de la situation des droits de l'homme dans le pays :

- Libérer immédiatement les défenseurs des droits de l'homme et journalistes détenus arbitrairement, ainsi que tous les prisonniers politiques, notamment ceux des partis d'opposition arrêtés et détenus dans le contexte des élections de 2020 ;
- Garantir la sécurité, la liberté et l'intégrité physique des membres des partis d'opposition, dont le CNL, et assurer qu'ils ne fassent pas l'objet d'actes d'intimidation, de harcèlement ou de toute forme de discrimination en représailles à leur engagement politique ;
- Rétablir toutes les libertés publiques et garantir notamment la liberté de la presse et la liberté d'association de la société civile ;
- Faire cesser les violations des droits de l'homme et l'impunité dont bénéficient les auteurs ;
- Garantir la non-répétition des violations en révoquant ou en suspendant les agents de l'État soupçonnés d'être impliqués dans des violations ;
- Restreindre l'omniprésence des Imbonerakure dans la sphère publique ; faire cesser l'usurpation des fonctions des forces de sécurité ou de la justice par des Imbonerakure, et poursuivre en justice et sanctionner de manière exemplaire ceux ayant été impliqués dans des violations – sinon dissoudre cette ligue ;
- Réformer les comités mixtes de sécurité humaine afin de les rendre plus inclusifs et de limiter leurs compétences ;
- Mettre fin au recrutement des enfants par les Imbonerakure et démanteler les « aiglons » du CNDD-FDD ;
- Prendre des mesures afin de lutter efficacement contre les malversations économiques et la mauvaise gouvernance économique ;
- Reprendre la pleine coopération avec l'ONU et rouvrir le Bureau pays du Haut-Commissariat des Nations Unies aux droits de l'homme ;
- Reprendre une pleine coopération avec l'Organisation mondiale de la Santé ;
- Sanctionner systématiquement les propos haineux ;

¹ A/HRC/45/CRP.1, par. 770-782.



COMMISSION D'ENQUÊTE SUR LE BURUNDI

PAGE 3

- Garantir une approche inclusive par la Commission vérité et réconciliation, incluant les quatre piliers de la justice transitionnelle ;
- Réformer la Justice pour garantir son indépendance et son impartialité.

Je remercie par avance votre Gouvernement pour sa coopération et toutes les informations qu'il voudra bien partager avec la Commission, et entretemps je reste disponible afin d'échanger sur cette demande d'information ainsi que de manière plus générale sur le travail de la Commission

Veuillez accepter, Excellence, les assurances de ma plus haute considération.

A handwritten signature in black ink, appearing to read "Diène".

M. Doudou Diène
Président de la Commission d'enquête sur le Burundi

III. Recommandations antérieures faites par la Commission

1. Recommandations faites en 2020

Version française

1. Vu la profondeur historique de la crise burundaise et la dimension en partie structurelle des violations des droits de l'homme, et prenant en compte le principe de la responsabilité de protéger le peuple burundais, y compris dans le cadre de la transition politique en cours au Burundi, ainsi que les mesures susceptibles d'atténuer les facteurs de risque, la Commission réitère tout d'abord ses précédentes recommandations¹, qui demeurent entièrement valables et pertinentes, particulièrement celles adressées aux autorités burundaises concernant les mesures prioritaires pour faire cesser les violations des droits de l'homme et les crimes internationaux, lutter contre l'impunité et améliorer la situation des droits de l'homme dans le pays, notamment la réouverture de l'espace démocratique et la protection des libertés publiques. Ses recommandations portant sur les mesures à plus long terme relatives à la révision du cadre juridique et à la réforme du système judiciaire restent cruciales.

2. Ensuite, la Commission adresse aux autorités burundaises les recommandations suivantes:

- a. Rouvrir le bureau de pays du Haut-Commissariat aux droits de l'homme;
- b. Libérer immédiatement les défenseurs des droits de l'homme et journalistes détenus arbitrairement, ainsi que tous les prisonniers politiques, notamment ceux des partis d'opposition arrêtés et détenus dans le contexte des élections de 2020;
- c. Garantir la sécurité, la liberté et l'intégrité physique des membres des partis d'opposition, dont le CNL, et assurer qu'ils ne fassent pas l'objet d'actes d'intimidation, de harcèlement ou de toute forme de discrimination en représailles à leur engagement politique;
- d. Rétablir toutes les libertés publiques pour permettre que les futures échéances électorales soient libres, crédibles et transparentes;
- e. Faire cesser l'usurpation des fonctions des forces de sécurité ou de la justice par des Imbonerakure, et poursuivre en justice et sanctionner de manière exemplaire ceux ayant été impliqués dans des violations – sinon dissoudre cette ligue;
- f. Réformer les comités mixtes de sécurité humaine afin de les rendre plus inclusifs et de limiter leurs compétences;
- g. S'acquitter de leurs obligations spécifiques en matière de droits des femmes et de droits de l'enfant;
- h. Mettre fin au recrutement des enfants par les Imbonerakure et démanteler les « aiglons » du CNDD-FDD;
- i. Établir des services de prise en charge psychosociale pour les enfants victimes ou témoins de violations graves, particulièrement parmi les rapatriés;
- j. Garantir l'accès à la justice et à des services médicaux et psychosociaux adaptés aux victimes de violences sexuelles, y compris les victimes masculines;
- k. Instituer un quota de 30% de femmes dans les conseils collinaires;
- l. Reprendre une pleine coopération avec l'Organisation mondiale de la Santé;
- m. Prendre des mesures afin de lutter efficacement contre les malversations économiques, notamment en assurant la transparence, la concurrence et l'établissement de critères objectifs et prédéterminés pour la passation des marchés publics, ainsi qu'un système de recours interne efficace, et ouvrir des enquêtes sur les allégations de cas de biens mal acquis;

¹ Voir ci-après.

- n. Devenir partie à l'Initiative pour la transparence dans les industries extractives et mettre en œuvre les normes associées;
 - o. Publier systématiquement le budget annuel exécuté;
 - p. Garantir que les hauts responsables politiques et administratifs procèdent systématiquement à une déclaration publique de leur patrimoine à leur prise de fonction et à la fin de leur mandat.
3. Aux groupes rebelles d'opposition, la Commission recommande de s'abstenir de tout acte violent.
4. À la communauté internationale, conformément à son devoir de vigilance, la Commission adresse les recommandations suivantes:
- a. Maintenir un mécanisme international indépendant qui puisse suivre objectivement la situation des droits de l'homme au Burundi, y compris au moyen des facteurs de risque et de la mise en œuvre des recommandations de la Commission;
 - b. Baser la reprise de la coopération internationale avec le Burundi et la levée des sanctions sur des progrès tangibles en matière de droits de l'homme et de lutte contre l'impunité et la corruption;
 - c. S'assurer que les réfugiés ne soient pas forcés à rentrer au Burundi tant que les conditions dans le pays ne sont pas propices, et demander un accès libre aux rapatriés pour évaluer leur situation;
 - d. Soutenir les organisations de la société civile actives dans le domaine des droits de l'homme au Burundi, notamment pour faire des enquêtes et des rapports publics.
5. Aux États et aux organisations internationales qui financent des programmes d'aide internationale au développement, la Commission recommande de renforcer leurs procédures pour minimiser les risques de détournement de fonds et d'ouvrir systématiquement des enquêtes sur les allégations reçues à ce sujet, afin de s'assurer que ladite assistance est entièrement utilisée pour les objectifs prévus et au profit des bénéficiaires envisagés.
6. Au système des Nations Unies, y compris à ses agences, la Commission adresse les recommandations suivantes:
- a. Conformément à la politique de diligence voulue en matière de droits de l'homme, fournir un appui uniquement lorsqu'il y a des garanties que ceux qui sont appelés à en bénéficier ne sont pas des auteurs de violations graves des droits de l'homme, sur le plan individuel ou institutionnel, et ne pas fournir un tel appui lorsqu'il y a eu des allégations crédibles à cet égard ou lorsque les autorités compétentes ne prennent pas les mesures de correction ou d'atténuation nécessaires;
 - b. Renforcer l'appui à la réponse aux violences sexuelles ou fondées sur le genre pour mieux prendre en compte les besoins spécifiques des victimes, y compris parmi les réfugiés.

Version anglaise

1. In view of the historical depth of the Burundian crisis and the partly structural dimension of human rights violations, and taking into account the principle of the responsibility to protect the people of Burundi, including in the context of the political transition under way in the country, as well as the measures likely to mitigate risk factors, the Commission first reiterates its previous recommendations.² Those recommendations remain entirely valid and relevant, particularly those addressed to the Burundian authorities concerning measures to be given priority in order to put an end to human rights violations and international crimes, to combat impunity and to improve the human rights situation in the country, including the reopening of the democratic space and the protection of civil liberties. Its recommendations for longer-term measures relating to the review of the legal framework and the reform of the judiciary remain crucial.

² See hereinbelow.

2. The Commission also makes the following recommendations to the Burundian authorities:

- a. To reopen the country office of the Office of the United Nations High Commissioner for Human Rights;
- b. To immediately release human rights defenders and journalists who have been arbitrarily detained, as well as all political prisoners, including those from opposition parties arrested and detained in the context of the 2020 elections;
- c. To guarantee the safety, freedom and physical integrity of members of opposition parties, including the Congrès national pour la liberté, and to ensure that they are not subjected to intimidation, harassment or any form of discrimination as a reprisal for their political activities;
- d. To restore all civil liberties to enable future elections to be free, credible and transparent;
- e. To stop the Imbonerakure from usurping the functions of the security forces and the judiciary and to prosecute and punish, as an example, those who have been involved in violations, or alternatively to dissolve the Imbonerakure;
- f. To reform the Joint Human Security Committees to make them more inclusive and to limit the scope of their competence;
- g. To fulfil the specific obligations of the authorities with regard to women's rights and the rights of the child;
- h. To put an end to the recruitment of children by the Imbonerakure and to disband the CNDD-FDD party's "Little Eagles";
- i. To establish psychosocial care services for child victims and witnesses of serious human rights violations, particularly among returnees;
- j. To ensure access to justice and appropriate medical and psychosocial services for victims of sexual violence, including male victims;
- k. To establish a 30 per cent quota for women on hill district councils;
- l. To resume full cooperation with the World Health Organization;
- m. To take measures to effectively combat economic misfeasance, 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;
- n. To become a party to the Extractive Industries Transparency Initiative and to implement the related standards;
- o. To systematically publish the annual budget, as implemented;
- p. 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.

3. The Commission recommends that opposition rebel groups refrain from violence.

4. For the international community, in keeping with its duty of vigilance, the Commission has the following recommendations:

- a. To maintain an independent international mechanism that can objectively monitor the human rights situation in Burundi, including through the monitoring of risk factors and the implementation of the Commission's recommendations;
- b. To base the resumption of international cooperation with Burundi and the lifting of sanctions on tangible progress in the area of human rights and the fight against impunity and corruption;
- c. To ensure that refugees are not forced to return to Burundi until conditions in the country are favourable and to request free access to returnees to assess their situation;

- d. To support civil society organizations active in the field of human rights in Burundi, in particular for investigations and public reporting.
5. The Commission recommends that 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.
6. To the United Nations system, including its agencies, the Commission makes the following recommendations:
 - a. In accordance with the human rights due diligence policy, to provide support only when there are guarantees that those who are to benefit from it are not perpetrators of serious human rights violations, either individually or institutionally, and not to provide such support when there have been credible allegations in this regard or when the competent authorities fail to take the necessary corrective or mitigating measures;
 - b. To strengthen support for the response to sexual and gender-based violence in order to better address the specific needs of victims, including among refugees.

2. Recommandations faites en 2019

Version française

1. La tenue des élections de 2020 est un facteur de risque important. Afin qu'elles puissent se dérouler dans un climat apaisé tout en étant justes, libres, transparentes et crédibles, la Commission adresse aux autorités burundaises les recommandations suivantes:
 - a. Mettre en œuvre toutes les recommandations précédentes de la Commission³ qui restent plus que jamais valables et pertinentes, notamment celles concernant les mesures prioritaires afin de faire cesser les violations des droits de l'homme et les crimes internationaux, de lutter contre l'impunité, et d'améliorer la situation des droits de l'homme dans le pays, ainsi que celles à moyen et plus long termes relatives à la révision du cadre juridique et à la réforme du système judiciaire;
 - b. Diligenter sans délai des enquêtes indépendantes et effectives sur les cas de violations documentés par la Commission depuis 2015, afin de permettre l'instauration d'un climat de confiance et de tolérance politique encourageant une participation inclusive dans le processus électoral;
 - c. Se réengager de manière constructive et coopérative auprès de tous les mécanismes internationaux et régionaux des droits de l'homme et du Haut-Commissariat aux droits de l'homme, en leur permettant d'assurer pleinement et librement leurs mandats de suivi des droits de l'homme;
 - d. Assurer l'indépendance structurelle et financière des mécanismes nationaux des droits de l'homme et renforcer la capacité de leurs membres;
 - e. Prendre les mesures nécessaires afin de garantir la liberté d'établissement, d'organisation et de fonctionnement des ONG étrangères et nationales, y compris en révisant les lois qui les régissent;
 - f. Prendre les mesures nécessaires afin de garantir la liberté d'information dans le pays et le droit des médias locaux et internationaux d'exercer leurs activités conformément aux normes internationales, y compris en révisant les lois sur la presse et le Conseil national de la communication;
 - g. Garantir la jouissance effective des libertés publiques, notamment les libertés d'opinion, d'expression, d'accès à l'information, d'association, d'assemblée et de religion, y compris en mettant fin à toute pratique de recrutement forcé au sein du parti au pouvoir et de sa ligue des jeunes;

³ Voir annexe III (A/HRC/36/54 et Corr.1, par. 85 à 94 ; et A/HRC/39/63, par. 85 et 86).

- h. Appliquer les Lignes directrices sur l'accès à l'information et les élections en Afrique et les Lignes directrices sur la liberté d'association et de réunion en Afrique de la Commission africaine des droits de l'homme et des peuples;
 - i. Garantir que tous les partis politiques peuvent mener leurs activités légitimes en toute liberté et sécurité, dans un climat de tolérance politique, notamment en sanctionnant tout propos d'incitation à la haine et à la violence contre les autres partis politiques et leurs membres;
 - j. Garantir, dans la pratique, notamment en révisant le Code électoral, le droit à prendre part à la gestion des affaires publiques sans discrimination;
 - k. Garantir, dans la pratique, l'indépendance structurelle de la Commission électorale nationale indépendante, notamment en révisant le décret la régissant afin que sa composition soit inclusive et équilibrée, et renforcer les capacités de ses membres aux échelons municipal et provincial;
 - l. Permettre l'accès d'observateurs électoraux indépendants, internationaux et régionaux, et leur garantir, ainsi qu'aux observateurs nationaux issus de la société civile ou des partis politiques, une liberté de mouvement et d'action avant, pendant et après les élections;
 - m. Appliquer les Directives pour les missions d'observation et de suivi des élections de l'Union africaine;
 - n. Permettre aux opposants politiques de rentrer d'exil afin de participer aux élections de 2020, et garantir leur liberté et leur sécurité, notamment en annulant les mandats d'arrêt contre ceux qui n'ont pas utilisé ou prôné la violence;
 - o. Libérer immédiatement tous les prisonniers politiques arrêtés et détenus en lien avec l'exercice de leurs droits démocratiques;
 - p. Renforcer la formation des forces de maintien de l'ordre, afin d'éviter les mauvais traitements et d'assurer une gestion pacifique des foules;
 - q. Appliquer les Lignes directrices pour le maintien de l'ordre par les agents chargés de l'application des lois lors des réunions en Afrique, et le manuel de formation y relatif, élaborés par la Commission africaine des droits de l'homme et des peuples;
 - r. Mettre fin à l'impunité des Imbonerakure en exerçant un contrôle sur eux, afin d'éviter l'usurpation des fonctions des forces de sécurité ou de la justice et de faire cesser leurs activités répressives et démonstrations de force sur les collines;
 - s. Mettre fin à toutes les contributions illégales.
2. À tous les partis politiques burundais, qu'ils participent ou non aux élections, la Commission recommande de s'abstenir de tout acte violent et de toute incitation à la haine et à la violence, notamment dans le contexte des élections de 2020.
 3. Aux groupes rebelles d'opposition, la Commission recommande de s'abstenir de tout acte violent et de toute incitation à la haine et à la violence.
 4. À la communauté internationale, y compris l'Union africaine et le système des Nations Unies, la Commission adresse les recommandations suivante:
 - a. Renouveler le mandat de la présente Commission pour une année supplémentaire;
 - b. Continuer à suivre l'évolution de la situation des droits de l'homme au Burundi dans le contexte des élections de 2020 et, conformément aux principes de prévention et d'alerte précoce, faire régulièrement l'évaluation des risques, afin de permettre, en cas de détérioration, que soient développées et mises en œuvre des stratégies de réponse adaptées;
 - c. Mettre tout en œuvre pour assurer la tenue d'un dialogue interburundais inclusif afin de régler la crise politique;
 - d. Soutenir le renforcement des capacités des observateurs électoraux internationaux, régionaux et nationaux;

- e. Envoyer des observateurs régionaux ou internationaux uniquement si leur liberté d'action est garantie dans la pratique;
 - f. S'assurer que l'aide humanitaire parvient intégralement à la population;
 - g. Répondre à l'appel de financement du Haut-Commissariat des Nations Unies pour les réfugiés en faveur des réfugiés burundais;
 - h. S'assurer que le suivi des rapatriés se fait dans la durée, de manière plus fréquente et transparente.
5. Plus particulièrement, la Commission recommande au système des Nations Unies, conformément à l'initiative Les droits de l'homme avant tout, d'intensifier la promotion des droits de l'homme relevant des mandats propres aux agences et programmes concernés, de même que la collecte et la publication de données objectives et fiables sur la situation au Burundi.
6. Aux États membres du Conseil de sécurité, la Commission recommande de maintenir le Burundi dans le programme de travail du Conseil, au regard des facteurs de risque identifiés, et d'inviter la Commission à lui rendre compte de ses conclusions.

Version anglaise

1. 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;⁴
 - 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

⁴ See annex III (A/HRC/36/54 and Corr.1, paras. 85–94, and A/HRC/39/63, paras. 85–86).

- 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.
2. 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.
 3. The Commission recommends that opposition rebel groups refrain from violence and incitement to hatred or violence.
 4. 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.

5. 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.

6. 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.

3. Recommandations faites en 2018

Version française

1. La Commission recommande au Gouvernement burundais, comme mesures prioritaires:

- a. De mettre immédiatement un terme aux violations graves des droits de l'homme commises par des agents de l'État et des Imbonerakure;
- b. D'établir, avec le soutien de la communauté internationale, des mécanismes ad hoc chargés d'enquêter sur les violations des droits de l'homme et de poursuivre les auteurs de crimes de droit international qui ne font pas l'objet d'une enquête par la Cour pénale internationale;
- c. D'établir, avec le soutien de la communauté internationale, une entité indépendante chargée de faire la lumière sur les cas de disparition signalés depuis avril 2015, de localiser les possibles fosses communes, d'exhumer et d'identifier les corps;
- d. De prendre des mesures pour que les victimes de torture et les femmes ayant subi des violences sexuelles aient accès à des soins appropriés, en particulier un libre accès à tous les soins de santé sexuelle et reproductive, ainsi qu'à un soutien psychologique;
- e. D'appliquer les Lignes directrices sur la lutte contre les violences sexuelles et leurs conséquences en Afrique de la Commission africaine des droits de l'homme et des peuples;
- f. De contrôler les hausses des prix, en particulier en revoyant l'augmentation des taxes et des impôts qui porte atteinte au droit à un niveau de vie suffisant de la population, et en supprimant les contributions qui touchent disproportionnellement les personnes les plus pauvres;
- g. De coopérer avec les mécanismes internationaux des droits de l'homme, notamment:
 - (i) En accueillant à nouveau des missions de procédures spéciales;
 - (ii) En mettant en œuvre les recommandations de l'examen périodique universel, des organes conventionnels et des procédures spéciales, notamment en établissant un mécanisme national d'élaboration des rapports et de suivi;
- h. D'autoriser le Haut-Commissariat des Nations Unies aux droits de l'homme à reprendre sans entrave l'ensemble de ses activités au Burundi;
- i. De signer et de mettre en œuvre le mémorandum d'entente avec l'Union africaine et de permettre le déploiement complet des 100 observateurs des droits de l'homme.

2. La Commission recommande également au Gouvernement burundais, à moyen et plus long termes:

- a. De réviser la loi organique du 8 mars 2018 portant révision de la loi no 01/03 du 24 janvier 2013 portant missions, composition, organisation et fonctionnement du Conseil national de la communication afin de garantir l'indépendance de ce dernier;

- b. De ratifier la Convention internationale pour la protection de toutes les personnes contre les disparitions forcées;
- c. De réviser les dispositions du Code de procédure pénale pour les mettre en conformité avec les normes internationales, en particulier les dispositions relatives aux délais de garde à vue et de contrôle de la détention, aux perquisitions de nuit et sans mandat, à la procédure de « flagrance », à l'infraction d'« atteinte à la sûreté intérieure de l'État », et à celles accordant une impunité de jure aux magistrats et aux officiers de police judiciaire;
- d. De mettre fin aux détentions arbitraires et d'améliorer les conditions de détention:
 - En appliquant les Lignes directrices sur les conditions d'arrestation, de garde à vue et de détention provisoire en Afrique de la Commission africaine des droits de l'homme et des peuples;
 - En garantissant le contrôle de la légalité des détentions et leur conformité avec les droits de l'homme.
- e. Faute d'un système judiciaire indépendant et performant, de coopérer pleinement avec la Cour pénale internationale dans l'enquête qu'elle a ouverte le 25 octobre 2017;
- f. D'engager une réforme en profondeur du système judiciaire afin de garantir son indépendance, son impartialité et son effectivité, notamment:
 - (i) En appliquant les Directives et les Principes sur le droit à un procès équitable et à l'assistance judiciaire en Afrique de la Commission africaine des droits de l'homme et des peuples;
 - (ii) En publiant les conclusions des états généraux de la justice de 2013 et en réunissant les acteurs du secteur et les partenaires internationaux pour discuter des mesures de suivi;
 - (iii) En augmentant le budget du secteur de la justice et en garantissant son autonomie de gestion;
 - (iv) En revalorisant la rémunération des magistrats des juridictions ordinaires ainsi que les moyens et l'équipement à leur disposition;
 - (v) En informatisant les greffes;
 - (vi) En revoyant la composition du Conseil supérieur de la magistrature afin que ses membres soient en majorité désignés par leurs pairs;
 - (vii) En revoyant les procédures de nomination, d'affectation, de notation et d'avancement des magistrats afin qu'elles ne dépendent pas du pouvoir exécutif;
 - (viii) En veillant au respect strict du principe d'inamovibilité des magistrats du siège;
 - (ix) En protégeant et en garantissant l'indépendance du système judiciaire en interdisant toute ingérence dans le fonctionnement de la justice par des autorités gouvernementales, des membres du parti au pouvoir ou par des membres des corps de défense et de sécurité, et en prenant des sanctions contre ceux qui influencent, ou cherchent à influencer, le fonctionnement de la justice;
 - (x) En développant des programmes d'aide juridictionnelle pour les plus vulnérables;
 - (xi) En renforçant les mécanismes de protection de victimes et de témoins, ainsi que leur efficacité, pour restaurer la confiance de la population et pour encourager les témoins à s'exprimer sans crainte pour leur sécurité.
- g. De mettre en place, en consultation avec les bénéficiaires, un programme de réparations des victimes des violations des droits de l'homme qui comprenne des réparations matérielles, symboliques, individuelles et collectives, et qui ne soit pas dépendant de la condamnation des auteurs;

- h. D'établir le fond étatique pour les victimes de torture prévu par la loi et en conformité avec l'Observation générale no 4 de la Commission africaine des droits de l'homme et des peuples sur la Charte africaine des droits de l'homme et des peuples, concernant le droit à réparation des victimes de torture et autres peines ou traitements cruels, inhumains ou dégradants (art. 5);
 - i. D'établir un fond pour l'indemnisation des victimes de détention arbitraire et illégale;
 - j. De réformer le secteur de la sécurité:
 - (i) En s'assurant que des éléments extérieurs n'accomplissent pas des activités de défense ou de sécurité;
 - (ii) En délimitant clairement les rôles des différents corps de défense et de sécurité, en particulier du SNR;
 - (iii) En suspendant les membres des corps de défense et de sécurité suspectés d'être impliqués dans des violations des droits de l'homme jusqu'au terme des enquêtes et des procédures judiciaires;
 - (iv) En établissant des procédures strictes et transparentes de sélection qui intègrent des mécanismes de vérification des antécédents;
 - (v) En renforçant le contrôle civil et démocratique des corps de défense et de sécurité, en particulier du SNR.
 - k. De s'acquitter de ses obligations internationales de respecter, de protéger et de garantir les droits économiques et sociaux:
 - (i) En élaborant et en mettant en œuvre les budgets de l'État de manière à utiliser au maximum les ressources disponibles pour assurer le respect des droits de l'homme à la population appauvrie par la crise politique, en particulier des droits à l'alimentation, à l'eau et à la santé, et pour développer des indicateurs désagrégés, y compris par genre, pour mieux informer ses politiques;
 - (ii) En entreprenant, en consultation avec les populations travaillant dans le secteur agricole, notamment les femmes, des réformes visant une meilleure protection des droits des femmes et une meilleure utilisation des terres pour l'agriculture, et en développant des perspectives de travail en dehors du secteur agricole;
 - (iii) En utilisant une approche fondée sur les droits de l'homme pour régler les conflits fonciers dont ceux touchant les personnes ayant fui le Burundi avant et après 2015;
 - (iv) En mettant fin à toute considération politique dans les processus de recrutement au sein de l'administration publique, des sociétés publiques et des sociétés mixtes.
3. La Commission recommande aux partis politiques et aux groupes armés d'opposition de s'abstenir de toute attaque sur le territoire burundais et de tout discours appelant à la violence, et de s'engager dans la recherche d'une solution durable à la crise politique.
 4. La Commission recommande à l'Union africaine de donner une place importante, dans sa recherche d'une solution durable à la crise au Burundi, au respect des droits de l'homme et au rejet de l'impunité, tels que prévus par son Acte constitutif.
 5. La Commission recommande aux partenaires techniques et financiers du Burundi:
 - a. De suspendre ou de maintenir la suspension de toute aide budgétaire directe au Gouvernement en l'absence de priorisation des ressources internes en faveur des objectifs de développement durable et des droits économiques et sociaux de la population, et de mesures effectives contre la corruption;
 - b. De cibler les dons et les financements attribués au Gouvernement sur des projets en faveur des besoins de la population et de s'assurer que ceux-ci sont gérés efficacement et de manière transparente;

- c. D'évaluer régulièrement l'impact des sanctions financières sur la population burundaise.

6. La Commission recommande aux garants de l'Accord d'Arusha, en leur qualité d'acteurs engagés en faveur d'une paix durable au Burundi, de continuer à chercher une solution pérenne à la crise politique et des droits de l'homme qui préserve et garantit les acquis de l'Accord d'Arusha.

Version anglaise

1. 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.

2. 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 defence 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 defence or security activities;

- (ii) Clearly defining the roles of the various defence and security forces, in particular the National Intelligence Service;
 - (iii) Suspending members of the defence 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 defence 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.
3. 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.
4. 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.
5. 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.
6. 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.

4. Recommandations faites en 2017

Version française

1. Aux autorités burundaises

1. De mettre immédiatement un terme aux violations graves des droits de l'homme commises par des agents de l'État et des Imbonerakure sur lesquels l'État exerce un contrôle;

2. D'enquêter sur ces violations et s'assurer que les auteurs présumés soient jugés dans les meilleurs délais, dans des procédures crédibles, indépendantes et équitables, et que les victimes obtiennent une juste réparation. Dans le cas où les auteurs présumés sont des agents de l'État, les suspendre jusqu'au terme de l'enquête et de la procédure judiciaire;
3. De prendre des mesures concrètes pour une amélioration rapide de la situation des droits de l'homme, notamment en:
 - Annulant les mandats d'arrêt contre des dirigeants de médias, d'organisations de la société civile et de partis politiques qui n'ont pas utilisé ou prôné la violence, et permettant leur retour en toute sécurité au Burundi;
 - Levant la suspension et la radiation des médias et organisations de la société civile, leur permettant de reprendre leurs activités en toute indépendance, et revoyant les lois adoptées en 2017 sur les organisations non-gouvernementales burundaises et internationales;
 - Libérant immédiatement tous les prisonniers politiques;
 - S'assurant que toute personne arrêtée soit détenue dans un lieu de détention officiel et que des observateurs nationaux et internationaux soient autorisés à leur rendre visite;
 - Veillant à ce que les officiers de police judiciaire ne soient pas habilités à mener des perquisitions sans mandat et de nuit comme envisagé dans les projets d'amendement du Code pénal et du Code de procédure pénale;
 - S'assurant que des individus qui n'y sont pas légalement habilités, en particulier des Imbonerakure, ne conduisent pas des activités de maintien de l'ordre ou n'y prennent pas part, y compris dans des lieux de détention, et qu'ils ne portent pas des uniformes militaires ou de police ou ne soient pas en possession d'armes;
 - Poursuivant les auteurs de discours haineux ou appelant à la violence;
 - Mettant fin aux menaces, intimidations et actes d'extorsion par des agents de l'État et des Imbonerakure;
 - Permettant aux victimes de violences sexuelles et de torture d'avoir accès à des services médicaux et psychosociaux.
4. D'engager une réforme en profondeur du système judiciaire, notamment en:
 - Publiant les conclusions des états généraux de la justice qui se sont tenus en 2013 à Gitega;
 - Revoyant la composition du Conseil national de la magistrature afin que ses membres soient en majorité désignés par leurs pairs;
 - Revoyant les procédures de nomination, d'affectation, de notation et d'avancement des magistrats afin qu'elles ne dépendent pas du pouvoir exécutif;
 - Veillant au respect strict du principe d'immovibilité des magistrats du siège;
 - Protégeant et garantissant l'indépendance du système judiciaire en interdisant toute ingérence dans le fonctionnement de la justice par des autorités gouvernementales, des membres du parti au pouvoir ou des membres des corps de défense et de sécurité, et en prenant des sanctions contre ceux qui influencent, ou cherchent à influencer, le fonctionnement de la justice;
 - Développant des programmes d'aide juridictionnelle pour les plus vulnérables;
 - Renforçant les mécanismes de protection de victimes et de témoins, ainsi que leur efficacité, pour restaurer la confiance de la population et encourager les témoins à s'exprimer sans crainte pour leur sécurité.
5. De s'assurer que les membres des corps de défense et de sécurité respectent les droits de l'homme en toutes circonstances et servent les intérêts de la population dans son ensemble et pas uniquement ceux du parti au pouvoir, notamment en:
 - Renforçant le contrôle civil des corps de défense et de sécurité et l'indépendance des organes chargés de ce contrôle créés par la Constitution, en particulier le Parlement, la Commission nationale indépendante des droits de l'homme et l'Ombudsman;

- Remédiant à la carence constitutionnelle de contrôle civil du SNR;
 - Prenant des mesures pour vérifier les antécédents, notamment en matière de droits de l'homme, des agents des corps de défense et de sécurité et intégrant ces mesures à une refonte des procédures de recrutement et d'avancement de ces agents.
6. De revenir sur sa décision de se retirer du Statut de Rome et coopérer pleinement avec la CPI dans la procédure d'examen préliminaire en cours et, si une enquête est ouverte, poursuivre cette coopération et assurer la protection des victimes et témoins;
 7. D'autoriser le HCDH à reprendre ses activités de documentation des violations des droits de l'homme au Burundi, suspendues depuis octobre 2016;
 8. De signer et mettre en œuvre le mémorandum d'entente avec l'Union africaine et permettre le déploiement complet des 100 observateurs des droits de l'homme et des 100 experts militaires, décidé en 2016;
 9. De coopérer avec les mécanismes des droits de l'homme des Nations Unies en accueillant à nouveau des missions des procédures spéciales et en mettant en œuvre les recommandations récentes des organes de traité;
 10. De s'engager activement dans la voie d'une résolution durable de la crise politique, notamment dans le cadre d'initiatives de dialogue engagées au niveau international.
2. *Aux partis politiques et groupes armés d'opposition*
 11. De mettre immédiatement un terme aux atteintes aux droits de l'homme et aux actes de violence commis par leurs membres;
 12. De s'abstenir de tout discours appelant à la violence et s'engager dans la recherche d'une solution durable à la crise politique au Burundi.
 3. *Au Conseil des droits de l'homme*
 13. De prolonger le mandat de la Commission pour une durée d'un an aux fins d'approfondir et de poursuivre ses enquêtes en raison de la persistance des violations graves des droits de l'homme et des atteintes à ceux-ci et en l'absence d'autres mécanismes spécifiques en mesure de mener des enquêtes indépendantes et approfondies sur la situation des droits de l'homme au Burundi;
 14. De demander au Haut-Commissaire des Nations Unies aux droits de l'homme de faire un rapport sur l'évolution de sa coopération avec le Gouvernement du Burundi aux prochaines sessions du Conseil.
 4. *À la Cour pénale internationale*
 15. D'ouvrir dans les plus brefs délais une enquête sur les crimes commis au Burundi au vu des conclusions contenues dans le présent rapport et d'autres informations à sa disposition.
 5. *Au Conseil de sécurité des Nations Unies*
 16. De prendre dûment compte des présentes conclusions de la Commission et de la persistance de violations graves des droits de l'homme dans toute discussion sur le Burundi et, dans ce contexte, veiller à la mise en œuvre effective de la résolution 2303 (2016);
 17. De saisir la CPI de tout crime de droit international qui serait commis au Burundi après le 27 octobre 2017;
 18. De prendre des sanctions individuelles contre les principaux auteurs présumés de violations graves des droits de l'homme et de crimes de droit international au Burundi.
 6. *Au Secrétaire-général des Nations Unies*
 19. De veiller à ce que le respect des droits de l'homme et la restauration de l'État de droit soient parmi les priorités de son Envoyé spécial sur le Burundi;

20. De veiller à ce qu'aucun auteur présumé de violations des droits de l'homme ou de crimes de droit international au Burundi ne soit recruté dans des missions de maintien de la paix des Nations Unies.

7. *Aux États membres des Nations Unies*

21. D'accorder *prima facie* le statut de réfugié aux demandeurs d'asile burundais et veiller au respect strict du principe de non-refoulement, ainsi qu'à la protection des réfugiés;

22. De poursuivre, au titre de la compétence universelle, les auteurs présumés de crimes de droit international commis au Burundi se trouvant sur leur territoire;

23. De maintenir, en l'absence de toute amélioration de la situation des droits de l'homme dans le pays, les sanctions individuelles et la suspension de l'aide directe au Gouvernement burundais;

24. De fournir une assistance technique aux autorités burundaises, dans la mesure où ces dernières font preuve d'une véritable volonté politique, afin de mener des enquêtes crédibles et indépendantes, notamment en matière d'autopsie, d'exhumation et d'identification des corps;

25. De soutenir la mise en place de services médicaux et psychosociaux spécialisés, notamment pour les victimes de torture et de violences sexuelles;

26. De soutenir les autorités burundaises, si celles-ci font preuve d'une véritable volonté politique, dans tout effort de réforme du système judiciaire et du secteur de sécurité qu'elles voudront engager aux fins d'améliorer la situation des droits de l'homme.

8. *À l'Union africaine*

27. De reprendre l'initiative dans la recherche d'une solution durable à la crise au Burundi fondée sur le respect des droits de l'homme et le rejet de l'impunité, tels que prévus par son Acte constitutif, et s'y engager activement;

28. De veiller à ce qu'aucun agent de l'État burundais accusé de violations des droits de l'homme ou de crimes de droit international ne soit recruté dans des missions de maintien de la paix de l'Union africaine;

29. De s'assurer que l'équipe complète de ses observateurs des droits de l'homme et experts militaires soit rapidement déployée au Burundi;

30. D'envisager, en cas de persistance de la situation actuelle au Burundi, l'application de l'article 4 (h) de son Acte constitutif, autorisant l'Union africaine à intervenir dans un État membre dans certaines circonstances, notamment en cas de crimes contre l'humanité.

9. *À la Communauté des États d'Afrique de l'Est*

31. De s'assurer que l'amélioration rapide de la situation des droits de l'homme soit une priorité dans ses efforts de médiation.

10. *Aux garants de l'Accords d'Arusha de 2000, en leur qualité d'acteurs engagés en faveur d'une paix durable au Burundi*

32. De se réunir le plus rapidement possible en vue de trouver une solution pérenne à la crise politique et des droits de l'homme au Burundi.

Version anglaise

1. *The Burundian authorities should:*

1. 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;

2. 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;

3. 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 licences 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.

4. 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 defence 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.

5. Ensure that members of the defence 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.
6. 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;
 7. 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;
 8. 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;
 9. Cooperate with United Nations human rights mechanisms by once again receiving special procedures missions and implementing the recent recommendations of treaty bodies;
 10. 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:*
 11. Put an immediate end to human rights abuses and acts of violence committed by their members;
 12. 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:*
 13. 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;
 14. 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:*
 15. 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:*
 16. 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);
 17. Refer to the International Criminal Court any international crime that might be committed in Burundi after 27 October 2017;
 18. 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:*
 19. Ensure that respect for human rights and restoration of the rule of law are among the priorities of his Special Envoy for Burundi;
 20. 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:*

21. Grant prima facie refugee status to Burundian asylum seekers and ensure strict respect for the principle of non-refoulement and refugee protection;
22. 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;
23. 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;
24. Provide technical assistance inter alia in respect to autopsies, exhumations and identification of bodies, to enable the Burundian to conduct credible and independent investigations;
25. Support the establishment of specialized medical and psychosocial services, especially for victims of torture and sexual violence;
26. 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:*

27. 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;
28. 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;
29. Ensure that the full complement of African Union human rights observers and military experts is deployed rapidly in Burundi;
30. 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:*

31. 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:*

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

IV. Indicateurs des facteurs de risque communs identifiés dans le Cadre d'analyse des atrocités criminelles (A/70/741–S/2016/71)

Version française

Facteur de risque 1. Situations de conflit armé ou autres formes d'instabilité

- a. Conflit armé international ou non international;
- b. Crise sécuritaire provoquée, entre autres, par la dénonciation d'accords de paix, un conflit armé dans les pays voisins, des menaces d'interventions étrangères ou des actes de terrorisme;
- c. Crise ou urgence humanitaire, pouvant être causée notamment par une catastrophe naturelle ou une épidémie;
- d. Instabilité politique provoquée par un changement de régime ou un transfert de pouvoir soudain ou irrégulier;
- e. Instabilité politique provoquée par des luttes de pouvoir ou la montée en puissance de mouvements d'opposition nationalistes, armés ou radicaux;
- f. Tension politique provoquée par des régimes autocratiques ou une lourde répression politique;
- g. Instabilité économique provoquée par une pénurie de ressources ou des différends concernant leur utilisation ou leur exploitation;
- h. Instabilité économique provoquée par une crise grave de l'économie nationale;
- i. Instabilité économique provoquée par la misère, un chômage de masse ou de profondes inégalités horizontales;
- j. Instabilité sociale provoquée par une résistance à l'autorité de l'État ou à ses politiques ou par des protestations de masse contre celles-ci;
- k. Instabilité sociale provoquée par l'exclusion ou des tensions fondées sur des questions d'identité, leur perception ou leurs formes extrémistes.

Facteur de risque 2. Antécédents de violations graves du droit international des droits de l'homme et du droit international humanitaire

- a. Restrictions ou violations graves, passées ou actuelles, des droits consacrés par le droit international des droits de l'homme et le droit international humanitaire, surtout si elles sont caractérisées par un comportement systématique observé préalablement et si elles visent des groupes, populations ou personnes protégés;
- b. Actes de génocide, crimes contre l'humanité, crimes de guerre ou incitation à les commettre, survenus dans le passé;
- c. Politique ou pratique d'impunité ou de tolérance à l'égard de violations graves du droit international des droits de l'homme et du droit international humanitaire, d'atrocités criminelles ou de l'incitation à les commettre;
- d. Inaction, réticence à utiliser ou refus d'utiliser tous les moyens possibles pour faire cesser des violations graves prévues, prévisibles ou persistantes du droit international des droits de l'homme et du droit international humanitaire ou des atrocités criminelles probables, ou incitation à les commettre;
- e. Maintien d'une aide à des groupes accusés de participer à des violations graves du droit international des droits de l'homme et du droit international humanitaire, notamment des atrocités criminelles, ou non-condamnation de leurs actes;

- f. Justification de violations graves du droit international des droits de l'homme et du droit international humanitaire ou d'atrocités criminelles, rapports partiels les concernant ou refus de les reconnaître;
- g. Absence de processus de réconciliation ou de justice transitionnelle après un conflit, ou politisation de ce processus;
- h. Méfiance généralisée envers les institutions de l'État ou entre différents groupes en raison de l'impunité.

Facteur de risque 3. Faiblesse des structures de l'État

- a. Cadre juridique national n'offrant pas une protection suffisante et efficace, notamment par la ratification et l'incorporation dans le droit interne des instruments relatifs au droit international des droits de l'homme et au droit international humanitaire;
- b. Manque de ressources au sein des institutions nationales, en particulier les institutions judiciaires et celles chargées de l'application des lois et de la protection des droits de l'homme, et manque de représentation adéquate ou de formation;
- c. Absence de justice indépendante et impartiale;
- d. Absence de contrôle civil efficace des forces de sécurité;
- e. Niveaux élevés de corruption ou mauvaise gouvernance;
- f. Absence ou insuffisance de mécanismes externes ou internes de contrôle et de responsabilité, notamment que les victimes peuvent saisir pour demander réparation;
- g. Manque de sensibilisation et de formation des forces militaires, des forces irrégulières, des groupes armés non étatiques et des autres acteurs concernés au droit international des droits de l'homme et au droit international humanitaire;
- h. Manque de capacité de vérifier que les moyens et méthodes de guerre sont conformes aux normes du droit international humanitaire;
- i. Manque de moyens pour la réforme ou le renforcement des institutions, notamment par une aide régionale ou internationale;
- j. Ressources insuffisantes pour mettre en œuvre des mesures globales de protection des populations.

Facteur de risque 4. Motivations ou incitations

- a. Motivations politiques, en particulier celles visant l'acquisition ou la consolidation du pouvoir;
- b. Intérêts économiques, notamment ceux fondés sur la préservation et le bien-être des élites ou de groupes d'identité, ou sur le contrôle de la répartition des ressources;
- c. Intérêts stratégiques ou militaires, notamment ceux fondés sur la protection ou la saisie de territoires et de ressources;
- d. Autres intérêts, notamment ceux visant à rendre une zone homogène dans son identité;
- e. Menaces réelles ou perçues comme telles de groupes, populations ou personnes protégées contre les intérêts ou les objectifs des auteurs d'actes criminels, notamment l'impression de déloyauté envers une cause;
- f. Appartenance ou adhésion réelle ou perçue comme telle de groupes, populations ou personnes protégées à des groupes d'opposition armés;
- g. Idéologies fondées sur la suprématie d'une certaine identité ou sur des versions extrémistes de l'identité;
- h. Politisation de griefs, de tensions ou de cas d'impunité issus du passé;
- i. Traumatisme social provoqué par des situations de violence passées auxquelles il n'a pas été donné de suite satisfaisante et qui ont engendré des sentiments de perte, de déplacement et d'injustice et un désir possible de revanche.

Facteur de risque 5. Capacité de commettre des atrocités criminelles

- a. Disponibilité de personnel et d'armes et munitions ou de moyens financiers publics ou privés permettant de les acquérir;
- b. Capacité de transporter et déployer du personnel et de transporter et distribuer des armes et des munitions;
- c. Capacité d'encourager ou de recruter de nombreux partisans au sein de populations ou de groupes et disponibilité de moyens pour les mobiliser;
- d. Solide culture d'obéissance à l'autorité et de conformité au groupe;
- e. Présence d'autres forces armées ou de groupes armés non étatiques ou existence de liens avec de tels forces ou groupes;
- f. Présence d'acteurs commerciaux ou d'entreprises pouvant jouer un rôle déterminant en fournissant des biens, des services ou d'autres formes d'appui pratique ou technique contribuant à soutenir les auteurs;
- g. Appui financier, politique ou autre d'acteurs nationaux influents ou riches;
- h. Appui armé, financier, logistique ou autre, notamment sous la forme d'entraînement, fourni par des acteurs extérieurs, notamment des États, des organisations internationales ou régionales ou des entreprises privées.

Facteur de risque 6. Absence de facteurs atténuants

- a. Insuffisance ou absence de processus d'autonomisation, de ressources, d'alliés ou d'autres éléments qui pourraient contribuer à la capacité des groupes, populations ou personnes protégés de se protéger eux-mêmes;
- b. Absence de société civile nationale solide, organisée et représentative et de médias nationaux libres, diversifiés et indépendants;
- c. Absence d'intérêt et d'attention des acteurs de la société civile internationale ou d'accès aux médias internationaux;
- d. Absence ou présence limitée des Nations Unies, d'organisations non gouvernementales internationales ou d'autres acteurs internationaux ou régionaux dans le pays ayant accès aux populations;
- e. Absence d'adhésion ou de participation effective de l'État à des organisations internationales ou régionales établissant des obligations afférentes au statut de membre;
- f. Manque de contact, d'ouverture ou de relations politiques ou économiques avec d'autres États ou organisations;
- g. Coopération limitée de l'État avec les mécanismes internationaux et régionaux des droits de l'homme;
- h. Manque de volonté des parties à un conflit d'engager un dialogue, de faire des concessions et de solliciter l'appui de la communauté internationale, ou absence d'incitations à le faire;
- i. Réticence ou échec des États Membres de l'Organisation des Nations Unies ou des organisations internationales ou régionales à aider un État à assumer sa responsabilité de protéger ses populations contre les atrocités criminelles, ou à agir lorsque l'État n'assume manifestement pas cette responsabilité, ou indifférence à cet égard;
- j. Manque de soutien des États voisins pour ce qui est de protéger les populations à risque en quête de refuge: fermeture des frontières, rapatriement forcé ou restrictions en matière d'aide;
- k. Absence de mécanisme d'alerte rapide permettant de prévenir des atrocités criminelles.

Facteur de risque 7. Circonstances propices ou action préparatoire restreignant les droits fondamentaux

- a. Imposition de l'état d'urgence ou de mesures de sécurité extraordinaires restreignant les droits fondamentaux;
- b. Suspension d'institutions vitales de l'État ou ingérence dans ces institutions, ou mesures provoquant des modifications de leur composition ou l'équilibre des pouvoirs, en particulier s'il en résulte l'exclusion ou une sous-représentation de groupes protégés;
- c. Renforcement de l'appareil de sécurité, réorganisation ou mobilisation de celui-ci contre des groupes, populations ou personnes protégés;
- d. Acquisition de grandes quantités d'armes et de munitions ou d'autres objets pouvant être utilisés pour causer des dommages;
- e. Création de milices ou de groupes paramilitaires, ou intensification de l'appui à de tels milices ou groupes;
- f. Imposition d'un contrôle strict sur l'utilisation des moyens de communication ou interdiction d'y avoir accès;
- g. Expulsion ou refus d'autoriser la présence d'organisations non gouvernementales, d'organisations internationales, de médias ou d'autres acteurs pertinents ou imposition de lourdes restrictions à leurs services et déplacements;
- h. Augmentation du nombre de violations du droit à la vie, de l'intégrité physique, de la liberté ou de la sécurité de membres de groupes, populations ou personnes protégés, ou adoption récente de mesures ou de lois qui leur portent atteinte ou constituent une discrimination délibérée envers eux;
- i. Augmentation du nombre d'actes de violence graves contre les femmes et les enfants ou création de conditions facilitant la commission d'agressions sexuelles contre eux, notamment comme instrument de terreur;
- j. Imposition de conditions de vie délétères ou déportation, appréhension, regroupement, ségrégation, évacuation, déplacement ou transfert forcés de groupes, populations ou individus protégés vers des camps, des zones rurales, des ghettos ou d'autres lieux désignés;
- k. Destruction ou pillage de biens ou d'installations essentiels à des groupes, populations ou personnes protégés, ou de biens liés à l'identité culturelle et religieuse;
- l. Marquage de personnes ou de leurs biens au motif de leur appartenance à un groupe;
- m. Politisation accrue de l'identité, d'événements du passé ou de motifs de se livrer à la violence;
- n. Augmentation du nombre de déclarations provocatrices, de campagnes de propagande ou d'incitations à la haine visant des groupes, populations ou personnes protégés.

Facteur de risque 8. Facteurs déclencheurs

- a. Déploiement soudain de forces de sécurité ou déclenchement d'hostilités armées;
- b. Débordement de conflits armés ou graves tensions dans les pays voisins;
- c. Mesures prises par la communauté internationale, perçues par un État comme menaçant sa souveraineté;
- d. Changements de régime, transferts de pouvoir ou modifications du pouvoir politique des groupes, survenant soudainement ou irrégulièrement;
- e. Atteintes à la vie, à l'intégrité physique, à la liberté ou à la sécurité de dirigeants, de personnalités éminentes ou de membres de groupes opposés; autres actes de violence graves, notamment attentats terroristes;
- f. Manifestations religieuses ou actes réels ou perçus comme tels d'intolérance religieuse ou d'irrespect, notamment en dehors des frontières nationales;

- g. Actes d'incitation ou propagande haineuse visant des groupes ou des personnes particulières;
- h. Recensement, élections, activités essentielles liées à ces processus ou mesures qui les déstabilisent;
- i. Changements soudains affectant l'économie ou la population active, résultant notamment de crises financières, de catastrophes naturelles ou d'épidémies;
- j. Découverte de ressources naturelles ou lancement de projets d'exploitation ayant de graves incidences sur les moyens de subsistance et la viabilité de groupes ou de populations civiles;
- k. Commémoration de crimes du passé ou d'épisodes traumatiques ou historiques pouvant exacerber les tensions entre groupes, notamment la glorification d'auteurs d'atrocités;
- l. Actes liés aux processus d'établissement des responsabilités, en particulier s'ils sont perçus comme injustes.

Version anglaise

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.

V. Document

REPUBLIQUE DU BURUNDI

Bujumbura, le 30 Juin 2021



 FORCE DE DEFENSE NATIONALE DU BURUNDI

 COMMANDEMENT DE LA FORCE DE LA MARINE

N° 308/03.0310

Au Comd BIL
 Comd UFL
 Info : Chef de la FDNB-G3

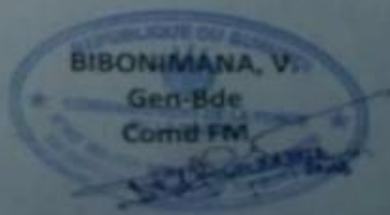
Objet : Renforcement de la sécurité

1. La situation sécuritaire se porte bien sur tout le territoire national. Cependant, sur la frontière ouest on signale des groupes armés de TABARA et NZABAMPEMA qui ambitionnent de s'infiltrer sur notre territoire pour déstabiliser la sécurité. Pareil cas est à signaler coté frontière Nord de notre pays. A l'intérieur sur certains axes routiers, on enregistre des cas isolés de criminalité imputables à des bandes armées non identifiées.

2. Il revient aux Corps de Défense et de Sécurité dont la Force de la Marine d'en finir avec cette situation et ainsi mettre hors d'état de nuire ces bandes armées.

Pour cela au tour de la célébration du 59^{ème} anniversaire de l'Indépendance, il faut:

- ✓ Identifier des zones chaudes et y installer des centres opérationnels dans votre secteur de responsabilité ;
- ✓ Aider l'administration dans l'encadrement de la population à travers ces centres Ops ;
- ✓ Associer les anciens membres des Corps de Défense et de Sécurité et Mouvements Politiques Armés;
- ✓ Renforcer la quadrilogie,
- ✓ Intensifier la recherche du renseignement ;
- ✓ Multiplier des patrouilles sur les axes ;
- ✓ Multiplier des fouilles ciblées approfondies des véhicules;
- ✓ Organiser un commandement de proximité et encadrer vos militaires par des inspections régulières ;
- ✓ Eviter de culpabiliser dans la globalisation les anciens combattants (Ex militaires, Ex policiers, Ex membres des Mouvements Politiques Armés) dans votre secteur;
- ✓ Renforcer les mesures de sécurités dans les Lacs.



 BIBONIMANA, V.
 Gen-Bde
 Comd FM