

## FOLLOW UP TO THE PREVIOUS REVIEW

1. Out of 242 recommendations received during the previous review, Burundi supported 125 and noted 117. Regrettably, Burundi merely noted important recommendations that if implemented would have helped improve the situation in regard to the shrinking of civic space, enforced disappearances, torture and ill-treatment, cooperation with international human rights mechanisms, access to health and education, sexual and gender-based violence, and measures to promote equality and non-discrimination principles.<sup>1</sup> Serious concerns remain in these areas and these recommendations should be implemented as soon as possible.
2. Despite President Evariste Ndayishimiye's promises to improve Burundi's human rights situation during his inaugural speech in June 2020<sup>2</sup>, Burundian authorities have failed to effectively guarantee freedom of expression, association and peaceful assembly in line with the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.<sup>3</sup> During the period under review, Burundian authorities have continued to restrict civil society organizing and media by restricting their activities, prosecuting human rights defenders and journalists considered critics of the government and the ruling party. Many independent human rights defenders remain in exile. The March 2022 cybercrime law further restricts human rights online and offline.
3. In a positive move, Burundi ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but is yet to establish an effective national preventive mechanism regarding torture.<sup>4</sup> Regrettably, the state only noted recommendations to investigate allegations of extrajudicial executions, enforced disappearances, torture, and sexual violence committed by state and non-state actors.<sup>5</sup>
4. Authorities failed to effectively ensure better access of the population to health care.<sup>6</sup> During the 2020 global health crisis, authorities failed to respond appropriately to the Covid-19 pandemic to protect the right to health. In 2011, while authorizing the vaccine campaign, with the support of the World Bank, it refused to commit to manage any side effects or compensation. Doctors also challenged official Covid19 numbers, alleging that actual numbers were higher than what the government published.<sup>7</sup> In May 2020, Burundi expelled the country representative of the World Health Organization to conceal facts and statistics about Covid-19. The authorities failed to take timely and effective measures to protect people's right to access vaccines.
5. Burundi supported 14 recommendations to ensure universal access to education.<sup>8</sup> In June 2018, the Minister of Education issued a directive to public and private institutions that pregnant teens and young mothers, as well as the boys who made them pregnant, were not allowed in schools.<sup>9</sup> The measure was reversed a month later after a national and international outcry. Burundi is yet to ratify the Convention against Discrimination in Education, despite supporting a recommendation to do so in the previous review.<sup>10</sup>
6. Burundi committed to ensure effective investigation and prosecution of sexual and gender-based violence.<sup>11</sup> Under the period reviewed, the state failed to take steps to investigate allegations of rape, sexual assault, and abuses by its security forces and the Imbonerakure.
7. Regrettably, Burundi merely noted nine recommendations to ensure equality and non-discrimination principles including to decriminalize same-sex relations. These recommendations remain highly relevant as the state has failed to take effective measures to protect victims of violence based on their real or perceived

sexual orientation, gender identity and expression. Burundi continues to criminalize same-sex relations among consenting adults.<sup>12</sup>

## THE NATIONAL HUMAN RIGHTS FRAMEWORK

### Cybercrime law

8. In March 2022, Burundi passed a law on cyber criminality. While the legislation introduces important measures against online crimes and abuses, including measures to protect the right to privacy, it also contains clauses that could be used to limit access to information like the establishment of a “unique gateway” for internet connectivity. If enacted, this could facilitate government surveillance and limit access or online activities of critics. Further, the law under Article 9 entrusts network operators to inform users of the risk of breaching public order and security without further details. The government has previously justified arbitrary arrests and unlawful detention of critics on trumped-up charges of “menace to public order” There are also concerns over what constitute an “illegal online activity” and how this could apply to, sex workers, sexual minorities and organizations working on these issues.<sup>13</sup>

### Penal Code and Sexual and Gender Based Violence Law

9. The 2016 Law to Protect Victims, Prevent and Repress Gender Based Violence faces application challenges as clauses it refers to in the Penal Code are no longer in existence since the 2017 revision of the penal code. The law also fails to provide reparations to victims of sexual and gender-based violence.

### Past human rights violations

10. A 2018 law renewed and amended the mandate of the Truth and Reconciliation Commission (TRC).<sup>14</sup> Initially established by a 2014 law<sup>15</sup>, the TRC’s mandate aimed to investigate and establish the truth about violations of human rights and international humanitarian law between 1962 and 2008.<sup>16</sup> The 2018 law expanded this timeframe back to 1885. By selecting this timeframe, the current government continues to exclude any possibility for the TRC to conduct investigations and establish the truth about human rights violations committed under its leadership.

### National Independent Human Rights Commission

11. In November 2017, the UN Human Rights Council downgraded the National Independent Human Rights Commission (CNIDH) from “A” to “B” status for failing to demonstrate compliance with the Paris Principles as an independent and credible institution since the 2015 crisis. In June 2021, the Sub-Committee of the Global Alliance of National Human Rights Institutions recommended its re-accreditation to “A” Status, citing improvement of the CNIDH’s efforts to promote and protect human rights in Burundi as well as improved interactions with international human rights systems.<sup>17</sup>

## THE HUMAN RIGHTS SITUATION ON THE GROUND

### Freedom of expression, association and peaceful assembly

12. Amnesty International is concerned by the continued crackdown on the rights to freedom of expression, association and peaceful assembly in Burundi. In the lead-up to the 2018 referendum, the National Communication Commission banned BBC and Voice of America from broadcasting.<sup>18</sup> Burundian authorities lifted the ban against these two international media outlets, as well on Burundian media houses Bonessa FM and Radio Isanganiro in March 2022. However, African Public Radio (RPA) and Télé Renaissance remain closed to date.
13. Four journalists, Christine Kamikazi, Agnès Ndirubusa, Térance Mpozenzi, and Egide Harerimana, working for Burundian private media house Iwacu, and their driver Adolphe Masabarakiza, were arrested on 22 October 2019 in the northwestern district of Musigati, Bubanza Province while reporting on clashes between an armed group and security forces.<sup>19</sup> The four journalists were granted presidential pardon in December 2020 and released.
14. The government continued to interfere with the work of national and international organizations by clamping down on critics following the 2015 crisis. In 2018 and 2019, the government demanded that NGOs comply with the 2017 NGO law requirement for NGOs to submit personal information, including names and ethnic identities, of their employees.<sup>20</sup> The government is yet to put in place safeguards to protect privacy of employees or to avoid discrimination based on ethnicity.<sup>21</sup>
15. In 2018, former rebel leader, Agathon Rwasa, now a member of parliament, founded a new political party, the National Congress for Freedom (CNL). Amnesty International documented several attacks against members and properties of this newly formed political party in the lead-up to the 2020 general election.<sup>22</sup> In 2022, several CNL meetings were disrupted by security forces and the Imbonerakure, including in Gitega province.<sup>23</sup> In June, celebration activities for CNL's third anniversary were banned in several provinces.<sup>24</sup> At least two offices of the CNL were burnt down.<sup>25</sup>
16. Burundian authorities continue to impose restrictions against 10 human rights organizations suspended or banned following the 2015 crisis. Independent human rights organizations that were allowed to operate in the country continue to face multiple challenges. In 2019, Consciences and the Evolution of Mentalities (PARCEM) was suspended by the Ministry of Interior after launching a campaign on social and economic issues, including malnutrition, inflation, and poverty. The ban was lifted in April 2021. In March 2022, the police shut down a press conference organized by PARCEM and Anti-corruption and Economic Malpractice Observatory (OLUCOME) to denounce measures, they believed ill-advised, by the Ministry of Interior to deny bicycles, tricycles, and motorcycles access to Bujumbura city centre.

### Arbitrary arrests, torture, and unlawful detention

17. The government has failed to end violations and abuses by members of the National Intelligence Service (SNR), the police and other non-state actors, including the Imbonerakure. In the lead-up to the 2020 general elections, Amnesty International documented arbitrary arrests, and detention of CNL members. The CNL alleged that more than 600 members were arrested before and during election day, including some candidates to elective positions.<sup>26</sup>
18. Amnesty International documented systemic use of torture against members of the opposition and government critics who opposed the late President Pierre Nkurunziza's third term in office.<sup>27</sup>

19. Mr. Christophe Sahabo, Medical Doctor, Director, and Managing Director of Kira Hospital in Bujumbura was arrested in March 2022 and remained in incommunicado detention for several days. He was detained in an SNR cell and spent more than 30 days before being presented to a magistrate and transferred to Mpimba Prison. Dr. Sahabo was forced to resign as MD of Kira over claims of fraud, money laundering, and forging of documents. He has denied these allegations.<sup>28</sup>

### **Prisons and rights of detainees**

20. Since the last review, authorities have continued to violate the rights of detainees. Prison conditions remain below regional and international standards. Prisoners and human rights defenders have denounced food scarcity, lack of water and adequate sanitation. Prisoners are held in overcrowded conditions.<sup>29</sup> Following a fire at Gitega Prison in December 2021, authorities are yet to conduct a thorough, impartial, independent, transparent and effective investigation into the incident that killed at least 38 people, according to official accounts.<sup>30</sup> The facility, which was designed for 400 inmates, houses more than 1200 to date.
21. In 2019, authorities failed to take effective steps to protect prisoners against the spread of Covid-19. ACAT-Burundi cited overcapacity of prisons, as well as poor hygiene conditions, as the main challenges in protecting prisoners from Covid-19.<sup>31</sup>

### **Enforced disappearances**

22. While numbers of enforced disappearances have reduced since the last review, critics of the government and the ruling party remain at great risk of enforced disappearance. In 2021, Ligue Iteka reported 62 cases of enforced disappearances.<sup>32</sup> On 30 December 2021, Isaac Bamporubusa, a former soldier, went missing. He had been repatriated to Burundi from Rwanda by the UN Refugee Agency two weeks before. It was reported that Isaac Bamporubusa fled Burundi in 2017 because of threats he had received.<sup>33</sup>

### **Extrajudicial executions and unlawful killings**

23. In 2020, the organization, Ligue Iteka, estimated that more than 400 people were killed by security forces and groups affiliated to the security forces and the ruling party.<sup>34</sup> In June 2022, a local youth official of the CNL party, Jean Paul Ntirampeba, was found dead near the Rusizi river.<sup>35</sup> Amnesty International is concerned that Burundi continues to fail to thoroughly, transparently effectively investigate and prosecute these cases.

### **Truth, justice and accountability**

24. The Truth and Reconciliation Commission proposed to introduce a genocide denial bill in March to punish anyone who denied the "genocide against the Hutu in Burundi." The TRC's methodology and activity of exhuming bodies continues to be contested by human rights groups and is seen by many Burundian and international actors as part of the ruling party's victimization narrative.<sup>36</sup>
25. Burundian authorities continue to deny regional and international human rights mechanisms access to document human rights violations and monitor the implementation of recommendations of regional and international human rights bodies, including the African Commission on Human and Peoples' Rights and the UN Human Rights Council. During the update to the Human Rights Council in Geneva, Fortune Gaetan Zongo, the UN Special Rapporteur on human rights situation in Burundi, appealed for access, but Burundian authorities are yet to grant him access to effectively carry out his mandate.

## Human rights defenders

26. Human rights defenders and activists continue to be the target of state sponsored attacks and repression. In February 2020, human rights defenders and journalists who opposed President Pierre Nkuruziza's third term in office were tried and sentenced in absentia without any legal representation. In 2018, human rights defenders Germain Rukuki and Nestor Nibitanga were respectively sentenced to 32 and 5 years. On 4 June 2021, Germain Rukuki's sentence was reduced from 32 years to one year and he was released at the end of June. Nestor Nibitanga completed his sentence and was released in August 2021.
27. In 2021, lawyer and human rights defender, Tony Germain Nkina<sup>37</sup> was sentenced to five years in prison and fined one million Burundian francs. He was arrested on 13 October 2020 in the northern province of Kayanza, Burundi, falsely accused of collaborating with the armed opposition group, RED-Tabara (Resistance for the Rule of Law), a group which the government alleges was responsible for armed attacks in Kayanza province in early October 2020. Tony Germain Nkina was arrested while visiting a client in Kabarore commune – a locality that had been attacked. He was interrogated and held at the SNR office in Kayanza, then taken into police custody before being transferred to Ngozi Prison, in Ngozi Province where he remains in detention.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### Amnesty International calls on the Government of Burundi to:

#### Human rights framework

28. Repeal provisions of the of the cybercrimes laws that could facilitate government surveillance and limit access or online activities of critics.
29. Amend the 2016 Law to Protect Victims, Prevent and Repress Gender Based Violence to provide reparations for victims of gender-based violence.
30. Harmonize the 2016 Law to Protect Victims, Prevent and Repress Gender Based Violence law and the Penal Code.
31. Amend the Truth and Reconciliation Commission law of 2018 and expand its mandate to cover the 2015 crisis and allow it to discharge its mandate without any political interference.

#### Freedom of expression, association and peaceful assembly

32. Lift the ban against RPA and Télé Renaissance, and refrain from and prosecute any threats and intimidation of journalists to enable them to work freely without fear of reprisals.
33. Drop intrusive requests for ethnic information that interferes with the right to freedom of association, and let all NGOs, national or international, operate freely and safely.
34. Lift the ban against Burundian human rights organizations and facilitate their return to Burundi through an effective and inclusive dialogue process.

35. End targeted attacks against National Congress for Freedom (CNL) members and bring to justice those suspected responsible for violence against opposition members and properties and ensure access to justice and effective remedies.

### **Arbitrary arrests, torture, and unlawful detention**

36. As previously recommended, conduct a comprehensive investigation into allegations of arbitrary arrests, torture and unlawful detention, including by members of the National Intelligence Service and the Imbonerakure.
37. Immediately suspend from duty members of security forces suspected of torture and other ill-treatment, and any officials who ordered or condoned such crimes, pending prompt, impartial and independent investigations, and where there is sufficient evidence prosecute those suspected of criminal responsibility in fair trials.
38. Release Dr. Christopher Sahabo, who is unlawfully detained.

### **Prison and Rights of Detainees**

39. Improve prison conditions by creating more space to house inmates and provide sufficient food, water and sanitary items.
40. Reduce the number of incarcerated people by releasing those in pre-trial detention for minor or bailable offences.

### **Enforced disappearances**

41. As previously recommended, conduct prompt, thorough, impartial, independent, transparent, and effective investigations into cases of enforced disappearance and prosecute those allegedly responsible in fair trials
42. As previously recommended, speedily ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications.

### **Extrajudicial Executions and Unlawful killings**

43. As previously recommended, conduct prompt, thorough, impartial, independent, transparent, and effective investigations into allegations of summary executions and unlawful killings, and prosecute those allegedly responsible for such violations in fair trials, including suspected members of the security forces and the Imbonerakure.

### **Truth, justice, and accountability**

44. Allow UN human rights mechanisms and other regional monitors to conduct investigations on allegations of human rights violations across the country, unimpeded and without restrictions.
45. Investigate and prosecute individuals allegedly responsible for crimes under international law and other grave human rights violations and abuses in fair trials, including in relation to crimes committed since 2008;
46. Pause the exhumations of bodies until a comprehensive framework that will not further traumatize families, reinforce ethnic tensions, and threaten the reconciliation process is put in place.

## Human Rights Defenders

47. Quash the convictions of human rights defenders and journalists tried and convicted in absentia following unfair trials, and solely for peacefully exercising their human rights.
48. Release lawyer, Tony Germain Nkina and refrain from illegal arrest, detention, and prosecution of human rights defenders.

<sup>1</sup> United Nations Human Rights Council, Matrix Recommendations Burundi, 38th Session, March 2018

<sup>2</sup> UN Commission of Inquiry on Burundi: Burundi needs more than a new President to break the cycle of violence, say UN investigators, 14 July 2020, <https://www.ohchr.org/en/press-releases/2020/07/burundi-needs-more-new-president-break-cycle-violence-say-un-investigators>

<sup>3</sup> A/HRC/38/10/Add.1, recommendation 137.153 [Greece], Para. 8

<sup>4</sup> A/HRC/38/10/Add.1, recommendation 137.84 [United Kingdom, Northern Ireland], Para 7

<sup>5</sup> A/HRC/38/10/Add.1, recommendations 137.121, 137.124 [Poland, Norway], Para 8

<sup>6</sup> A/HRC/38/10/Add.1, recommendation 137.197 [Algeria], Para 7

<sup>7</sup> Amnesty International, Burundi Chapter, Annual Report 2021/22 (Index Number: POL 10/4870/2022), <https://www.amnesty.org/en/documents/pol10/4870/2022/en/>

<sup>8</sup> A/HRC/38/10/Add.1, recommendations 137.21 [Togo], 137.201 [Mexico], 137.182 [China], 137.187 [Sri-Lanka], 137.197 [Algeria], 137.206 [Slovenia], 137.207 [Togo], 137.198 [Islamic Republic of Iran], 137.199 [Libya], 137.200 [Democratic People's Republic of South Korea], 137.202 [Myanmar], 137.203 [State of Palestine], 137.204 [Ethiopia], 137.205 [Azerbaijan] Para. 7

<sup>9</sup> Rebecca Ratcliffe, Pregnant teens and expectant fathers barred from school in Burundi, The Guardian, 3 July 2018, <https://www.theguardian.com/global-development/2018/jul/03/pregnant-teenage-girls-expectant-fathers-barred-school-burundi>

<sup>10</sup> A/HRC/38/10/Add.1, recommendation 137.21 [Togo], Para. 7

<sup>11</sup> A/HRC/38/10/Add.1 recommendation 137.229 [Poland], Para. 7

<sup>12</sup> A/HRC/38/10/Add.1 137.93 [New Zealand, Timor-Leste, Ecuador, Australia, Uruguay, Argentina] - Para. 8

<sup>13</sup> Loi No 1/10 du 16 Mars 2022 Portant Prévention et Répression de la Cybercriminalité au Burundi Mars 2016

<sup>14</sup> Loi No 1/022 du 06 Novembre 2018 Portant Modification de la Loi No 1/18 du 15 Mai 2014 Portant Création, Mandat, Composition, Organisation et Fonctionnement de la Commission Vérité et Réconciliation

<sup>15</sup> Loi No 1/18 du 15 Mai 2014 Portant Création, Mandat, Composition Organisation et Fonctionnement de la Commission Vérité et Réconciliation

<sup>16</sup> The revised 2018 TRC law expanded the mandate of the Commission to cover serious violations during colonial period from 1885 up to 1962 and from 1962 to December 2008. The law however failed to include serious violations committed under the currently government, included those related to the 2015 crisis.

While the establishment of a special tribunal figured prominently in the negotiations around Burundi's transitional justice mechanisms, it was not included in the final TRC law and no judicial mechanism has yet been established to bring to justice those responsible for crimes under international law and other serious violations of international human rights law.

<sup>17</sup> GANHRI Sub-Committee on Accreditation Report – June 2021

<sup>18</sup> Amnesty International, Burundi: Civic space remains closed as election preparations begin (Index Number: AFR 16/0014/2019), <https://www.amnesty.org/en/documents/afr16/0014/2019/en/>

<sup>19</sup> Amnesty International, Burundi: Immediately release detained journalists (Index Number: AFR 16/1283/2019), <https://www.amnesty.org/en/documents/afr16/1283/2019/en/>

<sup>20</sup> See Amnesty International, Burundi: End interference in NGO operations

<https://www.amnesty.org/en/documents/afr16/1919/2020/en/> (Index Number: AFR 16/1919/2020)

<sup>21</sup> Ethnic quotas are part of Burundi's political fabric following the decade-long civil war. To counter-balance ethnic dominance in the country's institutions, the Arusha Accords instituted a quota system. However, neither Burundi's Constitution or the Arusha Accords apply this measure to NGOs or the private sector.

<sup>22</sup> Amnesty International, Burundi: Election campaigns kick-off amid COVID-19, harassment and tension, (Press Release, 27 April 2020), <https://www.amnesty.org/en/latest/news/2020/04/burundi-election-campaigns-kick-off-amid-covid19-harassment-and-tension/>

<sup>23</sup> David Irakoze, Buraza : réunion des organes dirigeants du parti CNL suspendue en catastrophe, SOS Media Burundi, 10 July 2022, <https://www.sosmediasburundi.org/2022/07/10/buraza-reunion-des-organes-dirigeants-du-parti-cnl-suspendue-en->

catastrophe/

<sup>24</sup> Egide Harerimana, Très remontés, les députés du CNL boycottent une session parlementaire, Iwacu Burundi, 22 June 2022, <https://www.iwacu-burundi.org/tres-remontes-les-deputes-du-cnl-boycottent-une-session-parlementaire/>

<sup>25</sup> Joelle Kamikazi, Nyabitsinda : deux permanences collinaires du parti CNL brûlées, SOS Media Burundi, 30 June 2022

<sup>26</sup> Amnesty International, Burundi: Concrete action needed by new government (Index Number: AFR 16/2695/2020), <https://www.amnesty.org/en/documents/afr16/2695/2020/en/>

<sup>27</sup> Amnesty International, Burundi Chapter, Annual Report 2021/22, (Index Number: POL 10/4870/2022), <https://www.amnesty.org/en/documents/pol10/4870/2022/en/>

<sup>28</sup> Egide Harerimana, Kira Hospital : Incarcération de Dr Christophe Sahabo, sa défense dénonce une détention illégale, Iwacu Burundi, 26 April 2022, <https://www.iwacu-burundi.org/kira-hospital-incarceration-de-dr-christophe-sahabo-sa-defense-denonce-une-detention-illegale/>

<sup>29</sup> Action by Christians for the Abolition of Torture, Rapport sur le Monitoring des Violations des Droits des Prisonniers – Avril – Juin 2022, p. 4, 5 July 2022, <https://www.acatburundi.org/rapport-de-monitoring-des-violations-des-droits-des-prisonniers-recense-pour-avril-a-juin-2022/>

<sup>30</sup> Human Rights Watch, Burundi: Account for Dead in Gitega Prison Fire, 24 January 2022, <https://www.hrw.org/news/2022/01/24/burundi-account-dead-gitega-prison-fire>

<sup>31</sup> Action by Christians for the Abolition of Torture, Annual Report on Prisons, 2020. <https://www.acatburundi.org/wp-content/uploads/2021/03/Rapport-annuel-sur-les-prisons-de-IAcat-Burundi-pour-2020-1.pdf>

<sup>32</sup> Ligue Iteka, Rapport Annuel 2021, p. 11

<sup>33</sup> SOS Torture Burundi, Quarterly report on the human rights situation in Burundi from 1st October to 31 December 2021, p. 17, January 2022, [https://sostortureburundi.org/wp-content/uploads/2022/03/Quarterly\\_report\\_4\\_2021-1.pdf](https://sostortureburundi.org/wp-content/uploads/2022/03/Quarterly_report_4_2021-1.pdf)

<sup>34</sup> Ligue Iteka, Rapport annuel Iteka n'Ijambo 2020, p. 1, 3 January 2021, <https://ligue-iteka.bi/rapport-annuel-iteka-nijambo-2020/>

<sup>35</sup> SOS Torture Burundi, Weekly Report, No 340, p. 2, 18 June 2022, <https://sostortureburundi.org/wp-content/uploads/2022/06/Weekly-report-no-340.pdf>

<sup>36</sup> Since the start of 2020, the TRC has been conducting regular and highly publicized exhumations of mass graves, predominantly related to the 1972 massacres. The exhumations and the commentary on them by public officials have been perceived as an attempt to impose a single narrative and to manipulate public sentiment in the run-up to the elections. The process, as conducted, risks retraumatizing family members of victims and others who lived through the atrocities in question. On a practical level, the exhumations have not been conducted in a way that would preserve evidence from the graves. The exhumations should be put on hold until proper guidelines are in place to exhume further graves with dignity and to the necessary forensic standards, as well as for respectful storage of the human remains exhumed. Communities and families should be urgently consulted on their wishes for the treatment and eventual reburial of their loved ones' remains. Amnesty International, Burundi: Human rights priorities for new government, <https://www.amnesty.org/en/documents/afr16/2777/2020/en/>

<sup>37</sup> Amnesty International, Burundi: Lawyer gets 5-year prison sentence: Tony Germain Nkina, (Index Number: AFR 16/4636/2021) <https://www.amnesty.org/en/documents/afr16/4636/2021/en/>