Asylum Research Centre

Burundi: Country Report

January 2023 (COI between 1st May 2020 and 1st December 2022)

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A. Explanatory Note

Background

This report presents Country of Origin Information (COI) on Burundi focusing on a range of profiles identified to be of relevance in refugee status determination for Burundian nationals.

The COI presented in this report is illustrative but not exhaustive of the information available in the public domain, nor is it determinative of any individual human rights or asylum claim. All sources are publicly available and a direct hyperlink has been provided.

In this report, ARC has complemented its research on English-speaking sources with some French-speaking sources. Relevant sources have been unofficially translated and are described as such. **Please note that these are not official translations.**

A list of sources and databases consulted is also provided in this report, to enable users to conduct further research and source assessments. Research concentrated on events that took place between 1st May 2020 and 1st December 2022 with the exception of sections *I.a. Brief Historical Background*, where research was also included pre-May 2020 to provide context, and *XIII. Humanitarian situation*, where research focused on 2022 to provide the most recent and relevant information available. All sources included in this report were accessed between mid-November 2022 and January 2023.

The following reports, which post-date the cut-off point have been included given that they address issues of relevance for this report:

- Reporters Without Borders, *After being blocked for five years, Burundian news site is accessible again*, 2 December 2022
- Frontline Defenders, *Quashing of Tony Germain Nkina's Sentence by the Supreme Court*, 9 December 2022

With regards to monitoring the human rights situation on the ground, note that Human Rights Watch highlighted in May 2021:

> Documenting human rights violations remains difficult due to restricted access to the country for international human rights organizations, security risks for Burundian activists, and victims' and witnesses' fear of retaliation by the authorities.[1]

Moreover, in July 2022 "Burundi's representative at the UN Human Rights Council has shut down hope, once again, that the country would cooperate with the newly appointed UN Special Rapporteur, who is responsible for monitoring and reporting on the country's human rights situation" and is still not providing access to the country to the UN Special Rapporteur on Burundi.[2] The Special Rapporteur on

[1] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021
[2] Clémentine de Montjoye (Human Rights Watch), *Burundi Rejects Calls for Reform, Scrutiny*, 4 July 2022

Burundi specifically highlighted that "he only has access to partial information, achieved through secondary sources. That, he said, could tarnish the credibility and neutrality of his effort".[3]

Clémentine de Montjoye, a Human Rights Watch researcher, further noted that:

> From where we stand, it's unclear what efforts the government is truly making to tackle systemic human rights violations in Burundi. Since President Évariste Ndayishimiye came to power two years ago, our reports have highlighted the same patterns of abuses that took place under the 15-year rule of Pierre Nkurunziza, his predecessor.
>
> We have seen limited positive steps under Ndayishimiye. Burundi's authorities did lift some suspensions of media and civil society and release several jailed human rights defenders and journalists. But much more is needed if the government is serious about its stated desire to implement reforms and improve its image.[4]

Disclaimer

This document is intended to be used as a tool to help to identify relevant COI and the COI referred to in this report can be considered by decision makers in assessing asylum applications and appeals. While we strive to be as comprehensive as possible, no amount of research can ever provide an exhaustive picture of the situation. It is therefore important to note that the absence of information should not be taken as evidence that an issue, incident or violation does not exist. **This report is also not a substitute for individualised case-specific research and therefore this document should not be submitted in isolation as evidence to refugee decision-making authorities**. Whilst every attempt has been made to ensure accuracy, the authors accept no responsibility for any errors included in this report.

[3] Voice of America (VOA), UN Investigator Calls For Access to Burundi to Probe Human Rights Violations, 29 June 2022

[4] Clémentine de Montjoye (Human Rights Watch), *Burundi Rejects Calls for Reform, Scrutiny*, 4 July 2022

B. List of Sources

Not all of the sources listed here have been consulted for each issue addressed in the report. Additional sources to those individually listed were consulted via database searches. This non-exhaustive list is intended to assist in further case-specific research. To find out more about an organisation, view the 'About us' tab of a source's website.

Note that we were commissioned to search for both English and French-language sources. Due to internal resources and the volume of information found, emphasise was placed on the former. The French-language sources highlighted below in *Italics* are therefore not heavily featured in this report, but contain very valuable reports, highlighting monthly levels of incidents and individual human rights violations.

Databases

Asylos's Research Notes [subscription only]
Immigration and Refugee Board of Canada – Responses to Information Requests
EUAA COI Portal
European Country of Origin Information Network (ECOI)
Relief Web
UNHCR Refworld

News

African Arguments [Burundi]
All Africa
Al Jazeera
The East African
The Guardian [Burundi]
Inter Press Service
The New Humanitarian [Burundi]
Reuters
SOS Médias Burundi

Sources

76 Crimes [LGBT]
Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) *[Note: ACAT publishes monthly human rights reports]*
Afro Barometer
Aidsmap
AIDSPortal
Armed Conflict Location & Event Date Project (ACLED) [Burundi]
Article 19 [Freedom of expression and information]
African Studies Centre Leiden
Africa Center for Strategic Studies
Amnesty International [Burundi]
Anti Trafficking and Labour Exploitation Unit (ATLEU)

Assessment Capacities Project (ACAPS) [Burundi]
Association Burundaise pour la protection des Droits Humains et des personnes Détenues (APRODH) *[Note: APRODH publishes monthly human rights reports]*
Association for the Prevention of Torture
Atlantic Council
Atlas of Torture
Be in the KNOW [HIV/AIDS]
Brookings Institution
The Burundi Human Rights Initiative
Carnegie Endowment for International Peace
Centre for Strategic and International Studies
Child Rights International Network (CRIN)
The Christian Post
Christian Solidarity Worldwide
CIA World Factbook [Burundi]
CIVICUS [Human Rights Defenders]
Civil Rights Defenders
Coalition burundaise des défenseurs des droits de l'homme (CBDDH)
Coalition Burundaise pour la Cour Pénale Internationale (CB-CPI) *[Trigger warning: Images of dead, injured and tortured individuals: CB-CPI published irregular monthly reports]*
Collectif Des Avocats Pour La Defense Des Victimes De Crimes De Droit International Commis Au Burundi (CAVIB) *(Twitter Account)*
Combatting Terrorism Center
Committee to Protect Journalists [Burundi]
Crisis 24
Death Penalty Worldwide (Cornell Law School)
Defend Defenders [Burundi]
Disabled People's International
Displacement Tracking Matrix (DTM) [Burundi]
EASO's List of sources in its report 'Researching the situation of lesbian, gay, and bisexual persons (LGBT) in countries or origin'
Edge Media Network [LGBT]
Eldis
Equal Rights Trust
European Council on Foreign Relations (ECFR)
European Network on Statelessness
Foreign Affairs (published by Council on Foreign Relations)
Freedom House [Burundi]
Frontline Defenders
Forum pour la Conscience et le Développement (focode)
Forum pour le Renforcement de la Société Civile *[Note: FORSC publishes regular human rights articles and reports]*

Gay Star News
Global Centre for the Responsibility to Protect [Burundi]
Global Coalition to Protect Education from Attack
Global Fund for Peace
Global Gayz
GlobalSecurity.org
Governance Social Development Humanitarian Conflict (GSDRC)
Hands off Cain
Heidelberg Institute for International Conflict Research
Henry J. Kaiser Family Foundation [HIV/AIDS]
Hudson Institute
Human Dignity Trust [Burundi]
Humanity & Inclusion
Human Rights Watch [Burundi]
Inclusion International
Inclusive Security
Institute for Human Rights and Development in Africa
Institute for Economics & Peace – Global Peace Index 2021
Institute for Security Studies (ISS)
Institute for War and Peace Reporting
Institute Statelessness and Inclusion
Internal Displacement Monitoring Centre (IDMC) [Burundi]
International Alert
International Bar Association
International Centre for Prison Studies
International Commission of Jurists
International Committee of the Red Cross (ICRC)
International Crisis Group
International Disability Alliance
International Federation for Human Rights [Africa pages]
International Federation of Journalists
International Freedom of Expression Exchange
International Institute for Strategic Studies
International Labour Organisation (ILO) [Burundi]
International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA)
International Organization for Migration (IOM) [Burundi]
International Refugee Rights Initiative (IRRI)
International Rehabilitation Council for Torture Victims
International Rescue Committee
International Service for Human Rights [Human Rights Defenders]
IPI Global Observatory
Jamestown Foundation

Kaleidoscope Trust [LGBT]
Landmine & Cluster Munition Monitor
Leonard Cheshire Disability International
Ligue Burundaise Des Droits de L'Homme ITEKA *[Note: Ligue ITEKA publishes regular human rights articles and reports]*
Medecins Sans Frontieres/Doctors Without Borders
Minority Rights Group International
Mouvement des Femmes et Filles pour la Paix et la Sécurité au Burundi (MFFPS)
Oakland Institute
OECD's Social Institutions & Gender Index
Open Society Foundations
Organization for Refuge, Asylum & Migration (ORAM)
Out Right International [LGBT]
Overseas Development Institute (ODI)
Oxfam
Peace Women
Penal Reform International
Physicians for Human Rights
Pink News [LGBT]
Protection International
Redress
Refugees International
Reporters Without Borders
Rights Africa
Rights for Peace
Right to Education
Saferworld
Sexual Rights Initiative
Small Arms Survey
SOGICA Database [LGBT]
SOS – Torture / Burundi *[Note: SOS-Torture publishes daily and quarterly human rights reports]*
Transparency International
Trial International (Burundi)
UK Foreign and Commonwealth Office – Human Rights and Democracy Reports
L'Union Burundaise des journalistes (UBJ) *[Note: UBJ publishes regular human rights reports]*
United Nations Commission of Inquiry on Burundi
United Nations Children's Fund (UNICEF) [Burundi]
United Nations Committee Against Torture
United Nations Committee on Economic, Social and Cultural Rights
United Nations Committee on the Elimination of Discrimination Against Women
United Nations Committee on Enforced Disappearances
United Nations Committee on the Rights of the Child

United Nations Committee on the Rights of Persons with Disabilities
United Nations Development Programme (UNDP) [Burundi]
United Nations High Commissioner for Refugees (UNHCR)
United Nations Human Settlements Programme (UNHABITAT)
United Nations News Centre
United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) [Burundi]
United Nations Office of the High Commissioner for Human Rights (OHCHR) [Burundi]
United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict
United Nations Population Fund (UNPFPA)
United Nations Secretary General reports
United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions
United Nations Special Rapporteur on extreme poverty and human rights
United Nations Special Rapporteur on freedom of religion or belief
United Nations Special Rapporteur on the Independence of Judges and Lawyers
United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
United Nations Special Rapporteur on the right to education
United Nations Special Rapporteur on the sale of children, child prostitution and child pornography
United Nations Special Rapporteur on the situation of human rights defenders
United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
United Nations Special Rapporteur on trafficking in persons, especially in women and children
United Nations Special Rapporteur on unilateral coercive measures
United Nations Special Rapporteur on violence against women, its causes and consequences
United Nations Women
United Nations World Food Programme (WFP)
UN AIDS
United States Institute of Peace
United States Congressional Research Service
United States Department of State [Annual human rights report; annual religious report; annual child labour report; annual trafficking report; annual terrorism report]
Unrepresented Nations and People's Organisation
World Bank [Burundi]
World Health Organisation (WHO) [Burundi]
World Organisation Against Torture [Burundi]
World Prison Brief
Women News Network (WNN)
Women's Refugee Commission

I. Background information

a. Geographical Information

i. Map of Burundi

UNHCR published the following map in December 2020 depicting the provinces of Burundi[5]:

[5] UNHCR, *Burundi, Administrative map*, 8 December 2020

The following map as published by the CIA in its *World Factbook* shows Burundi's major cities[6]:

ii. Ethnic Composition

According to the CIA's *World Factbook* the ethnic groups present in Burundi are Hutu, Tutsi and Twa (Pygmy).[7] Minority Rights International reported more specifically that "While Hutus comprise the majority (around 85 per cent) of the population, Tutsis make up about 14 per cent and Batwa 1 per cent. The national Statistical Institute does not provide ethnically disaggregated data, but according to a survey undertaken in 2008 by UNIPROBA, an organization representing the Batwa, the Twa population numbered 78,071 individuals".[8]

[6] CIA, *The World Factbook: Burundi*, last updated: 3 January 2023, *Country Map*
[7] CIA, *The World Factbook: Burundi*, last updated: 3 January 2023, *Ethnic groups*
[8] Minority Rights International, *World Directory of Minorities and Indigenous Peoples: Burundi*, last updated October 2020

b. Brief Historical Background

i. 2015 Unrest and Repression

By way of introduction, according to a May 2020 article in the New Humanitarian: "The small East African country has been wracked by political violence since its last election in 2015 saw President Pierre Nkurunziza run for a disputed third term in office. Crackdowns on opponents following protests and a failed coup left more than 1,000 people dead and sent hundreds of thousands fleeing to neighbouring countries, where most remain".[9] The article continued "'Since 2015, we have seen a significant increase in politically motivated killings and violence,' said Lewis Mudge, Central Africa director for Human Rights Watch. 'These abuses continue today and have created a highly charged political atmosphere'."[10]

On 11 December 2021, ACAT Burundi, Ligue Iteka, and a number of other civil society organisations released a statement on the sixth anniversary of the 2015 violence in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following passage was translated from French into English:

> 1. On 11/12/2015, when the bloody repression targeting the civilian populations opposed to the illegal third term of the late President Nkurunziza was in full swing, unidentified armed groups attacked certain military barracks located in the capital Bujumbura and surroundings. In the process, the army spokesman announced in the afternoon of the same day the rout of the attackers and the restoration of order in the city of Bujumbura while taking stock of the attacks. And during the tragic night of December 11 and in the morning of 12/12/2015, certain elements of the defense and security corps supported by the imbonerakure militia targeted the so-called protest neighborhoods mainly inhabited by Tutsi.
> 2. On this horrible morning of 12/12/2015, hundreds of bloodied bodies, their hands tied behind their backs and summarily eliminated by a bullet to the head, lay in the streets of the Musaga, Ngagara, Nyakabiga and Mutakura districts. After the sharing on social networks of photos showing these countless bodies of innocent civilians cowardly murdered during the night, the inhabitants of the capital who survived these systematic massacres directed against civilian populations will be prevented from leaving their homes when the imbonerakure carried away the corpses in hastily dug mass graves in the suburbs of Bujumbura. Vehicles from the town hall of Bujumbura were mobilized in the evacuation of these bodies which littered the streets of the capital.
> 3. Faced with these crimes against humanity, the Burundian justice system, which is exploited by the power in place, has never carried out credible investigations to prosecute the perpetrators and sponsors of these despicable massacres which allegedly claimed more than 300 victims. Satellite images had however been taken and disseminated by non-governmental organizations without the indices being usefully exploited by a judicial power which is mobilized to protect the perpetrators of repression who continue to kill and make disappear with total impunity, the real or supposed opponents.[11]

[9] The New Humanitarian, *Coronavirus response takes backseat as election looms in Burundi*, 13 May 2020
[10] The New Humanitarian, *Coronavirus response takes backseat as election looms in Burundi*, 13 May 2020
[11] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Declaration of the independent Burundian civil society sanctioning the commemoration of the 6thanniversary of the massacres of December 11 and 12, 2015 committed in Burundi*, 11 December 2021 [Déclaration de la société Civile burundaise

A Guardian article in April 2015 reported on the unfolding clashes in Burundi after the 2015 elections:

> Hundreds of people in Burundi have protested in the capital Bujumbura after the country's ruling party nominated President Pierre Nkurunziza to run for a third term.
> There were clashes between protesters and armed police in Bujumbura. Police fired teargas to break up crowds and also blocked access to some parts of the city.
> Watchdog groups and observers had warned of possible unrest if Nkurunziza decided to run again. Thousands of Burundians have already fled the country before presidential elections on 26 June [2015].
> Burundi's constitution stipulates that a president can only serve for two terms, but Nkurunziza's party says he is eligible for another term as popularly elected president because for his first term he was elected by lawmakers.
> Critics say this is not a proper interpretation of the law and that he should not get a third term.
> The US government has criticised the ruling party's decision. "With this decision, Burundi is losing an historic opportunity to strengthen its democracy by establishing a tradition of peaceful democratic transition," the State Department said in a statement.
> More than 10,000 Burundians have fled to neighbouring Rwanda citing fears of election violence. Many of those in Rwanda say they left because of growing pressure to support Nkurunziza's party, which is known by its initials CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy].
> Others alleged violence by the ruling party's youth wing, known as Imbonerakure, according to the UN refugee agency. Hundreds in Burundi are protesting against the ruling party's decision to nominate the president to run for a third term.[12]

Reporting by the Armed Conflict Location & Event Data Project (ACLED) in May 2020 also explained that "During the last elections held in 2015, political violence largely centered on the disputed legality of a third term mandate for the incumbent President Pierre Nkurunziza of the ruling National Council for the Defense of Democracy–Forces for the Defense of Democracy (CNDD-FDD)".[13] It noted that "In 2015, political disorder during the election cycle was more concentrated in the economic and former political capital of Bujumbura" and that "In the period leading up to the 2015 elections from 21 March 2014 to 21 July 2015, nearly 60% of all political disorder occurred in Bujumbura Mairie".[14]

The same report produced the following map[15], displaying levels and distribution of disorder during the 2015 election cycle (left), in comparison to that during the 2020 election cycle:

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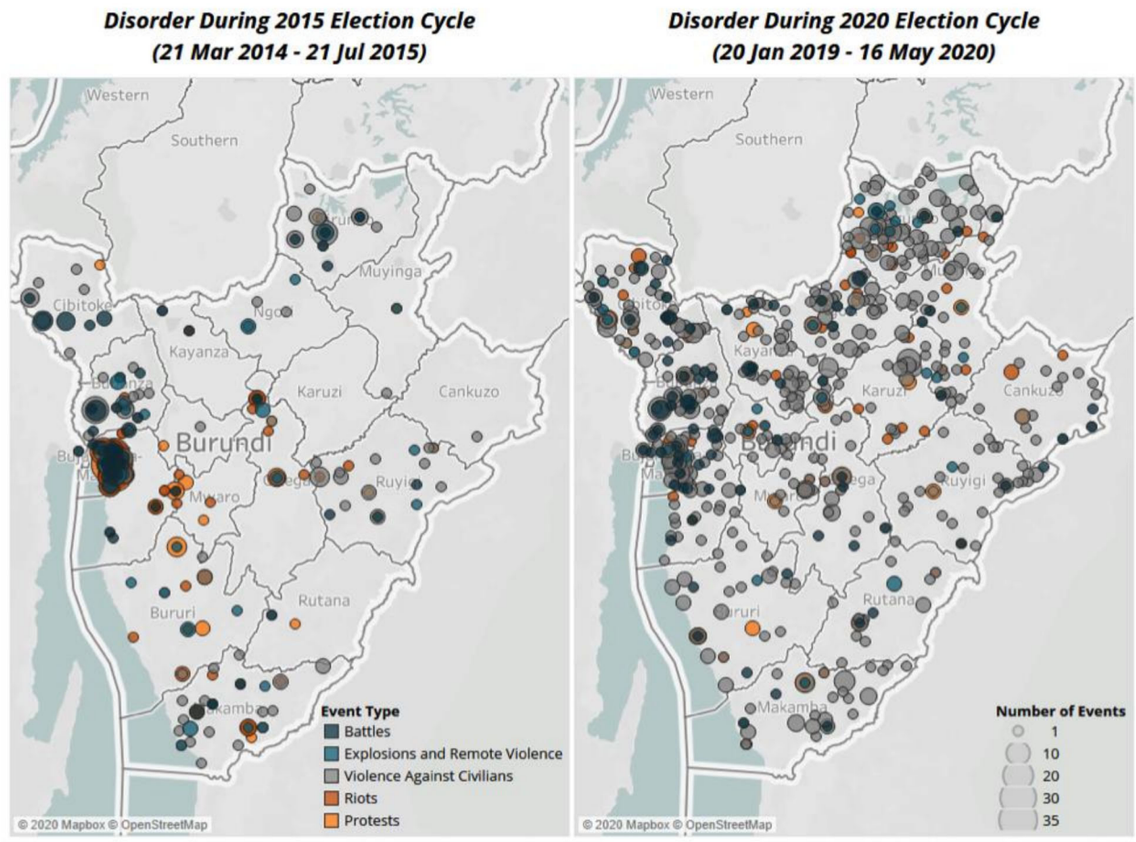
indépendante sanctionnant la commémoration du 6ème anniversaire des massacres du 11 et 12 décembre 2015 commis au Burundi], *p. 2*

[12] The Guardian, *Hundreds protest in Burundi over president's third term*, 26 April 2015

[13] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020

[14] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020

[15] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020



The Institute for Security Studies (ISS) released a report in May 2020 discussing the possibilities of Burundi's trajectory following the 2020 elections, looking back to 2015. It wrote:

> Electoral processes in Burundi have historically foreshadowed new crises; only the 2005 elections were inclusive, credible, and unanimously accepted by politicians. […]
> The aborted elections of 2015, the result of Nkurunziza's wish to seek a third term, triggered a crisis that motivated the international community to exert strong pressure on the regime to begin an inclusive dialogue under the aegis of the East African Community (EAC) to find a solution to the political impasse. Keen to relieve these pressures, Burundian authorities responded at the end of 2015 by organising a national dialogue. […]
> The fourth term that did not happen
> In 2015 the president's wish to seek a third term and the subsequent attempt to force it through sparked a strong internal challenge within the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], to the point of causing an internal crisis that was contained using heavy-handed methods, purging the party of all rebels and, therefore, of most of its moderate leaders. This led to an attempted putsch, partially directed by some of those who had been comrades-in-arms of the president during the seven-year civil war known as the maquis.[16]

[16] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 3 to 5*

Amnesty International, in an article again reflecting on the death of Nkurunziza in June 2020, wrote that:

> While the spark for the 2015 crisis was President Nkurunziza's decision to stand for a third term, it was the culmination of years of attacks on civic and political space in the country. Many believe that Nkurunziza's nomination to stand again violated Burundi's Constitution and the 2000 Arusha Accords, which were signed when CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] was still a rebel group and which helped end the country's civil war. Burundians took to the streets to demonstrate against the third term. The protests were brutally repressed, security forces employing excessive and, at times, lethal force. In May 2015 while the president was in Dar es Salaam for an emergency summit of the East African Community seeking to resolve the crisis, there was a coup attempt.[17]

Similarly, Human Rights Watch wrote an article in June 2020, shortly after the death of Nkurunziza, reflecting on his legacy:

> In April 2015, demonstrations broke out in response to the news that Nkurunziza would seek election for a third term. Police used excessive force and shot demonstrators indiscriminately, killing and injuring scores of people. After a failed coup d'état by a group of military officers in May, the government intensified its repression against suspected opponents and suspended most independent radio stations. While anti-Nkurunziza demonstrations were initially peaceful, some demonstrators resorted to violence. Government opponents also stepped up their violence in the aftermath of the July 2015 elections.[18]

ii. Rebel Groups

1. RED-Tabara

Additional relevant information can be found under sections *V.a.iii. Treatment of persons participating in protests and anyone perceived as opponents of the government, including those perceived as supporting armed groups*, *V.e. Torture and Inhumane Treatment* and *V.f. Extrajudicial Killings or Disappearances*.

The Burundi Human Rights Initiative (BHRI) released a report in July 2022 on Burundi's mission in the Democratic Republic of Congo (DRC), also describing the history and activities of RED-Tabara (Resistance for the Rule of Law in Burundi), as well as the Burundian government campaign against them. It reported that:

> Since December 2021, the Burundian army has poured hundreds of troops into neighbouring Democratic Republic of Congo (DRC). Successive waves of soldiers, bolstered by members of the ruling party youth league, the Imbonerakure, have been sent on a mission to fight Burundian armed opposition groups across the border.

[17] Amnesty International, *Burundi: Pierre Nkurunziza's death marks the end of an era*, 17 June 2020
[18] Human Rights Watch, *Burundi: President Nkurunziza Dead Days After Vote*, 11 June 2020

Their main target is RED-Tabara (Resistance Movement for the Rule of Law-Tabara, Mouvement de la résistance pour un État de droit-Tabara), an armed group that has launched sporadic attacks in Burundi in recent years. Operating primarily from the DRC, RED-Tabara vehemently opposes the Burundian government, but its strength has fluctuated over the years. Many Burundians are therefore puzzled by their government's decision to throw so much military might at it. […]

6. WHO IS RED-TABARA?

RED-Tabara has been present in eastern DRC for several years. It is currently the most active Burundian armed opposition group, as others appear to have folded, suffered internal divisions or lost their relevance in recent years.

RED-Tabara was created in 2011, in the aftermath of the 2010 elections in Burundi, which the group deemed fraudulent. It gathered strength in 2015, during and after large public protests against President Pierre Nkurunziza's decision to run for a third term. Many of the original RED-Tabara members had links to the opposition party Movement for Solidarity and Democracy (Mouvement pour la solidarité et la démocratie, MSD), which played a major role in the 2015 protest movement and has been banned by the government; RED-Tabara is still seen as close to exiled MSD leader Alexis Sinduhije. They were joined by radicalised members of the 2015 protest movement and some members of the military involved in or sympathetic to the failed coup d'état of May 2015. In 2016, a RED-Tabara leader said that its goal was to remove "Nkurunziza and his gang".84

RED-Tabara was supported by Rwanda in 2015 and early 2016, at a time when relations between Rwanda and Burundi were at an all-time low. Since 2015, the two countries have accused each other of supporting their opponents. BHRI was unable to confirm whether RED-Tabara still receives support from Rwanda or other external sources.

To consolidate its presence in the DRC and ensure its survival, RED-Tabara has collaborated with Congolese armed groups in South Kivu, in particular Mai-Mai Ilunga. Taking advantage of a security vacuum in the areas where they operate, these Congolese groups have used this alliance in an opportunistic way to further their own interests in the conflicts in the mid and high plateaux and the Rusizi plain; they have little concern for RED-Tabara's political agenda in Burundi.85 REDTabara has denied collaborating with these groups.86

RED-Tabara has also denied having contacts with another Burundian armed group still operating in the DRC, a former faction of the FNL [National Forces of Liberation], led by Aloys Nzabampema.

84 See Jeune Afrique, "Burundi - Melchiade Biremba : On ne peut pas défendre la démocratie avec des belles paroles," https://www.jeuneafrique.com/304829/politique/burundi-melchiade-biremba-on-ne-defendre-democratie-belles-paroles/, 23 February 2016.

85 For background on some of these alliances, see Judith Verweijen, Juvénal Twaibu, Moïse Ribakare, Paul Bulambo and Freddy Mwambi Kasongo, "Mayhem in the mountains", https://www.gicnetwork.be/wpcontent/uploads/2021/04/05_GIC_Mayhem-in-the-mountains_WEB-2.pdf, April 2021.

86 Interview with Jean Claude Nibigira, military chief-of-staff of RED-Tabara, 10 June 2022.[19]

The same report also commented further on armed attacks in Burundi in 2020 and 2021 and the role of the RED-Tabara in these:

[19] The Burundi Human Rights Initiative (BHRI), *An Operation Of Deceit: Burundi's secret mission in Congo*, July 2022, *p. 4, 20, and 21*

In 2020 and 2021, a number of armed attacks took place in Burundi, some near the border with the DRC, others in the centre of the country or other locations; in most cases, the identity of the assailants remains unconfirmed. RED-Tabara claimed responsibility for several of these attacks, including a mortar attack near Bujumbura airport in September 2021.88 It also stated that it fought the Burundian security forces and Imbonerakure in Bugarama commune (Rumonge province) in August 2021, in Mugamba commune (Bururi province) in September 2021 and in the Rukoko forest after the airport attack.89 RED-Tabara combatants who participated in an attack in 2020 said they crossed into Burundi in a group of 70 to 80 combatants and waged intense battles with the Burundian army.90

Some of these attacks resulted in casualties among Burundian soldiers and Imbonerakure as well as killings, abductions and other human rights abuses by RED-Tabara combatants against Burundian civilians.91 Others, such as the attack on the airport, inflicted little damage but spoiled the government's attempts to portray Burundi as a peaceful country. RED-Tabara's chief-of-staff denied that the group had ever killed civilians.92

Despite these attacks, RED-Tabara's capacity to cause large-scale or sustained insecurity in Burundi appears to be limited. "It's a movement that has reached its final lap," observed a former Burundian army officer.93 RED-Tabara's chief-of-staff refused to say how many combatants it had in June 2022. He claimed that the reality on the ground proved that they were capable of fighting and winning, and said that the majority of their weapons were seized from the Burundi army.94

The level of support for RED-Tabara inside Burundi also appears to have waned over the years, although it is difficult to gauge it accurately, since people cannot openly express their sympathies with the group. But after decades of deadly armed conflict, followed by a prolonged crisis in Burundi since 2015, few Burundians appear ready to support the prospect of another armed struggle.

Nevertheless, the SNR has deployed significant efforts to identify potential suspects and their collaborators in Burundi. Hundreds of people with suspected links to RED-Tabara and other armed opposition groups have been arrested or abducted since 2020, often in the absence of clear evidence against them; many were previously known for their political opposition to the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. Most of those arrested were initially detained at the SNR, where some were tortured to extract confessions or other information; some died as a result of torture. Most were later transferred to prison. Others have never been seen again.95

88 See The Burundi Human Rights Initiative, "Behind the gate: a rise in torture and disappearances", https://burundihri.org/english/november_2021.php, November 2021, and "A stranglehold on Burundi's future", https://burundihri.org/english/december_2020.php, December 2020.

89 See RED-Tabara communiqués, https://twitter.com/Red_Tabara/status/1297561282867060736, https://twitter.com/Red_Tabara/status/1441713641745702913/photo/1 and https://twitter.com/RED_Tabara/status/1439582858985840650/photo/1. BHRI confirmed the presence of RED-Tabara combatants and clashes with the army in September 2021. At least one RED-Tabara combatant was captured in Bururi and tortured by the SNR.

90 Interview with former RED-Tabara combatants, 28 January and 14 February 2022.

91 See The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/english/december_2020.php, December 2020, and Group of Experts on the Democratic Republic of Congo, midterm report, https://documents-ddsny.un.org/doc/UNDOC/GEN/N19/385/45/PDF/N1938545.pdf?OpenElement, 20 December 2019.

92 Interview with Jean Claude Nibigira, military chief-of-staff of RED-Tabara, 10 June 2022.

93 Interview with former military officer, 11 April 2022.

94 Interview with Jean Claude Nibigira, military chief-of-staff of RED-Tabara, 10 June 2022.

> 95 See The Burundi Human Rights Initiative, “Behind the gate: a rise in torture and disappearances”, https://burundihri.org/english/november_2021.php, November 2021, and “The road ahead: will Burundi bring its torturers to justice?”, https://burundihri.org/english/march_2022.php, March 2022.[20]

The September 2020 report of the Secretary-General on the Implementation of the Peace, Security and Cooperation Framework for the DRC and the Region reported on government clashes with RED-Tabara: “During the night of 23 to 24 August [2020], the National Defence Force of Burundi reportedly clashed with the Résistance pour un État de droit au Burundi following an attack claimed by the armed group on Bugarama in Rumonge Province. The attack reportedly caused approximately 15 deaths and population displacement”.[21]

VOA Africa published an article on the new offensive of the group RED-Tabara in September 2020, writing that:

> A Burundian rebel group claimed responsibility Friday for a spate of recent attacks on security forces and the ruling party's youth league that it said had killed dozens.
> The RED-Tabara group said it had between Sunday and Thursday engaged soldiers and police as well as members of the Imbonerakure youth league, which is often referred to as a militia.
> Its spokesman Patrick Nahimana told AFP they had killed “28 soldiers and police and 15 militia members, and injured 40” in the western province of rural Bujumbura, southwestern Rumonge and southern Bururi.
> The exact toll could not be independently confirmed.
> Nahimana said three members of his group, Resistance for the Rule of Law-Tabara (which means "to help" in the local Kirundi language) were killed, and one captured.
> The attacks, which follow others in previous weeks in the same areas, are part of what the group described as an "offensive" launched in mid-August against the "dictatorial" ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. […]
> Nahimana said the group was "fighting against a criminal system which kills, pillages the country," referring to the ruling party. […]
> Thierry Vircoulon, a researcher at the French Institute of International Relations, said RED-Tabara's new offensive was meant to "show the new president that they exist, that he will have to deal with them."
> "At this stage their numbers are too small to represent a real threat to the Burundian government," he said, adding that they did appear to have "more capacity than before.”.[22]

The UN Secretary-General’s Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that:

> III. Findings […]
> B. Security situation […]

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[20] The Burundi Human Rights Initiative (BHRI), *An Operation Of Deceit: Burundi’s secret mission in Congo*, July 2022, *p. 21* and *22*

[21] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 29 September 2020, *p. 3*

[22] Voice of America (VOA) Africa, *Burundi Rebel Group Claims Attacks in New Offensive*, 18 September 2020

> 15. Following an extended period of relative calm, there are rising concerns over potential violence and destabilization in view of increasing military activities in some parts of the country. These activities include alleged infiltrations of armed groups from the eastern part of the Democratic Republic of the Congo, as well as subsequent clashes with security forces and reported attacks on civilians. The Government has downplayed those incidents as criminal activities conducted by groups of bandits. However, the armed group, Résistance pour un État de droit au Burundi, has claimed responsibility for some incidents, stating that it had acted in response to the refusal by the CNDD-FDD to engage in dialogue with members of the opposition.[23]

In December 2020, the Center for Strategic and International Studies (CSIS) released an edition of the CSIS Africa Program's series, "Under the Radar," which included reporting on the launch of the armed campaign of RED-Tabara. It wrote that:

> Ndayishimiye's political rivals, such as the Red Tabara opposition group, have requested intervention by the United Nations and East African Community in response to alleged state-sponsored violence against the ruling party's opponents as well as a burgeoning humanitarian crisis in the country. In the same missive, Red Tabara announced the formal launch of an armed campaign against the Ndayishimiye administration. The group's belligerency portends that segments of the Burundian opposition will continue to view armed violence as the only means of engagement with the repressive Burundian state.[24]

In September 2021, The East African reported that "A series of explosions hit Burundi's economic capital, killing at least three people and injuring dozens […] The blasts in Bujumbura followed a deadly grenade explosion in a bar in the capital Gitega […] and a series of mortars launched on Burundi's international airport […] The RED-Tabara rebel group --accused of being behind many deadly attacks or ambushes across the country since 2015 -- claimed responsibility […]".[25] According to the same article:

> RED-Tabara, which has a rear base in South Kivu in the neighbouring Democratic Republic of Congo, emerged 10 years ago and is now the most active of Burundi's rebel groups.
> In 2020, it claimed responsibility for a series of attacks in which it killed more than 40 people among security forces and the youth league of the ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party.
> The Burundian government and many diplomats believed at the time that the rebel group, of 500-800 men, was led by one of the fiercest opponents of the state, Alexis Sinduhije, who has always denied it.[26]

In March 2022, further updates were recorded for Q4 2021 by the UN:

> II. Major developments […]
> B. Security situation

[23] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 6*
[24] Center for Strategic and International Studies (CSIS), *Under the Radar: Winter Edition*, 18 December 2020
[25] The East African, *Three dead, dozens hurt in Burundi blasts*, 21 September 2021
[26] The East African, *Three dead, dozens hurt in Burundi blasts*, 21 September 2021

> 4. […] Armed group activity increased, particularly in eastern Democratic Republic of the Congo, and attacks targeted at State agents and civilians were recorded in Burundi, the Democratic Republic of the Congo and Uganda. […]
> 6. On 5 October [2021], FARDC [Armed Forces of the Democratic Republic of Congo] announced the arrest of 32 Burundian citizens in Uvira Territory, South Kivu Province, for illegally crossing the border, allegedly with the intention of joining Burundian armed groups, notably the Résistance pour un État de droit au Burundi (RED Tabara). […]
> 13. On 5 and 19 January, RED Tabara issued two communiqués in which it stated that it had been engaged in clashes with a coalition of the Burundi National Defence Force, the Imbonerakure and militias in South Kivu Province. Burundian authorities have not publicly reacted to these allegations.
> 14. In Burundi, a mortar attack that occurred on 18 September against the airport in Bujumbura was claimed by RED Tabara. The attack caused only structural damage. On 20 December, RED Tabara claimed responsibility for another attack, carried out on 19 December against a position of the Burundian armed forces in Gatumba, Burundi, which allegedly resulted in 10 fatalities and 15 casualties. Two grenade attacks carried out by unidentified assailants on 21 and 24 September in Bujumbura resulted in 7 fatalities and 50 casualties. In another incident, on 22 December, a grenade exploded in a movie theatre in Bujumbura, injuring 16 people. One person among the injured was arrested as a suspect. […]
> E. Human rights and the rule of law […]
> 35. In Burundi, on 22 September, the prosecutor general accused a "group of terrorists" comprising prominent political and civil society figures of being responsible for the attacks in Bujumbura of 18 and 21 September. International arrest warrants were issued against these individuals.[27]

Also in March 2022, The Heidelberg Institute for International Conflict Research (HIIK) published its Conflict Barometer 2021. On Burundi, it stated:

> Sub-Saharan Africa […]
> The violent crisis over national power in Burundi between the Resistance for Rule of Law in Burundi (RED-Tabara) […] on the one hand, and the governments of Burundi and the DR Congo (DRC), on the other, continued.
> Violent clashes primarily affected South Kivu Province, DRC, while RED-Tabara was also active in Burundi. […]
> Government forces also repeatedly clashed with RED-Tabara. For example, on September 18 and 19 [2021], RED-Tabara fired mortar shells at the Bujumbura airport, eponymous province, the day before Burundian President Evariste Ndayishimiye planned to fly to the UN General Assembly in New York. No fatalities or injuries were reported. On September 24, REDTabara clashed with Burundian National Defense Forces in Mugamba region, Bururi Province, during which three soldiers were killed. On October 10, FARDC [Armed Forces of the Democratic Republic of Congo] killed two RED-Tabara members and captured five in Ruzizi Province between the villages Mutarule and Luberizi. rvb [Roxanne van der Bliek].[28]

On 25 May 2022, International Crisis Group published a report on the situation in Eastern DR Congo and Great Lakes, also reporting on Burundi's role and armed activities there:

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[27] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 30 March 2022, *p. 2, 3, and 7*
[28] Heidelberg Institute for International Conflict Research (HIIK), *Conflict Barometer 2021*, March 2022

Introduction […]

President Félix Tshisekedi may have opened Pandora's box by inviting troops from neighbouring countries to fight rebels based in the Democratic Republic of Congo (DRC). [In December 2021] Burundian soldiers reportedly marched into the DRC to battle the RED-Tabara rebel group. These interventions are causing fresh upheaval in a country that has suffered greatly from regional rivalries. […]

Burundi and Rwanda were also on better terms after Evariste Ndayishimiye took over the Burundian presidency from Pierre Nkurunziza, who died suddenly in June 2020. But the activities of militias in the eastern DRC are putting these historically fraught ties under renewed strain, potentially widening rifts between Rwanda and Uganda, and even Rwanda and Burundi. […]

In late December, presumably with Tshisekedi's blessing, Burundian troops crossed into the DRC to target the RED-Tabara insurgency, a Tutsi-led group opposing the Hutu-dominated government in Bujumbura.3 Those rebels had fired mortar shells at Burundi's international airport in September and killed about a dozen soldiers and police in an attack on a Burundi-DRC border post three months later.4 […]

Burundi's incursion into South Kivu is shrouded in secrecy. In late December, residents of the province's Uvira territory reported seeing about 400 Burundian soldiers and Imbonerakure, Burundi's notorious ruling-party youth militia, cross the Rusizi river between the two countries.20 They then reportedly entered an alliance with the Gumino and Twigwaneho ethnic groups and several other smaller *Mai-Mai* groups against RED-Tabara, which has formed ties with another Burundian insurgency, Forces nationales de libération (FNL), and Congolese *Mai-Mai* militias.21 The Burundian army reportedly sustained heavy losses, while thousands of residents fled the violence. Burundi has repeatedly denied that its troops are fighting in the DRC, however.22 The Congolese government has remained silent on the issue.

[…] IV. Burundi and Rwanda Rekindle Ties […]

Nkurunziza and Kagame also accused each other of supporting rebel groups. For instance, Nkurunziza openly stated that Rwanda was backing RED-Tabara, providing material and logistical support.76 […]

In July, Rwanda extradited nineteen RED-Tabara combatants it had arrested the year before to Burundi.83 […]

RED-Tabara remains a bone of contention, however.85 Following the aforementioned attack on Bujumbura airport in September 2021, Burundi issued international arrest warrants for opposition politician Alexis Sinduhije, whom authorities believe leads RED-Tabara, as well as officials of his political party living in exile. Burundi's prosecutor asked countries harbouring these fugitives to extradite them, warning that failure to comply with his request would compromise regional peace and security.86 While Sinduhije resides in Belgium, several senior RED-Tabara rebels live in Kigali.87 It is unclear to what extent Rwanda is helping RED-Tabara at present. Some analysts believe that its backing for the group has diminished, giving Burundi the confidence to fight the rebels, while others think it still provides some support.88 […]

V. The Need for Regional Diplomacy […]

While Burundi says it may be open to talks with RED-Tabara and the FNL, little suggests a similar process is on the cards with Rwandan rebels, let alone the ADF, and how much talks with Congolese groups would address Rwandan and Ugandan involvement is unclear.100 […]

3 Burundi has three main ethnic groups: the Hutu, representing approximately 85 per cent of the population, the Tutsi, making up 14 per cent and the Twa, 1 per cent. The German and Belgian rulers (1890-1962) and the Tutsi-dominated post-colonial government (1965-2001) excluded the Hutu population from power. Tensions between the Hutu and the Tutsi led to a civil war (1993-2005) that ended with the swearing-in of Nkurunziza as president in August 2005. His Hutu-dominated party, Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD- FDD), has been in power ever since.

4 Tweet by RED-Tabara, @Red_Tabara, 2:47am, 19 September 2021; tweet by RED-Tabara, @Red_ Tabara, 3:27pm, 20 December 2021. […]
20 "Sud-Kivu (RDC) : Des militaires burundais rapportés à Uvira", SOS Médias Burundi, 27 December 2021.
21 Most armed groups in the DRC label themselves "*Mai-Mai"*, an umbrella term for local militias formed to protect communities from foreign fighters. The term originates from the Kiswahili word for water (*"maji"*). Many militia members believe that water protects them from bullets. Crisis Group observations, South Kivu, January 2022.
22 "Pas de troupes burundaises à l'est de la RDC, vraiment ?", Iwacu, 7 January 2022. […]
76 Ibid. See also "Discours du Président Pierre Nkurunziza à l'ouverture de la 10ème Session de l'Assemblée de la CIRGL", Mashariki TV, 6 December 2019. […]
83 "Rwanda hands over Burundian combatants through the Expanded Joint Verification Mechanism", Rwandan Ministry of Defence, 30 July 2021.
84 "Burundi hands over 11 FNL militias to Rwanda", *The New Times*, 19 October 2021.
85 Crisis Group telephone interviews, Burundi and Congo analysts, March 2022.
86 Sylvestre Nyandwi, "Les pays qui hébergent ces gens qui revendiquent des attaques au Burundi, qu'ils comprennent qu'ils doivent les livrer...", Deutsche Welle, 24 September 2021; and "Arrest warrant issued for Burundi's exiled opposition leader", Al Jazeera, 23 September 2021.
87 Crisis Group telephone interviews, Congo analyst and Burundi expert, March 2022.
88 Crisis Group interview, diplomat, Kinshasa, February 2022. Crisis Group telephone interviews, UN official and Congo analyst, March 2022. […]
100 "Burundi : Le pouvoir prêt « à dialoguer » avec les rebelles basés dans l'Est de la RDC", *La Libre Afrique*, 11 May 2022.[29]

The following month, in April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi on incidences of armed conflict:

EXECUTIVE SUMMARY […]
Additionally, the rebel group RED-Tabara claimed responsibility for a mortar attack against Bujumbura airport, while unidentified individuals threw grenades at bus stations and other locations that killed and injured several hundred persons during the year. The government pledged to investigate and later blamed exiled opposition leaders, some allegedly linked to RED-Tabara, for the grenade attacks.
Section 1. Respect for the Integrity of the Person
A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS […]
Media reported that unidentified armed groups were responsible for attacks against government officials, government armed forces and their proxies, and against civilians. The rebel group RED-Tabara claimed responsibility for some attacks that resulted in deaths, including the killing of five soldiers and seven police officers in Gatumba, Bujumbura Rural Province, in December. As of December 27, there were at least 26 fatalities and 257 injuries resulting from an estimated 33 grenade attacks that took place throughout the country. The identity of the perpetrators and motives behind the attacks were unclear. While the motives were presumably politically motivated hatred of the government, ruling party, or its agents for some of the attacks targeting members of the ruling political party, police, and other security service members, other attacks were likely motivated by personal or business vendettas.[30]

[29] International Crisis Group, *Easing the Turmoil in the Eastern DR Congo and Great Lakes*, 25 May 2022, *p. 1 to 5 and 11 to 15*
[30] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

2. Democratic Forces for the Liberation of Rwanda (FDLR)

The report of the Secretary-General on the Implementation of the Peace, Security and Cooperation Framework for the DRC and the Region, published in March 2021, stated that:

> II. Major developments […]
> B. Security situation […]
> 7. From 28 February to 1 March, the Rwanda Defence Force intercepted suspected armed elements of the Forces démocratiques de libération du Rwanda (FDLR) allegedly coming from Burundi. Following consultations between the two countries, FDNB [Forces de défense nationale du Burundi] launched an offensive against armed elements along the border with Rwanda, reportedly resulting in the death of at least 20 FDLR elements. On 14 March, FDNB and Rwanda Defence Force representatives met at the Bweyeye border post in Burundi to discuss ways to address cross-border security incidents.[31]

On 25 May 2022, International Crisis Group published a report on the situation in Eastern DR Congo and Great Lakes, also reporting on Burundi's relationship with Rwanda regarding rebel groups:

> […] IV. Burundi and Rwanda Rekindle Ties […]
> Nkurunziza and Kagame also accused each other of supporting rebel groups. For instance, Nkurunziza openly stated that Rwanda was backing RED-Tabara, providing material and logistical support.76 For its part, Rwanda was furious that Burundi appeared to be turning a blind eye to FDLR [Forces démocratiques de libération du Rwanda] activities in the country's north west and charged Burundi with working alongside Uganda to forge an alliance between the FDLR and the RNC [Rwanda National Congress]. Kigali also said Burundian intelligence agents and members of the ruling party's youth militia were "embedded" with armed groups in South Kivu.77 […]
> Still, the two countries are now cooperating against armed groups. Burundi appears to have reversed its policy of sheltering the FDLR, attacking the group's forest hideout in February 2021. When Burundian troops clashed with Rwandan soldiers who reportedly pursued members of the FDLR and the FNL [National Forces of Liberation], another anti-Kagame rebel group in the same area, a call between the two countries' military intelligence chiefs prevented an escalation.82 An exchange of captured insurgents has further eased tensions.
>
> 76 Ibid. See also "Discours du Président Pierre Nkurunziza à l'ouverture de la 10ème Session de l'Assemblée de la CIRGL", Mashariki TV, 6 December 2019.
> 77 See Crisis Group Briefing, *Averting Proxy Wars in the Eastern DR Congo and Great Lakes*, op. cit. […]
> 82 Crisis Group telephone interviews, Burundian diplomat and Bujumbura-based diplomat, April 2021.[32]

3. National Forces of Liberation (FNL)

CIA World Factbook's page on Burundi gave information around the military branch and security forces, noting that the National Defense Forces also "focused on internal security missions, particularly against

[31] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 30 March 2021, *p. 3*
[32] International Crisis Group, *Easing the Turmoil in the Eastern DR Congo and Great Lakes*, 25 May 2022, *p. 11 to 15*

rebel groups opposed to the regime such as National Forces of Liberation (FNL) […]; these groups were based in the neighboring Democratic Republic of Congo and have carried out sporadic attacks in Burundi (2022)".[33]

Published in March 2022, the HIIK Conflict Barometer 2021 on Burundi stated: "The violent crisis over national power in Burundi between the Resistance for Rule of Law in Burundi (RED-Tabara), the Popular Forces of Burundi (Forebu/FPB), and a militant faction of the National Forces of Liberation (FNL), on the one hand, and the governments of Burundi and the DR Congo (DRC), on the other, continued".[34]

The report of the Secretary-General on the Implementation of the Peace, Security and Cooperation Framework for the DRC and the Region, published in March 2021, stated that: "In South Kivu, FARDC [Armed Forces of the Democratic Republic of Congo] operations against the Burundian armed groups Forces nationales de libération (FNL) and RED-Tabara resulted in the killing of at least 27 FNL fighters in Homba, in the Fizi, and Uvira territories, between 23 and 26 October".[35]

In March 2022, further updates on the situation in Q4 of 2021 were recorded by the UN: "On 21 October [2021], Burundi handed over to Rwanda 11 members of the armed group Forces nationales de libération (FNL), who had been captured by Burundian authorities in Cibitoke Province in September. The handover was witnessed by the Expanded Joint Verification Mechanism".[36]

On 25 May 2022, International Crisis Group published a report on the situation in Eastern DR Congo and Great Lakes, also reporting on Burundi's role and armed activities there:

> Introduction […]
> Burundi's incursion into South Kivu is shrouded in secrecy. In late December, residents of the province's Uvira territory reported seeing about 400 Burundian soldiers and Imbonerakure, Burundi's notorious ruling-party youth militia, cross the Rusizi river between the two countries.20 They then reportedly entered an alliance with the Gumino and Twigwaneho ethnic groups and several other smaller *Mai-Mai* groups against RED-Tabara, which has formed ties with another Burundian insurgency, Forces nationales de libération (FNL), and Congolese *Mai-Mai* militias.21
> […] IV. Burundi and Rwanda Rekindle Ties […]
> When Burundian troops clashed with Rwandan soldiers who reportedly pursued members of the FDLR and the FNL, another anti-Kagame rebel group in the same area, a call between the two countries' military intelligence chiefs prevented an escalation.82 An exchange of captured insurgents has further eased tensions. In July, Rwanda extradited nineteen RED-Tabara combatants it had arrested the year before to Burundi.83 In return, Burundi delivered eleven alleged FNL rebels to Rwanda.84 The

[33] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022
[34] Heidelberg Institute for International Conflict Research (HIIK), *Conflict Barometer 2021*, March 2022
[35] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 30 March 2021, *p. 3*
[36] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 30 March 2022

> intergovernmental body, International Conference on the Great Lakes Region, supervised the handover at the border. […]
> V. The Need for Regional Diplomacy […]
> While Burundi says it may be open to talks with RED-Tabara and the FNL […].100 […]
>
> 20 "Sud-Kivu (RDC) : Des militaires burundais rapportés à Uvira", SOS Médias Burundi, 27 December 2021.
> 21 Most armed groups in the DRC label themselves "*Mai-Mai"*, an umbrella term for local militias formed to protect communities from foreign fighters. The term originates from the Kiswahili word for water (*"maji"*). Many militia members believe that water protects them from bullets. Crisis Group observations, South Kivu, January 2022.
> 22 "Pas de troupes burundaises à l'est de la RDC, vraiment ?", Iwacu, 7 January 2022. […]
> 82 Crisis Group telephone interviews, Burundian diplomat and Bujumbura-based diplomat, April 2021.
> 83 "Rwanda hands over Burundian combatants through the Expanded Joint Verification Mechanism", Rwandan Ministry of Defence, 30 July 2021. […]
> 100 "Burundi : Le pouvoir prêt « à dialoguer » avec les rebelles basés dans l'Est de la RDC", *La Libre Afrique*, 11 May 2022.[37]

The BHRI July 2022 report on Burundi's mission in DRC reported that:

> RED-Tabara has also denied having contacts with another Burundian armed group still operating in the DRC, a former faction of the FNL [National Forces of Liberation], led by Aloys Nzabampema. In 2011, Nzabampema broke away from the main branch of the FNL, which had turned from an armed group into a political party. His group was the main target of previous operations by SNR [National Intelligence Service] agents, military and Imbonerakure in the DRC. In 2022, the FNL-Nzabampema appears to have been considerably weakened. Some sources allege that Nzabampema has begun collaborating with the Burundian intelligence service, which could explain why the Burundian army has not made his group the main focus of its the current operation.87
>
> 87 Interview with former Burundian army and FNL commander, 27 March 2022.[38]

4. Other Rebel Groups (Former and Current)

Additional relevant information can be found under section *V.a.iii. Treatment of persons participating in protests and anyone perceived as opponents of the government, including those perceived as supporting armed groups*.

Former rebel groups

The ISS released a report at the end of May 2020 discussing the possibilities of Burundi's trajectory following the elections on 20 May 2020. Within this, it wrote on the rebel groups and opposition within Burundi at current, as well as the history of **political parties as former rebel groups**:

> The political forces in the running

[37] International Crisis Group, *Easing the Turmoil in the Eastern DR Congo and Great Lakes*, 25 May 2022
[38] The Burundi Human Rights Initiative (BHRI), *An Operation Of Deceit: Burundi's secret mission in Congo*, July 2022, *p. 21*

> The **CNDD-FDD's [National Council for the Defense of Democracy–Forces for the Defense of Democracy]** third term in power (2015-2020) was marked by various setbacks for the opposition, which had an impact on the political landscape. The government overcame aggressive challenges by small rebel groups and the opposition as a whole, against which it was victorious in a diplomatic and political battle of attrition. […]
> The CNDD-FDD tries to cultivate its image as a party of the people. So, during its first years in power, the new regime tried to get closer to the rural masses and some of its actions seemed to indicate a desire to break with former governments, which were highly centralised in Bujumbura. The **former rebels** are, however, struggling to rid themselves of some habits inherited from their experience of being a rebel movement: a culture of secrecy, an obsession with plots, the use of force and intimidation to the detriment of dialogue and compromise, the use of force against those who refuse to cooperate, and so on. […]
> The unknown **CNL [National Congress for Liberty]**
> The CNL, the **former rebel group** that spent close to 30 years underground before re-entering the political system in 2009, is constantly changing. An ethnic Hutu group, a consequence of decades of military rule that excluded the Hutu majority, it was previously known as the Party for the Liberation of the Hutu People (PALIPEHUTU), which was formed in 1980. It became PALIPEHUTU-FNL in 2001 and took the name National Forces of Liberation (FNL) during its transformation into a political party in 2009, keeping that name until, in 2015, it merged in a short-lived coalition of independents going by the name *Amizero y'Abarundi.* It finally regained the status of a political party in 2019 as the CNL.[39]

The ISS highlighted in another article in June 2020 the history of rebel movements in Burundi: "Pierre Nkurunziza's sudden death on 9 June [2020] ends the political career of a sports teacher who ascended to the presidency of Burundi via a rebel movement. In 1987, the young Nkurunziza's application to join the army was rejected because of his Hutu ethnicity. He then joined the National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD) in 1994 and became the rebel movement's leader in 2001".[40]

Current rebel groups

CIA World Factbook's page on Burundi gave information around the military branch and security forces, noting that the National Defense Forces also "focused on internal security missions, particularly against rebel groups opposed to the regime such as […] **Popular Forces of Burundi (FPB or FOREBU)**; these groups were based in the neighboring Democratic Republic of Congo and have carried out sporadic attacks in Burundi (2022)".[41]

Published in March 2022, the HIIK Conflict Barometer 2021 on Burundi stated: "The violent crisis over national power in Burundi between […] **the Popular Forces of Burundi (Forebu/FPB)** […] on the one hand, and the governments of Burundi and the DR Congo (DRC), on the other, continued".[42]

[39] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 5 to 9*
[40] Institute for Security Studies (ISS), *Pierre Nkurunziza, a leader in the Great Lakes mould*, 17 June 2020
[41] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022
[42] Heidelberg Institute for International Conflict Research (HIIK), *Conflict Barometer 2021*, March 2022

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that: "A Rumonge-area administrator announced that three members of the **Congrès national pour la Liberté (CNL)** had been arrested for their **collaboration with a rebel group** responsible for an armed incursion in which 13 civilians were killed in Rumonge Province in August".[43]

In an oral briefing by the UN Commission of Inquiry (CoI) in March 2021, repression as a backlash to rebel activity was condemned:

> End human rights violations and fight against impunity […]
> Regrettably, we have documented that since President Ndayishimiye has been in office and even in recent months, serious human rights violations have continued to be committed, especially as a result of the numerous security incidents that have taken place since the summer of 2020. Armed clashes and exchanges of fire between members of the security forces, sometimes supported by the Imbonerakure, and members of armed groups, but also cases of attacks on civilians by **unidentified groups of armed men** have increased. An independent organization reported 308 incidents of this type which resulted in 273 victims among the police and security forces, the Imbonerakure,3 and members of armed groups but also the civilian population between 18 June 2020 (inauguration date of President Ndayishimiye) and 26 February 2021.4 Such incidents have been documented since 23 August 2020 in the provinces of Rumonge, Bujumbura (rural), Bubanza, and Kayanza.5
> This resulted in an increase in the "hunt" for rebels, mainly in locations where the attacks took place and in the border provinces of the country. Repression targeting persons suspected of belonging to or supporting the armed opposition groups responsible for these attacks increased, and was generally based on ethnic and/or political profiling, or simply for having crossed the border. As a consequence, since September 2020, Ex-Fabs soldiers (members of the former Burundian Armed Forces) active or retired as well as members of their families, young men, often of Tutsu origin, and members of opposition parties, mainly from the *Congrès national pour la liberté* (CNL), were victims of extrajudicial executions, enforced disappearances, arrests and arbitrary detentions often accompanied by acts of torture […]
>
> 3 Members of the Youth League of the ruling party: Congrès national pour la défense de la démocratie-Forces de défense de la démocratie (CNDD-FDD)
> 4 Data collected and listed by the Armed Conflict Location & Event Data Project (ACLED): https://acleddata.com/dashboard/#/dashboard
> 5 According to ACLED, incidents have been reported, among others, in the following provinces: 23 and 25 August 2020 in Rumonge, 28 August in Bujumbura (rural), 29 August in Bubanza, 30 August in Bujumbura (rural), 6 September in Rumonge, 11-12 September in Rumonge, 26 September in Kayanza. Armed clashes also took place on 21 and 28.[44]

Freedom House reported on Burundi in its February 2022 Freedom in the World report, covering 2021. It stated that "The CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of

[43] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 6*
[44] UN Human Rights Council, *46th Session: Interactive Dialogue on Burundi, Oral briefing of the Commission of Inquiry on Burundi*, 11 March 2021

Democracy] apparatus has violently targeted […] individuals suspected of ties to **Burundian rebels operating in the Democratic Republic of Congo**".[45]

On 25 May 2022, International Crisis Group reported that "While Burundi says it may be open to talks with RED-Tabara and the FNL, little suggests a similar process is on the cards with **Rwandan rebels**, let alone the **ADF [Allied Democratic Forces]**, and how much talks with Congolese groups would address Rwandan and Ugandan involvement is unclear.100 […]"

100 "Burundi : Le pouvoir prêt « à dialoguer » avec les rebelles basés dans l'Est de la RDC", *La Libre Afrique*, 11 May 2022.[46]

iii. Commission of Inquiry

Additional relevant information can be found under section *III.e. Impunity*.

In its report on Burundi in August 2021, the UN Commission of Inquiry described its mandate as such:

> 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.[47]

In May 2020, Human Rights Watch remarked, during a dispatch covering the run up to the elections, that a "UN-mandated Commission of Inquiry on Burundi has never been given access to the country, despite repeated requests".[48]

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[45] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[46] International Crisis Group, *Easing the Turmoil in the Eastern DR Congo and Great Lakes*, 25 May 2022
[47] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 3*
[48] Human Rights Watch, *A Perfect Storm Is Brewing in Burundi: WHO Experts Expelled, Election Observers Blocked*, 14 May 2020

In its report on Burundi in August 2020, the UN Commission of Inquiry wrote that: "The Human Rights Council once again requested 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 sought to engage in a dialogue with the Burundian authorities through the Permanent Mission of the Republic of Burundi to the United Nations Office and other international organizations in Geneva, in particular to allow for an exchange of information and to reflect the position of the Government of Burundi as much as possible in its report. All of the Commission's correspondence went unanswered".[49]

In August 2020, the BHRI, along with forty-two other organisations, issued a letter to the member states of the UN Human Rights Council to encourage the renewal of the mandate of the UN Commission of Inquiry in Burundi. The letter covered the history of the Commission of Inquiry, stating that:

> As of today, the CoI [Commission of Inquiry] remains the only independent mechanism mandated to document human rights violations and abuses (including on their extent and whether they may constitute crimes under international law), monitor, and publicly report on the situation in Burundi, with sufficient resources and experience to do so. Changing political realities do not amount to systemic human rights change, and the Council has a responsibility to continue supporting victims and survivors of violations and working to improve the situation in Burundi.
>
> In the past, an Independent Expert or other experts mandated to report on the human rights situation in Burundi have not been able to publish information with the same level of detail as the CoI, which has extensive contacts in the country and a team of dedicated, experienced investigators. This is even more crucial now because of the Burundian Government's intransigence, the absence of a UN human rights team in the country, and lack of access to the Burundian territory.
>
> The work conducted by the CoI, which is due to present its written report to the Council at its upcoming 45th session (14 September-6 October 2020), continues to provide critical oversight of the human rights situation in Burundi. […] Throughout the years, the CoI and its predecessor, the UN Independent Investigation on Burundi (UNIIB), have documented gross, widespread and systematic human rights violations and abuses, some of which may amount to crimes against humanity. […]
>
> Over the course of its reporting, the CoI has documented violations of civil, political, economic, social and cultural rights in a deteriorating economic and humanitarian context. […]
>
> The Burundian Government ceased its cooperation with the Council's mechanisms, including in 2016 by declaring members of the UNIIB *personæ non gratæ* and in February 2019 by forcing the Office of the UN High Commissioner for Human Rights (OHCHR) to leave the country. Despite being a member of the Council (2016-2018), Burundi refused to implement Council resolutions, including HRC resolution 36/2, which was adopted at Burundi's request and with the sponsorship of the African Group.4 Burundian officials have also repeatedly insulted and threatened members of the CoI and carried out reprisals against exiled HRDs, including lawyers and activists who sought to engage with the UN human rights system.5 The Government has extended sub-standard cooperation to regional mechanisms. African Union (AU) observers, who have not been fully deployed, continue to face a number of limitations to their work. Unlike the CoI, their findings are not made public. Burundi has disregarded resolutions adopted by the African Commission on Human and Peoples' Rights (ACHPR), including Resolution 412 (LXIII) 2018, which urged the Government to "[c]onduct prompt independent, impartial and effective investigations" into

[49] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 3*

human rights violations and "[c]ooperate with all international community stakeholders, including the African Union, the United Nations and the East African Community, in the search for a peaceful and human rights responsive solution to the crisis."6

Relying on independent, thorough and professional documentation methodologies, without access to country's territory, the CoI has continued to expose violations. In 2019, in accordance with principles of early warning and prevention and using the Framework of Analysis for Atrocity Crimes developed by the UN's Office on Genocide Prevention and the Responsibility to Protect, the CoI identified risk factors and indicators of violations.7 While some of the factors the Commission identified are related to specific circumstances, such as elections, a number of other factors are structural. This means that, beyond the appointment of new officials, systemic changes and meaningful reforms are necessary8 to bring about sustainable improvements in the situation and deliver effective guarantees for the rights of Burundian citizens. […]

4 Regarding Burundi's violations of its Council membership obligations, see DefendDefenders, "Headlong Rush: Burundi's behaviour as a member of the UN Human Rights Council," 25 July 2018, https://defenddefenders.org/headlong-rush-burundis-behaviour-as-a-member-of-the-un-human-rights-council/ (accessed on 17 July 2020).

5 *Ibid.* See also the UN Secretary-General's reports on "Cooperation with the United Nations, its representatives and mechanisms in the field of human rights" presented to the Council by the Assistant Secretary-General for human rights on a yearly basis: https://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx (accessed on 17 July 2020).

6 African Commission on Human and Peoples' Rights, "Resolution on the Human Rights Situation in the Republic of Burundi - ACHPR/Res. 412 (LXIII) 2018," 13 November 2018, available at: https://www.achpr.org/sessions/resolutions?id=420 (accessed on 17 July 2020).

7 Human Rights Council, "Report of the Commission of Inquiry on Burundi," UN Doc. A/HRC/42/49, 6 August 2019, available at: https://www.ohchr.org/EN/HRBodies/HRC/CoIBurundi/Pages/CoIBurundiReportHRC42.aspx (accessed on 17 July 2020).

8 See examples of indicators below.[50]

On 6 August 2020, the agenda and annotations document for the 45th session of the UN Human Rights Council recounted that: "In its resolution 42/26, the Human Rights Council decided to extend the mandate of the Commission of Inquiry on Burundi in order for it to deepen its investigations, including into respect for and observance of political, civil, economic and social rights in the electoral context, with particular reference to the economic underpinnings of the State, until it presents a final report to the Council during an interactive dialogue at its forty-fifth session".[51]

The October 2020 draft resolution by the UN Human Rights Council to extend the mandate of the UN Commission of Inquiry stated that it deplored "the persistent refusal by the Government of Burundi to cooperate with the Commission, its regrettable decision to declare the three members of the Commission personae non gratae and its dismissal of the Commission's findings" and regretted the "lack

[50] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1 to 4*

[51] UN Human Rights Council, *Forty-fifth session – Agenda and annotations*, 6 August 2020, *p. 11*

of follow-up to the recommendations made to the Government of Burundi contained in the previous reports of the Commission of Inquiry".[52]

Last updated on 15 January 2021, the Global Centre for the Responsibility to Protect's (GCR2P) "populations at risk" page on Burundi observed that: "The new government has thus far refused to cooperate with the CoI".[53]

In May 2021, Human Rights Watch released a report on abusive prosecutions in Burundi, as well as the repression of free speech and civil society. It wrote that: "The UN Commission of Inquiry on Burundi, established in September 2016 and supported by the European Union (EU), is the only remaining international investigative mechanism operating on Burundi, albeit without access to the country".[54]

Human Rights Watch also reported in February 2022 that:

> In September 2021, the UN Commission of Inquiry on Burundi, which has documented grave human rights violations in the country every year since its creation in 2016, presented its last report to the UN Human Rights Council. The commission concluded that under Burundi's new government, "no structural reform has been undertaken to durably improve the situation." It expressed alarm about continuing human rights violations and the progressive erosion of the rule of law. Yet the Human Rights Council, in a resolution led by the EU and supported by the United States, ended the commission's mandate in favor of a special rapporteur with fewer resources to investigate human rights violations. The resolution claimed that progress "has been made in the field of human rights, good governance and the rule of law," citing the limited, largely symbolic gestures by the Burundian government. Unsurprisingly, in December [2021], Burundi's foreign minister said it would "never" work with the special rapporteur.[55]

In Amnesty International's March 2022 report on the state of the world's human rights in 2021, it reported on Burundi that: "In October [2021], the UN Human Rights Council terminated the Commission of Inquiry on Burundi's mandate, which was replaced by a special rapporteur. Burundi's National Independent Human Rights Commission regained its "A" status in June [2021], despite civil society concerns".[56]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi and cooperation with international investigation of human rights abuses:

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[52] UN Human Rights Council, *Forty-fifth session, 14 September–7 October 2020: Agenda item 4 - Human rights situations that require the Council's attention - 45/... Situation of human rights in Burundi*, 1 October 2020, *p.* 2
[53] Global Centre for the Responsibility to Protect (GCR2P), *Burundi: Populations at risk*, 15 January 2021
[54] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021
[55] Human Rights Watch, *Burundi's Vicious Crackdown Never Ended*, 8 February 2022
[56] Amnesty International, *International Report 2021/22: The State of the World's Human Rights*, 29 March 2022, *p. 108*

> Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights […]
>
> The United Nations or Other International Bodies: The government generally barred UN or other international bodies focused on human rights access to the country and refused to cooperate with such mechanisms. Some UN mechanisms also reported that individuals who cooperated with them faced acts of intimidation and reprisals or refused to cooperate due to such outcomes.
>
> On May 31 [2021], the Office of the Special Envoy of the UN Secretary-General for Burundi officially closed its doors. The government requested its closure in November 2020, arguing that the presence of a UN mission with an exclusively political character was no longer relevant.
>
> The UN Human Rights Council created the three-member COI [Commission of Inquiry] in 2016 to investigate and report human rights abuses since 2015. In October the UN Human Rights Council adopted a resolution approving a special rapporteur to replace the COI as the mechanism for monitoring and reporting on human rights in the country. In December Minister of Foreign Affairs and Development Cooperation Albert Shingiro told reporters that the government would "never" allow the special rapporteur to investigate the country.
>
> Government officials refused to cooperate with the COI or allow it access to the country over the course of its mandate. Additionally, the COI reported that individuals who cooperated with the mechanism faced acts of intimidation and reprisals both in the country and neighboring countries.
>
> In September the commission delivered its annual report, finding there was reason to believe that grave abuses of human rights and crimes against humanity continued to be committed in the country but on a smaller scale than during the elections period. The COI report found these abuses were primarily attributable to state officials at the highest level and to senior officials and members of the SNR [National Intelligence Service], police, and Imbonerakure. Government officials dismissed the COI report. President Ndayishimiye said that any tendency to single out the country for special human rights mechanisms was counterproductive. He called on partners, including the UN Human Rights Council and other nations, to make "a fair and responsible reading" of the country's efforts.[57]

On 13 October 2022, the GCR2P wrote an open letter to member states on atrocity prevention priorities at the Third Committee of the UN General Assembly's 77th session, noting that the "HRC-mandated CoI [Commission of Inquiry] on Burundi, whose mandate was terminated in September 2021, previously warned that authorities in the country had committed possible crimes against humanity since at least April 2015. To date, all structural risk factors of atrocity crimes remain in place, including arbitrary arrests of political opponents or those perceived as such, torture and ill-treatment, enforced disappearances, extrajudicial killings and sexual and gender-based violence. The government also continues to refuse engagement with the UN human rights system".[58]

c. Brief Overview of Political Institutions

i. Structure of Executive

[57] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[58] Global Centre for the Responsibility to Protect (GCR2P), *Letter to member states on atrocity prevention priorities at the Third Committee of the UN General Assembly's 77th session*, 13 October 2022

Additional relevant information can be found under section IV. Corruption, especially *IV.b. Within the Wider Government*.

By way of introduction, the US Department of State wrote in its annual 2022 country report on human rights practices in the previous year that: "The Republic of Burundi is a constitutional, multiparty republic with an elected government. The 2018 constitution, promulgated in 2019, provides for an executive branch that reports to the president, a bicameral parliament, and an independent judiciary. In May 2020 voters elected President Evariste Ndayishimiye, members of the National Assembly (lower house), and commune councils".[59]

CIA World Factbook's page on Burundi described the executive branch of Burundi as such:

> Executive branch
> chief of state: President Evariste NDAYISHIMIYE (since 18 June 2020); Vice President Prosper BAZOMBANZA (since 24 June 2020); note - the president is both chief of state and head of government
> head of government: President Evariste NDAYISHIMIYE (since 18 June 2020); Vice President Prosper BAZOMBANZA (since 24 June 2020); Prime Minister Gervais NDIRAKOBUCA (since 7 September 2022)
> cabinet: Council of Ministers appointed by president
> elections/appointments: president directly elected by absolute majority popular vote in 2 rounds if needed for a 7-year term (eligible for a second term); election last held on 20 May 2020 (next to be held in 2027); vice presidents nominated by the president, endorsed by Parliament; note - a 2018 constitutional referendum effective for the 2020 election, increased the presidential term from 5 to 7 years with a 2-consecutive-term limit, reinstated the position of the prime minister position, and reduced the number of vice presidents from 2 to 1
> election results: *2020:* Evariste NDAYISHIMIYE elected president; percent of vote - Evariste NDAYISHIMIYE (CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]) 71.5%, Agathon RWASA (CNL [National Congress for Liberty]) 25.2%, Gaston SINDIMWO (UPRONA [Union for National Progress]) 1.7%, OTHER 1.6%.[60]

Freedom House reported on Burundi in its March 2021 Freedom in the World report, covering 2020 and covering the role of the executive in electoral and judicial processes:

> Political Rights
> A Electoral Process […]
> A3 0-4 pts
> Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 0/4 […]
> Constitutional amendments extending presidential term limits, consolidating power in the executive, and allowing for a future revision of the Burundian ethnic power-sharing system were approved in a 2018 referendum that was marred by a violent intimidation campaign conducted by the CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. […]

[59] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[60] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022

> Civil Liberties […]
> F Rule of Law
> F1 0-4 pts
> Is there an independent judiciary? 0/4
> The judiciary is hindered by corruption and a lack of resources and training, and is generally subservient to the executive. In 2015, Constitutional Court justices were reportedly intimidated into ruling in favor of Nkurunziza's decision to stand for a third term. The executive regularly interferes in the criminal justice system to protect CNDD–FDD and Imbonerakure members, as well as persecute the political opposition.[61]

In its February 2022 Freedom in the World report, covering 2021, Freedom House repeated the above points and looked further into the role of the executive, stating that:

> Civil Liberties […]
> F Rule of Law
> F1 0-4 pts
> Is there an independent judiciary? 0/4
> […] In 2020, the Constitutional Court partially checked the CNDD-FDD's power by upholding a challenge to the disqualification of an opposition parliamentary candidate. However, it did not entertain a challenge over the conduct of the presidential election, despite evidence of widespread fraud and intimidation. The UN CoI [Commission of Inquiry] criticized the judiciary's performance in its August 2021 report, citing corruption and the CNDD-FDD's continued interference. The UN CoI also reported that Germain Rukuki's appeal was affected by executive interference, noting that the reduction in his sentence was not promulgated until after the EU announced its intention to lift sanctions against Burundi.[62]

Similarly, in April 2022, Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) released their annual report on prison conditions, reporting on 2021 and remarking that "it is easy to see that not only does the judiciary lack independence from the Executive […]".[63]

On 13 September 2022, the report of the Special Rapporteur on the situation of human rights in Burundi was released, a version of which could only be located in French. Using an online translation tool, Onlinedoctranslator.com, the following passage was translated from French into English:

> III. Human rights concerns
> A. Civil and political rights […]
> 5. Dysfunctions of justice, including the fight against impunity […]
> 34. Independence is the keystone of the judiciary. The Constitution, in this regard, clearly states in article 214 that the President of the Republic, Head of State, is the guarantor of the independence of the judiciary and specifies that he is assisted in this mission by the Superior Council of the judiciary. The same article also lays down the principle of the independence and impartiality of the judicial power in relation to the legislative power and the executive power. If the principle is laid down, the fact remains that in its

[61] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[62] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[63] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 30*

implementation, the judicial power is to a large extent dependent on the executive power. Thus, article 219 of the Constitution provides that the President of the Republic appoints judges on the proposal of the Minister of Justice, after consulting the Superior Council of the Judiciary.
35. Furthermore, the remuneration of magistrates is also controlled and decided by the executive power. There is a structural and deep dependence on the judiciary which casts doubt on its real independence.[64]

ii. Legislative Branch

Additional relevant information can be found under sections IV. Corruption, especially *IV.a. Within the Judiciary* and *IV.b. Within the Wider Government*, and III. Rule of Law/Administrative of Justice, especially *III.a. Access to Justice*, *III.b. Judicial Independence* and *III.d. Access to a Fair Trial*.

By way of introduction, in April 2022, the US Department of State's annual country report on human rights practices the previous year, wrote on Burundi that "The Republic of Burundi is a constitutional, multiparty republic with an elected government. The 2018 constitution, promulgated in 2019, provides for an executive branch that reports to the president, a bicameral parliament, and an independent judiciary".[65]

It further stated that "On September 17, the president signed a decree restructuring the Supreme Council of Justice, giving the head of state (the president) authority over the council, including authority to oversee the quality of judicial decisions and the power to implement corrective measures. The COI [Commission of Inquiry] and other organizations assessed that the decision expanded the means through which the executive branch may control the judiciary".[66]

In its report on Burundi in August 2021, the UN Commission of Inquiry wrote on the human rights situation in Burundi, and noted that "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".[67]

Freedom House reported on the 2020 electoral process and the National Assembly in Burundi in its March 2021 Freedom in the World report, stating that:

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[64] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 8*
[65] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[66] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[67] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 11 and 12*

Political Rights
A Electoral Process […]
A2 0-4 pts
Were the current national legislative representatives elected through free and fair elections? 0/4
Parliament's lower house, the National Assembly, includes 100 members who are directly elected via proportional representation along with 23 "co-opted" members to ensure that 60 percent of the house is represented by members of the Hutu ethnic group and 40 percent is Tutsi. Members serve five-year terms. The upper house, the Senate, consists of 39 members, 36 of whom are chosen by locally elected officials for five-year terms. Some 3 seats are reserved for the Twa ethnic group.
National Assembly elections took place concurrently with the presidential elections in May 2020, amid the COVID-19 pandemic and a campaign to repress opposition groups. The ruling CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] secured 86 seats, while the CNL [National Congress for Liberty] secured 32 and UPRONA [Union for National Progress] secured 2. Members of the Twa ethnic group received 3 seats via co-option. One CNL candidate was originally removed from an electoral list due to a previous incarceration, but was reinstated and allowed to take her parliamentary seat due to a June Constitutional Court ruling.[68]

Similar information was given in the February 2022 Freedom in the World report, covering 2021. It also observed that "Despite quotas for representation in the National Assembly, the Twa population remains marginalized relative to the Hutu and Tutsi ethnic groups".[69]

In July 2022, the US Department of State published its annual 2022 report on investment climate statements, within which it commented on the Burundian legal system:

3. Legal Regime
TRANSPARENCY OF THE REGULATORY SYSTEM […]
Rule-making and regulatory authority is exercised exclusively at the national level. Relevant ministries and the Council of Ministers exercise regulatory and rule-making authority, based on laws passed by the Senate and National Assembly. In practice, government officials sometimes exercise influence over the application and interpretation of rules and regulations outside of formal structures. The government sometimes discusses proposed legislation and rule-making with private sector interlocutors and civil society but does not have a formal public comment process. There are no informal regulatory processes managed by non-governmental organizations (NGOs) or private sector associations.
Draft bills or regulations are not subject to a public consultation process. There are no conferences that involve citizens in a consultative process to give them an opportunity to make comments or contributions, especially at the time of project development, and, even if this were the case, the public does not have access to the detailed information needed to participate in this process. […]
LEGAL SYSTEM AND JUDICIAL INDEPENDENCE
The country's legal system is civil (Roman), based on German and French civil codes. For local civil matters, customary law also applies. […]
The judicial system is not effectively independent of the executive branch. A lack of capacity hinders judicial effectiveness, and judicial procedures are not rigorously observed.[70]

[68] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[69] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

The September 2022 report of the Special Rapporteur on the situation of human rights observed the following on the judiciary, translated from French into English using the online translation tool, Onlinedoctranslator.com:

> III. Human rights concerns
> A. Civil and political rights […]
> 5. Dysfunctions of justice, including the fight against impunity […]
> 34. Independence is the keystone of the judiciary. The Constitution, in this regard, clearly states in article 214 that the President of the Republic, Head of State, is the guarantor of the independence of the judiciary and specifies that he is assisted in this mission by the Superior Council of the judiciary. The same article also lays down the principle of the independence and impartiality of the judicial power in relation to the legislative power and the executive power. If the principle is laid down, the fact remains that in its implementation, the judicial power is to a large extent dependent on the executive power. Thus, article 219 of the Constitution provides that the President of the Republic appoints judges on the proposal of the Minister of Justice, after consulting the Superior Council of the Judiciary.
> 35. Furthermore, the remuneration of magistrates is also controlled and decided by the executive power. There is a structural and deep dependence on the judiciary which casts doubt on its real independence.[71]

CIA World Factbook's page on Burundi described the legislative branch of Burundi as such:

> Legislative branch
> description: bicameral Parliament or Parlement consists of:
> Senate or Inama Nkenguzamateka (39 seats in the July 2020 election); 36 members indirectly elected by an electoral college of provincial councils using a three-round voting system, which requires a two-thirds majority vote in the first two rounds and simple majority vote for the two leading candidates in the final round; 3 seats reserved for Twas, and 30% of all votes reserved for women; members serve 5-year terms)
> National Assembly or Inama Nshingamateka (123 seats in the May 2020 election; 100 members directly elected in multi-seat constituencies by proportional representation vote and 23 co-opted members; 60% of seats allocated to Hutu and 40% to Tutsi; 3 seats reserved for Twas; 30% of total seats reserved for women; members serve 5-year terms)
> elections:
> Senate - last held on 20 July 2020 (next to be held in 2025
> National Assembly - last held on 20 May 2020 (next to be held in 2025)
> election results: Senate - percent of vote by party - CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] 87.2%, Twa 7.7%, CNL 2.6%, UPRONA [Union for National Progress] 2.6%; seats by party - CNDD-FDD 34, CNL [National Congress for Liberty] 1, UPRONA 1, Twa 3; composition - men 23, women 16, percent of women 37.2%

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[70] US Department of State, *2022 Investment Climate Statements: Burundi*, 28 July 2022
[71] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 8*

> National Assembly - percent of vote by party - CNDD-FDD 70.9%, CNL 23.4%, UPRONA 2.5%, other (co-opted Twa) 3.2%; seats by party - CNDD-FDD 86, CNL 32, UPRONA 2, Twa 3; composition - men 76, women 47, percent of women 38.2%; note - total Parliament percent of women 38%.[72]

iii. Political Parties

Additional relevant information can be found under section V. Human Rights Situation, especially *V.a.i. Treatment of Political Opposition*, *V.a.i.1. Restrictions on Political Organizing*, and *V.a.iii. Treatment of persons participating in protests and anyone perceived as opponents of the government, including those perceived as supporting armed groups*.

As way of introduction, the CIA World Factbook's page on Burundi listed the following political parties and leaders in Burundi:

> Political parties and leaders
> **Front for Democracy in Burundi-Nyakuri or FRODEBU-Nyakuri** [Keffa NIBIZI]
> **Front for Democracy in Burundi-Sahwanya or FRODEBU-Sahwanya** [Pierre Claver NAHIMANA]
> **National Congress for Liberty or CNL** [Agathon RWASA]
> **National Council for the Defense of Democracy - Front for the Defense of Democracy or CNDD-FDD** [Evariste NDAYISHIMIYE]
> **National Liberation Forces or FNL** [Jacques BIGITIMANA]
> **Union for National Progress** (Union pour le Progress Nationale) or UPRONA [Abel GASHATSI].[73]

An article published by the Conversation in October 2022 discussed political actors and the history of political parties in Burundi. The article wrote:

> Since its independence in 1962, Burundi has been fraught with violent conflict. The root of this conflict has been a complex interplay between ethnic and political factors. This has resulted in the death of hundreds of thousands of people. Many others have fled to other countries. In 1998, peace negotiations began in Arusha, Tanzania yielding a deal in August 2000.
> At this stage an agreement had been reached by the main conflicting parties – **Uprona [Union for National Progress], Frodebu [Front for Democracy in Burundi] and Palipehutu [Party for the Liberation of the Hutu People].** But violence continued between the government army, the **CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]**, and the military wing of Palipehutu, the Forces nationales pour la libération (FNL).
> After further negotiations, the CNDD-FDD signed the ceasefire, but FNL continued fighting. So when the 2005 general elections were held, not all conflicting parties were part of the process.
> The 2005 elections were seen by many as a significant turning point in the decades-long violence in Burundi despite being held in the midst of ongoing conflict. The peace negotiations ended in 2009, when the FNL finally gave up their arms and became an official political party. This was in the hope that they might stand a chance to win in the 2010 elections.

[72] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022
[73] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022

> The CNDD-FDD won the presidential elections after most of the opposition parties boycotted the polls.
> Conflict erupted again in 2015 in response to President Nkurunziza's running for a third term in office. But generally, it's been a smooth ride for CNDD-FDD in the last 17 years as a divided and weak opposition has been unable to present a united front. Nkurunziza remained in power until his sudden death, on 8 June 2020.
> When Ndayishimiye took over the country's leadership, he initially did not remove members of the administration left behind by the Nkurunziza regime. Those retained included the finance minister and the governor of the central bank. Also spared was Nkurunziza's chief of cabinet, General Gabriel Nizigama, one of the most influential and powerful officers. Nizigima was removed at the same time as Bunyoni.
> The cabinet headed by Bunyoni was seen as a soft and slow transition from a system established a decade earlier by Nkurunziza. Nkurunziza, a rebel leader, came to power in 2005 in the framework of the Arusha peace process. The Arusha pact allowed his movement – the CNDD-FDD – to convert to a political party that won the first post-conflict elections. [74]

The ISS released a report on 29 May 2020 discussing the possibilities of Burundi's trajectory following the elections on 20 May 2020, within which it covered in detail the different parties involved and their respective role and influence:

> The election was held in a political space in which only the hegemonic party, **the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD)** is able to function unrestricted. Nevertheless, unlike in the presidential elections of 2010 and 2015, which were boycotted by the opposition, several opposition parties participated, including the **National Freedom Council (CNL)**, led by Agathon Rwasa. The CNL is the only party that can compete with the CNDD-FDD. […]
> A plethora of satellite political parties
> Despite the closure of its political space, Burundi has nearly 40 authorised parties, of which more than half are close to the CNDD-FDD. The opposition parties that are still active have, for some time, experienced a certain visibility through the CNARED [National Council for Compliance with the Arusha Agreement], in which they were largely grouped. As this opposition platform is currently in a semi-lethargic state, these parties no longer dare attempt to make their voices heard for fear of reprisals from those in power.
> The only criticism still heard in the political sphere, apart from one or other of the deputies of the former *Amizero y'Abarundi* coalition, comes from the representatives of the dissenting wings of the traditional parties, the **Union for National Progress (UPRONA)** and the **Front for the Democracy of Burundi (FRODEBU).** Both of them were formed before the CNDD-FDD but are now only a shadow of their former selves.[75]

The Africa Center for Strategic Studies wrote in a June 2020 article on the shifting power dynamics in Burundi under Nkurunziza, describing the **National Council for Defense of Democracy-Forces for the Defense of Democracy (CNDD/FDD)** and the related political structures:

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[74] The Conversation, *Burundi after exit of Nkurunziza's men - what Evariste Ndayishimiye should do next*, 10 October 2022
[75] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 3 and 7*

> Under Nkurunziza and the ruling National Council for Defense of Democracy/Forces for the Defense of Democracy (CNDD/FDD), factions within the state and party organs had established informal, multi-layered power structures. These structures were built around the Head of State, the Minister of State Security, the Director General of National Intelligence, the CNDD/FDD Secretary General, and the Chiefs of Staff of the Presidency's Civil Cabinet, Police Affairs, and Military Affairs. As Chief of Military Affairs, Ndayishimiye oversaw the Imbonerakure, the party militia, which was responsible for much of the intimidation and violence against civilians during Nkurunziza's tenure. Under these parallel chains of command, orders ran through a network of loyalties dating back to the Burundi's ethnically driven civil war (1993-2005).[76]

In its March 2021 Freedom in the World report, covering 2020, Freedom House summarised the different political parties involved in the electoral process:

> Political Rights
> A Electoral Process
> A1 0-4 pts
> Was the current head of government or other chief national authority elected through free and fair elections? 1/4 […]
> In January 2020, **CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]** insiders selected Évariste Ndayishimiye, a former army general and interior minister, as the party's candidate to succeed Nkurunziza for the May election. Ndayishimiye won 71.5 percent of the vote that month, while Agathon Rwasa of the **National Congress for Liberty (CNL)** received 25.2 percent. Gaston Sindimwo of the **Union for National Progress (UPRONA)** received 1.7 percent, while others received 1.6 percent.
> A2 0-4 pts
> Were the current national legislative representatives elected through free and fair elections? 0/4 […]
> National Assembly elections took place concurrently with the presidential elections in May 2020, amid the COVID-19 pandemic and a campaign to repress opposition groups. The ruling CNDD–FDD secured 86 seats, while the CNL secured 32 and UPRONA secured 2. Members of the Twa ethnic group received 3 seats via co-option. One CNL candidate was originally removed from an electoral list due to a previous incarceration, but was reinstated and allowed to take her parliamentary seat due to a June Constitutional Court ruling.
> Senators were indirectly elected in July 2020; the CNDD–FDD received 34 seats, while the CNL and UPRONA each received 1 seat. Twa members held 3 seats. […]
> B Political Pluralism and Participation
> B1 0-4 pts
> Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1/4
> While political party formation is legally allowed, the activities of parties and political leaders perceived as opposing the CNDD–FDD are severely discouraged by the threat of retaliatory violence, repression, or arrest. […]
> Many political parties include youth branches that intimidate and attack opponents, the most prominent of which is the ruling party's Imbonerakure.

[76] Africa Center for Strategic Studies, *Post-Nkurunziza Burundi: The Rise of the Generals*, 22 June 2020

> An electoral code passed in 2019 prohibits coalitions of independent candidates.
> B2 0-4 pts
> Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0/4
> The opposition has little realistic opportunity to increase its popular support through elections. Opposition parties, politicians, and their supporters face harassment, intimidation, and assassination in Burundi, and many opposition politicians and groups operate in exile. The National Council for the Respect of the Arusha Agreement (CNARED), an opposition-in-exile group, attempted to negotiate with the CNDD–FDD to participate in the 2020 elections, but was unsuccessful in securing an accord.[77]

The following year, Freedom House similarly reported that "Political party formation is legally allowed, but the activities of opposition parties and political leaders are discouraged under the threat of retaliatory violence, repression, or arrest. Individuals are also intimidated into joining the **CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]**.[78]

In March 2021, the US Department of State summarised in its annual country report on human rights practices that:

> Section 3. Freedom to Participate in the Political Process […]
> ELECTIONS AND POLITICAL PARTICIPATION […]
> Political Parties and Political Participation: According to the law, to qualify for public campaign funding and compete in the parliamentary and presidential elections, parties needed to be "nationally based," i.e., ethnically and regionally diverse, and prove in writing they were organized and had membership in all provinces. The Ministry of the Interior recognized 36 political parties. In February 2019 the Ministry of the Interior registered the previously unapproved **National Forces of Liberation-Rwasa under the new name, the CNL [National Congress for Liberty].** The **Union for National Progress (UPRONA),** led by Evariste Ngayimpenda, remained unrecognized, except for a small faction that broke off and pledged its allegiance to the ruling party. The **Movement for Solidarity and Democracy** remained suspended, and the Supreme Court's decision on a motion to ban it permanently was still pending at year's end.[79]

Again, the following year, the US Department of State published the following on the 2020 elections:

> Section 3. Freedom to Participate in the Political Process
> ELECTIONS AND POLITICAL PARTICIPATION
> Recent Elections: […]
> The government opened the political space slightly, allowing participation of opposition parties and permitting them to carry out campaign activities across the country. […]
> Political Parties and Political Participation: The constitution outlines a multiparty system and provides rights for parties and their candidates including assurance for authorities' noninterference in political parties' affairs. According to the law, to qualify for public campaign funding and compete in the parliamentary and presidential elections, parties needed to be "nationally based," (i.e., ethnically and

[77] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[78] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[79] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

regionally diverse) and prove in writing they were organized and had membership in all provinces. The Ministry of the Interior recognized 36 political parties. In 2019 the Ministry of the Interior registered the previously unapproved **National Forces of Liberation-Rwasa** under the new name, the **CNL [National Congress for Liberty].** The **Union for National Progress,** led by Evariste Ngayimpenda, remained unrecognized, except for a small faction that broke off and pledged its allegiance to the ruling party. All registered political parties regularly met through the National Forum of Political Parties, the minister of interior's institution for political dialogue. In addition, President Ndayishimiye met regularly with leaders of political parties to discuss topics of importance to the country and sought their input. Government officials praised the discussion's framework for promoting political unity, while critics argued it served mainly for publicity and did not touch on sensitive political topics.

Political parties allied with the **CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]** were largely able to operate freely. The COI [Commission of Inquiry] reported political violence subsided and that hate speech against opponents was replaced by official calls for political tolerance. Media and human rights organizations, however, reported abuses including arbitrary arrests, torture and enforced disappearance against political opponents, mainly CNL members, by the Imbonerakure and unidentified armed men in retaliation for political engagement and alleged involvement in armed groups responsible for security incidents in the country. The COI reported that some CNL members were victims of enforced disappearance in the months following the 2020 elections and were seen for the last time being taken away by state agents or members of the Imbonerakure. In some rural communities, CNL offices were ransacked or destroyed.

The constitution includes restrictions on independent candidates, including a measure that prevents individuals from running as independents if they had claimed membership in a political party within the previous year or if they had occupied a leadership position in a political party within the previous two years. The constitution also provides that independent candidates for the National Assembly must receive at least 40 percent of the vote in their district to be elected, a standard that did not apply to candidates representing political parties. The constitution's ban on coalitions for independents further constrained the options for unrecognized parties.[80]

1. National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD)

Additional relevant information can be found under sections IV. Corruption, especially *IV.b. Within the Wider Government*, V. Human Rights Situation, especially *V.a.i. Treatment of Political Opposition*, and I. Background Information, especially *I.c.iii.1.c. Imbonerakure*.

The New Humanitarian reported on 13 May 2020 that "Many Burundians had expected Nkurunziza – a former rebel leader – to stand for a fourth term, but in January the ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] announced Evariste Ndayishimiye, the party's secretary-general, as its candidate". It continued that "Ndayishimiye is seen as a reformist by some analysts and diplomats, who hope he will mend ties with the international donors that pulled bilateral assistance following the violence of 2015. Others doubt the former military general can change

[80] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

an increasingly authoritarian party that has spent the pre-election period clamping down on dissenters – and some say is now downplaying a global pandemic".[81]

Reporting by ACLED in May 2020 explored the political violence perpetrated by actors within or attached to the party, stating that:

> During the last elections held in 2015, political violence largely centered on the disputed legality of a third term mandate for the incumbent President Pierre Nkurunziza of the ruling National Council for the Defense of Democracy–Forces for the Defense of Democracy (CNDD-FDD) (Reuters, 25 April 2015). In the 2020 election, the CNDD-FDD party has decided upon a new candidate, Evariste Ndayishimiye, eliminating concerns Pierre Nkurunziza would remain in office. This has shifted contestation and political focus towards the primary opposition party: the CNL [National Congress for Liberty]. Both the CNDD-FDD and CNL are political parties based on and led by former Hutu rebels competing for a similar demographic of the voting population. […]
>
> Local government actors supporting the CNDD-FDD often partner with Imbonerakure to coordinate attacks against political targets or to carry out the violence themselves alongside Imbonerakure (HRW, 27 April 2020). […]
>
> Although the total number of events involving the Imbonerakure peaked in 2018, there has been a significant increase in the average rate of violence by Imbonerakure against opposition supporters by month since the CNL formed in February 2019. Mirroring overall disorder trends, these events occur across the rural countryside with a lower concentration in Bujumbura than in previous election cycles. These shifts demonstrate that the CNDD-FDD perceives the CNL as a significant threat around the country, and that it remains willing to use violence to influence elections.[82]

The ISS released a report on 29 May 2020 discussing the possibilities of Burundi's trajectory following the elections on 20 May 2020. It described the role and history of the CNDD-FDD:

> The election was held in a political space in which only the hegemonic party, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD) is able to function unrestricted. Nevertheless, unlike in the presidential elections of 2010 and 2015, which were boycotted by the opposition, several opposition parties participated, including the National Freedom Council (CNL), led by Agathon Rwasa. The CNL is the only party that can compete with the CNDD-FDD. […]
>
> The political forces in the running
>
> The CNDD-FDD's third term in power (2015-2020) was marked by various setbacks for the opposition, which had an impact on the political landscape. The government overcame aggressive challenges by small rebel groups and the opposition as a whole, against which it was victorious in a diplomatic and political battle of attrition. Finally, the opposition became weaker and more fragmented than it had been in 2015 when the creation in exile of the National Council for the Respect of the Arusha Agreement (CNARED) had given hope to many in the opposition. The narrowing of the political space, the many restrictions imposed on internal opposition and the repression to which it was subjected resulted in many of its members giving up.

[81] The New Humanitarian, *Coronavirus response takes backseat as election looms in Burundi*, 13 May 2020

[82] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020

At the same time, the CNDD-FDD consolidated its grip on all institutions, and even extended its control to several key sectors of Burundi's economy that had long been monopolised by foreign groups and the former Tutsi elites. Its members greatly enriched themselves and its omnipotence almost turned the country into a one-party state. The CNDD-FDD took over many institutions of state and several scandals show that it subjected these institutions to the directives of shadowy forces within the party.13

Still, the omnipotence of the CNDD-FDD can be deceptive. The crisis had serious socio-economic repercussions, from which Burundi has still not recovered. Burundians have seen a drop in their standard of living and many of them continue to be subjected to various taxes while others are victims of state repression. The popularity of the party in power will inevitably be affected, with Agathon Rwasa's CNL likely to gain support from many of those disappointed in the CNDD-FDD. In a context in which, at the same time, a small group of officials, together with several oligarchs, have become economic predators, the presidential party has seen the ranks of its detractors increase.

The CNDD-FDD: A party imprisoned by the ghosts of the past

The CNDD-FDD tries to cultivate its image as a party of the people. So, during its first years in power, the new regime tried to get closer to the rural masses and some of its actions seemed to indicate a desire to break with former governments, which were highly centralised in Bujumbura. The former rebels are, however, struggling to rid themselves of some habits inherited from their experience of being a rebel movement: a culture of secrecy, an obsession with plots, the use of force and intimidation to the detriment of dialogue and compromise, the use of force against those who refuse to cooperate, and so on.

Despite becoming a political party in 2004, the CNDD- FDD remains under the influence of a group of generals who perpetuate the militarisation of the party. These officers, called '*abarugwanye*' ('those who fought'), who, although forbidden to join any political party, regularly interfere in the management of the party and public affairs, citing their role in the liberation of the country. Their name, '*benemugambwe*' ('the owners of the party'), as opposed to the '*banyamugambwe*' ('the members of the party'), reveals this propensity to use the party as an instrument.

These interferences are justified by the need to defend the interests of the party and the ethnic majority against attempts at sabotage, or revengeful acts or a reversal of the popular will by other political forces; an insinuation directed at the former Tutsi elites. However, since the generals involved earn considerable revenue from their control of the party, the motive for their actions appears more likely to be financial interests and identity dynamics.14

That being said, Nkurunziza has remained the kingpin in the political game. His power has been significantly reinforced since the major purge of the party and the various amendments to its statutes. His position as President of the Committee of Wise Men, the party's supreme body, together with his role as head of state, gives him real authority in the CNDD-FDD. This supremacy does not prevent him from being regularly opposed by the generals when they feel their interests are threatened.

The sources of the tensions and repetitive crises faced by the party are its authoritarian nature, its neo-patrimonial practices, the absence of internal debate, the lack of transparency in decision making, personality clashes and the diversity of its members' backgrounds. The last internal purge, in 2015, strengthened the circle of generals as well as the repressive role of formal and informal security structures. The *imbonerakure,* the party's youth organisation, controls almost all areas, imposing its law and holding the population to ransom.15 […]

Evariste Ndayishimiye was born in 1968 in the province of Gitega, in the centre of Burundi. In 1995 he escaped the massacre of Hutu students at the University of Burundi, where he was studying law. He later joined the CNDD-FDD rebellion and eventually became one of its military leaders. He was promoted to

general in 2003. After the inclusion of the rebel movement in the establishment at the end of that year, he became a member of the Joint Ceasefire Commission.
In 2004 he was named logistics chief of staff in the National Defence Force (FDN), which he left for the position of Minister of the Interior from 2006 to 2007. He then became military chief of staff of the Presidency (2007-2014) before being appointed general manager of the Burundian Warehouse Management and Ground Handling Company (SOBUGEA) from 2014 to 2015, civilian chief of staff to the Presidency from 2015 to 2016 and the secretary-general of the CNDD-FDD. In 2020, he was nominated as the party's presidential candidate. […]

13 A Nkurunziza, Burundi: The agenda behind the agenda, Iwacu Editions, 2019.
14 Interviews.
15 Jeune Afrique, Agence France Presse, Burundi: The Imbonerakure, Tool of repression for the regime, (8 April, 2017, www.jeuneafrique.com/ depeches/426528/politique/burundi-imbonerakure-outil-de-repression- regime/.
16 The 2005 elections took place without the participation of Rwasa, who was still in the militia with PAPIPHUTU-FNL.
17 As *Amizero y'Abarundi* had registered before officially boycotting the elections CENI counted the percentage it would have won and it was allocated seats in the National Assembly. A debate followed within the party about whether or not to occupy these seats, Rwasa and the former FNL eventually joining the Assembly, while some of those elected refused to sit. […]
21 Interviews.
22 @rib News, Burundi: 'Wave of arrests' in the Bujumbura region, according to the opposition, AFP, , 23 January 2020, www.arib.info/ index. php?option=com_content&task=view&id=19853&Itemid=138.[83]

The Africa Center for Strategic Studies described the party and its influence in depth in an article published on 22 June 2020:

Under Nkurunziza and the ruling National Council for Defense of Democracy/Forces for the Defense of Democracy (CNDD/FDD), factions within the state and party organs had established informal, multi-layered power structures. These structures were built around the Head of State, the Minister of State Security, the Director General of National Intelligence, the CNDD/FDD Secretary General, and the Chiefs of Staff of the Presidency's Civil Cabinet, Police Affairs, and Military Affairs. As Chief of Military Affairs, Ndayishimiye oversaw the Imbonerakure, the party militia, which was responsible for much of the intimidation and violence against civilians during Nkurunziza's tenure. […]
This process also entailed dismantling the Arusha Peace and Reconciliation Agreement that had been created in the aftermath of the civil war to establish safeguards against abuse of power and provide mutual assurances to both the Tutsi minority and Hutu majority. The Accords created a unified army by balancing the predominantly Tutsi ex-Burundi Armed Forces (ex-FAB) and the predominantly Hutu Armed Political Movements (PMPA), of which the CNDD/FDD was one component. Under Nkurunziza, the CNDD-FDD chipped away at the delicate mechanisms put in place to achieve parity under the Arusha Accords. What emerged was a political process and security sector dominated by the CNDD/FDD and their Hutu nationalist ideology.
In the process, the rump military became highly politicized. The most powerful faction is known as the Committee of Generals (sometimes called the Nonoka Association), consisting of CNDD/FDD civil war commanders. Eventually, Nkurunziza himself was not able to control the deep politicization of the military. On the eve of the January 2020 CNDD/FDD Congress, the Committee of Generals forced him to install Ndayishimiye as flagbearer for the May elections, upsetting his plans to hand power to the

[83] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 3, 5, 6, and 14*

> Secretary General and Speaker of the Assembly, Pascal Nyabenda, who the 2019 United Nations Commission of Inquiry on Human Rights in Burundi report identifies as a leader of one of the parallel power structures inside the presidency.
> Under a Russia-style triumvirate written into the party Constitution, Nkurunziza was to continue as "Supreme Eternal Guide," with powers to veto decisions by the President and Prime Minister. The expectation was that all three would come from the same faction of the party. Nyabenda's ouster caused consternation in the party and intensified jockeying among its factions. It was also seen as an open challenge to the party leader, shaking it to its foundations. Nonetheless, Ndayishimiye's supporters held firm. Reflective of the Hutu nationalist origins of the CNDD-FDD, they wanted a fellow military man and comrade from their days as Hutu rebels—and someone seen as even more hardline than Nkurunziza.
> Reflective of the ongoing jockeying for influence within the CNDD/FDD, Ndayishimiye was forced to select General Alain Guillaume Bunyoni as Prime Minister. Bunyoni heads up another faction within the Committee of Generals, is an ally of Nyabenda, and is the leader of one of the parallel power structures that exert influence within the government. He is currently Minister of Public Security and in that capacity controls the gendarmerie and police. This portends an arrangement where competing political structures are in control of different arms of the security sector.
> Other key members within the Committee of Generals include Chief of Cabinet in the President's Office, General Gervais Ndirakobuca, widely known by his nickname Ndakugarika (literally meaning "I will kill you"), and General Etienne Ntakarutimana, the former head of the National Intelligence Service. Ndirakobuca and Bunyoni are under EU sanctions for alleged human rights abuses, while Bunyoni is also on the United States sanctions list. […]
> The transition of power from Nkurunziza to Ndayishimiye may seem to many regional and international observers a quick and stabilizing solution to the sudden power vacuum created by Nkurunziza's death in a country ranked 185th out of 189th in UNDP's Human Development Index. This overlooks the remaining sharp rivalries within the CNDD-FDD, however, as well as the ongoing exclusion of nearly all independent voices, opposition parties, and civil society.[84]

The UN Commission of Inquiry on Burundi commented in an oral briefing in July 2020 on the composition of the party in power:

> […] the new President's policies will be implemented by a government composed primarily by the old guard of the late President Nkurunziza's regime5; some of whom are under sanctions by the United States of America, the European Union and Switzerland for their involvement in the repression triggered by the 2015 events6. They have also been cited for their involvement in serious human rights violations and even crimes against humanity. Conversely, we commend the appointment of Mme Imelde Sabushimike as Minister of National Solidarity, Social Affairs, Human Rights and Gender, one of the five women in this government and the first Twa to hold a ministerial post. […]
>
> 5 Five of the fifteen Ministers are former Ministers under Nkurunziza including Alain-Guillaume Bunyoni ; Dr. Thaddée Ndikumana, Minister of Health; Gaspard Banyankimbona, Minister of National Education, Higher Education and Scientific Research ; Ezéchiel Nibigira, Minister of East African Affairs, Youth, Sports and Culture; Domitien Ndihokubwayo, Minister of Finance and Déo Guide Rurema, Minister of Environment, Agriculture and Animal Husbandry. The spokesperson for the presidency and the President's chief of staff were reappointed.

[84] Africa Center for Strategic Studies, *Post-Nkurunziza Burundi: The Rise of the Generals*, 22 June 2020

> 6 For example, Alain-Guillaume Bunyoni, current Prime Minister and former Minister of public security; Gervais Ndirakobuca (alias Ndakugarika, « I will kill you »), Director of the National Intelligence Service (SNR) since November 2019, now Minister of the Interior, Community Development and Public Security.[85]

Similarly, the 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Commission of Inquiry in Burundi stated that:

> Despite promising remarks by President Ndayishimiye during his inauguration, as well as the authorities' new, more transparent approach to tackling the COVID-19 pandemic, observers also raised concerns, notably over the fact that several newly appointed members of the Ndayishimiye administration are subject to international individual sanctions for their alleged responsibility in human rights violations. Nonetheless, the political transition represents an opportunity to open a new chapter for the Burundian people and for Burundi's relationship with the UN human rights system.[86]

On 28 September 2020, ACAT Burundi and ten other civil society organisations released a joint report one hundred days into Ndayishimiye's regime. Translated from French to English using the online translation tool, Onlinedoctranslator.com, the report raised concerns on the following:

> The affirmation of a militarization of institutions which manifests itself in the coexistence of four generals of the army and the police in high office in the country: Major General Evariste Ndayishimiye in the presidential position, the Commissioner General of Police Alain-Guillaume Bunyoni in the post of Prime Minister, the Commissioner Police Chief Gervais Ndirakobuca as Super Minister of the Interior, Community Development and Public Security, Police Commissioner Chief Gabriel Nizigama as Chief of the President's Civil Cabinet, not forgetting that six provincial governors, including Bujumbura City Hall, out of a total of 17 provinces are either senior officers of the army, the police or a member of the National Intelligence Service (SNR).This militarization of the administration constitutes a departure from the spirit of the Arusha Accord and raises fears of the establishment of a military dictatorship and continued repression of opponents.[87]

In December 2020, the BHRI released a report on Burundi's future, political trajectory, and human rights record. It described the elections and the composition of the ruling party:

> 1. THE CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] WINS AGAIN: THE EMERGENCE OF HARDLINERS AFTER THE ELECTIONS
> Contested elections […]
> On 25 May, the National Independent Electoral Commission published its provisional results, indicating a landslide victory for the CNDD-FDD in all provinces, except for Bujumbura, the economic capital, and Bururi, the stronghold of Burundi's former military regime. […]
> The appointment of hardliners in the new institutions

[85] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 14 July 2020
[86] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1 and 3*
[87] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Joint Report of Burundian Civil Society at the End of 100 Days of President Evariste Ndayishimiye's Regime*, 28 September 2020 [Rapport Conjoint Societe Civile Burundaise au Terme des 100 Jours du Regime Neva], *p. 4*

With his party firmly in control of both chambers of Parliament – the CNDD-FDD secured 86 out of 123 seats in the National Assembly, and 34 out of 39 seats through indirect elections for the Senate – Ndayishimiye felt no obligation to integrate the CNL into a coalition government; this was no longer a legal requirement but still a political option.17 Despite obtaining 32 seats in the National Assembly, the CNL failed to secure any senior positions in parliament. Neither of the two CNL governors who had served from 2015 to 2020 were reappointed. […]

The CNDD-FDD therefore easily has the upper hand in the new parliament, especially as most legislation is passed by absolute majority, according to the 2018 Constitution.18 Both chambers of parliament are led by staunch CNDD-FDD loyalists: Gélase Ndabirabe was chosen as the new president of the National Assembly and Emmanuel Sinzohagera as president of the Senate.

Initial hopes of openness and reform were further diminished when Ndayishimiye appointed Alain Guillaume Bunyoni as prime minister and Gervais Ndirakobuca as minister of interior, community development and public security. […] the appointments of these two senior officials, who have been linked to serious human rights violations and are both under international sanctions, appear to jeopardise the chances of meaningful human rights reforms. […]

5. BURUNDI'S PRECARIOUS POLITICAL FUTURE […]

The CNDD-FDD consolidates its power […]

After shutting out its historic competitor, the CNDD-FDD used its 2020 election victory to further entrench its power at all levels of government. In most cases, that objective was given precedence over the individual careers of ruling party officials. The party made clear during the legislative and local elections that specific ruling party officials who had strongly supported Nkurunziza – but didn't have close ties to Ndayishimiye or Bunyoni – had no place in the new government. Governors and members of parliament who seemed untouchable only a few months ago have been sidelined since the elections.

The most notable example was Pascal Nyabenda, the former National Assembly president. He was passed over to succeed Nkurunziza, was not put forward as a candidate for the legislative elections, then lost the vote for a Senate seat to a CNL member; even CNDDFDD members voted against him. In what seemed like a consolation prize, he was appointed second vice-governor at Burundi's central bank.

On the provincial level, President Ndayishimiye only reappointed two former governors who served under Nkurunziza (in Karusi and Gitega provinces). Many of the current governors are new faces, unknown even to some residents of their province. Some appear to have been chosen because of their links to powerful individuals or for their loyalty to the CNDD-FDD and willingness to obey orders handed down from the top of the party. But surprisingly, several well-known CNDD-FDD loyalist governors, such as Gad Niyukuri of Makamba and Frédéric Niyonzima of Bururi, a former Imbonerakure, have been replaced by relatively unknown individuals. […]

15 Interview with Agathon Rwasa, 23 October 2020. See also Iwacu, "Agathon Rwasa prend acte du verdict de la Cour constitutionnelle", https://www.iwacu-burundi.org/agathon-rwasa-prend-acte-du-verdict-de-la-courconstitutionnelle/, 6 June 2020. […]

18 See article 180 of the revised Constitution of 7 June 2018.[88]

In its report on Burundi in August 2021, the UN Commission of Inquiry wrote on the power and organisation of the ruling party:

[88] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 15 to 17, 70, and 71*

V. Risk factors

A. Overview […]

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 [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. 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 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.[89]

Freedom House reported on Burundi in its February 2022 Freedom in the World report, covering 2021 and stating that:

Political Rights […]

A Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections? 1/4

Burundi adopted a new constitution in 2005 after a series of agreements ended the country's 12-year civil war. The constitution was amended in 2018 through a referendum. Among other provisions, the amended constitution lengthened presidential terms from five years to seven, consolidating the rule of then president Pierre Nkurunziza—who had served three terms—and the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy].

In January 2020, CNDD-FDD insiders selected Évariste Ndayishimiye, a former army general and interior minister, as the party's candidate to succeed Nkurunziza for that May's election. Ndayishimiye won 71.5 percent of the vote, while Agathon Rwasa of the National Congress for Liberty (CNL) received 25.2 percent. Gaston Sindimwo of the Union for National Progress (UPRONA) received 1.7 percent, while others received 1.6 percent. […]

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections? 0/4 […]

National Assembly elections took place concurrently with the May 2020 presidential elections, amid the COVID-19 pandemic and a campaign to repress opposition groups. The CNDD-FDD secured 86 seats, while the CNL secured 32 and UPRONA secured 2. The Twa received 3 seats via co-option.

Senators were indirectly elected in July 2020; the CNDD-FDD received 34 seats, while the CNL and UPRONA each received 1. Twa members held 3 seats.

[89] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 15 and 16*

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 0/4

The five-member Independent National Electoral Commission is under the effective control of the ruling CNDD-FDD. In 2015, two members who fled the country amid that year's unrest were replaced with pro-Nkurunziza appointees approved by a CNDD-FDD-controlled Parliament. Constitutional amendments extending presidential term limits, consolidating power in the executive, and allowing for a future revision of the Burundian ethnic power-sharing system were approved in a 2018 referendum that was marred by a violent intimidation campaign conducted by the CNDD-FDD. […]

B Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1/4

Political party formation is legally allowed, but the activities of opposition parties and political leaders are discouraged under the threat of retaliatory violence, repression, or arrest. Individuals are also intimidated into joining the CNDD-FDD. […]

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means? 0/4

The Imbonerakure, National Intelligence Service (SNR), and police are allies of the CNDD-FDD and use violence and intimidation to influence people's political choices. […]

C Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government? 0/4

The ruling CNDD-FDD, whose election to power fell far short of standards for free and fair elections, controls policy development and implementation. […]

Civil Liberties

D Freedom of Expression and Belief […]

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination? 1/4

Both university students and staff who support the CNDD-FDD receive preferential treatment at academic institutions. Continued intimidation of opposition supporters has created an atmosphere of fear and limited free speech on university campuses. Reports indicate that teachers allied to the CNDD-FDD have intimidated students who are considered unsupportive, in some cases preventing them from attending school. Teachers are increasingly screened for political loyalty to the ruling party. […]

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 0/4

The SNR and the Imbonerakure actively surveil private citizens. There is a reluctance to engage in speech which could be perceived as critical of the CNDD-FDD for fear of reprisal. […]

F Rule of Law

F1 0-4 pts

Is there an independent judiciary? 0/4

> The judiciary is hindered by corruption and a lack of resources and training. The judiciary is generally subservient to the executive, which regularly interferes in the criminal justice system to protect CNDD-FDD and Imbonerakure members and persecute the political opposition.
> In 2020, the Constitutional Court partially checked the CNDD-FDD's power by upholding a challenge to the disqualification of an opposition parliamentary candidate. However, it did not entertain a challenge over the conduct of the presidential election, despite evidence of widespread fraud and intimidation.[90]

On 20 June 2022, Afrique TV5MONDE wrote on forced recruitment into CNDD-FDD. Using Google Translate, the following was translated from French into English: "According to some opposition figures, a forced recruitment of opposition activists, the aim of which is to make them join the ranks of the presidential party, the CNDD-FDD, is under way. According to Kefa Nibizi, the president of Codebu Iragi Rya Ndadaye, a small party rather close to power, "political intolerance is on the rise in Burundi"".[91]

A few days later, on 27 June 2022, SOS Médias Burundi also published an article in French on reports of forced recruitment into CNDD-FDD. Using Google Translate, the following passage was translated from French into English:

> In the commune of Nyabitsinda in the province of Ruyigi (eastern Burundi), members of opposition parties say that they are obliged to join the presidential party, the CNDD-FDD to preserve service advantages or not to suffer changes. Those who testified are from the health and national education sector. The communal administrator of Nyabitsinda denies these allegations.
> According to activists from the CNL, the major opposition political formation in Burundi, an order has been given: "no member of an opposition political party, more particularly the CNL, will receive administrative service in this Nyabitsinda commune".
> "I have been a teacher for 15 years and I have been a member of the CNL since its creation (three years). I was ordered to join the CNDD-FDD where then I would be transferred to another province far from my home. I had to join the presidential party even though I didn't want to. It was out of fear of going to work far from home like my other teaching colleagues that I accepted the offer. We are not given a choice", explains this teacher before adding that a colleague who resisted was transferred to the province of Bubanza (western Burundi) to serve as an example.
> In the health sector, most health professionals and trade unionists are also forced to enter the CNDD-FDD.
> "I am a member of a club and among the representatives of the national union of health personnel. My holder ordered me to join the CNDD-FDD party telling me that it was an order from above. I refused but reprisals were not long in coming. I was transferred to another health center in the province of Rutana (south-eastern Burundi)," said Pierre*, a nurse from a local health center.
> Contacted in this regard, the administrator of Nyabitsinda denies these accusations.
> "These are montages of members of the CNL who are jealous to see that the CNDD-FDD is rounding up their members.

[90] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[91] Afrique TV5MONDE, *Burundi: the opposition accuses the presidential party of recruiting opposition activists by force*, 20 June 2022 [Burundi : l'opposition accuse le parti présidentiel de recruter par la force des militants de l'opposition]

The administration does not force anyone to join the ruling party," he insisted.[92]

a. Pierre Nkurunziza

Human Rights Watch reflected on the legacy of Pierre Nkurunziza shortly after his death in early June 2020 that:

> Burundi's authoritarian president, Pierre Nkurunziza, whose death was confirmed in a government statement on June 9, 2020, leaves a legacy of political repression and widespread human rights abuse. […]
> "Pierre Nkurunziza's legacy will be of ruthless repression," said Lewis Mudge, Central Africa director at Human Rights Watch. "His government decimated independent media and human rights organizations, blocked international scrutiny, and effectively closed Burundi to the outside world. Burundi's leadership should demonstrate its commitment to human rights reform by taking urgent steps to put an end to the widespread abuse and make clear that the transition will result in a meaningful opening of political space."
> A former rebel leader during a brutal civil war that killed an estimated 300,000 Burundians, Nkurunziza was sworn in as president in 2005. During his rule, Burundi's fragile progress toward democracy and stability suffered serious setbacks, as political upheaval and widespread killings by security forces and armed opposition groups gripped the country.
> In April 2015, demonstrations broke out in response to the news that Nkurunziza would seek election for a third term. Police used excessive force and shot demonstrators indiscriminately, killing and injuring scores of people. After a failed coup d'état by a group of military officers in May, the government intensified its repression against suspected opponents and suspended most independent radio stations. While anti-Nkurunziza demonstrations were initially peaceful, some demonstrators resorted to violence. Government opponents also stepped up their violence in the aftermath of the July 2015 elections.
> Since his reelection that year, Burundian state security forces, intelligence services, and members of the Imbonerakure carried out brutal, targeted attacks on opponents or suspected opponents. Human rights defenders were attacked, arrested, and prosecuted. The government placed severe restrictions on nongovernmental groups or shut them down entirely, and most leading activists and independent journalists fled the country for their security.
> Whereas once the government tolerated criticism, albeit unhappily, during Nkurunziza's last term in power, space for rights groups and independent journalists to operate freely vanished, Human Rights Watch said.
> Nkurunziza's third term was disputed, but the constitution clearly did not permit him to run again in 2020. A referendum was planned to change the constitution to increase presidential terms to seven years, renewable only once, and to reset the clock on terms already served. It took place in May 2018, against the backdrop of widespread abuses by local authorities, the police, and Imbonerakure members, with no almost no consequences. Imbonerakure members and local authorities continued to pressure people to join the party and target opposition members ahead of the 2020 elections, especially in rural areas.
> However, Nkurunziza eventually announced he would not run for another term. Days before the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] nominated Évariste Ndayishimiye, the party's then-secretary general, as its 2020 presidential candidate, Parliament

[92] SOS Médias Burundi, *Ruyigi: opposition party activists forced to join CNDD-FDD to keep their jobs*, 27 June 2022 [Ruyigi : des militants des partis d'opposition contraints d'adhérer au CNDD-FDD pour préserver leur employ]

adopted a law granting significant financial privileges to Nkurunziza, including a US$500,000 payment, a luxury villa, 6 cars, and a lifelong allowance after he stepped down. Nkurunziza was also set to become the country's "Supreme Guide of Patriotism.".[93]

Similarly, the ISS summarised his political career in an article on 17 June 2020:

> Pierre Nkurunziza's sudden death on 9 June ends the political career of a sports teacher who ascended to the presidency of Burundi via a rebel movement.
> In 1987, the young Nkurunziza's application to join the army was rejected because of his Hutu ethnicity. He then joined the National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD) in 1994 and became the rebel movement's leader in 2001.
> Many will remember Nkurunziza only for the last years of his presidency – that legally dubious third term of office that sparked a political crisis. It reversed the fragile political and economic dividends resulting from the end of the civil war and the signing of the Arusha Agreement. […]
> Selected CNDD-FDD candidate by default in the 2005 election, Nkurunziza came to power following the Arusha and Pretoria peace accords, and not through a military victory like his Ugandan and Rwandan counterparts. […]
> While undeniable social progress was made during his first term, his second period in office saw a deterioration in public freedoms that worsened during his third term. In hindsight, it appears that Nkurunziza's three terms were an opportunity to recover all the concessions he'd had to make in the context of the Arusha Agreement negotiations.
> This led to a significant erosion of the rule of law and democracy in Burundi. An important indicator of this trend is the various electoral processes, all of which were marked by violence and, with the exception of 2005, irregularities. […]
> Nkurunziza and the CNDD-FDD have never been able to guarantee that the end of privileges granted to the Tutsi minority in the Arusha Agreement would lead to real democracy as opposed to a revengeful tyranny of the Hutu majority. This political ambiguity was particularly bad for the country's economy, which experienced a spectacular collapse that undid the social progress achieved during Nkurunziza's first two terms.
> His insistence on running for a third term set off a repressive turn in his power. It also triggered many diplomatic adjustments with countries in the region and beyond. […]
> Though nicknamed Umuhuza (Unifier) during the armed struggle, Nkurunziza was never able to do the same in politics. There he was extremely divisive, despite enjoying strong support in rural areas. The Pentecostal Nkurunziza entered the armed struggle with the ideal of equality between the Tutsis and Hutus. However once in power he proved incapable of extricating himself from armed struggle mentality. This included a resort to violence and paranoia inherited from his years in the bush.[94]

b. Évariste Ndayishimiye

A report by ISS in May 2020 gave the following introduction of Evariste Ndayishimiye:

[93] Human Rights Watch, *Burundi: President Nkurunziza Dead Days After Vote*, 11 June 2020
[94] Institute for Security Studies (ISS), *Pierre Nkurunziza, a leader in the Great Lakes mould*, 17 June 2020

> Evariste Ndayishimiye was born in 1968 in the province of Gitega, in the centre of Burundi. In 1995 he escaped the massacre of Hutu students at the University of Burundi, where he was studying law. He later joined the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] rebellion and eventually became one of its military leaders. He was promoted to general in 2003. After the inclusion of the rebel movement in the establishment at the end of that year, he became a member of the Joint Ceasefire Commission.
> In 2004 he was named logistics chief of staff in the National Defence Force (FDN), which he left for the position of Minister of the Interior from 2006 to 2007. He then became military chief of staff of the Presidency (2007-2014) before being appointed general manager of the Burundian Warehouse Management and Ground Handling Company (SOBUGEA) from 2014 to 2015, civilian chief of staff to the Presidency from 2015 to 2016 and the secretary-general of the CNDD-FDD. In 2020, he was nominated as the party's presidential candidate. He is married and is the father of six.[95]

In May 2020, the New Humanitarian highlighted that "Many Burundians had expected Nkurunziza – a former rebel leader – to stand for a fourth term, but in January the ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] announced Evariste Ndayishimiye, the party's secretary-general, as its candidate". It continued that "Ndayishimiye is seen as a reformist by some analysts and diplomats, who hope he will mend ties with the international donors that pulled bilateral assistance following the violence of 2015. Others doubt the former military general can change an increasingly authoritarian party that has spent the pre-election period clamping down on dissenters – and some say is now downplaying a global pandemic".[96]

In December 2020, the CSIS released an edition of the CSIS Africa Program's series, "Under the Radar," which included commentary on Évariste Ndayishimiye's consolidation of political power and strategy in rule. It wrote that:

> Burundi: The Ascent of Évariste
> President Évariste Ndayishimiye has continued to consolidate political power after replacing late president Pierre Nkurunziza in June. Despite insinuating that he would usher in reform, Ndayishimiye has doubled down on the repressive tactics that came to define the regime of his predecessor. This was highlighted by an October decision by the United Nations Human Rights Council (OHCHR) to extend the mandate of the Commission of Inquiry on Burundi by one year amid ongoing reports of human rights abuses. […]
> Ndayishimiye's actions have doused optimism that his government would open the narrow democratic space in Burundi and create an inclusive political environment as demanded by the political opposition. Ndayishimiye's political rivals, such as the Red Tabara opposition group, have requested intervention by the United Nations and East African Community in response to alleged state-sponsored violence against the ruling party's opponents as well as a burgeoning humanitarian crisis in the country.[97]

In July 2021, International Crisis Group published an article a year after the rise to leadership of President Evariste Ndayishimiye, reporting that:

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[95] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 14*
[96] The New Humanitarian, *Coronavirus response takes backseat as election looms in Burundi*, 13 May 2020
[97] Center for Strategic and International Studies (CSIS), *Under the Radar: Winter Edition*, 18 December 2020

> Elected in May 2020, President Evariste Ndayishimiye assumed power over a deeply troubled country. He took the reins from his late predecessor Pierre Nkurunziza, who had led Burundi into a protracted crisis over his fifteen years in office and had died shortly after Ndayishimiye's election. […]
> While Ndayishimiye's rise to power marked the end of Nkurunziza's personality cult, the new president will still have to placate powerful factions in the ruling Conseil national pour la défense de la démocratie – Forces pour la défense de la démocratie (CNDD-FDD), which started its life as a Hutu rebel group before turning into a political organisation in 2003. The CNDD-FDD's selection of Ndayishimiye, who had previously held various government positions as well as the post of party secretary-general, reveals much about where power truly lies in the party. At first, it appeared that Nkurunziza was pushing for his ally Pascal Nyabenda, the former president of the National Assembly, to succeed him. It was only after intense lobbying by top generals that Ndayishimiye, himself a former senior army officer, finally won the candidacy. Having risen to power largely at the behest of powerful party security chiefs to whom he now owes his presidency, he will be under pressure to ensure they remain happy with him.
> Indeed, after securing electoral victory for the CNDD-FDD, which now holds a majority in both the National Assembly (86 0f 123 seats) and the Senate (34 of 39 seats), Ndayishimiye has appointed generals and security hardliners to top positions. His fifteen-member cabinet includes Prime Minister Alain-Guillaume Bunyoni and Interior Minister Gervais Ndirakobuca, who are both under EU and U.S. sanctions for their role in crackdowns during the 2015 crisis.[98]

c. Imbonerakure

Additional relevant information can be found under section I. Background Information, especially *I.c.iii.1. National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD)*, section V. Human Rights Situation, especially *V.e. Torture and Inhumane Treatment* and *V.f. Extrajudicial Killings or Disappearances*, and section III. Rule of Law/Administration of Justice, especially *III.e. Impunity*.

By way of introduction, Amnesty International explained in August 2020 that "The Imbonerakure, the youth wing of the ruling party the National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD), play a variety of roles, some of which are traditional political activities. Imbonerakure groups have intimidated and attacked members of opposition political parties, threatening and inflicting violence on people who refuse to join the ruling party". It further noted that "Since 2014, Imbonerakure have also been part of mixed security committees at the local level. They frequently work on behalf of and alongside the police and the National Intelligence Service (SNR) in carrying out often arbitrary arrests and other human rights violations and abuses".[99]

Reporting by ACLED in May 2020 explained in detail the current and historic role of Imbonerakure, the youth league of the ruling party in Burundi, in carrying out violence in Burundi:

[98] International Crisis Group, *Burundi: Charm Offensive or Real Change?,* 2 July 2021
[99] Amnesty International, *Explainer: 10 things Burundi's new government can do to improve human rights*, 11 August 2020

> Since the formation of the opposition National Congress for Freedom (CNL) party in February 2019, ACLED records a significant increase in violence carried out by the youth wing of the ruling party, called the Imbonerakure, against opposition supporters in general, and CNL members in particular. Unlike the previous election, the geography of violence has shifted from a concentration in urban Bujumbura to a more even disbursement across the rural countryside – a reflection of the CNL's broad appeal in rural areas previously dominated by the ruling party. […]
>
> While the shape and dynamics of conflict have changed since 2015, violence involving Imbonerakure continues to endanger political freedoms (ACLED, 18 October 2018; UN News, 10 March 2020). Despite the intense violence of the previous election cycle, general political disorder involving Imbonerakure peaked in 2018. However, the specific targeting of opposition supporters by Imbonerakure has been on the rise in recent years, reaching the peak number of recorded events in the months just before the 2020 election. As opposition parties contend for votes during the lead-up to the elections, there has been a significant increase in violence by the Imbonerakure against opposition supporters, primarily the CNL […].1 […]
>
> Local government actors supporting the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] often partner with Imbonerakure to coordinate attacks against political targets or to carry out the violence themselves alongside Imbonerakure (HRW, 27 April 2020). Attacks by Imbonerakure occur throughout Burundi, and have included the targeting of civilians attending opposition party meetings, as well as the destruction or looting of political party buildings, homes, and farmland. Police frequently arrest opposition supporters after these attacks, with sweeping arrests reported in Makamba in recent weeks (SOS Media, 8 May 2020). In some cases, CNL members and Imbonerakure or CNDD-FDD supporters fight with one another. Both attacks and clashes primarily result in injuries rather than deaths. Imbonerakure attacks against the CNL comprise the vast majority of these events, with a small minority of attacks targeting other political party supporters. […]
>
> Although the total number of events involving the Imbonerakure peaked in 2018, there has been a significant increase in the average rate of violence by Imbonerakure against opposition supporters by month since the CNL formed in February 2019. Mirroring overall disorder trends, these events occur across the rural countryside with a lower concentration in Bujumbura than in previous election cycles. These shifts demonstrate that the CNDD-FDD perceives the CNL as a significant threat around the country, and that it remains willing to use violence to influence elections. […]
>
> 1 The graph depicts Imbonerakure attacks on political opposition specifically. This is different from all political violence involving Imbonerakure — though this violence has also been slightly higher during the 2020 election cycle relative to the 2015 election.[100]

In May 2020, the BRHI released a statement on violence around the elections at the hands of Imbonerakure, noting that "very few Imbonerakure responsible for most of the political violence have been arrested or brought to justice. […] The particular brutality of some Imbonerakure, and the willingness of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] leadership to allow them to continue attacking their opponents, strikes fear in the hearts of many Burundians".[101]

[100] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020

[101] The Burundi Human Rights Initiative (BHRI), *Burundi Election Statement: International inertia as election tensions flare in Burundi*, May 2020

In June 2020, Human Rights Watch released a report covering allegations of abuse by the Imbonerakure during Burundi's May 2020 elections. It reported that:

> "The elections took place in a highly repressive environment with no independent international observers," said Lewis Mudge, Central Africa director at Human Rights Watch. "Reports of killings, arbitrary arrests, beatings, and voter intimidation during the campaigns should not be brushed under the rug." […]
>
> Human Rights Watch spoke with several voters, journalists, and human rights defenders who said that in some rural locations, ruling party youths were present at polling places and had intimidated voters, while election officials and the police turned a blind eye to voter harassment and intimidation.
>
> A voter in Mwumba commune, Ngozi province, said: "When I arrived at the voting station, the Imbonerakure [the ruling party's youth league] were telling people to vote for the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. They took the voting cards of some people and voted in their place."
>
> Throughout the pre-election period, Imbonerakure members committed widespread abuses, especially against people perceived to be against the ruling party, including killings, enforced disappearances, arbitrary arrests, beatings, extortion, and intimidation. "I was afraid to go vote," said one CNL [National Congress for Liberty] member from Kiremba commune, Ngozi province. "I heard about our members being arrested by some Imbonerakure, and others being beaten on the day of the election. The situation is very tense."[102]

An August 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Commission of Inquiry in Burundi commented on abuses at the hands of the Imbonerakure, among other actors in Burundi, stating that:

> The Government, state security forces, including the police, the National Intelligence Service (*Service national de renseignement*, or SNR), and members of the youth league of the ruling *Conseil national pour la défense de la démocratie-Forces de défense de la démocratie* (CNDD-FDD) party, the *Imbonerakure*, are responsible for many of the violations and abuses. Over the course of its reporting, the CoI [Commission of Inquiry] has documented violations of civil, political, economic, social and cultural rights in a deteriorating economic and humanitarian context. Violations and abuses include arbitrary arrests and detentions of prisoners of conscience and those perceived to be against the Government, beatings, destruction of property, including of premises of the *Congrès National pour la Liberté* (CNL) party, theft of property belonging to members of opposition parties and human rights defenders (HRDs) in exile, and arbitrary suspension and forced closure of civil society organisations and media outlets. They also include torture and ill-treatment, the use of excessive and lethal force against peaceful demonstrators, enforced disappearances, violations of the rights of women and girls, rape and other forms of sexual and gender-based violence, forced labour, the extortion of contributions for state-led projects, hate speech and incitement to ethnic hatred (which go on with the acquiescence of political, prosecutorial, and judicial authorities), and extrajudicial killings. […]

[102] Human Rights Watch, *Burundi: Intimidation, Arrests During Elections*, 1 June 2020

In its 14 July address, the CoI identified some "priority areas for action against which the new authorities can objectively attest their desire for change and normalisation on the long term [...]." These areas for action include: […]

- The fight against the *de facto* impunity enjoyed by the main perpetrators of violations (risk factor no. 2) and the reform of the judicial system (risk factor no. 3). In our view,10 this would include:
  […]- Comprehensive reforms of police and security forces, including bringing human rights violations committed by the National Defence Force, law enforcement bodies, the SNR [National Intelligence Service] and the *Imbonerakure* to an end, and ensuring that the ruling party's youth league is disarmed and not used for any official state security or other duties. Military, security and law enforcement forces should undergo a thorough vetting process, with regional or international assistance, to remove individuals who have taken part in human rights violations. […]

  10 See also Human Rights Watch, "Letter to President Ndayishimiye: Protecting Human Rights in Burundi," 13 July 2020, https://www.hrw.org/news/2020/07/15/letter-president-ndayishimiye-protecting-human-rights-burundi (accessed on 31 July 2020).[103]

In an oral briefing by the UN Commission of Inquiry in March 2021, it was highlighted that:

> Attempts in early summer 2020 to better control the Imbonerakure came to nothing. They continue to regularly replace police and security forces, especially in rural areas, and many pursue their criminal activities. They were even praised and galvanized following the security incidents, since they were called upon by certain authorities to actively contribute to the security of the country. They continue to forcefully levy contributions from the population, namely as local "taxes" to finance the construction of public buildings, or to support the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party, including organisation of various festivities. [104]

On 12 October 2020, SOS Médias Burundi published an article in French on the paramilitary training of Imbonerakure. Using Google Translate, the following passage was translated from French into English:

> The young Imbonerakure of the ruling party have intensified paramilitary training and patrols in Makamba province (southern Burundi) in recent days. […] The meeting that started it all took place on the uninhabited hill of Samvura in Mabanda commune. Residents say they are frightened. (SOS Medias Burundi)
> According to sources among the Imbonerakure who took part in Monday's meeting, their representative at the national level called on them to get back to "work" once again.
> "In his own words, he said: you have to put yourself in the service of maintaining security as usual. The country was invaded by rebels. You must therefore do day and night patrols. Every suspect must be arrested," the Imbonerakure testified to SOS Media Burundi.
> And to add, "he promised to give three rifles per hill, to carry out the mission well". […]
> "After the meeting, the young Imbonerakure descended from the hill of Samvura which is very close to the capital of the commune of Mabanda, like bees. They were covered with straw and tree branches.

[103] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1, 3, and 4*
[104] UN Human Rights Council, *46th Session: Interactive Dialogue on Burundi, Oral briefing of the Commission of Inquiry on Burundi*, 11 March 2021

> They chanted slogans hostile to opponents in exile and to General Godefroid Niyombare, responsible for the failed coup of 2015. They crisscrossed our neighborhoods for at least an hour. We were terrified to the point of fleeing," say residents of the capital of Mabanda. Since then, several local sources in different localities of Makamba claim that paramilitary patrols and training of ruling party youth have intensified.
> Last weekend, dozens of young Imbomerakure took to the streets of the provincial capital. They also threatened "opponents" and "putschists" in their slogans. Paramilitary training and patrols of young Imbomerakure had ceased since Évariste Ndayishimiye came to power. But since the end of last August, the authorities have increasingly called on these young people whom the CNDD-FDD considers to be "pillars of development to resume patrols". The first to have done so is the minister in charge of youth.
> It was in the province of Kayanza (north) during the day dedicated to the Imbomerakure. Ezekiel Nibigira, also a former national representative of the Imbonerakure, called on them to "stand up and be vigilant and ready", thus challenging the new provincial governor who had announced that no civilians would participate in patrols, an activity reserved for agents of the armed forces only and to the military to a certain extent, according to him. But the minister had estimated that "we can never have enough police and military household by household".[105]

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that:

> III. Findings […]
> B. Security situation […]
> 14. Views expressed by the various stakeholders differed as to the role and status of the Imbonerakure, the youth wing of the ruling CNDD-FDD party. Reports of several incidents indicate that some government officials and institutions are attempting to rein in on the Imbonerakure, whose members have been accused of taking on tasks assigned to the security forces and committing abuses and crimes with impunity. Contrary to several reports in which they are described as an impediment to lasting peace and accused of human rights violations, the Government has stated that the members of the Imbonerakure are not armed, do not constitute a threat to peace and security and are fully committed to supporting national development efforts. The Burundian authorities have further stated that some members of the Imbonerakure are also members of joint security committees, alongside women, local administrators, the police and the army. Several stakeholders noted that the search for alternate remunerative activities for members of the Imbonerakure remained a challenge for the authorities.[106]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights. It reported in depth on the role and continued abuses of the Imbonerakure:

> 1. THE *IMBONERAKURE*: TWO STEPS FORWARD, ONE STEP BACK
> Since President Ndayishimiye came to power, the *Imbonerakure* have gone through a sudden and contentious transformation. Soon after his inauguration, Ndayishimiye told leaders of the ruling party that

[105] SOS Médias Burundi, *Makamba: Imbonerakure paramilitary training worries residents*, 12 October 2020 [Makamba: des entraînements paramilitaires des Imbonerakure inquiètent les habitants]
[106] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 6*

he was tired of hearing negative reports about *Imbonerakure* acting as self-appointed law enforcers, and said they should focus on development.2

His orders quickly spread among *Imbonerakure* across the country. For example, during a meeting in November 2020, the provincial secretary of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] in Gitega warned *Imbonerakure* to remain vigilant, but leave security matters to competent authorities. A member of the youth league who attended the meeting said: "I see a change compared to the time of Nkurunziza. (Before), we had the power to arrest someone without the authorities sending us (to arrest them), and we could punish them and make them pay a fine if they made a mistake."3

Ruling party youth in other provinces confirmed receiving similar instructions in the second half of 2020, telling them they needed to improve their image.4 These instructions seem to have been issued directly by President Ndayishimiye. Even if they were later contradicted by senior party and government officials – and sometimes by the president himself – *Imbonerakure* confirmed that they trickled down to the lower ranks of the party.

For years, members of the *Imbonerakure* have been responsible for killings, beatings and arbitrary arrests, in particular of opposition members or people who refused to join the CNDD-FDD. The government used the *Imbonerakure* as its principal weapon in repressing opponents and critics.5 That has changed in most provinces. […]

The CNDD-FDD's new approach towards the *Imbonerakure* has given a moment of respite, not only to political opponents, but also to ordinary citizens, particularly in rural areas. In many *communes,*7 *Imbonerakure* have stopped carrying out night patrols and controlling checkpoints – often scenes of harassment and extortion of passers-by in the recent past.8 While they continue to collaborate with the police and the National Intelligence Service (*Service national de renseignement*, SNR), many *Imbonerakure* no longer call the shots on their *collines*.

An *Imbonerakure* member even said he was told to hand in his weapon at a military camp. He added that some of his comrades, who thought it was a joke, were beaten when they hesitated to do so.9 It is not known whether *Imbonerakure* in other areas have also been told to hand in their weapons. In the past, *Imbonerakure* have been provided with weapons and training, so that the government could rely on them to fight its enemies. In September 2020, after attacks by armed opposition groups, the national secretary of the *Imbonerakure*, Sylvestre Ndayizeye, promised more weapons distributions.10

In several provinces, governors or local administrators, most of whom were appointed after the 2020 elections, have taken a tougher stance against *Imbonerakure*. In August 2020, when the administrator of one *commune* ordered the local head of the youth league to tell his fellow members that from now on, everyone will be held accountable, the *Imbonerakure* leader said: "It was the first time that I felt fear and a feeling of accountability."11 Another member explained that he was afraid of being arrested, citing the example of the former provincial vice president of the *Imbonerakure* in Gitega, who was sentenced to four years in prison in December 2020 for murdering a thief.12

In April 2021, the governor of Ruyigi, Emérencienne Tabu, reportedly directed the provincial prosecutor to prepare arrest warrants for some of the more zealous *Imbonerakure* in her province, for illegal possession of weapons and other offences. Her husband, Lieutenant-Colonel Thaddée Butumagu, is close to Ndayishimiye and a member of his security detail.13

A nuanced picture

While there are clear signs that the behaviour of *Imbonerakure* has improved across the country, a closer look at the situation in some areas reveals a different picture. In provinces such as Bubanza, Cibitoke and Rumonge, *Imbonerakure* continue to conduct night patrols and control roadblocks. Bubanza residents complained that some *Imbonerakur*e have become thugs for hire, settling scores between ordinary

citizens, often violently and in exchange for payment, and have continued to beat people, including CNL [National Congress for Liberty] members (see Chapter 3).14

These provinces, which border the Democratic Republic of Congo (DRC), have experienced repeated incursions by armed oppositions groups. In a security meeting in Bubanza in late 2020, a provincial police official and an SNR official called on *Imbonerakure* to step up night patrols. […]

The Burundian government continues to use *Imbonerakure* to fight Burundian armed opposition groups in the DRC, or when they attack Burundi.16 In August 2020, at least two *Imbonerakure* were killed in clashes with assailants who crossed from the DRC into Musigati *commune*, in Bubanza province.17 In May 2021, around a dozen *Imbonerakure* from Musigati crossed into the DRC at the behest of the Burundian government to fight Burundian armed groups based there. The *Imbonerakure* chosen for the mission had fought with the CNDD-FDD during Burundi's civil war or had previously served in the army. One of them said they were each given 100,000 Burundian francs (approximately US$50) prior to leaving and were told they would receive a further 200,000 Burundian francs in their bank accounts.18

No real accountability

These variations across the country were reflected in the *Imbonerakure*'s reactions to President Ndayishimiye's repeated statements about accountability: some took them seriously, while others felt he was merely playing to the crowd. One issue they seemed to agree on: the president wouldn't call for investigations into the many crimes committed by *Imbonerakure* before he came to power. […] So far, accountability for past abuses – even those committed as recently as 2019 or 2020 – remains woefully absent.

One of the few exceptions is the conviction of two *Imbonerakure* sentenced to 15 years in prison for murdering Richard Havyarimana, a CNL member in Mwaro, two weeks before the 2020 presidential elections.20 […] When another *Imbonerakure* attacked Havyarimana's father in May 2021 and tried to arrest him, the police prevented him from doing so. The *Imbonerakure* later still managed to arrest Havyarimana's father, but the *commune* administrator apparently played a positive role and tried to protect him, in contrast with the negative role that the authorities played when Havyarimana was killed. Havyarimana's father was later released.21

Despite the president's stated intention to crack down on abuses, the risk of prosecution doesn't seem to deter all members of the youth league. […] During his tenure as secretary general of the CNDD-FDD from August 2016 until his election as president in May 2020, Ndayishimiye made little visible efforts to rein in the *Imbonerakure*.23

[…] *Imbonerakure* are more likely to be kept in detention when they have committed a crime against a fellow CNDD-FDD member, rather than against a perceived political opponent. In many other cases, they are released following pressure by party or government officials, or never arrested in the first place.24 Imbonerakure are more likely to be disciplined by their own party than held to account through legal proceedings. *Imbonerakure* members mentioned at least three recent cases, in different provinces, in which members accused of petty crimes were beaten in the CNDD-FDD's offices, then released. An *Imbonerakure* leader knowledgeable about one such case said: "Now, any *Imbonerakure* accused of a crime is not imprisoned, but punished straightaway in the different party offices, unless the crime was ordered by a senior party official."25

Given the absence of real accountability, it's unclear how long the current lull in abuses will last. […]

Frustrated ruling party youth

An *Imbonerakure* member complained that since he and others had been told to refrain from "security" activities, he had lost his main source of revenue. […] He was not the only *Imbonerakure* who expressed frustration about losing his source of income, often obtained by extorting money from citizens during night patrols, roadblocks or arbitrary arrests. Others lost their jobs when the minister of interior,

community development and public security, Gervais Ndirakobuca, alias Ndakugarika ("I will kill you"), banned them from working at bus parking lots and replaced local tax collectors, many of whom were *Imbonerakure*, with better educated CNDD-FDD members.28

As a consequence, many *Imbonerakure* have resorted to informal jobs such as motorcycle and bicycle taxi drivers, or are seen sitting idle on the streets.29 Party and government officials encouraged them to integrate into cooperatives, in particular the Sangwe cooperatives which receive government loans but are almost exclusively composed of ruling party members, especially *Imbonerakure*.30

The reduced role, financial hardship and diminished clout of the *Imbonerakure* have led some members to question their loyalty to the CNDD-FDD. […] Many *Imbonerakure* were reportedly involved in irregularities around the May 2020 elections that brought President Ndayishimiye to power. […]

Incursions by armed opposition groups in the south and west of the country in August and September of 2020 (see Chapter 2) showed the limits of these changes, as *Imbonerakure* were again given a free pass to arrest and beat suspected armed group collaborators or opponents.35 A leader of the youth league in an area affected by the insecurity said that they had received new instructions – contradicting the earlier ones – to organise night patrols, and confirmed that they continued to do so, even after the threat of attacks had dissipated. […]

Some Burundians suspect the situation could change again after local CNDD-FDD elections, scheduled to begin in mid-June 2021, when new party leaders may be appointed. Several ruling party leaders, such as Prime Minister Alain Guillaume Bunyoni, have their own networks within the party and its youth league. […]

2 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.

3 Interview with Imbonerakure leader, 5 April 2021.

4 Interviews with current and former Imbonerakure members in three provinces, 28 and 30 April and 2 May 2021.

5 The Burundi Human Rights Initiative, "A façade of peace in a land of fear: Behind Burundi's human rights crisis", https://burundihri.org/rep/Report-Jan-2020-Engl.pdf, January 2020, and "The Deadly Price of Opposition", https://burundihri.org/english/index2.html, June-July 2020. […]

7 Burundi is divided into 18 provinces. Each province is divided into *communes*. Each *commune* is divided into zones, which are further divided into *collines* (hills).

8 Interview with *Imbonerakure* leader, 30 April 2021 and with *Imbonerakure* member, 13 April 2021.

9 Interview with *Imbonerakure* member, 28 April 2021.

10 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.

11 Interview with *Imbonerakure* member, 7 May 2021.

12 Interview with *Imbonerakure* leader, 5 April 2021.

13 Interview with person with first-hand knowledge of these events, 2 April 2021.

14 Interviews with witnesses and CNL representative, Bubanza province, February and March 2021. […]

16 Group of Experts on the Democratic Republic of the Congo, midterm report, https://reliefweb.int/report/democratic-republic- congo/midterm-report-group-experts-democratic-republic-congo-s20201283, 23 December 2020.

17 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.

18 Interview with *Imbonerakure* member, 3 May 2021. See also Radio Inzamba, "Bubanza : Des *Imbonerakure* déployés en RDC pour combattre des rebelles", https://inzamba.org/bubanza-des-imbonerakure-deployes-en-rdc-pour-combattre-des- rebelles/, 4 May 2021. […]

20 The Burundi Human Rights Initiative, "Richard Havyarimana", The Deadly Price of Opposition, https://burundihri.org/english/index2.html#1, June 2021.

21 Interview with confidential source, 25 May 2021. […]

23 The Burundi Human Rights Initiative, “Party loyalist or reformer? The man who could become Burundi’s next president”, https://burundihri.org/rep/Report-Apr-2020-Engl.pdf, April 2020.
24 Interviews with magistrate and judge, 8 April and 15 May 2021.
25 Interview with Imbonerakure member, 28 April 2021. […]
28 Interview with Imbonerakure leader, 30 April 2021.
29 Interviews with Imbonerakure members, 13 and 28 April 2021.
30 Interviews with Imbonerakure member, 28 April 2021, with former Imbonerakure member, 2 May 2021, and with sources in the cooperative sector, February 2021. […]
35 The Burundi Human Rights Initiative, “A stranglehold on Burundi’s future”, https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.
36 Interview with Imbonerakure leader, 4 and 17 May 2021.[107]

In its report on Burundi in August 2021, the UN Commission of Inquiry wrote again on the Imbonerakure:

> III. Human rights situation […]
> F. General population […]
> 2. Main violations […]
> 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, in what is essentially official acknowledgement of the fact that the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] youth league is armed and provides support to the defence forces.[108]

In October 2021, International Crisis Group commented on the Imbonerakure in an excerpt in their autumn update for their ‘Watch List 2021’, writing that:

> The Imbonerakure, the youth militia of the ruling Conseil national pour la défense de la démocratie – Forces pour la défense de la démocratie (CNDD-FDD), which is dominated by the majority Hutu ethnic group, also continues to harass civilians and target dissenters. Certain members of the minority Tutsi ethnic group are at particular risk. […]
> The authorities often use the youth militia to supplement or replace the security forces, particularly in rural areas, giving them free rein to terrorise the population. The militia, which Ndayishimiye oversaw when he was CNDD-FDD secretary general, is known for shaking down, torturing, abducting, sexually abusing women and killing opposition members and ordinary citizens alike. Its members conduct night patrols and house visits to demand funds for CNDD-FDD coffers or personal gain. They also prevent the opposition from organising, by disrupting meetings and vandalising offices. While Ndayishimiye has taken some steps to reel in the Imbonerakure, for example by directing its members to stop extorting financial

[107] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *p. 7 to 12*
[108] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 11*

> contributions from the population, he has achieved mixed results at best. The intelligence services, meanwhile, have stepped up abductions and arrests of people considered government opponents, often using internal and cross-border security incidents as cover for round-ups.[109]

In Freedom House's February 2022 Freedom in the World report, covering 2021, it stated that the "Imbonerakure, National Intelligence Service (SNR), and police are allies of the CNDD-FDD and use violence and intimidation to influence people's political choices". It further noted that "The SNR and the Imbonerakure actively surveil private citizens," that "the judiciary is generally subservient to the executive, which regularly interferes in the criminal justice system to protect CNDD-FDD and Imbonerakure members," and that "rights monitors continue to report sexual violence carried out by security forces and the Imbonerakure, who act with impunity".[110]

2. National Congress for Liberty (CNL)

Additional relevant information can be found under section V. Human Rights Situation, especially *V.a.i. Treatment of Political Opposition*, *V.a.i.1. Restrictions on Political Organizing*, and *V.a.i.2. Treatment of Members of Opposition Parties*.

Reporting ahead of the May 2020 elections, ACLED described the position and influence of the National Congress for Liberty (CNL), as well as violence against party members:

> Reminiscent of previous election periods in Burundi, the months leading up to the vote have been marked by violence among political groups competing for power. Since the formation of the opposition National Congress for Freedom (CNL) party in February 2019, ACLED records a significant increase in violence carried out by the youth wing of the ruling party, called the Imbonerakure, against opposition supporters in general, and CNL members in particular. Unlike the previous election, the geography of violence has shifted from a concentration in urban Bujumbura to a more even disbursement across the rural countryside – a reflection of the CNL's broad appeal in rural areas previously dominated by the ruling party.
>
> […] In the 2020 election, the CNDD-FDD party has decided upon a new candidate, Evariste Ndayishimiye, eliminating concerns Pierre Nkurunziza would remain in office. This has shifted contestation and political focus towards the primary opposition party: the CNL. Both the CNDD-FDD and CNL are political parties based on and led by former Hutu rebels competing for a similar demographic of the voting population. The CNL formed in February 2019 with presidential candidate Agathon Rwasa, a former leader of a rebel and political group called the National Liberation Forces (FNL) during Burundi's civil war between 1993 and 2005. Following the war, Rwasa became the leader of a political coalition called Amizero y'Abarundi (Burundians' Hope) before constitutional amendments in 2018 required him to form a new party, which eventually became the CNL (DW, 17 February 2020). […]
>
> As opposition parties contend for votes during the lead-up to the elections, there has been a significant increase in violence by the Imbonerakure against opposition supporters, primarily the CNL […].1 […]

[109] International Crisis Group, *An Opportunity for the EU to Help Steer through Reform in Burundi – Watch List 2021 – Autumn Update*, 7 October 2021
[110] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

> In some cases, CNL members and Imbonerakure or CNDD-FDD supporters fight with one another. Both attacks and clashes primarily result in injuries rather than deaths. Imbonerakure attacks against the CNL comprise the vast majority of these events, with a small minority of attacks targeting other political party supporters. […]
> Although the total number of events involving the Imbonerakure peaked in 2018, there has been a significant increase in the average rate of violence by Imbonerakure against opposition supporters by month since the CNL formed in February 2019. Mirroring overall disorder trends, these events occur across the rural countryside with a lower concentration in Bujumbura than in previous election cycles. These shifts demonstrate that the CNDD-FDD perceives the CNL as a significant threat around the country, and that it remains willing to use violence to influence elections. […]
>
> 1 The graph depicts Imbonerakure attacks on political opposition specifically. This is different from all political violence involving Imbonerakure — though this violence has also been slightly higher during the 2020 election cycle relative to the 2015 election.[111]

Freedom House's February 2022 Freedom in the World report, covering 2021, discussed the results of the 2020 election, stating that "Agathon Rwasa of the National Congress for Liberty (CNL) received 25.2 percent [of the vote]".[112] It further reported that CNL presidential candidate Rwasa challenged the conduct of the 2020 presidential election, alleging incidents of ballot-box stuffing, falsified election reports, and votes counted from deceased or exiled citizens. The Constitutional Court rejected that challenge that June".[113] Moreover, the report observed that "National Assembly elections took place concurrently with the May 2020 presidential elections, amid the COVID-19 pandemic and a campaign to repress opposition groups" with the CNL securing 32 seats".[114]

A report released by the ISS on 29 May 2020 following the elections gave a detailed description of the role and history of the CNL:

> The election was held in a political space in which only the hegemonic party, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD) is able to function unrestricted. Nevertheless, unlike in the presidential elections of 2010 and 2015, which were boycotted by the opposition, several opposition parties participated, including the National Freedom Council (CNL), led by Agathon Rwasa. The CNL is the only party that can compete with the CNDD-FDD. […]
> The political forces in the running […]
> The unknown CNL
> The CNL, the former rebel group that spent close to 30 years underground before re-entering the political system in 2009, is constantly changing. An ethnic Hutu group, a consequence of decades of military rule that excluded the Hutu majority, it was previously known as the Party for the Liberation of the Hutu People (PALIPEHUTU), which was formed in 1980. It became PALIPEHUTU-FNL in 2001 and took the name National Forces of Liberation (FNL) during its transformation into a political party in 2009, keeping that

[111] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020
[112] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[113] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[114] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

name until, in 2015, it merged in a short-lived coalition of independents going by the name *Amizero y'Abarundi.* It finally regained the status of a political party in 2019 as the CNL.

The one constant in two decades of changing identity has been Agathon Rwasa, who has been at its heart since 2001. It is difficult to characterise the CNL as its political discourse has evolved over time without a clear theme.

In 2005 the movement rid itself with difficulty of its ethnic identity just as the state experienced an ethnic and political change with the arrival in power of the CNDD- FDD.1 It was only upon its entry into the formal political terrain and with the perspectives of the 2010 elections that its rhetoric adapted to the reality of the moment, its policy centring more now on problems of corruption and bad governance.

Today this rhetoric remains unchanged, although it is mindful of the necessity for change in the face of prevailing poverty. Like most other political parties in Burundi the CNL appears to have little to say, possibly as a consequence of the ideological weakness of the Burundian political class.

The questionable decision to enter the formal political arena in 2015 even as the *Amizero y'Abarundi* coalition advocated a boycott of the elections, branding them a 'charade',17 put the CNL in an ambiguous position. It is a member of both the government and the opposition in the National Assembly, where it cannot play its role as an opposition party for fear of transgressing the law.18 In the face of fierce repression, militant members probably expected their elected representatives to show more determined opposition in the National Assembly.

Finally, faced with repression by the administration and the *imbonerakures* of its activities in the provinces, the CNL has been reduced to perpetuating the propaganda strategy it used during decades underground.

The question arises whether the themes that characterised it when it was underground are similar to those it now espouses openly. In other words, did Agathon Rwasa actually abandon his uncompromising position based on ethnicity, which was a legacy of the *maquis*, to take on the role of a moderate and thoughtful leader?

Years spent in civil society within institutions have probably changed him. The time he spent at the head of the National Institute of Social Security have given him a reputation among its staff as an upright leader. The appraisal of his role as vice-president of the Parliament is more complicated, given the ambiguities of the parliamentary group of his former *Amizero y'Abarundi* coalition, which regularly plays the role of the echo chamber of this institution. […]

Risky elections

Drift towards autocracy […]

Meanwhile, despite their caution, the supporters and leaders of the opposition are still subject to arrest and various forms of intimidation.21 The CNL, strengthened by its popularity, is the principal target of government oppression. It was officially authorised in February 2019 despite strong resistance from the top. Its legal recognition unleashed a wave of brutal repression against its members, with some local officials being assassinated.22[115]

16 The 2005 elections took place without the participation of Rwasa, who was still in the militia with PAPIPHUTU-FNL.

17 As *Amizero y'Abarundi* had registered before officially boycotting the elections CENI counted the percentage it would have won and it was allocated seats in the National Assembly. A debate followed within the party about whether or not to occupy these seats, Rwasa and the former FNL eventually joining the Assembly, while some of those elected refused to sit.

18 Participation in government is constitutionally incompatible with opposition. […]

21 Interviews.

[115] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 3, 5 to 8, and 14*

22 @rib News, Burundi: 'Wave of arrests' in the Bujumbura region, according to the opposition, AFP, , 23 January 2020, www.arib.info/ index. php?option=com_content&task=view&id=19853&Itemid=138.

The UN Commission of Inquiry on Burundi commented further on the 2020 election and the treatment of CNL members in an oral briefing in July 2020:

> […] since the accreditation of the party *Congrès National pour la Liberté* (CNL) of Agathon Rwasa on 14 February 2019, which quickly became the main opposition party, its members and leaders faced acts of intimidation, threats and serious human rights violations. These acts were mainly committed by Imbonerakure and local administrative authorities; usually acting with the support of the police or agents of the national intelligence service (SNR). As elections approached, cases of serious violations increased. The electoral campaign launched on 27 April 2020 was the scene of numerous arrests and arbitrary detentions of CNL members, especially targeting the party leaders at the local level, candidates at the local elections and even those at the legislative elections, as well as designated elections observers of the said party (*Mandataires*) tasked with observing the voting process and the tallying of votes. Several executions of CNL members were also recorded during this same period.
>
> The electoral campaign was punctuated by incidents, namely clashes between members of the ruling party and opposition party members; resulting in injuries and even some casualties. CNL was not always able to carry out its campaigning activities, such as the inauguration of party headquarters, some of which were forbidden by local authorities. Some of its electoral meetings were disrupted by Imbonerakure and the population was, in some cases, prevented or discouraged from attending them. Burundian authorities have themselves partly recognised these acts of violence, particularly in the case of the clashes between CNDD-FDD and CNL members during the election campaign. They nevertheless assigned the responsibility of these clashes almost exclusively to CNL members without carrying out, in most cases, any impartial investigations.
>
> Hate and hostile speeches, particularly virulent against political opponents of CNDD-FDD - sometimes with an ethnic dimension – widely circulated on social media without being denounced, condemned or sanctioned by the authorities.
>
> The judicial system, which is still characterised by a lack of independence and impartiality, has largely been used as a tool in the electoral context and justice has become the main instrument used by authorities and CNDD-FDD to weaken and stand in the way of CNL. While most CNL members were released after a few days or weeks, some were sentenced to excessive prison terms following trials "on the spot", mainly for attempt to « disrupt elections» or for «participation in illegal meetings», and others remain in preventive detention.[116]

In December 2020, the BHRI released a report on Burundi's political trajectory in which the role and standing of the CNL is detailed in depth:

> 1. THE CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] WINS AGAIN: THE EMERGENCE OF HARDLINERS AFTER THE ELECTIONS
>
> The appointment of hardliners in the new institutions
>
> With his party firmly in control of both chambers of Parliament […] Ndayishimiye felt no obligation to integrate the CNL [National Congress for Liberty] into a coalition government; this was no longer a legal requirement but still a political option.17 Despite obtaining 32 seats in the National Assembly, the CNL

[116] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 14 July 2020

failed to secure any senior positions in parliament. Neither of the two CNL governors who had served from 2015 to 2020 were reappointed. […]

The defeat of the CNL

While leading CNDD-FDD figures jostled for positions in the new state institutions, Agathon Rwasa, the opposition leader who had seemed to pose such a great threat to the CNDD-FDD prior to the elections, was suddenly nowhere to be seen.

In the space of about one year, the CNL's fortunes have changed dramatically. At first, after Rwasa threw his hat into the ring for the presidential race, the party went from strength to strength, drawing huge crowds at its pre-election rallies and attracting support from some disgruntled CNDD-FDD members. Despite historical ethnic tensions – the CNL, like its former incarnation the National Liberation Forces (*Forces nationales de libération*, FNL), remains a Hutu-dominated party – some Tutsis also backed the CNL, viewing it as the only realistic alternative to the CNDD-FDD.

The CNDD-FDD's ruthless crackdown on the CNL took a heavy toll in the pre-election period. Yet CNL members were undeterred and continued campaigning energetically until the very end, convinced of their victory in the elections.

Six months on, the CNL has been almost wiped off the political scene, and with the new government dominated by CNDD-FDD hardliners, it seems unlikely that its fortunes will be reversed in the near future. This not only leaves a big question mark over the future of the party, but could have long-lasting consequences for democracy and political space in Burundi. The CNL was the only political force in the country with a large public support base and the drive to challenge the CNDD-FDD in 2020. Other parties were either too small, too weak or too divided; some of their leaders had been bought off by the government, splitting parties into two or three factions in a process commonly known in Burundi as *nyakurisation*. […]

Now that the CNL has been consigned to the role of an ineffectual, disgruntled loser, there is no significant political opposition left in the country. Individual politicians who speak out against human rights violations and challenge the government expose themselves to huge risks, as the arrest of former member of parliament Fabien Banciryanino on 2 October illustrated. […]

The CNL since May 2020: a shadow of its former self

Since his initial complaints about the election results, Rwasa's public appearances have dwindled, and he seems to have lost his motivation to inspire his members. In the absence of strong public support from their leader, some CNL members feel as if they have been left to fend for themselves. […]

The CNL has not come up with other ways to ensure that it remains a credible opposition presence. Some sources said that if it had continued to defy the CNDD-FDD and if Rwasa had called his members out onto the streets to protest the elections results, the authorities could have arrested him. Rwasa has several court cases hanging over him,229 which could be revived at any moment, or new charges could be brought against him, severely limiting his scope for action.

Rwasa's personal vulnerability is significant, as power in the CNL is concentrated around him. Rwasa enjoyed great loyalty and adulation from his supporters since the CNL's origins as an armed group, but has not enabled other members of his party to play a prominent role in the party. […]

The CNL party membership, while still strong at its core, may also have suffered some losses. Some members, especially those who had joined more recently, and perhaps opportunistically, became disillusioned when they saw what they believed to be their victory snatched away by the CNDD-FDD without a strong response by Rwasa. […]

The CNDD-FDD's vindictiveness towards the CNL hasn't let up. The pattern of human rights violations against CNL members that has resumed even after their electoral defeat can be seen as a form of punishment for a long list of grievances the CNDD-FDD has against the party. According to information

collected by the CNL, 467 CNL members were imprisoned, six killed and 12 disappeared between 19 May and late October 2020; six CNL offices were destroyed during the same period.232 A similar, even more violent, trend was observed after the 2010 elections which were followed by numerous extrajudicial executions of FNL and ex-FNL members, as well as MSD members.233 […]

6 CNL press release, https://twitter.com/BurundiCnl/status/1264571261054857216/photo/1, 24 May 2020.
7 Interviews with members of political parties, civil society organisations and Burundians with no political or organisational affiliation, 20 May 2020.
8 Communiqué de la Conférence des évêques du Burundi sur le scrutin du 20 mai 2020, https://eglisecatholique.bi/index.php/fr/vie-de-l-eglise1/communiques/communique-de-la-conference-deseveques-catholiques-du-burundi-sur-le-scrutin-du-20-mai-2020, 26 May 2020.
9 Interviews with election observers, 9 and 17 July 2020.
10 See BHRI, "The Deadly Price of Opposition", https://burundihri.org/english/index2.html, June-July 2020.
11 BHRI interviews with a range of witnesses in different provinces between the second half of 2019 and May 2020. Burundian human rights organisations and media also reported daily abuses during the pre-election period.
12 See BHRI, "The Deadly Price of Opposition", https://burundihri.org/english/index2.html, June-July 2020.
13 Iwacu, "Agathon Rwasa: 'cette élection est un véritable fiasco'", https://www.iwacu-burundi.org/agathonrwasa-cette-election-est-un-veritable-fiasco/, 22 May 2020.
14 Constitutional Court judgments RCCB 387 and RRCB 388, 4 June 2020.
15 Interview with Agathon Rwasa, 23 October 2020. See also Iwacu, "Agathon Rwasa prend acte du verdict de la Cour constitutionnelle", https://www.iwacu-burundi.org/agathon-rwasa-prend-acte-du-verdict-de-la-courconstitutionnelle/, 6 June 2020.
16 See BHRI, "Party loyalist or reformer? The man who could become Burundi's next president", https://burundihri.org/english/#april-2020, April 2020.
17 Iwacu, "Apaiser et, ensuite, gouverner ensemble", https://www.iwacu-burundi.org/apaiser-et-ensuitegouverner-ensemble/, 11 May 2020. […]
229 One case relates to the massacre of more than 150 Congolese Banyamulenge refugees in Gatumba in 2004, for which the FNL claimed responsibility. Rwasa has denied any personal responsibility for these killings. […]
232 Information compiled by the CNL, 23 October 2020.
233 See Human Rights Watch, "'You Will Not Have Peace While You Are Living': The Escalation of Political Violence in Burundi", https://www.hrw.org/report/2012/05/02/you-will-not-have-peace-while-you-areliving/escalation-political-violence, 2 May 2012.
234 Ndayishimiye is the Secretary-General of the CNDD-FDD since August 2016.
235 Interview with Agathon Rwasa, 23 October 2020.[117]

The 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Commission of Inquiry in Burundi discussed further the ongoing human rights violations against CNL party members:

> The Government, state security forces, including the police, the National Intelligence Service (*Service national de renseignement*, or SNR), and members of the youth league of the ruling *Conseil national pour la défense de la démocratie-Forces de défense de la démocratie* (CNDD-FDD) party, the *Imbonerakure*, are responsible for many of the violations and abuses. […] Violations and abuses include arbitrary arrests and detentions of prisoners of conscience and those perceived to be against the Government, beatings, destruction of property, including of premises of the *Congrès National pour la Liberté* (CNL) party, theft of

[117] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 17, 18, and 68 to 70*

property belonging to members of opposition parties and human rights defenders (HRDs) in exile, and arbitrary suspension and forced closure of civil society organisations and media outlets. […]
Members and supporters of opposition political parties, in particular the CNL, as well as independent voices, including civil society members, HRDs, members of non-governmental organisations (NGOs), and journalists, have been targeted. […]
Although the May 2020 elections and their immediate aftermath were not characterised by mass violence, concerns and warning signs remain. Widespread intimidation and patterns of violations against opposition members and supporters, as well as the arrest of hundreds of CNL supporters, have contributed to an ongoing climate of fear.[118]

Similarly, in its report on Burundi in August 2021, the UN Commission of Inquiry discussed the treatment of opposition political parties in Burundi following the elections:

III. Human rights situation […]
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 [National Congress for Liberty], 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 [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. 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

[118] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020*, p. 1 to 3*

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.[119]

3. Union for National Progress (UPRONA)

Additional relevant information can be found under section V. Human Rights Situation, especially *V.a.i. Treatment of Political Opposition*, *V.a.i.1. Restrictions on Political Organizing*, and *V.a.i.2. Treatment of Members of Opposition Parties*.

The report of the ISS in May 2020 on the possibilities of Burundi's trajectory following the elections on 20 May 2020 wrote on the different parties present in Burundi at the time, including the Union for National Progress (UPRONA), as in the following excerpt:

> The political forces in the running […]
>
> A plethora of satellite political parties
>
> Despite the closure of its political space, Burundi has nearly 40 authorised parties, of which more than half are close to the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. The opposition parties that are still active have, for some time, experienced a certain visibility through the CNARED [National Council for the Respect of the Arusha Agreement], in which they were largely grouped. As this opposition platform is currently in a semi-lethargic state, these parties no longer dare attempt to make their voices heard for fear of reprisals from those in power.
>
> The only criticism still heard in the political sphere, apart from one or other of the deputies of the former *Amizero y'Abarundi* coalition, comes from the representatives of the dissenting wings of the traditional parties, the Union for National Progress (UPRONA) and the Front for the Democracy of Burundi (FRODEBU). Both of them were formed before the CNDD-FDD but are now only a shadow of their former selves.
>
> UPRONA, a party dominated by the Tutsi minority, is divided into several wings, of which the two dissident ones are not legally recognised. Some members of one of these wings seem to have joined the CNL [National Congress for Liberty], which lacks experienced Tutsi leaders, and others have joined the Movement for the Rehabilitation of the Citizen (MRC), a small element of Tutsi opposition. The officially recognised wing of UPRONA plays the role of institutional partner to the CNDD-FDD, which, in turn, uses UPRONA as an alibi to validate its image of ethnic tolerance. UPRONA will merely play the role of an extra in the elections.

[119] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 8 and 9*

> FRODEBU-Nyakuri, the pro-governmental wing of the party of the same name, is unlikely to do better. Sahwanya FRODEBU, its rival, is torn between those in the party looking to get closer to the ruling power and supporters of the opposition game represented by its presidential candidate. Its chances of attracting a large number of votes are further limited now that the party is plagued by divisions.[120]

In December 2020, the BHRI released a report on Burundi's future, political trajectory, and human rights record. It stated that:

> 1. THE CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] WINS AGAIN: THE EMERGENCE OF HARDLINERS AFTER THE ELECTIONS […]
> the pro-government wing of the party Unity for National Progress (*Unité pour le progrès nationa*l, UPRONA) – nominally an opposition party – only obtained two parliamentary seats, but was awarded the vice-presidency of the country and the second vice-presidency of the National Assembly, in exchange for toeing the CNDD-FDD's line. […]
> The CNL was the only political force in the country with a large public support base and the drive to challenge the CNDD-FDD in 2020. Other parties were either too small, too weak or too divided; some of their leaders had been bought off by the government, splitting parties into two or three factions in a process commonly known in Burundi as *nyakurisation*.
> This has been the fate of some of the oldest, most established parties such as UPRONA, the Front for Democracy in Burundi (*Front pour la démocratie au Burundi*, FRODEBU) and even the FNL [National Forces of Liberation]. The wings of these parties that resisted being co-opted by the government have been crushed. The government has refused to grant them legal registration, effectively forcing some of their leaders into exile. Through these tactics, as well as constant intimidation and violence against its opponents, the CNDD-FDD has acquired near complete control of the political space.[121]
>
> 17 Iwacu, "Apaiser et, ensuite, gouverner ensemble", https://www.iwacu-burundi.org/apaiser-et-ensuitegouverner-ensemble/, 11 May 2020.

According to the US Department of State, as written in its annual 2020 country report on human rights practices on Burundi, the "Union for National Progress (UPRONA), led by Evariste Ngayimpenda, remained unrecognized, except for a small faction that broke off and pledged its allegiance to the ruling party."[122]

Freedom House reported on Burundi in its February 2022 Freedom in the World report, covering 2021 and stating that:

> Political Rights […]
> A Electoral Process
> A1 0-4 pts
> Was the current head of government or other chief national authority elected through free and fair elections? 1/4 [...]

[120] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 7 and 8*
[121] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 17 and 18*
[122] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

In January 2020, CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] insiders selected Évariste Ndayishimiye, a former army general and interior minister, as the party's candidate to succeed Nkurunziza for that May's election. Ndayishimiye won 71.5 percent of the vote, while Agathon Rwasa of the National Congress for Liberty (CNL) received 25.2 percent. Gaston Sindimwo of the Union for National Progress (UPRONA) received 1.7 percent, while others received 1.6 percent. […]
A2 0-4 pts
Were the current national legislative representatives elected through free and fair elections? 0/4 […]
National Assembly elections took place concurrently with the May 2020 presidential elections, amid the COVID-19 pandemic and a campaign to repress opposition groups. The CNDD-FDD secured 86 seats, while the CNL secured 32 and UPRONA secured 2. The Twa received 3 seats via co-option.
Senators were indirectly elected in July 2020; the CNDD-FDD received 34 seats, while the CNL and UPRONA each received 1. Twa members held 3 seats.[123]

d. Armed Forces

i. Army

CIA World Factbook's page on Burundi gave information around the military branch and security forces:

Military and Security
Military and security forces
National Defense Forces (Forces de Defense Nationale, FDN): Army (includes maritime wing, air wing); Ministry of Public Security: National Police (Police Nationale du Burundi) (2022)
Military expenditures
2% of GDP (2021 est.)
2.1% of GDP (2020 est.)
3% of GDP (2019 est.) (approximately $120 million)
2.3% of GDP (2018 est.) (approximately $100 million)
2.1% of GDP (2017 est.) (approximately $95 million)
country comparison to the world: 56
Military and security service personnel strengths
approximately 30,000 active duty troops, the majority of which are ground forces (2022)
Military equipment inventories and acquisitions
the FDN is armed mostly with weapons from Russia and the former Soviet Union, with some Western equipment, largely from France; since 2010, the FDN has received small amounts of mostly second-hand equipment from China, South Africa, and the US (2021)
Military service age and obligation
18 years of age for voluntary military service (2021)
Military deployments
760 Central African Republic (MINUSCA); 5,400 Somalia (ATMIS) (2022)
Military - note

[123] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

> in addition to its foreign deployments, the FDN was focused on internal security missions, particularly against rebel groups opposed to the regime such as National Forces of Liberation (FNL), the Resistance for the Rule of Law-Tabara (aka RED Tabara), and Popular Forces of Burundi (FPB or FOREBU); these groups were based in the neighboring Democratic Republic of Congo and have carried out sporadic attacks in Burundi (2022).[124]

The Africa Center for Strategic Studies discussed in an article published on 22 June 2020 the role and history of the military in Burundi:

> […] the rump military became highly politicized. The most powerful faction is known as the Committee of Generals (sometimes called the Nonoka Association), consisting of CNDD/FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] civil war commanders. Eventually, Nkurunziza himself was not able to control the deep politicization of the military. On the eve of the January 2020 CNDD/FDD Congress, the Committee of Generals forced him to install Ndayishimiye as flagbearer for the May elections, upsetting his plans to hand power to the Secretary General and Speaker of the Assembly, Pascal Nyabenda, who the 2019 United Nations Commission of Inquiry on Human Rights in Burundi report identifies as a leader of one of the parallel power structures inside the presidency. […]
>
> The military's prominence in this power play has been watched nervously in a country that has considerable experience with military dictatorships in its post-independence history. After Nkurunziza's death, all eyes turned to the men in uniform as Burundians waited to see how events would unfold. Under the Constitution, Nyabenda should have stepped in as interim president and handed over power in mid-August when the president-elect was due to be sworn in. However, when the party failed to agree on this path forward, the Cabinet petitioned the CNDD/FDD-dominated Constitutional Court, which promptly ruled that Ndayishimiye should be sworn in "immediately." This created a veneer of constitutionalism, but in reality, the succession process was stage-managed by a select group of insiders.
>
> The military's emergence as the central power broker gives many Burundians cause for concern. Its involvement in party politics has been at the center of Burundi's complicated conflicts: the 1972 genocide against Hutus, the 1993 genocide against Tutsis, the 1993–2005 civil war, and revenge killings in between and since. The Arusha peace process mediated by former Tanzanian President Julius Nyerere and former South African President Nelson Mandela focused on three priorities:
>
> 1. Creating an apolitical military
> 2. De-ethicizing politics
> 3. Equitable power-sharing, representation, and ethnic coalition-building
>
> These are reflected in the five protocols of the Arusha Agreement that were written into the 2005 Constitution. The mechanisms created by the Accords transformed Burundi's military into a truly national force that enjoyed enormous public support for the first time since independence. Its newfound professionalism was on full display during the protests against Nkurunziza's third term when the military refused to use force against demonstrators and instead created buffers between them and the police and announced it would remain faithful to the Accords.
>
> It didn't last. The army's unity collapsed after stormy disagreements between those who stressed fidelity to the Arusha principles and those who had been coopted into supporting Nkurunziza's extra-constitutional third-term project. Tensions erupted in a failed coup in May 2015, setting off a deadly chain of events from which the military has never recovered. After Nkurunziza regained control, a wave of reprisal killings and sectarian purges spread throughout the force. The purges were framed in ethnic

[124] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022

> terms as they mainly targeted the predominantly Tutsi ex-Burundi Armed Forces (ex-FAB). This was part of a larger political campaign rife with ethnic rhetoric and incitement.
> The CNDD/FDD spent the better part of Nkurunziza's third term revising the checks and balances installed by the Arusha Accords, which had limited the party's room to maneuver and undermined its ideology of majoritarian (i.e., Hutu) dominance. The Accords' provisions protected the military from being controlled by any single group to the exclusion of the others. Furthermore, a 50/50 quota was required at every level of the military to ensure equal representation between Hutu and Tutsi members.[125]

On 12 April 2022, the US Department of State remarked in its annual country report on human rights practices in Burundi the previous year that the "armed forces are under the authority of the Ministry of Defense".[126]

On 14 October 2022, Human Rights Watch published its submission to the Universal Periodic Review of Burundi. In the submission it stated that:

> On June 27, 2022, the National Assembly enacted a law on the Burundian national defense forces, which created a new reserve force, the Reserve and Development Support Force (Force de réserve et d'appui au développement, FRAD).15 Its duties include organizing paramilitary trainings, "supporting other components in protecting the integrity of the national territory," but also conceiving and implementing development projects, and operationalizing national and international partnerships. […]
>
> 15 Loi organique n°1/21 du 27 juin 2022 portant modification de la loi n°1/04 du 20 février 2017 portant missions, organisation, composition, instruction, conditions de service de fonctionnement de la force de défense nationale du Burundi, https://assemblee.bi/IMG/pdf/n%C2%B021%20du%2027%20juin%202022.pdf.[127]

The ISS released a report on 29 May 2020 discussing the possibilities of Burundi's trajectory following the elections on 20 May 2020, writing also on dynamics within the security forces:

> Having been particularly targeted at the height of the crisis, the active or demobilised members of the security forces of Tutsi ethnicity are today increasingly subject to arrest and even extrajudicial execution. For some months the regular army has been registering desertions and the authorities suspect that some of the absent soldiers have joined rebel groups. Indeed, members of the security forces belonging to the Tutsi ethnic minority or from the town of Bujumbura are among the groups the authorities suspect of sympathy for, or even complicity with the rebels.25 In short, despite the appearance of normality Burundi has not truly emerged from the crisis and many Burundians continue to live in a climate of fear and intimidation. […]
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> 25 Interviews.[128]

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[125] Africa Center for Strategic Studies, *Post-Nkurunziza Burundi: The Rise of the Generals*, 22 June 2020
[126] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[127] Human Rights Watch, *Human Rights Watch Submission to the Universal Periodic Review of Burundi*, 14 October 2022
[128] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 9*

ii. National Intelligence Service

Additional relevant information can be found under sections V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention*, *V.e. Torture and Inhumane Treatment*, and *V.f.ii. National Intelligence Service* and XI. Treatment of Returnees, especially *XI.b. Arbitrary Arrest, Detention and Forced Disappearances*.

In its report on Burundi in August 2021, the UN Commission of Inquiry wrote on the human rights situation in Burundi that "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".[129]

Freedom House reported in its February 2022 Freedom in the World report on Burundi that "The Imbonerakure, National Intelligence Service (SNR), and police are allies of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and use violence and intimidation to influence people's political choices," further noting that "the SNR and the Imbonerakure actively surveil private citizens".[130]

On 12 April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi: "The National Intelligence Service, which reports directly to the president, has arrest and detention authority".[131]

iii. Police Force

Additional relevant information can be found under sections V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention*, *V.e. Torture and Inhumane Treatment*, and *V.f.ii. National Intelligence Service* and XI. Treatment of Returnees, especially *XI.b. Arbitrary Arrest, Detention and Forced Disappearances*.

In its report on Burundi in August 2021, the UN Commission of Inquiry wrote on the human rights situation in Burundi that "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".[132]

According to Freedom House in its February 2022 Freedom in the World report, covering 2021, "The Imbonerakure, National Intelligence Service (SNR), and police are allies of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and use violence and

[129] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5*
[130] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[131] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[132] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5*

intimidation to influence people's political choices". [133] It further explained that the "courts, police, and security forces do not operate independently or professionally, and constitutional guarantees of due process are generally not upheld. Arbitrary arrest and lengthy pretrial detention are common".[134]

The US Department of State summarised the role of the police in its annual 2021 country report on human rights practices in the previous year, as such: "The National Police of Burundi, which is under the authority of the Ministry of Interior, Community Development and Public Security, is responsible for law enforcement and maintaining order".[135]

II. Major Political Developments from May 2020 to November 2022

a. Elections in May 2020

Additional relevant information can be found under section V. Human Rights Situation, especially *V.a.i. Treatment of Political Opposition*, *V.a.i.1. Restrictions on Political Organizing*, and *V.a.i.2. Treatment of Members of Opposition Parties*.

A press release by the UN Commission of Inquiry on Burundi on 14 May 2020 expressed concern about the spread of violence during the electoral campaign, as well as around the impartiality of the Independent National Electoral Commission. It reported that:

> The Commission of Inquiry on Burundi is alarmed that the official electoral campaign for the presidential, legislative and local elections of 20 May 2020, which was launched on 27 April and is slated to continue until 17 May, is characterized by an increase in political intolerance and numerous acts of violence and human rights violations. Clashes between members of the two main political parties – the ruling party *Conseil national pour la défense de la démocratie-Forces de défense de la démocratie* (CNDD-FDD) and the *Congrès national pour la liberté* (CNL) – in the margins of election rallies are on the rise and have resulted in several injured and even casualties in both camps; hate speech and incitement to violence against political opponents, mainly from CNDD-FDD members, are circulating unrestricted ; a large number of women and men who are CNL members, including candidates to the legislative and local elections, were arrested and detained whereas those close to the ruling party continue to enjoy almost total impunity for their abuses, including those responsible for violent acts. […]
>
> The lack of independence and impartiality of the Independent National Electoral Commission - *Commission électorale nationale indépendante* (CENI), the official guarantor for the proper conduct of these elections, represents a growing concern, particularly in light of the alleged irregularities in the distribution of voting cards and the non-disclosure of the final voters' rolls. The use of the judicial system as a tool against the opponents of the ruling party, the absence of independent election observers and the lack of trust in the independence of the constitutional court, the main avenue for appeal in the event of a dispute over the elections results, exacerbate the mistrust and the doubts of several politicians from

[133] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[134] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[135] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

> the opposition and part of the population about possible electoral fraud and therefore towards the integrity and the credibility of the electoral process.
> Hence, the Commission is concerned that under these conditions, the conduct of the electoral process and/or the announcement of the official elections results scheduled for 4 June 2020, could become triggering factors of a new and deeper cycle of political violence. […]
> The Commission also recalls that the political party leaders from all fronts have the responsibility to prevent acts of violence and must step up their efforts to peacefully resolve the tensions in the run-up to the elections and ahead of their conclusion. Failing this, they should be aware that they will be held criminally responsible for their actions and, in some circumstances, for the actions of their militants.
> Therefore, the Commission invites all competent jurisdictions, including those outside the Burundian judicial system, to consider instituting criminal proceedings against those who bear most responsibility for gross human rights violations committed in the context of the ongoing electoral process.
> Furthermore, the Commission urges all political parties to refrain from using children for the purposes of electoral propaganda and to ensure that children's rights are respected and protected throughout the electoral process.
> The Commission takes note with concern of the decision by the Burundian authorities not to apply the World Health Organisation (WHO) recommendations on social distancing to prevent the spread of the coronavirus during the electoral campaign, while thousands of people interact on a daily basis during political rallies.[136]

ACAT Burundi and fourteen other organisations signed a declaration in May 2020, similarly discussing concern around the fairness of the electoral process, the following passage from which was translated from French to English using Google Translate:

> 5. While civil society and the media had actively participated in election observation and coverage in 2005 and 2010, these institutions are today excluded from the process, which deprives the Burundian citizen of his fundamental right to be informed.
> The signatory organizations of this letter deplore the fact that the current electoral charade is taking place behind closed doors without any neutral foreign observer who could testify as to the irregularities and which are likely to deny the Burundian people the inalienable right to designate their representatives and to decide on how they should be directed.
> 6. It is also not superfluous to deplore the passive and partisan attitude of the Independent National Electoral Commission which, all in all, poorly hides its lack of independence and impartiality in view of the management of the process, as evidenced by its complicit silence in the face of ongoing electoral violations and the lack of transparency, particularly with regard to the electoral register, which is still not available.[137]

On 18 May 2020, ISS expressed its concerns regarding the electoral process:

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[136] UN Office of the High Commissioner for Human Rights (OHCHR), *The UN Commission of Inquiry on Burundi: An electoral campaign marred by a spiral of violence and political intolerance*, 14 May 2020
[137] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Declaration of Burundian independent civil society organizations on the eve of the elections of May 20, 2020*, 17 May 2020 [Déclaration des organisations burundaises de la société civile indépendante à la veille des scrutins du 20 mai 2020], *p. 1*

> In a letter to the electoral commission ahead of the 20 May vote, Rwasa [Agathon Rwasa, leader of National Congress for Freedom] points out serious irregularities with the voters roll and the distribution of voting cards. […]
> Burundi refuses to allow international observers to witness the elections, including those from the African Union (AU), which is unusual for an AU member state. […]
> The only group that was initially allowed to observe the polls is the East African Community, which planned to send a small group of 20 observers. However Burundi announced they would have to be quarantined for 14 days after arrival due to COVID-19. So they would effectively have to spend voting day behind closed doors. As a result, the electoral commission announced there would be no outside observers.
> This is ironic given that the government has paid scant attention to the measures recommended by the World Health Organization and the AU's Africa Centres for Disease Control and Prevention. Closing Bujumbura's international airport is seen more as a measure to stop observers coming in than to protect citizens from COVID-19.[138]

The online weekly newspaper, Iwacu English News, also reported on heightening violence ahead of the elections, including the abduction and murder of head of the opposition National Congress for Liberty (CNL), Richard Havyarimana:

> With reported cases of murder, kidnapping, clashes and imprisonments in different parts of the country, the electoral campaign is becoming more and more violent. Two camps oppose each other: the young Imbonerakure and the Inyankamugayo. The situation escalates as the election day is fast approaching.
> The body of Richard Havyarimana, head of the opposition National Congress for Liberty (CNL) in Mbogora locality in Nyabihanga commune in Mwaro province, was discovered on Thursday May 7 in Muyebe locality, in Kibungere area in Nyabihanga commune.
> […] Richard Havyarimana was abducted from his home on the night of May 3 to 4, 2020.
> "Men in civilian clothes and others in police uniforms broke into Richard's house. They beat him up and forcibly brought him into a Toyota Probox car," say neighbors.
> They add that this group of armed men was led by Dieudonné Nsengiyumva, alias Rwembe, leader of the Imbonerakure (youth of the ruling party CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]) in Nyabihanga commune, and another Imbonerakure by the name of Boris. […]
> Scuffles between the Imbonerakure and the Inyankamugayo continue to erupt in several localities of the country.
> In Kirundo Northern Province, there were clashes between the young people of these two parties.
> This fight left 18 injured on two sides. A CNDD-FDD activist died after being seriously injured by a spear.
> Several CNL activists were arrested by the police, accompanied by the Imbonerakure.
> There were also reports of wounded people on Monday, May 4 in Maramvya locality in Mutimbuzi commune of Bujumbura province where a fight between CNL and CNDD-FDD militants left 7 injured, including 3 supporters of the ruling party.
> CNDD-FDD activists wanted to sabotage a CNL meeting on a football field in this locality. Some CNL uniforms were burned. Clashes are also reported in several provinces of the country. [139]

[138] Institute for Security Studies (ISS), *Could elections lead to another political crisis in Burundi?*, 18 May 2020
[139] Iwacu English News, *2020 elections: Campaign against backdrop of violence*, 11 May 2020

The same article went on to discuss a series of arrests taking place in the run up to the May 2020 elections:

> The arrest that has widely been talked about in recent days is that of Kathy Kezimana, a CNL candidate for the legislative election and number 2 in Bujumbura province. She is incarcerated in Mpimba prison. This candidate was arrested on Tuesday, May 5 on the National Road number 7 en route to Bujumbura city.
> On her way from Nyabiraba commune, her car was intercepted by the convoy of the police led by the Bujumbura province police commissioner.
> Kathy Kezimana was then taken to the Bujumbura prosecutor's office where a judge interrogated her for about fifteen minutes before sending her to Mpimba prison. Relatives say she has been receiving threats for some time.
> "In the circles of CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] activists in Bujumbura province, they swore to attack her if she does not dissociate herself from Agathon Rwasa," say her relatives.
> "We want to prevent her from being elected in the May 20 elections." […]
> According to her lawyers, Aline Gahimbare and Modeste Niyonsaba, Kathy Kezimana was arrested on the warrant of the public prosecutor in Bujumbura province after a complaint filed by Diomède Ndabahinyuye, the administrator of Mugongomanga commune.
> "Our client is accused of three offenses: hate speech, public insults and threats against the authority". […]
> CNL activists in Murengeza locality, Mpanda commune in Bubanza province denounce arrests of Inyankamugayo officials. […]
> According to sources within the CNL party in Murengeza sector, Apollinaire Ngendabanyikwa, leader of this party in this locality and Fidèle Ntakarutimana, an Inyankamugayo activist from Murengeza went to the office of the communal electoral commission (CECI) in Mpanda commune to plead the cause of one of their members.
> "The CECI had unjustly removed the new electoral card from one of our activists," says a CNL official from Murengeza.
> Before they had the time to say the purpose of their trip, Fidèle and Apollinaire were surprised to see the police apprehend them on the spot. They didn't know why they got arrested.
> Following these two arrests, according to the head of the CNL, Jacques Ntakarutimana, leader of the youth Inyankamugayo in the area and Charles Ndayishimiye, a young CNL militant from Murengeza locality were also arrested.
> For him, there is no doubt that the four people are victims of their political affiliation.
> Another source joined this Tuesday, May 5, told Iwacu that some of them, previously activists of CNDD-FDD in Murengeza, had already been victims of threats and intimidation from the Imbonerakure.
> "They attacked them, repeating to them many times that they will pay for the fact that they left the CNDD-FDD party!", says MM, a relative of one of the four arrested Inyankamugayo.
> At the start, a close contact told us the four men were taken to "an illegal place of detention".
> In the evening of last Monday, they were transferred to the cell of Mpanda commune. One of the CNL officials in Murengeza, revealed to us in the same evening that the arrest warrant for the four Inyankamugayo, had been issued by the public prosecutor in Bubanza province. […]
> Arrests are also reported in Nyamurenza commune of Ngozi province. CNL officials speak of 11 Inyankamugayo arrested since the start of the electoral campaign for "political motives". […]
> "Our activists are being chased after. On Tuesday, the police accompanied by the Imbonerakure arrested 29 CNL activists.

The targets are those who are on the electoral lists."[140]

On 21 May 2020, the 'consortium de la société civile burundaise pour le monitoring des violations des droits de l'homme pendant la période électorale' [Burundian civil society consortium for monitoring human rights violations during the electoral period], including ACAT Burundi, released a declaration on the elections ballot. The following passage was translated from French to English using Google Translate:

> Also, fraud was noted in the constitution of lists of members of polling stations, the partiality of agents of State institutions in the electoral process was observed and malicious destruction of property belonging to members of political parties was the almost daily theater of people from the neighborhood.
> During the period of the electoral campaign, these organizations were disturbed by a wave of illegal arrests and abusive imprisonments directed against members of the CNL [National Congress for Liberty] party, in particular candidates for the communal, legislative and senatorial elections or representatives of this party at various administrative levels as well as representatives of this party in the May 20, 2020 ballot. country.
> These organizations deplore that the same incidents and irregularities observed during the electoral campaign were accentuated on May 20, 2020, the day of the presidential, legislative and municipal elections.
> Thus, in 16 out of 18 provinces of the country, multiple votes, sometimes with the help of several cards recorded on different individuals deceased or in exile, the arrests of members of the CNL and its representatives, the non-respect of the instructions established by the CENI [Independent National Electoral Commission], in particular the support and monitoring of voters by Imbonerakure and/or members of CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party polling stations in the voting booths, the non-checking of ballot boxes before the start of the voting operation, the purchase of consciousness and the continuation of electoral campaign operations in the ranks of voters by members of the CNDD-FDD party, the intimidation of members of opposition parties by members of the Imbonerakure militia and the police were noted on the day of polls in some polling stations.
> In addition to the above, these organizations doubt the credibility of the ballot box results, given the non-publication of the exact number of polling stations, the non-posting of the electoral register, the last-minute distribution of voter cards, the limited access of journalists to polling stations, the ban on the use of mobile phones in polling stations and the blocking of social networks.[141]

In May 2020, the BHRI released a statement on abuses taking place during the 2020 elections, reporting that:

> Arrests of CNL [National Congress for Liberty] members have rocketed during the campaign period, with more than 260 arrests reported by Burundian human rights groups and media, and more than 200 by the CNL (as of 8 May). The real number could be higher as not all cases are reported. Many of these arrests

[140] Iwacu English News, *2020 elections: Campaign against backdrop of violence*, 11 May 2020
[141] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Statement by member organizations of the civil society consortium on the 2020 elections concerning the triple ballot held on May 20, 2020 in Burundi*, 21 May 2022 [Déclaration des organisations membres du consortium de la société civile sur les elections de 2020 concernant le triple scrutin tenu en date du 20 mai 2020 au Burundi], *p. 2 and 3*

> are arbitrary and appear designed to thwart the CNL in the elections. In contrast, very few Imbonerakure responsible for most of the political violence have been arrested or brought to justice.
> Emerging electoral irregularities have deepened many Burundians' mistrust of the national electoral commission, and there will be no international election observers. Although the elections are taking place against the backdrop of the Covid-19 pandemic, the Burundian government has taken very few robust measures to prevent the spread of the virus. Huge crowds have gathered to listen to CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and CNL leaders during campaign rallies, with no social distancing.
> Temperatures are rising in the ranks of both the CNL and the CNDD-FDD, and members of the two parties have clashed, with injuries on both sides. The particular brutality of some Imbonerakure, and the willingness of the CNDD-FDD leadership to allow them to continue attacking their opponents, strikes fear in the hearts of many Burundians.
> "If nothing is done to defuse the tension, a further escalation of violence is inevitable," said Lane Hartill. "The Burundian government has shamelessly ignored flagrant attacks against political opponents before and during the election campaign. It is high time international actors took a firm public position."[142]

The New Humanitarian reported on instances of increased violence in the run-up to the May 2020 elections, reporting that: "At least two people were killed on Monday in a grenade attack on a bar in Burundi's largest city, Bujumbura, raising fears of further violence ahead of a divisive presidential election next week. […] The identity of the attackers has not been confirmed, but witnesses told AFP that the bar was frequented by members of the ruling party's youth wing, the Imbonerakure". The article further noted that "Nkurunziza is not seeking re-election next week, but tensions are rising following a series of recent clashes between the Imbonerakure and members of the opposition CNL [National Congress for Liberty] party".[143] An article also published by the New Humanitarian the following day stated that: "Monday's grenade attack and clashes between rival political parties have raised fears of further displacement, although, given the level of fear that now prevails across the country, few analysts of Burundi expect a similar level of chaos to 2015. And, if there is civil unrest, some say the government will have a ready-made excuse to clamp down: COVID-19".[144]

Ahead of Burundi's May 2020 election, reporting from ACLED on 19 May 2020 commented further on the spreading violence:

> Reminiscent of previous election periods in Burundi, the months leading up to the vote have been marked by violence among political groups competing for power. Since the formation of the opposition National Congress for Freedom (CNL) party in February 2019, ACLED records a significant increase in violence carried out by the youth wing of the ruling party, called the Imbonerakure, against opposition supporters in general, and CNL members in particular. Unlike the previous election, the geography of violence has shifted from a concentration in urban Bujumbura to a more even disbursement across the rural countryside – a reflection of the CNL's broad appeal in rural areas previously dominated by the ruling party. […]

[142] The Burundi Human Rights Initiative, *Burundi Election Statement: International inertia as election tensions flare in Burundi*, May 2020
[143] The New Humanitarian, *In the news: Grenade blast leaves two dead ahead of Burundi polls*, 12 May 2020
[144] The New Humanitarian, *Coronavirus response takes backseat as election looms in Burundi*, 13 May 2020

> In the 2020 election, the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party has decided upon a new candidate, Evariste Ndayishimiye, eliminating concerns Pierre Nkurunziza would remain in office. This has shifted contestation and political focus towards the primary opposition party: the CNL. […]
>
> Despite the intense violence of the previous election cycle, general political disorder involving Imbonerakure peaked in 2018. However, the specific targeting of opposition supporters by Imbonerakure has been on the rise in recent years, reaching the peak number of recorded events in the months just before the 2020 election. As opposition parties contend for votes during the lead-up to the elections, there has been a significant increase in violence by the Imbonerakure against opposition supporters, primarily the CNL […].1 […]
>
> Attacks by Imbonerakure occur throughout Burundi, and have included the targeting of civilians attending opposition party meetings, as well as the destruction or looting of political party buildings, homes, and farmland. Police frequently arrest opposition supporters after these attacks, with sweeping arrests reported in Makamba in recent weeks (SOS Media, 8 May 2020). In some cases, CNL members and Imbonerakure or CNDD-FDD supporters fight with one another. Both attacks and clashes primarily result in injuries rather than deaths. Imbonerakure attacks against the CNL comprise the vast majority of these events, with a small minority of attacks targeting other political party supporters. […]
>
> Although the total number of events involving the Imbonerakure peaked in 2018, there has been a significant increase in the average rate of violence by Imbonerakure against opposition supporters by month since the CNL formed in February 2019. Mirroring overall disorder trends, these events occur across the rural countryside with a lower concentration in Bujumbura than in previous election cycles. These shifts demonstrate that the CNDD-FDD perceives the CNL as a significant threat around the country, and that it remains willing to use violence to influence elections. […]
>
> 1 The graph depicts Imbonerakure attacks on political opposition specifically. This is different from all political violence involving Imbonerakure — though this violence has also been slightly higher during the 2020 election cycle relative to the 2015 election.[145]

The 'Burundian civil society consortium for monitoring human rights violations during the electoral period', including ACAT Burundi, stated that (translated from French to English using Google Translate): "During the electoral period from April 15, 2020 to May 15, 2020, these organizations recorded 1 person killed, 4 people abducted, 24 people tortured, 208 people arrested and 47 people injured during clashes between members of political parties". [146]

On 18 December 2020, Ligue Iteka, ACAT Burundi, and a number of other civil society organisations released a bulletin on the electoral process in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following passage was translated from French into English:

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[145] Armed Conflict Location & Event Data Project (ACLED), *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020

[146] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Statement by member organizations of the civil society consortium on the 2020 elections concerning the triple ballot held on May 20, 2020 in Burundi*, 21 May 2022 [Déclaration des organisations membres du consortium de la société civile sur les elections de 2020 concernant le triple scrutin tenu en date du 20 mai 2020 au Burundi], *p. 2 and 3*

> During the period covered by this bulletin [1-15 May 2022], we documented at least 1 CNL [National Congress for Liberty] member killed, 2 CNL members abducted, 15 CNL party members tortured including 1 woman, 146 people arbitrarily arrested including 143 CNL party members including took 4 women, 1 member of the UPRONA [Union for National Progress] party and 2 people whose political affiliation was not identified. We also recorded at least 13 people injured in clashes between members of political parties. This bulletin also returns to the frauds in the constitution of the lists of the members of the polling stations, the partiality of the agents of the institutions of the State in the electoral process, the malicious destructions of goods belonging to the members of political parties as well as the policy carried out in the school.
>
> During the period covered by this bulletin, we have seen a wave of illegal arrests and abusive imprisonments against members of the CNL party, in particular candidates for municipal, legislative and senatorial elections or representatives of this party at different administrative levels.
>
> Thus, among those arrested, 26 were subsequently abusively detained in various prisons in the country, including 25 members of the CNL party and 1 member of the UPRONA party.[147]

The ISS released a report at the end of May 2020 discussing the possibilities of Burundi's trajectory following the elections on 20 May 2020. It described the May electoral process in depth, as excerpted below:

> On 20 May 2020, Burundian were called upon to choose their future leaders for the fourth time since the end of the civil war (1993-2003) during presidential, legislative and communal elections. The country is still feeling the effects of the 2015 crisis caused by President Pierre Nkurunziza's attempts to seek a third term in office in contravention of the 2000 Arusha peace and reconciliation agreement. Since 2000 Burundi has experienced a slide into repression characterised by the erosion of freedom and democracy in conjunction with massive human rights violations sufficiently severe to have prompted the International Criminal Court to investigate.
>
> The election was held in a political space in which only the hegemonic party, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD) is able to function unrestricted. Nevertheless, unlike in the presidential elections of 2010 and 2015, which were boycotted by the opposition, several opposition parties participated, including the National Freedom Council (CNL), led by Agathon Rwasa. The CNL is the only party that can compete with the CNDD-FDD. Moreover, to everyone's surprise, President Nkurunziza declined to stand for a fourth term, after having imposed a new Constitution in 2018, opening the way for a change of leadership.
>
> At its national congress on 26 January 2020 the CNDD-FDD appointed its Secretary-General, Evariste Ndayishimiye, as the party's presidential candidate. While this change might have enabled the relaxation of the political climate and the facilitation of transparent elections, the sweeping powers and the brutality of the repression of opponents and dissident voices indicate the opposite. Electoral processes in Burundi have historically foreshadowed new crises; only the 2005 elections were inclusive, credible, and unanimously accepted by politicians. The potentially open nature of the elections and, therefore, the uncertainty about their outcome could amplify the risk of their being manipulated and precipitating a new crisis. […]
>
> A more restrictive legal framework for elections

[147] Ligue Iteka et al., *Bi-Monthly Bulletin on the Electoral Process from 2020 in Burundi*, 18 May 2020 [Bulletin sur le processus pré-electoral de 2020 au BURUNDI], *p. 1*

The Electoral Code of 2014 was the subject of wide consultations organised under the aegis of the United Nations (UN) office in Burundi, and was finally adopted by mutual consent. Some of its innovations, introduced in the 2018 Constitution, made a new electoral code necessary. Moreover, the CENI [Independent National Electoral Commission], which supervised the referendum, had greatly exceeded its mandate and therefore had to be replaced. A draft electoral code was therefore drawn up. Unlike in 2014 the process was hurried, only one day was scheduled for discussion with the political parties and not all of them were represented because there was a delay in sending out the invitations.

In general, the main objections to the electoral code that was adopted in 2019 are the removal of the lists of independent candidates, the exorbitant deposit required from presidential candidates and the conditions for its reimbursement, the excessively restrictive nature of nationality requirements for presidential candidates and the large number of documents required from municipal candidates.

Paradoxically, the voters' register was not really the subject of controversy, although it showed a 25% increase in voter numbers over five years, during which hundreds of thousands of Burundians had sought refuge in countries in the sub-region or in the West. Moreover, the data processing software for the register was provided by a Burundian company with strong links to a high-ranking official close to the ruling party.

The other reason for protest was the composition of the CENI branches at provincial and communal level – they are considered to be skewed in favour of the party in power and its allies. The legal and regulatory framework, however perfect it may be, is not the best guarantee of credible, transparent elections. The CENI, whose composition was approved during a session boycotted by the representatives of *Amizero y'Abarundi*,26 is independent in name only,27 one of the commissioners even giving free rein to his partisan opinions in virulent Tweets about alleged opponents.

The Constitutional Court, the appeal court, being itself under command, means that the authorities control both these institutions. In addition, with the Ministry of the Interior, which is responsible for supervising the elections, the Territorial Administration, the Security Forces Command, the judiciary and the state media all being partisan, there was a risk that the electoral process would be further flawed, while international monitoring was reduced to a minimum and local observers were hand picked. Finally, there were important questions being asked about the regime's ability to carry out the voting operations physically, logistically and technically, the electoral process being entirely funded and organised by the national authorities for the first time.28

While political parties have adhered to a code of 'good conduct', as has the National Communication Council, which presented a code of conduct for the media during the electoral period, the media, which were not consulted, have not all signed it. Two media outlets refused to heed the ban on broadcasting, via any channel, results other than those published by CENI or even results of surveys relating to the elections.[148]

26 A Giriteka, Une Ceni surprise, Iwacu, 3 september 2018, www.iwacu-burundi.org/une-ceni-surprise/.
27 However, a CNL commissioner is a member there as representative of this party.
28 Interviews with electoral experts.

In June 2020, Human Rights Watch published a detailed report on allegations of abuse during Burundi's May 2020 elections. It found that:

[148] Institute for Security Studies (ISS), *Transition and continuity in Burundi*, 29 May 2020, *p. 3, 9, and 10*

After a campaign for presidential, legislative, and communal elections marred by violence, arrests of opposition members, including candidates, and a crackdown on free speech, the national electoral commission announced provisional results on May 25. The commission announced that Évariste Ndayishimiye, the candidate for the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie, CNDD-FDD), had won a reported 68.72 percent of the vote, but on May 28, the commission's president said "draft" results that had not been "officially published" needed to be retracted. On May 30, the commission pronounced Ndayishimiye the winner of the presidential vote, although the constitutional court has yet to confirm the results.

"The elections took place in a highly repressive environment with no independent international observers," said Lewis Mudge, Central Africa director at Human Rights Watch. "Reports of killings, arbitrary arrests, beatings, and voter intimidation during the campaigns should not be brushed under the rug."

The largest opposition party, the National Congress for Freedom (Congrès national pour la liberté, CNL), denounced the results, calling the vote "a fiasco." Its allegations include arrests of opposition party members and candidates, voter intimidation, vote rigging, and partisanship by election officials in the pre-election period and on election day.

The elections took place in the absence of any international observation mission and, on the day of the vote, access to social media and messaging apps was blocked throughout the country, restricting independent reporting and information sharing. Since the provisional results were announced, Human Rights Watch has received credible reports of opposition members being threatened and beaten, particularly in rural areas. Local media have also reported arrests of opposition members, accused of threatening the security of the state.

The CNL told local media that over 600 of its members had been arrested during the campaigns and on election day, and Burundian rights organizations reported multiple abuses, including arbitrary arrests and beatings of CNL and other opposition party members. Human Rights Watch has also documented killings and arbitrary arrests of CNL members during the pre-election period.

The CNL alleged serious irregularities including ballot stuffing and said that its polling agents (*mandataires*) were denied access to polling places and, in some cases, arrested. Human Rights Watch spoke with several voters, journalists, and human rights defenders who said that in some rural locations, ruling party youths were present at polling places and had intimidated voters, while election officials and the police turned a blind eye to voter harassment and intimidation. […]

Throughout the pre-election period, Imbonerakure members committed widespread abuses, especially against people perceived to be against the ruling party, including killings, enforced disappearances, arbitrary arrests, beatings, extortion, and intimidation. […]

The media were heavily restricted in their coverage. The 2018 amended press law and a new Code of Conduct for Media and Journalists in the Election Period for 2020 requires journalists to provide "balanced" information or face criminal prosecution, and forbids them from publishing information about the elections or its results that do not come from the national electoral commission. Some independent journalists reported difficulty accessing polling places and getting information about the vote, and the social media shutdown restricted their work.

Burundi's National Independent Human Rights Commission, the CNIDH, which is pro-government, said that the elections had taken place in a context of peace and security, and praised security forces for protecting human rights. The Security Ministry's spokesperson, Pierre Nkurikiye, said the vote had taken place without any security incidents.

> On May 18, General Prosecutor Sylvestre Nyandwi wrote to the national election commission president saying 59 CNL legislative and communal candidates should be removed from the electoral lists due to ongoing prosecutions against them. In some cases, the letter said, the accused were on the run. In the lead up to the elections, groups of opposition members were taken to court and tried in summary trials under a provision of the Burundian Code of Criminal Procedure that allows for an accelerated procedure for offenders allegedly caught in the act (*en flagrance*)."[149]

The UN Commission of Inquiry on Burundi commented further on the 2020 election in an oral briefing in July 2020:

> The presidential, legislatives and local (*commune*) elections took place on 20 May as per the electoral calendar, without international observers1, following the official electoral campaign which took place from 27 April to 17 May 2020. On 4 June, the Constitutional Court officially declared Evariste Ndayishimiye, candidate of the ruling party CNDD-FDD (*Conseil National de Défense de la Démocratie - Forces pour la Défense de la Démocratie*), the President-elect of the Republic with over 68% of the votes, thus confirming the provisional results announced by CENI [Independent National Electoral Commission] on 25 May. The CNDD-FDD candidates to legislative and communal elections largely won in all the provinces and communes. However, the death of President Nkurunziza disrupted the electoral calendar since, as per the decision of the Constitutional Court on 12 June, the President elect was sworn in on 18 June 2020 instead of 20 August as initially scheduled.
>
> The Commission took note of the relatively strong participation of women in the electoral process, including the number of elected female candidates; despite being discriminated against and in spite of several material and cultural challenges linked to the negative views against women's engagement in politics. This result was made possible by the gender quota prescribed by law and by the blocked lists and the co-opting mechanisms. The Commission hopes that similar measures will be put in place during the elections at the sub-local (*colline)* level, even in the absence of a legally prescribed gender quota.
>
> The electoral process – still ongoing for the Senate and *colline* elections, respectively scheduled for 23 July and 24 August – has been characterised by political intolerance and marred by violent incidents and multiple human rights violations. These occurred before, during and after the official electoral campaign, on voting day and, to a lesser extent, after the announcement of the official elections results. The Commission was able to document several cases of violation of the right to life, the right to liberty and security, the right to physical integrity, the right to participate in public affairs which includes the right to vote freely and secretly and the right to be a candidate, as well as the fundamental civil liberties, in particular freedoms of association and assembly and freedoms of opinion and expression. These violations directly affected mostly men, but also women, candidates or simple members of opposition parties.
>
> As we previously indicated, since the accreditation of the party *Congrès National pour la Liberté* (CNL) of Agathon Rwasa on 14 February 2019, which quickly became the main opposition party, its members and leaders faced acts of intimidation, threats and serious human rights violations. These acts were mainly committed by Imbonerakure and local administrative authorities; usually acting with the support of the police or agents of the national intelligence service (SNR). As elections approached, cases of serious violations increased. The electoral campaign launched on 27 April 2020 was the scene of numerous arrests and arbitrary detentions of CNL members, especially targeting the party leaders at the local level, candidates at the local elections and even those at the legislative elections, as well as designated elections

[149] Human Rights Watch, *Burundi: Intimidation, Arrests During Elections*, 1 June 2020

observers of the said party (*Mandataires*) tasked with observing the voting process and the tallying of votes. Several executions of CNL members were also recorded during this same period.

The electoral campaign was punctuated by incidents, namely clashes between members of the ruling party and opposition party members; resulting in injuries and even some casualties. CNL was not always able to carry out its campaigning activities, such as the inauguration of party headquarters, some of which were forbidden by local authorities. Some of its electoral meetings were disrupted by Imbonerakure and the population was, in some cases, prevented or discouraged from attending them. Burundian authorities have themselves partly recognised these acts of violence, particularly in the case of the clashes between CNDD-FDD and CNL members during the election campaign. They nevertheless assigned the responsibility of these clashes almost exclusively to CNL members without carrying out, in most cases, any impartial investigations.

Hate and hostile speeches, particularly virulent against political opponents of CNDD-FDD - sometimes with an ethnic dimension – widely circulated on social media without being denounced, condemned or sanctioned by the authorities. In contrast, the complaint by a commune's administrator whose local administration was criticised by a female candidate from an opposition party led to judicial proceedings for insult and malicious accusations against the female candidate.

The judicial system, which is still characterised by a lack of independence and impartiality, has largely been used as a tool in the electoral context and justice has become the main instrument used by authorities and CNDD-FDD to weaken and stand in the way of CNL. While most CNL members were released after a few days or weeks, some were sentenced to excessive prison terms following trials "on the spot", mainly for attempt to « disrupt elections» or for «participation in illegal meetings», and others remain in preventive detention.

The media remain under strict control notably through the media synergy initiated by the government and journalists were not able to freely carry out their duties. Journalists were intimidated and threatened or prevented from freely covering the electoral process. As a reminder, four journalists from the Iwacu media group, one of the last independent media still operating in the country, were sentenced on 30 January 2020 to two and a half years in prison for « impossible attempt of complicity in undermining the internal security of the State»2 when they were only fulfilling their professional duties of information gathering. On 22 October 2019, they went to Bubanza province to cover armed clashes reported on the same morning between the Burundian defence forces and members of an armed group; but they were immediately arrested and detained. Their sentencing was denounced by several independent experts from the United Nations.3 We deplore that the Ntahangwa Court of appeal confirmed this verdict on 5 June 2020.

During the electoral campaign period, some children have been prevented to attend school and were instead forced by their teachers or school principals to participate in political rallies organised in favour of the ruling party or its candidate to the presidential election, Evariste Ndayishimiye.

From a general perspective, despite these numerous and concerning violations, it does not seem that there was massive violence. […]

1 Burundi had approved the entry of twenty observers from the East African Community (EAC). However, shortly before their arrival, the Burundian Government announced that the EAC observers would be placed in quarantine for fifteen days given the context of fighting COVD-19, with the quarantine period ending after the voting day. Therefore, the observers chose not to travel to Burundi.

2 Articles 16 and 607 to 626 of the Burundian penal code revised in 2017.

3 See the press release by Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders,

and the United Nations Working Group on Arbitrary Detention dated 20 February 2020: https://news.un.org/fr/story/2020/02/1062201.
4 See for example the declarations of the Conference of Catholic Bishops of Burundi dated 11 April 2020, 14 May 2020, 26 May 2020 and 7 June 2020.[150]

In its report on Burundi in August 2020, the UN Commission of Inquiry wrote again on the electoral process and violations taking place within this context:

> II. Main developments
> B. Developments in Burundi
> 1. Electoral process
> 14. Presidential, legislative and communal elections were held on 20 May 2020, in accordance with the timetable set by the Independent National Electoral Commission. The official election campaign for the three elections on 20 May opened on 27 April and closed on 17 May. According to the Electoral Code, candidates and political parties were only allowed to campaign during this period, and between 6 a.m. and 6 p.m.
> 15. The campaign and the election took place without international observers. Those who were to be sent by the East African Community declined to come after the Government of Burundi announced that as part of the fight against COVID-19 they would be placed in a two-week quarantine upon arrival, meaning until the day after the election.
> 16. On 25 May 2020, the chair of the Independent National Electoral Commission announced the provisional results of the elections, whereby Évariste Ndayishimiye won the presidential election with more than 68 per cent of the vote and Agathon Rwasa came in second, with 20 per cent. In a statement issued on 27 May, the Burundian Catholic Bishops' Conference said that its 2,716 observers deployed to specific polling stations had reported "numerous irregularities" and that the bishops wondered "whether they might undermine the declared result".8
> 17. On 4 June 2020, the Constitutional Court dismissed a complaint from the Congrès national pour la liberté (CNL) challenging the provisional results and denouncing massive fraud and irregularities. It announced that Évariste Ndayishimiye had been elected with 68.7 per cent of the vote. Agathon Rwasa, who at the same time had been elected as a member of parliament, said that he took note of this decision. The ruling party, the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD), also won the legislative and communal elections by large margins.
> 18. On 8 June 2020, the incumbent President, Pierre Nkurunziza, died unexpectedly, according to official reports, from cardiac arrest. On 12 June, the Constitutional Court ruled that the newly elected President, Évariste Ndayishimiye, should be sworn in immediately, and he came into office on 18 June. In his inaugural speech, which had its share of ambiguous and contradictory statements, he promised to reconcile the country through dialogue, to combat impunity, to improve the human rights situation and to protect the population. He also called on refugees to return home. However, he called into question whether there had actually been a political crisis in 2015 and pronounced an unduly limited concept of certain civil liberties, supposedly based on Burundian culture.
> 19. On 24 June 2020, Alain-Guillaume Bunyoni, who had been Minister of Public Security since 2015, was appointed Prime Minister, and Prosper Bazombanza, from the Union pour le progrès national, was named Vice-President. The civilian chef du cabinet under the Nkurunziza presidency was reappointed, as was the spokesperson. On 28 June, a new Government of 15 members was formed, including 5 women,

[150] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 14 July 2020

comprising mainly persons from the previous regime, representing the CNDD-FDD hardliners' wing. Since then, dozens of members of the military have been promoted, including some high-ranking officers regularly cited for involvement in serious human rights violations since 2015. On 10 July, the Senate approved the 18 provincial governors chosen by the President, including 3 women and 6 senior military officers, thereby breaking with the practice of appointing civilians to these key positions.

20. On 20 July 2020, the CNDD-FDD party won 34 of the 36 Senate seats elected by local councillors.9 […]

III. Situation of human rights […]

B. Violations in the context of the electoral process

Weakened political opposition

31. Opposition political parties and their members, mainly from the CNL, considered the main rival of the ruling party, suffered serious human rights violations, which intensified in the run-up to the elections. The aim was to weaken or even eliminate the chances of the CNL winning the election by preventing it from carrying out certain political activities, including campaigning, by intimidating its members, candidates and representatives in order to discourage them from carrying out their work and even by destroying the property and crops of some of its members. On election day, the aim was to prevent certain opponents from voting freely and in secret and to prevent representatives appointed by the opposition parties from observing the vote. Independent candidates and candidates from other parties were more rarely targeted, which attests to the organized and targeted nature of such acts.

Right to liberty

32. Dozens of CNL activists, including those in positions of responsibility within the party as well as candidates for legislative and communal elections, were arbitrarily arrested and detained, for example for campaigning outside the officially designated days and hours while wearing the party's cap or symbol, holding illegal meetings or seeking to "disrupt the election". Some were arrested following physical clashes with members of the Imbonerakure attempting to disrupt election rallies. While most were released after a few days or weeks, some were sentenced to relatively heavy sentences of several years in prison after hastily arranged trials with expedited procedures, while others remained in pretrial detention.

33. The judiciary continued to be used often as a tool of political repression and to be biased in favour of the CNDD-FDD party. The Imbonerakure involved in clashes with members of the CNL have rarely been prosecuted or punished. The Ministry of Public Security has consistently identified members of the CNL as responsible for "90 per cent" of such incidents, without bothering to carry out investigations.

Right to life and physical integrity

34. Several members of the CNL have been murdered in reprisal for their political activities. Violent clashes between the Imbonerakure and members of the CNL have resulted in injuries and deaths on both sides. Members of the Imbonerakure have also beaten up activists from the CNL individually or in small groups; some victims have been seriously injured, and some of these incidents constitute a form of torture.

Right to take part in the conduct of public affairs

35. Acts aimed at preventing certain opposition party candidates from standing for election have taken various forms. In addition to threats, physical violence and arbitrary arrest and detention, the authorities have also made abusive use of legal means to prevent them from running.

36. The Independent National Electoral Commission rejected the applications of 4 of the 10 candidates who filed for the presidential election and of several opposition party lists for the legislative election in some provinces, mainly invoking the lack or invalidity of documents proving respect for ensuring an ethnic or gender balance. However, it offered no opportunity to correct such failures. The Constitutional Court has generally validated such decisions, with few exceptions.

37. On 18 May 2020, the State Prosecutor of the Republic requested the Independent National Electoral Commission to remove 59 candidates from the CNL from the lists for the legislative and communal elections, as the candidates were being prosecuted, with some held in pretrial detention and others officially wanted. On 19 May, the chair of the Independent National Electoral Commission sent their names to the heads of the provincial electoral commissions. Indeed, according to the Electoral Code, persons in pretrial detention temporarily lose their voting rights and as such cannot be candidates in legislative and communal elections.12 Such provisions are not only incompatible with the right to be presumed innocent; combined with the arbitrary mass detention of candidates from the CNL, they are an abusive restriction on the right to stand for election.

Freedom of peaceful assembly and association

38. Before the election campaign began, local officials imposed arbitrary restrictions on the CNL for the opening or inauguration of certain offices, as well as for the holding of legitimate activities such as the organization of private or public meetings. Dozens of the party's offices were vandalized or were partially or totally destroyed, but the arrests following such events mainly targeted the party's own members, who were accused of trying to harm the ruling party.

39. During the election campaign, numerous election rallies were organized across the country by all the competing political parties. While most generally went well, several meetings of the CNL were disrupted or encountered obstacles. Members of the Imbonerakure, often with the support of local officials, tried to prevent some of them by occupying the venues that had been declared in advance with the local authorities.

Freedom of expression

40. Particularly virulent messages of hatred and hostility towards political opponents of the CNDD-FDD party, sometimes with an ethnic dimension, circulated on social networks without eliciting the authorities' condemnation or rebuke. The head of the CNL has regularly been presented by CNDD-FDD officials as an ally of "the country's enemies" and "colonists", or as a "puppet" of former President Pierre Buyoya. Such divisive comments have fuelled and even legitimized hostility towards members of the party. In addition, the party's candidates have been arrested and prosecuted merely for criticizing local officials or authorities or their actions. […]

8 See www.eglisecatholique.bi/index.php/fr/vie-de-l-eglise1/communiques/communique-de-la- conference-des-eveques-catholiques-du-burundi-sur-le-scrutin-du-20-mai-2020.

9 Three Twa senators were co-opted. […]

12 Republic of Burundi, Organic Act No. 1/11 of 20 May 2019 amending Act No. 1/20 of 3 June 2014 on the Electoral Code, arts. 5.1, 125 (a) and 183 (f).[151]

During an oral briefing In September 2020, the UN Commission of Inquiry on Burundi gave further analysis of the 2020 electoral process and corresponding political strategies of the CNDD-FDD, stating that:

> The 2020 electoral process was concluded on 24 August 2020 with the elections of local representatives (at the colline level for rural areas and quartiers for urban areas). Fortunately, this process was not marred by mass violence, specifically thanks to the international community's, and this Commission's, calls for calm and reminders that political leaders were responsible for the actions of their activists. However, serious human rights violations, some of which may constitute crimes under international law,

[151] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 5 and 7 to 9*

were increasingly committed during this process. The Commission documented cases of summary executions, numerous arbitrary arrests and detention, cases of torture and ill-treatment; including sexual violence; as well as numerous violations of key civil liberties that are indispensable for free, credible and transparent elections.

These violations were no mere coincidence. In the course of our investigation, it transpired that the ruling party, CNDD-FDD (Conseil national pour la défense de la démocratie – Forces de défense de la démocratie), and the Burundian authorities had put in place a strategy founded on violence and human rights violations to ensure their victory in all the elections.

The first component of the strategy was to weaken the political opposition, especially the CNL (Congrès National pour la Liberté) which quickly emerged as the main opponent to the ruling party. Everything was setup to undermine its chances of winning in the various ballots. The authorities and CNDD-FDD, using Imbonerakure – members of the CNDD-FDD youth league – SNR [National Intelligence Service] and police agents, as well as local administrative officials – who, for the most part, are themselves members of CNDD-FDD – targeted the most active CNL members and supporters, particularly those running for elected office. To that end, clear instructions were given during meetings organised by the CNDD-FDD and the local administrative officials, including the preparatory meetings for the arrest of the most influential CNL members.

Consequently, during the pre-electoral period, a large number of CNL members were arbitrarily arrested and detained; some were tortured or subjected to ill-treatment; while others were killed. Similar violations were also committed after the legislative and communal elections by way of reprisals, but also during the pre-electoral period of the local elections held on 24 August 2020. Furthermore, it is worth noting that the senatorial elections – conducted by indirect vote, and therefore cast by the newly elected representatives at the communal councils, mostly CNDD-FDD members – were relatively spared from such violations.

The CNL was also prevented from carrying out some of its political activities. In several locations, the local authorities prohibited the opening of party headquarters; often on arbitrary or abusive grounds. Several of its headquarters that had been approved were vandalised or destroyed shortly before or after their inauguration.

During the official electoral campaign, meetings scheduled by the CNL were not held, for example because the pre-announced venue was occupied by Imbonerakure, or the local administration officials prohibited such rallies or meetings through misuse or abuse of their authority.

Several opposition candidates were not able to run for elected office and some of their observers were prevented from observing the electoral process, especially the crucial phase of vote counting. Several were intimidated or threatened and others were arrested days before the election date.

A striking element of this electoral process was the increase of hate speech and incitement to violence against the political opposition, including by members of CNDD-FDD or local authorities, but also hate speech with an ethnic dimension, which were tolerated by the Government.

The second component of this strategy was to muzzle the independent observers such as the media and the civil society to prevent them from reporting on what is happening in the country. During the official campaign, the media was subjected to the control of the National Communication Council, in particular through the “media synergy” set up for the elections, and independent journalists who are still in the country were frequently intimidated and threatened. […]

The third and final component of this strategy was to exercise tight control on the general public before, during and after the elections. Threats and intimidation were used to force people into joining the ruling party or to vote in favour of the CNDD-FDD, including voters in queues on Election Day.

> Such a situation was made possible by the domination of the Imbonerakure in the public sphere, especially in rural areas. They are ubiquitous in the collines and exercise tight control over the joint human security committees established in 2014, which are responsible for a plethora of missions, including the protection of the population. It is on this basis that they quasi-systematically usurp the functions of the defence and security forces with total impunity. The situation is such that high-ranking members of the defence and security forces are concerned while, conversely, members of the Government encourage Imbonerakure's involvement in the security of the country.
> Officially, the CNDD-FDD has indeed won the elections, even if allegations of massive fraud and irregularities were reported. The ruling party now holds all the levers of powers in the country in unprecedented proportions while traditional counterbalances to power (the media and the civil society) are tightly controlled. Indeed, to date, the Constitution from the Arusha Peace Agreement had guaranteed a balance of power between various political forces, which disappeared with the 2018 Constitution. Nonetheless, increased representation of women in political entities where the Constitution requires a 30% gender quota is a positive aspect.[152]

In November 2002, the UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi described further the outcome of the general election and the consequent context of the ruling party:

> II. Background […]
> 4. From 20 May to 24 August 2020, general elections were held in Burundi, in a relatively peaceful environment, leading to changes in the leadership of key State institutions, including the Office of the President, Parliament and communal and local councils. As a result, Mr. Ndayishimiye was sworn in as President on 18 June. The Prime Minister, Alain Guillaume Bunyoni, was appointed on 24 June, and the new Government was named on 28 June. Furthermore, on 25 August, Gélase Ndabirabe and Emmanuel Sinzohagera were elected as Speaker of the National Assembly and President of the Senate, respectively. […]
> III. Findings […]
> A. Political and peacebuilding situation […]
> 7. However, the prevailing context remains fragile. Some stakeholders raised concerns over the overwhelming control of the ruling party, the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD), in State institutions (with 86 of 123 seats in the National Assembly and 33 of 39 seats in the Senate) and at all levels of the administration. Another concern expressed by stakeholders was the perceived militarization of the administration through the appointment of military and police officers to key ministerial and gubernatorial positions.[153]

b. Death of Pierre Nkurunziza

Human Rights Watch wrote in an article on 11 June 2020 that: "According to the government's statement, Nkurunziza died after suffering a cardiac arrest on June 8 at a hospital in Karuzi, in eastern

[152] UN Human Rights Council, *Interactive Dialogue on Burundi: Oral briefing Of the Commission of Inquiry on Burundi*, 23 September 2020
[153] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 3 and 4*

Burundi. In late May, media reported that Nkurunziza's wife and Burundi's health minister were evacuated to Nairobi for medical treatment, although no official reason was given, feeding speculation about the potential spread of Covid-19 among government officials".[154]

A joint statement by Protection International and seven other signatories on 17 June 2020 stated that "After the sudden passing of President Nkurunziza of Burundi, this coming Thursday General Évariste Ndayishimiye will take the oath to become the new President-elect of Burundi".[155]

The Africa Center for Strategic Studies, on 22 June 2020, that "Burundians were shocked by news that longtime president, Pierre Nkurunziza, 55, had died. Rumors swirled about possible causes, with some saying he died of COVID-19 and others citing foul play. The government said he died of cardiac arrest".[156] It added that "A succession crisis immediately ensued, exposing rifts in the ruling party and military".[157]

In December 2020, the BHRI released a report on Burundi's future, political trajectory, and human rights record, reflecting also on the implications of Nkurunziza's death. It observed that:

> 1. THE CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] WINS AGAIN: THE EMERGENCE OF HARDLINERS AFTER THE ELECTIONS […]
> Nkurunziza's death and its implications
> A few days later, on 9 June, a collective gasp rippled through the country when the government announced the sudden death of President Pierre Nkurunziza, officially of a cardiac arrest. As his successor had already been elected, the Constitutional Court ruled that rather than appointing an interim president, the swearing-in of Évariste Ndayishimiye should be brought forward by two months. Ndayishimiye therefore took his oath on 18 June.
> This ended a short period of uncertainty, which could have upset the fragile settlement within the CNDD-FDD that had resulted in Ndayishimiye's nomination as the party's presidential candidate. Had there been an interim president, according to the Constitution, this would have been Pascal Nyabenda, president of the National Assembly at the time of Nkurunziza's death, and Ndayishimiye's failed rival for the CNDD-FDD's presidential ticket.16
> Many had assumed that Nkurunziza would continue to play an important role after the elections, both as the Supreme Guide of Patriotism – a status he acquired in March 2020 – and behind the scenes. While his untimely death may give his successor greater latitude to distance himself from the past, many of Ndayishimiye's decisions in the first months of his presidency signal continuity rather than change, and are marked by the same repressive tactics of the Nkurunziza era. […]
>
> 16 See BHRI, "Party loyalist or reformer? The man who could become Burundi's next president", https://burundihri.org/english/#april-2020, April 2020.[158]

[154] Human Rights Watch, *Burundi: President Nkurunziza Dead Days After Vote*, 11 June 2020
[155] Protection International et al., *Joint Statement: A Decisive Moment for the Future of Human Rights Defenders in Burundi*, 17 June 2020
[156] Africa Center for Strategic Studies, *Post-Nkurunziza Burundi: The Rise of the Generals*, 22 June 2020
[157] Africa Center for Strategic Studies, *Post-Nkurunziza Burundi: The Rise of the Generals*, 22 June 2020
[158] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 16 and 17*

c. Burundian Troops Deployed to DRC and Involvement in Regional Force

The report of the Secretary-General on the Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo (DRC) and the Region, published at the end of September 2020, stated that "on 16 April, civil society groups in South Kivu Province alleged movements by elements of the Burundian army south of Uvira town, followed subsequently by media reports alleging that the Burundian troops had retreated to Burundi".[159]

Another report by the Secretary-General on the UN Organization Stabilization Mission in the DRC, published the following September 2021, stated that: "On 23 June and 27 July [2021], cross-border movements of Burundian armed elements, including from Forces nationales de liberation and Mouvement de la résistance pour un état de droit, were reported into the Democratic Republic of the Congo, allegedly with the support of local Mai-Mai leaders".[160]

The ISS stated in November 2022 that the "deployments of Ugandan and Burundian troops in eastern DRC in November and December 2021 (respectively fighting their enemies – the Allied Democratic Forces and RED-Tabara) – were formalised under the EAC's [East African Community] Nairobi Process".[161]

On 25 May 2022, International Crisis Group published a detailed report on the situation in Eastern DR Congo and Great Lakes, also reporting on Burundi's role there:

> Introduction […]
> President Félix Tshisekedi may have opened Pandora's box by inviting troops from neighbouring countries to fight rebels based in the Democratic Republic of Congo (DRC). In November 2021, following deadly bombings in Uganda's capital Kampala, Tshisekedi allowed Ugandan units to cross into the DRC's North Kivu province in pursuit of the Allied Democratic Forces (ADF), a Ugandan rebel coalition whose largest faction has sworn allegiance to the Islamic State. The following month, Burundian soldiers reportedly marched into the DRC to battle the RED-Tabara rebel group. These interventions are causing fresh upheaval in a country that has suffered greatly from regional rivalries. […]
> Burundi and Rwanda were also on better terms after Evariste Ndayishimiye took over the Burundian presidency from Pierre Nkurunziza, who died suddenly in June 2020. But the activities of militias in the eastern DRC are putting these historically fraught ties under renewed strain, potentially widening rifts between Rwanda and Uganda, and even Rwanda and Burundi. […]
> In late December, presumably with Tshisekedi's blessing, Burundian troops crossed into the DRC to target the RED-Tabara insurgency, a Tutsi-led group opposing the Hutu-dominated government in Bujumbura.3

[159] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 29 September 2020, *p. 2 and 3*
[160] UN Security Council, *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General*, 17 September 2021, *p. 5*
[161] Institute for Security Studies (ISS), *Can the East African Community stabilise eastern DRC?*, 1 November 2022

Those rebels had fired mortar shells at Burundi's international airport in September and killed about a dozen soldiers and police in an attack on a Burundi-DRC border post three months later.4 […]

Along with Burundi's clandestine deployment, Rwanda's threat to get involved and the possible formation of an East African force, Uganda's deployment has sparked fears of broader outside military involvement and cast further doubt upon Tshisekedi's ability to stabilise the east. […]

In July, the DRC and Burundi agreed to cooperate militarily as well, following a face-to-face meeting between Tshisekedi and Ndayishimiye that was likely a prelude to the deployment of Burundian troops in South Kivu province.8 […]

Burundi's incursion into South Kivu is shrouded in secrecy. In late December, residents of the province's Uvira territory reported seeing about 400 Burundian soldiers and Imbonerakure, Burundi's notorious ruling-party youth militia, cross the Rusizi river between the two countries.20 They then reportedly entered an alliance with the Gumino and Twigwaneho ethnic groups and several other smaller *Mai-Mai* groups against RED-Tabara, which has formed ties with another Burundian insurgency, Forces nationales de libération (FNL), and Congolese *Mai-Mai* militias.21 The Burundian army reportedly sustained heavy losses, while thousands of residents fled the violence. Burundi has repeatedly denied that its troops are fighting in the DRC, however.22 The Congolese government has remained silent on the issue.

V. The Need for Regional Diplomacy […]

The secrecy surrounding Burundi's incursion has riled even its own troops. In February, Burundi's military intelligence allegedly ordered the execution of about twenty Burundian soldiers in Uvira for insubordination. The men had reportedly asked for official recognition of their mission and a clear order of battle in line with military regulations.91 […]

While Burundi says it may be open to talks with RED-Tabara and the FNL, little suggests a similar process is on the cards with Rwandan rebels, let alone the ADF, and how much talks with Congolese groups would address Rwandan and Ugandan involvement is unclear.100 […]

3 Burundi has three main ethnic groups: the Hutu, representing approximately 85 per cent of the population, the Tutsi, making up 14 per cent and the Twa, 1 per cent. The German and Belgian rulers (1890-1962) and the Tutsi-dominated post-colonial government (1965-2001) excluded the Hutu population from power. Tensions between the Hutu and the Tutsi led to a civil war (1993-2005) that ended with the swearing-in of Nkurunziza as president in August 2005. His Hutu-dominated party, Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD- FDD), has been in power ever since.

4 Tweet by RED-Tabara, @Red_Tabara, 2:47am, 19 September 2021; tweet by RED-Tabara, @Red_ Tabara, 3:27pm, 20 December 2021. […]

8 "Communiqué conjoint à l'occasion de la visite d'état de son excellence monsieur Evariste Ndayishimye, Président de la République du Burundi en République Démocratique du Congo du 12 au 14 juillet 2021", press release, 14 July 2021. See also "Félix Tshisekedi : 'Nous allons faire avec le Burundi, ce que nous avons fait avec l'Ouganda et le Rwanda'", Actualite.cd, 13 July 2021; and "Fin de la visite d'état à Kinshasa : Le Burundi et la RDC engagés à renforcer l'amitié et à combattre ensemble les forces qui sévissent à l'est de la RDC", press release, Presidency of the DRC, 14 July 2021.

20 "Sud-Kivu (RDC) : Des militaires burundais rapportés à Uvira", SOS Médias Burundi, 27 December 2021.

21 Most armed groups in the DRC label themselves "*Mai-Mai"*, an umbrella term for local militias formed to protect communities from foreign fighters. The term originates from the Kiswahili word for water (*"maji"*). Many militia members believe that water protects them from bullets. Crisis Group observations, South Kivu, January 2022.

22 "Pas de troupes burundaises à l'est de la RDC, vraiment ?", Iwacu, 7 January 2022. […]

91 "L'armée burundaise exécute plus de 20 de ses hommes pour insubordination", Inzamba, 11 February 2022; "Une vingtaine de militaires burundais fusillés pour avoir refusé de fouler le sol congolais en catimini", *Burundi Daily*, 12 February 2022. […]

100 “Burundi : Le pouvoir prêt « à dialoguer » avec les rebelles basés dans l’Est de la RDC”, *La Libre Afrique*, 11 May 2022.[162]

The report of the Secretary-General on the UN Organization Stabilization Mission in the DRC, published in June 2022, stated that: “ In South Kivu, insecurity persisted owing to violence by the Mai-Mai Raia Mutomboki in the north of the province, intercommunal conflict in the Hauts and Moyens Plateaux, clashes on the Ruzizi Plain between FARDC [Armed Forces of the Democratic Republic of Congo] and Mai-Mai groups, as well as clashes between Burundian armed groups, including Résistance pour un État de droit au Burundi (RED Tabara) and, allegedly, troops of the Burundi National Defence Force.”[163]

The BHRI released a detailed analysis in July 2022 on Burundi’s mission in DRC. It reported that:

> Since December 2021, the Burundian army has poured hundreds of troops into neighbouring Democratic Republic of Congo (DRC). Successive waves of soldiers, bolstered by members of the ruling party youth league, the Imbonerakure, have been sent on a mission to fight Burundian armed opposition groups across the border.
> Their main target is RED-Tabara (Resistance Movement for the Rule of Law-Tabara, Mouvement de la résistance pour un État de droit-Tabara), an armed group that has launched sporadic attacks in Burundi in recent years. Operating primarily from the DRC, RED-Tabara vehemently opposes the Burundian government, but its strength has fluctuated over the years. Many Burundians are therefore puzzled by their government’s decision to throw so much military might at it.
> There is an official silence surrounding the military operation. The presence of large numbers of Burundian soldiers and Imbonerakure in the DRC is an open secret, but several months on, the government has not publicly acknowledged sending troops there. Soldiers and Imbonerakure cross the border in a clandestine manner, usually at night; some soldiers are ordered to swap their military uniforms for civilian clothes and leave behind possessions that could identify them. Soldiers and Imbonerakure returning from the DRC have been warned not to talk about their mission. Little or no explanation is given to the families of those who die on the battlefield. The Congolese government has also remained silent about its neighbour’s incursions onto its territory.
> Nevertheless, information has filtered out. Testimonies from some of those who fought in the DRC reveal a painfully ill-prepared operation that has resulted in significant casualties among Burundian soldiers and Imbonerakure. Many Imbonerakure were lured into joining the operation with little or no explanation or training, sometimes under false pretences. In addition, Burundian soldiers and Imbonerakure, as well as their allies from Congolese armed groups, are reported to have committed serious abuses against Congolese civilians.
> Cross-border operations by the Burundian army in the DRC are not a new phenomenon. For more than 10 years, Burundian soldiers and Imbonerakure have periodically sought to hunt down Burundian armed opposition groups in the DRC. But the current operation is different in scale and duration: larger numbers of troops, sent in several deployments, have been fighting in the DRC for seven months.

[162] International Crisis Group, *Easing the Turmoil in the Eastern DR Congo and Great Lakes*, 25 May 2022, *p. 1 to 5, 11, and 13 to 15*
[163] UN Security Council, *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General*, 22 June 2022, *p. 5*

The operation has drawn in Congolese armed groups, some of whom have formed alliances with the Burundian military or with RED-Tabara. These collaborations have further destabilised an area of DRC's South Kivu province already riven by armed conflict. With frequently shifting frontlines, Congolese civilians have become caught up in the fighting. The Burundian military operation occurs at a time when the M23 armed group has resurfaced in North Kivu province, with allegations of Rwandan support, further escalating local and regional tensions. […]

2. GATHERING THE TROOPS

Military recruitment

As Niyonzima and military intelligence agents prepared for the arrival of the Burundian military in the DRC, the selection of soldiers and Imbonerakure who would serve in the operation was underway in Burundi.

Soldiers were carefully chosen for the operation. Many of those recruited for the initial phases were from the Hutu ethnic group and perceived as loyal to the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. But as the toll of the operation began to rise and some soldiers balked at going, some members of the former Burundian Armed Forces (Forces armées burundaises), known as ex-FAB – many of whom are Tutsi and are often viewed as opponents by the CNDD-FDD – were also recruited. Some sources, however, said that few ex-FAB were chosen, as there were fears that they might have sympathies with REDTabara.16 One source said that some soldiers who weren't liked by their superiors were sent to the DRC.17

Soldiers were recruited from different military units, including the 111th battalion (based at Camp Gatumba in Bujumbura province), the 112th battalion (based in Camp Cibitoke, in Cibitoke province) and the 212th battalion (based in the Rukoko forest, in Bubanza province). Many were sent to Camp Cibitoke, which acted as a central assembly point before they crossed the border. Others mustered at an agricultural institute in the Rukoko forest in Bubanza province (Institut des sciences agronomiques du Burundi, ISABU). A soldier said he stayed at ISABU for two weeks with approximately 700 soldiers before their deployment to the DRC in December 2021. He said that military intelligence and military police officials were heavily involved in the recruitment and preparation of soldiers.18

According to multiple sources, Lt. Col. Léonidas Nyandwi, head of the 212th battalion, commanded Burundian soldiers in the DRC from early January to late March or early April 2022, when he was replaced by Lt. Col. Désiré Ntihabose, commander of the 112th battalion. Ntihabose had fought for the FDD, the armed wing of the CNDD-FDD, during Burundi's civil war and is believed to be a staunch supporter of the ruling party.19 He was promoted to the rank of colonel on 1 July.20 Venant Bibonimana alias Gatovyi, the head of the military camp in Kabezi (Bujumbura province) known as Camp Chinois, was responsible for preparing and sending soldiers and Imbonerakure to the DRC across Lake Tanganyika, at night.21

Many soldiers were told to change into civilian clothes before they crossed into the DRC. A witness said that Lt. Col. Libère Niyonkuru, who at the time was deputy head of military intelligence, arrived at ISABU with two vehicles full of torches, jeans, shirts and rubber boots.22 One soldier said that military officials told them they should wear civilian clothes so that "the international community" could not identify them as Burundian soldiers and that if they were arrested in the DRC, they could claim they were members of RED-Tabara.23 Other sources said that soldiers who were part of earlier or later waves were allowed to wear their military uniforms in the DRC.24

Military officials also prevented soldiers from taking their identity documents and mobile phones with them, presumably to prevent information from leaking about the clandestine mission and to prevent their identification.

Soldiers were paid between 70,000 Burundian francs (approximately US$34) and 120,000 Burundian francs (approximately US$59), depending on their rank. Some left the money with military intelligence officials who told them to collect it when they returned to Burundi.25

Most of the hundreds of soldiers were driven to Buganda commune, in Cibitoke province, from where Imbonerakure took them into the DRC across the Rusizi river at night, in pirogues; some crossed over Lake Tanganyika.

Some soldiers questioned the purpose of the operation and its lack of transparency, and expressed reservations about their participation. Media reports alleged that more than 40 soldiers who allegedly refused to go to the DRC or who asked to see documents authorising the operation were executed in two separate incidents in Cibitoke province, between late January and mid-February.26 Other sources said that a soldier who questioned what they were doing in the DRC and another who was accused of leaking information about the operation were killed.27 BHRI was unable to confirm these reports. Several soldiers were detained in early 2022 after they allegedly refused to serve in the DRC. Some were later released. The fate of the others is not known.28

Imbonerakure recruitment

Large numbers of Imbonerakure joined the Burundian military in the DRC. Imbonerakure are civilians. Although some are demobilised combatants and others have been taught how to use certain firearms, many younger members of the youth league do not have any formal military training or experience. However, this did not stop CNDD-FDD and military officials from recruiting them and using them in frontline military duties in the DRC – as they have done in other operations in the past. […]

3. BURUNDIAN SOLDIERS AND IMBONERAKURE ARRIVE IN THE DRC

Several hundred Burundian soldiers and Imbonerakure – more than 1,000 – are believed to have gone to the DRC in successive waves since late 2021. Around 700 are estimated to have been there at one time, in the early phase of the deployment in December 2021.40 The UN Group of Experts collected information on 17 incursions or operations by the Burundian military and Imbonerakure in the territory of Uvira, in the DRC, between September 2021 and March 2022.41 BHRI was unable to confirm the exact number of soldiers and Imbonerakure deployed or the number of incursions.

The duration of their deployment varied, but seemed to last between one and four months. The largest number of troops appears to have been deployed in December 2021 and January 2022. In the following weeks, successive groups of soldiers were sent to reinforce or replace those deployed in the first phase.42 Troop movements were also reported between April and July, and soldiers and Imbonerakure were still present in eastern DRC in mid-July.43 […]

Imbonerakure served several functions in the operation. Those with military training took part in the fighting. Some, who had previously been to eastern DRC and knew the area, helped guide soldiers or locate RED-Tabara fighters, while others with less experience in battle or no knowledge of the area carried equipment. Some were sent to loot food and cattle and carried these back to improvised military camps set up by Burundian soldiers. These tasks could prove deadly, as Imbonerakure sometimes fell into ambushes set up by RED-Tabara.48 When soldiers ran out of ammunition, Imbonerakure, escorted by a few soldiers, were sent to the border, at the Rusizi river, to pick up new supplies.49

Many Imbonerakure appeared to consider the mission an opportunity to loot crops from fields, steal cattle and carry out abuses against Congolese civilians. […]

Several sources confirmed that Burundian soldiers or Imbonerakure stole crops and cattle, and forced Congolese civilians to carry their goods. […]

Many young men living in areas where the Burundians often passed chose to spend the night outside their villages to avoid being caught by Burundian soldiers or Imbonerakure. Other Congolese civilians were also displaced from their homes by the fighting.52

Some of those abducted and forced to carry goods by Burundian soldiers, Imbonerakure or their allies from Congolese armed groups were women and girls. […]

Several Congolese and Burundian sources, including some who took part in the operation, said that Burundian soldiers or Imbonerakure raped Congolese women. BHRI has so far been unable to obtain details of these allegations.

4. FIGHTING AND DEATHS IN THE DRC

Large numbers of Imbonerakure and Burundian soldiers were killed during the operation. Precise numbers are difficult to obtain. One soldier estimated that more than 200 were killed between late December 2021 and April 2022.54 However, as soldiers and Imbonerakure were sent in several waves, even those who participated in the operation may not know the total number of casualties. An unknown number of RED-Tabara combatants were also killed.

Many soldiers and Imbonerakure were killed in clashes with RED-Tabara in early 2022. Jean Claude Nibigira, RED-Tabara's military chief-of-staff, said that the group first fought the Burundian army in December 2021 in the Kashengo forest, in the mid-plateaux, then in continuous further clashes for a month and a half.55 The Burundian military and Imbonerakure, guided by Nyamusaraba, pushed RED-Tabara deeper into the area known as the high plateaux and eventually into the Itombwe forest, in Mwenga territory. The ability of RED-Tabara to continue to carry out attacks in the mid-plateaux – an area largely inhabited by members of the Bafuliro ethnic group, located far from its bases in the high plateaux – highlights how the group uses alliances with Bafuliro armed groups, such as Mai-Mai Ilunga, to swell its ranks and provide protection and safe passage.56

Burundian soldiers and Imbonerakure said that they were attacked in the Rusizi plain on multiple occasions, in some cases very soon after they arrived in the DRC. They were unprepared for these attacks, which resulted in numerous deaths. RED-Tabara acknowledged that its troops fought Burundian soldiers on 4 January 2022 near Kigoma, west of the Rusizi plain, and claimed its troops had "blocked" the Burundian military near the Rusizi river.57 A Burundian soldier said Burundian troops were ambushed upon arrival in the first week of January near the town of Sange, near the Rusizi plain, and several soldiers and Imbonerakure were captured. Another soldier, who escaped the ambush, told him that RED-Tabara had captured them and killed the Imbonerakure.58 Nibigira confirmed that RED-Tabara had captured soldiers and Imbonerakure, but denied that they executed them.59

According to a soldier who participated in the operation, most of the Burundian soldiers who died in the DRC were killed on the battlefield; a smaller number sustained gunshot or shrapnel wounds and succumbed to their injuries because of a lack of adequate medical equipment, facilities and trained medical staff.60 Some were killed in clashes between their Congolese armed group collaborators and FARDC [Armed Forces of the Democratic Republic of Congo] soldiers in April and May 2022,61 while others were shot dead as they tried to loot cattle to feed fellow soldiers.62 An Imbonerakure estimated that dozens of Imbonerakure, as well as some soldiers, were killed when Congolese soldiers and armed cowherds shot at them when they were trying to steal cows.63 There were also reports that several soldiers drowned in the Rusizi river while trying to cross the border.64 […]

The Burundian authorities gave very little information to the families of those killed in the DRC. […]

5. GOVERNMENT DENIALS

In early January 2022, Floribert Biyereke, Burundi's military spokesperson, categorically denied that Burundian military were present in the DRC: "It's not true. There are no Burundian military in the DRC. The Burundian army doesn't operate in the DRC. It only covers the national territory. No soldier can dare go and intervene in another country without an agreement between the two countries."77

Three weeks later, it was the turn of minister of defence Alain Tribert Mutabazi, accompanied by Prime Niyongabo, chief-of-staff of the National Defence Force of Burundi (Force de défense nationale du

Burundi, FDNB), to deny that the Burundian military was present in the DRC. In response to a journalist's question during a press conference on 28 January 2022, he dismissed the allegations as "rumours".

"We have also heard about this information on social media and from various media such as international radio stations," said Mutabazi. "What I would like to say is that the Burundian army remains bound by the rules that govern it. As stipulated by law, the Burundian army didn't send men to the DRC. Moreover, we have a very good collaboration with the Congolese army and it has never complained. The FDNB only intervenes in the framework of joint operations recognized by the EAC (East African Community), the AU (African Union) or the United Nations. And that is never done secretly."78

Yet by this time, many Burundian soldiers and Imbonerakure had already crossed into the DRC. Moreover, on 15 January 2022, Burundian soldiers, Imbonerakure and members of Gumino had attacked Kitoga village in the high plateaux – an area in which RED-Tabara and its allies operated – and reportedly killed dozens of civilians there; they also burned houses and looted and destroyed local infrastructure and equipment.79

The Burundian government has privately referred to its operation as a "joint operation" with the Congolese security forces.80 An operations agreement in 2021 between the UN mission in the DRC (known as MONUSCO) and the Congolese government stated that the FARDC could conduct joint operations with security forces from neighbouring countries including Uganda, Rwanda and Burundi. A UN official, however, said that FARDC "soldiers on the ground are not very happy with the Burundian military presence. They complain that they have not received instructions from Kinshasa about how to deal with this situation. If there has been an agreement at national level, it hasn't filtered down to the local level… Mostly, it appears that the FARDC just allow the Burundian army to do what they want. These are not joint operations, unlike with the Ugandans, for example.81 It is more like a laissez-passer by the FARDC to let the Burundian military track down Burundian armed groups."82 […]

15 Interview with foreign security official, 11 May 2022; Judith Verweijen, Juvénal Twaibu, Moïse Ribakare, Paul Bulambo and Freddy Mwambi Kasongo, "Mayhem in the mountains", https://www.gicnetwork.be/wpcontent/uploads/2021/04/05_GIC_Mayhem-in-the-mountains_WEB-2.pdf, April 2021.

16 Interview with Burundian soldier, 20 April 2022, and interview with foreign security official, 11 May 2022. REDTabara is sometimes perceived as a predominantly Tutsi group, even though it also has Hutu members.

17 Interview with confidential source, 27 May 2022.

18 Interview with Burundian soldier, 20 April 2022.

19 Interview with foreign diplomat and security officials, 11 May 2022; interview with UN official, 12 May 2022.

20 "Décret n°100/079 portant nomination aux grades de certains officiers de la Force de Défense Nationale du Burundi", https://www.presidence.gov.bi/2022/07/04/decret-no-100-078-du-01-juillet-2022-portant-nomination-aux-grades-decertains-officiers-dans-la-categorie-des-generaux-de-la-force-de-defense-nationale-du-burundi/, 1 July 2022.

21 Interview with confidential sources, 31 March and 26 April 2022. See also Radio Inzamba, "L'armée burundaise poursuit l'envoi des troupes en RDC", https://inzamba.org/larmee-burundaise-poursuit-lenvoi-des-troupes-en-rdc/, 5 February 2022.

22 Interview with confidential source, 10 April 2022.

23 Interview with Burundian soldier, 1 May 2022.

24 Information from Imbonerakure, 23 January 2022; interview with Congolese source in the Rusizi plain, 10 April 2022; interview with confidential source, 13 May 2022; interview with Imbonerakure, 13 May 2022.

25 Interview with Burundian soldier, 20 April 2022.

26 Radio Inzamba, "Burundi : Un gouvernement qui saigne ses propres hommes," https://inzamba.org/burundi-ungouvernement-qui-saigne-ses-propres-hommes/, 30 April 2022.

27 Interviews with confidential sources, 8 March, 5 May and 13 May 2022.

28 Information from confidential source, 22-23 February 2022. […]
40 Interview with Burundian soldier, 20 April 2022; interview with foreign security official, 11 May 2022. The Group of Experts on the Democratic Republic of Congo reported that hundreds of Burundian soldiers and Imbonerakure crossed into the DRC in one night alone (2-3 March 2022). See Group of Experts on the Democratic Republic of Congo, final report, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/338/70/PDF/N2233870.pdf?OpenElement, 14 June 2022.
41 Group of Experts on the Democratic Republic of Congo, final report, https://documents-ddsny.un.org/doc/UNDOC/GEN/N22/338/70/PDF/N2233870.pdf?OpenElement, 14 June 2022.
42 Information from confidential sources, February-March 2022.
43 Interview with foreign security official, 30 June 2022; information from confidential sources, 4 and 19 July 2022. […]
48 Information from Imbonerakure, 31 May 2022.
49 Information from Imbonerakure, 31 May 2022. […]
52 Interview with Congolese security officials, April 2022; interview with UN official, 16 May 2022. […]
54 Interview with Burundian soldier, 20 April 2022.
55 Interview with Jean Claude Nibigira, military chief-of-staff of RED-Tabara, 10 June 2022.
56 Information from Congolese human rights defender, 12 May 2022.
57 RED-Tabara communiqué, https://twitter.com/Red_Tabara/status/1478814058988068865/photo/1, 5 January 2022.
58 Interview with Burundian soldier, 20 April 2022.
59 Interview with Jean Claude Nibigira, military chief-of-staff of RED-Tabara, 10 June 2022.
60 Interview with Burundian soldier, 20 April 2022.
61 Information from confidential source, 4 May 2022.
62 Information from confidential source, 14 and 20 April 2022.
63 Information from Imbonerakure, 31 May 2022.
64 Information from confidential source, 11 March 2022. See also Radio publique africaine, "Cinq militaires meurent noyés dans la rivière Rusizi", https://www.rpa.bi/index.php/actualites/2securite/cinq-militaires-burundais-meurent-noyesdans-la-riviere-rusizi, 11 February 2022. […]
77 Iwacu, "L'armée burundaise rejette les allégations de la présence de ses troupes en RDC", https://iwacu.global.ssl.fastly.net/larmee-burundaise-rejette-les-allegations-de-la-presence-de-ses-troupes-en-rdc/, 7 January 2022.
78 SOS Médias Burundi, "Burundi : la FDNB s'exprime pour la première fois sur sa présence en RDC et nie", https://www.sosmediasburundi.org/2022/01/29/burundi-la-fdnb-sexprime-pour-la-premiere-fois-sur-sa-presence-en-rdcet-nie/, 29 January 2022.
79 Interview with member of Congolese civil society organisation, 18 January 2022; interview with European diplomat, 11 May 2022; interview with UN official, 16 May 2022; confidential report, 3 March 2022. Burundian soldiers, Imbonerakure and members of Gumino attacked Kitoga again on 30 January and 26 February 2022 and looted cows, crops and other belongings.
80 Interview with diplomat in Bujumbura, 25 May 2022; interview with UN officials, 10 April 2022.
81 On 9 December 2021, Uganda and the DRC signed a defence and security agreement that allowed the Ugandan army to enter the DRC for joint operations to dismantle the Allied Democratic Forces (ADF), an armed group of Ugandan origin.
82 Interview with UN official, 10 April 2022.[164]

Another report of the Secretary-General on the implementation of the Peace, Security and Cooperation Framework for the DRC and the Region, published in early October 2022, stated that:

[164] The Burundi Human Rights Initiative (BHRI), *An Operation Of Deceit: Burundi's secret mission in Congo*, July 2022, *p. 4, 10 to 12, 14 to 17, 19, and 20*

> II. Major developments
> A. Security situation
> 12. The Résistance pour un État de droit au Burundi (RED Tabara) issued statements in which it claimed that it had clashed with alleged combatants of the Burundi National Defence Force (FDNB) in Uvira Territory on 16 April, and in Fizi and Mwenga Territories, South Kivu, from 23 to 24 April. Burundian authorities did not publicly comment on those claims.
> 13. On 15 August, FARDC [Armed Forces of the Democratic Republic of Congo] announced that, under a bilateral agreement between Burundi and the Democratic Republic of the Congo, an FDNB contingent had been deployed in eastern Democratic Republic of the Congo to quell violence perpetrated by armed groups. On 24 August, the President of Burundi, Évariste Ndayishimiye, informed the President of the Burundian Senate by letter that an FDNB infantry battalion had been deployed to South Kivu for a renewable period of three months. According to the letter, the battalion had been deployed in collaboration with the Government of the Democratic Republic of the Congo as part of the regional force of the East African Community (EAC). […]
> B. Political developments […]
> 15. On 8 April, in Kenya, on the margins of the signing ceremony for the treaty of accession of the Democratic Republic of the Congo to EAC, the Nairobi process was launched during the first conclave summit of Heads of State, which brought together the President of the Democratic Republic of the Congo, Félix-Antoine Tshisekedi Tshilombo, the President of Rwanda, Paul Kagame and the President of Uganda, Yoweri Museveni, under the aegis of the President of Kenya. The second conclave summit, which also included the President of Burundi, was held in Nairobi on 21 April.[165]

According to the September 2022 report of the Secretary-General on the UN Organization Stabilization Mission in the DRC, "Two contingents of the army of Burundi, estimated to comprise 600 troops, entered the territory of the Democratic Republic of the Congo on 15 and 18 August [2022] and were cantoned in Luberizi, in the Uvira territory, as part of a bilateral agreement between the Democratic Republic of the Congo and Burundi".[166] The report further noted that "As stated by the Deputy Minister of Defence, Séraphine Kilubu, at the meeting of the Council of Ministers on 19 August, the Democratic Republic of the Congo and Burundi had signed a memorandum of understanding as part of efforts to eradicate armed groups in South Kivu".[167]

The report of the Secretary-General on the UN Organization Stabilization Mission in the DRC, published at the end of November 2022, gave an update on Burundian military involvement in DRC, reporting that:

> II. Political developments […]
> 13. Operationalization of the EAC [East African Community] regional force continued with the establishment of the EAC regional force headquarters on 5 November and the beginning of deployment, on 18 November, of a Kenyan battalion to Goma. Burundi National Defence Force personnel continued to

[165] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 4 October 2022, *p. 3*
[166] UN Security Council, *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General*, 22 September 2022, *p. 5*
[167] UN Security Council, *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General*, 22 September 2022, *p. 5*

operate in South Kivu Province in the framework of the regional force, while the Ugandan People's Defence Force (UPDF) continued to operate in North Kivu and Ituri Provinces under bilateral agreements renewed on 20 September. […]
III. Security situation […]
C. South Kivu and Maniema Provinces
24. […] Joint Congolese and Burundian operations continued, shifting further south to the Bijombo, Mikenge and Minembwe areas. On 23 October, Congolese-Burundian troops clashed with the Burundian armed group Forces nationales de libération (FNL), resulting in three FNL fighters being killed.
25. As Congolese and Burundian offensive operations proceeded, the Twirwaneho armed group reinforced its control over Minembwe.
IV. Human rights situation […]
28. […] MONUSCO [UN Organization Stabilization Mission in the DRC] was informed that on 1 September, a joint patrol led by FARDC [Armed Forces of the Democratic Republic of Congo] and officers of the Burundi National Defence Force had allegedly arbitrarily arrested 22 people (6 women, 2 children and 14 men) in Masangu village in Uvira territory of South Kivu Province, accusing them of complicity with armed groups, and subjected them to inhuman and degrading treatment before releasing them. […]
VII. Stabilization and the strengthening of State institutions […]
C. Disarmament, demobilization and reintegration
58. Between 17 September and 18 November, the Mission disarmed and provided reintegration support to 18 Congolese former combatants, including one woman and two children, and facilitated their return to their communities of origin. […] three Burundian ex-combatants (all male) were disarmed, demobilized and handed over to their families for reintegration in Burundi. […]
X. Conflict-related sexual violence […]
64. […] In addition, two women were victims of conflict-related sexual violence allegedly committed by members of the Burundi National Defence Force amid joint military operations with FARDC in South Kivu.[168]

III. Rule of Law/Administration of Justice

a. Access to Justice

Additional relevant information can be found under sections III. Rule of Law/Administration of Justice, especially *III.e. Impunity*, VI. Treatment of Women, especially *VI.f. Measures by the state to protect women from SGBV*, and VII. Treatment of Individuals of Diverse Sexual Orientations or Gender Identities, especially VII.c. Measures by the state to protect persons of the LGBTIQ+ community.

A letter by Human Rights Watch in July 2020 to President Ndayishimiye reported that "Police and national intelligence agents have all too often committed abuses against the people they are meant to protect. Imbonerakure members have killed, disappeared, arbitrarily arrested, raped, beaten and

[168] UN Security Council, *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General*, 30 November 2022, *p. 3, 5, 6, and 10 to 12*

intimidated with impunity. The lack of independence of the judicial system means that many of these individuals feel they are untouchable".[169]

In its report on Burundi in August 2020, the Commission of Inquiry wrote:

> III. Situation of human rights […]
> C. Other violations […]
> 2. Torture and sexual violence […]
> 59. The Commission is concerned about the structural nature of sexual violence in Burundi, as the testimonials collected since 2015 demonstrate that this type of violence persists and confirm the trends identified in its previous reports. Despite various programmes designed to facilitate access to justice for the most vulnerable persons, and specifically women, and the fact that there has been better judicial treatment of cases of gender violence,17 most victims of sexual violence have received direct or indirect threats and have not dared to report on the perpetrators or to seek assistance. This is inter alia due to the high number of perpetrators who are members of the security forces or the Imbonerakure, who have continued to enjoy almost total impunity. […]
>
> 17 Republic of Burundi, *Rapport national d'évaluation de la mise en oeuvre de la Déclaration et du Programme d'actions de Beijing*, May 2019, pp. 13 and 32.[170]

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that:

> In July and August 2020, the Government took notable steps to fight impunity. It arrested and prosecuted members of the ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party youth league Imbonerakure, senior police officers and local administrative officers for extortion and other criminal offenses, thus increasing the cautious optimism from civil society and political actors that the new administration will bring about change. However, the prevailing view conveyed by several stakeholders is that more steps need to be taken for Burundi to promote accountability and meet its international human rights obligations.[171]

In December 2020, TRIAL International released a report on the judicial system in Burundi and remarked that "deep-rooted structural deficiencies have resulted in impunity for human rights violations in Burundi".[172] It further noted that, for detainees, "the filing of a complaint seldom leads to any actual action. Instead, there is often merely a façade rather than a satisfactory investigation".[173]

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[169] Human Rights Watch, *Letter to President Ndayishimiye: Protecting Human Rights in Burundi*, 13 July 2020
[170] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 11*
[171] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 10*
[172] TRIAL International, *Dysfunctional, Ineffective, Opaque: an Overview of the Judicial System in Burundi*, 14 December 2020, *p. 9 and 17*
[173] TRIAL International, *Dysfunctional, Ineffective, Opaque: an Overview of the Judicial System in Burundi*, 14 December 2020, *p. 9 and 17*

At the end of March 2021, the US Department of State published its annual country report on human rights practices, discussing a pattern of impunity for various human rights abuse among government officials and affiliates, as well as listing specific examples:

> Section 1. Respect for the Integrity of the Person, Including Freedom from:
> A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS
> […] Investigations and prosecutions of government officials and members of the ruling party who allegedly committed arbitrary or unlawful killings were rare. […]
> According to a report by the NGO Ligue Iteka, Bosco Ngabirano, a CNL [National Congress for Liberty] member, was killed on March 29 in Ryansoro commune, Gitega Province, by a group of Imbonerakure. The report indicated Seconde Ndayisenga, the administrator of the commune, ordered the killing. […] He was buried on April 1 at the request of the commune administrator and Gitega governor without the presence of his family members who requested an investigation into his killing before burial. As of November, authorities had not initiated an investigation. […]
> On December 28, the first prosecution and sentencing took place against a high-level member of the Imbonerakure. The former vice president of the Gitega chapter of the Imbonerakure, Aime Irambona, was sentenced to four years in prison for premeditated murder in the slaying of a workman who stole items from his home. Five other plaintiffs were also prosecuted in the case and received sentences that ranged from 18 months to life in prison. Aime Irambona is a close relative of President Ndayishimiye and was prosecuted by the newly elected government, despite his membership in the ruling party's youth wing that typically has impunity for its actions, including intimidation through violence. […]
> B. DISAPPEARANCE
> There were numerous reports that individuals were victims of politically motivated disappearances after they were detained by elements of the security forces or in kidnappings where the identities of the perpetrators were not evident. […] There were no reports of efforts to prevent, investigate, or punish such acts. […]
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]
> On March 1, in Gisuru commune, in Ruyigi Province, a group of Imbonerakure beat Pascal Bizumuremyi, a member of parliament from the CNL [National Congress for Liberty] party and also a police officer. The group was working to prevent CNL members from opening party offices in the region. The group of Imbonerakure was arrested but released without charges several days later.
> There were few reports of investigations or prosecutions for serious abuses of human rights. The extent of impunity was a significant problem in the security forces and their proxies, particularly the Imbonerakure. Factors contributing to impunity included the ruling party's reliance on the Imbonerakure to repress political opposition. There are no significant mechanisms to investigate human rights abuses.[174]

In November 2020, Human Rights Watch released a report on Burundian refugees returned to Burundi and put into arbitrary detention, writing on the case of a Burundian refugee who spent 23 days at Kibondo police station in July 2020:

> When told he could remain in detention in Tanzania or be transferred to Burundian authorities, he pleaded with them to let him return to Burundi. He and seven other Burundians who were returned in August have been detained since then in Muramvya and Bubanza prisons in Burundi. They said Burundian

[174] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

> national intelligence agents briefly presented them before a judicial official in August, without any lawyers present, who repeated the Tanzanian authorities' accusations of attempting to destabilize Burundi before ordering their transfer to prison. None of the detainees have seen a judge or been formally charged since.[175]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi, addressing key issues within the justice system and the rule of law: "There are persistent dysfunctions in the justice system, including corruption, influence peddling, interference by various authorities and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] members, non-compliance with legal procedures and deadlines, failure to enforce judicial decisions, in particular release orders, and inertia in certain proceedings. Victims of violations continue to be deprived of effective remedies and to be subjected to threats and intimidation."[176]

Freedom House's February 2022 Freedom in the World report, covering 2021, observed that "The judiciary is generally subservient to the executive, which regularly interferes in the criminal justice system to protect CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and Imbonerakure members and persecute the political opposition".[177] It further highlighted that "In 2017, the International Criminal Court (ICC) opened an investigation into alleged crimes against humanity committed by the government. Burundi left the ICC days later, becoming the first country in the world to do so".[178]

b. Judicial Independence

Additional relevant information can be found under section IV. Corruption, especially *IV.a. Within the Judiciary*.

A press release by the UN Commission of Inquiry on Burundi in May 2020 noted, in relation to the electoral process, that the "use of the judicial system as a tool against the opponents of the ruling party, the absence of independent election observers and the lack of trust in the independence of the constitutional court, the main avenue for appeal in the event of a dispute over the elections results, exacerbate the mistrust and the doubts of several politicians from the opposition and part of the population about possible electoral fraud and therefore towards the integrity and the credibility of the electoral process".[179]

The UN Commission of Inquiry on Burundi commented further on the judicial system in an oral briefing in July 2020:

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[175] Human Rights Watch, *Tanzania: Burundian Refugees 'Disappeared,' Tortured*, 30 November 2020
[176] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5*
[177] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[178] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[179] UN Office of the High Commissioner for Human Rights (OHCHR), *The UN Commission of Inquiry on Burundi: An electoral campaign marred by a spiral of violence and political intolerance*, 14 May 2020

> The judicial system, which is still characterised by a lack of independence and impartiality, has largely been used as a tool in the electoral context and justice has become the main instrument used by authorities and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] to weaken and stand in the way of CNL [National Congress for Liberty]. While most CNL members were released after a few days or weeks, some were sentenced to excessive prison terms following trials "on the spot", mainly for attempt to « disrupt elections» or for «participation in illegal meetings», and others remain in preventive detention.
>
> […] Hate and hostile speeches, particularly virulent against political opponents of CNDD-FDD - sometimes with an ethnic dimension – widely circulated on social media without being denounced, condemned or sanctioned by the authorities. In contrast, the complaint by a commune's administrator whose local administration was criticised by a female candidate from an opposition party led to judicial proceedings for insult and malicious accusations against the female candidate.[180]

In September 2020, the Commission of Inquiry reiterated that: "The judiciary is still used as a tool of repression against political opponents, while promoting a climate of impunity for the perpetrators of the violations, and it was used as a tool by the executive power for political purposes. The victims are still afraid of filing complaints for fear of retaliation, or because they do not see it serving any purpose".[181]

A letter by Human Rights Watch in July 2020 to President Ndayishimiye reported that "Police and national intelligence agents have all too often committed abuses against the people they are meant to protect. Imbonerakure members have killed, disappeared, arbitrarily arrested, raped, beaten and intimidated with impunity. The lack of independence of the judicial system means that many of these individuals feel they are untouchable".[182]

The August 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Commission of Inquiry in Burundi called for, among other demands, "an end to political interference in the judicial system".[183]

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that: "Members of the strategic assessment mission noted convergent views among stakeholders on the need to foster the independence and effectiveness of the judiciary".[184]

In December 2020, TRIAL International released a report on the judicial system in Burundi. It wrote that:

> 3. PERSONAL LIBERTY AND THE RIGHT TO A FAIR TRIAL

[180] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 14 July 2020
[181] UN Human Rights Council, *Interactive Dialogue on Burundi: Oral briefing Of the Commission of Inquiry on Burundi*, 23 September 2020, *p. 10*
[182] Human Rights Watch, *Letter to President Ndayishimiye: Protecting Human Rights in Burundi*, 13 July 2020
[183] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 4*
[184] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 10*

> The failings in Burundi's judicial system also affect two fundamental rights that are closely linked: the right to personal liberty and the right to a fair trial.
> The right to personal liberty is the right to not be arbitrarily arrested and/or detained. Yet, failure to respect the guarantees of a fair trial often leads to violations of personal liberty. That is why these two rights are being addressed jointly in this report.
> Furthermore, the aforementioned lack of independence and impartiality of the courts also contributes to violations of these two rights. Once again, this shows how the flaws in Burundi's judicial system are interconnected.[185]

Freedom House's March 2021 Freedom in the World report, covering 2020, stated the following with regards to the judiciary in Burundi:

> Civil Liberties […]
> F Rule of Law
> F1 0-4 pts
> Is there an independent judiciary? 0/4
> The judiciary is hindered by corruption and a lack of resources and training, and is generally subservient to the executive. In 2015, Constitutional Court justices were reportedly intimidated into ruling in favor of Nkurunziza's decision to stand for a third term. The executive regularly interferes in the criminal justice system to protect CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and Imbonerakure members, as well as persecute the political opposition.
> In June 2020, the Constitutional Court partially checked the power of the ruling party by upholding an opposition challenge to the disqualification of an opposition parliamentary candidate. However, the court did not entertain a challenge to over the conduct of the presidential election, despite evidence of widespread fraud and intimidation. The August Commission of Inquiry report also noted the involvement of the judiciary in a repression campaign that targeted the opposition ahead of the elections.[186]

In May 2021, Human Rights Watch released a detailed report on abusive prosecutions in Burundi, as well as the repression of free speech and civil society. It wrote that:

> "The government should go beyond symbolic gestures of good faith to address the entrenched system of repression under the late President Pierre Nkurunziza," said Lewis Mudge, Central Africa director at Human Rights Watch. "Substantive reforms are needed to address the lack of judicial independence, politicized prosecutions, and the absence of accountability for abuses committed since 2015." […]
> Alleged abusers have been arrested and prosecuted in only a few cases, although their trials often lacked transparency.
> Abuses in the justice system were illustrated in the early May conviction of a former member of parliament, Fabien Banciryanino, on security charges. He was sentenced to one year in prison and a fine of 100,000 Burundian Francs (US$51). During the trial, two sources present said the prosecution accused Banciryanino of threatening the security of the state for allegedly holding a news conference without prior authorization, and of rebellion for allegedly refusing to hand over his land title when requested by a local administrator. Banciryanino pleaded not guilty. […]

[185] TRIAL International, *Dysfunctional, Ineffective, Opaque: an Overview of the Judicial System in Burundi*, 14 December 2020, *p. 24*
[186] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021

> During the release of a group of prisoners from Bujumbura's Mpimba prison, Ndayishimiye reiterated his commitment to end impunity and strengthen the judiciary, but falsely claimed that Burundi has no political prisoners. Nestor Nibitanga, a human rights defender arrested in November 2017 and convicted on security charges, after experiencing lengthy arbitrary detention and other severe violations of due process, was pardoned and released on April 27, but others remain in prison.[187]

In July 2021, International Crisis Group also published an article a year after the rise to leadership of President Evariste Ndayishimiye, commenting again on the legal system:

> In addition, the president tightened his grip on the legal system in January by approving the amendment to a law governing the Conseil supérieur de la magistrature, an institution officially mandated to guarantee the judiciary's independence from the executive branch, but which in practice is headed by the president. The new law gives the president even more power, essentially by allowing him to do a quality check of all court judgments. An international monitor working on Burundi told Crisis Group that "everything is in place for full and total control" by the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] government.[188]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi, detailing issues around the justice system:

> III. Human rights situation
> G. Justice […]
> 54. There are persistent dysfunctions in the justice system, including corruption, influence peddling, interference by various authorities and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] members, non-compliance with legal procedures and deadlines, failure to enforce judicial decisions, in particular release 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. […]

[187] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021
[188] International Crisis Group, *Burundi: Charm Offensive or Real Change?,* 2 July 2021

> 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 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.[189]

A report by Human Rights Watch also reported in January 2022 that "Certain detainees in Burundi have served their sentences or been acquitted, but have not yet been released due to an inefficient, corrupt, and politicized judicial system".[190]

Freedom House highlighted in its February 2022 Freedom in the World report the following information related to the rule of law in Burundi:

> Civil Liberties
>
> F. Rule of Law […]
>
> F1 0-4 pts
>
> Is there an independent judiciary? 0/4
>
> The judiciary is hindered by corruption and a lack of resources and training. The judiciary is generally subservient to the executive, which regularly interferes in the criminal justice system to protect CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and Imbonerakure members and persecute the political opposition.
>
> In 2020, the Constitutional Court partially checked the CNDD-FDD's power by upholding a challenge to the disqualification of an opposition parliamentary candidate. However, it did not entertain a challenge over the conduct of the presidential election, despite evidence of widespread fraud and intimidation. The UN CoI [Commission of Inquiry] criticized the judiciary's performance in its August 2021 report, citing corruption and the CNDD-FDD's continued interference. The UN CoI also reported that Germain Rukuki's appeal was affected by executive interference, noting that the reduction in his sentence was not promulgated until after the EU announced its intention to lift sanctions against Burundi.
>
> F2 0-4 pts
>
> Does due process prevail in civil and criminal matters? 0/4

[189] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5 and 11 to 13*
[190] Human Rights Watch, *Burundi: Account for Dead in Gitega Prison Fire*, 24 January 2022

> The courts, police, and security forces do not operate independently or professionally, and constitutional guarantees of due process are generally not upheld. Arbitrary arrest and lengthy pretrial detention are common.[191]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, highlighting issues around judicial independence in Burundi:

> Section 1. Respect for the Integrity of the Person […]
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]
> There were some reports of investigations and prosecutions for serious abuses of human rights, although limited enforcement meant impunity in the security forces remained a problem. Media reported cases of state agents arrested, detained, and sometimes convicted for acts related to human rights abuses. On December 10, the Independent National Commission on Human Rights (CNIDH) released a statement that it had investigated and confirmed two reported cases of torture by members of the SNR [National Intelligence Service]. The COI [Commission of Inquiry] reported, however, many state agents arrested were later released and that the outcomes of proceedings against those still in detention remained uncertain. Factors contributing to impunity included the ruling party's reliance on the Imbonerakure, the lack of judicial independence, and reprisals against individuals reporting abuses. There were no sufficient mechanisms to investigate human rights abuses committed by security forces. […]
> D. ARBITRARY ARREST OR DETENTION […]
> Pretrial Detention: Prolonged pretrial detention remained a serious problem. […] In some cases the length of detention equaled or exceeded the sentence for the alleged crime. Inefficiency and corruption among police, prosecutors, and judicial officials contributed to the problem. […]
> E. DENIAL OF FAIR PUBLIC TRIAL
> Serious irregularities undermined the fairness and credibility of trials. Although the constitution and law provide for an independent judiciary, there were reports of authorities who bribed or influenced members of the judiciary to drop investigations and prosecutions or predetermine the outcome of trials or not to seek enforcement of court orders. According to the COI's report, President Ndayishimiye demonstrated a desire to promote the rule of law which had been seriously undermined for several years. The president's efforts were eroded, however, by increasing disrespect for criminal procedures and laws on the part of other government authorities. Authorities routinely did not follow legal procedures.
> The COI report stated that the judiciary's lack of independence was long-standing, but its use for political and diplomatic gain worsened under President Ndayishimiye. There were allegations the attorney general's office ignored calls to investigate senior figures within the security services and national police. Prosecutors and members of the security services sometimes ignored court orders for the release of detainees after judges had determined there were no legal grounds for holding them. The COI stated that authorities took no structural measures to resolve these problems. On September 17, the president signed a decree restructuring the Supreme Council of Justice, giving the head of state (the president) authority over the council, including authority to oversee the quality of judicial decisions and the power to implement corrective measures. The COI and other organizations assessed that the decision expanded the means through which the executive branch may control the judiciary. […]
> Section 4. Corruption and Lack of Transparency in Government
> The law provides criminal penalties for official corruption, but the government did not implement the law effectively. There were numerous reports of government corruption during the year. Some high-level

[191] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

> government officials engaged in corrupt practices with impunity. The constitution provides for the establishment of a High Court of Justice to review accusations of serious crimes against high-ranking government officials, but the court does not yet exist. The anticorruption law also applies to all other citizens, but no high-ranking official to date has stood trial for corruption.[192]

In April 2022, ACAT Burundi released their annual report on prison conditions, reporting on 2021. It wrote that:

> IV. Irregularities or malfunctions observed in the judicial files of persons deprived of their liberty
> On 5 March 2021, ACAT-BURUNDI was pleased to learn that the President of the Republic of Burundi had issued a decree granting pardons to 5255 prisoners. […]
> ACAT-BURUNDI was deeply concerned by the fact that the prisoners who benefited from the pardon languished in prison without any title or right and consequently suffered arbitrary detention prohibited by the fundamental law and the international legal texts to which Burundi has subscribed. […]
> Then, the presidential pardon measures that have been taken since Burundi has been going through various political crises have always tended to favour exclusively prisoners convicted of common law offences and to relieve the overcrowding of prisons. […]
> From all of the above, it follows that the application of the law remains random and subjective in terms of the release of detainees, which is a major handicap in the proper functioning of justice. Through this refusal to apply judicial decisions, it is easy to see that not only does the judiciary lack independence from the Executive, but it is also subject to the influence of the system of governance put in place by the ruling party, the CNDD FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy].
> The directors of the prisons and the prosecutors' offices, who normally have to implement the decisions and judgments handed down by the courts, first consult the National Intelligence Service when it comes to releasing a political prisoner, and most of the time, judicial decisions are trampled underfoot in violation of the laws governing the prison system in Burundi. […]
> ACAT-BURUNDI also protested against the recidivist behaviour of the Burundi National Police when, through its spokesman Pierre Nkurikiye, it made public the instructions of the cases it was investigating and took the opportunity to talk about the substance of the case and treat the defendants in front of the media as if they had already been convicted, even though the investigation had not yet been completed. […]
> It should be recalled that under the Code of Criminal Procedure, the role of the Judicial Police is to gather evidence, search for the perpetrators and transmit the file to the Public Prosecutor for investigation. This entire investigation phase is carried out in secret. […]
> This approach, which consists in publicising ongoing investigations, is especially used in the case of crimes where the hand of an authority is suspected. […]
> The aim of this mostly misleading publication is to divert investigations so that the magistrate investigates on the basis of police statements and to intimidate the families of the accused. This is a consequence of the lack of independence of the judiciary.
> IV.1 Cases of political prisoners or prisoners of conscience […]

[192] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

> There is clearly a lack of diligence in the follow-up of the judicial files of defendants in detention for crimes of a political nature; […].[193]

On 19 July 2022, the US Department of State published its annual 2022 report on trafficking, writing on related prosecution in Burundi that "Observers reported many arrests were not elevated to prosecution because of insufficient evidence, corruption, and interference of high-ranking officials".[194]

On 28 July 2022, the US Department of State published its annual 2022 report on investment climate statements, writing on Burundi about the legal system:

> 3. Legal Regime
> TRANSPARENCY OF THE REGULATORY SYSTEM
> Although parts of the government are working to create more transparent policies for fostering competition, Burundi lacks much of the necessary regulatory framework. Many policies for foreign investment are not transparent, and laws or regulations on the books are often ineffective or unenforced. Burundi's regulatory and accounting systems are generally transparent and consistent with international norms on paper, but a lack of capacity or training for staff and political constraints sometimes limit the regularity and transparency of their implementation.
> Rule-making and regulatory authority is exercised exclusively at the national level. Relevant ministries and the Council of Ministers exercise regulatory and rule-making authority, based on laws passed by the Senate and National Assembly. In practice, government officials sometimes exercise influence over the application and interpretation of rules and regulations outside of formal structures. The government sometimes discusses proposed legislation and rule-making with private sector interlocutors and civil society but does not have a formal public comment process. There are no informal regulatory processes managed by non-governmental organizations (NGOs) or private sector associations.
> Draft bills or regulations are not subject to a public consultation process. There are no conferences that involve citizens in a consultative process to give them an opportunity to make comments or contributions, especially at the time of project development, and, even if this were the case, the public does not have access to the detailed information needed to participate in this process. […]
> LEGAL SYSTEM AND JUDICIAL INDEPENDENCE
> The judicial system is not effectively independent of the executive branch. A lack of capacity hinders judicial effectiveness, and judicial procedures are not rigorously observed.[195]

The report of the Special Rapporteur on the situation of human rights in Burundi was published in September 2022. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> III. Human rights concerns
> A. Civil and political rights […]
> 5. Dysfunctions of justice, including the fight against impunity […]

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[193] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 26 to 31*
[194] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 19 July 2022
[195] US Department of State, *2022 Investment Climate Statements: Burundi*, 28 July 2022

> 34. Independence is the keystone of the judiciary. The Constitution, in this regard, clearly states in article 214 that the President of the Republic, Head of State, is the guarantor of the independence of the judiciary and specifies that he is assisted in this mission by the Superior Council of the judiciary. The same article also lays down the principle of the independence and impartiality of the judicial power in relation to the legislative power and the executive power. If the principle is laid down, the fact remains that in its implementation, the judicial power is to a large extent dependent on the executive power. Thus, article 219 of the Constitution provides that the President of the Republic appoints judges on the proposal of the Minister of Justice, after consulting the Superior Council of the Judiciary.
> 35. Furthermore, the remuneration of magistrates is also controlled and decided by the executive power. There is a structural and deep dependence on the judiciary which casts doubt on its real independence. […]
> 36. The Special Rapporteur notes a few isolated acts aimed at prosecuting the perpetrators of human rights violations and abuses, such as the imprisonment in Mpimba prison of Gérard Ndayisenga, an agent of the National Intelligence Service, in December 2021.27 Furthermore, he deplores the selective impunity with regard to the prosecution of the alleged perpetrators of serious violations for the benefit of ordinary crimes. He points out that the lack of independence of the judiciary has worsened since the political crisis of 2015.28. […]
>
> 27 Burundi Daily, « Gérard Ndayisenga, un ogre du SNR finit sa course à la prison de Mpimba », 23 décembre 2021.
> 28 Document de séance de la Commission d'enquête sur le Burundi de 2018, par. 467.[196]

In October 2022, the BHRI released a report on issues within the justice sector in Burundi, looking particularly at a case surrounding Kira Hospital in Bujumbura. The report stated that:

> The struggle to control the resources of Kira Hospital in Bujumbura has laid bare the fundamental problems with the justice sector in Burundi. It shows the lengths to which some senior state officials will go to further their financial interests, including manipulating the justice system and riding roughshod over people's rights and over Burundi's laws and constitution. […]
> At least two senior state officials are involved in the Kira Hospital case: Charles Ndagijimana, a board member of the hospital and a former judge, and Alfred Innocent Museremu, the former head of the department of internal intelligence at the National Intelligence Service (SNR). Their involvement seems motivated by greed, and they have deployed numerous tactics to try to gain control of the hospital's assets, whether for themselves or on behalf of others who may be pulling the strings.
> On 1 April 2022, SNR agents arrested Kira Hospital's director, Dr Christophe Sahabo, and the chair of the board, Dr Jean-David Pillot, a French national. The two men were in conflict with the hospital's public shareholders, some of whom accused Sahabo of mismanagement. Pillot was released the next day and was later allowed to leave the country.
> Sahabo, however, was detained at the SNR for six weeks, without access to his lawyers or family, with the exception of one person who was only allowed to bring him food. Under pressure, he signed his resignation letter. He was finally brought before a magistrate on 16 May, charged with several economic crimes and transferred to Mpimba prison, in Bujumbura.

[196] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 8 and 9*

> Despite widespread negative publicity of Sahabo's detention, neither President Ndayishimiye nor any senior government official condemned it. Ndayishimiye only said, on 10 May, that he was following the case and wanted to know what happened to the Burundian state's shares in the hospital. […]
> Senior state officials in Burundi have a long history of interfering in judicial cases, often with a view to punishing political opponents or shielding collaborators from prosecution. Few of these cases make international headlines. But this time, the stakes are higher. The interference of several senior officials in a delicate case involving international investors could negatively affect the country's image. […]
> Disregarding the law and trampling the right to defence
> As the head of the Conseil supérieur de la magistrature (Superior Council of the Judiciary), the country's top institution overseeing the justice system, Ndayishimiye is tasked with guaranteeing the independence of the judiciary. But when it comes to Dr Sahabo's case, he has shown no interest in upholding the responsibility. His inaction speaks volumes about his true desire or determination to reform the justice system. It may be politically beneficial for him to publicly denounce malfeasance and fire a few corrupt magistrates, playing to Burundian and international audiences, but delivering equitable justice and holding people to account becomes too sensitive when the interests of powerful individuals are involved – even when the main actors include a prominent doctor and a well-connected lawyer (Ndayizeye's father, Domitien Ndayizeye, is a former president of Burundi). International actors have continued to put their faith in Ndayishimiye's goodwill to initiate judicial reforms, mostly in vain so far. […]
> The Sahabo case shines a spotlight on the rot that has been eating away at Burundi's justice system for years. […]
> Despite his high-profile moves to oust certain hardliners in the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], Ndayishimiye's unwillingness or inability to act to uphold the law in the Sahabo case highlight the limits of his power. By simply watching from the sidelines, he is protecting those who are manipulating the justice process. […]
> The SNR has a legal mandate to monitor corruption and investment projects. But in practice it rarely executes this mandate in accordance with the law, preferring more brutal tactics to obtain information or to punish those who fall out of favour, with little concern for the facts.
> In Burundi, it is powerful state officials, rather than investigators or judges, who decide who is arrested and who is let off the hook in cases that could affect their interests. They decide who gets to do business and who doesn't. No magistrate would dare stand in their way, despite the president's assurance that nobody is above the law. The Sahabo case has proven that rather than being a tool to uphold the law, the justice system is used by those who wield power to further their personal interests.[197]

c. Legal Representation, including Attacks Against Lawyers

Freedom House stated in its March 2021 Freedom in the World report on Burundi that "Defendants must provide their own legal representation, making trial rights dependent on the ability to afford a lawyer. Some detainees accused of participating in the 2015 protests or subsequent antigovernment violence did not have access to lawyers and were forced to make false confessions under threat of

[197] The Burundi Human Rights Initiative (BHRI), *The Kira Hospital Saga: An example of the failings of Burundi's justice system*, October 2022, *p. 1 to 5*

death".[198] The statement is repeated in the February 2022 Freedom in the World report, covering 2021.[199]

On 7 May 2020, Radio France Internationale (RFI) published an article in French on the rise in tensions and arrests during the May 2020 presidential election campaign. Using Google Translate, the following sentences were translated from French into English:

> Katy Kezimana, number 2 on the CNL [National Congress for Liberty] electoral list for the legislative elections in the province of Bujumbura rural, was arrested after a meeting in this region considered one of the main strongholds of Agathon Rwasa. She is heard by a magistrate for 15 minutes before being imprisoned in Bujumbura prison.
> Her lawyer barely had time to learn that she had been arrested on the complaint of the administrator of Mugongomanga commune. Since then, he has not had access to either the file or his client.[200]

In its report on Burundi in August 2020, the UN Commission of Inquiry wrote on the electoral process and violations taking place within this context: "43. The Government continued to make use of the judicial system to muzzle civil society. For example, on 4 February 2020, some 20 human rights defenders and journalists in exile opposed to a third term for President Nkurunziza went on trial in absentia and without their representation by counsel. Human rights defenders continue to be arbitrarily detained, including Germain Rukuki and Nestor Nibitanga, who were respectively sentenced to 32 and 5 years of imprisonment".[201]

The BHRI, reporting in December 2020, referred to the "30 years' imprisonment imposed on three young people accused of throwing stones at the president's convoy in Kayanza, after a summary trial on 9 August", further stating that "The defendants didn't have a lawyer, despite requesting one".[202]

Similarly, at the end of March 2021, the US Department of State reported that: "On August 9, the Kayanza High Court sentenced Augustin Manirishura, Christophe Ndayishimiye, and Chadia Mbaririmana to 30 years in prison for an alleged attempt to assassinate the president. They were arrested after a group of persons threw stones at President Ndayishimiye's motorcade. During the trial the three accused did not have access to lawyers because the trial was held within three days of the incident and the defendants were not able to afford attorneys".[203]

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it wrote on Burundi that: "The trial of 12 exiled human rights defenders and journalists for "insurrection" continued before the Supreme Court. They were accused of involvement in the failed coup attempt of

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[198] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[199] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[200] Radio France Internationale (RFI), *Burundi: sudden rise in tension in the presidential election campaign*, 7 May 2020 [Burundi: brusque montée de tension dans la campagne électorale pour la présidentielle]
[201] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 9*
[202] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 49*
[203] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

May 2015, in connection with their role in protests against the then President's third term. Their lawyers were not present at a hearing in February".[204]

Human Rights Watch wrote on the same case in May 2021, observing that:

> The February 2, 2021 publication of Burundi's Supreme Court's guilty verdict – dated June 23, 2020 – in the case against 34 people accused of participating in a May 2015 coup attempt, including the 12 human rights defenders and journalists in exile, has exposed the limits of the current government's reform agenda, Human Rights Watch said. After a trial during which the defendants were absent and did not have legal representation, flouting even the most basic due process principles, the group was found guilty of "attacks on the authority of the State," "assassinations," and "destruction." […]
> The Supreme Court's guilty verdict against 12 human rights defenders and journalists in exile underscores the government's continued crackdown on dissent. They were sentenced to life in prison and to pay fines of more than 5.5 billion Burundian Francs ($2.8 million) in punitive damages to the Defense and Public Security ministries, the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy party (Conseil national pour la défense de la démocratie-Forces de défense de la démocratie, CNDD-FDD), and Rema FM, a pro-ruling party radio station. […]
> The defendants were not present during the trial nor were they represented by lawyers. Three of them said that lawyers they contacted to represent them refused for fear of reprisals or prosecution, or were threatened by court officials to prevent them from representing the defendants in court.[205]

In October 2021, Amnesty International and other organisations released a public statement on the ongoing detention of lawyer on Germain Nkina, who was arrested in October 2020:

> Six international human rights groups – Amnesty International, the Burundi Human Rights Initiative, DefendDefenders (East and Horn of Africa Human Rights Defenders Project), Human Rights Watch, Protection International Africa and TRIAL International – condemned the decision of the Court of Appeal of Ngozi on 29 September to uphold the conviction and five-year prison sentence of Burundian lawyer Tony Germain Nkina following an unfair trial.
> "Tony Germain Nkina's trial was a travesty of justice," said Lewis Mudge, Central Africa director at Human Rights Watch. "The decision by the Court of Appeal to keep him in prison, despite all the evidence about the unfairness of the trial, makes a mockery of the Burundian justice system."
> The groups believe that Nkina, a lawyer in Kayanza province, was arrested and convicted because of his former affiliation with the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues,* APRODH), a leading human rights group in Burundi until 2015. […]
> Nkina was arrested on 13 October 2020 in Kabarore *commune,* where he was visiting a client for his professional work as a lawyer. In June 2021, a court in Kayanza found him guilty of collaboration with armed groups – a common accusation against perceived opponents and critics in Burundi – and sentenced him to five years in prison. His client, Apollinaire Hitimana, whom he had been advising on a land dispute,

[204] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 104 and 105*
[205] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021

was found guilty of complicity in the same offence and sentenced to two and a half years in prison. The Court of Appeal also confirmed Hitimana's conviction and sentence.
The hearing at the Court of Appeal of Ngozi, initially scheduled for 12 August, was postponed twice and finally held on 20 September. The prosecution failed to produce any credible evidence against Nkina and no prosecution witnesses appeared in court. Nkina and his lawyers were able to show that he had visited Kabarore for legitimate professional reasons. Nevertheless, the court upheld the conviction, quickly issuing its verdict. […]
The targeting of Nkina and his conviction and sentencing after an unfair trial are emblematic of the wider human rights situation in Burundi, where the space for civil society and the media remains highly restricted, the groups said.[206]

An urgent action bulletin on 4 October 2022 indicated the detention remains ongoing.[207]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

Section 1. Respect for the Integrity of the Person […]
D. ARBITRARY ARREST OR DETENTION […]
Suspects may hire lawyers at their own expense in criminal cases, but the law does not require legal representation, and the government did not provide attorneys for those unable to afford one. Detainees who were unable to pay for a lawyer were rarely able to access legal counsel. […]
The SNR [National Intelligence Service] denied lawyers access to detainees held at its headquarters in Bujumbura. […]
In October 2020 lawyer Tony Germain Nkina was arrested in Kabarore Commune, Kayanza Province, where he was visiting a client, and charged with threatening state security by collaborating with rebel groups conducting attacks in the area. On June 15, a Kayanza court found Nkina guilty and sentenced him to five years in prison and a fine of one million Burundian francs ($500). The Ngozi Court of Appeals reaffirmed the conviction on September 29 after five hearings that were criticized by observers for a lack of evidence to support the government's case. International human rights organizations also believed that Nkina was arrested for his prior work as a representative of the Association for the Protection of Human Rights and Detained Persons, which was one of the leading human rights groups in the country until 2015. […]
E. DENIAL OF FAIR PUBLIC TRIAL […]
Trial Procedures
[…] Defendants have a right to counsel but not at the government's expense, even in cases involving serious criminal charges. Few defendants had legal representation because few could afford the services of a lawyer. Some local and international NGOs provided legal assistance to some defendants. […]
The government does not provide military defendants with attorneys to assist in their defense, although NGOs provided some defendants with attorneys in cases involving serious charges.[208]

[206] Amnesty International, *Burundi: Shocking Decision as Appeal Court Upholds Conviction of Lawyer Tony Germain Nkina*, 8 October 2021
[207] Amnesty International, *Burundi: Further information: Lawyer detained arbitrarily for nearly 2-yrs: Tony Germain Nkina*, 4 October 2022
[208] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

In April 2022, ACAT Burundi released their annual report on prison conditions, reporting on 2021. It wrote on numerous limitations with accessing legal representation from detention:

> II.3 Right or access to visits and communication […]
> ACAT-BURUNDI was interested in the respect of the right to communication with the outside world during the Covid-19 pandemic in some Burundian prisons. Our documentation revealed that the right to communication of prisoners recognised by the texts governing the protection of prisoners both at the internal and international levels was vigorously violated.
> This restriction had consequences for the right to a fair trial as detainees were not given counsel to prepare their defences.
> During the period from July to September 2021, in some prisons (MURAMVYA, NGOZI, MUYINGA), lawyers were not allowed to meet with their clients. They took advantage of the public hearings to communicate with the defendant, which prevented them from properly preparing the defence. In other prisons (BUJUMBURA, GITEGA), lawyers were allowed access to the prison but with a very limited time (15 minutes per interview).
> This suspension of visits was not without consequences for the prisoners, as they were totally disconnected from their families. […] Despite this legal requirement, since April 2020, the Directorate General of Penitentiary Affairs of Burundi has suspended visits to all prisons in Burundi, arguing that it is in order to avoid the spread of the Covid-19 pandemic in prisons. […]
> More deplorably, this selective measure reinforced favouritism and the monetisation of visits, as some prisoners received visits from relatives while others were denied them. In addition, the right to legal assistance was violated as prisoners complained that they no longer had access to their lawyers (in violation of Article 99 of the internal prison regulations and Article 37 of the prison regime) for the preparation of pleadings, while public hearings continued as usual. […]
> IV. Irregularities or malfunctions observed in the judicial files of persons deprived of their liberty […]
> ACAT-BURUNDI also protested against the recidivist behaviour of the Burundi National Police when, through its spokesman Pierre Nkurikiye, it made public the instructions of the cases it was investigating and took the opportunity to talk about the substance of the case and treat the defendants in front of the media as if they had already been convicted, even though the investigation had not yet been completed. The defendants watched helplessly in front of the cameras without the right to unburden themselves in order to make the information balanced.
> The cases that challenged ACAT-BURUNDI were those of people arrested in BURUMBI Commune in RUMONGE province as well as those charged with the assassination of a certain Thierry KUBWIMANA in GASEKEBUYE in the Musaga area in November 2020. […]
> It is well known that the way in which such investigations are carried out violates in most cases the guarantee of a fair trial recognised by the Universal Declaration of Human Rights (article 11), the fundamental law (article 39) as well as the Code of Criminal Procedure (articles 10 and 138), as the accused are questioned without the assistance of a lawyer.[209]

At the beginning of August 2022, ACAT Burundi published a statement related to the judicial treatment of police officers prosecuted for an assassination in 2015. Using an online translation tool, Onlinedoctranslator.com, the following passage was translated from French into English:

[209] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 15 and 30*

I. Events

After the assassination of General Adolphe NSHIMIRIMANA, the soldiers and policemen whose names follow were arrested respectively on 02.08.2015, 08.08.2015, 16.08.2015, 10.08.2015 and 18.08.2015. they were taken to National Intelligence Service jails where they suffered atrocities inflicted on them by state agents. […] All these soldiers are all from the former regular army called Burundian Armed Forces (FAB) at the time of the hostilities which opposed them to the former rebel movements.

[…] Six months later, on May 6, 2016, the defendants were presented before the trial judge but the hearing was not beneficial because the defendants were not assisted and the Public Prosecutor repeatedly requested the postponement. arguing that he never brought his witnesses to the prosecution.

The case was finally decided on 19.10.2020, which is five years later and all the defendants were sentenced to life imprisonment.

An appeal was filed and a judgment of the Ntahangwa Court of Appeal confirming the Judgment of the Intermediate Court of Ntahangwa was handed down in August 2021.

The defendants appealed in cassation in December 2021 and to date, no follow-up has been reserved for this case. It has not yet been scheduled to allow applicants in cassation to present their grounds of appeal. […]

II. IRREGULARITIES OBSERVED […]

II.1. Lack of a fair trial and lack of assistance […]

In the present case, during the pre-judicial phase (the Public Prosecutor's Office and the National Intelligence Service) the defendants were questioned without the assistance of a lawyer and as a result, all were subjected to acts of torture during interrogation at the National Intelligence Service. This is a procedural violation that can render the entire procedure null and void in a state of law.

It is also important to note that the defendants were deprived of the right to consult the court file in order to prepare the defence.[210]

In October 2022, the BHRI released a report on issues within the justice sector in Burundi, looking particularly at a case surrounding Kira Hospital in Bujumbura. The report stated that:

> On 1 April 2022, SNR [National Intelligence Service] agents arrested Kira Hospital's director, Dr Christophe Sahabo, and the chair of the board, Dr Jean-David Pillot, a French national. The two men were in conflict with the hospital's public shareholders, some of whom accused Sahabo of mismanagement. Pillot was released the next day and was later allowed to leave the country.
>
> Sahabo, however, was detained at the SNR for six weeks, without access to his lawyers or family, with the exception of one person who was only allowed to bring him food. Under pressure, he signed his resignation letter. He was finally brought before a magistrate on 16 May, charged with several economic crimes and transferred to Mpimba prison, in Bujumbura. […]
>
> A few hours later, Mathias Nduwimana, alias Athia, an SNR agent in Bujumbura, accompanied by Kazungu and a dozen policemen, arrested Sahabo's lawyer, Sandra Ndayizeye, at her house on the outskirts of the city. Ndayizeye and Étienne Sahabo were questioned about their role in the general assembly meeting that removed Ndagijimana as chair of the board and reinstated Dr Sahabo and Dr Pillot. They were then transferred to a police detention centre. The next day, they were sent to Mpimba prison. On 30

[210] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Reminder / Slowness in the Processing of the Judicial File of the Military and Police Officers Prosecuted in the Case of the Assassination of General Adolphe Nshimirimana*, 2 August 2022 [Rappel de la lenteur dans le traitement dossier judiciaire affaire assassinat du Colonel Adolphe Nshimirimana], *p. 1 to 3*

September, a shareholder of Kira Hospital, Joseph Bakanibona, was also arrested and detained. The bar association of Bujumbura denounced the disregard of legal safeguards during Ndayizeye's arrest and interrogation, and demanded her immediate and unconditional release. […]
President Ndayishimiye has stated publicly that only people suspected of serious offences, such as murder or rape, should be held in pre-trial detention – a principle enshrined in Burundian law. But Dr Sahabo has been held in pre-trial detention for over six months, and his brother and lawyer also spent several days in prison.
The arrests of Dr Sahabo's brother and lawyer were based on the testimony of two Kira Hospital shareholders, who said they had been forced to sign the minutes of the meeting on 8 September that removed Ndagijimana and reinstated Dr Sahabo; at least one of them was threatened. The prosecutor also accused Ndayizeye of speaking out on her client's behalf, even though she is entitled to do so and this does not constitute an offence.
On the day his brother and lawyer arrived in Mpimba prison, the SNR transferred Dr Sahabo to Ruyigi prison, 160 km from Bujumbura where his family resides. This is a common tactic to make it more difficult for prisoners to have regular contact with their family or lawyers. On 4 October, Ndayizeye wrote a letter to Dr Sahabo, revoking her services. Other lawyers involved in the case were also questioned by the prosecutor and received anonymous threats, prompting them to withdraw their contract with the hospital's main shareholders. Ndayizeye and the other lawyers also withdrew the complaints against Ndagijimana.
The desire of lawyers to extricate themselves from this case as quickly as possible, presumably for their own safety, raises serious concerns. After all that has taken place, other lawyers may hesitate to take up Dr Sahabo's case, effectively undermining his right to defence and to appoint a lawyer of his own choosing.[211]

d. Access to a Fair Trial

By way of introduction, Freedom House reported on Burundi in its March 2021 Freedom in the World report, covering 2020, and wrote the following on the rule of law:

Civil Liberties […]
F Rule of Law
F1 0-4 pts
Is there an independent judiciary? 0/4
The judiciary is hindered by corruption and a lack of resources and training, and is generally subservient to the executive. In 2015, Constitutional Court justices were reportedly intimidated into ruling in favor of Nkurunziza's decision to stand for a third term. The executive regularly interferes in the criminal justice system to protect CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and Imbonerakure members, as well as persecute the political opposition. […]
F2 0-4 pts
Does due process prevail in civil and criminal matters? 0/4
The courts, police, and security forces do not operate independently or professionally, and constitutional guarantees of due process are generally not upheld. Arbitrary arrest and lengthy pretrial detention are

[211] The Burundi Human Rights Initiative (BHRI), *The Kira Hospital Saga: An example of the failings of Burundi's justice system*, October 2022, *p. 1 to 3*

> common. There have been reports that detainees' families were able to secure their release only upon making large payments to the SNR [National Intelligence Service] or Imbonerakure.
> Defendants must provide their own legal representation, making trial rights dependent on the ability to afford a lawyer. Some detainees accused of participating in the 2015 protests or subsequent antigovernment violence did not have access to lawyers and were forced to make false confessions under threat of death.[212]

Freedom House reported similarly in its February 2022 Freedom in the World report, covering 2021.[213]

In December 2020, TRIAL International released a detailed report on the judicial system in Burundi. It reported that:

> 2. THE RIGHT TO AN EFFECTIVE REMEDY […]
> 2.2. INEFFECTIVE OR NON-EXISTENT INVESTIGATIONS
> The cases monitored by TRIAL International show that the filing of a complaint seldom leads to any actual action. Instead, there is often merely a façade rather than a satisfactory investigation. […]
> 3. PERSONAL LIBERTY AND THE RIGHT TO A FAIR TRIAL
> The failings in Burundi's judicial system also affect two fundamental rights that are closely linked: the right to personal liberty and the right to a fair trial.
> The right to personal liberty is the right to not be arbitrarily arrested and/or detained. Yet, failure to respect the guarantees of a fair trial often leads to violations of personal liberty. That is why these two rights are being addressed jointly in this report.
> Furthermore, the aforementioned lack of independence and impartiality of the courts also contributes to violations of these two rights. Once again, this shows how the flaws in Burundi's judicial system are interconnected.
> 3.2. ARBITRARY ARRESTS BASED ON FALSE ACCUSATIONS
> The procedural violations that undermine the judicial proceedings documented by TRIAL International reveal the often unjust and arbitrary nature of arrests and/or detentions. It will suffice to mention here that in the cases monitored by the organization, several guarantees around the right to individual liberty and a fair trial were ignored.23
> Indeed, arrests can only take place "pursuant to a warrant, on reasonable suspicion or for probable cause"24 and every person must be entitled "to consult and be represented by a legal representative or other qualified persons chosen by the party at all stages of the proceedings".25 In addition, victims have reported being arrested without being informed of the reasons for their arrest26 or their rights (to legal representation and to be examined by a doctor of their choice, etc.)27 and have not been permitted to inform their families that they have been arrested or detained, including for long periods.28
> These irregularities seem to reflect the false nature of the accusations. The victims are viewed as posing a threat to internal State security, participating in armed gangs or threatening the integrity of the national territory. What the victims have in common is the fact that they are perceived – rightly or wrongly – as opponents of the ruling party. […]
> 3.3. EXCESSIVE DURATION OF PROCEEDINGS
> Procedural delays have also been noted in Burundi. They affect both the duration of pre-trial detention and the length of the proceedings themselves. […]

[212] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[213] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

In a case recently referred to TRIAL International, the defendant J. H. was arrested in January 2016. Accused of threatening internal State security, J. H. has been awaiting trial for more than four and a half years. At the time of writing and despite the efforts of the lawyer appointed by the organization, the case cannot be scheduled for a public hearing because the majority of the documents relating to the investigation have been lost by the public prosecution office. Worst still, the authorities keep the victim in custody under the pretext that he is accused of a very serious crime, that of threatening State security. […] At the time of writing this report, the deadline for delivering the appeal verdict is more than two months overdue and the victims are still waiting. Indeed, the organization frequently documents failures to respect the deliberation deadline. […]

3.4. LACK OF HUMAN, MATERIAL AND LOGISTICAL RESOURCES […]

The shortage of human, material and/or logistical resources of the judicial system is felt at different levels in most of the cases monitored by TRIAL International. Indeed, it has a significant impact on the duration of proceedings, given that this lack of resources causes considerable delays in the advancement of cases. More concretely, TRIAL International regularly observes delays due to waiting for typed copies of procedural documents. This lack of resources is also frequently cited by the authorities themselves to justify their inertia. For instance, the public prosecutor said that he had "run out of toner to print the documents relating to the case" to justify why a case had not yet been scheduled for a public hearing.

Another example is that when a case requires the investigating magistrate or judges to travel somewhere, such as the prison where the accused is detained, the proceedings become even more protracted. It is not uncommon for hearings to be postponed several times due to a lack of funds to cover such travel. […]

The case of S. & others

This case concerns five defendants who are all members of an opposition party, the National Congress for Liberty (CNL). Arrested in November 2019, they were accused of threatening the integrity of the national territory, among other things.

As they are being detained in one of the prisons in the interior of the country while the case is pending before one of the jurisdictional districts in Bujumbura Mairie, between June and October 2020, the hearings were regularly postponed due to a lack of funds for the judges to travel to the prison where the five are being held. […]

23 Since the start of the crisis in 2015, reports of serious human rights violations, particularly arbitrary arrests and detentions, have increased exponentially. Since the aim of this report is to highlight the weaknesses of the judicial system, here we will focus on a few of the most recurrent key elements in the cases considered.

24 Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003, supra note 7, §M 1. b.

25 Idem, §A 2. f.

26 In this regard, see Idem, §M 2. a.

27 In this regard, see Idem, §M 2. b.

28 In this regard, see Idem, §M 2. c.[214]

In November 2020, Human Rights Watch released a report on Burundian refugees being tortured and forcibly disappeared by Tanzanian authorities, in some cases being returned to Burundi and put into arbitrary detention. It wrote that:

[214] TRIAL International, *Dysfunctional, Ineffective, Opaque: an Overview of the Judicial System in Burundi*, 14 December 2020, *p. 9, 17, 24, 27 to 29, 33, and 34*

> Between October 2019 and August 2020, Tanzanian police and intelligence services forcibly disappeared, tortured, and arbitrarily detained at least 11 Burundians for up to several weeks in abysmal conditions in a police station in Kibondo, Kigoma region. Three were released in Tanzania, and Tanzanian authorities forcibly returned the other eight to Burundi in August, where they have been detained without charge. […]
>
> They said Burundian national intelligence agents briefly presented them before a judicial official in August, without any lawyers present, who repeated the Tanzanian authorities' accusations of attempting to destabilize Burundi before ordering their transfer to prison. None of the detainees have seen a judge or been formally charged since.[215]

In December 2020, the BHRI released a report on Burundi's future, political trajectory, and human rights record, reporting on the "30 years' imprisonment imposed on three young people accused of throwing stones at the president's convoy in Kayanza, after a summary trial on 9 August". The report stated that "The evidence against them was apparently questionable. While the prosecutor had initially asked for a seven-and-a-half-year sentence for attempted murder, the judge quadrupled the sentence, adding a charge of plotting against the person of the president. The defendants didn't have a lawyer, despite requesting one. The defendants and the prosecutor both appealed the verdict.147". […]

> 147 Interviews with sources knowledgeable about the case, August 2020.[216]

In January 2021, ACAT Burundi released a statement, co-signed by seventeen other organisations, on the manipulation of judicial records in Burundi. Translated from French to English using Google Translate, the statement noted that:

> Following the recent declarations of Mr. Pierre NKURIKIYE on the file of presumed rebels in RUMONGE province as well as the detention of Mrs. Christa KANEZA following the unsolved assassination of her husband Thierry KUBWIMANA, civil society organizations Burundian signatories bring to the attention of public opinion the following:
>
> 1. They condemn the haste of the Burundian police who continue to violate the law as to the secret nature of the investigations, by hastening to draw gratuitous, hasty and tendentious conclusions as to the responsibility of the perpetrators of the crimes, without in-depth investigations, manipulating public opinion and thus influencing judicial decisions to intervene.
>
> 2. They protest against this recidivist behavior regularly assumed by the police spokesperson, Mr. Pierre NKURIKIYE in several other files where, in the freshness of the facts and without serious preliminary investigation, conclusions are deliberately parachuted on the grounds and/or the alleged perpetrators with the aim of disorienting justice and diverting it from the real leads that could have made it possible to apprehend the real perpetrators of the offences.[217]

In May 2021, Human Rights Watch released a report on abusive prosecutions in Burundi. It wrote that:

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[215] Human Rights Watch, *Tanzania: Burundian Refugees 'Disappeared,' Tortured*, 30 November 2020

[216] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 49*

[217] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *SC joint statement on PNB's fraudulent manipulation of court records*, 22 January 2021 [Déclaration conjointe de la SC sur la manipulation frauduleuse de la PNB des dossiers judiciaires], *p. 1 and 2*

> During the release of a group of prisoners from Bujumbura's Mpimba prison, Ndayishimiye reiterated his commitment to end impunity and strengthen the judiciary, but falsely claimed that Burundi has no political prisoners. Nestor Nibitanga, a human rights defender arrested in November 2017 and convicted on security charges, after experiencing lengthy arbitrary detention and other severe violations of due process, was pardoned and released on April 27, but others remain in prison. […]
> The February 2, 2021 publication of Burundi's Supreme Court's guilty verdict – dated June 23, 2020 – in the case against 34 people accused of participating in a May 2015 coup attempt, including the 12 human rights defenders and journalists in exile, has exposed the limits of the current government's reform agenda, Human Rights Watch said. After a trial during which the defendants were absent and did not have legal representation, flouting even the most basic due process principles, the group was found guilty of "attacks on the authority of the State," "assassinations," and "destruction." […]
> The Supreme Court's guilty verdict against 12 human rights defenders and journalists in exile underscores the government's continued crackdown on dissent. They were sentenced to life in prison and to pay fines of more than 5.5 billion Burundian Francs ($2.8 million) in punitive damages to the Defense and Public Security ministries, the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy party (Conseil national pour la défense de la démocratie-Forces de défense de la démocratie, CNDD-FDD), and Rema FM, a pro-ruling party radio station. The Supreme Court had ordered the exiled defendants' property seized in May 2019.
> The defendants were not present during the trial nor were they represented by lawyers. Three of them said that lawyers they contacted to represent them refused for fear of reprisals or prosecution, or were threatened by court officials to prevent them from representing the defendants in court. The group of 12 human rights defenders and journalists sent a letter to the national human rights commission on February 17 to seek its assistance in obtaining a copy of the verdict. They have not received it.[218]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights. It stated that "The number of arbitrary arrests may have decreased in 2021, but it is still extremely difficult for those who were arbitrarily detained in previous months or years to get out of prison, even when there is no clear evidence against them. Some have spent prolonged periods in pre-trial detention; others have been convicted in unfair trials. An unknown number of people remain in prison after completing their sentence or even after being acquitted".[219]

In an open letter to the EU in June 2021, signed by the BHRI as well as eleven other organisations, it was noted that:

> More recently, hundreds of CNL (Congrès national pour la liberté) members were arrested before, during and after the 2020 elections, many of them arbitrarily. A significant number were released after the elections, but others remain in prison. Interference by ruling party and government officials in politically motivated court cases is common, violating basic fair trial standards. […]
> Numerous people suspected of opposing the government in other contexts have been arrested more recently, particularly following security incidents. They face the same absence of due process: they are

[218] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021
[219] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *p. 28*

> often arrested in an arbitrary manner, some have been tortured, and they cannot be guaranteed a fair trial. […]
> […] on 2 February 2021, a Supreme Court judgement was published (dated June 2020), convicting a group of 34 exiled defendants, including several journalists, civil society activists and political opponents, to life imprisonment for their alleged involvement in the failed coup d'état in May 2015.
> The defendants were tried in absentia and did not have legal representation, denying them a fair trial and flouting the most basic principles of due process of law. Nor has there been any official dialogue between the government and the main opposition party inside Burundi, the CNL, many of whose members have been killed, arrested and tortured, particularly before and during the 2020 elections. Fabien Banciryanino, an outspoken former member of parliament arrested in October 2020, was sentenced in May 2021 to one year in prison for endangering internal state security and rebellion.[220]

Along with forty-two other organisations, Amnesty International signed a letter in May 2021 speaking out against the violation of the right to a fair trial for human rights defender Germain Rukuki:

> We, the undersigned organisations, express our dismay that the Burundian Appeals Court of Ntahangwa has not yet announced a verdict in the case of human rights defender Mr. Germain Rukuki. According to legal statutes, this verdict was due within 30 days of the appeal hearing, by 24 April 2021. This undue delay adds to the litany of irregularities that have characterised the legal proceedings in this case since the arrest of Mr. Rukuki in 2017, and further compounds the violation of Mr. Rukuki's right to a fair trial and due process.
> On 30 June 2020, the Supreme Court of Burundi set aside the ruling by the Appeals Court to uphold the 32-year sentence in Mr. Rukuki's case and ordered a second appeal hearing, citing violations to his right to a fair trial. This second appeal hearing took place 8 months later on 24 March 2021 in Ngozi prison, where Mr. Rukuki is currently detained. According to the Burundian Code of Criminal Procedure, following the hearing the Court has 30 days to return a verdict on the case, but this verdict is still pending nearly 60 days later. This delay clearly demonstrates a lack of due process in the case of the internationally recognised human rights defender and political prisoner.
> Germain Rukuki is a Burundian human rights defender and father of three. At the time of his arrest Rukuki was working for AJCB (Association of Catholic Jurists of Burundi), having previously worked for ACAT-Burundi (Action by Christians for the Abolition of Torture). ACAT-Burundi was suspended by the government in November 2015, as part of a major clampdown on civil society organisations, including four other human rights groups that also opposed then President Nkurunziza's bid for a third term. Mr. Rukuki was also a co-founder of Njabutsa Tujane, a community-based association advocating against poverty and famine, and for improved access to health. In July 2017 Mr. Rukuki was arrested without a warrant and held by the SNR (National Intelligence Service) before being transferred to Ngozi Prison where he has been held ever since. His previous employment at ACAT-Burundi formed the basis of the charges against him and although no conclusive evidence was ever presented, he was sentenced to 32 years in prison on charges including rebellion and breach of state security.[221]

[220] The Burundi Human Rights Initiative (BHRI) et al., *Open letter: the EU should honor its commitments to human rights in Burundi*, 21 June 2021, *p. 2 and 3*
[221] Amnesty International et al., *Burundi: Once again, human rights defender Germain Rukuki's right to a fair trial is violated*, 21 May 2021, *p. 1*

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi, referring again to issues in the justice system and particularly around the case of Germain Rukuki:

> III. Human rights situation
> G. Justice […]
> 54. There are persistent dysfunctions in the justice system, including corruption, influence peddling, interference by various authorities and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] members, non-compliance with legal procedures and deadlines, failure to enforce judicial decisions, in particular release 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.[222]

In October 2021, Amnesty International released another public statement on the ongoing detention of lawyer on Germain Nkina, who was arrested in October 2020:

> Six international human rights groups – Amnesty International, the Burundi Human Rights Initiative, DefendDefenders (East and Horn of Africa Human Rights Defenders Project), Human Rights Watch, Protection International Africa and TRIAL International – condemned the decision of the Court of Appeal of Ngozi on 29 September to uphold the conviction and five-year prison sentence of Burundian lawyer Tony Germain Nkina following an unfair trial.
> "Tony Germain Nkina's trial was a travesty of justice," said Lewis Mudge, Central Africa director at Human Rights Watch. "The decision by the Court of Appeal to keep him in prison, despite all the evidence about the unfairness of the trial, makes a mockery of the Burundian justice system."
> The groups believe that Nkina, a lawyer in Kayanza province, was arrested and convicted because of his former affiliation with the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues,* APRODH), a leading human rights group in Burundi until 2015. […]
> Nkina was arrested on 13 October 2020 in Kabarore *commune,* where he was visiting a client for his professional work as a lawyer. In June 2021, a court in Kayanza found him guilty of collaboration with armed groups – a common accusation against perceived opponents and critics in Burundi – and sentenced him to five years in prison. […]
> The hearing at the Court of Appeal of Ngozi, initially scheduled for 12 August, was postponed twice and finally held on 20 September. The prosecution failed to produce any credible evidence against Nkina and no prosecution witnesses appeared in court. Nkina and his lawyers were able to show that he had visited

[222] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 11 and 12*

> Kabarore for legitimate professional reasons. Nevertheless, the court upheld the conviction, quickly issuing its verdict. […]
> The targeting of Nkina and his conviction and sentencing after an unfair trial are emblematic of the wider human rights situation in Burundi, where the space for civil society and the media remains highly restricted, the groups said.[223]

Human Rights Watch published a piece in May 2022 on the detention, killings, and torture of suspected opponents at the hands of the security forces in Burundi. It reported that:

> The authorities have responded to attacks on both civilians and state agents by armed assailants or suspected rebel group members in various parts of the country with a heavy handed approach. They have shown little regard for credible investigations, objective evidence, or due process needed to hold those actually responsible to account. […]
> Kayanza province […]
> In one example, Tony Germain Nkina, a lawyer and former human rights defender, was arrested in Kabarore, Kayanza province, on October 13, 2020, while visiting a client, around the time of attacks by armed groups in the area. In a politicized trial, he was charged with and convicted of collaborating with the RED-Tabara (Résistance pour un état de droit au Burundi; Resistance for the Rule of Law in Burundi), a Burundian rebel group operating in the Democratic Republic of Congo.
> The prosecution presented no evidence to substantiate these allegations. And the outcome of the case appears to be another example of political interference in the judiciary to put pressure on those associated with the human rights movement.
> Nkina's arrest and prosecution is emblematic of how the authorities' efforts to seek out perpetrators of armed groups or attacks have resulted in serious human rights violations, including against people who have no links with these armed groups, Human Rights Watch said. The speed with which some suspects were apprehended and put on trial, and the wide net cast by the authorities, also raises questions about the evidence used to identify potential suspects. Meanwhile the ongoing insecurity affecting local populations is largely unaddressed.
> Human Rights Watch received video footage showing two army officers bragging about killing suspected "rebels." While discussing a November 10, 2021, operation against a group of 17 alleged "rebels" who were based out of the Kibira forest, one officer discussed the killing of three people including a leader known as "Mwarabu."
> "The others were killed in the Kibira … by shooting them, by arresting them," the officer said. "Of the four that were left, we killed three and there was one left. We took a photo of him on WhatsApp sitting amid the bodies…." Photos showing three dead bodies and one prisoner, surrounded by men wearing military or police clothing, were published by an independent media outlet in Burundi.
> Human Rights Watch received video footage of witnesses discussing the killings, and interviewed two residents. The footage and the interviews indicate that three suspected "rebels" were killed and a fourth was arrested on November 10. It is unclear whether the victims were armed at the time of their deaths. One alleged "rebel" threw a grenade and injured a local official and a policeman, media reported. But witnesses who were there said the members of the group were unarmed and had hidden their weapons in a nearby tea plantation.

[223] Amnesty International, *Burundi: Shocking Decision as Appeal Court Upholds Conviction of Lawyer Tony Germain Nkina*, 8 October 2021

> Based on a report from a media outlet in Burundi and a local resident, the person who was arrested was convicted two days later in an expedited trial and sentenced to life in prison in proceedings that raise concerns about fairness. The media report and a person who witnessed the proceedings said that the suspect admitted to having been recruited by "Mwarabu" and said the group was responsible for attacks in Bugarama commune in Rumonge province, and Bukeye commune in Muramvya province. The army officer said in the video Human Rights Watch reviewed that several "important people" were arrested through contacts obtained from "Mwarabu"'s phone.[224]

In November 2021, Amnesty International and twenty-two other human rights non-governmental organisations addressed the Burundian Minister of Justice in a letter, calling for the release of Christa Kaneza:

> We, the undersigned human rights non-governmental organizations, call on you, in your capacity as Minister of Justice, to implement without further delay the court decisions granting provisional release to Christa Kaneza. The failure to implement the court decision is an affront to the rule of law and amounts to a violation of her right to a fair trial guaranteed under article 38 of the Burundian Constitution, article 7 of the African Charter on Human and Peoples' Rights and article 14 of the International Covenant on Civil and Political Rights to which the country is a state party.
>
> Christa Kaneza, who is 19 years old and mother of a one-year-old child, was arrested on 19 January 2021 following the killing of her husband Thierry Kubwimana on 24 November 2020. He was killed at their residence in Gasekebuye, a suburb of the economic capital, Bujumbura. She has been detained at Mpimba central prison in Bujumbura ever since.
>
> On 1 February 2021, the High Court of Muha in Bujumbura ordered that Christa Kaneza should be provisionally released, citing the lack of evidence of her involvement in her husband's murder. On 28 September 2021, the Court of Appeal of Muha in Bujumbura upheld the decision, following an appeal by the prosecution. Almost two months later – and more than nine months since the initial court ruling – she remains in detention.
>
> We are also concerned about the conduct of the ministry in charge of the police in the days following Christa's arrest and detention. In January, Pierre Nkurikiye, spokesperson of the Ministry of Interior, Community Development and Public Security, told reporters, without providing any evidence, that Christa killed her husband. Such statements violate her right to be presumed innocent until proven otherwise.
>
> […] The conduct of the police in this case raises serious questions on the motive behind the delay in the judicial procedures and the authorities' failure to date to implement the court decisions.[225]

In November 2021, ACAT Burundi released a statement on prisoner mistreatment. Translated from French to English using an online translation tool, Onlinedoctranslator.com, the report noted that "prisoners on their admission to prisons are not informed either of the laws and regulations or of the rights and duties which concern them as provided for in article 11 of the prison regime as well as 42 paragraph 2 of the prison regulations." It further noted that "Articles 12 and 148 of the same texts indicate that the latter should be posted in places accessible to prisoners, but to no avail. This is done

[224] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[225] Amnesty International, *Burundi: Implement Court Decisions and Release Christa Kaneza*, 26 November 2021, *p. 1 and 2*

with the sole aim of keeping them in total ignorance and applying purely arbitrary and illegal orders to them".[226]

Human Rights Watch reported in January 2022 on the need to credibly investigate a fire at Gitega's central prison that took place on 7 December 2021, noting also wider issues around fair trial standards in Burundi:

> According to the Association for the Protection of Human Rights and Detained Persons (APRODH), an exiled human rights organization that monitors human rights abuses and the rights of prisoners, about 40 percent of those held at Gitega prison as of October were in pre-trial detention. Certain detainees in Burundi have served their sentences or been acquitted, but have not yet been released due to an inefficient, corrupt, and politicized judicial system.
> Many detainees in Gitega and other prisons in the country were convicted on the basis of their peaceful political activities. A March 2021 presidential pardon announced the pardon or early release of more than 5,000 prisoners but excluded many accused of security-related offenses, including many who were arrested in the aftermath of the 2015 protests over the former president's bid for a third term and are held on political grounds. About 3,000 have been released since the announcement, according to a credible source.
> On December 29 President Ndayishimiye said that a report on the fire was being prepared, and that judicial authorities should issue judgments and speed up judicial procedures, and that suspects accused of non serious criminal offenses should be released from pretrial detention. Since then, Human Rights Watch has received credible information that some pretrial detainees accused of lesser crimes have been released from several prisons, including Gitega.[227]

The UN Commission of Inquiry on Burundi commented on arrests of CNL [National Congress for Liberty] members made during the 2020 election in an oral briefing in July 2020, noting that "While most CNL members were released after a few days or weeks, some were sentenced to excessive prison terms following trials "on the spot", mainly for attempt to « disrupt elections» or for «participation in illegal meetings», and others remain in preventive detention".[228]

In March 2022, BHRI released a report on human rights abuses in Burundi linked to torture, discussing also violations of fair trial guarantees within this context. It stated that:

> 1. Torture and abductions: the tip of the iceberg […]
> Intelligence agents often accuse detainees of collaborating with armed groups, even in the absence of credible evidence, and torture them to extract confessions or information about other individuals. […]
> 4. Promises and more promises […]

[226] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Statement: Detainees Mistreated Under the Collective Eyes of the Administration Prison*, 9 November 2021 [Déclaration de l'Acat-Burundi sur la maltraitance des détenus avec la complicité de l'administration pénitentiaire(rôle des capitas)], *p. 2*
[227] Human Rights Watch, *Burundi: Account for Dead in Gitega Prison Fire*, 24 January 2022
[228] UNHuman Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 14 July 2020

> While he [the President] insists that the justice system is independent and legal processes will be followed, scores of people are abducted and detained secretly, in blatant contempt of the law, and convicted in unfair trials. […]
> He promised a series of actions to speed up cases, ensure the implementation of judgments and release detainees who were not accused of murder.41 In some parts of the country, some pre-trial detainees have already been released, and magistrates have started to sift through cases of other prisoners who may qualify for release. However, prisoners charged with offences related to state security are excluded in advance from release under these measures. Most political prisoners fall into this category and face blanket charges such as "endangering internal state security" or "collaboration with armed groups". These cases are among those that experience the most acute problems in terms of unfair trials and lack of independence of the judiciary. […]
>
> 41 End of year radio broadcast by President Ndayishimiye, 29 December 2021.[229]

In Amnesty International's March 2022 report on the state of the world's human rights in 2021, it reported on Burundi that: "The conviction in their absence of five human rights defenders and seven journalists who had been involved in the 2015 protests was announced in February, although the Supreme Court ruled on the case in June 2020. They had been sentenced to life imprisonment on charges of undermining state authority, murder and damage to property in connection to the 2015 attempted coup. They had no legal representation during the trial.1". […]

> 1. Burundi: Genuine Reopening of Civic Space Requires Accountability (Index: AFR 16/3806/2021), 11 March 2021[230]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi around the denial of a fair public trial:

> Section 1. Respect for the Integrity of the Person […]
> E. DENIAL OF FAIR PUBLIC TRIAL
> Serious irregularities undermined the fairness and credibility of trials. Although the constitution and law provide for an independent judiciary, there were reports of authorities who bribed or influenced members of the judiciary to drop investigations and prosecutions or predetermine the outcome of trials or not to seek enforcement of court orders. According to the COI's [Commission of Inquiry] report, President Ndayishimiye demonstrated a desire to promote the rule of law which had been seriously undermined for several years. The president's efforts were eroded, however, by increasing disrespect for criminal procedures and laws on the part of other government authorities. Authorities routinely did not follow legal procedures.
> The COI report stated that the judiciary's lack of independence was long-standing, but its use for political and diplomatic gain worsened under President Ndayishimiye. There were allegations the attorney general's office ignored calls to investigate senior figures within the security services and national police. Prosecutors and members of the security services sometimes ignored court orders for the release of

[229] The Burundi Human Rights Initiative (BHRI), *The Road Ahead: Will Burundi bring its torturers to justice?*, March 2022, *p. 5, 13, and 14*
[230] Amnesty International, *International Report 2021/22: The State of the World's Human Rights*, 29 March 2022, *p. 109*

detainees after judges had determined there were no legal grounds for holding them. The COI stated that authorities took no structural measures to resolve these problems. On September 17, the president signed a decree restructuring the Supreme Council of Justice, giving the head of state (the president) authority over the council, including authority to oversee the quality of judicial decisions and the power to implement corrective measures. The COI and other organizations assessed that the decision expanded the means through which the executive branch may control the judiciary.

Trial Procedures

By law defendants are presumed innocent. Panels of judges conduct all trials in public. Defendants have the right to prompt and detailed information on the charges and free interpretation from the moment charged through all appeals, if necessary, although these rights were rarely respected. Defendants have the right to a fair trial without undue delay and to adequate time and facilities to prepare a defense, although this occasionally occurred. Defendants have a right to counsel but not at the government's expense, even in cases involving serious criminal charges. Few defendants had legal representation because few could afford the services of a lawyer. Some local and international NGOs provided legal assistance to some defendants. Defendants have a right to defend themselves, including by questioning prosecution or plaintiff witnesses, calling their own witnesses, and examining evidence against them. Defendants also may present evidence on their own behalf and did so in most cases. Defendants have the right not to be compelled to testify or confess guilt, although there were reports some detainees experienced torture to coerce testimonies. Judges used confessions obtained under torture as a basis for convicting defendants. The law extends the above rights to all citizens.

All defendants except those in military courts have the right to appeal their cases to the Supreme Court. Procedures for civilian and military courts are similar, but military courts typically reached decisions more quickly. The government does not provide military defendants with attorneys to assist in their defense, although NGOs provided some defendants with attorneys in cases involving serious charges. Military trials generally were open to the public but may be closed for reasons such as national security or when publicity might harm the victim or a third party, for example, in cases involving rape or child abuse. Defendants in military courts are entitled to only one appeal.

While many of the above rights were often violated, no rights were systematically denied to persons from specific groups. The inefficiency of the court system extended the appeals process for long periods, in many cases for more than a year.

In February the Supreme Court published a sentence decision dated June 2020 for 34 individuals, including human rights activists and journalists in exile, condemning them to life imprisonment and punitive damages. According to Human Rights Watch, the trial lacked basic due process right since defendants were absent from the trial and neither they nor their attorneys were notified of the proceedings against them. The group was found guilty of "attacks on the authority of the State," "assassinations," and "destruction," and their assets were seized.[231]

In April 2022, ACAT Burundi released its annual report on prison conditions, reporting on 2021. The report looked into key issues in fair trials for detainees in Burundi, as excerpted below:

I. Introduction […]

ACAT-BURUNDI was interested in the respect of the right to communication with the outside world during the Covid-19 pandemic in some Burundian prisons. Our documentation revealed that the right to

[231] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

communication of prisoners recognised by the texts governing the protection of prisoners both at the internal and international levels was vigorously violated.

This restriction had consequences for the right to a fair trial as detainees were not given counsel to prepare their defences. […]

More deplorably, this selective measure reinforced favouritism and the monetisation of visits, as some prisoners received visits from relatives while others were denied them. In addition, the right to legal assistance was violated as prisoners complained that they no longer had access to their lawyers […] for the preparation of pleadings, while public hearings continued as usual. […]

III. Administration of prisons in Burundi […]

[…] investigations carried out by ACATBURUNDI in 2021 in various prisons show that there are still detainees in an irregular situation due to the indifference and inertia of prison officials. More worryingly, there are even cases where prison officials knowingly refuse to release detainees even though they have release tickets in their possession. […]

IV. Irregularities or malfunctions observed in the judicial files of persons deprived of their liberty […]

ACAT-BURUNDI also protested against the recidivist behaviour of the Burundi National Police when, through its spokesman Pierre Nkurikiye, it made public the instructions of the cases it was investigating and took the opportunity to talk about the substance of the case and treat the defendants in front of the media as if they had already been convicted, even though the investigation had not yet been completed. The defendants watched helplessly in front of the cameras without the right to unburden themselves in order to make the information balanced.

The cases that challenged ACAT-BURUNDI were those of people arrested in BURUMBI Commune in RUMONGE province as well as those charged with the assassination of a certain Thierry KUBWIMANA in GASEKEBUYE in the Musaga area in November 2020. […]

This approach, which consists in publicising ongoing investigations, is especially used in the case of crimes where the hand of an authority is suspected. For example, remember the way in which the case of the murder of the Italian sisters of KAMENGE was investigated and the comments made by the police spokesperson.

The aim of this mostly misleading publication is to divert investigations so that the magistrate investigates on the basis of police statements and to intimidate the families of the accused. This is a consequence of the lack of independence of the judiciary.

IV.1 Cases of political prisoners or prisoners of conscience

[…] Among the violations that are constantly brought to the public's attention are the slowness of the processing of cases, especially of political or allegedly political detainees.

There is clearly a lack of diligence in the follow-up of the judicial files of defendants in detention for crimes of a political nature; […].

The results of the investigations conducted by ACAT-BURUNDI during the year 2021 have shown that the prisons are still full of detainees who have been acquitted without any title or right, those who have benefited from the presidential pardon and those who have served their sentences as mentioned above. […]

Unfortunately, the flagrante delicto procedure is only applied at first instance with the sole intention of depriving the accused of the guarantees necessary for a fair trial, in particular the right to a defence and above all the right to be assisted by a lawyer, even though this is recognised by the aforementioned law even in cases of flagrante delicto (article 269).

> The other element that testifies to bad faith is that after the first degree trial, the coaccused are transferred to several prisons throughout the country, which causes a major handicap in the evolution of the case.[232]

e. Impunity

Additional relevant information can be found under sections III. Rule of Law/Administrative of Justice, especially *III.a. Access to Justice*, the whole of V. Human Rights Situation, and VI. Treatment of Women, especially *VI.f. Measures by the state to protect women from SGBV*, and VII. Treatment of Individuals of Diverse Sexual Orientations or Gender Identities, especially VII.c. Measures by the state to protect persons of the LGBTIQ+ community.

A press release by the UN Commission of Inquiry on Burundi in May 2020 on the spread of violence and abuse during the 2020 electoral campaign reported that:

> […] a large number of women and men who are CNL [National Congress for Liberty] members, including candidates to the legislative and local elections, were arrested and detained whereas those close to the ruling party continue to enjoy almost total impunity for their abuses, including those responsible for violent acts. […]
>
> To that end, there is need to end the impunity enjoyed by perpetrators of human rights violations, in particular those close to the ruling party, sometimes in senior positions of authority, as well as Imbonerakure and local administrative authorities.
>
> The Commission also recalls that the political party leaders from all fronts have the responsibility to prevent acts of violence and must step up their efforts to peacefully resolve the tensions in the run-up to the elections and ahead of their conclusion. Failing this, they should be aware that they will be held criminally responsible for their actions and, in some circumstances, for the actions of their militants.
>
> Therefore, the Commission invites all competent jurisdictions, including those outside the Burundian judicial system, to consider instituting criminal proceedings against those who bear most responsibility for gross human rights violations committed in the context of the ongoing electoral process.[233]

Amnesty International, in an article reflecting on the death of Pierre Nkurunziza in June 2020, wrote that: "Despite significant evidence, Nkurunziza's government consistently denied accusations of serious human rights violations".[234]

Also in June 2020, the International Federation for Human Rights (FIDH) published an article on the composition of the new government in Burundi, writing that:

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[232] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 15, 22, 30, and 31*

[233] UN Office of the High Commissioner for Human Rights (OHCHR), *The UN Commission of Inquiry on Burundi: An electoral campaign marred by a spiral of violence and political intolerance*, 14 May 2020

[234] Amnesty International, *Burundi: Pierre Nkurunziza's death marks the end of an era*, 17 June 2020

The announcement of the composition1 of the new Burundian government has dampened the hopes for openness and liberalisation that emerged with the election of the new President Evariste Ndayishimiye, after 15 years of reign of former President Pierre Nkurunziza, who died on 8 June. The International Federation for Human Rights (FIDH) and its Burundian member organisation, Ligue Iteka, are particularly concerned about the appointment of persons under international sanctions for their role in the bloody crackdown on anyone suspected of opposing the regime for the past five years, which could hinder the fight against impunity for crimes committed in the country since 2015.

Three names among the new members of the government are particularly noteworthy: Alain-Guillaume Bunyoni, Prime Minister, Gervais Ndirakobuca, Minister of the Interior, Community Development and Public Security, and Ezéchiel Nibigira, Minister of East African Community Affairs, Youth, Sports and Culture.

« The composition of the new Burundian government shows that the "hard line" still prevails among the regime's top leadership. The appointment of certain ministers shows that the small circle that orchestrated the authoritarian and bloody trend of the last five years is still in power, which does not bode well for civil society and the hundreds of thousands of refugees in the surrounding countries, who see their hopes of returning to the country postponed indefinitely»

Anschaire NIKOYAGIZE, President of Ligue ITEKA.

The government will be led by General Alain-Guillaume Bunyoni, who was appointed Prime Minister by the President on 23 June. The highest ranking officer in the Burundian police force, Alain-Guillaume Bunyoni has been subject to targeted sanctions by the United States for his alleged role in the repression that has been raging since 2015.

In particular, he is accused of using his residences in the Gasekebuye and Kinanira neighbourhoods of Bujumbura as places of arbitrary detention and torture. Bodies were also allegedly buried in mass graves dug in the Musaga area of Gasekebuye under the supervision of several of his bodyguards when he was Minister of Security.

General Gervais Ndirakobuca alias Ndakugarika, appointed Minister of the Interior, Community Development and Public Security by presidential decree on 28 June, is under individual United States and European Union sanctions for his alleged role in planning and coordinating repression as Chief of Staff to former President Pierre Nkurunziza.

Finally, Ezéchiel Nibigira, appointed Minister of East African Community Affairs, Youth, Sports and Culture on the same day, was Minister of External Relations under the former government and before that, head of the Imbonerakure.

This militia, made up of young activists from the ruling party, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), is infamous for the climate of terror it has created in the country, intimidating, attacking and murdering hundreds of people due to their membership, real or supposed, in the opposition or the protest movement.

The appointment of figures notorious for their alleged roles and responsibility for serious human rights violations perpetrated over the past five years raises fears that impunity for these crimes will continue, or even that the repressive regime, which has been at work since 2015, will persist, which could result in new violations.

Ultimately, all the members of the government are from the party in power. The lack of representation of the opposition seems to leave no room for the resumption of inclusive political dialogue.[235]

[235] International Federation for Human Rights (FIDH), *New Government in Burundi: Dampened Hopes for Political Openness and the Fight Against Impunity*, 30 June 2020

Following the elections, in July 2020 ACAT Burundi and fourteen other organisations signed a declaration, the following passage from which was translated from French to English using Google Translate:

> The appointment of General Police Commissioner Alain Guillaume Bunyoni to the post of post-Nkurunziza Prime Minister has rubbed the knife in the still fresh wound of the hundreds of thousands of victims of the repression initiated by the regime several years ago, which has worsened with the 3rd mandate of Pierre Nkurunziza. The civil society organizations signing this letter express their dismay at the establishment of a militarized government, dominated by generals who have excelled in the commission of crimes under international law to the point that some have even been placed under the international community because of their roles in the perpetration of crimes against humanity which have been documented in particular by the International Commission of Inquiries on Burundi. Such is the case of the current Minister of the Interior, Chief Police Commissioner Gervais Ndirakobuca, who sits on the list of major criminals of the regime in place. They draw the attention of national and international opinion to the appointment to the post of Minister of Foreign Affairs of a former ambassador of Burundi, Albert Shingiro, who distinguished himself by his denial of the Genocide committed against the Tutsi of Rwanda as well as the repeated uttering of threats against United Nations investigators on the abuses committed in Burundi. The same is true of that of a former leader of the Imbonerakure militia Mr. Ezéchiel Nibigira. The choice of members of the government unambiguously demonstrates the manifest intention of the new power to continue its isolationist diplomacy as well as the current policy of the ruling party characterized by terror and intolerance. […]
>
> This formation of the government, which brings to the fore the personalities who have played a key role in the bloody repression underway since 2015, reveals the absence of a will to fight against impunity and to restore the rule of law in Burundi.[236]

Similarly, in December 2020, the BHRI published an in-depth analysis on the appointment to power of previous violators of human rights, as well as ongoing impunity of the Imbonerakure. It stated that:

> SUMMARY […]
>
> The rule of President Pierre Nkurunziza, who died on 8 June 2020, was marked by violence against opponents and other critical voices, particularly since 2015. The vast majority of killings, enforced disappearances, torture and other crimes committed by members of the security forces, the intelligence service and the Imbonerakure under Nkurunziza have still not been punished. The justice sector remains firmly under the control of the ruling party.
>
> Many of the leaders who orchestrated this repression are still in power, dashing hopes that the new president would break with this bloody past. Some have even been promoted to the most senior positions in the new government. Chief among them are Alain Guillaume Bunyoni – Prime Minister since June 2020 – and Gervais Ndirakobuca, alias Ndakugarika ("I will kill you"), the new minister of interior, community development and public security. Several Burundians, especially victims of human rights violations and their families, told the Burundi Human Rights Initiative (BHRI) that they were deeply shocked by these appointments. […]

[236] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Civil society statement on the appointment of the new government of Burundi*, 3 July 2020 [Déclaration société civile sur la nomination du nouveau gouvernement du Burundi], *p. 1 and 2*

Under Bunyoni's watch as former minister of public security, members of the police killed and tortured suspected government opponents, and were responsible for the violent repression of demonstrators. Ndirakobuca was personally involved in killings and beatings of government opponents, and has collaborated closely with individuals who have carried out extrajudicial executions and torture. […]

BHRI believes that the presence of senior officials responsible for serious crimes in the new government is an obstacle to meaningful human rights reforms in Burundi. These officials represent a repressive system of governance and ensure the continuation of the CNDDFDD's [National Council for the Defense of Democracy–Forces for the Defense of Democracy] strategy: eliminate the opposition and silence critical voices. […]

RECOMMENDATIONS […]

Ndayishimiye said in his 18 June inauguration speech: "Victims should have their rights restored and be comforted, and alleged perpetrators should be taken to court."1 Yet the government has failed to deliver justice for the many people whose relatives and friends were killed before and after the 2020 elections. […]

1. THE CNDD-FDD WINS AGAIN: THE EMERGENCE OF HARDLINERS AFTER THE ELECTIONS […]

The appointment of hardliners in the new institutions […]

Initial hopes of openness and reform were further diminished when Ndayishimiye appointed Alain Guillaume Bunyoni as prime minister and Gervais Ndirakobuca as minister of interior, community development and public security. As described in Chapter 2, the appointments of these two senior officials, who have been linked to serious human rights violations and are both under international sanctions, appear to jeopardise the chances of meaningful human rights reforms. […]

2. BURUNDI'S BIG MEN TAKE CENTRE STAGE […]

An International Criminal Court investigation into crimes allegedly committed in Burundi between 26 April 2015 and 26 October 2017 is ongoing.26 Some of the human rights violations committed during this period, when Bunyoni and Ndirakobuca held senior government positions, could constitute crimes against humanity, according to the United Nations Commission of Inquiry (COI) on Burundi.27 […]

In 2020, police officer Alfred Museremu was appointed head of the powerful department of internal intelligence, in which he oversees other SNR [National Intelligence Service] staff who have been involved in serious human rights violations. Alexis Ndayikengurukiye, alias Nkoroka, who works in the SNR operations department, has also been cited in cases of torture and killings.113 […]

3. A BRIEF RESPITE GIVES WAY TO UNCERTAINTY […]

CNDD-FDD leaders tell Imbonerakure to back off […]

The decline in human rights abuses following the elections came after the CNDD-FDD told the *Imbonerakure* to refrain from attacking their opponents and inflaming the situation. The *Imbonerakure*, who had been the main tool for persecuting opponents before and during the elections, kept their distance from opponents for a few weeks.

Slow fight against impunity […]

Along with the initial order to stop abuses against opponents, *Imbonerakure* were told they would face sanctions if they didn't respect the new orders.137 More broadly, in his inauguration speech on 18 June, President Ndayishimiye said that "justice has no time limit and impunity has no place anymore in Burundi."138 Yet so far, there have only been a handful of prosecutions for serious human rights violations. […]

Impunity has been the norm when dead bodies are discovered, some with serious wounds, in lakes, in rivers and on roadsides – a phenomenon which marked the pre-election period and has since continued. The national authorities have remained largely silent on these cases and local authorities often order the burial of the bodies soon after they are found, making investigations difficult. […]

1 Inauguration speech of President Évariste Ndayishimiye, https://www.presidence.gov.bi/2020/06/19/discoursde-son-excellence-general-major-evariste-ndayishimiye-a-loccasion-de-son-investiture/, 18 June 2020. […]
27 See final detailed report of the UN Commission of Inquiry on Burundi, A/HRC/36/CRP.1, https://www.ohchr.org/FR/HRBodies/HRC/CoIBurundi/Pages/CoIBurundiReportHRC36.aspx, 18 September 2017. […]
113 Interview with former CNDD-FDD member, 6 July 2020. See also "Enquête de l'APRODH sur la composition, les abus, les responsabilités, impunité au service national de renseignement du Burundi/Organe cité dans les violations des droits humains", https://www.focode.org/574/, 25 August 2016 ; Ndondeza, "Disparition forcée de Savin Nahindavyi, Officier du SNR", https://ndondeza.org/declaration-du-focoden0052017-du-16-mars-2017/, 16 March 2017 ; BBC, "Burundi denies running secret torture houses", https://www.bbc.com/news/world-africa-46545194, 12 December 2018; and Iwacu, "Bururi: 'On torture toujours'", https://www.iwacu-burundi.org/bururi-on-torture-toujours/amp/, 4 July 2011. […]
137 Interview with national Imbonerakure leader, 10 July 2020.
138 Inauguration speech of President Évariste Ndayishimiye, https://www.presidence.gov.bi/2020/06/19/discours-de-son-excellence-general-major-evariste-ndayishimiye-aloccasion- de-son-investiture/, 18 June 2020.[237]

A letter by Human Rights Watch in July 2020 to President Ndayishimiye reported that "Police and national intelligence agents have all too often committed abuses against the people they are meant to protect. Imbonerakure members have killed, disappeared, arbitrarily arrested, raped, beaten and intimidated with impunity. The lack of independence of the judicial system means that many of these individuals feel they are untouchable".[238]

In its report on Burundi in August 2020, the Commission of Inquiry wrote:

> III. Situation of human rights […]
> C. Other violations […]
> 1. Right to life
> 57. […] The police have also conducted operations in which people have been summarily executed instead of being apprehended. Bodies bearing signs of violence continue to be found in public places, and the authorities make no attempt to establish the victims' identities or the circumstances of their death. Recently, to set an example, two police officers received sentences for killing civilians with their service weapons, in a welcome first step in the fight against police impunity. […]
> 2. Torture and sexual violence […]
> 59. The Commission is concerned about the structural nature of sexual violence in Burundi, as the testimonials collected since 2015 demonstrate that this type of violence persists and confirm the trends identified in its previous reports. Despite various programmes designed to facilitate access to justice for the most vulnerable persons, and specifically women, and the fact that there has been better judicial treatment of cases of gender violence,17 most victims of sexual violence have received direct or indirect threats and have not dared to report on the perpetrators or to seek assistance. This is inter alia due to the high number of perpetrators who are members of the security forces or the Imbonerakure, who have continued to enjoy almost total impunity. […]
> E. Responsibilities […]
> 1. Responsibility of the Burundian State […]

[237] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 7, 8, 10, 11, 17, 20, 21, 41, 44, 45, and 47 to 49*
[238] Human Rights Watch, *Letter to President Ndayishimiye: Protecting Human Rights in Burundi*, 13 July 2020

> 83. The Imbonerakure often act alone or sometimes in the presence of representatives of the police, the National Intelligence Service or local authorities. They enjoy considerable latitude in carrying out their activities, conferred on them by the Burundian authorities who have the means to control them, as well as almost total impunity. Imbonerakure are still regularly – indeed, almost routinely – used to supplement or replace the security forces, particularly in rural areas, at the request or with the consent of members, including senior officials, of the National Intelligence Service, the police, the Office of the President and local authorities. Some have military material and equipment reserved in principle for the defence and security forces, such as elements of military uniforms and boots, which attests to their central role within the formal and informal security structures of the Burundian State. When the conduct of the Imbonerakure is acknowledged and adopted by agents of the State, when they act on the instructions of such agents or when they act in "complete dependence" on or under the "effective control" of such agents, the Burundian State is directly responsible for their actions.
>
> 84. In the rare cases in which the Imbonerakure reportedly acted outside these scenarios, the nearly general impunity they enjoy following their acts also means that the responsibility of the Burundian State is engaged, in conformity with its obligation to protect human rights. Indeed, the State must, when it is aware or should have been aware of violations or abuses committed by third parties, undertake effective investigations and prosecutions, which has not generally been the case. […]
>
> 17 Republic of Burundi, *Rapport national d'évaluation de la mise en oeuvre de la Déclaration et du Programme d'actions de Beijing*, May 2019, pp. 13 and 32.[239]

An August 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Commission of Inquiry in Burundi stated that:

> The Government, state security forces, including the police, the National Intelligence Service (*Service national de renseignement*, or SNR), and members of the youth league of the ruling *Conseil national pour la défense de la démocratie-Forces de défense de la démocratie* (CNDD-FDD) party, the *Imbonerakure*, are responsible for many of the violations and abuses. Over the course of its reporting, the CoI [Commission of Inquiry] has documented violations of civil, political, economic, social and cultural rights in a deteriorating economic and humanitarian context. Violations and abuses include arbitrary arrests and detentions of prisoners of conscience and those perceived to be against the Government, beatings, destruction of property, including of premises of the *Congrès National pour la Liberté* (CNL) party, theft of property belonging to members of opposition parties and human rights defenders (HRDs) in exile, and arbitrary suspension and forced closure of civil society organisations and media outlets. They also include torture and ill-treatment, the use of excessive and lethal force against peaceful demonstrators, enforced disappearances, violations of the rights of women and girls, rape and other forms of sexual and gender-based violence, forced labour, the extortion of contributions for state-led projects, hate speech and incitement to ethnic hatred (which go on with the acquiescence of political, prosecutorial, and judicial authorities), and extrajudicial killings.
>
> Such violations and abuses have continued to take place in a context of near-complete impunity; to date, no high-level officials have been held accountable. […]
>
> Despite promising remarks by President Ndayishimiye during his inauguration, as well as the authorities' new, more transparent approach to tackling the COVID-19 pandemic, observers also raised concerns,

[239] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 10, 11, and 15*

notably over the fact that several newly appointed members of the Ndayishimiye administration are subject to international individual sanctions for their alleged responsibility in human rights violations. […]
In its 14 July address, the CoI identified some "priority areas for action against which the new authorities can objectively attest their desire for change and normalisation on the long term [...]." These areas for action include: […]

- The fight against the *de facto* impunity enjoyed by the main perpetrators of violations (risk factor no. 2) and the reform of the judicial system (risk factor no. 3). In our view,10 this would include:
  - The removal of officials who have been credibly implicated in serious human rights violations and possible atrocity crimes while thorough and impartial investigations are conducted. Where there is sufficient admissible evidence, those suspected of criminal responsibility should be prosecuted in fair trials, irrespective of their rank, status, or political affiliation. Victims and survivors and their families should be able to access justice, truth and reparation;
  - Comprehensive reforms of police and security forces, including bringing human rights violations committed by the National Defence Force, law enforcement bodies, the SNR and the *Imbonerakure* to an end, and ensuring that the ruling party's youth league is disarmed and not used for any official state security or other duties. Military, security and law enforcement forces should undergo a thorough vetting process, with regional or international assistance, to remove individuals who have taken part in human rights violations. […]

  10 See also Human Rights Watch, "Letter to President Ndayishimiye: Protecting Human Rights in Burundi," 13 July 2020, https://www.hrw.org/news/2020/07/15/letter-president-ndayishimiye-protecting-human-rights-burundi (accessed on 31 July 2020).[240]

Amnesty International highlighted in August 2020 the promises of Ndayishimiye with regards to accountability and an end to impunity:

> In his inauguration speech, President Ndayishimiye said that "all those who commit crimes, whether government members or other dignitaries, must be brought before the competent jurisdictions. All crimes must be punished to avoid falling into the same mistakes as in the past." He also promised reform of the justice sector. Amnesty International encourages the new government to ensure prompt, impartial, independent and effective investigations are conducted into human rights violations and abuses. Members of the security forces suspected of responsibility for such violations, and any officials who ordered or condoned such crimes, should be suspended pending investigations and where there is sufficient admissible evidence, those suspected of criminal responsibility should be prosecuted in fair trials.[241]

In her global human rights update in September 2020, Michelle Bachelet, UN High Commissioner for Human Rights, stated that "In Burundi, steps taken since July to arrest and prosecute members of the ruling party youth wing, senior police officers and local administrators who have allegedly committed extortion and other crimes are encouraging".[242]

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[240] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1 to 4*
[241] Amnesty International, *Burundi: Human rights priorities for new government*, 11 August 2020
[242] UN Office of the High Commissioner for Human Rights (OHCHR), *In her global human rights update, Bachelet calls for urgent action to heighten resilience and protect people's rights*, 14 September 2020

Similarly, in September 2020, the Commission of Inquiry on Burundi reported in an oral briefing that:

> […] the Commission has noted the first signs of departure from widespread impunity since the establishment of the new Government, specifically with the condemnation, in July 2020, of two Imbonerakure to a 15-year prison term for having kidnapped and killed Richard Havyarimana, a CNL [National Congress for Liberty] member, in May 2020. In addition, on 13 August 2020, 13 persons, including 3 policemen, 2 local administration officials, 1 CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] official and 7 Imbonerakure, were sentenced to prison terms varying from 5 to 10 years for having extorted and even assassinated Burundian agricultural workers who were returning from Tanzania.
> While these trials represent an encouraging – but short lived – first step in the fight against the impunity enjoyed by police forces, Imbonerakure, local administrative officials and representatives of the CNDD-FDD party, they remain, at this stage, too few.[243]

In February 2021, TRIAL International released a case update on the trial of two Imbonerakure for the murder of an opposition party member:

> TRIAL International welcomes the condemnation on appeal of two *Imbonerakure* for the murder of an opposition party member. It demonstrates that this league, linked to the ruling party, is not above the law.
> Richard Havyarimana, a member of the opposition party *Congrès national pour la liberté* (CNL), had been abducted in May 2020 and found dead in a river a few days later. In the months preceding his execution, the *Imbonerakure* had repeatedly threatened Mr Havyarimana.
> Officially, the *Imbonerakure* is the youth league of the ruling party in Burundi. In the facts, it acts as a feared militia known for its brutality and the quasi-total impunity they have so far enjoyed.
> On 12 August 2020, the tribunal of Mwaro had condemned two suspects, Dieudonné Nsengiyumva and Boris Bukeyeneza, to 15 years imprisonment. It had also ordered the payment of roughly 5'000 USD to the victim's relatives as compensation. In early February 2021, the Court of Appeal in Bujumbura confirmed this judgment.
> ISOLATED FACT OR GLIMMER OF HOPE?
> "We *welcome this decision, and not just for the satisfaction it brings to the family of Richard Havyarimana. If it marks the end of the* Imbonerakure*'s omnipotence, it also carries a symbolic weight for all the victims of their crimes*" says Pamela Capizzi, Country Coordinator for Burundi at TRIAL International. "*It is now up to the political and judiciary authorities to maintain this momentum: the road to the rule of law is still long*."[244]

The Commission of Inquiry gave the following updated information on impunity in March 2021:

> End human rights violations and fight against impunity

[243] UN Human Rights Council, *Interactive Dialogue on Burundi: Oral briefing Of the Commission of Inquiry on Burundi*, 23 September 2020
[244] TRIAL International, *Condemnation of Two Imbonerakure, an Encouraging Sign in Burundi?*, 18 February 2021

The first positive sign is that the Government has demonstrated that it has the means – whenever it wishes - to control the Imbonerakure by holding some of them accountable for serious crimes and allowing them to be prosecuted and punished adequately, as shown by recent cases of Imbonerakure convicted for the murder of political opponents. This is an encouraging sign in the fight against impunity, and it also has the merit of proving that impunity is not inevitable, nor is it linked to a lack of resources or capacity of the judicial system but rather a matter of political will.

In recent developments, a few agents of the National Intelligence Service (SNR) and other Imbonerakure have also been arrested and detained - some of whom have been frequently mentioned for their involvement in serious human rights violations. Nevertheless, the authorities may wish to clarify their situation, the acts for which they were arrested, any charges against them, as well as the status of the legal proceedings against them. It is important that they too enjoy the protection of the law and that their detention is in strict compliance with the requirements of international human rights law in regards to deprivation of liberty.

Regrettably, we have documented that since President Ndayishimiye has been in office and even in recent months, serious human rights violations have continued to be committed, especially as a result of the numerous security incidents that have taken place since the summer of 2020. Armed clashes and exchanges of fire between members of the security forces, sometimes supported by the Imbonerakure, and members of armed groups, but also cases of attacks on civilians by unidentified groups of armed men have increased. An independent organization reported 308 incidents of this type which resulted in 273 victims among the police and security forces, the Imbonerakure,3 and members of armed groups but also the civilian population between 18 June 2020 (inauguration date of President Ndayishimiye) and 26 February 2021.4 Such incidents have been documented since 23 August 2020 in the provinces of Rumonge, Bujumbura (rural), Bubanza, and Kayanza.5

This resulted in an increase in the “hunt” for rebels, mainly in locations where the attacks took place and in the border provinces of the country. Repression targeting persons suspected of belonging to or supporting the armed opposition groups responsible for these attacks increased, and was generally based on ethnic and/or political profiling, or simply for having crossed the border. As a consequence, since September 2020, Ex-Fabs soldiers (members of the former Burundian Armed Forces) active or retired as well as members of their families, young men, often of Tutsu origin, and members of opposition parties, mainly from the *Congrès national pour la liberté* (CNL), were victims of extrajudicial executions, enforced disappearances, arrests and arbitrary detentions often accompanied by acts of torture.

Agents of the SNR, sometimes backed by the Imbonerakure, have been identified as the main perpetrators of these violations, as has been the case since 2015. Indeed, several members of the SNR have been implicated in serious human rights violations, even international crimes, but they continue to operate unchallenged. As a reminder, since the constitutional revision of 2018, the SNR falls directly under the authority and responsibility of the President of the Republic. We therefore strongly urge the Head of State to exercise his official authority over the SNR in order to bring an end to these practices and to ensure that the perpetrators are adequately punished.

Every week, lifeless bodies, most bearing signs of violent death, continue to be found in public spaces and are hastily buried by the authorities who do not even make any effort in identifying them, much less try to establish the causes of their death, nor search for the possible perpetrators. If it is impossible as things stand currently to distinguish cases of violations of the right to life from those of common law crimes, the extent of this phenomenon which has been going on for some time and the significant number of these "bloodshed crimes" in the country remain of concern. The Government must recognize the seriousness of this situation and act to rectify it.

> Furthermore, with regard to all the human rights violations committed since 2015, the Government appears to simply want to turn the page, charactering them as mere "misunderstandings", or "unnecessary controversies". […]
>
> 3 Members of the Youth League of the ruling party: Congrès national pour la défense de la démocratie-Forces de défense de la démocratie (CNDD-FDD)
> 4 Data collected and listed by the Armed Conflict Location & Event Data Project (ACLED): https://acleddata.com/dashboard/#/dashboard
> 5 According to ACLED, incidents have been reported, among others, in the following provinces: 23 and 25 August 2020 in Rumonge, 28 August in Bujumbura (rural), 29 August in Bubanza, 30 August in Bujumbura (rural), 6 September in Rumonge, 11-12 September in Rumonge, 26 September in Kayanza. Armed clashes also took place on 21 and 28 November as well as on 5 December 2020, 2, 9 and 16 January 2021, while attacks against the civilian population were reported on 10, 17, and 24 and 31 October, 7, 14 and 28 November, 26 December 2020 and 23 January 2021.[245]

In August 2021, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, published his report as a follow-up on the visit undertaken to Burundi by his predecessor in 2014. He highlighted that:

> The Special Rapporteur notes the progress made in exhuming the remains of victims but regrets, however, the failure to make headway on other aspects of the transitional justice agenda recommended in the visit report, particularly accountability, reparations, land restitution and security and justice sector reform. 8 Moreover, he regrets the failure to prosecute the alleged perpetrators of the serious violations committed since 2015, many of whom hold senior positions in the Government or within the Imbonerakure. He calls on the Government to take immediate action to end impunity and ensure redress for victims and their families, in compliance with its international obligations.[246]

The report of the Special Rapporteur on the situation of human rights in Burundi was published in September 2022. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> III. Human rights concerns
> A. Civil and political rights […]
> 5. Dysfunctions of justice, including the fight against impunity […]
> 34. Independence is the keystone of the judiciary. The Constitution, in this regard, clearly states in article 214 that the President of the Republic, Head of State, is the guarantor of the independence of the judiciary and specifies that he is assisted in this mission by the Superior Council of the judiciary. The same article also lays down the principle of the independence and impartiality of the judicial power in relation to the legislative power and the executive power. If the principle is laid down, the fact remains that in its implementation, the judicial power is to a large extent dependent on the executive power. Thus, article

[245] UN Human Rights Council, *46th Session: Interactive Dialogue on Burundi, Oral briefing of the Commission of Inquiry on Burundi*, 11 March 2021
[246] UN Human Rights Council, *Follow-up on the visits to Burundi, the United Kingdom of Great Britain and Northern Ireland and Sri Lanka Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli*, 5 August 2021, *p. 4/5*

219 of the Constitution provides that the President of the Republic appoints judges on the proposal of the Minister of Justice, after consulting the Superior Council of the Judiciary.
35. Furthermore, the remuneration of magistrates is also controlled and decided by the executive power. There is a structural and deep dependence on the judiciary which casts doubt on its real independence. […]
36. The Special Rapporteur notes a few isolated acts aimed at prosecuting the perpetrators of human rights violations and abuses, such as the imprisonment in Mpimba prison of Gérard Ndayisenga, an agent of the National Intelligence Service, in December 2021.27 Furthermore, he deplores the selective impunity with regard to the prosecution of the alleged perpetrators of serious violations for the benefit of ordinary crimes. He points out that the lack of independence of the judiciary has worsened since the political crisis of 2015.28
37. The Special Rapporteur notes that the Human Rights Committee has recommended that Burundi take all necessary and effective measures to combat impunity, by systematically and in all cases bringing allegations of arbitrary deprivation of the right to life, prompt, impartial and effective investigations to identify those responsible, prosecute them and, if found guilty, condemn them to appropriate penalties and ensure that the families of the victims receive appropriate reparation31. In response, Burundi indicated in its third periodic report received on September 8, 2020 that all allegations of arbitrary deprivation of the right to life known to the administrative, police and judicial authorities were prosecuted and that the perpetrators found guilty were sentenced to appropriate penalties. However, Burundi recognized therein that certain alleged perpetrators of violations of the right to life could escape legal proceedings and convictions because they were not identified or because they had fled to foreign countries, or because there was no evidence32. The Special Rapporteur recalls that Burundi has, within the framework of the 2018 Universal Periodic Review, accepted the recommendations aimed at combating impunity, and agreed to establish a fully transparent and fair judicial system, in accordance with international standards.33. In this regard, the Special Rapporteur recommends, on the one hand, adopting priority measures to put an end to human rights violations and repair the damage suffered, and, on the other hand, implementing the recommendations of treaty bodies, special procedures and the Commission of Inquiry on Burundi. […]

27 Burundi Daily, « Gérard Ndayisenga, un ogre du SNR finit sa course à la prison de Mpimba », 23 décembre 2021.
28 Document de séance de la Commission d'enquête sur le Burundi de 2018, par. 467. […]
31 CCPR/C/BDI/CO/2, par. 13.
32 CCPR/C/BDI/3, par. 54.
33 A/HRC/38/10/Add.1, par. 7 ; et A/HRC/38/10, par. 137.146.[247]

At the end of March 2021, the US Department of State published its annual country report on human rights practices, writing on Burundi:

Section 1. Respect for the Integrity of the Person, Including Freedom from:
A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS

[247] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 8 and 9*

> […] Investigations and prosecutions of government officials and members of the ruling party who allegedly committed arbitrary or unlawful killings were rare. […]
> According to a report by the NGO Ligue Iteka, Bosco Ngabirano, a CNL [National Congress for Liberty] member, was killed on March 29 in Ryansoro commune, Gitega Province, by a group of Imbonerakure. The report indicated Seconde Ndayisenga, the administrator of the commune, ordered the killing. Ngabirano was killed by machete and his tongue was cut out. He was buried on April 1 at the request of the commune administrator and Gitega governor without the presence of his family members who requested an investigation into his killing before burial. As of November, authorities had not initiated an investigation. […]
> On December 28, the first prosecution and sentencing took place against a high-level member of the Imbonerakure. The former vice president of the Gitega chapter of the Imbonerakure, Aime Irambona, was sentenced to four years in prison for premeditated murder in the slaying of a workman who stole items from his home. Five other plaintiffs were also prosecuted in the case and received sentences that ranged from 18 months to life in prison. Aime Irambona is a close relative of President Ndayishimiye and was prosecuted by the newly elected government, despite his membership in the ruling party's youth wing that typically has impunity for its actions, including intimidation through violence. […]
> B. DISAPPEARANCE
> There were numerous reports that individuals were victims of politically motivated disappearances after they were detained by elements of the security forces or in kidnappings where the identities of the perpetrators were not evident. […] There were no reports of efforts to prevent, investigate, or punish such acts. […]
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]
> On March 1, in Gisuru commune, in Ruyigi Province, a group of Imbonerakure beat Pascal Bizumuremyi, a member of parliament from the CNL party and also a police officer. The group was working to prevent CNL members from opening party offices in the region. The group of Imbonerakure was arrested but released without charges several days later.
> There were few reports of investigations or prosecutions for serious abuses of human rights. The extent of impunity was a significant problem in the security forces and their proxies, particularly the Imbonerakure. Factors contributing to impunity included the ruling party's reliance on the Imbonerakure to repress political opposition. There are no significant mechanisms to investigate human rights abuses. The COI [Commission of Inquiry] report stated, "Imbonerakure enjoy considerable latitude in carrying out their activities, conferred on them by the Burundian authorities who have the means to control them, as well as almost total impunity.".[248]

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it reported on Burundi that:

> Richard Havyarimana, a CNL [National Congress for Liberty] member, was abducted in May in Mwaro province and his body was found three days later. In a rare example of accountability, two members of the Imbonerakure were found guilty of his murder. They were sentenced in August to 15 years in prison and ordered to pay his family compensation of BIF10 million (US$5,200). […]
> Throughout the year, the Truth and Reconciliation Commission conducted highly publicized exhumations of mass graves connected to past atrocities. Exhumations were focused on graves linked to the 1972 massacres that primarily targeted Hutu. This focus combined with comments made by public officials was

[248] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

> polarizing and seen as an attempt to impose a single narrative. The exhumations were carried out in a manner which jeopardized the preservation of valuable evidence and failed to ensure respectful storage of human remains.5 […]
>
> 5. Burundi: Human rights priorities for new government (AFR 16/2777/2020).[249]

TRIAL International gave an update on a case of a torture victim in September 2020:

> A case submitted by TRIAL International to the UN Committee Against Torture (CAT) shows just how vulnerable opponents of Burundi's government are.
> Emmanuel (real name withheld) joined an opposition party when Burundi's former president, Pierre Nkurunziza, was still in power. Under Nkurunziza's rule, human rights defenders, journalists, and members of the opposition (both real and perceived) suffered countless acts of violence.
> Among these, torture was, sadly, a common way to stifle dissent. Emmanuel experienced this first-hand when he was stopped and forcibly taken to a detention facility infamous for being a torture hotspot.
> For a week, the victim was subject to the worst forms of abuse during interrogations. He had no access to legal or medical help and was not even able to contact his family, who had no idea where he was.
> PERSECUTED TO THIS DAY
> After a week, Emmanuel was released on the condition that a ransom be paid. Once relieved from it, he fled abroad. Unfortunately, his safety is far from guaranteed and he still suffers from the sequelae of the torture. One of Emmanuel's tormentors was even granted new responsibilities.
> Pierre Nkurunziza is no longer the president of Burundi and his successor, Evariste Ndahishimiye, has promised to improve the human rights situation and the fight against impunity. As it stands, however, Emmanuel is yet to get justice.
> In light of the crimes Emmanuel suffered and his current difficulties, TRIAL International has brought the case to the UN Committee Against Torture (CAT). The procedure is underway.[250]

They released another case update highlighting impunity in Burundi in April 2021:

> Quentin (real name withheld) belongs to a Burundian opposition party that has been targeted by the authorities. In 2014, during a party meeting, the Burundian police burst in and opened fire, deliberately wounding Quentin.
> The next day, despite his clearly critical condition, Quentin was arrested. He was then beaten with rifle butts, boots, and clubs.
> Even though Quentin was too weak to stand, the authorities insulted him and threatened him with death over a period of four hours, before finally taking him to the hospital.
> The respite was short-lived. Before Quentin could fully recover, the authorities took him out of the hospital and put him in prison, where he remains to this day in inhumane and degrading conditions. As a result of the authorities' continued refusal to provide adequate care, Quentin acquired an infection in his forearm that has left him partially paralyzed.
> LITIGATION

[249] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 105 and 106*
[250] TRIAL International, *Political Opponent In Burundi Tortured And Held For Ransom*, 15 September 2020

> Quentin filed a complaint about his mistreatment, and NGOs and media outlets investigated the case. Yet no investigation has been conducted by the Burundian authorities. Quentin's torturers were never punished by the state.
> In 2016, TRIAL International filed a submission with an international human rights body, seeking formal recognition of and reparations for the human rights violations Quentin suffered. The case is currently pending.[251]

Freedom House reported on Burundi in its March 2021 Freedom in the World report, covering 2020. On impunity, it reported:

> Political Rights […]
> C Functioning of Government […]
> C2 0-4 pts
> Are safeguards against official corruption strong and effective? 0/4
> Corruption is endemic, though President Ndayishimiye vowed to address corruption during his swearing-in ceremony. Corrupt officials generally enjoy impunity, even when wrongdoing is exposed by nongovernmental organizations (NGOs) and other actors. Anticorruption organizations are underresourced and ineffective. […]
> Civil Liberties […]
> F Rule of Law
> F1 0-4 pts
> Is there an independent judiciary? 0/4
> The judiciary is hindered by corruption and a lack of resources and training, and is generally subservient to the executive. […] The executive regularly interferes in the criminal justice system to protect CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and Imbonerakure members, as well as persecute the political opposition. […]
> G Personal Autonomy and Individual Rights […]
> G3 0-4 pts
> Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 1/4
> Sexual and domestic violence are serious problems but are rarely reported to law enforcement agencies. Rights monitors continue to report sexual violence carried out by security forces and Imbonerakure, who act with impunity. Women are often targeted for rape if they or their spouses refuse to join the CNDD–FDD, and men sometimes experience sexual abuse while in government custody. […]
> G4 0-4 pts
> Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1/4 […]
> The government has conducted some trainings for government officials on handling cases of human trafficking. However, the government has largely failed to prevent domestic human trafficking, to protect victims, and to prosecute perpetrators.[252]

The February 2022 Freedom in the World report, covering 2021, reported similarly.[253]

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[251] TRIAL International, *The "Quentin" Case in Burundi Highlights Police Impunity*, 18 April 2021
[252] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[253] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

In May 2021, Human Rights Watch released a report on abusive prosecutions in Burundi, as well as the repression of free speech and civil society. It wrote that:

> "The government should go beyond symbolic gestures of good faith to address the entrenched system of repression under the late President Pierre Nkurunziza," said Lewis Mudge, Central Africa director at Human Rights Watch. "Substantive reforms are needed to address the lack of judicial independence, politicized prosecutions, and the absence of accountability for abuses committed since 2015." […]
> Alleged abusers have been arrested and prosecuted in only a few cases, although their trials often lacked transparency.[254]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights. It reported on the role and continued abuses of the Imbonerakure, as well as the police and National Intelligence Service:

> 1. THE *IMBONERAKURE*: TWO STEPS FORWARD, ONE STEP BACK […]
> No real accountability
> These variations across the country were reflected in the *Imbonerakure*'s reactions to President Ndayishimiye's repeated statements about accountability: some took them seriously, while others felt he was merely playing to the crowd. One issue they seemed to agree on: the president wouldn't call for investigations into the many crimes committed by *Imbonerakure* before he came to power. […] So far, accountability for past abuses – even those committed as recently as 2019 or 2020 – remains woefully absent.
> One of the few exceptions is the conviction of two *Imbonerakure* sentenced to 15 years in prison for murdering Richard Havyarimana, a CNL [National Congress for Liberty] member in Mwaro, two weeks before the 2020 presidential elections.20 […] When another *Imbonerakure* attacked Havyarimana's father in May 2021 and tried to arrest him, the police prevented him from doing so. The *Imbonerakure* later still managed to arrest Havyarimana's father, but the *commune* administrator apparently played a positive role and tried to protect him, in contrast with the negative role that the authorities played when Havyarimana was killed. Havyarimana's father was later released.21
> Despite the president's stated intention to crack down on abuses, the risk of prosecution doesn't seem to deter all members of the youth league. […] During his tenure as secretary general of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] from August 2016 until his election as president in May 2020, Ndayishimiye made little visible efforts to rein in the *Imbonerakure*.23
> […] *Imbonerakure* are more likely to be kept in detention when they have committed a crime against a fellow CNDD-FDD member, rather than against a perceived political opponent. In many other cases, they are released following pressure by party or government officials, or never arrested in the first place.24 Imbonerakure are more likely to be disciplined by their own party than held to account through legal proceedings. *Imbonerakure* members mentioned at least three recent cases, in different provinces, in which members accused of petty crimes were beaten in the CNDD-FDD's offices, then released. An *Imbonerakure* leader knowledgeable about one such case said: "Now, any *Imbonerakure* accused of a crime is not imprisoned, but punished straightaway in the different party offices, unless the crime was ordered by a senior party official."25

[254] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021

Given the absence of real accountability, it's unclear how long the current lull in abuses will last. […]

2. THE POLICE AND INTELLIGENCE SERVICE: ANTI-CORRUPTION DRIVE MASKS SERIOUS HUMAN RIGHTS VIOLATIONS

A drive to purge certain SNR [National Intelligence Service] agents […]

President Ndayishimiye gave Habarurema the green light to crack down on corrupt practices by SNR agents, but not, it seems, on politically motivated human rights violations. Ndayishimiye has allowed some of the architects of the political repression during the 2015 demonstrations against Nkurunziza's third term to take up senior positions in the SNR, including Alfred Museremu, head of the department of internal intelligence since 2020, and Alexis Ndayikengurukiye, alias Nkoroka, who works in the SNR operations department. Both men have been involved in serious human rights violations since 2015.41 […]

The government's silence on torture and killings

Ndayishimiye and Habarurema have allowed torture to continue at the SNR. In late 2020 and early 2021, SNR provincial officials regularly sent detainees accused of collaborating with the armed opposition to their headquarters in Bujumbura where they were tortured. In contrast, in several provinces, including Muyinga, Makamba and Bubanza, the new provincial SNR heads appointed after the 2020 elections are not known to have been involved in serious human rights violations since taking up their posts.

Early in Ndayishimiye's first year in power, police and SNR agents arbitrarily arrested scores of CNL members, brutally beating many of them, especially following incursions by armed groups in August and September 2020, during which armed assailants killed at least 16 people, including several CNDD-FDD members.48

In January 2021, police and intelligence agents in Rumonge province tortured or killed several people suspected of having links with armed groups. […]

Even more recently, in April 2021, several CNL members were arrested on accusations of collaborating with the armed opposition or other acts of violence. BHRI documented the cases of three CNL members who were taken to the SNR headquarters in Bujumbura, where they were tortured. […]

Ndayishimiye has remained silent about these killings and torture. His numerous statements on justice and ending impunity do not seem to apply when police kill or torture suspected armed opponents or when they arbitrarily arrest political opponents who are later tortured by the SNR.

Yet in an address at a police training school in Bubanza on 11 June 2021, Ndayishimiye implicitly alluded to human rights violations by the police. He exhorted the police to act with neutrality, to play the role of mediators and to defend the rights of all Burundian citizens. "Someone who violates human rights, whether he's big or small, we don't want any such person to have a place in this country," he said. He warned that he would not take responsibility for violations they commit under his watch: "I won't accept that tomorrow, they say Ndayishimiye's government protected killers because they were from the same family, ethnic group or province. I'm instructing you as your commander-in-chief, because I would be the one responsible."54 […]

20 The Burundi Human Rights Initiative, "Richard Havyarimana", The Deadly Price of Opposition, https://burundihri.org/english/index2.html#1, June 2021.

21 Interview with confidential source, 25 May 2021. […]

23 The Burundi Human Rights Initiative, "Party loyalist or reformer? The man who could become Burundi's next president", https://burundihri.org/rep/Report-Apr-2020-Engl.pdf, April 2020.

24 Interviews with magistrate and judge, 8 April and 15 May 2021.

25 Interview with Imbonerakure member, 28 April 2021. […]

41 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future,", https://burundihri.org/rep/Report-Dec- 2020-Engl.pdf, December 2020. See also "Enquête de l'APRODH sur la composition, les abus, les responsabilités,

impunité au Service national de renseignement du Burundi/Organe cité dans les violations des droits humains", https://www.focode.org/574/, 25 August 2016, and Ndondeza,"Disparition forcée de Savin Nahindavyi, Officier du SNR", https://ndondeza.org/declaration-du-focode-n0052017-du-16-mars-2017/. […]
48 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020. […]
54 Extracts from speech by President Ndayishimiye at Mitakataka (Bubanza), https://www.youtube.com/watch?v=QmCU9aiG8OE, 11 June 2021. See also Présidence, "Le Chef de l'État demande aux forces de l'ordre de jouer le rôle de vrai médiateur", https://www.presidence.gov.bi/2021/06/11/le-chef-de-letatdemande-aux-forces-de-lordre-de-jouer-le-role-de-vrai-mediateur/, 11 June 2021, and SOS Médias, "Évariste Ndayishimiye refuse de cautionner tout écart des policiers", https://www.sosmediasburundi.org/2021/06/12/bubanzaevariste-ndayishimiye-refuse-de-cautionner-tout-ecart-des-policiers/, 12 June 2021.[255]

Human Rights Watch published an interview with its Central Africa director Lewis Mudge on 18 July 2021, on the steps Ndayishimiye has taken since election. It reported that:

> Ndayishimiye, who belongs to a small group of generals who fought during the civil war and have been controlling the country ever since, has publicly recognized that reforms are needed. However, his promises to end impunity, promote political tolerance, and make the justice system more impartial and fair have yet to be translated into true progress. Grave human rights violations, including extrajudicial killings, enforced disappearances, torture, and arbitrary arrests have continued during his term, although to a lesser extent than under Nkurunziza. Efforts to investigate have been insufficient. While a few agents of the National Intelligence Service (SNR) have been arrested and detained, and some members of the ruling party's youth league, the Imbonerakure, have been convicted for the murder of political opponents, not a single high-level person responsible for past abuses and killings has been held to account.[256]

An open letter to the EU in June 2021, signed by the BHRI as well as eleven other organisations, stated that:

> In 2016, the EU asked the Burundian government to investigate allegations of torture and extra-judicial killings, and to follow up on the conclusions of such investigations. At the height of Burundi's political crisis in 2015 and 2016, police and intelligence agents tortured scores of suspected government opponents and killed many others. No credible investigations have taken place. Dozens of new torture cases have been documented since the 2020 elections, and at least one detainee died in detention after being tortured by intelligence agents in 2021. The 2016 decision requested the participation of international experts in such investigations, but the Burundian government forced the Office of the UN High Commissioner for Human Rights to close its office in Burundi in 2019 and does not allow the UN Commission of Inquiry or international human rights organizations access to the country.[257]

[255] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *p. 9, 10, 13, 15, and 16*
[256] Human Rights Watch, *Interview: Reforms, Not Gestures, Are Needed to Solve Burundi's Human Rights Crisis*, 18 June 2021
[257] The Burundi Human Rights Initiative (BHRI) et al., *Open letter: the EU should honor its commitments to human rights in Burundi*, 21 June 2021, *p. 3*

At the beginning of July 2021, the US Department of State published its annual 2021 report on trafficking, writing on Burundi:

> PROSECUTION […]
> Corruption and official complicity in trafficking crimes remained significant concerns, potentially inhibiting law enforcement action during the year. […]
> Observers reported many arrests were not elevated to prosecution because of insufficient evidence, corruption, and interference of high-ranking officials. Authorities reported the pandemic modestly inhibited the government's ability to collect evidence and victim testimony during trafficking investigations due to limitations on in-person meetings. […]
> TRAFFICKING PROFILE
> Observers allege male tourists from East Africa and the Middle East, as well as Burundian government employees, including teachers, police officers, military, and prison officials, are complicit in child sex trafficking by procuring Burundian girls.[258]

At the beginning of August 2021, the Special Rapporteur produced a follow-up report on, among other visits, that of his predecessor to Burundi in 2014. The reported stated that:

> II. Follow-up on the visit to Burundi […]
> 12. The Special Rapporteur notes the progress made in exhuming the remains of victims but regrets, however, the failure to make headway on other aspects of the transitional justice agenda recommended in the visit report, particularly accountability, reparations, land restitution and security and justice sector reform.8 Moreover, he regrets the failure to prosecute the alleged perpetrators of the serious violations committed since 2015, many of whom hold senior positions in the Government or within the Imbonerakure. He calls on the Government to take immediate action to end impunity and ensure redress for victims and their families, in compliance with its international obligations. […]
> Table 1
> Burundi: status of implementation of recommendations […]
> The failure of the authorities to bring an end to the continuing violence and human rights violations in Burundi is of deep concern. Impunity for serious violations remains endemic, with a few exceptions reported recently.9 […]
>
> 8 A/HRC/45/CRP.1, para. 783.
> 9 A/HRC/45/CRP.1, paras. 159–160, 291 and 569–577. See also https://trialinternational.org/wp-content/uploads/2020/12/Burundi_Overview-of-the-judicial-sysytem_short-version_202012_EN.pdf.[259]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi:

> III. Human rights situation

[258] US Department of State, *2021 Trafficking in Persons Report: Burundi*, 1 July 2021
[259] UN Human Rights Council, *Follow-up on the visits to Burundi, the United Kingdom of Great Britain and Northern Ireland and Sri Lanka: Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli*, 5 August 2021, *p. 4 and 5*

18. […] 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.

F. General population […]

2. Main violations […]

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 [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. […]

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

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. […]

> V. Risk factors
> A. Overview […]
> 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. […]
>
> 26 See https://ligue-iteka.bi/wp-content/uploads/2021/06/ Lettre_au_President_Evariste_Ndayishimiye_du_18_juin_2021.pdf.[260]

In a September 2021 press release by the UN Human Rights Council, it stated that "agents of the National Intelligence Service (SNR), police officers – including from the Mobile Rapid Intervention Groups (GMIR) - and the Imbonerakure, the youth-league of Burundi's ruling party CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], known for their brutality, are the main perpetrators of […] violations, some of which could amount to crimes against humanity. They continue to enjoy widespread impunity for their actions, as has been the case since 2015".[261]

Human Rights Watch reported in September 2021 on continued impunity for deaths in Cibitoke:

> New Human Rights Watch research in Cibitoke found that Burundian intelligence services, security forces, and members of the ruling party's youth league, the Imbonerakure, have allegedly killed, disappeared, and tortured real or perceived political opponents and people suspected of having ties with Burundian rebels in neighboring Democratic Republic of Congo. […]
> Although Ndayishimiye has pledged to end impunity and corruption, and made some attempts to rein in the Imbonerakure, reports of killings, enforced disappearances, and torture, often of real or perceived political opponents, continue across the country.[262]

In November 2021, BHRI released a report on the rise in torture and disappearances in Burundi. It stated that:

> Tolerating violence: the president's vision threatened by hardliners
> Since mid-2021, Burundi's approach to human rights has taken a concerning turn for the worse. […]
> Arakaza, police commissioner of Mugamba commune, in Bururi province, until 25 August 2021, has a history of violence against suspected opposition members. When he arrived in Mugamba in January 2021, he started arresting and torturing people he claimed supported the armed opposition. […]

[260] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5, 11, 12, and 15*
[261] UN Human Rights Council, *Burundi: Behind a façade of normalization, grave human rights violations continue, and the democratic space remains closed*, 16 September 2021
[262] Human Rights Watch, *Burundi: Allegations of Killings, Disappearances, Torture*, 17 September 2021

> Arakaza's systematic brutality has been so extreme, and affected so many residents of Mugamba, that it attracted media attention. But instead of investigating his actions and holding him accountable, government officials chose a less confrontational approach, one often used by the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]: they redeployed him, transferring him to Bujumbura province, another opposition stronghold. In 2021, President Ndayishimiye has removed or arrested some well-known human rights violators in the SNR [National Intelligence Service] and transferred some, including Nkurunziza loyalists, to Burundian embassies abroad. But for lower-level officials like Arakaza, he appears to rely on speeches and "moralising" sessions, hoping they will absorb his message and be persuaded to change, rather than holding them to account through the justice system. The combination of violent attacks by unidentified groups and the government's unwillingness to hold state agents accountable has led to a resurgence of serious human rights abuses in 2021. […]
>
> The recent increase in enforced disappearances, torture and arbitrary arrests should raise a red flag for international actors, as they witness the government turning a blind eye to the kinds of human rights violations that characterised the Nkurunziza era. […]
>
> Privately, senior judicial and police officials have admitted that they knew about Arakaza's crimes, but are not known to have taken any punitive measures against him for the many human rights violations he committed in Mugamba.24 […]
>
> 24 Conversation with private source, 6 August 2021.[263]

In December 2021, a UN press release reported on the UN Torture Committee, deploring the lack of cooperation of the Burundi government in torture complaints procedures:

> The UN Committee against Torture has deplored Burundi's lack of cooperation in the individual complaints procedure and its failure to implement the Committee's decisions in all cases where human rights violations were found.
>
> In its latest decision published today, the Committee found that R.M., a political activist for Mouvement pour la solidarité et la démocratie (MSD), was a victim of torture in 2014 when the Burundian authorities routinely denied public assemblies ahead of the 2015 elections.[…]
>
> R.M.'s case is the latest among 14 torture complaints against Burundi that have been examined by the Committee since 2014. The Committee found the State party had violated its obligations to the Convention in all these cases. Burundi, however, provided follow-up information on the measures taken to implement the Committee's decisions only on one of those decisions.[264]

In June 2022, in an interview with the World Organisation Against Torture (OMCT), Claude Heller, a member of the UN Committee against Torture (CAT), stated that "We are trying to make the CAT more visible by bringing to public attention such flagrant cases as that of Burundi, which is failing to comply in

[263] The Burundi Human Rights Initiative (BHRI), *Behind the gate: A rise in torture and disappearances*, November 2021, *p. 4 to 6, 11, and 12*

[264] UN Office of the High Commissioner for Human Rights (OHCHR), *Burundi: UN Torture Committee deplores lack of cooperation in torture complaints procedure*, 21 December 2021

the least with its treaty obligations and where the grave violation of human rights requires international attention".[265]

In January 2022, SOS-Torture Burundi released a quarterly report on the human rights situation in Burundi from 1 October to 31 December 2021. It spoke of the impunity around events such as the fire at Gitega prison, writing that:

> SOCIOPOLITICAL CONTEXT […]
> One extremely serious incident has laid bare the persistence of criminal practices by the Burundian state and belies the rhetoric of covering up unspeakable acts with secrecy and impunity. This is the way in which the fire at Gitega prison and its consequences, which occurred on 7 December 2021, were handled. It is one of the most emblematic of this contradictory way of doing things. In this regard, several disturbing facts have raised questions about the responsibility of the state in this disaster:
> • The first question is linked to the slowness of the fire brigade's intervention, which is said to have taken four hours, even though the fire engine was only a few yards from the prison. During this time, instead of opening the various dormitories whose entrances were locked, police and military personnel cordoned off the area around the prison, officially to prevent any escape.
> • The second controversy concerns the death toll. Government officials, including the Vice President and ministers, went immediately to Gitega and a death toll of 38 and 69 injured was announced. Members of the Red Cross, initially involved in collecting the burnt bodies, were later dismissed and kept away along with journalists. Only police and army personnel were allowed to put the bodies in body bags3. The burial of the victims took place the same day, at nightfall, in secret, without identification of the bodies. On 29 December 2021, the official death toll was revised to 46 and announced by the President of the Republic during a public broadcast4. Several NGOs, including the Human Rights League Iteka, have claimed that the death toll is over 300.5
> • Finally, the last disturbing fact is the way in which the victims were buried in an "express and furtive" manner without the knowledge of the families but, paradoxically, President Evariste Ndayishimiye affirms that "everyone knows that they were buried and in a decent manner. There was even a prayer6. […] Some relatives of the victims who tried to inquire about their dead relatives learned this the hard way, they were threatened or imprisoned, showing that a certain omerta had been decreed on this fire by the Burundian government and reinforcing the doubts expressed about both the causes of the fire and the number of victims. […]
>
> 3 https://www.rfi.fr/fr/afrique/20211207-burundi-un-incendie-%C3%A0-la-prison-centrale-de-gitega-fait-desdizaines-de-morts
> 4 https://www.burundidaily.net/post/des-questions-qui-derangent-et-revelent-letat-desprit-du-regime-degitega-le-president-burundais-pete-les-plombs-suite-a-une-question-osee-sur-les-calcines-de-la-prison-degitega
> 5 https://www.msn.com/fr-fr/actualite/monde/au-burundi-des-ong-soup%C3%A7onnent-une-v%C3%A9ritableh%C3%A9catombe-dans-l-incendie-de-la-prison-de-gitega/ar-AAS2mr9
> 6 https://www.iwacu-burundi.org/neva-face-aux-citoyens/[266]

[265] World Organisation Against Torture (OMCT), *Blog - "The international community is facing one of the most critical periods in recent decades"*, 15 June 2022
[266] SOS-Torture Burundi, *Quarterly report on the human rights situation in Burundi from 1st October to 31 December 2021 - Burundi: Empty Promises*, January 2022, *p. 3*

In March 2022, BHRI released a report on human rights abuses and impunity in Burundi linked to torture. It stated that:

> […] 4. Promises and more promises […]
> While the president publicly delivers positive messages and vows that state agents responsible for human rights violations will be brought to justice, he has been unable or unwilling to rein in most of the perpetrators, allowing enforced disappearances and torture to continue. While he insists that the justice system is independent and legal processes will be followed, scores of people are abducted and detained secretly, in blatant contempt of the law, and convicted in unfair trials. The justice system – the cornerstone of any lasting reform – continues to do the bidding of the ruling party, which unashamedly uses it as a tool to crush its opponents.
> The 2020 elections that brought President Ndayishimiye to power had created a moment of genuine hope. […] But more than a year and a half later, despite some initial positive gestures, patterns of human rights violations remain entrenched.37 Certain aspects have even worsened over the past year, as hardliners in the ruling party, the SNR and the security forces pursue their strategy of violent repression, regardless of the president's pronouncements. […]
> But behind the public relations exercise, the repression remains extremely harsh and the tactics have barely changed: while overt killings by the security forces have decreased since the height of the 2015 crisis, the behaviour of the SNR and many individuals in the CNDD-FDD towards suspected opponents today is strikingly similar to their behaviour before Ndayishimiye came to power.
> Occasionally, there is a public outcry when an egregious case is exposed through the media. Then the president makes another speech: more promises, more warnings to those who commit abuses. This was notably the case after he acknowledged Augustin Matata's death in December 2021 and promised that those responsible would be brought to justice.
> In the same broadcast, the president also admitted, for the first time – albeit in vague terms – that some security officials had been responsible for abductions. However, he played down the magnitude of the problem and the extent to which abductions are organised from the top down, giving the impression it was the work of a few individuals: "(The journalist) talked about those who have been abducted... We are going after that group and some have already been arrested. We found that among them, there were some (officials) responsible for security... The government of the country and the judicial police are there to deal with that and we are continuing to look for them."39 Previously, he and other government officials had either flatly denied reports of disappearances and abductions, or advanced implausible explanations as to why certain individuals had gone missing. To BHRI's knowledge, no security officials have so far been prosecuted for their role in abductions. […]
>
> 37 For an overview of the human rights situation during President Ndayishimiye's first year in power, see The Burundi Human Rights Initiative, "Ndayishimiye one year on: has he kept his word on human rights?", https://burundihri.org/rep/Report-June-2021-Engl.pdf, June 2021. […]
> 39 End of year radio broadcast by President Ndayishimiye, 29 December 2021.[267]

The US Department of State's 2022 annual country report on human rights practices in 2021 detailed a number of instances of impunity by officials in Burundi:

[267] The Burundi Human Rights Initiative (BHRI), *The Road Ahead: Will Burundi bring its torturers to justice?*, March 2022, *p. 6 to 11, 13, 14, 24, and 25*

EXECUTIVE SUMMARY […]

The government took steps to identify, investigate, prosecute, and punish officials and members of the ruling party who committed human rights abuses or were involved in corruption. Observers however continued to report intimidation and violence by members of state security forces and their proxies throughout the year. Impunity for government and ruling party officials and for their supporters and proxies remained a problem. […]

The Imbonerakure, the youth wing of the ruling party, has no official arrest authority, but some members were involved in or responsible for numerous human rights abuses. […] The government investigated and prosecuted some alleged abuses by the Imbonerakure, although it did not do so consistently. […]

Section 1. Respect for the Integrity of the Person

A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS

[…] Investigations and prosecutions of government officials and members of the ruling party who allegedly committed arbitrary or unlawful killings occurred but were rare. Responsibility for investigating such killings lies with the Burundi National Police, which is under the Ministry of Interior, Community Development and Public Security, while the Ministry of Justice is responsible for prosecution. […]

B. DISAPPEARANCE […]

Persons crossing the Rusizi River to travel between the DRC and the country's Cibitoke Province for personal business were reported missing, and their fate remained unknown. In October a delegation from the presidency visited the province to meet with local officials concerning the bodies, but there were no reports of government efforts to investigate or punish such acts.

In a public question and answer session held on December 29, President Ndayishimiye acknowledged there were cases of disappearances and assured the public the government was conducting investigations into the cases. The president also stated there were criminals among members of the security forces who operated on their own and who did not follow orders from their government organizations. The BHRI reported that some judicial police officers were forbidden by their superiors from investigating disappearances. […]

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]

NGOs reported cases of torture committed by security services or members of the Imbonerakure. […]

From January through August, the BHRI documented several cases of torture allegedly committed by Moise Arakaza, who was then police commissioner of Mugamba Commune, Bururi Province. […] Despite BHRI reporting that senior judicial and police officials knew about these abuses, authorities had not held Arakaza accountable as of November.

There were some reports of investigations and prosecutions for serious abuses of human rights, although limited enforcement meant impunity in the security forces remained a problem. Media reported cases of state agents arrested, detained, and sometimes convicted for acts related to human rights abuses. On December 10, the Independent National Commission on Human Rights (CNIDH) released a statement that it had investigated and confirmed two reported cases of torture by members of the SNR. The COI [Commission of Inquiry] reported, however, many state agents arrested were later released and that the outcomes of proceedings against those still in detention remained uncertain. Factors contributing to impunity included the ruling party's reliance on the Imbonerakure, the lack of judicial independence, and reprisals against individuals reporting abuses. There were no sufficient mechanisms to investigate human rights abuses committed by security forces. […]

Administration: Prison authorities allowed prisoners to submit complaints to judicial authorities without censorship, but authorities rarely investigated the complaints. There were credible reports of mistreatment of prisoners, such as long stays in solitary confinement, but no record that any abusers were held to account or punished. […]

D. ARBITRARY ARREST OR DETENTION […]

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, but the government did not implement the law effectively. There were numerous reports of government corruption during the year. Some high-level government officials engaged in corrupt practices with impunity. The constitution provides for the establishment of a High Court of Justice to review accusations of serious crimes against high-ranking government officials, but the court does not yet exist. The anticorruption law also applies to all other citizens, but no high-ranking official to date has stood trial for corruption. […]

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights […]

Government Human Rights Bodies: Parties to the Arusha Peace and Reconciliation Agreement of 2000 committed to the establishment of an international criminal tribunal, which had yet to be implemented, and a national Truth and Reconciliation Commission (TRC), which was adopted into law in 2014. […]

Some CSOs and opposition political figures raised concerns that the TRC was deliberately focusing on the events of 1972 to favor the Hutu ethnic group. […] CSOs indicated that some of the TRC commissioners represented the interests of the ruling party and were not impartial and that a lack of qualified experts adversely affected the TRC's ability to operate. […]

The Office of the Ombudsman has a mandate to investigate complaints regarding human rights abuses committed by civil servants, the judiciary, local authorities, public institutions, and any other public entities. The office is also focused on the establishment of community mediation and conflict prevention mechanisms.

The CNIDH, a quasi-governmental body charged with investigating human rights abuses, exercised its power to summon senior officials, request information, and order corrective action. In June the Global Alliance of National Human Rights Institutions (GANHRI) reaccredited the CNIDH with "A" status, the highest label of independence available, after it was provisionally downgraded in 2016 and suspended by GANHRI in 2018. Nevertheless, some observers continued to raise questions concerning the organization's independence and ability to work on politically sensitive cases without government interference. The CNIDH was active in promoting and defending human rights including freeing opposition members imprisoned during the electoral period, increased interaction with the international community, advocacy to improve prison conditions and a focus on general human rights topics like gender-based violence, trafficking in persons, and children and worker's rights. Over the course of the year, the CNIDH increased its reporting to the government and the public, including announcing for the first time it completed an investigation into allegations of torture by SNR employees.[268]

Human Rights Watch published a piece in May 2022 on the detention, killings, and torture of suspected opponents at the hands of the security forces in Burundi. It reported that:

> On April 28, Pierre Nkurikiye, the spokesperson for the Interior, Public Security and Community Development Ministry, told the media that in cases of alleged disappearances, family members should make a complaint to judicial or administrative authorties so that they can investigate.
>
> In at least two cases Human Rights Watch documented, families or victims reported that local authorities intervened to have people released or to put an end to the harassment of victims. However, to the best of Human Rights Watch's knowledge, the authorities did not initiate a credible investigation for the cases documented, make any findings public, or hold those responsible to account. […]

[268] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

> Kayanza province […]
> A series of attacks took place in several provinces of Burundi in 2020 and 2021. In September 2020, at least six civilians were killed and three wounded in an attack in Matongo commune, Kayanza province, attributed to an unidentified armed group, a local administrator said. Local residents continued to report and express fear about the presence of armed men in or around the Kibira forest, and increasing repression targeting members of the CNL [National Congress for Liberty] opposition party.
> The authorities rarely conducted transparent investigations with publicly available findings into these attacks, which have left dozens of civilians dead in recent years. The authorities instead generally have cracked down on those suspected of being members of the armed assailants or more broadly suspected of opposing the government, regardless of whether they had links with the assailants or the attacks. […]
> Cibitoke Province […]
> Many victims interviewed said they continued to live side by side with their tormentors, and feared being targeted again.[269]

The BHRI sent an open letter to President Évariste Ndayishimiye on the lack of justice thus far for political killings, published in June 2022 and found: "Among the 12 cases listed above, there are only two in which there has been progress in bringing some of those responsible to justice. The impunity protecting the perpetrators of the other killings is typical of almost all the serious human rights violations against real or perceived government opponents in the last two years".[270]

At the end of June 2022, the International Federation of Action by Christians for the Abolition of Torture (FIACAT), including ACAT Burundi, released an oral statement. One sentence, translated from French to English using Google Translate, read that they were "concerned about the recent establishment of a Force de Réserve et d'Appui au Développement (FRAD) which could cover up the criminal actions of the government".[271]

Human Rights Watch reported on 5 August 2022 on a speech by a public official in Burundi praising past violators of human rights. It reported that:

> The head of Burundi's ruling political party gave an appalling speech at a public event this week commemorating Lt. Gen. Adolphe Nshimirimina, who, before he was killed seven years ago, oversaw human rights violations including the killing, torture, and arbitrary arrest of suspected political opponents.
> The speech was given by Révérien Ndikuriyo, the secretary general of the Burundi's ruling party, to which Nshimirimina also belonged, the National Council for the Defense of Democracy - Forces for the Defense

[269] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[270] The Burundi Human Rights Initiative (BHRI), *Two years on, no justice for political killings: An open letter to President Évariste Ndayishimiye*, 30 June 2022
[271] International Federation of Action by Christians for the Abolition of Torture (FIACAT), *FIACAT oral statement co-sponsored by CCPR Centre, EurAc, Protection international Africa and OMCT: Item 4 - Interactive dialogue with the Special Rapporteur on Burundi, 50th session of the Human Rights Council*, 29 June 2022 [Déclaration orale de la FIACAT co-sponsorisée par CCPR Centre, EurAc, Protection international Africa et OMCT: Point 4 - Dialogue interactif avec le Rapporteur spécial sur le Burundi, 50ème session du Conseil des droits de l'Homme]

> of Democracy (Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie, CNDD-FDD). Ndikuriyo's words were a slap in the face for Nshimirimana's victims. […]
> This week, Ndikuriyo's defiant speech shows how little interest ruling party leaders have in addressing the country's abysmal human rights record.[272]

In August 2022, the GCR2P, along with fifty-four other organisations, wrote an open letter to permanent representatives of member and observer states of the UN Human Rights Council to encourage the extension of the Special Rapporteur's mandate. It reported that "Impunity remains widespread, particularly relating to the grave crimes committed in 2015 and 2016. Police and security forces, the National Intelligence Service (SNR), and the *Imbonerakure* (the ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party youth wing) are responsible for most of these violations".[273]

In September 2022, the report of the Special Rapporteur on the situation of human rights in Burundi was released. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> III. Human rights concerns
> A. Civil and political rights […]
> 5. Dysfunctions of justice, including the fight against impunity […]
> 36. The Special Rapporteur notes a few isolated acts aimed at prosecuting the perpetrators of human rights violations and abuses, such as the imprisonment in Mpimba prison of Gérard Ndayisenga, an agent of the National Intelligence Service, in December 2021.27 Furthermore, he deplores the selective impunity with regard to the prosecution of the alleged perpetrators of serious violations for the benefit of ordinary crimes. He points out that the lack of independence of the judiciary has worsened since the political crisis of 2015.28
> 37. The Special Rapporteur notes that the Human Rights Committee has recommended that Burundi take all necessary and effective measures to combat impunity, by systematically and in all cases bringing allegations of arbitrary deprivation of the right to life, prompt, impartial and effective investigations to identify those responsible, prosecute them and, if found guilty, condemn them to appropriate penalties and ensure that the families of the victims receive appropriate reparation31. In response, Burundi indicated in its third periodic report received on September 8, 2020 that all allegations of arbitrary deprivation of the right to life known to the administrative, police and judicial authorities were prosecuted and that the perpetrators found guilty were sentenced to appropriate penalties. However, Burundi recognized therein that certain alleged perpetrators of violations of the right to life could escape legal proceedings and convictions because they were not identified or because they had fled to foreign countries, or because there was no evidence32. The Special Rapporteur recalls that Burundi has, within the framework of the 2018 Universal Periodic Review, accepted the recommendations aimed at combating impunity, and agreed to establish a fully transparent and fair judicial system, in accordance with international standards.33. In this regard, the Special Rapporteur recommends, on the one hand, adopting priority measures to put an end to human rights violations and repair the damage suffered, and,

[272] Human Rights Watch, *Burundi Leader Lashes Out at Rights Groups*, 5 August 2022
[273] Global Centre for the Responsibility to Protect (GCR2P), *Burundi: Extend the Special Rapporteur's mandate – Open letter*, 18 August 2022

on the other hand, implementing the recommendations of treaty bodies, special procedures and the Commission of Inquiry on Burundi. […]

27 Burundi Daily, « Gérard Ndayisenga, un ogre du SNR finit sa course à la prison de Mpimba », 23 décembre 2021.
28 Document de séance de la Commission d'enquête sur le Burundi de 2018, par. 467. […]
31 CCPR/C/BDI/CO/2, par. 13.
32 CCPR/C/BDI/3, par. 54.
33 A/HRC/38/10/Add.1, par. 7 ; et A/HRC/38/10, par. 137.146.[274]

Human Rights Watch reported in September 2022 on the appointment of the new prime minister, stating that:

> On September 7, Burundi's president, Évariste Ndayishimiye, removed government officials he said he no longer trusted. Most significantly, he replaced the prime minister, Alain Guillaume Bunyoni. Given Bunyoni's poor record on human rights, including at one time overseeing security forces who committed serious violationsagainst real and perceived opponents, his ouster might otherwise be commendable. But his replacement, Gervais Ndirakobuca, is likely a step back in terms of safeguarding fundamental rights in Burundi.
>
> Ndirakobuca was a combatant when Burundi's current ruling party, the National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie-Forces de défense de la démocratie, CNDD-FDD), was still an armed group. He rose through the ranks of the CNDD-FDD to key leadership positions in the police and intelligence services during periods of violence and killings. His alias, *Ndakugarika*, translates from Kirundi to "I will kill you."
>
> Ndirakobuca was also former President Pierre Nkurunziza's chief advisor for police affairs during a violent crackdown in 2015, when police shot live rounds at demonstrators opposing Nkurunziza's third term. That same year, the United States and European Union imposed sanctions on Ndirakobuca, including travel restrictions and asset freezes. […]
>
> Ndirakobuca's appointment shows President Ndayishimiye may prefer an enforcer over someone committed to meaningful human rights reform.[275]

In September 2022, Mr. Fortune Gaetan Zongo, Special Rapporteur on the human rights situation in Burundi, gave a statement at the 51st session of the Human Rights Council, remarking that:

> While there were some isolated efforts to prosecute human rights violations and abuses, there was still selective impunity for the prosecution of alleged perpetrators of serious violations in favor of common crimes.
>
> While commitments and actions have been taken by the Burundian government, the human rights situation has not changed in any substantial or lasting way. Accountability since the 2015 crisis is one of the pledges for sustainable peace, as is the need for deeper institutional reforms. In this regard, the 2018 Universal Periodic Review provided an opportunity for Burundi to accept the recommendations to fight

[274] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 8 and 9*
[275] Human Rights Watch, *Hardliner Takes Charge in Burundi*, 19 September 2022

impunity, and to agree to establish a fully transparent and fair judicial system in accordance with international standards. The few cases of complaints filed following serious violations have rarely resulted in impartial investigations, and even more rarely in the prosecution and conviction of perpetrators, which in itself constitutes a violation of the right to an effective remedy. […]

Following the violence of 2015, many perpetrators of human rights violations and abuses belonging to the defence and security forces and even militias such as the Imbonerakure have not been brought to justice, investigations into these violations and abuses have not been initiated, and even if they were, the findings are not known.

The fight against impunity requires providing adequate remedies to all victims, acknowledging suffering, and conducting institutional reforms. This requires concerted, inclusive processes that take into account all sensitivities, continuous efforts and transparency.

Establishing and acknowledging the truth is another important component. It gives those who have suffered violence and whose voices have not been heard a chance to speak out, to be recognized as victims and to have a chance for social reintegration. It is the responsibility of the Truth Commissions to investigate, establish and recognize the truth. Regrettably, little progress has been made on aspects of the transitional justice program, particularly with respect to accountability, reparations, land restitution, and security and justice sector reform. Much remains to be done in this area in Burundi. A system of protection for victims and witnesses of human rights violations and abuses must be the cornerstone of a sustainable peace, as well as adequate reparation mechanisms.[276]

In October 2022, Amnesty International published its submission to the 43rd session of the Universal Periodic Review (UPR) of Burundi on 4 May 2023. It noted, among other follow ups to the previous review, that:

> Burundi committed to ensure effective investigation and prosecution of sexual and gender-based violence. xi 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. […]
>
> 10. A 2018 law renewed and amended the mandate of the Truth and Reconciliation Commission (TRC).xiv Initially established by a 2014 law xv, the TRC's mandate aimed to investigate and establish the truth about violations of human rights and international humanitarian law between 1962 and 2008.xvi 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. […]
>
> 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.xvii […]
>
> xi A/HRC/38/10/Add.1 recommendation 137.229 [Poland], Para. 7 […]

[276] UN Office of the High Commissioner for Human Rights (OHCHR), Statement by Mr. Fortune Gaetan Zongo, *Special Rapporteur on the human rights situation in Burundi, at the 51st session of the Human Rights Council Item 4 of the Agenda*, 23 September 2022

xiv 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

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

xvi 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.

Xvii GANHRI Sub-Committee on Accreditation Report – June 2021.[277]

In October 2022, the UN Human Rights Council adopted Resolution 51/28 on Burundi to renew the mandate of the Special Rapporteur on the situation of human rights in Burundi for a period of one year. In its description on the situation of human rights in in Burundi, it stated that it: "*Condemns* the widespread impunity for all human rights violations and abuses, and urges the Government of Burundi to hold all perpetrators, regardless of their affiliation or status, including members of defence and security forces and of the ruling party's youth league, the Imbonerakure, accountable for their actions and to ensure that victims can seek justice and legal redress".[278]

The same day, the GCR2P wrote an open letter to member states on atrocity prevention priorities at the Third Committee of the UN General Assembly's 77th session, noting that "The Global Centre respectfully encourages you to highlight during the relevant Interactive Dialogue ongoing serious human rights violations and abuses in Burundi, which continue in a context of persistent impunity".[279]

The ISS reported in October 2022 that "The appointment of Gervais Ndirakobuca as Bunyoni's replacement [as prime minister] lends credence to human rights activists' allegations. Ndirakobuca is still under EU sanctions for his role in the violent crackdown against civilians during the 2015 crisis".[280]

In October 2022, Mr. Fortune Gaetan Zongo, Special Rapporteur on the human rights situation in Burundi, gave a statement at the 77th Session of the United Nations General Assembly, remarking that:

> Despite the commitments and actions taken by the Burundian government, the human rights situation did not change in a substantial and sustainable manner. Accountability since the 2015 crisis is one of the pledges for sustainable peace, as is the need for deeper institutional reforms. In this regard, the 2018 Universal Periodic Review provided an opportunity for Burundi to accept the recommendations to fight

[277] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *p. 2 and 3*

[278] UN Human Rights Council, *Fifty-first session, 12 September–7 October 2022, Agenda item 4: Human rights situations that require the Council's attention - Resolution adopted by the Human Rights Council on 7 October 2022 - 51/28. Situation of human rights in Burundi*, 13 October 2022, *p. 2*

[279] Global Centre for the Responsibility to Protect (GCR2P), *Letter to member states on atrocity prevention priorities at the Third Committee of the UN General Assembly's 77th session*, 13 October 2022

[280] Institute for Security Studies (ISS), *Reform in Burundi deepens ruling party divisions*, 17 October 2022

> impunity, and to agree to establish a fully transparent and fair judicial system in accordance with international standards. The few cases of complaints of serious violations rarely resulted in impartial investigations and even fewer in the prosecution and conviction of perpetrators, which is in itself a violation of the right to an effective remedy.
>
> While there were some isolated efforts to prosecute perpetrators of human rights violations and abuses, selective impunity for the prosecution of alleged perpetrators of serious violations in favor of common crimes remained notable. […]
>
> Many perpetrators of human rights violations and abuses belonging to the defense and security forces and even to militias such as the Imbonerakuré have not been brought to justice, investigations into these violations and abuses have not been initiated, and even if they were, the conclusions are not known. The impunity of the Imbonerakure is reinforced by official speeches, and I would like to mention here the statement of the Secretary General of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], the party in power in August 2022, calling on the Imbonerakure to continue night patrols and to kill any "troublemaker. I would like to emphasize here that civilian groups cannot carry out regalian functions without justification and with impunity.
>
> The fight against impunity requires providing adequate remedies to all victims, acknowledging suffering, and conducting institutional reforms. This requires concerted, inclusive processes that take into account all sensitivities, continuous efforts and transparency.[281]

In December 2022, ACAT Burundi released a monitoring report on human rights violations and abuses in Burundi that had taken place the previous month. Using an online translation tool, Onlinedoctranslator.com, the following passages on impunity were translated from French into English:

> The month of November 2022 covered by this report continues to be characterized by serious human rights violations like the previous periods. The recurring phenomenon of dead bodies discovered in various places such as rivers, bushes and then hastily buried by administrative officials highlights the alleged complicity of high authorities with criminals.
>
> Cases of murders disguised as suicides are becoming commonplace in several localities of the country.
>
> In a context where Justice and National Human Rights Institutions such as the CNIDH [National Independent Human Rights Commission] and the Ombudsman seem to be taken hostage by the Executive, the outcome of the investigations carried out by the Public Ministry on violations of the right to life or enforced disappearances remain hypothetical, particularly when the victims are political opponents or human rights defenders.
>
> Some grassroots administrators in complicity with police officers and Imbonerakure militiamen have distinguished themselves in these violations with complete impunity, hence the continuous tendency of the authorities to renounce responsibility for protecting the population in favor of sectarian interests.
>
> The judiciary thus continues to cover these crimes carried out in violation of the procedure which governs the criminal chain in Burundi. We particularly notice crimes that are committed within the community and households but which remain unpunished due to the impunity that plagues the system of the Burundian judiciary, corruption or the fact that the perpetrators are administrative or Imbonerakure.[282]

[281] UN Office of the High Commissioner for Human Rights (OHCHR), *Statement by Mr. Fortune Gaetan Zongo Special Rapporteur on the human rights situation in Burundi, at the 77th Session of the United Nations General Assembly*, 27 October 2022

[282] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Report on the Monitoring of Human Rights Violations and Abuses Committed in Burundi: Period of the month of November 2022*, 1 December

IV. Corruption

a. Within the Judiciary

Additional relevant information can be found under section III. Rule of Law/Administrative of Justice, especially *III.b. Judicial Independence*.

A press release by the UN Commission of Inquiry on Burundi in May 2020 expressed concern about the lack of independence in the electoral process, and the role of the judiciary in this. It reported that:

> The lack of independence and impartiality of the Independent National Electoral Commission - *Commission électorale nationale indépendante* (CENI), the official guarantor for the proper conduct of these elections, represents a growing concern, particularly in light of the alleged irregularities in the distribution of voting cards and the non-disclosure of the final voters' rolls. The use of the judicial system as a tool against the opponents of the ruling party, the absence of independent election observers and the lack of trust in the independence of the constitutional court, the main avenue for appeal in the event of a dispute over the elections results, exacerbate the mistrust and the doubts of several politicians from the opposition and part of the population about possible electoral fraud and therefore towards the integrity and the credibility of the electoral process.[283]

In its report on Burundi in August 2020, the Commission of Inquiry wrote again on this: "The judicial system is sorely lacking in resources, which contributes to widespread corruption within the judiciary and subjugates it to the executive branch.22". […]

> 22 A/HRC/39/CRP.1, paras. 462–579; and A/HRC/36/CRP.1, paras. 318–320 (document available on the Commission's website).[284]

Freedom House reported on Burundi in 2020 and 2021 Freedom in the World report on the rule of law:

> Political Rights […]
> Civil Liberties […]
> F Rule of Law
> F1 0-4 pts
> Is there an independent judiciary? 0/4
> The judiciary is hindered by corruption and a lack of resources and training, and is generally subservient to the executive. In 2015, Constitutional Court justices were reportedly intimidated into ruling in favor of Nkurunziza's decision to stand for a third term. The executive regularly interferes in the criminal justice

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2022 [Rapport sur le Monitoring des Violations et atteintes aux droits de l'homme commises au Burundi: Période du mois de novembre 2022], *p. 12 and 13*

[283] UN Office of the High Commissioner for Human Rights (OHCHR), *The UN Commission of Inquiry on Burundi: An electoral campaign marred by a spiral of violence and political intolerance*, 14 May 2020

[284] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 12 and 13*

> system to protect CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] and Imbonerakure members, as well as persecute the political opposition.
> In June 2020, the Constitutional Court partially checked the power of the ruling party by upholding an opposition challenge to the disqualification of an opposition parliamentary candidate. However, the court did not entertain a challenge to over the conduct of the presidential election, despite evidence of widespread fraud and intimidation. The August Commission of Inquiry report also noted the involvement of the judiciary in a repression campaign that targeted the opposition ahead of the elections.
> F2 0-4 pts
> Does due process prevail in civil and criminal matters? 0/4
> The courts, police, and security forces do not operate independently or professionally, and constitutional guarantees of due process are generally not upheld. Arbitrary arrest and lengthy pretrial detention are common. There have been reports that detainees' families were able to secure their release only upon making large payments to the SNR [National Intelligence Service] or Imbonerakure.[285][286]

In May 2021, Human Rights Watch released a report on abusive prosecutions in Burundi, the repression of free speech and civil society, and the role of the judiciary in this. It wrote that:

> "The government should go beyond symbolic gestures of good faith to address the entrenched system of repression under the late President Pierre Nkurunziza," said Lewis Mudge, Central Africa director at Human Rights Watch. "Substantive reforms are needed to address the lack of judicial independence, politicized prosecutions, and the absence of accountability for abuses committed since 2015." […]
> In April 2021 Human Rights Watch interviewed 36 Burundian journalists, civil society activists, foreign nongovernmental organization workers, United Nations staff, and diplomats – living both inside and outside the country – about the impact of Ndayishimiye's limited reforms. All spoke on condition of anonymity. Human Rights Watch also reviewed laws, trial documents, public speeches, and social media posts. […]
> Ndayishimiye's reform agenda appears designed to improve Burundi's image and restore economic ties with the international community. However, since his inauguration in June 2020, grave human rights violations, including extrajudicial killings, enforced disappearances, and arbitrary arrests have continued, although to a lesser extent than during the 2020 elections. Documenting human rights violations remains difficult due to restricted access to the country for international human rights organizations, security risks for Burundian activists, and victims' and witnesses' fear of retaliation by the authorities. Alleged abusers have been arrested and prosecuted in only a few cases, although their trials often lacked transparency.
> Abuses in the justice system were illustrated in the early May conviction of a former member of parliament, Fabien Banciryanino, on security charges. He was sentenced to one year in prison and a fine of 100,000 Burundian Francs (US$51). During the trial, two sources present said the prosecution accused Banciryanino of threatening the security of the state for allegedly holding a news conference without prior authorization, and of rebellion for allegedly refusing to hand over his land title when requested by a local administrator. Banciryanino pleaded not guilty.[287]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights and the justice system:

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[285] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[286] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[287] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021

4. JUSTICE: OBEYING THE RULING PARTY RATHER THAN THE LAW […]

In 2021, the Burundian justice system remains profoundly dysfunctional, as well as politically and financially corrupt. “There is no change in terms of the independence of the justice system,” said the president of a court. “We’re working in a sector that is already rotten. It will take a long time to get out of this situation.”80 […]

Unlike in other sectors, where many officials and senior civil servants who served under the previous government were replaced after the 2020 elections, very few judges, heads of jurisdictions or prosecutors have been replaced so far.

This has led to an acceptance of the status quo and continuation of flawed practices, inherited from the era of President Nkurunziza, such as constant meddling by politicians, CNDD-FDD or security officials seeking to influence the outcome of cases. […]

Guaranteeing the independence of the judiciary is one of the principal functions of the *Conseil supérieur de la magistrature* (Superior Council of the Judiciary), the country’s top institution overseeing the justice system.87 The president and the minister of justice are both members of this body, but to date, it appears to have done little or nothing to address the lack of independence of the justice system.

Many judicial officials are unhappy about this situation, but feel helpless. […]

Afraid of losing their jobs or suffering personal repercussions, prosecutors and judges often anticipate the instructions they expect to receive – especially when powerful government officials or members of the intelligence services are involved – and make pre-emptive decisions that reflect those individuals’ wishes. There are exceptions, when a prosecutor or a judge may attempt to make decisions based on evidence (or lack of evidence), but these decisions can easily be overruled. […]

A judge cited a civil case in early 2021 in which the implementation of a court judgment was blocked by an influential CNDD-FDD parliamentarian, as well as the provincial governor – both of whom called the president of the court and told him to temporarily suspend the execution of the judgment. Three months later, it had still not been executed.89

In another case from early 2021, a staff member in a prosecutor’s office was told to release a detainee accused of a common crime, after his boss received instructions from a top level national judicial official. The detainee was released, but was then re-arrested, allegedly following pressure from people acting on behalf of the victim of the crime. Both the victim and the alleged perpetrator had close links to influential people in the CNDD-FDD, who had each intervened on their behalf – hence the contradictory instructions. The CNDD-FDD parliamentarian mentioned above also waded in, unhappy about the initial decision to release the detainee.90

“It isn’t justice that decides, it’s the ruling party,” said a judge. He gave the example of a court hearing to rule on the detention of a defendant, in early 2021. Two of the judges were prepared to release the defendant and asked the prosecution for evidence that the defendant might flee the country. The presiding judge told them not to ask those sorts of questions and blocked the release, because he had received a message from a senior official in the ministry of justice warning him not to release the defendant.91

In other instances, however, state agents, including members of the security forces, have been tried and convicted for murder and other common crimes.92 These are usually lower-level officials; prosecutions of senior officers are rare.

Some interferences are dictated purely by financial interest. A prosecuting official said that in his province, instances of political interference had become rarer in 2021. This could be a reflection of the recent decrease in the number of political cases, while many cases from the election period – particularly against CNL [National Congress for Liberty] members – had been dropped for lack of evidence. But he said

that the head of the *Imbonerakure* and the police commissioner in his province still took an active interest in potentially lucrative cases, with the police commissioner personally contacting the prosecutor about cases from which he might derive some financial benefit.93

Rampant corruption has plagued the Burundian justice system for many years, leading to what one lawyer described as "a crisis of values".94 In addition to interferences by officials hoping to gain financial advantage, it often affects the order and the manner in which cases are dealt with. If a case brought by an ordinary citizen is in competition with a case involving a powerful or rich individual, it stands little chance of being processed in a reasonable time. […]

Several judicial officials pointed to the process for recruiting prosecutors and heads of jurisdictions as one of the main causes of the lack of independence; they believed that nothing would change as long as officials were recruited according to their political affiliation. […]

Some believe the problem has been compounded by the apparent lack of influence of the minister of justice, Jeanine Nibizi. The minister is reportedly close to President Ndayishimiye, but one judicial official described her as a mere figurehead, and several said that she seemed absent. […]

Judges, magistrates, prosecuting officials and court officials confirmed that prosecutions of state agents or CNDD-FDD members for murder, torture or ill-treatment of detainees, particularly of political opponents, remain extremely rare; they claimed CNDD-FDD members were usually only brought to justice when they had allegedly committed an offence against a member of their own party.109 […]

80 Interview with president of a court, 15 April 2021. […]

87 Loi organique du No.1/02 du 23 janvier 2021 portant modification de la loi organique No.1/13 du 12 juin 2019 portant organisation et fonctionnement du Conseil supérieur de la magistrature, https://www.assemblee.bi/IMG/pdf/N%C2%B02_du_23_janvier_2021.pdf, 23 January 2021. […]

89 Interview with judge, 20 April 2021.

90 Interviews with two staff members of a prosecutor's office and a lawyer, April 2021.

91 Interview with judge, 15 April 2021.

92 See, for example, SOS Médias, "Cibitoke : un policier condamné à la perpétuité, https://www.sosmediasburundi.org/2021/05/18/cibitoke-un-policier-condamne-a-perpetuite/, 18 May 2021.

93 Interview with official in prosecutor's office, 6 April 2021.

94 Interview with lawyer, 3 May 2021. […]

109 Interviews with judge, 15 May 2021, and official in prosecutor's office, 8 April 2021.[288]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi, with reference in the following excerpt to key issues in the justice system:

III. Human rights situation

G. Justice

[…] 54. There are persistent dysfunctions in the justice system, including corruption, influence peddling, interference by various authorities and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] members, non-compliance with legal procedures and deadlines, failure to enforce judicial decisions, in particular release 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.[289]

[288] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *p. 23 to 25, 27, and 28*

In Amnesty International's March 2022 report on the state of the world's human rights in 2021, it reported on Burundi that: "In July [2021], the President of the National Assembly made threatening public remarks about magistrates and undermined the independence of the judiciary. The same month, the Governor of Bujumbura province proposed regular meetings between the judiciary and his office to deliberate on justice-related complaints brought by residents. In August [2021], President Ndayishimiye spoke out about allegations of corruption among judges but took no action to prevent political interference in the justice system".[290] Reporting on the same event of August 2021, Human Rights Watch reported that "a judge pointed out to Ndayishimiye during the meeting, another fundamental challenge the judiciary faces remains the influence of the executive and the implication of state actors in serious human rights violations".[291]

b. Within the Wider Government

In its report on Burundi in August 2020, the Commission of Inquiry noted in depth on corruption in the Burundian state:

> III. Situation of human rights […]
> D. Economic underpinnings of the State
> 64. Corruption, misappropriation of public funds, including funds from international development assistance, conflicts of interest and the illegal protection of interests underpin the functioning of the Burundian economy, especially in the most lucrative sectors such as mining or government contracts, even though most of this behaviour is criminalized under Burundian law.
> 65. In Burundi, a patrimonial concept of power dates back many years. It is the result of a structural problem of sharing of resources, linked to the weakness of the economy, and of the means of industrial production in particular, as well as the scarcity of land. The only way to gain access to resources is by taking power or being close to it, including through illicit economic and financial means.19 This is one of the root causes of human rights violations in Burundi, as the perpetrators of such violations seek to eliminate all political opposition in order to ensure that a minority remains in power and has access to wealth. As long as such practices persist, there will be no incentive to carry out an in-depth reform of the system so as to respect and protect human rights and combat corruption; quite the contrary. […]
> 1. Corruption
> 67. Corruption takes many forms and specifically includes trading in influence and abuse of office or power. To obtain a mining licence, a large sum of money must be paid to certain persons holding high political or administrative positions or to senior CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] officials, either directly or through intermediaries. Some of those who benefit from this also hold shares in mining companies, sometimes through front operations. The Commission has also received allegations that there are similar practices in most sectors of the Burundian economy, especially when foreign companies want to invest in Burundi.

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[289] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 11 and 12*
[290] Amnesty International, *International Report 2021/22: The State of the World's Human Rights*, 29 March 2022, *p. 111*
[291] Human Rights Watch, *Burundi: Allegations of Killings, Disappearances, Torture*, 17 September 2021

2. Misappropriation of public funds […]

69. The Commission has received credible allegations of misappropriation of public funds intended for various development projects financed by international assistance. For example, some Burundian families whose property was expropriated for the construction of public projects did not receive the planned compensation, which reportedly had been partially misappropriated. The Government of Burundi has publicly acknowledged that such misappropriation has taken place in connection with the construction of the presidential palace in Gasenyi.26

70. The construction of the Jiji and Mulembwe dams was to be accompanied by the payment by the Government of Burundi of US$ 14.3 million for the electrification of local villages and compensation for those whose property was expropriated.27 However, the finance bills provided much lower amounts for the compensation. The difference between these budgets and the amounts called for in the development assistance thus raises some questions.

71. Mining agreements between private companies and the State generally provide for the payment by the company of annual compensation to the communes and the payment of hundreds of thousands of dollars for the economic and social development of the region. However, the Commission has reasonable grounds to believe that under several mining concession agreements, a significant portion of these funds has not been received by the intended recipients or has not materialized in development projects on the ground. This raises questions about what happened to those payments and, if they were not made, why the State did not seek to enforce the terms of those contracts, that were supposed to benefit its people.

72. Lastly, despite the fact that since 2016, the $800 monthly pay of Burundian military personnel deployed in the African Union Mission in Somalia has been transferred directly by the African Union into their personal bank accounts in order to avoid any misappropriation, the Commission has reasonable grounds to believe that the Government of Burundi has continued to systematically tap into part of the pay using surreptitious means.

73. Most of the country's technical and financial partners are aware of the risk of diversion of funds. They have taken steps to minimize the risk by ceasing to contribute directly to the State budget, instead supporting operational partners such as non-governmental organizations, or directly paying the beneficiaries of their assistance. However, the measures that are taken are not always sufficient. […]

3. Conflicts of interest and the illegal protection of interests

74. On the basis of publicly available information, the Commission has noted numerous cases of conflict of interest to which the authorities have turned a blind eye, even though, without being an offence in itself, such a situation is conducive to corruption, favouritism and the illegal protection of interests, which for their part are offences under Burundian law. […]

76. The Commission has also received credible allegations that several persons holding high political or administrative positions, including within the CNDD-FDD party, own significant shares in companies holding veritable monopolies, either in law or in practice, for the marketing of certain products or services in the country.

4. Government contracts

77. Government contracts are awarded in Burundi with very little transparency and much abuse of privately agreed-upon terms that often benefit those close to the people in power, which facilitates corruption and misappropriation of public funds. […] Practices such as overcharging and under-delivery of services are common. For example, some goods such as vehicles have been purchased at two to three times their current market value, and roads have very quickly fallen into disrepair after being built.

5. Customs fraud

78. Several products, including minerals such as gold, but also coffee and oil, are exported or imported without being officially declared, for example by means of the corruption of certain authorities, thus

depriving the State of substantial tax revenues. Despite the fact that the publicly available information on the country's international trade is fragmentary, the Commission had noted significant inconsistencies which are a matter of concern. Of course, such discrepancies can be explained in part by reporting or accounting errors, differences in the calculation of market values and the application of different exchange rates. However, given their magnitude, such differences raise the possibility of large-scale customs fraud and shed light on the general lack of transparency in this area.

6. Graft

79. The Commission has obtained evidence that several persons holding high political or administrative positions, including within the CNDD-FDD party, have real estate holdings and/or assets in foreign countries, sometimes under a front name, and that they or members of their entourage hold directors' positions in several companies based abroad, including in South Africa, Kenya and Belgium. In addition, the assets of several Burundian officials, particularly in real estate, appear to be completely out of proportion with their official remuneration.

80. In view of the corruption in the Burundian economy and allegations of the payment of large sums of money to those same persons in order to obtain operating licences, particularly in the mining sector, the Commission has reasonable grounds to believe that those officials have enriched themselves illegally. It is worth noting that Burundian elected officials do not systematically declare their assets to the Supreme Court at the beginning and end of their terms of office, as required, however, by articles 95 and 159 of the Constitution. […]

19 See also A/HRC/39/CRP.1, paras. 120 and 142–149 (document available on the Commission's website). […]
26 See www.dw.com/fr/construction-dun-nouveau-palais-pr%C3%A9sidentiel-des-burundais-expropri%C3%A9s-attendent-toujours/a-41072323.
27 See http://documents.worldbank.org/curated/en/241731548424957473/pdf/PHJIMU-Rapport-dAudit-1-janv-au-30-Juin-2018.pdf.[292]

On 28 September 2020, ACAT-Burundi and ten other civil society organisations released a joint report one hundred days into Ndayishimiye's regime. Translated from French to English using the online translation tool, Onlinedoctranslator.com, it reported that:

3.2. The absence of a clear and effective anti-corruption policy seriously harms the public treasury [….]
Since the new regime has been in place, no clear government anti-corruption policy has been declared or considered. […]
In this sense, it should be noted that during a prayer session held in Ngozi on 23/08/2020, President Ndayishimiye had invited the members of the government to proceed within a week to a declaration of their property and assets.
Unfortunately and against all expectations, in a press conference held on 25/9/2020, the same president changed his mind and announced that everyone's wealth must remain his ultimate secret and that, moreover, some are so wealthy that they would spend several weeks making an inventory of their assets before filing.
This reversal has shown that the president has no desire to put an end to the endemic phenomenon of abnormal enrichment of the country's top leaders because of their functions to protect social assets

[292] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 12 to 15*

against abuse and misappropriation. He thus demonstrated in broad daylight his desire to override the prescriptions of the constitution to which he had nevertheless sworn loyalty.[293]

In December 2020, the BHRI commented on promises of the new government with regards to tackling corruption. It stated that:

> 2. BURUNDI'S BIG MEN TAKE CENTRE STAGE […]
> Gervais Ndirakobuca: Minister of Interior, Community Development and Public Security […]
> Taking a stand against corruption?
> Since his appointment as minister in 2020, Ndirakobuca has made his mark by publicly championing the fight against corruption. His fearsome reputation may already be having an effect.
> "People were surprised by the tough stand he took against corruption," said a member of a civil society organisation in Burundi. "Who knows, maybe because people are scared of him, he could force some changes. He can do it if he wants to, as he knows all the manoeuvres of corruption and human rights violations, so he's well placed to impose changes... The police are scared of him." He added that one of the newly appointed provincial officials had confided: "Ndakugarika has frightened us."98
> […] 5. BURUNDI'S PRECARIOUS POLITICAL FUTURE […]
> Presidential speeches full of contradictions […]
> During his first five months as president, Ndayishimiye has publicly announced measures that he has been unable to implement or that didn't conform to the wishes of other senior party figures. A former government official with close links to CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] leaders said that Ndayishimiye sometimes aimed to please domestic or international audiences without considering the consequences, or without consulting his entourage, then had to backtrack.212
> One striking example was Ndayishimiye's announcement, in a speech in Ngozi in late August, that all government officials had to declare their wealth and assets within two weeks. This is not only a requirement under Burundian law, but also a crucial measure in the fight against illicit enrichment, according to a university thesis that Ndirakobuca wrote in 2013.213 "It was (Ndayishimiye) himself who decided to say (that)," said the former official. "He said it to please diplomats... When he said this... everyone was looking at Bunyoni" (a reference to Bunyoni's reputation for amassing wealth).214 After officials predictably failed to declare their assets, Ndayishimiye had to make a dramatic U-turn. In a public conference broadcast live on 25 September, he said: "We know that the Constitution requires us to declare our wealth... (but) we realised that it could take a whole week or more... A person's wealth is their secret... At the end of their term, you can say it looks doubtful. Then you can report it to the relevant authorities."215. […]
>
> 98 Interview with member of a civil society organisation, 20 July 2020. […]
> 212 Interview with former government official, 29 September 2020.
> 213 Article 95 of Burundi's 2018 Constitution states: "At the beginning and at the end of their term in office, the President of the Republic, the Vice President of the Republic, the Prime Minister and members of government are obliged to make, on their honour, a written declaration of their property and assets, addressed to the Supreme Court." In his university thesis on illicit enrichment, Ndirakobuca recommended that the government encourage its employees to declare their assets and impose sanctions on those who failed to do so. See Gervais Ndirakobuca, "De la

[293] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *Joint Report of Burundian Civil Society at the End of 100 Days of President Evariste Ndayishimiye's Regime*, 28 September 2020 [RAPPORT CONJOINT SOCIETE CIVILE BURUNDAISE AU TERME DES 100 JOURS DU REGIME NEVA], *p. 26*

répression de l'infraction d'enrichissement illicite en droit positif burundais", https://www.memoireonline.com/04/14/8805/De-la-repression-de-l-infraction-d-enrichissement-illicite-endroit-positif-burundais.html, November 2013.
214 Interview with former government official, 29 September 2020.
215 Extracts of President Ndayishimiye's comments during a public broadcast, 25 September 2020.[294]

At the end of March 2021, the US Department of State published its annual country report on human rights practices, writing on corruption in Burundi:

> Section 4. Corruption and Lack of Transparency in Government […]
> The state inspector general and the Anticorruption Brigade were responsible for investigating government corruption but were widely perceived as ineffective. The Ministry of Interior and Public Security was charged to lead anticorruption efforts as part of President Ndayishimiye's new anticorruption campaign. The ministry started a "zero tolerance toward corruption" campaign and put suggestion boxes in all commune offices and government ministries to allow the population to report corrupt activities. The minister of interior also set up a toll-free telephone number to allow citizens to report corruption and malpractice. Local media reported an increase in arrests related to corruption after the new government implemented these anticorruption measures. […]
> Financial Disclosure: The law requires financial disclosure by elected officials and senior appointed officials once every seven years but does not require the disclosures to be made public. The Supreme Court receives the financial disclosures. By law the president, prime minister, vice president, and cabinet ministers are obligated to disclose assets upon taking office, but the nonpublic nature of the disclosure meant compliance with this provision could not be confirmed.[295]

In July 2021, International Crisis Group published an article a year after the rise to leadership of President Evariste Ndayishimiye, reporting that:

> Ndayishimiye has meanwhile tried to demonstrate that he is serious about improving governance and tackling corruption, albeit with mixed results. When installing his new cabinet, he warned his ministers he could easily replace them if they failed to perform adequately and that he would not tolerate people "diverting a single cent from the budget planned to improve the well-being of Burundians". He also gave members of his government three weeks to declare their assets to the public. He later backtracked, however, reportedly under CNDD-FDD pressure, stating that senior state officials and public officials will not be forced to comply. The arrest of Commerce Minister Immaculée Ndabaneze for alleged embezzlement in May was also short-lived, as she was quickly released.
> After years of no progress at all, even modest reform efforts are welcome, although diplomats differ on how meaningful the steps Ndayishimiye has taken will prove to be. While one diplomat told Crisis Group that this administration and its predecessor are like "night and day", others suggested that anti-corruption measures could be "political window dressing" and thus far do not indicate a commitment to comprehensive reform. Similarly, these sceptics tend to play down the arrests and convictions of a small

[294] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 7, 8, 10, 11, 17, 20, 21, 64, and 65*
[295] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

number of police officers and Imbonerakure on criminal charges given that security force and militia repression and rights abuses reportedly still continue, even if at lower levels.[296]

Freedom House reported on corruption in Burundi in its March 2021 Freedom in the World report, covering 2020, as follows:

> Political Rights
> C Functioning of Government […]
> C2 0-4 pts
> Are safeguards against official corruption strong and effective? 0/4
> Corruption is endemic, though President Ndayishimiye vowed to address corruption during his swearing-in ceremony. Corrupt officials generally enjoy impunity, even when wrongdoing is exposed by nongovernmental organizations (NGOs) and other actors. Anticorruption organizations are underresourced and ineffective.
> C3 0-4 pts
> Does the government operate with openness and transparency? 0/4
> Government operations are opaque, and government officials are generally unaccountable to voters. There are few opportunities for civil society actors and others to participate in policymaking. Due to recurrent assassinations and assassination attempts, politicians are wary of organizing town hall–style meetings or making other public appearances before voters. […]
> Civil Liberties […]
> F Rule of Law […]
> F2 0-4 pts
> Does due process prevail in civil and criminal matters? 0/4
> The courts, police, and security forces do not operate independently or professionally, and constitutional guarantees of due process are generally not upheld. Arbitrary arrest and lengthy pretrial detention are common. There have been reports that detainees' families were able to secure their release only upon making large payments to the SNR [National Intelligence Service] or Imbonerakure.[297]

The Commission of Inquiry spoke about efforts against corruption in its oral briefing in March 2021, commenting that:

> 8. Fight against economic malpractices and corruption
> Within the framework of his fight against economic malpractices and corruption, showcased as one of President Ndayishimiye's priorities, a number of measures have been announced, including the suspension of the Anti-Corruption Special Court and Special Brigade. Rather, anti-corruption sections will be created within the prosecutor's offices, and anti-corruption chambers would be established in the tribunals of first instance and courts of appeal. The powers and duties of the Special Brigade will be assigned to the judicial police.9 Admittedly, the results of those institutions left much to be desired, but it would be premature to comment on these changes and their impact on the fight against corruption. The same can be said of other similar measures taken in this area. [298]

[296] International Crisis Group, *Burundi: Charm Offensive or Real Change?,* 2 July 2021
[297] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[298] UN Human Rights Council, *46th Session: Interactive Dialogue on Burundi, Oral briefing of the Commission of Inquiry on Burundi*, 11 March 2021

9 https://www.presidence.gov.bi/2020/12/11/le-compte-rendu-du-conseil-des-ministres-du-09-decembre-2020/

In May 2021, Human Rights Watch released a report on abusive prosecutions in Burundi, as well as the repression of free speech and civil society. It wrote that: "Although Ndayishmiye's government has lifted some restrictions, including the suspension of the anti-corruption organization PARCEM (Parole et Action pour le Réveil des Consciences et l'Évolution des Mentalités) and a local radio station, Bonesha FM, the authorities continue to exercise undue interference in and oversight over the work of civil society and the media, Human Rights Watch found".[299]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights. It reported on the police and intelligence services, and the ways in which anti-corruption drives masked human rights violations:

> 2. THE POLICE AND INTELLIGENCE SERVICE: ANTI-CORRUPTION DRIVE MASKS SERIOUS HUMAN RIGHTS VIOLATIONS
>
> A drive to purge certain SNR [National Intelligence Service] agents
>
> Not long after President Ndayishimiye appointed Ildephonse Habarurema as head of the SNR in 2020, Habarurema met SNR officials and started with a warning: he didn't want to hear about agents involved in theft or terrorising and extorting money from people.40
>
> This was a far cry from how the SNR had been managed in the past. Under their previous bosses, SNR officials were some of the most feared men in the country, killing, arresting and gruesomely torturing scores of suspected opponents. Some SNR agents used their reputation to extort money or huge ransoms from vulnerable detainees and their families; others were involved in illicit trade and trafficking of goods. Their superiors either looked the other way or were actively involved in these practices.
>
> President Ndayishimiye gave Habarurema the green light to crack down on corrupt practices by SNR agents, but not, it seems, on politically motivated human rights violations. Ndayishimiye has allowed some of the architects of the political repression during the 2015 demonstrations against Nkurunziza's third term to take up senior positions in the SNR, including Alfred Museremu, head of the department of internal intelligence since 2020, and Alexis Ndayikengurukiye, alias Nkoroka, who works in the SNR operations department. Both men have been involved in serious human rights violations since 2015.41
>
> An SNR official said that it had been a "nightmare" since Ndayishimiye started his anti-corruption efforts. Poorly paid SNR officials were afraid to pad their salaries through corruption. He said that by early April 2021, more than 12 SNR agents had been arrested and were in police custody or prison, spreading fear among their colleagues.42
>
> One of the first to be removed from his position in early 2021 was Gérard Ndayisenga, a veteran official with a brutal reputation who had been the provincial head of the SNR in multiple provinces, most recently in Mwaro. […]
>
> After Ndayisenga's removal from his position in Mwaro, other SNR officials were arrested or called to the SNR headquarters in Bujumbura for questioning. Joe Dassin Nduwimana (often referred to as Nkezabahizi), an SNR agent in Mutimbuzi *commune*, Bujumbura province, who had been linked to multiple human rights violations, was among them. His arrest, along with that of the driver of SNR agent Joseph Mathias Niyonzima, alias Kazungu, and other SNR agents in Bujumbura town and Makamba

[299] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021

province, sent a ripple of concern through the SNR. It was the first time in recent memory that so many powerful SNR agents had been arrested or removed from their positions in quick succession.46

Ndayishimiye even allowed the SNR, which reports directly to the president, to arrest a powerful businessman with strong ties to the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] who was believed to be untouchable under Nkurunziza: Vénérand Kazohera was arrested by the SNR in January 2021, questioned, then released.47

The reasons behind these arrests remain unclear. Unconfirmed reports cite corruption, embezzlement or alleged involvement in illegal business or trafficking. Other sources say they may be the result of internal score settling. The arrests also allow Ndayishimiye and Habarurema to use corruption as a pretext to remove SNR agents for other reasons. Their dismissal casts Ndayishimiye in a positive light in the eyes of Burundians and international actors, giving the impression he is serious about weeding out low and mid-level corrupt agents. However, the arrests have angered some senior SNR agents who are unhappy with Habarurema's leadership. […]

Anti-corruption and the police: piecemeal results

In February 2021, Gervais Ndirakobuca, the powerful minister of interior, community development and public security, started speaking out regularly on anti-corruption efforts. He abruptly replaced tax collectors in Bujumbura and later across the country, and in April he fired local government accountants in all *communes* as part of the anti-corruption campaign.55

As the minister responsible for overseeing the police, Ndirakobuca also turned his attention to corrupt practices in the police force. This was a shot across the bow for policemen who, for many years, have routinely extorted money from residents to augment their low salaries.

Some police in Bujumbura have been the target of these anti-corruption efforts. A policeman from Bujumbura said that shortly after Ndayishimiye's election, five traffic policemen were searched and found to have extorted a significant amount of money from passing vehicles. The information, including the amount they allegedly extorted, was circulated in a text message to other police.56 The note was clear: if you steal, we'll embarrass you.

Anti-corruption measures are much needed in Burundi, one of Africa's most corrupt countries.57 But the campaign may also be a way to rebrand and polish the image of Ndirakobuca, Ndayishimiye, and, more generally, the Burundian government. It is ironic that Ndirakobuca, a senior official responsible for some of the worst human rights violations committed in Burundi in the last several years, is now spearheading efforts to clean up corruption.58

The reactions by police to the government's anti-corruption efforts have been mixed. Some applaud efforts to punish corrupt policemen and abusive behaviour, while others are unhappy with the crackdown. Some consider it a double standard: they feel lower-level police are being used as scapegoats, while senior government officials, such as minister Ndirakobuca, Prime Minister Bunyoni and Prime Niyongabo, chief-of-staff of the National Defence Force, who have allegedly been involved in lucrative illicit business for years, are too powerful to be held to account.

Ndayishimiye's political survival depends in part on not upsetting the delicate web of relationships in the CNDD-FDD or alienating powerful political figures or rivals. It is politically safer, however, for him to allow the arrest of low-level policemen and other officials and hold them up as examples of wrongdoing. Using Ndirakobuca as the front man for the anti-corruption campaign and leveraging his fearsome reputation aligns with the CNDD-FDD's belief that intimidating wrongdoers into improving their behaviour is a more effective strategy than using the justice system to hold them accountable.

Beyond Ndirakobuca's public finger wagging and firing of civil servants, the anti-corruption rhetoric hasn't been put into action consistently or evenly across the country. In some provinces, traffic police have continued pocketing bribes from commercial and private vehicles, raking in piles of cash even when

drivers hadn't broken the law.59 In other areas, the behaviour of police initially improved after Ndirakobuca scared them, but after a while, they returned to their old habits.

The corruption is well organised. For example, a truck driver from an eastern province said he pays 10,000 Burundian francs (approximately US$5) each day to each group of traffic police he encounters. Depending on the route, he may pay two groups, a daily total of 20,000 Burundian francs. If he pays each group, they don't stop him for real or fabricated offences. If he doesn't pay, he risks a fine of 100,000 Burundian francs (approximately US$50) for "faulty loads". "All the (police) teams work in the same way," he said. "It's a well-known system."60

Other forms of egregious personal enrichment by police, however, may have stopped or slowed, and some residents are starting to gently challenge some corrupt practices by security officials. When Nkurunziza was president, police often used to round up youth working illegally on the streets in Bujumbura. They took them to the police detention centre known as the BSR (*Bureau spécial de recherche*) and released them only after they had paid a bribe.

In contrast, in December 2020, when a policeman at the BSR needed money, he attempted to arrest young people working illegally, but they refused to get in the police vehicle, alleging they were living in "*Leta Nkozi, Leta Mvyeyi*" (the worker state, the parent state), a slogan adopted by Ndayishimiye's government.61 […]

40 Interview with SNR official, 3 April 2021.

41 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future,", https://burundihri.org/rep/Report-Dec- 2020-Engl.pdf, December 2020. See also "Enquête de l'APRODH sur la composition, les abus, les responsabilités, impunité au Service national de renseignement du Burundi/Organe cité dans les violations des droits humains", https://www.focode.org/574/, 25 August 2016, and Ndondeza,"Disparition forcée de Savin Nahindavyi, Officier du SNR", https://ndondeza.org/declaration-du-focode-n0052017-du-16-mars-2017/.

42 Interview with SNR official, 3 April 2021. […]

46 Interviews with SNR sources, 14 and 15 January and 3 April 2021. Minister of interior, community development and public security Ndirakobuca has used Niyonzima as an intermediary and enforcer to hide his involvement in crimes in previous years. Niyonzima has been involved in killing government opponents and burying their bodies. See The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf,

December 2020. […]

55 See Iwacu, "Destitution des comptables communaux : une mesure décriée", https://www.iwacuburundi.org/destitution-des-comptables-communaux-une-mesure-decriee, 19 April 2021; "Détournements des fonds : l'exécutif hausse le ton mais...", https://www.iwacu-burundi.org/detournements-des-fonds-lexecutif-hausse-le-ton-mais/, 29 March 2021; and "Percepteurs de taxes et impôts : les anciens remerciés pour corruption", https://www.iwacuburundi.org/percepteurs-de-taxes-et-impots-les-anciens-remercies-pour-corruption, 22 February 2021.

56 Interview with police official, 30 April 2021.

57 Burundi ranks 165th out of 180 countries on Transparency International's 2020 Corruption Perceptions Index. https://www.transparency.org/en/countries/burundi.

58 For further information on Ndirakobuca, see The Burundi Human Rights Initiative, "A stranglehold on Burundi's future," https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.

59 Interview with truck driver, 19 May 2021.

60 Interview with truck driver, 19 May 2021.

61 Discussion with police official, 30 April 2021.[300]

[300] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *p. 13, 14, 17, and 18*

In its report on Burundi in August 2021, the Commission of Inquiry gave an update on corruption and anti-corruption measures, stating:

> III. Human rights situation […]
> G. Justice […]
> 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. […]
> I. Rule of law […]
> 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.
> 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. […]
>
> 27 A/HRC/45/32.[301]

In October 2021, International Crisis Group reported in an excerpt in their autumn update for their 'Watch List 2021' on corruption and bribery within the Imbonerakure:

> The militia, which Ndayishimiye oversaw when he was CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] secretary general, is known for shaking down, torturing, abducting, sexually abusing women and killing opposition members and ordinary citizens alike. Its members conduct night patrols and house visits to demand funds for CNDD-FDD coffers or personal gain. They also prevent the opposition from organising, by disrupting meetings and vandalising offices. While Ndayishimiye has taken some steps to reel in the Imbonerakure, for example by directing its members to stop extorting financial contributions from the population, he has achieved mixed results at best.[302]

In November 2021, BHRI released a report on the rise in torture and disappearances in Burundi. It also described instances of corruption among figures in power, including police officers:

> Tolerating violence: the president's vision threatened by hardliners […]
> Arakaza, police commissioner of Mugamba *commune*, in Bururi province, until 25 August 2021, has a history of violence against suspected opposition members. […]
> He frequently extorted the equivalent of several hundred dollars from detainees in exchange for their release, flagrantly flouting the government's anti-corruption efforts. […]
> Profiting from his position
> Arakaza's brutal reputation has enabled him to collect substantial amounts of money. Preying on people's fears, he has frequently extorted large sums from detainees in exchange for their release, sometimes up to 1 million Burundian francs (approximately US$500). […]
> Money, however, is not a guarantee of freedom. Arakaza has re-arrested several people even after they paid.[303]

Burundi ranked 169 out of 180 in Transparency International's 2021 Corruption Perception Index (CPI), published in January 2022, with a CPI score of 19 out of 100, where the score is the perceived level of public sector corruption on a scale of 0-100 (0 as highly corrupt and 100 as very clean), and the rank is

[301] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 12 and 13*
[302] International Crisis Group, *An Opportunity for the EU to Help Steer through Reform in Burundi – Watch List 2021 – Autumn Update*, 7 October 2021
[303] The Burundi Human Rights Initiative (BHRI), *Behind the gate: A rise in torture and disappearances*, November 2021, *p. 4, 5, and 9 to 11*

the country's position relative to the other countries in the index.[304] The score remained the same as in 2020.[305]

According to Freedom House in February 2022: "Though President Ndayishimiye has vowed to address corruption, his actions in office have been contradictory. The Ndayishimiye administration dismissed over 120 government employees for embezzlement between February and May 2021, though none of them faced prosecution. In May, the president dismissed Commerce Minister Immaculée Ndabaneze after over suspicions of embezzlement. Ndayishimiye also reorganized Burundian anticorruption bodies since taking office, abolishing an anticorruption court and an anticorruption brigade and placing their functions within existing offices. In September 2021, the UN CoI [Commission of Inquiry] criticized Ndayishimiye's declaration that civil servants can accept bribes to 'contribute to the development of the country'".[306]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, noting that:

> Section 1. Respect for the Integrity of the Person […]
> D. ARBITRARY ARREST OR DETENTION […]
> Pretrial Detention: Prolonged pretrial detention remained a serious problem. […] Inefficiency and corruption among police, prosecutors, and judicial officials contributed to the problem.
> Section 4. Corruption and Lack of Transparency in Government
> The law provides criminal penalties for official corruption, but the government did not implement the law effectively. There were numerous reports of government corruption during the year. Some high-level government officials engaged in corrupt practices with impunity. The constitution provides for the establishment of a High Court of Justice to review accusations of serious crimes against high-ranking government officials, but the court does not yet exist. The anticorruption law also applies to all other citizens, but no high-ranking official to date has stood trial for corruption.
> Corruption: The public widely viewed police to be corrupt, and petty corruption involving police was commonplace. There were numerous allegations of corruption in the government, including incidents related to the lack of transparency of budget revenue involving gasoline importation; the trading in influence and abuse of office or power; the mismanagement of public tenders and contracts, including in the health and mining sectors; misappropriation of public funds; customs fraud; and the appropriation of the country's limited foreign currency reserves to finance imports. The Burundian Revenue Office has an internal antifraud unit, but observers accused its officials of fraud.
> Authorities undertook noteworthy anticorruption initiatives, including dismissing high-level officials as well as hundreds of other low-level officials accused of malfeasance and targeting some high-profile corruption schemes. The Ministry of Interior was charged with leading anticorruption efforts as part of President Ndayishimiye's new anticorruption campaign. The ministry continued a "zero tolerance toward corruption" campaign and kept suggestion boxes in all commune offices and government ministries to allow the population to report corrupt activities. The minister of interior also maintained a toll-free telephone number to allow citizens to report corruption and malpractice. […]

[304] Transparency International, *Corruption Perceptions Index 2021: Burundi*, 25 January 2022
[305] Transparency International, *Corruption Perceptions Index 2020: Burundi*, 28 January 2021
[306] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

> In a setback for anticorruption initiatives, in April the National Assembly approved a law disbanding the anticorruption special court and the anticorruption police unit. The anticorruption court's authorities were transferred to the office of the attorney general and courts of appeals, and the anticorruption police unit's authorities were delegated to the judicial police. The NGO anticorruption watchdog OLUCOME criticized the decision and warned it risked hindering anticorruption efforts. They requested that the government restructure the institutions instead of abolishing them.[307]

On 24 May 2022, Ligue Iteka published its annual report for the period of January to December 2021. It wrote that it "noted cases of misappropriation of public funds intended for the electrification project in Muyange zone in Nyanza-Lac commune, Makamba province, and the misappropriation of food aid intended for malnourished children in Vumbi commune, Kirundo province".[308]

In July 2022, the US Department of State published its annual 2022 report on trafficking, commenting on related prosecution in Burundi:

> PROSECUTION
> The government increased criminal investigations, prosecutions, and convictions of officials complicit in trafficking crimes; however, corruption and official complicity in trafficking crimes remained significant concerns during the reporting period. […]
> Observers reported many arrests were not elevated to prosecution because of insufficient evidence, corruption, and interference of high-ranking officials.[309]

The same month, the US Department of State published its annual 2022 report on investment climate statements, writing on Burundi about corruption levels:

> 9. Corruption
> The government has an anti-corruption law as well as constitutional provisions on corruption, although these have not been implemented. Cabinet members, parliamentarians, and officials appointed by presidential decree have immunity from prosecution on corruption charges, insulating them from accountability. Laws designed to combat corruption do not extend to family members of officials or to political parties.
> Article 60 of the April 2016 law "Bearing Measures for the Prevention and Punishment of Corruption and Related Offenses" regulates conflicts of interest, including in awarding government procurement. Burundian legislation criminalizes bribery of public officials, but there is no specific requirement for private companies to establish internal codes of conduct.
> Burundi is a signatory to the UN Anti-Corruption Convention and the OECD Convention on Combating Bribery. Burundi has also been a member of the East African Anti-Corruption Authority since joining the EAC [East African Community] in 2007. The country does not provide protections to NGOs involved in investigating corruption.

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[307] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[308] Ligue Iteka, *Annual report of the Burundian League for Human Rights "ITEKA", January-December 2021*, 24 May 2022, *p. 13*
[309] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 19 July 2022

> A number of U.S. firms have noted corruption is an obstacle to direct investment in Burundi. Corruption is most pervasive in the award of licenses and concessions, which takes place in a non-transparent environment with frequent allegations of bribery and cronyism. Many customs officials are also reportedly corrupt, regularly extorting bribes from exporters and importers.
> In April 2021, the National Assembly approved a law disbanding the anti-corruption court and the anti-corruption police unit. The anti-corruption court's authorities were transferred to the office of the attorney general and courts of appeals and the anticorruption police unit's authorities were delegated to the judicial police.
> President Ndayishimiye continued with anti-corruption initiatives including dismissing high-level officials as well as hundreds of other low-level officials accused of malfeasance. In May 2021, President Ndayishimiye fired the Minister of Trade, Transport, Industry and Tourism over acts that risked compromising the country's economy and tarnishing its image, reportedly in connection with the improper disposition of state property. He also fired the succeeding Minister of Trade, Transport, Industry and Tourism for tarnishing the image of the country after it came to light that she included family members and friends in official delegations abroad.[310]

The Conversation discussed political actors in Burundi following the removal of prime minister Guillaume Bunyoni in an October 2022 article. It remarked:

> […] it is apparent that the president and former prime minister represent two divergent political groups of influence within Burundi's political arena. The two groups are dominated by high-ranking officers – the generals – with different ideologies regarding the management of the country and social welfare.
> The first group is made up of influential officers from the former rebel movement, CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. This group is striving to bring some deep reforms following decades of poor governance marked by endemic poverty and rampant corruption.
> The second group is composed of powerful people, among them many high-ranking police officers. For the past 15 years, members of this group have been enriching themselves at the expense of the country's development. In the eyes of many Burundians, the sacked prime minister was the face of this group.
> Bunyoni's removal is an attempt by President Ndayishimiye to get rid of corrupt officials whose presence within the highest echelons of state administration was derailing government's efforts to repair the country's economy in the aftermath of sanctions that were imposed in 2015 after former President Pierre Nkurunziza's third term in office. Ndayishimiye's initiatives included increasing access to fertilisers for farmers, supplying basic necessities such as sugar and cement, and improving the energy supply.[311]

V. Human Rights Situation

a. Freedom of Expression, Association and Assembly

[310] US Department of State, *2022 Investment Climate Statements: Burundi*, 28 July 2022
[311] The Conversation, *Burundi after exit of Nkurunziza's men - what Evariste Ndayishimiye should do next*, 10 October 2022

i. Treatment of Political Opposition

Additional relevant information can be found under section V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention* and *V.e. Torture and Inhumane Treatment*.

1. Restrictions on Political Organizing

In its 2021 annual report, Freedom House noted that "Political party formation is legally allowed, but the activities of opposition parties and political leaders are discouraged under the threat of retaliatory violence, repression, or arrest. Individuals are also intimidated into joining the CNDD-FDD".[312]

Bertelsmann Stiftung considered in its report covering events between February 2019 and January 2021 that "Despite struggles between different political parties over access to power and resources, Burundi's legitimacy as a nation-state has always remained unquestioned. […] During the reporting period, the freedom of assembly was severely restricted in Burundi. By and large, any statements that contradict the official propaganda of the government and the CNDD-FDD, which contend that peace and security prevail in Burundi, have been systematically described as attempts to destabilize the country".[313]

The 2021 U.S. Department of State report detailed regarding political participation:

> The constitution outlines a multiparty system and provides rights for parties and their candidates including assurance for authorities' noninterference in political parties' affairs. According to the law, to qualify for public campaign funding and compete in the parliamentary and presidential elections, parties needed to be "nationally based," (i.e., ethnically and regionally diverse) and prove in writing they were organized and had membership in all provinces. The Ministry of the Interior recognized 36 political parties. […]
> Political parties allied with the CNDD-FDD were largely able to operate freely. […]
> No laws limit the participation of women and members of minority groups in the political process, and they did participate. [314]

Freedom House further noted that during 2021 "Women face social pressure that can deter active political participation, and few women hold political office at senior levels".[315] Moreover, "The opposition has little realistic opportunity to increase its popular support through elections. Opposition parties, politicians, and their supporters face harassment, intimidation, and assassination. Many are forced to operate in exile".[316]

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[312] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[313] Bertelsmann Stiftung, *BTI 2022 Country Report — Burundi*, 23 February 2022, *p.11*
[314] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *Section 3. Freedom to Participate in the Political Process, Political Parties and Political Participation:*
[315] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[316] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022

The August 2021 Report of the Commission of Inquiry on Burundi summarised that "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".[317] The same source further noted:

> 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 [National Congress for Liberty], 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. [318]

The 2021 U.S. Department of State report noted with regards to freedom of assembly that:

> The law requires political parties and large groups to notify the government in advance of a public meeting and at least four days prior to a proposed demonstration. Opposition parties including the CNL were able to organize national congresses and other public gatherings. […] Nevertheless, there were reports that in some localities, particularly in rural settings, CNL members were prevented from holding meetings.[319]

The Institute for Economics & Peace's Global Peace Index for 2022 ranked Burundi at 131 of 163 countries in the world, and 32 out of 44 countries in Africa.[320] The report indicated that "The growth of political violence and terror continued through 2021 and into 2022, with 44 countries recording a deterioration in the political terror indicator, compared to 29 that recorded an improvement. Large deteriorations occurred in Mozambique, Burundi, Belarus, Azerbaijan, Argentina and Djibouti. The average political terror score is now the highest it has been since 2008".[321]

2. Treatment of Members of Opposition Parties

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention* and its sub-headings on Prison and Detention Conditions, and *V.e. Torture and Inhumane Treatment*.

The U.S. Department of State described the 2020 May elections as having "resulted in a peaceful transfer of power but were deeply flawed with widespread reports of human rights abuses perpetrated primarily

[317] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *Summary*
[318] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 35*
[319] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.bb. Freedoms of Peaceful Assembly and Association*
[320] The Institute for Economics & Peace, *Global Peace Index for 2022*, June 2022, *p.11 and 22*
[321] The Institute for Economics & Peace, *Global Peace Index for 2022*, June 2022, *p.13*

against members of the main opposition party".[322]

ACLED reported in May 2020 that "the specific targeting of opposition supporters by Imbonerakure has been on the rise in recent years, reaching the peak number of recorded events in the months just before the 2020 election. As opposition parties contend for votes during the lead-up to the elections, there has been a significant increase in violence by the Imbonerakure against opposition supporters, primarily the CNL".[323] It described the violence thus:

> Local government actors supporting the CNDD-FDD often partner with Imbonerakure to coordinate attacks against political targets or to carry out the violence themselves alongside Imbonerakure (HRW, 27 April 2020). Attacks by Imbonerakure occur throughout Burundi, and have included the targeting of civilians attending opposition party meetings, as well as the destruction or looting of political party buildings, homes, and farmland. Police frequently arrest opposition supporters after these attacks, with sweeping arrests reported in Makamba in recent weeks (SOS Media, 8 May 2020). In some cases, CNL members and Imbonerakure or CNDD-FDD supporters fight with one another. Both attacks and clashes primarily result in injuries rather than deaths. Imbonerakure attacks against the CNL comprise the vast majority of these events, with a small minority of attacks targeting other political party supporters.[324]

Human Rights Watch reported in June 2020 that it had "received credible reports of opposition members being threatened and beaten, particularly in rural areas. Local media have also reported arrests of opposition members, accused of threatening the security of the state".[325] The same source further noted:

> The CNL told local media that over 600 of its members had been arrested during the campaigns and on election day, and Burundian rights organizations reported multiple abuses, including arbitrary arrests and beatings of CNL and other opposition party members. Human Rights Watch has also documented killings and arbitrary arrests of CNL members during the pre-election period.[326]

In an August 2020 report Amnesty International described activities of the Imbonerakure, the youth wing of the ruling party, the CNDD-FDD:

> For over ten years, Imbonerakure groups have been used to intimidate and attack members of opposition political parties. Over the past five or six years this role has escalated. They are responsible for widespread intimidation and attacks on opponents and perceived opponents, threatening and inflicting violence on people who refuse to join the ruling party. A former Imbonerakure leader told Amnesty International that he was instructed by a local CNDD-FDD leader to do anything necessary to convince

[322] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *Executive Summary*
[323] ACLED, *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020
[324] ACLED, *Widespread Violence Rises Ahead of Burundi's 2020 Election*, 19 May 2020
[325] Human Rights Watch, *Burundi: Intimidation, Arrests During Elections*, 1 June 2020
[326] Human Rights Watch, *Burundi: Intimidation, Arrests During Elections*, 1 June 2020

> residents to vote for the ruling party in the 2020 elections – "even to use force or kill someone" – and that the official would protect him.[327]

In its August 2020 report, the Commission of Inquiry on Burundi stated that "In the context of the 2020 electoral process, which began in 2019, human rights violations took on a political dimension. Above all, they affected the right to security and freedom, but also the right to life and to be free from torture or ill-treatment, as well as civil liberties. The victims were mainly opposition political parties and their members, as well as journalists and independent media outlets. Violent clashes took place between members of the ruling party and the CNL, but there was no mass violence, specifically thanks to the international community's, and the Commission's, calls for calm and reminders that political leaders were responsible for the actions of their activists".[328] The same source further described that:

> Dozens of CNL activists, including those in positions of responsibility within the party as well as candidates for legislative and communal elections, were arbitrarily arrested and detained, for example for campaigning outside the officially designated days and hours while wearing the party's cap or symbol, holding illegal meetings or seeking to "disrupt the election". Some were arrested following physical clashes with members of the Imbonerakure attempting to disrupt election rallies. While most were released after a few days or weeks, some were sentenced to relatively heavy sentences of several years in prison after hastily arranged trials with expedited procedures, while others remained in pretrial detention. […]
>
> Several members of the CNL have been murdered in reprisal for their political activities. Violent clashes between the Imbonerakure and members of the CNL have resulted in injuries and deaths on both sides. Members of the Imbonerakure have also beaten up activists from the CNL individually or in small groups; some victims have been seriously injured, and some of these incidents constitute a form of torture.
>
> The head of the CNL has regularly been presented by CNDD-FDD officials as an ally of "the country's enemies" and "colonists", or as a "puppet" of former President Pierre Buyoya. Such divisive comments have fuelled and even legitimized hostility towards members of the party. In addition, the party's candidates have been arrested and prosecuted merely for criticizing local officials or authorities or their actions.[329]

With regards to women opposition figures the same source noted that "In the context of the electoral process, women members of opposition parties were victims of arbitrary arrest and detention, but also of intimidation and threats, particularly when the electoral lists were published. Such actions were aimed at discouraging them from actively participating in the electoral process or at blocking them from exercising their civil liberties".[330]

Bertelsmann Stiftung noted in its report covering events between February 2019 and January 2021 that:

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[327] Amnesty International, *Burundi: Human rights priorities for new government*, 11 August 2020
[328] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *para 28*
[329] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *para 32, 34 and 40*
[330] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *para 53*

> Opposition members and perceived government opponents continued to face attacks by the authorities and ruling party members. Members of the National Congress for Freedom (CNL) faced particular danger. Members of the Imbonerakure, the ruling party's youth wing, killed, arbitrarily arrested and attacked dozens of CNL members, and destroyed local party offices throughout the country. Harassment of and violence perpetrated against opposition party members was prevalent before, and supposedly continued after the 2020 elections, even though Imbonerakure members have been punished for their crimes in isolated cases. Some CNL meetings in the run-up to the elections were disrupted or encountered obstacles.[331]

In June 2021 a number of other human rights organisations called upon European Union High Representative Josep Borrell and EU foreign ministers to uphold benchmarks set on human rights.[332] The letter signed by Human Rights Watch amongst others argued that "many of Ndayishimiye's repeated promises to deliver justice and promote political tolerance remain unfulfilled".[333] The letter further stated with regards to treatment of the political opposition:

> Some political prisoners have since been released, while others remain in prison. More recently, hundreds of Congrès national pour la liberté (CNL) members were arrested before, during and after the 2020 elections, many of them arbitrarily. A significant number were released after the elections, but others remain in prison. Interference by ruling party and government officials in politically motivated court cases is common, violating basic fair trial standards. […]
>
> Nor has there been any official dialogue between the government and the main opposition party inside Burundi, the CNL, many of whose members have been killed, arrested and tortured, particularly before and during the 2020 elections. Fabien Banciryanino, an outspoken former member of parliament arrested in October 2020, was sentenced in May 2021 to one year in prison for endangering internal state security and rebellion.
>
> […] on 2 February 2021, a Supreme Court judgement was published (dated June 2020), convicting a group of 34 exiled defendants, including several journalists, civil society activists and political opponents, to life imprisonment for their alleged involvement in the failed coup d'état in May 2015. The defendants were tried in absentia and did not have legal representation, denying them a fair trial and flouting the most basic principles of due process of law. [334]

Also reporting on the arrest of Fabien Banciryanino, Amnesty International described that his arrest "on charges of rebellion, defamation and threatening internal state security sends a clear message that Burundi's new government is intolerant of peaceful dissent. Assuming the charges against him are based solely on statements he has made".[335]

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[331] Bertelsmann Stiftung, *BTI 2022 Country Report — Burundi*, 23 February 2022, *p.11*

[332] Committee to Protect Journalists, *CPJ, rights groups call on EU to uphold Burundi human rights commitments, including press freedom,* 21 June 2021

[333] Human Rights Watch, *Open Letter: The EU Should Honor Its Commitments to Human Rights in Burundi*, 21 June 2021

[334] Human Rights Watch, *Open Letter: The EU Should Honor Its Commitments to Human Rights in Burundi*, 21 June 2021

[335] Amnesty International, *Burundi: Release Outspoken Opposition Politician*, 15 October 2020

The August 2021 Report of the Commission of Inquiry on Burundi summarised that "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".[336] The same source further noted that "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".[337] It further reported with regards to the treatment of opposition political party members:

> 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. […]
>
> 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.
>
> 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. [338]

The International Crisis Group similarly reported in October 2021 that "The militia, which Ndayishimiye oversaw when he was CNDDFDD secretary general, is known for shaking down, torturing, abducting, sexually abusing women and killing opposition members and ordinary citizens alike. Its members conduct
night patrols and house visits to demand funds for CNDD-FDD coffers or personal gain. They also prevent the opposition from organising, by disrupting meetings and vandalizing offices. While

[336] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 18*
[337] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 22*
[338] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *paras 35-39*

Ndayishimiye has taken some steps to reel in the Imbonerakure, for example by directing its members to stop extorting financial contributions from the population, he has achieved mixed results at best. The intelligence services, meanwhile, have stepped up abductions and arrests of people considered government opponents, often using internal and cross-border security incidents as cover for round-ups".[339]

Similarly, Human Rights Watch noted in its annual report for 2021 that "Despite a lull in abuses against opposition members after the May 2020 elections, killings, disappearances, torture, arbitrary detention, and harassment of those perceived to oppose the government continued throughout 2021.".[340]

In its annual report covering events in 2021, Freedom House noted that:

> The *Imbonerakure*, National Intelligence Service (SNR), and police are allies of the CNDD-FDD and use violence and intimidation to influence people's political choices. […]
> […] Opposition or antigovernment meetings and rallies are usually prevented or dispersed, and participants face harassment or arrest. […]
> Continued intimidation of opposition supporters has created an atmosphere of fear and limited free speech on university campuses.[341]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, noting that:

> Ndayishimiye and Habarurema have allowed torture to continue at the SNR. In late 2020 and early 2021, SNR provincial officials regularly sent detainees accused of collaborating with the armed opposition to their headquarters in Bujumbura where they were tortured. […]
> Early in Ndayishimiye's first year in power, police and SNR agents arbitrarily arrested scores of CNL members, brutally beating many of them, especially following incursions by armed groups in August and September 2020, during which armed assailants killed at least 16 people, including several CNDD-FDD members.48".
> […] In January 2021, police and intelligence agents in Rumonge province tortured or killed several people suspected of having links with armed groups. […]
> Even more recently, in April 2021, several CNL members were arrested on accusations of collaborating with the armed opposition or other acts of violence. BHRI documented the cases of three CNL members who were taken to the SNR headquarters in Bujumbura, where they were tortured.
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> 48 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec2020-Engl.pdf, December 2020.[342]

The same report described that the CNL had seen a change in how they are treated by Imbonerakure, CNDD-FDD officials or the security services:

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[339] International Crisis Group, *An Opportunity for the EU to Help Steer through Reform in Burundi*, 7 October 2021
[340] Human Rights Watch, *World Report 2022 – Burundi*, 13 January 2022
[341] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[342] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *The government's silence on torture and killings p. 15*

The number of CNL members arbitrarily arrested, tortured, killed or disappeared has decreased. Many of those previously arrested have been released.
Despite this improvement, incidents of killing, torture, arbitrary arrests and harassment of CNL members have been reported in 2021.
Despite this improvement, incidents of killing, torture, arbitrary arrests and harassment of CNL members have been reported in 2021. BHRI documented the following cases, among others.
- On 13 May 2021, a group of Imbonerakure beat a CNL member in Bubanza province. They accused him of stealing corn from a field. An eyewitness said that as Imbonerakure kicked, punched and beat the man with sticks, they insulted him because he was a CNL member and threatened to pull out his teeth.
On 5 April 2021, in Rusaka commune, Mwaro province, unidentified armed men killed the son of Athanase Mpawenayo, the CNDD-FDD commune secretary, and his domestic worker. The following day, Salvator Budigoma, the CNL secretary in Rusaka, was arrested by SNR agents and later tortured at the SNR headquarters in Bujumbura. […] BHRI documented several other cases of torture of CNL members at the SNR headquarters in Bujumbura in late 2020 and early 2021.64
- In March 2021, four members of the Imbonerakure kicked and beat a CNL member and his friend in Rutana province. They said they were ordered to kill the CNL member because of his role during the 2020 electoral campaign.
[…] CNL members in many provinces celebrated their party's second anniversary in February 2021 unhindered. Over the last year, they have also held meetings across the country without interference from Imbonerakure or local officials. In some provinces, however, such as Bubanza, Makamba, Mwaro and Kayanza, local and provincial officials have obstructed CNL celebrations and other events, and told the CNL to obtain permission before holding meetings.75

64 For further information, see The Burundi Human Rights Initiative, "Rumonge: torture and killings in the name of security," https://burundihri.org/rep/Rumonge-Engl.pdf, March 2021. […]
75 Interviews with CNL members from Bubanza, Makamba and Mwaro provinces, 30 March, 12 April and 16 May 2021. See also Twitter: https://twitter.com/BurundiCnl/status/1391250306143592449?s=20 [343]

The 2021 U.S. Department of State reported documented that "There were numerous reports that the government or its agents, including police, the National Intelligence Service (SNR), military personnel, and elements of the Imbonerakure, committed arbitrary or unlawful killings, often against perceived supporters of the political opposition or those who exercised their lawful rights".[344] Furthermore "There were numerous reports that individuals were victims of politically motivated disappearances after they were detained by elements of the security forces or during kidnappings where the identities of the perpetrators were not clear; however, lack of access to reliable reporting, caused in part by restraints on civil society, limited the ability of human rights organizations and researchers to gather complete data. […] The COI [Commission of Inquiry], NGOs, and media reported that persons suspected of being involved in attacks and other security incidents, notably members of the CNL, were victims of enforced

[343] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *3. THE CNL: A DECLINE IN ABUSES, BUT WILL IT LAST? p. 19- 22*
[344] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings*

disappearances".[345] Moreover "Media reported throughout the year that *Imbonerakure* members arrested, threatened, beat, tortured, or inflicted a combination of the foregoing on CNL Members".[346] Furthermore "There were credible reports that the government attempted to use international law enforcement tools for politically motivated reprisals against specific individuals located outside of the country".[347]

The same source described the following incidents against members of the political opposition:

> On May 13, Imbonerakure punched and beat a National Congress for Freedom (CNL) member in Bubanza Province after they accused him of stealing corn, according to the Burundi Human Rights Initiative (BHRI). An eyewitness said the attackers insulted him because he had refused to join the ruling party National Council for Defense of Democracy-Forces for Defense of Democracy (CNDDFDD) ahead of the May 2020 elections. After being left at a school overnight and receiving inadequate medical care, he reportedly died shortly thereafter. A local government official was arrested but quickly released, and no members of the Imbonerakure had been arrested as of December. […]
>
> Media and human rights organizations reported that individuals in military uniforms kidnapped Elie Ngomirakiza, a CNL representative from Bujumbura Rural Province, on July 9.[348]

Also reporting on the abduction of Elie Ngomirakiza, the CNL indicated that at least 30 of its activists have been arrested in the previous three weeks. The Federal Office for Migration and Refugees indicated that the government "rejected the CNL's accusations as unfounded".[349]

With regards to arbitrary arrests the 2021 U.S. Department of State report noted that "Ligue Iteka reported authorities targeted members of the CNL and their supporters after security incidents like grenade attacks or ambushes, blaming them where authorities had not established responsibility".[350] With regards to political prisoners and detainees the source noted that:

> No verifiable statistic was available on the number of political prisoners or detainees; estimates by human rights groups ranged in the hundreds. […] The government denied incarcerating persons for political reasons, citing instead acts against state security, participation in a rebellion, or inciting insurrection. Human rights groups stated that these charges were often a pretext for repressing members of political opposition parties and human rights defenders. […]

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[345] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.b. Disappearance*
[346] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.c.Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*
[347] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.e. Denial of Fair Public Trial*
[348] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings* and *1.b. Disappearance*
[349] BAMF, *Briefing Notes Group 62 – Information Centre for Asylum and Migration*, 20 July 2021
[350] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.d. Arbitrary Arrest or Detention*

> Throughout the year there were regular arrests and detentions of members of opposition political parties, mainly from the CNL but also from other parties, such as Sahwanya-FRODEBU. […]
> In many cases political prisoners remained in pretrial detention, while in other cases prisoners were released without explanation or, more frequently, after paying a monetary fine. The government permitted visits requested by the ICRC, the African Union, and the CNIDH, including to detainees who human rights groups considered to be political prisoners.[351]

In its quarterly report covering events in the first quarter of 2022 SOS Torture Burundi documented that "Of the seven cases of abduction recorded, the victims belong to the categories that are generally the most targeted by these abductions. More than half (4) are members of the CNL (National Congress for Freedom), plus a member of the UPD (Union for Peace and Democracy) who had just returned from Rwanda".[352] The source also reported that "On 23 January 2022, in Bugarama commune Rumonge province, two CNL party activists known respectively as Marie Nintunze, the party's communal representative, and Venant Manirakiza, were arbitrarily arrested and detained at the provincial police station in Rumonge before being transferred to the central prison of Murembwe, in the capital of the province. According to local sources, the two activists were arrested on suspicion of collaborating with the rebel movement Resistance for the Rule of Law in Burundi (RED-Tabara)".[353]

Furthermore, "On 7 February 2022, in the capital of Ngozi province, a young CNL party activist known as Jean Claude Nzigamye was kidnapped by Msafiri Niyonkuru, the provincial leader of the Imbonerakure. […] On 10 February 2022, on Kibande hill of Giheta commune, in Gitega province, a member of the National Congress for Freedom (CNL) known as Révérien Butoyi died in a health facility after being severely beaten by a group of Imbonerakure".[354]

In May 2022 Human Rights Watch reported following research undertaken on Cibitoke and Kayanza provinces that "In two cases investigated, security forces may have forcibly disappeared a person they arrested".[355] It documented the following incidents:

> A 25-year-old member of the National Congress for Freedom (Congrès national pour la liberté, CNL), Burundi's main opposition party, has not been heard from since January 27, when he received a phone call and went to meet with a local member of the Imbonerakure, the ruling party's youth league, in Mugina commune, Cibitoke province, a possible enforced disappearance. The relative said that four armed men wearing police uniforms came out of a four-wheel drive vehicle known to belong to the National Intelligence Service (Service national de renseignement, SNR) in Cibitoke. They took his relative away in the vehicle.

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[351] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.e. Denial of Fair Public Trial*
[352] SOS Torture Burundi, *Burundi: "Bringing a complaint against the State is a mistake!* April 2022, *3. Abductions and enforced disappearances*
[353] SOS Torture Burundi, *Burundi: "Bringing a complaint against the State is a mistake!* April 2022, *4. Violations of the right to liberty: arbitrary arrests and detentions*
[354] SOS Torture Burundi, *Burundi: "Bringing a complaint against the State is a mistake!* April 2022, *1.3. Killings by elements of the imbonerakure militia, 3. Abductions and enforced disappearances*
[355] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022

> "An Imbonerakure member had been telling him to leave [the CNL] and join the ruling party," the family member said. […]
> Another CNL member from Rugombo commune was taken into custody by police and intelligence agents on November 20, a relative and local CNL representative reported, and accused of providing goods to rebel groups. He was reportedly held at the SNR's detention cell in Cibitoke then transferred to the SNR headquarters in Bujumbura. He is currently in Mpimba prison, although the circumstances of his detention and treatment remain unclear.[356]

The same report described that "In the last six months, Human Rights Watch has documented several other detentions, disappearances, and killings of opposition members in Kayanza province. Claude Nzeyimana, an opposition member, in Rango commune, Kayanza province, was reportedly killed in October 2021".[357] The report further documented:

> On November 16, 2021, Imbonerakure members and local administrators took Innocent Barutwanayo, a member of the CNL, into custody in Matongo commune. A CNL party representative who followed his case said that Barutwanayo was accused of working with "Mwarabu."
> Barutwanayo was taken first to the Matongo commune office, then transferred to an intelligence service detention cell and then a local police station, said people close to him and other reports. He was tortured, said a person who saw him in Kayanza hospital, after he was transferred there, apparently due to the serious injuries he suffered in detention. Several national intelligence and police officers took him from the hospital, and transferred him to the intelligence service headquarters in Bujumbura around November 25. A local administrator informed family members on December 3 that they should collect his body at Prince Louis Rwagasore hospital's morgue in Bujumbura. They have not had the funds to do so. […]
> Human Rights Watch received information on the apparent disappearance of at least two other CNL opposition party members in Kayanza province, but has not been able to independently confirm the circumstances of how they were reported missing, their subsequent whereabouts, or what happened to them. […]
> Human Rights Watch received information regarding at least two other arbitrary detentions of opposition party members in Cibitoke province, in November 2021 and March 2022. One former CNL member who recently joined the ruling party was detained on March 30, 2022. Human Rights Watch found that he was arrested by a local intelligence agents and transferred to SNR headquarters in Bujumbura. He is now believed to be held at Mpimba prison in Bujumbura.
> Another CNL member from Rugombo commune was taken into custody by police and intelligence agents on November 20, a relative and local CNL representative reported, and accused of providing goods to rebel groups. He was reportedly held at the SNR's detention cell in Cibitoke then transferred to the SNR headquarters in Bujumbura. He is currently in Mpimba prison, although the circumstances of his detention and treatment remain unclear.[358]

[356] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[357] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[358] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022

SOS Torture Burundi reported that in the second quarter of 2022, "Three cases of abduction or enforced disappearance were reported, two of which were attributed to SNR agents targeting CNL members".[359] It further noted that "On 13 April 2022, at around 8 p.m., on the Murengeza hill in Mpanda commune of Bubanza province, a young CNL activist, known as Sigisi, was seriously injured by members of the ruling party's Imbonerakure youth league during a confrontation between activists of the two parties".[360] Furthermore, in June 2022, Jean-Paul Ntirampeba, head of the CNL youth league of was discovered dead by the Rusizi river, reportedly having been arrested several days beforehand and tortured owing to "suspicion of collaboration with Burundian rebels based in the east of the DRC".[361]

With regards to arbitrary arrests the same source noted "The hunt for CNL members has become permanent since the pre-election period, with only variations in intensity. During the period under review, 20 CNL members were arbitrarily apprehended, several times in groups or individually. They represent about half of all persons arbitrarily arrested and detained during this period ".[362]

In its October 2022 submission to the Universal Periodic Review Working Group, Amnesty International stated that "in 2022, several CNL meetings were disrupted by security forces and the Imbonerakure, including in Gitega province. In June, celebration activities for CNL's third anniversary were banned in several provinces. At least two offices of the CNL were burnt down".[363]

3. Treatment of Persons Critical of the Government

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, V. Human Rights Situation, especially *V.a.iii. Treatment of persons participating in protests and anyone perceived as opponent to the government, including those perceived as supporting armed groups*, *V.d. Arbitrary Arrest and Detention* and its sub-headings on Prison and Detention Conditions, and *V.e. Torture and Inhumane Treatment*.

Reporters Without Borders describes in its 2022 country fact file on Burundi that "The CNDD-FDD, the ruling party since 2005, regards itself as the embodiment of the state and tolerates no dissent".[364]

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[359] SOS Torture Burundi, *Report on the human rights situation Second quarter 2022: FRAD: Towards the legalisation of the imbonerakure militia?,* July 2022, *1.4. Politically motivated abductions or enforced disappearances: the SNR at work*

[360] SOS Torture Burundi, *Report on the human rights situation Second quarter 2022: FRAD: Towards the legalisation of the imbonerakure militia?,* July 2022, *2.1. Attacks on physical integrity by imbonerakure militiamen*

[361] SOS Torture Burundi, *Report on the human rights situation Second quarter 2022: FRAD: Towards the legalisation of the imbonerakure militia?,* July 2022, *1.3. Violations of the right to life by law enforcement officials*

[362] SOS Torture Burundi, *Report on the human rights situation Second quarter 2022: FRAD: Towards the legalisation of the imbonerakure militia?,* July 2022, *3.1. Arbitrary arrests and detentions of CNL members: politically motivated*

[363] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *para 15*

[364] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)

In its annual report covering events in 2021, Freedom House considered that "antigovernment meetings and rallies are usually prevented or dispersed, and participants face harassment or arrest".[365] The same source further noted that "The SNR and the Imbonerakure actively surveil private citizens. There is a reluctance to engage in speech which could be perceived as critical of the CNDD-FDD for fear of reprisal".[366]

The August 2021 Report of the Commission of Inquiry on Burundi documented that:

> 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.[367]

ii. Treatment of Human Rights and Women's Rights Defenders and Civil Society Leaders

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, and V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention* and its sub-headings on Prison and Detention Conditions, and *V.e. Torture and Inhumane Treatment*.

The U.S. Department of State explains that "The constitution provides for freedom of association within the confines of the law, but the government severely restricted this right. A law constraining international NGOs includes requirements that international NGOs deposit a portion of their budgets at the Bank of the Republic of Burundi and that they develop and implement plans to attain ethnic and gender balances in
the recruitment of local personnel. The law contains several clauses that give the government considerable control regarding NGOs' recruitment and programming".[368]

As way of background, in October 2018 the government of Burundi "suspended the actions of all international NGOs present in Burundi" and set as the "primary condition for their restart is, among other things, a plan to set up ethnic quotas for their staff" reported Humanity & Inclusion.[369] As a consequence this particular NGO, "which operates under its original name 'Handicap International' in Burundi since 1992, has been forced to stop its activities in the country" in January 2019, as "it no longer considers itself able to carry out its projects due to the Burundian government's recent decisions

[365] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[366] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[367] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 37*
[368] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.b. b. Freedoms of Peaceful Assembly and Association*
[369] Humanity & Inclusion, *Humanity & Inclusion closes Burundi program after 26 years*, 7 January 2019

towards international NGOs, in particular the obligation to keep a record of its employees' ethnicities".[370] In its report on Burundi in August 2020, the UN Commission of Inquiry wrote that: "As a result of the measures taken in 2018 to increase control over foreign nongovernmental organizations (NGOs) and their activities, in February 2020 such NGOs were ordered to submit lists of their employees, including information on their ethnicities. On 20 March 2020, the Government announced that those that did not respect the ethnic balance would be "cancelled" and that inspections would be undertaken".[371]

In an October 2020 statement calling for the release of the detained Iwacu journalists [see section *V.b.ii. Arrest and Pardon of Iwacu Journalists* for further information] the International Federation for Human Rights noted that "Hundreds of journalists and human rights defenders have fled the country since the start of the political crisis in 2015 and those still working in the country often face threats and harassment".[372]

In May 2021 Human Rights Watch explained that:

> The government continues to use two laws governing the work of domestic and foreign nongovernmental organizations and the 2018 media law to control activities. Journalists and staff members of domestic and international organizations reported having to seek permission from provincial and local authorities to carry out their work. They also described threats and difficulties preventing them from working on human rights or security-related issues. […]
> Senior government officials continue to issue warnings against activists and journalists in exile who are perceived to be working "against the interests of the country." The Supreme Court's guilty verdict against 12 human rights defenders and journalists in exile underscores the government's continued crackdown on dissent. They were sentenced to life in prison and to pay fines of more than 5.5 billion Burundian Francs ($2.8 million) in punitive damages […].
> The prosecutions of human rights defenders indicate the government's intolerance of outspoken, critical voices and attempts to manipulate the justice system to try to discredit and obstruct important human rights work, Human Rights Watch said.[373]

In June 2021 a number of other human rights organisations called upon European Union High Representative Josep Borrell and EU foreign ministers to uphold benchmarks set on human rights.[374] The letter signed by Human Rights Watch amongst others stated that:

> Independent civil society organizations and human rights defenders are unable to operate freely and safely in Burundi. The suspension of several civil society organizations in 2015 has not been repealed. The human rights defenders who left Burundi for their safety in 2015 and 2016 have been unable to return;

[370] Humanity & Inclusion, *Humanity & Inclusion closes Burundi program after 26 years*, 7 January 2019
[371] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 9*
[372] International Federation for Human Rights, *Burundi: Sixty-five organizations call for immediate release of Iwacu journalists*, 22 October 2020
[373] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021
[374] Committee to Protect Journalists, *CPJ, rights groups call on EU to uphold Burundi human rights commitments, including press freedom,* 21 June 2021

> their organizations have been closed down or suspended, destroying Burundi's once vibrant human rights movement. Most civil society organizations operating inside Burundi refrain from directly criticizing the government. Human rights defender Germain Rukuki is serving a 32-year prison sentence, and a verdict on his latest appeal is overdue. Nestor Nibitanga, another human rights defender sentenced to five years in prison in 2018, was among those granted a presidential pardon in 2021.[375]

The August 2021 Report of the Commission of Inquiry on Burundi documented that:

> 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.
>
> 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 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.[376]

In its annual report covering events in 2021, Freedom House noted that:

> NGOs in Burundi face restrictive registration laws and persecution for activity seen as hostile to the government. A number of human rights and other groups perceived as antigovernment were banned during the 2018 referendum and the 2020 elections, and many of their members have fled the country. […]
>
> Human rights advocates can face arrest and imprisonment. In 2018, antitorture and antipoverty advocate Germain Rukuki was sentenced to 32 years' imprisonment on charges including rebellion. An appeals court reduced Rukuki's sentence to 1 year in June 2021, and Rukuki was released by July.
>
> In April 2021, the government reversed its ban on Words and Actions for the Awakening of Consciences and the Evolution of Mentalities, an anticorruption NGO. [377]

In its annual report covering events in 2021, the U.S. Department of State noted that "Security risks for local activists, witnesses, and victims also posed challenges".[378] The same source further noted that

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[375] Human Rights Watch, *Open Letter: The EU Should Honor Its Commitments to Human Rights in Burundi*, 21 June 2021

[376] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *paras 32-34*

[377] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022

[378] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings*

"Human Rights Watch, the COI and other organizations continued to report that human rights defenders who remained in the country were subjected to threats, intimidation, and arrest. […] Numerous CSOs, especially those that focused on human rights, remained banned or suspended. […] Members of both recognized and unrecognized organizations reported being subjected to harassment and intimidation and took measures to protect the identities of their employees and sources".[379]

In its quarterly report covering events in the first quarter of 2022 SOS Torture Burundi documented that "Since 14 January 2022, on Bitare hill of Bugendana commune, in Gitega province, three members of the association named Christian Union for the Education and Development of the Disadvantaged (UCEDD) from the Batwa community, namely Sylvestre Nyawenda, Ignace Ndirariha and Isaïe Ndayirukiye, have been arbitrarily detained in the dungeon of the Gitega police station. According to witnesses, they were arrested after being accused without evidence of holding a clandestine meeting aimed at destabilising the activities of the UCEDD association".[380]

In its October 2022 submission to the Universal Periodic Review Working Group, Amnesty International considered that "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".[381] It further described that:

> 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.[382]

In its joint submission to the UN Human Rights Council, CIVICUS, Ligue Iteka, DefendDefenders and the Association Burundaise pour la Protection des Droits Humains et des Personnes Detenue (APRODH) stated that they are "alarmed by the targeting of CSOs [Civil Society Organisations] and HRDs [Human Rights Defenders] through restrictive laws and practices, and judicial harassment in the form of fabricated cases and unfair trials […] As a result, civic space in Burundi is currently classified as 'closed'

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[379] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights*

[380] SOS Torture Burundi, *Burundi: "Bringing a complaint against the State is a mistake!* April 2022, *4. Violations of the right to liberty: arbitrary arrests and detentions*

[381] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *para 2*

[382] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *para 16*

by the CIVICUS Monitor, indicating the existence of particularly severe civic space restrictions".[383] Specifically the submission highlighted:

> HRDs continue to face numerous obstacles to their legitimate work and civic space remains severely restricted. The government continues to exert control over civil society and deny citizens the enjoyment of their rights to the freedoms of association, peaceful assembly and expression. Those perceived as critical of the government have faced continued repression […]
> the Burundian justice system is used as a tool to target dissenting voices. HRDs, journalists and critics of the government have been charged with 'undermining security' and 'collaborating with armed groups'.[384]

In October 2022 Amnesty International reported that Burundian lawyer, Tony Germain Nkina had been detained arbitrarily for almost two years.[385] He was convicted 'collaborating with rebels who attacked Burundi' and sentenced to five years in prison but according to Amnesty International, "evidence presented against him indicates that his prosecution is motivated by his former human rights work".[386] Frontline Defenders noted that in December 2022 the Burundian Supreme Court quashed the conviction upheld in September 2022 by the Appeals court, meaning that the appeal has to be heard again.[387]

LGBTI Activists

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) highlighted that "Article 6 of Decree-Act No. 1/11 (1992) allows the authorities to deny registration when the object of the association is contrary to the law, public order or morality […] Similarly, Article 24 of Law No. 1/02 (2017) on the Organic Framework of Non-Profit Associations prohibits the registration of organisations with purposes contrary to the law. Consensual same-sex sexual acts were made a criminal offence in Burundi in 2009. Activists [in 2012 and 2014] have reported being unable to register their groups except when
they focus on HIV/AIDS issues".[388]

ILGA further noted in its 2021 global overview on the enforcement of laws criminalizing consensual same-sex sexual acts that "Authorities have repeatedly summoned and arrested activists and forced the

[383] CIVICUS, Ligue Iteka, DefendDefenders and the Association Burundaise pour la Protection des Droits Humains et des Personnes Detenue (APRODH), *Burundi, Joint Submission to the UN Human Rights Council Universal Periodic Review (UPR), 43rd Session of the UPR Working Group*, 11 October 2022, *para. 1.12/1.13*

[384] CIVICUS, Ligue Iteka, DefendDefenders and the Association Burundaise pour la Protection des Droits Humains et des Personnes Detenue (APRODH), *Burundi, Joint Submission to the UN Human Rights Council Universal Periodic Review (UPR), 43rd Session of the UPR Working Group*, 11 October 2022, *para. 2.6/2.7*

[385] Amnesty International, *Urgent Action: Lawyer Detained Arbitrarily for Nearly Two Years*, 4 October 2022

[386] Amnesty International, *Urgent Action: Lawyer Detained Arbitrarily for Nearly Two Years*, 4 October 2022

[387] Frontline Defenders, *Quashing of Tony Germain Nkina's Sentence by the Supreme Court*, 9 December 2022

[388] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State-Sponsored Homophobia 2020: Global Legislation Overview Update*, December 2020, *Legal barriers to the registration or operation of CSOs [Civil Society Organisations] working on sexual and gender diversity issues, Africa, p. 166*

suspension of workshops on sexual health HIV/Aids under the pretence that such activities violate local criminal provisions against the 'undermining of good morals'".[389]

iii. Treatment of persons participating in protests and anyone perceived as opponents of the government, including those perceived as supporting armed groups

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, and V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention* and its sub-headings on Prison and Detention Conditions, and *V.e. Torture and Inhumane Treatment*.

Human Rights Watch reported in June 2020 that "Throughout the pre-election period, Imbonerakure members committed widespread abuses, especially against people perceived to be against the ruling party, including killings, enforced disappearances, arbitrary arrests, beatings, extortion, and intimidation".[390]

In its August 2020 report, the Commission of Inquiry on Burundi stated that "Particularly virulent messages of hatred and hostility towards political opponents of the CNDD-FDD party, sometimes with an ethnic dimension, circulated on social networks without eliciting the authorities' condemnation or rebuke. […] Control of the population by the Imbonerakure, often based on intimidation, including forced recruitment into the CNDD-FDD party, has increased in recent years". [391]

The same source further documented "Acts of torture continued to be committed, including sexual and gender violence affecting mostly women and girls, but also men. Such violence was aimed at intimidating, controlling, repressing or punishing women and men for their supposed or actual political opinions, their refusal to join the ruling party or their links with an armed movement".[392]

In June 2021 a number of other human rights organisations called upon European Union High Representative Josep Borrell and EU foreign ministers to uphold benchmarks set on human rights.[393] The letter signed by Human Rights Watch amongst others stated that:

> Imbonerakure, some of whom are armed, have arrested, ill-treated and killed suspected opponents, sometimes in collaboration with, or with the support of, local government officials, police or intelligence agents. […]

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[389] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *Our Identities Under Arrest, A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions*, December 2021, *Africa, Burundi, p. 53/54*
[390] Human Rights Watch, *Burundi: Intimidation, Arrests During Elections*, 1 June 2020
[391] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *para 40 and 45*
[392] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *para 58*
[393] Committee to Protect Journalists, *CPJ, rights groups call on EU to uphold Burundi human rights commitments, including press freedom,* 21 June 2021

> Some protestors arrested in 2015 have been released, but many were tortured and convicted during unfair trials. Numerous people suspected of opposing the government in other contexts have been arrested more recently, particularly following security incidents. They face the same absence of due process: they are often arrested in an arbitrary manner, some have been tortured, and they cannot be guaranteed a fair trial.[394]

The August 2021 Report of the Commission of Inquiry on Burundi documented that "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".[395]

The same source further detailed that "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".[396] Moreover people are forced 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" with some people "threatened because they were not contributing enough to CNDD-FDD".[397]

In its annual report covering events in 2021, Freedom House noted that "The CNDD-FDD apparatus has violently targeted returning refugees on suspicion of opposition sympathies, along with individuals suspected of ties to Burundian rebels operating in the Democratic Republic of Congo. […] Individuals not allied with the ruling party may lose their employment […] Reports indicate that teachers allied to the CNDD-FDD have intimidated students who are considered unsupportive, in some cases preventing them from attending school. Teachers are increasingly screened for political loyalty to the ruling party".[398]j Moreover, "Women are often targeted for rape if they or their spouses refuse to join the CNDD-FDD". [399] [see also section *VI.a. Gender-based Violence (GBV)* for further information]

Human Rights Watch noted in its annual report for 2021 that "Dozens of real or suspected members of opposition groups have been victims of enforced disappearances. Many people were also detained by the National Intelligence Service and allegedly subjected to severe torture, rape, and ill-treatment".[400]

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[394] Human Rights Watch, *Open Letter: The EU Should Honor Its Commitments to Human Rights in Burundi*, 21 June 2021
[395] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 24*
[396] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 42*
[397] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 49*
[398] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[399] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[400] Human Rights Watch, *World Report 2022 – Burundi*, 13 January 2022

In its annual report covering events in 2021, the U.S. Department of State noted that "According to a Ligue Iteka report, Eliazard Nahimana, a resident of Buganda Commune in Cibitoke Province, died on April 22, after being beaten and tortured by a group of Imbonerakure. The report indicated that Nahimana was arrested at the order of Pamphile Hakizimana, the local administrator of the commune, who accused him of obstructing government activities after Nahimana tried to prevent Imbonerakure members from digging a rainwater drainage canal on his property. Nahimana was transported to the commune's police detention facility where he was beaten and tortured. The local administration refused to provide him with medical assistance. As of year's end, authorities made no known efforts to investigate his death".[401]

Regarding the treatment of family members the same source documented that "The BHRI reported that some police arrested and threatened family members of suspects they were unable to find for arrest"[402] and detailed the following incident:

> Local media reported that women's rights activist Beatrice Nyamoya was arrested upon arrival at the Bujumbura international airport on November 20. Media reported that she is the sister of Francois Nyamoya, secretary general of the banned opposition group Movement for Solidarity and Democracy, whom the government has accused of acts of terrorism; Nyamoya reportedly lives in exile in Rwanda. Radio Isanganiro quoted the chairman of the CNIDH as saying she had been arrested for investigative purposes. Beatrice Nyamoya was released without charge after being held for six days by the SNR.[403]

The same source further noted that "In some instances members of the Imbonerakure were accused of using the checkpoints to deny free movement to individuals for political reasons, such as failing to demonstrate proof of contributions for the funding of the ruling party's offices and activities".[404]

In May 2022 Human Rights Watch reported following research undertaken on Cibitoke and Kayanza provinces that "Burundi's national intelligence services, police, and ruling party youth members have killed, arbitrarily detained, tortured and harassed people suspected of belonging to opposition parties or of working with armed opposition groups".[405] Reporting on the situation in Cibitoke province, Human Rights Watch noted that the national intelligence services run a "well-known detention facility", where according to local residents, "people suspected of working with armed groups are held".[406] Furthermore

> Many of those interviewed expressed fear of being perceived as government opponents, whether or not they were affiliated with opposition groups. A 43-year-old man who decided to leave the ruling party to

[401] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings*
[402] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.f Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence*
[403] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *1.e. Denial of Fair Public Trial, Threats, Harassment, Surveillance, and Coercion*
[404] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, 2.*d. Freedom of Movement and the Right to Leave the Country*
[405] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[406] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022

> join the CNL said he was told by former colleagues in Cibitoke province he would be killed: "There are people who come at night. It's happened around four or five times. I don't go walking anymore, I'm home every night by 5 p.m. I can't ever be alone." A local CNL representative confirmed that he had also been informed by ruling party officials that the man was a target. [407]

SOS Torture Burundi reported that "On 27 May 2022, on the Kinama hill in Gisuru commune of Ruyigi province, a woman known as Joselyne Nsabimana, aged 60, was atrociously tortured by two imbonerakure from the youth league of the CNDD-FDD party. The victim was tortured to punish her for the refusal of her husband, Philbert Bukuru, a CNL party activist, to join the CNDD-FDD party".[408]

b. Freedom of Speech (the Media and Journalists)

i. Restrictions on the Press

The U.S. Department of State explains that "The constitution and law provide for freedom of speech and press but ban 'defamatory' speech regarding the president and other senior officials, material deemed to endanger national security, and racial or ethnic hate speech. Additional restrictions imposed in 2015 continued and were applied to all press outlets".[409] Reporters Without Borders noted that "the existing legal framework provides no concrete protection for the freedom to report the news".[410]

The National Communications Council (CNC) requires that journalists register annually, limits access to international journalists, and puts in place restrictions on outlets' outputs.[411] According to the U.S. Department of State it is "widely regarded as a tool of the executive branch" and "continued to monitor the press closely. Broadly interpreted laws against libel, hate speech, endangering state security, and treason also fostered self-censorship, including by journalists working for the national broadcaster".[412] Regarding libel laws the same source noted that:

> The law protects public servants and the president against "words, gestures, threats, or writing of any kind" that is "abusive or defamatory" or would "impair the dignity of or respect for their office." The law prohibits the public distribution of information that exposes a person to "public contempt" and provides penalties of imprisonment and fines for violations. The penalty for conviction of insulting the head of state is six months to five years in prison and a token monetary fine. Some journalists and leaders of political parties and civil society stated the government used the law to intimidate and harass them. […]

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[407] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[408] SOS Torture Burundi, *Report on the human rights situation Second quarter 2022: FRAD: Towards the legalisation of the imbonerakure militia?,* July 2022, *2.1. Attacks on physical integrity by imbonerakure militiamen*
[409] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*
[410] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)
[411] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*
[412] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*

> It is a crime for anyone knowingly to disseminate or publicize rumors likely to alarm or excite the public against the government or to promote civil war.[413]

It was reported that on election day, 20 May 2020, the government blocked social media access including to Facebook, Twitter, WhatsApp, and YouTube.[414]

In its annual report covering events in 2021, Freedom House considered that:

> Freedom of expression is constitutionally guaranteed but severely restricted in practice by draconian press laws and a dangerous operating environment for media workers, who risk threats, harassment, and arrest in response to their coverage. A 2013 media law limits the protection of journalistic sources, requires journalists to meet certain educational and professional standards, and bans content related to national defense, security, public safety, and the state currency. The government dominates the media through its ownership of the public television broadcaster, radio stations, and newspaper Le Renouveau. Key independent news outlets destroyed in the political violence of 2015 have yet to be reestablished.[415]

In its 2020 annual report on East Africa, Article 19 assessed Burundi as having a GxR rating, which tracks freedom of expression via 25 indicators, of 6 out of 100, classified as a country "in crisis".[416] The report considered that:

> Burundi (GxR score 6) continues its decade of decline and criminalization of expression: more than 100 journalists have fled the country in the face of intimidation and attacks by the state security forces and the Imbonerakure – the youth wing of the ruling party. Only one daily newspaper – le Roveneau – remains operational in the country: it is owned and directed by the state. Burundi continues to refuse to cooperate
> with the UN Working Group on Enforced or Involuntary Disappearances, which has expressed particular concern around the country's situation [417]

In May 2021 Human Rights Watch explained that:

> On February 22, the CNC lifted the ban on Bonesha FM, a private radio station, which was required to sign an agreement similar to one the private radio station Isanganiro and Rema FM, a pro-ruling party station, signed when they resumed broadcasts in February 2016. […]
> However, for many journalists, these agreements, which state that the radio stations must provide "balanced" information and must not broadcast information that could threaten state security or

[413] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*
[414] AccessNow, *#KeepItOn: Burundi silences the majority on election day*, 20 May 2020;
Net Blocks, *Social media disrupted in Burundi on election day*, 20 May 2020
[415] Freedom House, *Freedom in the World 2022 - Burundi*, 24 February 2022
[416] Article 19, *Eastern Africa Annual Report 2020: Defending Freedom of Expression and Information in East Africa*, 7 September 2021
[417] Article 19, *Eastern Africa Annual Report 2020: Defending Freedom of Expression and Information in East Africa*, 7 September 2021

> "morality" have a muzzling effect, preventing them from documenting human rights abuses or security issues. […]
> Control and oversight of media reporting remain pervasive. One radio director in Burundi said: "We can broadcast information about bodies being found or people being tortured, but only with the authorities' permission. They call us sometimes to tell us when they want us to broadcast information. We can't do independent investigations … We can't make any mistakes, otherwise [they] will accuse us of serving other interests." [418]

The August 2021 Report of the Commission of Inquiry on Burundi documented that "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".[419] The same source further noted that "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".[420]

In its report covering events in 2021, Article 19 noted that Burundi had the fifth lowest GxR rating in Africa, with a score of 7, continuing to assess freedom of expression in the country to be "in crisis".[421]

According to Reporters Without Borders, Burundi improved its ranking in its Global Index from 147/180 in 2021 to 107/180 in 2022.[422] The source described that:

> The media are closely monitored to the point that, in some provinces, journalists must have a permit or be accompanied by a state media journalist to be able to cover certain subjects. The media are policed by the National Communication Council (CNC), whose members are appointed by the president and which is completely subservient to the government.[423]

Reporters Without Borders further noted in its 2022 country profile on Burundi that Gen. Ndayishimiye "promised to normalise relations with the media but that promise has been slow to materialize" and that whilst Ndayishimiye "has sent a few positive signals, the environment continues to be very hostile for journalists".[424]

[418] Human Rights Watch, *Burundi: Entrenched Repression of Civil Society, Media*, 26 May 2021
[419] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 25*
[420] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 30*
[421] Article 19, *The Global Expression Report 2022: The Intensifying battle for narrative control*, June 2022, p.20
[422] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)
[423] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)
[424] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)

The Committee to Protect Journalists reported that in October 2022, the independent media website Iwacu was being blocked and that research published in August had indicated the technology used by Burundian networks was from Chinese company Huawei.[425]

In March 2022 the Burundi media regulator, the CNC, lifted its ban on the BBC and Voice of America News following three years of suspension.[426] Both outlets had been suspended for reporting on human rights abuses committed by authorities under the late President Pierre Nkurunziza.[427] Reporting on the development, African Freedom of Expression Exchange noted that "While the inauguration of the incumbent President was greeted with a glimmer of hope for press freedom, not much has changed in the media landscape, as the country is still ranked as not free by Freedom House. Several journalists have imposed self-censorship on critical issues, out of fear for their life, and retaliation".[428]

In March 2022 Burundi passed cyber criminality legislation.[429]Amnesty International explained:

> 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.[430]

In its October 2022 submission to the Universal Periodic Review, Human Rights Watch noted that "Although Ndayishmiye's government lifted some restrictions, including the suspension of the anti-corruption organization PARCEM, and released some detained rights defenders and journalists, the authorities continued to exercise undue interference in and oversight over the operations of civil society and the media".[431]

ii. Arrest and Pardon of Iwacu Journalists

[425] Committee to Protect Journalists, *How China's Huawei technology is being used to censor news halfway across the world*, 23 November 2021
[426] African Freedom of Expression Exchange, *Burundi: AFEX welcomes the lifting of the ban on BBC*, 10 April 2022
[427] African Freedom of Expression Exchange, *Burundi: AFEX welcomes the lifting of the ban on BBC*, 10 April 2022
[428] African Freedom of Expression Exchange, *Burundi: AFEX welcomes the lifting of the ban on BBC*, 10 April 2022
[429] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *para 8*
[430] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *para 8*
[431] Human Rights Watch, *Human Rights Watch Submission to the Universal Periodic Review of Burundi*, 14 October 2022

Iwacu is a privately-owned media house in Burundi, one of only a few that are operational.[432]

The Commission of Inquiry on Burundi documented that "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'".[433] Amnesty International explained that their presidential pardon came after 14 months in prison:

> Agnès Ndirubusa, Christine Kamikazi, Egide Harerimana, and Térence Mpozenzi were arrested on 22 October 2019, in Bubanza province, northwestern Burundi, where they had gone to cover reports of clashes between the security forces and an armed group. Prior to their trip, they had informed the provincial authorities of their plan to travel to the area. They were later accused of threatening internal state security and charged with "complicity in threatening the internal security of the state". On 30 January 2020, they were convicted to a lesser criminal offense of "attempting to commit a crime" and sentenced to two-and-a-half years in prison and a fine of one million Burundian francs (approximately 525 US dollars).
>
> During their trial, the prosecution presented no evidence of their having had any contact with any armed group. Their conviction was in violation of both Burundi's constitutional and international guarantees on freedom of expression. [434]

Human Rights Watch noted that "their lawyers say that they were not informed of the change to the charge prior to the verdict or allowed to defend themselves against it in court, violating fair trial standards".[435] Article 19 along with 65 other organisations had published an open letter on the anniversary of their arrest calling for their release which indicated that "The message sent by the courts is an attempt to intimidate and threaten other journalists from doing their work and reporting on what is happening inside the country".[436]

Amnesty International and other organisations also called in October 2022 for the release of the Iwacu journalists Agnès Ndirubusa, Christine Kamikazi, Egide Harerimana and Térence Mpozenzi, "who were convicted on charges against state security for simply doing their job" and continued to be arbitrarily detained on "baseless charges".[437]

Regarding treatment of other Iwacu journalists, Reporters Without Borders reported in May 2020 that "Iwacu journalists were subjected to threats and intimidation during the election campaign. A ruling

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[432] Amnesty International, Burundi: *Further information: Four journalists released on presidential pardon: Agnès Ndirubusa, Christine Kamikazi, Egide Harerimana, and Térence Mpozenzi*, 13 April 2021
[433] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 26*
[434] Amnesty International, Burundi: *Further information: Four journalists released on presidential pardon: Agnès Ndirubusa, Christine Kamikazi, Egide Harerimana, and Térence Mpozenzi*, 13 April 2021
[435] Human Rights Watch, *Burundi: 65 Organizations Call for Immediate Release of Iwacu Journalists*, 22 October 2020
[436] Article 19, *Burundi: Sixty-five organizations call for immediate release of Iwacu journalists*, 23 October 2020
[437] Amnesty International et al., *Burundi: Sixty-five organizations call for immediate release of Iwacu journalists*, 22 October 2022

party parliamentarian threatened to kill them, the president's spokesman referred to them as a "virus" and, like several other journalists, they were barred from a press conference about the coronavirus situation in Burundi".[438] In August 2021 during a public speech, resident Evariste Ndayishimiye "verbally attacked" Antoine Kaburahe, founder of Iwacu.[439] In December 2022 Reporters Without Borders noted that the block on online access to Iwacu had been lifted after five years.[440] The source described the development as "more than a symbol, it is a real step forward for freedom of the press in Burundi".[441]

iii. Press Freedom during the COVID-19 Pandemic

The COVID-19 pandemic was underway throughout the reporting period of this report. See the information presented above in sections *V.b.i. Restrictions on the Press* and *V.b.iv. Situation and treatment of Journalists and those working for Media Outlets* for further information on press freedoms during the pandemic.

Bertelsmann Stiftung noted in its report covering events between February 2019 and January 2021 regarding the COVID-19 pandemic that "the government's information management led to confusion among the population, as the danger of the pandemic was first downplayed by outgoing President Nkurunziza, then presented as a pressing threat by the new President Ndayishimiye".[442]

Human Rights Watch reported in June 2020 that "Burundi's government is failing to communicate fact-based information on the Covid-19 pandemic and preventing doctors and nurses from responding adequately".[443]

According to Article 19, during the May 2020 election period, the government refused independent international electoral observers from entering the country, claiming they were a COVID-19 risk.[444] In April 2021 Article 19 also described Burundi as using the pandemic to "to suppress access to information and interfere with the online rights of groups and individuals by shutting down the internet".[445]

The African Freedom of Expression Exchange reported that in August 2021 during a public speech, resident Evariste Ndayishimiye "verbally attacked" Esdras Ndikumana, a journalist at French public international radio station, RFI over critical reporting on COVID-19.[446]

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[438] Reporters Without Borders, *Independent press locked out of Burundi's presidential elect*ion, 20 May 2020
[439] African Freedom of Expression Exchange, *Burundi: AFEX welcomes the lifting of the ban on BBC*, 10 April 2022
[440] Reporters Without Borders, *After being blocked for five years, Burundian news site is accessible again*, 2 December 2022
[441] Reporters Without Borders, *After being blocked for five years, Burundian news site is accessible again*, 2 December 2022
[442] Bertelsmann Stiftung, *BTI 2022 Country Report — Burundi*, 23 February 2022, *p.12*
[443] Human Rights Watch, *Burundi: Fear, Repression in Covid-19 Response*, 24 June 2020
[444] Article 19, *Eastern Africa Annual Report 2020: Defending Freedom of Expression and Information in East Africa*, 7 September 2021
[445] Article 19, *Eastern Africa: Report highlights impact of pandemic on rights*, 7 September 2021
[446] African Freedom of Expression Exchange, *Burundi: AFEX welcomes the lifting of the ban on BBC*, 10 April 2022

iv. Situation and treatment of Journalists and those working for Media Outlets

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, and V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention* and its sub-headings on Prison and Detention Conditions, and *V.e. Torture and Inhumane Treatment*.

Reporters Without Borders described that Burundi's media landscape became poorer after the 2015 failed coup attempt which destroyed or forced outlets to move abroad and that given the economic situation, it is challenging for media outlets to survive without financial support from either the government or NGOs.[447]

In its August 2020 report, the Commission of Inquiry on Burundi stated that "Journalists have been intimidated and threatened, including with death, to prevent them from doing their work independently or covering sensitive issues. Some have been forced to seek permission from local authorities to travel, especially within the country".[448]

Bertelsmann Stiftung noted in its report covering events between February 2019 and January 2021 that "Burundi's ruling party continued systematically oppress journalists and media, as it has for several years. […] Journalists have been intimated and threatened, and some have been forced to seek permission to travel within the country from local authorities".[449]

In January 2021 President Ndayishimiye recommended that the National Communication Council (CNC), Burundi's media regulatory body should urgently hold meetings to discuss the possible reopening of banned media outlets, describing the media as having "a very important role in citizens' lives".[450]

In June 2021 a number of other human rights organisations called upon European Union High Representative Josep Borrell and EU foreign ministers to uphold benchmarks set on human rights.[451] The letter signed by Human Rights Watch amongst others stated that:

> Despite repeated promises, there has been only a limited reopening of private media stations closed by the government in 2015. Since the EU's 2016 decision, only Radio Bonesha has re-opened, in 2021, after signing a working agreement with the National Communication Council (CNC). […]

[447] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)
[448] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *para 41*
[449] Bertelsmann Stiftung, *BTI 2022 Country Report — Burundi*, 23 February 2022, *p.11*
[450] The East African, *President Ndayishimiye moves to improve press freedom in Burundi*, 28 January 2021
[451] Committee to Protect Journalists, *CPJ, rights groups call on EU to uphold Burundi human rights commitments, including press freedom,* 21 June 2021

> In 2021, the media landscape in Burundi remains severely restricted. The few independent media outlets that are allowed to operate exercise self-censorship and avoid controversial issues. Journalists are regularly threatened or harassed by government and ruling party officials.[452]

Also in June 2021, The Collaboration on International ICT Policy for East and Southern Africa (CIPESA) noted that "Since taking office on June 18, 2020, Ndayishimiye has actively engaged the media, leading to the lifting of some sanctions".[453] It further summarised that:

> Notable actions have seen the pardon of jailed journalists, lifting of bans against online publishers such as Iwacu, Isanganiro and Ikirihoo as well as broadcasters including the BBC and Radio Sans Frontières Bonesha (RSF Bonesha). However, these have only been partial reliefs as many independent media houses remain banned, while the culture of self-censorship and civil society oppression prevails". [454]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, noting that "today, most journalists working in Burundi – with a few exceptions, such as the independent newspaper Iwacu – confine themselves to reporting on innocuous subjects, taking care not to offend the ruling party. They operate timidly, muzzled by a combination of crude state censorship and self-imposed caution".[455] The same source further noted:

> Even some of the more daring journalists say much of the information they collect is never published or broadcast. "We see and hear things we want to report on, but can't from inside Burundi," said one reporter. "I don't feel free... There are some subjects I can't cover, even if I have all the information."116
> […]
> High level corruption is top of the "red list" of subjects for many journalists. "People can be killed for a matter of a few francs, so imagine for a big corruption case involving billions," said the same reporter.117
> […] The events of 2015 have even affected the state media, some of which used to report on sensitive subjects in the past and tried to maintain a minimum of balance and objectivity. Now, coverage is uniformly predictable and heavy self-censorship is the norm – a "daily reality", in the words of one journalist, who said self-censorship was so pervasive that their editors didn't even need to censor the information they submitted: " […]
> The same journalist cited politics, security and human rights abuses by officials or by Imbonerakure as examples of subjects he would not cover.
> […] the CNC is always quick to bring journalists to heel as soon as they venture into sensitive territory. It frequently summons editors to reprimand them for alleged bias, lack of patriotism, or for publishing stories that would undermine the president's efforts.128 In early 2021, at least one media outlet was threatened with closure and scolded not only by the CNC but by officials from the president's office.

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[452] Human Rights Watch, *Open Letter: The EU Should Honor Its Commitments to Human Rights in Burundi*, 21 June 2021
[453] CIPESA, *One Year into his Reign, Burundi's President Evariste Ndayishimiye has a Mixed Media Freedom Record*, 22 June 2021
[454] CIPESA, *One Year into his Reign, Burundi's President Evariste Ndayishimiye has a Mixed Media Freedom Record*, 22 June 2021
[455] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *5. THE MEDIA: GIVING IN TO (SELF) CENSORSHIP OR RISING FROM THE ASHES? p. 29*

> While this pressure may not be as heavy-handed as in the past, it is wearing, and makes journalists nervous.
>
> 116 Interview with independent journalist, 23 April 2021.
> 117 Interview with independent journalist, 23 April 2021. […]
> 128 Interview with independent journalist, 16 April 2021[456]

The report also described that "in late January 2021, the president launched a charm offensive towards the media, under the slogan "Jamais sans les médias" (Never without media)". It indicated signs of a shift in the President's attitudes, noting the release of four Iwacu, journalists the reopening of news outlets including Bonesha FM, the pro-government online news outlet Ikiriho and the BBC, and that President Ndayishimiye "has tried to distance himself from the previous government's tense relations with the media".[457] Moreover, whilst the President has talked of "embarking on a new page in Burundi's history" in relation to the media he has "not recognised the severity or the long-term impact of the 2015 attacks on journalists".[458]

The August 2021 Report of the Commission of Inquiry on Burundi documented that "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".[459]

The U.S. Department of State explained in its 2021 report that "Journalists and outspoken critics reported harassment and intimidation by security services and government officials to prevent them from doing their work independently or covering sensitive topics. Some journalists were required to obtain permission from authorities prior to conducting domestic, and in some cases international, travel. Forces allied to the CNDD-FDD repressed media perceived as sympathetic to the opposition, including print and radio journalists, through harassment, intimidation, and violence".[460] The same source further noted that "The government detained or summoned for questioning local journalists investigating subjects such as human rights abuses, corruption, or security incidents".[461]

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[456] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *5. THE MEDIA: GIVING IN TO (SELF) CENSORSHIP OR RISING FROM THE ASHES? p. 29-31*
[457] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *5. THE MEDIA: GIVING IN TO (SELF) CENSORSHIP OR RISING FROM THE ASHES? p. 31-32*
[458] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *5. THE MEDIA: GIVING IN TO (SELF) CENSORSHIP OR RISING FROM THE ASHES? p. 33*
[459] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *para 28*
[460] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*
[461] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*

Reporters Without Borders further explained in its profile on Burundi that "When out reporting, journalists are often greeted by a 'welcome committee', a group of people who have been selected by the authorities and who are not free to say what they think. The regime sees journalists as either patriots in need of training or enemies of the nation".[462] The same source further noted that:

> Burundian journalists live in fear of being threatened, attacked or arrested. The violence may come from the authorities or from ruling party activists, especially the very violent *Imbonerakure* youth militia, who resort to both beatings and extortion to harass and silence journalists. In 2021, the president delivered a public verbal attack on two Burundian journalists based abroad, accusing them of destroying the country. Those responsible for violence against journalists enjoy total impunity.[463]

The U.S. Department of State described the following incidents in 2021:

> On August 31, President Ndayishimiye criticized Esdras Ndikumana, a reporter for French public radio broadcaster Radio France Internationale (RFI), accusing Ndikumana of inflating the number of COVID-19 cases and using RFI's platform to harm the country by focusing on poverty. Along with Ndikumana, Ndayishimiye referred to Iwacu director Antoine Kaburahe as one of two journalists destroying the country and tarnishing its image
> On September 24, police and military officers arrested Aime-Richard Niyonkuru, journalist of Radio Bonesha, while he was investigating a grenade attack in the Kamenge neighborhood of Bujumbura. According to media reports, Niyonkuru was tortured, harassed, and accused of collaboration with enemies of the country, but released 24 hours later.
> On December 28, the director of Kanyosha Health Center in Bujumbura detained two journalists from Radio Isanganiro who were investigating the increasing number of COVID-19 cases and medical center capacity. The director ordered the release of the journalists a few hours later, after they agreed to delete all pictures they took of the center.[464]

The Committee to Protect Journalists (CPJ) reported that in August 2022, Burundian journalists Floriane Irangabiye who is a radio host on Rwandan based Igicaniro which publishes "critical commentary and debate on Burundian politics and culture" was detained when visiting family in Burundi from her home in Rwanda. Two months later she had yet to be formally charged, which Muthoki Mumo, CPJ's sub-Saharan Africa representative argued was "evidence that this case is in retaliation for her commentary and critical opinions".[465] Reportedly she was denied a legal representative, was interrogated about her work at the radio station which officers stated supported opposition groups, accused of working with armed opposition groups and espionage and was sexually assaulted.[466]

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[462] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)
[463] Reporters Without Borders, *Burundi*, undated webpage (accessed 4 January 2023)
[464] U.S. Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *2.a Freedom of Expression, Including for Members of the Press and Other Media*
[465] Committee to Protect Journalists, *Burundian journalist Floriane Irangabiye detained for over two months without formal charge*, 4 November 2022
[466] Committee to Protect Journalists, *Burundian journalist Floriane Irangabiye detained for over two months without formal charge*, 4 November 2022

In its October 2022 submission to the Universal Periodic Review Working Group, Amnesty International stated that it was "concerned by the continued crackdown on the rights to freedom of expression, association and peaceful assembly in Burundi".[467]

c. Freedom of Religion

The U.S. Department of State's 2021 Report on International Religious Freedom reported on the religious demography of Burundi as follows:

> According to the 2008 national census (the most recent), 62 percent of the population is Roman Catholic, 21.6 percent Protestant, 2.5 percent Muslim, and 2.3 percent Seventh-day Adventist. Another 6.1 percent have no religious affiliation, and 3.7 percent belong to indigenous religious groups. The head of the Islamic Community of Burundi, however, estimates Muslims constitute 10-12 percent of the population. The Muslim population lives mainly in urban areas; most are Sunni, although there are some Shia communities as well as a small number of Ismaili Muslims in Bujumbura. Groups that together constitute less than 5 percent of the population include Church of the Rock, Free Methodist, Jehovah's Witnesses, Orthodox Christians, The Church of Jesus Christ of Latter-day Saints, Eglise Vivante, Eglise du Bon Berger, Hindus, and Jains. According to 2018 statistics from the Ministry of Interior, there are approximately 1,000 religious groups in the country.[468]

In its *Executive Summary* the same reported noted that "The constitution defines the state as secular, prohibits religious discrimination, and provides for freedom of conscience and religion. It prohibits political parties from preaching religious violence or hate. Laws regulating religious groups require them to register with the Ministry of Interior, and religious groups must meet certain standards, including a minimum number of adherents, in order to seek registration".[469] The same was already reported in the 2020 Report on International Religious Freedom.[470]

i. Religious Minorities: Treatment of followers of Eusebie Ngendakumana

The U.S. Department of State's 2021 Report on International Religious Freedom provided the following background to Eusebie Ngendakumana, also known as Zebiya, and her followers:

> Ngendakumana, whom her followers described as a Catholic prophet, set up a shrine at her home in Businde, Gahombo commune, in Kayanza Province, stating that she had regular visions of the Virgin Mary on the 12th of each month, and urged followers to join her. Her followers, who had been deported from the Democratic Republic of the Congo to Burundi in 2020 after five years spent in South Kivu and North

[467] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *para 12*
[468] U.S. Department of State, *2021 Report on International Religious Freedom: Burundi*, 2 June 2022, *Section I> Religious Demography*
[469] U.S. Department of State, *2021 Report on International Religious Freedom: Burundi*, 2 June 2022, *Executive Summary*
[470] U.S. Department of State, *2020 Report on International Religious Freedom: Burundi*, 12 May 2021, *Executive Summary*

> Kivu Provinces in eastern Congo, said they feared for their safety in Burundi and believed that Businde is a holy place where they had to make a pilgrimage and commune with God. Community residents complained of noise levels and a lack of respect for their property on the part of Ngendakumana's followers, which led to physical altercations between the groups, causing police to intervene and prohibit the followers from accessing the shrine. Police had sought to locate and arrest Ngendakumana for six years on charges of "inciting civil disobedience." The group had not sought accreditation as a religious denomination because members stated they considered themselves members of the Catholic Church. Catholic Church representatives in the country stated publicly that Ngendakumana did not represent the Church.[471]

In its *Executive Summary* the same report stated that "In October [2021], police arrested and imprisoned approximately 40 followers of Eusebie Ngendakumana, considered a Catholic prophet by her followers, after they attempted to visit a shrine in Kayanza Province".[472]

d. Arbitrary Arrest and Detention

Additional relevant information can be found under section V. Human Rights Situation, especially V*V.a.i. Treatment of Political Opposition*, *V.a.2. Treatment of Members of Opposition Parties*, *V.a.3. Treatment of Persons Critical of the Government* and its sub-headings, *V.b.iv. Situation and treatment of Journalists and those working for Media Outlets*, *V.d.i. Prison and Detention Conditions*, V*.e. Torture and Inhumane Treatment* and *V.f. Extrajudicial Killings or Disappearances*.

In May 2020, RFI published an article on the rise in tensions and arrests during the May 2020 presidential election campaign. Using Google Translate, the following passages were translated from French into English:

> Since the beginning of the electoral campaign, numerous incidents have pitted militants of the ruling party, the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], against those of the opposition CNL [National Congress for Liberty]. But the tension rose a notch on Tuesday, with the arrest of an executive of this party while the general elections are scheduled for May 20.
>
> First warning shot on Tuesday. Katy Kezimana, number 2 on the CNL electoral list for the legislative elections in the province of Bujumbura rural, was arrested after a meeting in this region considered one of the main strongholds of Agathon Rwasa. She is heard by a magistrate for 15 minutes before being imprisoned in Bujumbura prison.
>
> Her lawyer barely had time to learn that she had been arrested on the complaint of the administrator of Mugongomanga commune. Since then, he has not had access to either the file or his client. She would also be prosecuted for "political intolerance", according to a judicial source. […]
>
> The CNL, which has been growing wings since the start of the campaign, ensures that it will not give up.

[471] U.S. Department of State, *2021 Report on International Religious Freedom: Burundi*, 2 June 2022, *Section II. Status of Government Respect for Religious Freedom, Government Practices*

[472] U.S. Department of State, *2021 Report on International Religious Freedom: Burundi*, 2 June 2022, *Executive Summary*

> More than 200 CNL activists have been in prison since the start of the campaign.[473]

On 8 May 2020 SOS Médias Burundi also published an article in French on the increase of arbitrary arrests of political opponents during the run up to the elections. Using Google Translate, the following passage was translated from French into English:

> In less than two weeks and against the backdrop of elections, around fifty people were arrested in the province of Makamba (South Burundi). Arbitrary arrests, denounce local party officials. The commission in charge of the elections seems to turn a blind eye, they lament.
> According to Laurent Harushimana, the provincial representative of the CNL [National Congress for Liberty], 46 people out of the 52 arrested, come from its ranks. The others are from FRODEBU [Front for Democracy in Burundi] Nyakuri, a party close to power.
> The arrested are from six communes: Makamba, Nyanza-Lac, Kayogoro, Kibago, Vugizo and Mabanda. They are held in local cells. According to our sources, one of the militants is being held in Makamba, at the home of the local intelligence official.
> The head of FRODEBU Nyakuri condemns the arrests as well as the actions of the Imbonerakure aimed at disrupting his party's campaign.
> The representatives of the two parties denounce "a complicit silence from the commission in charge of the elections". In addition, they demand the immediate release of activists who are mostly candidates for municipal and hill elections.[474]

The UN Commission of Inquiry on Burundi also commented on arrests made during the May 2020 election in an oral briefing the following month, noting that:

> The electoral campaign launched on 27 April 2020 was the scene of numerous arrests and arbitrary detentions of CNL [National Congress for Liberty] members, especially targeting the party leaders at the local level, candidates at the local elections and even those at the legislative elections, as well as designated elections observers of the said party (*Mandataires*) tasked with observing the voting process and the tallying of votes. Several executions of CNL members were also recorded during this same period.
> The judicial system, which is still characterised by a lack of independence and impartiality, has largely been used as a tool in the electoral context and justice has become the main instrument used by authorities and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] to weaken and stand in the way of CNL. While most CNL members were released after a few days or weeks, some were sentenced to excessive prison terms following trials “on the spot”, mainly for attempt to « disrupt elections» or for «participation in illegal meetings», and others remain in preventive detention.[475]

In its report on Burundi in August 2020, the Commission of Inquiry wrote:

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[473] Radio France Internationale (RFI), *Burundi: sudden rise in tension in the presidential election campaign*, 7 May 2020 [Burundi: brusque montée de tension dans la campagne électorale pour la présidentielle]
[474] SOS Médias Burundi, *Makamba: cascade arrests of opponents*, 8 May 2020 [Makamba: arrestations en cascade d’opposants]
[475] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 14 July 2020

III. Situation of human rights […]
B. Violations in the context of the electoral process […]
Right to liberty
32. Dozens of CNL [National Congress for Liberty] activists, including those in positions of responsibility within the party as well as candidates for legislative and communal elections, were arbitrarily arrested and detained, for example for campaigning outside the officially designated days and hours while wearing the party's cap or symbol, holding illegal meetings or seeking to "disrupt the election". Some were arrested following physical clashes with members of the Imbonerakure attempting to disrupt election rallies. While most were released after a few days or weeks, some were sentenced to relatively heavy sentences of several years in prison after hastily arranged trials with expedited procedures, while others remained in pretrial detention.
33. The judiciary continued to be used often as a tool of political repression and to be biased in favour of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party. […]
Freedom of expression
40. Particularly virulent messages of hatred and hostility towards political opponents of the CNDD-FDD party, sometimes with an ethnic dimension, circulated on social networks without eliciting the authorities' condemnation or rebuke. The head of the CNL has regularly been presented by CNDD-FDD officials as an ally of "the country's enemies" and "colonists", or as a "puppet" of former President Pierre Buyoya. Such divisive comments have fuelled and even legitimized hostility towards members of the party. In addition, the party's candidates have been arrested and prosecuted merely for criticizing local officials or authorities or their actions.[476]

In December 2020, the BHRI commented on the state of arbitrary detention in Burundi:

3. A BRIEF RESPITE GIVES WAY TO UNCERTAINTY
A glimmer of hope as human rights violations subside
Despite the turbulent pre-election period, political violence decreased in the months that followed. Opposition members were no longer targeted with the same intensity and a short period of relative calm prevailed. Many of the hundreds of CNL [National Congress for Liberty] members who had been arrested were released. Others, however, remained in detention. Some were tried and convicted for electoral offences, in summary trials.117
Despite the overall reduction in human rights violations, some CNL members were arrested or threatened in the weeks after the elections. In late June, a local CNL representative in the south of the country complained of continuing harassment and discrimination: "Now, after the elections, it's the incarceration of our members every day," he said.118
Several people, including CNL members, were arrested in June on accusations of celebrating the death of President Nkurunziza. In Makamba province, for example, *Imbonerakure* arrested at least three CNL members, beat some of them, then handed them over to the police. They were detained for periods of one to three weeks, then released without charge.119
On the night of 29 June 2020, the administrator of Bururi *commune*, in Bururi province, accompanied by the president of the local electoral commission, the president of the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] in the commune, four policemen and four *Imbonerakure*, surrounded the houses of six CNL members on Rushemeza *colline* and arrested all of them,

[476] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 7 to 9*

accusing them of creating a rebel movement.120 They were released soon after. These and other similar arrests prompted the CNL to publicly deny its intention to create a rebellion.121 […]

4. ARMED INCURSIONS LEAD TO CRACKDOWN […]

The cautious sense of optimism after the elections started to crumble when attacks by armed groups were reported in late August and September, primarily in provinces bordering the DRC. […]

Arresting political opponents

Among those arrested after the armed group attacks were scores of CNL members. According to the CNL, at least 31 were arrested between 6 and 20 September alone – and many more before and after – , the majority accused of collaboration with armed groups.202 Several were detained and badly beaten at the SNR [National Intelligence Service] headquarters in Bujumbura, before being transferred to prison.203 Many of these arrests appeared arbitrary. […]

CNL representatives in Bururi province have been particularly harassed. The party's representatives of all six communes were arrested between 12 and 16 September, following a meeting in their premises in Matana on 12 September.207 They were released in late October. Although these arrests were not officially linked to the armed attacks, they took place during a wave of arrests triggered by the incursions. […]

Former members of the MSD opposition party have also been arrested. In Bubanza for example, police and Imbonerakure arrested a former MSD member on 26 September. Police found a list of names in his house, which they alleged were the names of members of an armed group he collaborated with; the man claimed it was a list of pupils in the schools where he teaches.209

Several members of the former Burundian armed forces, known as ex-FAB – who are often viewed with suspicion by the government – were also arrested. […]

117 In Makamba province, for example, on 23 May, two CNL members from Rabiro *colline* were sentenced to six months in prison and a fine for using fake electoral documents. Another CNL member, from Ruvuga *colline*, was fined for wearing a T-shirt with a design that looked like a CNL party emblem. Interviews with sources in Makamba, May 2020.

118 Interview with local CNL representative, 24 June 2020.

119 Interviews with sources in Makamba, July and September 2020.

120 Interview with sources in Bururi, 29 June 2020.

121 CNL, "Déclaration du parti CNL N° 02/2020", https://twitter.com/BurundiCnl/status/1286304930911981568?s=20, 23 July 2020. […]

202 List of arrests compiled by the CNL, 20 September 2020.

203 Interview with source with first-hand information, October 2020. […]

207 Interviews with CNL members and other local sources, September 2020. See also Iwacu, "Bururi: les militants de Rwasa dans la ligne de mire du pouvoir", https://www.iwacu-burundi.org/bururi-les-militants-derwasa-dans-la-ligne-de-mire-du-pouvoir/, 20 September 2020. […]

209 Information from person with first-hand knowledge of the arrest, 26 September 2020.[477]

Again in March 2021, the BHRI reported "more than a dozen people in the area have been arrested, many of them arbitrarily, because of their family ties or perceived association with those killed".[478]

[477] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, p. *44, 50, and 60 to 62*

[478] The Burundi Human Rights Initiative (BHRI), *Rumonge: Torture and Killings in the Name of Security*, March 2021, *p. 1*

On 10 December 2020, ACAT Burundi, Ligue Iteka, and thirteen other civil society organisations released a joint report on the human rights situation in Burundi. Translated from French to English using the online translation tool, Onlinedoctranslator.com, the report noted that "During the reporting period, eight hundred and twenty-one (821) people were arbitrarily arrested, almost all of them CNL [National Congress for Liberty] members. Many acts of arrests committed during this period were politically motivated".[479]

In TRIAL International's December 2020 report on the judicial system in Burundi, the following commentary on arbitrary arrests was given:

> 3.2. ARBITRARY ARRESTS BASED ON FALSE ACCUSATIONS
> The procedural violations that undermine the judicial proceedings documented by TRIAL International reveal the often unjust and arbitrary nature of arrests and/or detentions. It will suffice to mention here that in the cases monitored by the organization, several guarantees around the right to individual liberty and a fair trial were ignored.23
> Indeed, arrests can only take place "pursuant to a warrant, on reasonable suspicion or for probable cause"24 and every person must be entitled "to consult and be represented by a legal representative or other qualified persons chosen by the party at all stages of the proceedings".25 In addition, victims have reported being arrested without being informed of the reasons for their arrest26 or their rights (to legal representation and to be examined by a doctor of their choice, etc.)27 and have not been permitted to inform their families that they have been arrested or detained, including for long periods.28
> These irregularities seem to reflect the false nature of the accusations. The victims are viewed as posing a threat to internal State security, participating in armed gangs or threatening the integrity of the national territory. What the victims have in common is the fact that they are perceived – rightly or wrongly – as opponents of the ruling party. […]
>
> 23 Since the start of the crisis in 2015, reports of serious human rights violations, particularly arbitrary arrests and detentions, have increased exponentially. Since the aim of this report is to highlight the weaknesses of the judicial system, here we will focus on a few of the most recurrent key elements in the cases considered.
> 24 Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 2003, supra note 7, §M 1. b.
> 25 Idem, §A 2. f.
> 26 In this regard, see Idem, §M 2. a.
> 27 In this regard, see Idem, §M 2. b.
> 28 In this regard, see Idem, §M 2. c.[480]

The March 2021 US Department of State annual country report on human rights practices gave the following examples of arbitrary arrest in 2020:

> Section 1. Respect for the Integrity of the Person, Including Freedom from: […]
> D. ARBITRARY ARREST OR DETENTION […]

[479] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi et al. *Burundi at the Pace of Human Rights Violations Daily: Joint Report of Burundian Civil Society on the Human Rights Situation*, 10 December 2020 [Le Burundi au rythme des violations des droits humains au quotidien], *p. 7*

[480] TRIAL International, *Dysfunctional, Ineffective, Opaque: an Overview of the Judicial System in Burundi*, 14 December 2020, *p. 27*

> On May 4, in Giheta commune, Gitega Province, the manager of Kibimba hospital, Samson Gahungu, was arrested by Alexis Manirakiza, the local administrator of the commune. Gahungu was accused of tearing up a picture of the then National Council for Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) presidential candidate, Evariste Ndayishimiye, posted at the entrance of the hospital.
> On July 10, Terence Mushano, vice president of the CSO AC-Genocide Cirimoso, was arrested with journalists from the Iwacu Press group before interviewing them concerning the commemoration of the 25th anniversary of the massacre of students at the University of Burundi. They were arrested for planning an interview within the airport premises without prior authorization. The Iwacu journalists were released several hours later but Mushano was transferred to a holding facility of the judicial police, where he was accused of "undermining public security." He was temporarily released on personal recognizance on July 15, pending trial at a later date.
> In May 2019 the duly elected leader of the Adventist Church in Burundi, Pastor Lameck Barishinga, and church administrator Pastor Lambert Ntiguma were arrested at Bujumbura International Airport while trying to fly to Nairobi, Kenya, to attend an executive committee meeting of the East-Central Africa Division of the Seventh-day Adventist Church. They both remained in prison without charges".[481]

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it wrote on Burundi that: "The CNL [National Congress for Liberty] reported that more than 600 of its members, including candidates, were arrested before and during election day. Some were arrested after clashes with Imbonerakure members. Several CNL members were convicted in expedited trials before the elections. Reports of arrests and disappearances of party members continued throughout the year".[482]

In an open letter to the EU in June 2021, signed by BHRI as well as eleven other organisations, it was noted that:

> More recently, hundreds of CNL (Congrès national pour la liberté) members were arrested before, during and after the 2020 elections, many of them arbitrarily. A significant number were released after the elections, but others remain in prison. Interference by ruling party and government officials in politically motivated court cases is common, violating basic fair trial standards. […]
> Numerous people suspected of opposing the government in other contexts have been arrested more recently, particularly following security incidents. They face the same absence of due process: they are often arrested in an arbitrary manner, some have been tortured, and they cannot be guaranteed a fair trial. […]
> […] on 2 February 2021, a Supreme Court judgement was published (dated June 2020), convicting a group of 34 exiled defendants, including several journalists, civil society activists and political opponents, to life imprisonment for their alleged involvement in the failed coup d'état in May 2015.
> The defendants were tried in absentia and did not have legal representation, denying them a fair trial and flouting the most basic principles of due process of law. Nor has there been any official dialogue between the government and the main opposition party inside Burundi, the CNL, many of whose members have been killed, arrested and tortured, particularly before and during the 2020 elections. Fabien Banciryanino,

[481] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021
[482] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 105*

> an outspoken former member of parliament arrested in October 2020, was sentenced in May 2021 to one year in prison for endangering internal state security and rebellion.[483]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation and violations in Burundi, including on arbitrary arrest and detention among political opponents as well as returnees:

> III. Human rights situation […]
> A. Human rights violations and abuses in the context of security incidents […]
> 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.
> D. Opposition political parties […]
> 36. […] 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 [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. 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. […]
> 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. […]
> E. Returnees […]
> 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.[484]

In a September 2021 press release by the UN Human Rights Council, it stated:

> While seeking persons allegedly involved in the armed attacks or collaborating with rebel groups, the security forces targeted mainly members from the main opposition party, the National Congress for Liberty (CNL), former members of the Tutsi-dominated Burundian Armed Forces (ex-FAB), returnees and some of their family members. Some were executed, others disappeared or were tortured while detained arbitrarily.

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[483] The Burundi Human Rights Initiative (BHRI) et al., *Open letter: the EU should honor its commitments to human rights in Burundi*, 21 June 2021, *p. 2 and 3*
[484] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 6, 8, and 9*

> Although the level of political violence decreased immediately after the 2020 elections, the political climate remains highly intolerant of dissent. Members of opposition parties, in particular the CNL, are still regularly targeted by abusive restrictions and are subject to grave human rights violations such as disappearances, arbitrary arrests and detentions and torture, in particular since June 2021.[485]

In November 2021, BHRI released a report on the rise in torture and disappearances in Burundi, providing analysis also on arbitrary detention. It noted that:

> Investigations by the Burundi Human Rights Initiative (BHRI) found that police and SNR [National Intelligence Service] agents arbitrarily arrested scores of real or perceived government opponents after a series of armed attacks since April 2021, particularly in Bururi; many other people were arrested in Muramvya, Rumonge, Mwaro, Makamba, Rutana and Gitega provinces. […]
> Many of those arrested following the attacks were arbitrarily detained, and some tortured or illtreated, at provincial SNR offices before being released or transferred to the SNR headquarters in Bujumbura. […]
> 4. Armed attacks and arrests of perceived opponents
> Attacks in Mwaro and Muramvya trigger waves of arrests […]
> On the evening of 26 June, another ambush in Muramvya province, three kilometres from the centre of Rutegama commune, killed at least 14 people; the two cars that were targeted were set on fire. Survivors recounted how the attackers shot at the passengers indiscriminately. One of the gunmen told the passengers that if they gave them money, they would leave, but shot them immediately when they offered to do so, indicating the attack was not solely financially motivated. […]
> Immediately after the attack, and over the following days, police, accompanied by *Imbonerakure* and other ruling party members, arrested more than two dozen people, including at least nine CNL [National Congress for Liberty] members, and took them to a private house in Muramvya used by the SNR where police, Baranyanka and other SNR officials questioned them. Another CNL member was arrested and taken to the local police cell after she said, in a meeting with local administrative and security officials, that one or two hours before the attack, she had seen a group of people in Rutegama who weren't from the area, including an *Imbonerakure* she knew. At least six ex-FAB [former Burundian Armed Forces] were also briefly detained. An *Imbonerakure* involved in the arrests admitted to a person close to him that lists of people to be arrested had been drawn up before the attack. Most of the detainees were released two weeks later, on 9 July, others in the following week.64 […]
> The speed and manner of the arrests after the attacks in Mwaro and Muramvya illustrate how quickly the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], police and SNR officials blame their opponents, often arbitrarily, usually arresting them without warrants and disregarding legal requirements and procedures. Patterns of arrest seem to indicate that incorrect intelligence or rumours, rather than objective evidence, are often the basis of arrests, without any form of scrutiny or credible investigations by the authorities. In some cases, rumours circulated by political opponents or a simple text message were sufficient grounds to be detained by the SNR.[486]
>
> 64 Interviews with sources knowledgeable about the arrests, July 2021.

[485] UN Human Rights Council, *Burundi: Behind a façade of normalization, grave human rights violations continue, and the democratic space remains closed*, 16 September 2021
[486] The Burundi Human Rights Initiative (BHRI), *Behind the gate: A rise in torture and disappearances*, November 2021, *p. 5, 6, 22, and 23*

In January 2022, SOS-Torture Burundi released a quarterly report on the human rights situation in Burundi from 1 October to 31 December 2021. It spoke of violations of the right to liberty, recording arbitrary arrests and detentions within this period:

> 4. VIOLATIONS OF THE RIGHT TO LIBERTY: ARBITRARY ARRESTS AND DETENTIONS
> During this quarter, the main victims of violations of the right to freedom were mainly members of the CNL [National Congress for Liberty]. They were arbitrarily arrested by SNR [National Intelligence Service] agents, members of the ruling party, acting as such, in the form of joint security committees or by imbonerakure alone and sometimes in support of police agents. More than a year after the elections, the hunt for politically motivated CNL members continues in the country.
> SNR agents also arbitrarily arrested other people in violation of the law, including one person who had already been released by the court or another under the pretext of a charge of undermining state security, usually political, because of frequent travel to Bujumbura. In Bubanza, a lady nurse was arrested and arbitrarily detained in SNR cells because she had spoken out about the death of a member of the CNL, Augustin Matata, following torture inflicted on him by SNR agents. […]
> 4.2. ILLEGAL ARRESTS ATTRIBUTABLE TO CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] MEMBERS AND IMBONERAKURE
> Members of the CNDD-FDD and elements of the imbonerakure militia, alone or in cooperation through the mixed security committees, have engaged in illegal arrests of citizens, most of whom are members of the CNL and others called criminals and accused of collaborating with armed groups. These illegal arrests are almost always legitimised by police officials who detain those arrested. […]
> 4.3. ARBITRARY ARRESTS ATTRIBUTED TO POLICE AGENTS IN COLLABORATION WITH IMBONERAKURE MILITIA
> Cooperation between police agents and imbonerakure militiamen has become permanent in order to track down people undesirable by the regime, usually CNL activists or other people who do not belong to the ruling party or who are suspected of being political opponents.[487]

Freedom House referred to arbitrary arrest in Burundi in its February 2022 Freedom in the World report, as below:

> B Political Pluralism and Participation
> B1 0-4 pts
> Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1/4
> Political party formation is legally allowed, but the activities of opposition parties and political leaders are discouraged under the threat of retaliatory violence, repression, or arrest. […]
> Civil Liberties
> D Freedom of Expression and Belief
> D1 0-4 pts
> Are there free and independent media? 0/4

[487] SOS-Torture Burundi, *Quarterly report on the human rights situation in Burundi from 1st October to 31 December 2021 - Burundi: Empty Promises*, January 2022, *p. 19 to 22*

> Freedom of expression is constitutionally guaranteed but severely restricted in practice by draconian press laws and a dangerous operating environment for media workers, who risk threats, harassment, and arrest in response to their coverage. […]
> E Associational and Organizational Rights
> E1 0-4 pts
> Is there freedom of assembly? 0/4
> Opposition or antigovernment meetings and rallies are usually prevented or dispersed, and participants face harassment or arrest. […]
> E2 0-4 pts
> Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 0/4 […]
> Human rights advocates can face arrest and imprisonment. […]
> F Rule of Law […]
> F2 0-4 pts
> Does due process prevail in civil and criminal matters? 0/4
> The courts, police, and security forces do not operate independently or professionally, and constitutional guarantees of due process are generally not upheld. Arbitrary arrest and lengthy pretrial detention are common.[488]

In April 2022, ACAT Burundi released their annual report on prison conditions, reporting on arbitrary detention despite release orders in Burundi:

> II. Prison conditions in Burundi […]
> […] magistrates abuse the power conferred on them by the law by keeping in pre-trial detention defendants who could be prosecuted while at liberty. The political and security crisis that the country has been experiencing since 2015 has led to a serious overcrowding of prisons. The government still uses detention as a means of repressing real or supposed opponents of the regime in place. […]
> IV. Irregularities or malfunctions observed in the judicial files of persons deprived of their liberty
> On 5 March 2021, ACAT-BURUNDI was pleased to learn that the President of the Republic of Burundi had issued a decree granting pardons to 5255 prisoners. […]
> The Decree of 5 March 2021 finally proved that the process initiated in mid-December 2020 with a census of prisoners had come to an end, that the criteria were already known as well as the number of beneficiary prisoners, as evidenced by the figures of prisoners that appeared in the aforementioned Decree in its Article 9.
> ACAT-BURUNDI was deeply concerned by the fact that the prisoners who benefited from the pardon languished in prison without any title or right and consequently suffered arbitrary detention prohibited by the fundamental law and the international legal texts to which Burundi has subscribed. […]
> During the month of April 2021, the Government of Burundi implemented the presidential pardon measure aimed at releasing a number of prisoners. It was noted that the number of beneficiaries as contained in the decree was not reached. The total number of prisoners released was 2678 as of 29 April 2021, whereas the decree stipulated that the number of beneficiaries was 5,255. […]
> ACAT-BURUNDI has also noted a lack of harmony in the implementation of the pardon measure. In some prisons (MPIMBA and MURAMVYA), detainees sentenced to 10 years or less, regardless of the offence, were released, while in other prisons, detainees in this category, especially those accused of political

[488] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

offences, were not released, and detainees who had already served their sentences or who had been acquitted were not released, except in the prisons of Muramvya and Gitega, where this criterion was taken into account when drawing up the lists. […]

As an indication, ACAT-BURUNDI has been informed about the irregular detention of 39 prisoners […] in the penitentiary establishments of Gitega, Bujumbura and Muramvya, this analysis was carried out in July 2021. […]

IV.1 Cases of political prisoners or prisoners of conscience

In its various publications, ACAT-BURUNDI constantly denounces the ill-treatment of detainees, especially those prosecuted for political offences. Among the violations that are constantly brought to the public's attention are the slowness of the processing of cases, especially of political or allegedly political detainees.[489]

On 12 April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

Section 1. Respect for the Integrity of the Person […]

D. ARBITRARY ARREST OR DETENTION

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest and detention, but the government did not observe these prohibitions.

Arrest Procedures and Treatment of Detainees

Arrests require warrants issued by a presiding magistrate, although police may arrest a person without a warrant by notifying a police supervisor in advance. Police have seven days to finish an investigation and present evidence before a magistrate but may request a seven-day extension for additional investigation. Police rarely respected these provisions.

According to the law, a magistrate must either order the release of suspects or confirm the charges for continued detention, initially for 14 days, and then for an additional seven days if required to prepare a case for trial. Magistrates routinely failed to convene preliminary hearings, often citing heavy case backlogs or improper documentation by police. Authorities acknowledged the legal system struggled to process cases in a timely fashion and that lengthy pretrial detentions were common.

Lack of transportation for suspects, police, and magistrates was a frequently cited reason for the failure to convene preliminary hearings. This remained a problem in the eight provinces without prisons, where lack of transport prevented the transfer of suspects from the site of detention to the provincial court with jurisdiction over the case.

Judges may release suspects on bail but rarely did so. They did, however, often release suspects on their own recognizance. Suspects may hire lawyers at their own expense in criminal cases, but the law does not require legal representation, and the government did not provide attorneys for those unable to afford one. Detainees who were unable to pay for a lawyer were rarely able to access legal counsel. […]

Arbitrary Arrest: The law provides for a token monetary fine and imprisonment for 15 days to one year for any member of the security forces found guilty of involvement in an arbitrary arrest. There were no reports this law was applied.

Human rights groups reported numerous arbitrary arrests and detentions, including some involving the Imbonerakure. […]

[489] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 6, 22, and 26 to 32*

DETAINEE'S ABILITY TO CHALLENGE LAWFULNESS OF DETENTION BEFORE A COURT:
By law persons arrested or detained are entitled to challenge the legal basis or arbitrary nature of their detention in court and obtain prompt release if found to have been unlawfully detained. There was no record that any person was able to do so successfully before a court; however, there were reports that the CNIDH helped some detainees successfully challenge the basis of their detention by intervening soon after arrest and negotiating release, arguing lack of evidence or other bases for the charges.[490]

Human Rights Watch published a detailed piece in May 2022 on the detention, killings, and torture of suspected opponents at the hands of the security forces in Burundi. It reported that:

> Burundi's national intelligence services, police, and ruling party youth members have killed, arbitrarily detained, tortured and harassed people suspected of belonging to opposition parties or of working with armed opposition groups, Human Rights Watch said today.
> The authorities have responded to attacks on both civilians and state agents by armed assailants or suspected rebel group members in various parts of the country with a heavy handed approach. They have shown little regard for credible investigations, objective evidence, or due process needed to hold those actually responsible to account. Instead, in Cibitoke and Kayanza provinces – the focus of the new research – the authorities have targeted perceived opponents of the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie, CNDD-FDD). […]
> The authorities instead generally have cracked down on those suspected of being members of the armed assailants or more broadly suspected of opposing the government, regardless of whether they had links with the assailants or the attacks. […]
> In the last six months, Human Rights Watch has documented several other detentions, disappearances, and killings of opposition members in Kayanza province. Claude Nzeyimana, an opposition member, in Rango commune, Kayanza province, was reportedly killed in October 2021.[491]

In May 2022, Ligue Iteka published its annual report for the period of January to December 2021. It wrote that:

> The number of people arrested in 2020 was higher than the number of people arrested in 2021, or 1181 compared to 535, due to the mass arrests during the election period in 2020. […]
> I. 7. PERSONS ARBITRARILY ARRESTED
> During the year 2021, Ligue Iteka recorded 535 cases of arbitrary arrests, including 66 members of CNDD-FDD party, 44 members of CNL [National Congress for Liberty] party, 1 member of MSD party, 1 member of Uprona [Union for National Progress] party and 1 member of Frodebu [Front for Democracy in Burundi] party.
> The majority of those arrested are members of CNDD-FDD party. Most of them were arrested following an ambush on a vehicle belonging to the communal administrator of Vugizo in Makamba province and others were accused of collaborating with rebel groups.
> Muramvya province leads with 158 cases or 30%, followed by Bururi with 76 cases or 14%, Bubanza with 44 cases or 8%, Karuzi with 38 cases and Ruyigi with 31 cases.

[490] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[491] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022

> […] the alleged perpetrators of these arbitrary arrests are policemen with 366 cases, or 68%, followed by administration officials with 75 cases, or 14%, SNR [National Intelligence Service] agents with 49 cases, or 9%, members of the Imbonerakure militia with 44 cases, or 8% and soldiers with 1 case.[492]

In October 2022, Amnesty International published its submission to the 43rd session of the Universal Periodic Review (UPR) of Burundi on 4 May 2023. On the topic of arbitrary arrests, detention, and torture, it noted that:

> 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 [National Congress for Liberty] members. The CNL alleged that more than 600 members were arrested before and during election day, including some candidates to elective positions.xxvi […]
> 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.xxviii[493]
>
> xxvi Amnesty International*, Burundi: Concrete action needed by new government* https://www.amnesty.org/en/documents/afr16/2695/2020/en/ (Index Number: AFR 16/2695/2020) […]
> xxviii 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/

i. Prison and Detention Conditions

Additional relevant information can be found under section V. Human Rights Situation, especially *V.e. Torture and Inhumane Treatment*.

On 8 June 2020, SOS Médias Burundi published an article in French on clusters of Covid-19, as well as tuberculosis in prisons in Burundi. Using Google Translate, the following passages were translated from French into English:

> In one week, three prisoners from the central prison of Ngozi (North-Burundi) died in hospital. Local sources indicate that they had symptoms related to the Coronavirus. […]
> The prisoners succumbed after a few days of hospitalization in Ngozi. They had previously been admitted to a dispensary in the prison.
> Symptoms

[492] Ligue Iteka, *Annual report of the Burundian League for Human Rights "ITEKA", January-December 2021*, 24 May 2022, *p. 7 and 11*
[493] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *p. 4*

> *We saw that they had all the symptoms of the pandemic; on the radio, they talk about the pandemic, we are a little aware... While the prison officials tell us nothing. On the other hand, we were called to go and bury those who died.* […]
> The management of the prison remains silent, note the prisoners. For some time now, the messages she wishes to convey have been relayed by the Chief of Prisoners, known as "General", as was the case last night. […]
> Tuberculosis
> The prison dispensary also receives people with tuberculosis. They would not be isolated from detainees showing clinical signs of the Coronavirus, according to the testimonies we have collected. "The capacity of the dispensary is far exceeded. We fear the worst," it added.
> The central prison of Ngozi has more than 2,000 detainees.[494]

Human Rights Watch released a report in June 2020 on fear and repression with regards to the Covid-19 outbreak in Burundi, highlighting also the situation within prison:

> Two healthcare workers at a public hospital in Ngozi confirmed that patients who they suspected of having Covid-19 were regularly coming in for treatment. They said suspected cases included some patients transferred from Ngozi Prison. In recent weeks, local monitoring groups and media have reported cases of prisoners dying after developing respiratory problems in Bujumbura's Mpimba Central Prison and Ngozi Prison. […]
> A prisoner in Ngozi Prison contacted by phone said he feared that the authorities were not responding to the possible Covid-19 outbreak adequately: "We're told there's already been five deaths from Covid-19. Some prisoners are meant to be in quarantine but they're still moving around the prison freely. Otherwise, measures to prevent it from spreading are only handwashing signs. The prisons are so overcrowded, it's impossible."[495]

In August 2020, ACAT Burundi released a statement, declaring that (as translated from French to English using Google Translate): "The updated figures available to ACAT-BURUNDI show that in the prisons of Burundi, there is a number of detainees which more than triples the accommodation capacity of the prisons. Indeed, the prison population in Burundi is 11,618, including 5,262 accused prisoners and 6,279 convicted prisoners".[496]

Shortly after, ACAT Burundi released another statement, declaring that (as translated from French to English using Google Translate): "The overcrowding of penitentiary establishments is the source of insalubrity and consequently of diseases. Contagious diseases spread very quickly, especially since the clinics located in prisons have very limited means to deal with these diseases. The case of the disease which appeared last month in Ngozi prison and which claimed the lives of several prisoners illustrates

[494] SOS Médias Burundi, *Covid-19: a cluster at Ngozi prison? (testimonials)*, 8 June 2020 [Covid-19: un cluster à la prison de Ngozi ? (témoignages)]
[495] Human Rights Watch, *Burundi: Fear, Repression in Covid-19 Response*, 24 June 2020
[496] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *ACAT-Burundi campaign to decongest prisons: day 2,* 4 August 2020 [Campagne de l'ACAT-Burundi de désongorgement des prisons; jour 2]

this situation. This campaign is being carried out at a time when the whole world is facing an unprecedented health crisis due to CORONA VIRUS".[497]

On 26 March 2021, ACAT Burundi released its annual monitoring report on violations of prisoners' rights in Burundi that had taken place in 2020. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> II. Prison conditions in Burundi
> The monitoring of prisoners' rights violations carried out by Acat-Burundi has shown that all prison establishments in Burundi are experiencing a serious problem of overcrowding. The number of detainees far exceeds the capacity of the prisons.
> These are the same prisons that are overflowing with many political detainees, among whom there is a higher number of defendants than convicted prisoners. […]
> The slowness in the processing of legal cases and the lack of enforcement of court decisions, especially for political prisoners, have greatly contributed to prison overcrowding. […]
> The figures recorded during the year 2020 by Acat-Burundi show that in the prisons of Burundi, there is a number of detainees which more than triples the reception capacity of the prisons.
> Indeed, the prison population in Burundi was 12,775 prisoners including 92 infants including 5113 inmates on remand and 7486 inmates sentenced for the month of December 2020 for a reception capacity of 4000 prisoners. […]
> II.1 Infrastructure
> The infrastructure of prison establishments in Burundi is dilapidated, unsanitary and does not undergo repairs.
> For example, Mpimba prison does not have the necessary rooms for the large number of prisoners there.
> The buildings of Mpimba prison are in a dilapidated state and are poorly maintained. These buildings are characterized by persistent humidity. The rooms of the various premises are without doors, following the prison overcrowding, the prisoners even sleep in corridors in the open air, when it rains, the prisoners found there are affected by the rainwater. These waters also touch the prisoners in their cells through an old and holed roof.
> There is not enough drinking water, the taps are opened around 4 p.m., all the areas of Mpimba prison are not supplied until around 9 p.m. Electricity is available between 4 p.m. and 8 a.m.
> Rutana prison also has old infrastructure, rainwater penetrates through the roof with holes, the prison buildings are cramped in front of a large number of prisoners and are damp. Water is insufficient in this prison, especially during the dry season.
> In Ruyigi prison, infrastructure renovation work was carried out by the ICRC. However, almost a third of the prisoners sleep under the stars due to the number of detainees which greatly exceeds the accommodation capacity of this prison. This prison has humidity and lacks drinking water and electricity.
> In Muramvya, Gitega and Bubanza prisons, the infrastructure is generally in good condition. These prisons are lit and supplied with sufficient quantities of water unless there are widespread blackouts in the areas that house them. The premises of these prisons face the problem of prison overcrowding and fail to contain all the prisoners therein.

[497] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi) et al., *ACAT-Burundi campaign to decongest prisons: day 4*, 6 August 2020 [Campagne de l'ACAT-Burundi de désongorgement des prisons; jour 4]

The overcrowding of penitentiary establishments is the source of insalubrity and consequently of illnesses. Contagious diseases spread very quickly, especially since the clinics located in prisons have very limited means to deal with these diseases. The case of diseaseflu symptomswhich manifested itself during the month of June 2020 in Ngozi prison and which claimed the lives of five detainees illustrates this situation.

II.2 Right or access to visits […]

Acat-Burundi notes that some people deprived of their liberty in Burundi, especially political prisoners, are expressly imprisoned far from their relatives for punitive or political reasons. […]

Since April 2020, the Directorate of Penitentiary Affairs in Burundi has prohibited visits as part of the barrier measures against the COVID-19 pandemic. However, this measure proves to be ineffective, because there are always movements back and forth inside and outside the prisons for the members of the prison staff in addition to certain prisoners who give bribes. to go out and come back without having done any tests. […]

II.3 Right or access to food

During the year 2020, Acat-Burundi noted an excessive shortage of food in the various prison establishments across the country. Indeed, two weeks could pass without any distribution of food in the prisonsthata prisoner is entitled to 350g of beans and 300g of flour per day. There was a great lack of food, especially around October, November and December 2020. […]

With regard to the inventory of fixtures for penitentiary establishments in Burundi, these texts are violated in the sense that the quality of food leaves something to be desired given that the foodstuffs distributed to prisoners from January 01 to December 31 of each year consist of beans and flour.

A crying lack of foodstuffs was observed in several prisons in Bujumbura, Rumonge, Ruyigi, Bubanza, Ngozi and Muramvya. This deficiency was noticed at a time when the prisons show an extremely high number of prisoners far exceeding their accommodation capacity. […]

Rights or access to health care (emphasis on cases of prisoners who died as a result of neglect)

Acat-Burundi continues to record cases of prisoners who are seriously ill in various prisons in Burundi but who do not benefit from appropriate health care to the point of losing their lives, which is a serious violation of respect for the principles of human rights. man according to the standards and laws in force in the matter. […]

By way of illustration, at the central prison of Mpimba, prisoners such as Major Joseph Nimpaye, a former officer of the ex-FAB and Mr. Dieudonné Niyonzima were on several occasions abusively deprived of the right of access to care outside jail on the pretext that there were not enough police to guard him in the hospital. Overall, five detainees were not allowed to seek treatment in health facilities outside the prisons, one of whom, the late Fabien Ntahondi, died in Rumonge prison in date of July 27, 2020 following the refusal of health care yet available outside the prison.

On July 9, 2020, at Mpimba prison, a certain NDIMUBANDI Nestor died following an illness. He had repeatedly asked for the transfer to seek treatment outside the prison, but the director of Mpimba prison did not authorize his transfer.

Political detainees incarcerated in Gitega prison when they receive permission to go and receive care outside the prison, are dismissed by agents of the National Documentation and the police station in Gitega on the pretext that they could escape. […]

II.5 Other activities in prisons: sport, worship, agriculture or other

This report reviews the activities carried out in certain prisons. In Mpimba prison, persons deprived of their liberty exercise trades such as basketry and carpentry, then those who wish to practice one of the trades are registered without discrimination.

Nevertheless, certain restrictions have been imposed on political prisoners for the practice of sport, such as the ex-deputy Fabien Banciryanino, to whom the officials of the security committee refused sport for some time, as well as other prisoners in the solitary confinement cell called "Tingitingi".
For the right to worship, all detainees in Mpimba prison pray according to their beliefs with the exception of the followers of the banned sect known as "followers of Eusebie" who could not form a group of more than five people while they were thirty in number.
In Bubanza prison, there are not many organized activities with the exception of a sewing service run by two tailors who work inside the prison only. There is no space for the practice of sport. Respect for worship is respected for all religions.
Within the prison of Muramvya, the sport is practiced by all the prisoners who wish it, the right to worship is respected.
In Gitega prison, when there are organized trades, they are carried out only by convicted prisoners. There is no exclusion for the practice of sport for the prisoners of Gitega, the problems in respect of the right to worship with Catholics have been resolved.
In Ruyigi prison, there is no space for the practice of sport, the right to worship is respected.
Within Rutana prison, there are no trades that are organised. The other activities organized for the prisoners of this prison, such as the distribution of aid for women and children composed usually sugar and porridge are not made on the basis of objective criteria, which creates frustration for the tenants of this prison. The right to worship is respected for all religions.
II.6 Status of people deprived of liberty vulnerable: the elderly, pregnant women, breastfeeding women and infants […]
In Mpimba prison, only breastfeeding women receive double the ration intended for other persons deprived of their liberty. Sometimes these women benefit from sugar and flour for porridge. For other categories of vulnerable people, including the elderly, the disabled or the sick, benefit from support in the event of assistance from benefactors.
For the prison of Bubanza, there is no advantage for breastfeeding women apart from some occasional support provided by benefactors. It is the same for the other categories which do not benefit from any assistance except if there is external aid.
In Muramvya prison, only breastfeeding women receive a double ration for themselves and their infants. The other categories of vulnerable groups are not taken into account.
In Gitega prison, breastfeeding women and their children receive the same quality and quantity as other prisoners. For access to care, these women and their children are referred outside if necessary. The other categories of vulnerable groups do not benefit from any special treatment unless there is support from benefactors.
For the Ruyigi prison, the Diocese of Ruyigi contributes to improving the diet of vulnerable groups: breastfeeding women, the sick, children and the elderly.
As for Rutana prison, there is no special treatment for favorable categories of prisoners, they are treated under the same conditions as their peers.
By these few examples, we notice that prison establishments in Burundi do not have rules to take into account the needs of each detainee, in particular vulnerable detainees, these establishments have few means to protect this category of prisoners.[498]

[498] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Annual Report on Prisons 2020*, 26 March 2021 [Rapport annuel sur les prisons de l'Acat-Burundi pour 2020], *p. 5, 6, and 11 to 16*

At the end of March 2021, the US Department of State published its annual country report on human rights practices, writing on Burundi that:

> Section 1. Respect for the Integrity of the Person, Including Freedom from: […]
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]
> PRISON AND DETENTION CENTER CONDITIONS
> Prisons were overcrowded, and conditions remained harsh and sometimes life -threatening. Conditions in detention centers managed by the SNR [National Intelligence Service] and in local "lock-ups" managed by police generally were worse than in prisons, and there were allegations that police and members of the SNR committed acts of torture, beating, and mistreatment of detainees. The COI [Commission of Inquiry] and several other credible organizations also continued to report that the SNR, police, senior government officials, and other security organizations maintained clandestine detention facilities to which no independent monitors were granted access.
> Physical Conditions: Gross overcrowding was a severe problem. The Office of Penitentiary Affairs reported that, as of August, there were 12,109 inmates, including 5,168 pretrial detainees, in 13 prisons, the majority of which were built before 1965, with the capacity to accommodate 4,194 inmates. Of the 12,109 inmates, 646 were women and 144 were juveniles. Authorities held 144 juveniles, of whom 129 were convicted and 15 were pretrial detainees, in two juvenile rehabilitation facilities. They were allowed to participate in recreational activities and received psychosocial support and preparation for eventual return to their families and communities. In addition, there were 87 infants and small children living with their incarcerated mothers. The most crowded prisons were Muramvya (30 miles from Bujumbura), where the inmate population was at 771 percent of capacity, and Mpimba (in Bujumbura) which was at 552 percent of capacity. No information was available on the number of persons held in secret detention centers managed by the SNR or in communal jails operated by police. There was a prison for women in Ngozi. Authorities commonly held pretrial detainees with convicted prisoners. There were reports of physical abuse by government officials, lack of adequate medical treatment, and prolonged solitary confinement.
> Prisons did not have adequate sanitation systems (toilets and bathing facilities), drinking water, ventilation, and lighting. Prisons and detention centers did not have accommodations for persons with disabilities.
> According to government officials and international human rights observers, many prisoners suffered from intestinal illnesses and malaria. Many died from disease. There were media reports of prisoners presenting COVID-19 symptoms including some who died, particularly in Bujumbura's Mpimba Central and Ngozi prisons. There was no official information regarding cases of COVID-19 in prisons. Authorities took some measures to prevent the spread of the virus, including suspension of visits in all prisons after April 1, although family members were still permitted to bring prisoners necessities such as food. The International Committee of the Red Cross provided assistance to prison authorities for constructing quarantine sections in prisons during the COVID-19 pandemic.
> Each inmate received on a daily basis approximately 12 ounces of cassava, 12 ounces of beans, and, on some days, oil and salt. Authorities expected family and friends to provide funds for all other expenses. Each prison was required to employ at least one qualified nurse and received at least one weekly visit by a doctor, but prisoners did not always receive prompt access to medical care; inmates with serious medical conditions were sent to local hospitals. The banned NGO Action by Christians for the Abolition of Torture (ACAT-Burundi) reported a shortage of medicines in prison clinics. It also reported that prisoners, particularly those held on politically motivated charges, had difficulty obtaining permission to seek

> treatment in hospitals outside prison, and those who did were discharged before they were fully recovered.[499]

On 9 November 2021, ACAT Burundi released a statement on prisoner mistreatment. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> The ACAT-BURUNDI organization is concerned about the phenomenon of ransoming of prisoners which is rampant in the prisons of Burundi with the complicity of the prison administration. […]
> Indeed, while prisoners are entitled to representation for better organization with a view to finding solutions to the problems that haunt them, the prison administration puts a spoke in their wheels by imposing on them a representation of its choice guided by sectarian and political interests.
> And yet, article 115 of the internal order regulations of prisons recognizes the possibility for prisoners to make complaints to the management of the prison. This claim can be made through representatives of prisoners elected by their peers.
> Article 81 of the said Regulations provides for a disciplinary council within prison establishments. The council is made up of two representatives of the prison management and two representatives of the prisoners. They are elected by their peers.
> Despite the clarity of these regulatory provisions, the observation is that most prison directors appoint among the prisoners those who will play the role of representation known under the name of "capita".
> Moreover, in violation of the law (Articles 17 – 19 of the prison regime)1and internal prison regulations, the directors of the prisons have set up security committees whose members are appointed by the management from among the faithful of the party in power; their role being to watch over the other prisoners. They take advantage of this to inflict sanctions on their fellow prisoners.
> Consequently, these appointments promote the renunciation of detainees who become illegal sources of income for the benefit of the network constituted by the "prison management – Capita - Prison security committee" in the following way:
> - Newly imprisoned detainees pay for the cells in which they are housed, although these costs are not provided for anywhere in the law governing the prison regime and in the internal rules of the prisons. However, it is common knowledge that exorbitant amounts are requested from newly imprisoned prisoners under the name of "CANDLE "in exchange for an allocation of sleeping space. This mission is knowingly entrusted to the capitas to make it easier to subtract this money from the detainees. New detainees who do not have the means to pay this amount are laid on the ground in the aisles in order to force them to pay it.
> - The prison regime does not provide anywhere for an alternative sanction in the form of payment of money. However, unfair transfers of prisoners within the prison (from one dormitory to another dormitory) are recurrently observed in prisons.) for ransom purposes of the colossal sums network mentioned above.
> - Misappropriation of detainees' food by the capitas in complicity with the prison management and the police in charge of the detainees' security.
> - Management of the isolation cells inside the prison by the capitas who manhandle and ransom the inmates who are there.

[499] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

- The capitas, with the approval of the prison management, arrogate to themselves the right to punish by beating their fellow prisoners in violation of articles 72 paragraph 1 of the internal rules of the prisons.[500]

1 Law No. 1/24 of December 14, 2017 revising the prison regime

Human Rights Watch reported in January 2022 on the need to credibly investigate the fire at Gitega's central prison:

> Burundian authorities should credibly investigate and provide a transparent and reliable account of the December 7, 2021, fire at Gitega's central prison, Human Rights Watch said today. Several hundred prisoners may have died or been injured.
> The authorities have failed to conduct a transparent, credible, and impartial investigation into the fire to examine the circumstances in which it started and spread, officials' reaction and their failure to evacuate prisoners, and to accurately count and identify the dead and injured. They should communicate findings transparently – including the names of the dead and the injured – and fairly prosecute anyone who may be held responsible, if necessary. They should also provide survivors and victims' family members with compensation, medical care, and mental health support. […]
> Certain blocks in the prison were destroyed by fire, where many prisoners who were unable to escape due to overcrowding, smoke inhalation, or the flames blocking their way. […]
> This tragic incident also shines a light on persistent, systemic issues with Burundi's prison system. Gitega also had a fire on August 21, reportedly due to an electrical short circuit, but it was extinguished before there were any casualties. At the time of both fires, the prison housed more than three times its maximum inmate capacity.[501]

At the beginning of February 2022, ACAT Burundi released a statement calling for improvement in prison conditions in Gitega prison following the fire there in December 2021. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> Following the deadly fire which ravaged a large part of Gitega prison on December 07, 2021 causing material and human damage, the prisoners of the said penal establishment who survived this tragedy live in subhuman conditions of detention.
> It should be remembered that this fire, the origin of which has not yet been investigated by the authorized services, as human rights defense organizations have always requested, has severely damaged the main blocks of the prison which housed many of the prisoners.
> In the meantime, the prisoners have been accommodated in 33 arbors, each of which can house 16 detainees, whereas an arbor is normally designed to house four people. During this rainy period, the rainwater floods the arbors and the bedding materials are wet from time to time. Prisoners find themselves in the open air without any protection against the cold (with an average minimum temperature of 14°C during the month of February1), which is a clear risk of causing various diseases. Some prisoners prefer to
> sleep in hangars being rebuilt instead of spending the night in flooded tents.

[500] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Statement: Detainees Mistreated Under the Collective Eyes of the Administration Prison*, 9 November 2021 [Déclaration de l'Acat-Burundi sur la maltraitance des détenus avec la complicité de l'administration pénitentiaire(rôle des capitas)], *p. 1 and 2*
[501] Human Rights Watch, *Burundi: Account for Dead in Gitega Prison Fire*, 24 January 2022

> The prisoners complain that the reconstruction work is progressing at a snail's pace, which puts them in a climate of despair.
> ACAT – BURUNDI regrets the contempt towards the victims displayed by the Gitega prison management when it refuses their families to visit their relatives, especially political prisoners, arguing that it is with the aim of preventing the spread of the Covid-19 as prison staff leave and enter the prison without observing any barrier measures to the pandemic.
> Even more worrying, the families of prisoners sentenced for participating in the failed putsch of May 13, 2015 are subject to discriminatory treatment during visits by their relatives. Indeed, these families no longer have the right to know the situation of their relatives in detention given that they cannot see them, even from a distance when other prisoners are authorized to show themselves to their families when those – they come to reassure themselves that their loved ones are still alive.
> Since inmates are not allowed to own phones in the prison, communication with family becomes impossible. […]
> ACAT – BURUNDI draws the attention of the competent authorities to the risk of degradation of the physical and psychological health of the survivors of Gitega prison due to lack of lighting and in view of the high number of prisoners far exceeding the reception capacity , hygiene in the prison is no longer observed, especially during the night when moving around in the toilets in particular.
> The information available to ACAT-BURUNDI indicates that Gitega Prison was overflowing with 1,417 prisoners on 31 January 2022.
> As we have noticed, it is important that the prisoners of Gitega can be consulted by a psychologist, because some prisoners find themselves in a situation of distress and depression following the tragic event which bereaved this penitentiary establishment.
> ACAT-BURUNDI also notes that Gitega prison, like the other prisons in the country, has experienced food shortages in recent days. Indeed, cassava flour, which is the main food in Burundi prisons, has become a rare commodity for more than three months. […]
>
> 1https://fr.weatherspark.com/y/95881/M%C3%A9t%C3%A9o-moyenne-%C3%A0-Gitega-Burundi-tout-au-longdel'ann%C3%A9e.[502]

Freedom House reported on Burundi in its February 2022 Freedom in the World report, covering 2021, stating that: "The Burundian prison system is overcrowded, with the WPB reporting the prison population at 303 percent of capacity as of December 2021. Prisoners risked contracting COVID-19, with healthcare workers reporting that quarantine measures were insufficiently enforced within the prison system in 2020".[503]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

> Section 1. Respect for the Integrity of the Person […]
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]
> Prison and Detention Center Conditions […]

[502] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Statement by ACAT-Burundi Following Poor Prison Conditions in Gitega Prison*, 3 February 2022 [Déclaration de l'Acat-Burundi suite aux conditions carcérales dans la prison de Gitega], *p. 1 and 2*
[503] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

Physical Conditions: Gross overcrowding was a severe problem in eight of 11 prisons. The Ministry of Justice's Office of Penitentiary Affairs reported that, as of December 28, there were 12,954 inmates, including 6,692 pretrial detainees, in 11 prisons and two juvenile rehabilitation facilities, the majority of which were built before 1965, with the capacity to accommodate 4,194 inmates. The most crowded prisons were Muramvya (30 miles from Bujumbura), where the inmate population was at 800 percent of capacity, and Mpimba, in Bujumbura, which was at 573 percent of capacity. Of the 12,954 inmates, 871 were women and 152 were juveniles. Authorities held 152 juveniles, of whom 111 were convicted and 41 were pretrial detainees, in the two juvenile rehabilitation facilities. There was a prison for women in Ngozi, although women were incarcerated at other prisons as well. Authorities commonly held pretrial detainees with convicted prisoners.

The Office of Penitentiary Affairs reported 46 prisoner deaths during the year, all of which occurred because of a fire at the Gitega prison. On December 7, a large fire caused by an electrical short circuit, broke out at the overcrowded Gitega prison and killed 46 inmates and injured 69 more, according to a presidential statement on December 29. Civil society organizations and some media outlets disputed the government's tally, arguing that many more were killed. No information was available on the number of persons held in secret detention centers managed by the SNR or in communal jails operated by police.

Prisons did not have adequate sanitation systems (toilets and bathing facilities), drinking water, ventilation, and lighting, and these conditions were especially acute in the Muramvya and Mpimba prisons. Prisons and detention centers did not have accommodations for persons with disabilities.

According to government officials and international human rights observers, many prisoners suffered from intestinal illnesses and malaria. There was no official information regarding cases of COVID-19 in prisons. Authorities took some measures to prevent the spread of the virus, including suspension of visits in all prisons since April 2020 although family members were still permitted to provide prisoners with necessities such as food and face masks. The International Committee of the Red Cross (ICRC) assisted prison authorities to construct quarantine sections in prisons during the COVID-19 pandemic.

Each inmate received daily approximately 12 ounces of cassava, 12 ounces of beans, and, on some days, oil and salt. Authorities expected family and friends to provide funds for all other expenses. Each prison was required to employ at least one qualified nurse and received at least one weekly visit by a doctor, but prisoners did not always receive prompt access to medical care; inmates with serious medical conditions were sent to local hospitals. There were reports of shortages of medicines in prison clinics. It was also reported that prisoners held on politically motivated charges lived in fear of reprisal from prison management and prisoner-run bodies. […]

Administration: Prison authorities allowed prisoners to submit complaints to judicial authorities without censorship, but authorities rarely investigated the complaints. There were credible reports of mistreatment of prisoners, such as long stays in solitary confinement, but no record that any abusers were held to account or punished.

Independent Monitoring: The government permitted monitoring by some independent nongovernmental observers.

The government permitted visits requested by the ICRC, the African Union (AU), and the CNIDH. Monitors visited known prisons, communal jails, and known SNR detention centers regularly. Monitoring groups had complete and unhindered access to prisoners held in known detention facilities but were not able to access clandestine SNR detention sites.

Improvements: The government took some actions to relieve overcrowding during the year, releasing more than 2,600 prisoners. An NGO and other observers reported that some of those released were later rearrested for other offenses, while others wanted to return to prison to obtain food and medical care. On March 5, President Ndayishimiye pardoned 5,255 prisoners convicted of certain crimes. The decree

> provided the release of prisoners who were serving sentences of less than five years, pregnant women and those with children in prisons, prisoners who were younger than age 18 and older than age 70, women accused of infanticide or abortion who have served at least three years of the sentence, prisoners with psychiatric disorders and those with visible disabilities, prisoners with chronic disease at the terminal stage, prisoners accused of corruption if they returned the funds embezzled, and those who had already served three-quarters of their sentence. In addition, the decree provided sentence reductions for prisoners who had served one-quarter of their sentence; prisoners sentenced to life imprisonment had their sentence reduced to 20 years of prison.[504]

In April 2022, ACAT Burundi released their annual report on prison conditions, reporting on 2021. It wrote that:

> II. Prison conditions in Burundi […]
> The monitoring of prisoners' rights violations carried out by ACAT-BURUNDI has shown that all Burundian prisons are still experiencing a serious problem of overcrowding. The number of prisoners exceeds, in most cases, the capacity of the prisons.
> These are the same prisons that are full of political detainees where there are a higher number of prisoners such as Muramvya, Mpimba, Gitega and Ngozi prisons.
> […] magistrates abuse the power conferred on them by the law by keeping in pre-trial detention defendants who could be prosecuted while at liberty. The political and security crisis that the country has been experiencing since 2015 has led to a serious overcrowding of prisons. The government still uses detention as a means of repressing real or supposed opponents of the regime in place.
> The slow processing of court cases and the lack of enforcement of court decisions, especially for political detainees, has contributed significantly to prison overcrowding. […]
> The figures recorded during the year 2021 by ACAT-BURUNDI show that in Burundi's prisons, the number of prisoners exceeds the capacity of the prisons by more than three times.
> In December 2021, the prison population in Burundi was 13002, including 6,958 remand prisoners + 6 minors and 5,892 convicted prisoners + 146 minors. […]
> In addition, there is an impact of prison overcrowding on the household and national economy. Indeed, the high number of prisoners has a negative impact on the country's economy, as it has to spend a lot of money to ensure the survival of prisoners, especially as subsidies are still insufficient, which explains the deplorable conditions in which prisoners live.
> It should also be noted that imprisonment deprives the detainee of access to daily activities and consequently affects the household economy while the country's economy suffers in one way or another.
> II.1 Infrastructure
> The infrastructure of prisons in Burundi is dilapidated, unhealthy and not adequately repaired.
> During the year 2021, there were no major renovations to prison infrastructure, transformations were made to the infrastructure of the prisons in Ruyigi. Rutana and Rumonge.
> In Ruyigi prison, changes were made to the electrical installations, doors were installed to toilets and bathrooms that previously had none, paint was put on the walls and repairs were made to the water pipes. Inside the cells, the wooden beds were replaced with metal ones. Two wooden rooms have been set up for Covid-19 patients next to the administrative office, where three mattresses have been put.
> Within Rutana prison, a cell for isolation in case of Covid-19 infection has also been set up.

[504] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

The International Committee of the Red Cross (ICRC) has built premises for public hearings on behalf of Rumonge prison, which will make it easier for prisoners in this prison to be tried without having to travel long distances for hearings.

The cell that had been set up for the patients of Covid 19 was transformed into a hairdressing salon in Mpimba prison.

The fire at Gitega prison on 7 December 2021 demolished a large part of the prison buildings, causing enormous human and material damage. The fire further complicated the lives of the inmates who were facing other challenges, especially prison overcrowding. The survivors were housed in 33 arbours, each of which can accommodate 16 inmates, whereas an arbor is normally designed to house four people.

During the rainy period, rainwater floods the arbours and the sleeping materials get wet from time to time. The prisoners are out in the open without any protection against the cold (with an average minimum temperature of 14°C during the night), which constitutes an obvious risk of causing various diseases. Some prisoners prefer to sleep in the reconstructed sheds instead of spending the night in the flooded tents.

The prisoners deplore the fact that reconstruction work is proceeding at a snail's pace, which makes them feel desperate.

Prisons are generally confronted with insufficient infrastructure to cope with the large number of prisoners occupying them.

Prison buildings with a large prison population such as Mpimba prison, Muramvya are still in a dilapidated state and are poorly maintained.

There are still prisoners sleeping in corridors on the floor, the roofs are old, full of holes and let rainwater in.

There is often a lack of water in the prisons of Mpimba, Rumonge and Rutana, which can lead to illness.

In the prisons of Muramvya, Gitega and Bubanza, the infrastructure is generally in good condition. These prisons are well lit and have sufficient water supplies, except where there are widespread power cuts in the regions where the prisons are located. The premises of these prisons face the problem of overcrowding and cannot contain all the prisoners in them.

As we have always pointed out, overcrowding in prisons is the source of insalubrity and consequently of disease. Contagious diseases spread very quickly, especially as the dispensaries in the prisons have very limited means to deal with these diseases.

II.3 Right or access to visits and communication […]

ACAT-BURUNDI was interested in the respect of the right to communication with the outside world during the Covid-19 pandemic in some Burundian prisons. Our documentation revealed that the right to communication of prisoners recognised by the texts governing the protection of prisoners both at the internal and international levels was vigorously violated.

This restriction had consequences for the right to a fair trial as detainees were not given counsel to prepare their defences. […]

This suspension of visits was not without consequences for the prisoners, as they were totally disconnected from their families. It should be recalled that in recent times, the prisons have experienced a recurrent shortage of food stocks and this was added to the lack of communication with the family who could have helped them by bringing them food. Despite this legal requirement, since April 2020, the Directorate General of Penitentiary Affairs of Burundi has suspended visits to all prisons in Burundi, arguing that it is in order to avoid the spread of the Covid-19 pandemic in prisons.

Moreover, the implementation of this barrier measure left a lot to be desired and the prisoners were deeply concerned and even indignant about it. Indeed, some detainees (free prisoners), police officers and prison staff were leaving and entering the prison without observing any other barrier measure.

Moreover, new prisoners were put in the same cells as the old ones without being quarantined or tested to ensure that they were not carriers of the covid 19 virus.

More deplorably, this selective measure reinforced favouritism and the monetisation of visits, as some prisoners received visits from relatives while others were denied them. […]

It should be recalled that in recent times the prisons have experienced a recurrent shortage of food supplies and this has been compounded by the lack of communication with the family who could help them by bringing them food.

Even those who brought food and other supplies to their relatives had no assurance that the parcels would reach the recipients as they could no longer communicate. The parcels were delivered through the intermediary of free detainees and not everyone trusted them as they were chosen from among the ruling CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party loyalists. […]

II.4 Right or access to food

During the year 2021, ACAT-BURUNDI noted that the phenomenon of excessive food shortages in the various prisons across the country continued as in the previous year.

This shortage of foodstuffs made conditions of detention more difficult, as it was added to the measure taken by the General Directorate of Penitentiary Affairs, which prohibited visits to prisons in order to prevent the spread of Covid 19 in prison environments. This decision would have been good under normal circumstances, but its implementation and monitoring were not well organised because in most of these prisons there were movements of some prisoners (i.e. the entry of new prisoners and the movement of free prisoners) and prison staff who did not carry out regular screening. […]

[…] the food distributed to prisoners from 1 January to 31 December each year consists of beans and flour only. Cassava flour, which is the main food in the prisons, has been in desperate short supply throughout the year, and prisoners have gone for weeks (3 weeks or more) without being fed the daily ration prescribed to them, i.e. 350g of beans and 350g of flour per day, which has so far been insufficient.

It is worth mentioning that in addition to this lack of quantity, the food for the prisoners is poor in terms of quality. Even salt is not distributed. Prisoners have to get it by their own means.

During the month of December 2021, a misappropriation of food supplies reserved for prisoners was reported in Rumonge prison and it was the prison director in the person of Patrice NKURUKIYE in complicity with the head of security, nicknamed General KAJENEZA Mustapha, as well as the senior general captain, a certain MANIRAMBONA Pierre, who were accused of this misappropriation. In order to conceal the embezzlement case, these political prisoners were falsely accused of organising demonstrations and disturbing internal security within the prison. Most of these prisoners were put in correctional rooms, their phones were searched and confiscated until further notice. […]

There was also a serious lack of food in all the prisons in Burundi, namely: Mpimba, Rumonge, Bururi, Ruyigi, Rutana, Muyinga, Bubanza, Ngozi (women's and men's prison), Gitega and Muramvya. This shortcoming was noted at a time when the prisons had an extremely high number of inmates far exceeding their capacity. […]

II.5 Rights or access to health care

ACAT-BURUNDI continues to identify cases of seriously ill prisoners in various prisons in Burundi who do not receive appropriate health care to the point of losing their lives, which is a serious violation of human rights principles according to the standards and laws in force in this area.

Prisoners who need to receive care that is not provided in prison have great difficulty in obtaining permission to leave from the prison authorities.

It should be noted that most of the detainees who do not have access to health care are prisoners accused of political offences, which is another form of repression exercised by the authorities against them.

In addition to this problem, which is linked to the difficulty of accessing health care in appropriate facilities, prisons are experiencing difficulties in implementing hygiene measures as recommended by the WHO and the Ministry of Health in order to deal with the Covid-19 pandemic. The lack of soap, drinking water, the absence of awareness on the behaviour to adopt as well as the overcrowding of prisons make this task perilous.

There is a severe lack of medicines in prisons to treat prisoners in imminent need.

The Directorate General of Penitentiary Affairs took a measure to suspend visits in order to prevent the spread of the virus, but the inmates considered this measure ineffective because every day, more than a hundred new inmates entered the different penitentiary establishments and these were put directly in the cells where other inmates were housed without being tested or quarantined. Prison staff have access to the cells where the prisoners are housed, not to mention the free prisoners who spend most of the day outside the prison and return to their cells in the evening.

Corruption also made this measure unenforceable because the person who gave money to the security agents was allowed to visit his relative.

The Rumonge Prison (MUREMBWE) which had seen progress in the transfer of detainees to competent health care facilities has seen a setback since August 2021 following the escape of a Kenyan businessman who was detained in the said prison, transfers were subsequently stopped.

Political detainees (accused of participation in the attempted putsch of 13 May 2015) incarcerated in Gitega prison when they receive permission to go outside the prison to receive treatment, are escorted by SNR [National Intelligence Service] agents and the police station in Gitega under the pretext that they might escape. Normally the escort of detainees is provided by the prison police, which is under the control of the prison authority. The fact that political detainees are escorted by police officers from the police station constitutes a special management which causes a climate of fear towards them.

The Ministry of Justice is not taking any steps to improve access to health care for people deprived of their liberty or to rehabilitate officials in the Department of Corrections who do not respect the rights of sick prisoners. […]

Since most prisons in Burundi only have infirmaries that are not sufficiently equipped and there are not many doctors, it is recommended to make transfers to nearby hospitals for prisoners in need.

ACAT-BURUNDI was able to investigate this situation in the prisons of Rutana, Gitega and Muramvya, where detainees were denied access to health care in an appropriate health facility (outside the prison) while the care they needed was not provided by the dispensaries in these prisons. […]

Other cases have been identified within Mpimba prison, which leads in the violation of the right to access to health care during the period from September to December 2021, these cases are the following […]

II.7 Situation of vulnerable persons deprived of their liberty: the elderly, pregnant women, nursing mothers and infants […]

The shortage of prison food in the course of 2021 also affected these categories of vulnerable groups, as the supplements that were granted were no longer available in some prisons.

In Mpimba prison, only breastfeeding women received double the ration intended for other persons deprived of their liberty. These women received sugar and flour for porridge, but the granting of these subsidies was not regular. For other categories of vulnerable people, including the elderly, the handicapped and the sick, they received support in the event of assistance from benefactors.

It is also worth mentioning that the Director of Mpimba prison refused to allow a prisoner to breastfeed her child. […]

In Bubanza prison, there are no benefits for breastfeeding women other than some occasional support from benefactors. The same is true for the other categories who do not benefit from any assistance unless there is external help.
In Muramvya prison, only breastfeeding women receive a double ration for themselves and their infants. Other categories of vulnerable groups are not taken into account.
In Gitega prison, nursing mothers and their children receive the same quality and quantity of care as other prisoners. For access to health care, these women and their children are referred to the outside when necessary. The other categories of vulnerable groups do not receive any special treatment unless there is support from benefactors. The deadly fire of 7 December 2021 in the Gitega prison has aggravated the situation of these vulnerable groups.
For Ruyigi prison, the Diocese of Ruyigi is contributing to improve the nutrition of vulnerable groups: nursing mothers, the sick, children and the elderly.
As for Rutana prison, there is no special treatment for favourable categories of prisoners, they are treated in the same conditions as their peers.
III. Administration of prisons in Burundi […]
There are also prisoners who are not satisfied with the services offered by prison officials, especially the category of political prisoners, because their grievances towards the legal or social services are not taken into account. This is particularly noticeable in terms of access to health care and protection within the prisons. Indeed, these prisoners are often mistreated by their peers acting on behalf of the security committees within the prisons. In addition, there are insufficient financial resources and prison staff to serve the prisoners. As a result, some prisoners suffer from illnesses due to malnutrition. […]
VI. Managing the covid 19 pandemic in prisons
ACAT-BURUNDI continued to observe with interest the attitude of the prison authorities in Burundi in the management of the barrier measures against the Covid 19 pandemic during the year 2021.
There is always movement in and out of the various prisons for prison staff and some prisoners, which exposes the prisoners inside the prisons because apart from washing hands and taking temperatures, there are no other measures. This is not recommended in all prisons, there is often a lack of follow-up over time, sometimes we notice that the buckets are empty of water or that there is no soap. The observation is that during the year 2021, there were no reported cases of covid 19 infection by official sources in the various prisons in Burundi, despite the explosion of cases of covid 19 that were cited here and there. […]
However, we learned that towards the end of February 2021, four staff members of the Mpimba prison administration, including nursing staff, tested positive for Covid-19, despite the fact that there were no appropriate measures for the prevention and management of those infected. […]
In Burundian prisons, only barrier measures such as hand hygiene and social distancing were advised to avoid the spread of this virus.
However, ACAT-BURUNDI welcomes the ICRC's initiative to set up a telephone booth in Mpimba prison to help prisoners communicate with their families.
Given the high number of prisoners and the limited capacity of the prisons, these measures could not be put into practice. There was always movement in and out of the various prisons for prison staff and some prisoners, which exposed the prisoners inside the prisons because apart from hand washing and temperature taking, there were no other measures. […]
The Government of Burundi has ordered additional measures to respond to the wave of new cases since the beginning of 2021. These measures included promoting the use of masks, hand washing, closing nightclubs and extending the mass screening campaign for an additional period. […]

> However, the implementation of these measures was not effective and was not monitored by the authorities. […].[505]

Last updated on 30 September 2022, the World Prison Brief by the Institute For Crime & Justice Policy Research gave the following figures for Burundi:

> Prison population total (including pre-trial detainees / remand prisoners): 12 323 *at 30.9.2022 (national prison administration, via human rights association – APRODH)* […]
> Pre-trial detainees / remand prisoners (percentage of prison population): 56.1% *(30.9.2022)* […]
> Official capacity of prison system: 4 294 *(30.9.2022)*
> Occupancy level (based on official capacity): 287.0% *(30.9.2022)*[506]

In October 2022, Amnesty International reported in its submission to the 43rd session of the Universal Periodic Review (UPR) of Burundi on 4 May 2023 that: "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 [National Intelligence Service] 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.xxviii".[507]

> xxviii 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/

The Amnesty International submission reported further on prison conditions: "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.xxix 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.xxx The facility, which was designed for 400 inmates, houses more than 1200 to date". […]

> xxix 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/

[505] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 5 to 7, 11 to 22, 34, and 37*
[506] Institute For Crime & Justice Policy Research, *World Prison Brief: Burundi*, last updated 30 September 2022
[507] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *p. 4*

xxx 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.[508]

i. Access to Legal Procedures While Detained

Additional relevant information can be found under section III. Rule of Law/Administrative of Justice, especially *III.a. Access to Justice*, *III.b. Judicial Independence*, *III.c. Legal Representation, including Attacks Against Lawyers*, and *III.d. Access to a Fair Trial*

In late March 2021, ACAT Burundi released its annual monitoring report on violations of prisoners' rights in Burundi that had taken place in 2020, discussing the ongoing detention of some detainees despite pardons. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> IV. Irregularities or malfunctions observed in the judicial files of persons deprived of their liberty […]
> Despite the clarity of the law, Acat-Burundi noted that a good number of detainees prosecuted for offenses relating to politics are deprived of freedoms without title or right, because some having been acquitted by the courts and tribunals, others have benefited from provisional release and another category of detainees has served their sentences.
> Acat Burundi has identified more than a hundred prisoners prosecuted for offenses relating to politics whose files were in an irregular situation. […]
> From all the foregoing, it follows that the application of the law remains random and subjective in terms of the release of detainees; which is a major handicap in the proper functioning of justice. Through this refusal to apply judicial decisions, it is easy to see that the judiciary not only lacks independence vis-à-vis the executive, but is also subject to the influence of the system of governance put in place. place by the ruling party, the CNDD FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. The directors of penitential establishments and the prosecutor's offices, which normally have to implement the judgments and judgments rendered by the Courts and Tribunals, first consult the National Intelligence Service when it is a question of releasing a political prisoner and most of the time.
> A recurring phenomenon consisting in refusing the application of judicial decisions is always talked about in the various penitentiary establishments. Some heads of remand prisons still refuse to implement court decisions handed down by authorized judicial bodies. It is important to note that some people deprived of their freedom and having benefited from the presidential pardon have not yet been released.
> By way of illustration, 113 prisoners who have been acquitted or served their sentences were still languishing in the various prisons in October 2020, while there were around 100 prisoners who had benefited from the presidential pardon measure since the end of the 1990s. 2018 and 2019 were still in custody. Note that these statistics are not exhaustive. All this is done with a view to continuing to restrict the rights of opponents and public freedoms. Then, the presidential pardon measures that have been taken since Burundi has been going through the various political crises always tend to exclusively favor

[508] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *p. 4*

> prisoners convicted of common law offenses and to relieve the prison establishments which face the challenges of prison overcrowding.[509]

According to the Commission of Inquiry in August 2021, there are "persistent dysfunctions in the justice system, including […] non-compliance with legal procedures and deadlines, failure to enforce judicial decisions, in particular release orders, and inertia in certain proceedings. Victims of violations continue to be deprived of effective remedies and to be subjected to threats and intimidation".[510]

In November 2021, ACAT Burundi released a statement on prisoner mistreatment. Using an online translation tool, Onlinedoctranslator.com, the following was translated from French into English: "[…] prisoners on their admission to prisons are not informed either of the laws and regulations or of the rights and duties which concern them as provided for in article 11 of the prison regime as well as 42 paragraph 2 of the prison regulations internal order".[511] The statement further remarked that "Articles 12 and 148 of the same texts indicate that the latter should be posted in places accessible to prisoners, but to no avail. This is done with the sole aim of keeping them in total ignorance and applying purely arbitrary and illegal orders to them".[512]

In April 2022, ACAT Burundi released their annual report on prison conditions, reporting on 2021. It wrote that:

> II. Prison conditions in Burundi […]
> […] magistrates abuse the power conferred on them by the law by keeping in pre-trial detention defendants who could be prosecuted while at liberty. The political and security crisis that the country has been experiencing since 2015 has led to a serious overcrowding of prisons. The government still uses detention as a means of repressing real or supposed opponents of the regime in place.
> The slow processing of court cases and the lack of enforcement of court decisions, especially for political detainees, has contributed significantly to prison overcrowding. […]
> II.3 Right or access to visits and communication […]
> During the period from July to September 2021, in some prisons (MURAMVYA, NGOZI, MUYINGA), lawyers were not allowed to meet with their clients. They took advantage of the public hearings to communicate with the defendant, which prevented them from properly preparing the defence. In other prisons (BUJUMBURA, GITEGA), lawyers were allowed access to the prison but with a very limited time (15 minutes per interview). […]
> IV. Irregularities or malfunctions observed in the judicial files of persons deprived of their liberty

[509] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Annual Report on Prisons 2020*, 26 March 2021 [Rapport annuel sur les prisons de l'Acat-Burundi pour 2020]*, p. 21 and 22*
[510] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 11 and 12*
[511] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Statement: Detainees Mistreated Under the Collective Eyes of the Administration Prison*, 9 November 2021 [Déclaration de l'Acat-Burundi sur la maltraitance des détenus avec la complicité de l'administration pénitentiaire(rôle des capitas)], *p. 1 and 2*
[512] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Statement: Detainees Mistreated Under the Collective Eyes of the Administration Prison*, 9 November 2021 [Déclaration de l'Acat-Burundi sur la maltraitance des détenus avec la complicité de l'administration pénitentiaire(rôle des capitas)], *p. 1 and 2*

On 5 March 2021, ACAT-BURUNDI was pleased to learn that the President of the Republic of Burundi had issued a decree granting pardons to 5255 prisoners. The latter should benefit from the execution of the decree, which was normally scheduled to take place on the day it was signed, in accordance with article 10 of the decree.

The Decree of 5 March 2021 finally proved that the process initiated in mid-December 2020 with a census of prisoners had come to an end, that the criteria were already known as well as the number of beneficiary prisoners, as evidenced by the figures of prisoners that appeared in the aforementioned Decree in its Article 9.

ACAT-BURUNDI was deeply concerned by the fact that the prisoners who benefited from the pardon languished in prison without any title or right and consequently suffered arbitrary detention prohibited by the fundamental law and the international legal texts to which Burundi has subscribed. ACAT-BURUNDI began documenting the implementation of the presidential pardon 60 days after the measure was issued.

During the month of April 2021, the Government of Burundi implemented the presidential pardon measure aimed at releasing a number of prisoners. It was noted that the number of beneficiaries as contained in the decree was not reached. The total number of prisoners released was 2678 as of 29 April 2021, whereas the decree stipulated that the number of beneficiaries was 5,255. […]

ACAT-BURUNDI has also noted a lack of harmony in the implementation of the pardon measure. In some prisons (MPIMBA and MURAMVYA), detainees sentenced to 10 years or less, regardless of the offence, were released, while in other prisons, detainees in this category, especially those accused of political offences, were not released, and detainees who had already served their sentences or who had been acquitted were not released, except in the prisons of Muramvya and Gitega, where this criterion was taken into account when drawing up the lists. […]

IV.1 Cases of political prisoners or prisoners of conscience […]

There is clearly a lack of diligence in the follow-up of the judicial files of defendants in detention for crimes of a political nature; this constitutes a violation of the Constitution of the Republic of Burundi of 7 June 2018.

[…] the files of detainees, especially those detained for political crimes, are still processed with inordinate slowness and bad faith. The results of the investigations conducted by ACAT-BURUNDI during the year 2021 have shown that the prisons are still full of detainees who have been acquitted without any title or right, those who have benefited from the presidential pardon and those who have served their sentences as mentioned above.[513]

ii. Communications to UN Working Groups

The 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Committee of Inquiry in Burundi stated that "Several hundred prisoners who have served their term or whose release has been ordered continue to be arbitrarily detained" and further noted that "This situation is ongoing despite opinions rendered by the UN Working Group on arbitrary detention (WGAD), which examined some of these prisoners' cases".[514]

[513] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 6, 15, 26, 27, and 31*

[514] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 2*

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it reported on Burundi that: "The UN Working Group on Enforced or Involuntary Disappearances raised 81 new cases (primarily from 2015 and 2016) with the authorities. By the end of the year, the government had provided no response to any of the 156 cases raised by the Working Group since 2016".[515]

In its report on Burundi in August 2021, the Commission of Inquiry stated that:

> II. Main developments in international and regional bodies
> A. United Nations
> 1. Human rights mechanisms. […]
> 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.[516]
>
> 6 A/HRC/WGAD/2020/40, A/HRC/WGAD/2020/55, A/HRC/WGAD/2020/56 and A/HRC/WGAD/2021/9.

On 16 October 2022, ACAT Burundi released a monitoring report on violations of prisoners' rights in Burundi that had taken place in July, August, and September of that year. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> IV. ARBITRARY DETENTION […]
> The Working Group on Arbitrary Detention has also issued several recommendations to the State of Burundi on several cases relating to arbitrary detention by ordering the State of Burundi to release these prisoners in arbitrary detention. The cases of prisoners prosecuted in the case of the assassination of General Adolphe NSHIMIMIRIMANA illustrate this situation well.
> The State of Burundi has always shown a refusal to collaborate with these bodies whose competence it has unfortunately recognized. For some, he refused to respond to the various communications sent to him by the seized bodies and for others, the State of Burundi wrongly raises a plea of inadmissibility.[517]

e. Torture and Inhumane Treatment

Additional relevant information can be found under section V. Human Rights Situation, especially V*V.a.i. Treatment of Political Opposition*, *V.a.2. Treatment of Members of Opposition Parties*, *V.a.3. Treatment of Persons Critical of the Government* and its sub-headings, *V.b.iv. Situation and treatment of Journalists*

[515] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 105*
[516] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 4*
[517] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Report on Monitoring Violations of Prisoners' Rights: Period of the months of July, August and September 2022*, 16 October 2022 [Rapport sur le Monitoring des Violations des Droits des prisonniers: Période des mois de juillet, août et septembre 2022], *p. 7*

and those working for Media Outlets, *V.d.i. Prison and Detention Conditions*, and *V.f. Extrajudicial Killings or Disappearances*.

As way of introduction and covering the year 2021, the US Department of State highlighted:

> Section 1. Respect for the Integrity of the Person, Including Freedom from:
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT […]
> As of September, Ligue Iteka reported 103 such cases, down from 201 the previous year, attributing 70 to members of the Imbonerakure, eight to police, five to members of local government, and 20 to the SNR [National Intelligence Service]. According to Human Rights Watch, some Burundian refugees in other countries testified they fled the country after they or their family members suffered violence, including rape, torture, and illegal detention by members of the Imbonerakure. The press reported throughout the year that Imbonerakure members arrested, threatened, beat, tortured, or inflicted a combination of the foregoing on members of the CNL [National Congress for Liberty] party. […]
> PRISON AND DETENTION CENTER CONDITIONS
> Prisons were overcrowded, and conditions remained harsh and sometimes life-threatening. Conditions in detention centers managed by the SNR and in local "lock-ups" managed by police generally were worse than in prisons, and there were allegations that police and members of the SNR committed acts of torture, beating, and mistreatment of detainees.[518]

In its report on Burundi in August 2020, the Commission of Inquiry highlighted instances of torture and sexual violence in Burundi:

> III. Situation of human rights […]
> C. Other violations […]
> 2. Torture and sexual violence
> 58. Acts of torture continued to be committed, including sexual and gender violence affecting mostly women and girls, but also men. Such violence was aimed at intimidating, controlling, repressing or punishing women and men for their supposed or actual political opinions, their refusal to join the ruling party or their links with an armed movement. These include cases of gang rape, but also the infliction of blows or burns on the genitals, buttocks or breasts and cases of forced nudity. Such violence was committed mainly by members of the Imbonerakure or of the police during visits or attacks on the victims' homes, but also in the context of arrest or detention by the National Intelligence Service. Women have been raped after their repatriation to Burundi.
> 59. The Commission is concerned about the structural nature of sexual violence in Burundi, as the testimonials collected since 2015 demonstrate that this type of violence persists and confirm the trends identified in its previous reports. Despite various programmes designed to facilitate access to justice for the most vulnerable persons, and specifically women, and the fact that there has been better judicial treatment of cases of gender violence,17 most victims of sexual violence have received direct or indirect threats and have not dared to report on the perpetrators or to seek assistance. This is inter alia due to the high number of perpetrators who are members of the security forces or the Imbonerakure, who have continued to enjoy almost total impunity.[519]

[518] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021
[519] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 11*

17 Republic of Burundi, *Rapport national d'évaluation de la mise en oeuvre de la Déclaration et du Programme d'actions de Beijing*, May 2019, pp. 13 and 32.

The 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Committee of Inquiry in Burundi stated that violations and abuses committed by the Government, state security forces, including the police, the National Intelligence Service, and members of the youth league of the ruling party include "torture and ill-treatment, the use of excessive and lethal force against peaceful demonstrators, enforced disappearances, violations of the rights of women and girls, rape and other forms of sexual and gender-based violence […]".[520]

Following the arrest and detention of a former independent member of parliament and human rights defender, Fabien Banciryanino, Human Rights Watch reported in October 2020 that: "He was transferred to Mpimba, Bujumbura's central prison, where he has reportedly been forced to stand in the sun for at least an hour, despite his poor health, as "punishment."".[521]

In September 2020, the Commission of Inquiry on Burundi reported in an oral briefing that:

> The Commission has taken an in-depth look into the issue of sexual violence committed against men in Burundi since the beginning of the crisis, mainly in the context of their detention by the National Intelligence Service. The information collected by the Commission during this term does, in fact, shed light on the recurrence of these violations, as well as the complacency and indeed the participation of officials from this Service. Men were subjected to various forms of torture targeting their genitals, were raped, or forced to have sexual relations with other men and women detainees. It is hard for victims to report this type of violence and receive support, particularly because of the widespread impunity enjoyed by SNR [National Intelligence Service] agents as well as the prejudice and harsh taboos related to sexuality, which explain their fear of being ostracised and rejected, should they recount what they endured.[522]

In November 2020, ACAT Burundi released a statement on acts of torture against detainees committed outside prisons. A section of the statement, translated from French to English using Google Translate, stated that:

> 1. During this month of November 2020, ACAT-BURUNDI notes that an unusual phenomenon is manifesting itself in the prison establishments of Bujumbura, namely the prisons of MPIMBA and Muramvya, which consists in forcing detainees out of the prison and inhuman and degrading treatment amounting to torture ensues.
> 2. According to the information at our disposal, these detainees who were victims of this inhuman treatment were taken out of their cells by the directors of the penitentiary establishments and placed at

[520] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1*
[521] Human Rights Watch, *Prosecution of Former MP Casts Doubt on Reform in Burundi*, 12 October 2020
[522] UN Human Rights Council, *Interactive Dialogue on Burundi: Oral briefing Of the Commission of Inquiry on Burundi*, 23 September 2020

> the disposal of the agents of the National Intelligence Service; who in turn direct them to unknown destinations where they suffer acts of torture. […]
> 4. With regard to the case of BIGIRIMANA Helménégilde, he was seriously tortured before being returned to Mpimba prison and then he was placed in a cell in solitary confinement in a place commonly known as kw'isoko very close to the place where the head of the security committee MINANI Prosper lives to be better monitored.[523]

In December 2020, ACAT Burundi, Ligue Iteka, and thirteen other civil society organisations released a joint report on the human rights situation in Burundi. Translated from French to English using the online translation tool, Onlinedoctranslator.com, the report raised concerns on:

> 1.2. Attacks on physical integrity attributable to elements of the Imbonerakure militia, to administrative officials and law enforcement agents. […]
> Indeed, during the period covered by this report, many cases of torture were perpetrated essentially by Imbonerakure, including zone or hill chiefs, and law enforcement agents (particularly agents of the police and the National Intelligence Service as well as certain military personnel). These acts of physical torture were committed with particular terror and were basically directed against members and proxies of the CNL [National Congress for Liberty] party. In all, civil society organizations identified 182 people tortured, including women, one of whom was
> violently beaten, injured and aborted following the beatings received.
> The consequences are often serious for the victims, some of whom have lost teeth, others have been hospitalized or have had their limbs broken. All of these victims were attacked because of their political affiliation or their political activities, in particular during their participation in rallies or the mobilization of other members, or quite simply because they had stood as candidates in the various elections in the purpose of dissuading them.[524]

Covering the year 2021, the US Department of State noted:

> Section 1. Respect for the Integrity of the Person
> A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS […]
> According to a Ligue Iteka report, Eliazard Nahimana, a resident of Buganda Commune in Cibitoke Province, died on April 22, after being beaten and tortured by a group of Imbonerakure. The report indicated that Nahimana was arrested at the order of Pamphile Hakizimana, the local administrator of the commune, who accused him of obstructing government activities after Nahimana tried to prevent Imbonerakure members from digging a rainwater drainage canal on his property. Nahimana was transported to the commune's police detention facility where he was beaten and tortured. The local administration refused to provide him with medical assistance. As of year's end, authorities made no known efforts to investigate his death. […]

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[523] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Statement by ACAT-Burundi following acts of torture and inhuman and degrading ill-treatment inflicted on certain detainees*, 26 November 2020 [Déclaration de l'Acat-Burundi suite aux actes de tortures et mauvais traitements inhumains et dégradants infligés à certains détenus], *p. 1*

[524] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi et al. *Burundi at the Pace of Human Rights Violations Daily: Joint Report of Burundian Civil Society on the Human Rights Situation*, 10 December 2020 [Le Burundi au rythme des violations des droits humains au quotidien], *p. 5 and 6*

> On July 8, individuals in military uniforms arrested Emmanuel Baransegeta in the village of Ruhagarika, Cibitoke Province. According to Human Rights Watch, Baransegeta was tortured and two days later his body, identified by scars he was known to have, was found on the nearby shores of the Rusizi River. Authorities buried Barasengeta's body without further investigation. […]
> C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT
> The constitution and law prohibit cruel, inhuman, or degrading treatment or punishment, but there were numerous reports government officials employed these practices. NGOs reported cases of torture committed by security services or members of the Imbonerakure. […] There were also reports that government officials in prisons physically abused prisoners. […]
> From January through August, the BHRI documented several cases of torture allegedly committed by Moise Arakaza, who was then police commissioner of Mugamba Commune, Bururi Province. Arakaza reportedly beat detainees with the flat side of a machete blade, rubbed hot chili peppers up detainees' noses, and threatened further cruel, inhuman, or degrading treatment against other detainees. The BHRI also stated that several detainees were transferred from Mugamba to SNR headquarters in Bujumbura where they were reportedly tortured. Arakaza was reassigned to a commune in Bujumbura in August but reportedly continued to arrest and ill-treat detainees and other individuals there. Despite BHRI reporting that senior judicial and police officials knew about these abuses, authorities had not held Arakaza accountable as of November. […]
> There were reports that members of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community were threatened, beaten, and arrested by local administrators and other citizens with the support of security forces […].
> E. DENIAL OF FAIR PUBLIC TRIAL […]
> Defendants have the right not to be compelled to testify or confess guilt, although there were reports some detainees experienced torture to coerce testimonies. Judges used confessions obtained under torture as a basis for convicting defendants. […]
> Section 2. Respect for Civil Liberties
> A. FREEDOM OF EXPRESSION, INCLUDING FOR MEMBERS OF THE PRESS AND OTHER MEDIA […]
> Violence and Harassment: On September 24, police and military officers arrested Aime-Richard Niyonkuru, journalist of Radio Bonesha, while he was investigating a grenade attack in the Kamenge neighborhood of Bujumbura. According to media reports, Niyonkuru was tortured, harassed, and accused of collaboration with enemies of the country, but released 24 hours later.[525]

Similarly, in April 2022, ACAT Burundi released their annual report on prison conditions and cases of torture and mistreatment, reporting on 2021. It wrote that:

> III.1 Security and surveillance in prisons […]
> ACAT-BURUNDI deplores the fact that in some prisons, prisoners who are members or sympathisers of the ruling CNDD FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party and who operate under the orders of the prison authorities are always singled out by their peers for the ill-treatment inflicted on their fellow inmates. The perpetrators of these abuses, especially in Mpimba prison, are designated by the prison management to be part of the security committee.
> In addition to acts of physical abuse, these detainees, grouped in what they call a 'security committee', organise searches in the cells occupied by political detainees to look for telephones and take advantage of these moments to commit theft, all of which is done with the prison administration.

[525] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

> The following are some illustrative cases of violations of the principle of supervision in the above-mentioned prisons:
> 1. On 13 January 2021, at Mpimba prison, security chiefs led by one MUGISHA Abdul, Alexis, Moussa and NYANDWI Ali tortured and snatched the phones of their peers accusing them of being opponents of the GITEGA government. In reality, they did this to extract money from them because they had to pay money to get their phones back. […]
> 10. Ill-treatment of political prisoners, mainly those who demonstrated against the 3rd mandate of the late President Pierre NKURUNZIZA in 2015, has been observed since 23 November 2021 in Rumonge prison. […]
> III.2 Abuse and torture in prisons
> ACAT-BURUNDI has noted a decrease in cases of ill-treatment, inhuman or degrading treatment and torture of prisoners during the year 2021, even if the phenomenon has not been completely contained.
> Prison officials in complicity with the security committees violated the rights of prisoners, especially the category of political prisoners.
> The ill-treatment consisted mainly of isolation in correctional cells, caning and night-time searches of cells occupied by prisoners prosecuted for political offences.
> This situation is particularly evident in the Mpimba Central Prison, where the phenomenon persists compared to other prisons. Cases of torture and ill-treatment have been documented by ACAT-BURUNDI.
> A category of detainees isolated from other prisoners and kept in a place commonly known as "TINGITINGI".
> Indeed, there was a general lack of equal treatment between prisoners prosecuted for common crimes and those accused of political offences, who are nevertheless subject to the same law governing prisons. The category of prisoners who were often put in solitary confinement and kept in unsanitary conditions by their peers who were held loyal to the ruling party is an example. […]
> All these acts of abuse are carried out under the complicit eye of the prison administration. […]
> In Muramvya prison, during November 2021, detainees accused of belonging to rebel groups were ordered by the prison director to sleep in the cold showers, their legs were swollen.
> This recurrent form of human rights violations is often observed among detainees considered to be opponents of the CNDD-FDD government. Most of them come from the opposition parties, the former National Defence Forces and the National Police. The prisons with an extremely high number of victims are: Bujumbura, Muramvya, Gitega, Bururi, Ruyigi, Bubanza.[526]

In March 2021, ACAT Burundi released its annual monitoring report on violations of prisoners' rights in Burundi that had taken place in 2020. Using an online translation tool, Onlinedoctranslator.com, the following passage was translated from French into English:

> Ill-treatment and torture in prisons
> Acat-Burundi noted that there were many cases of ill, inhuman or degrading treatment and torture of prisoners with the 2020 electoral process and after the attacks by an armed group in August 2020.
> Prison officials in complicity with security committees have violated the rights of prisoners, especially the category of political prisoners.
> This ill-treatment consisted mainly of solitary confinement in correction cells, beatings and searches during the night of the cells occupied by detainees prosecuted for politically motivated offences.

[526] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 22 to 26*

> This situation manifests itself much more in the Central Prison of Mpimba where it has taken on a worrying aspect. Faced with this state of affairs, Acat-Burundi decided to carry out an investigation in the prisons of Mpimba where the phenomenon reached its climax. A category of detainees isolated from other prisoners and kept in a place commonly called "TINGITINGI". […]
> The information at our disposal reported more than fifty detainees who lived in these conditions. […]
> Acat-Burundi was outraged by an unusual phenomenon in the penitentiary establishments of Bujumbura, namely the prisons of Mpimba and Muramvya, which consisted in removing detainees from the prison by force and administering inhuman and degrading treatment to them, including acts of torture.
> According to the information at our disposal, these detainees who were victims of this inhuman treatment were taken out of their cells by the directors of the penitentiary establishments and placed at the disposal of the agents of the National Intelligence Service; who in turn directed them to unknown destinations where they suffered these acts of torture.
> On November 19, 2020, the detainee BIGIRIMANA Helmenegilde alias KIGOMA of Mpimba Prison and member of the CNL [National Congress for Liberty] was released from the prison when he answered the call of the management of this establishment. The agents of the National Intelligence Service took him away and tortured him a lot before sending him back to Mpimba prison. He was subsequently placed in a cell in solitary confinement in a place called "Kw'isoko" very close to where the head of the security committee MINANI Prosper lives to be monitored. […]
> This recurrent form of human rights violations is often observed among detainees considered to be opponents of CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] power. Most come from opposition parties, the former National Defense Forces and the National Police.[527]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights:

> 2. THE POLICE AND INTELLIGENCE SERVICE: ANTI-CORRUPTION DRIVE MASKS SERIOUS HUMAN RIGHTS VIOLATIONS […]
> The government's silence on torture and killings
> Ndayishimiye and Habarurema have allowed torture to continue at the SNR. In late 2020 and early 2021, SNR [National Intelligence Service] provincial officials regularly sent detainees accused of collaborating with the armed opposition to their headquarters in Bujumbura where they were tortured. In contrast, in several provinces, including Muyinga, Makamba and Bubanza, the new provincial SNR heads appointed after the 2020 elections are not known to have been involved in serious human rights violations since taking up their posts.
> Early in Ndayishimiye's first year in power, police and SNR agents arbitrarily arrested scores of CNL [National Congress for Liberty] members, brutally beating many of them, especially following incursions by armed groups in August and September 2020, during which armed assailants killed at least 16 people, including several CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] members.48 […]
> In January 2021, police and intelligence agents in Rumonge province tortured or killed several people suspected of having links with armed groups. Police arrested and later shot dead Déogratias Niyongabo, alias Côme, and Protais Niyungeko, both of whom they suspected of being members of an armed

[527] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Annual Report on Prisons 2020*, 26 March 2021 [Rapport annuel sur les prisons de l'Acat-Burundi pour 2020], *p. 19 and 20*

opposition group. BHRI documented the case of Égide Sindayigaya who died in detention in January 2021 after SNR agents tortured him, as well as more than a dozen other torture cases since the May 2020 elections.51

Even more recently, in April 2021, several CNL members were arrested on accusations of collaborating with the armed opposition or other acts of violence. BHRI documented the cases of three CNL members who were taken to the SNR headquarters in Bujumbura, where they were tortured. In one case, SNR agents blindfolded and gagged the detainee, tied his hands behind his back and whipped him with electrical cables. Intelligence agents then put a knife to his throat and a gun to his head, threatening to kill him if he didn't reveal information about his suspected links with armed opposition groups.52 In another case, SNR agents blindfolded a CNL member and beat him multiple times with what he said felt like a pipe or a rod. They attempted to force him to implicate a group of men in the killing of CNDD-FDD member. "As long as you refuse to tell us (about) these… people, we will beat you on the head and kill you," they said. The detainee replied: "Go ahead, I can't accuse people I don't know." Before releasing him, a senior SNR official told him he was innocent and apologised for holding him at the SNR, explaining that investigations"happen like this."53

Ndayishimiye has remained silent about these killings and torture. His numerous statements on justice and ending impunity do not seem to apply when police kill or torture suspected armed opponents or when they arbitrarily arrest political opponents who are later tortured by the SNR. […]

3. THE CNL: A DECLINE IN ABUSES, BUT WILL IT LAST? [..]

On 13 May 2021, a group of *Imbonerakure* beat a CNL member in Bubanza province. They accused him of stealing corn from a field. An eyewitness said that as *Imbonerakure* kicked, punched and beat the man with sticks, they insulted him because he was a CNL member and threatened to pull out his teeth. After beating him, *Imbonerakure* dropped him off at a local administrative office.

Later that day, the *chef de colline* (a local government official) took him to a health centre but the person in charge refused to admit him. The *chef de colline* and a few *Imbonerakure* took him to a nearby school and left him alone on the porch. Sometime during the night, he died. The *chef de colline* was arrested then released the next day. None of the *Imbonerakure* have been arrested.62

On 5 April 2021, in Rusaka *commune*, Mwaro province, unidentified armed men killed the son of Athanase Mpawenayo, the CNDD-FDD *commune* secretary, and his domestic worker. The following day, Salvator Budigoma, the CNL secretary in Rusaka, was arrested by SNR agents and later tortured at the SNR headquarters in Bujumbura. He had been missing for more than a month before he turned up in Mpimba prison on 11 May.63 BHRI documented several other cases of torture of CNL members at the SNR headquarters in Bujumbura in late 2020 and early 2021.64

In March 2021, four members of the *Imbonerakure* kicked and beat a CNL member and his friend in Rutana province. They said they were ordered to kill the CNL member because of his role during the 2020 electoral campaign. After the two men were taken to a hospital, a local CNDD-FDD leader ordered a medical worker to stop treating them. Rather than arresting the *Imbonerakure* involved in the beating, intelligence and local government officials continued to threaten the CNL member.65 […]

48 The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020. […]

51 The Burundi Human Rights Initiative, "Rumonge: torture and killings in the name of security" https://burundihri.org/rep/Rumonge-Engl.pdf, March 2021, and "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.

52 Interview with confidential source, 27 and 28 May 2021.

53 Interview with confidential source, 28 May 2021. […]

62 Interviews with witnesses and police officials, April 2021.

63 Information from private sources, May 2021. See also Iwacu, “Sécurité/Mwaro : Un écolier de 15 ans et un domestique tués par des malfaiteurs”, https://www.iwacu-burundi.org/securite-mwaro-un-ecolier-de-15-ans-et-un-domestique-tuespar-des-malfaiteurs/, 6 April 2021.
64 For further information, see The Burundi Human Rights Initiative, “Rumonge: torture and killings in the name of security,” https://burundihri.org/rep/Rumonge-Engl.pdf, March 2021.[528]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi:

> III. Human rights situation
> 18. […] 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. […]
> A. Human rights violations and abuses in the context of security incidents […]
> 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. […]
> D. Opposition political parties […]
> 36. […] 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 [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. 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.
> E. Returnees […]
> 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.[529]

In a September 2021 press release by the UN Human Rights Council, it stated:

> While seeking persons allegedly involved in the armed attacks or collaborating with rebel groups, the security forces targeted mainly members from the main opposition party, the National Congress for Liberty (CNL), former members of the Tutsi-dominated Burundian Armed Forces (ex-FAB), returnees and some of their family members. Some were executed, others disappeared or were tortured while detained arbitrarily.

[528] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021, *p. 15, 16, 19, and 20*
[529] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5, 6, 8 and 9*

> Although the level of political violence decreased immediately after the 2020 elections, the political climate remains highly intolerant of dissent. Members of opposition parties, in particular the CNL, are still regularly targeted by abusive restrictions and are subject to grave human rights violations such as disappearances, arbitrary arrests and detentions and torture, in particular since June 2021.[530]

Human Rights Watch reported in September 2021 on allegations of torture in Burundi:

> New Human Rights Watch research in Cibitoke found that Burundian intelligence services, security forces, and members of the ruling party's youth league, the Imbonerakure, have allegedly killed, disappeared, and tortured real or perceived political opponents and people suspected of having ties with Burundian rebels in neighboring Democratic Republic of Congo. […]
>
> "Residents of Cibitoke described the banks of the Rusizi river as a graveyard where they saw new bodies appear every week or month," said Lewis Mudge, Central Africa director at Human Rights Watch. "The combination of rampant corruption, impunity for past abuses, and a crippled judiciary has created the perfect storm for police, national intelligence, and Imbonerakure members to apparently kill, torture, disappear, and steal without consequences." […]
>
> Since December 2020, Human Rights Watch has documented four cases of apparent torture at an unofficial national intelligence service (*Service national de renseignement*, SNR) detention facility in Cibitoke town. Former detainees – mainly local farmers – said they were held in small, filthy rooms, were regularly and violently beaten, and questioned about their ties to Congo-based rebels. Some said they heard other detainees being driven off in the middle of the night. […]
>
> Alleged Torture at a National Intelligence Service Cell in Cibitoke
>
> Human Rights Watch interviewed four former detainees who were held in an unofficial national intelligence service detention facility located in Cibitoke town, where they said they witnessed abuse and were tortured between September 2020 and August 2021.
>
> Three of the men were farmers, including two who often traveled to Congo to look for work. They all said they had no political affiliations and had no contact with rebel groups in neighboring Congo. The fourth said he was targeted for his political activities. All said they heard detainees being driven away in the middle of the night. One man who was detained at the national intelligence facility in December 2020 said police officers drunkenly gloated about killing detainees and throwing their bodies into the Rusizi river.
>
> One man who was detained there in August 2021 said he was tortured and told to confess to working with RED-Tabara (*Résistance pour un état de droit au Burundi*; Resistance for the Rule of Law in Burundi), a Burundian rebel group operating in Congo. He said he was taken to the house by members of the intelligence service and Imbonerakure in a pickup truck. During his week-long detention, he said men in civilian clothing brutally beat him and interrogated him about rebel group operations in the area:
>
> > They hit me everywhere with sticks, as if I were a snake. They beat me in the morning and in the evening, and around me I could hear others screaming. A man in a cell next to me was beaten to death. A man in a police uniform stood outside his cell while men in civilian clothing beat him and told him, "You're a combatant, even if you deny it, you won't get away." I saw him die and they took him out to bury him around 3 a.m.
>
> Former detainees said they were interrogated and beaten by a senior intelligence chief. One former detainee, who was held in December 2020, said:

[530] UN Human Rights Council, *Burundi: Behind a façade of normalization, grave human rights violations continue, and the democratic space remains closed*, 16 September 2021

> I was badly beaten. They undressed me and hit me with police clubs. They said that no one would protect me. I was held for four days in a tiny, dirty room. At first, they put me in a room so small I could only stand. A man came on two occasions to beat me. I could hear others being beaten too; they [intelligence and police officials] took people away at night…. They were people from Kirundo, Muyinga, Cibitoke…. We were afraid when we heard a car come at 1 a.m. and drive off at 2 a.m. We suspected they were going to kill people, we heard they put them in bags and drowned them in the Rusizi.

Two other sources said they heard screams from the detention facility when they walked past at night.

One man was arrested in September 2020 and detained there for six weeks. He said police and other men arrested him at his house. He was accused of collaborating with rebels, and said he was taken to a house next to a bank in Cibitoke town:

> My first night, I was interrogated by the provincial chief of police (*commissaire provincial*). Then they called three policemen to come hit me. They said I had gone to join the rebels in Congo. The *commissaire* beat me with a metal rod. The policemen hit me 38 times, they punched me and kicked me all over my body. I can't see from one eye now.
>
> The *commissaire* would come ask me questions. At first, they asked about my background in Congo, then they asked why I wouldn't join their group [the ruling party]. They said if I didn't join them, they would kill me. I was interrogated, sometimes up to three times a day. It was often at night, sometimes until 2 a.m., so that I would be tired and accept what they wanted me to confess. Each time they beat me.

He said his family had to pay to have him released, and that his wife had to sell one of his plots of land to pay the bribe.[531]

In October 2021, International Crisis Group reported in an excerpt in their autumn update for their 'Watch List 2021' that: "The [youth] militia, which Ndayishimiye oversaw when he was CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] secretary general, is known for shaking down, torturing, abducting, sexually abusing women and killing opposition members and ordinary citizens alike".[532]

In November 2021, BHRI released a report on the rise in torture and disappearances in Burundi. It wrote that:

> Tolerating violence: the president's vision threatened by hardliners […]
>
> Following a series of armed attacks and ambushes between April and September 2021, government officials accused political opponents of collaborating with armed groups and abducted or arrested dozens of them. […] Those arrested often ended up at the intelligence headquarters in Bujumbura, where some were tortured until the pain was so intense that they said anything to make it stop. […]
>
> There may be several explanations for the renewed human rights violations, but one thing is certain: the number of arrests, enforced disappearances and cases of torture of suspected government opponents by the National Intelligence Service (*Service national de renseignement*, SNR) and the police has increased in recent months. These aren't isolated cases. Their frequency and the profiles of individuals detained or

[531] Human Rights Watch, *Burundi: Allegations of Killings, Disappearances, Torture*, 17 September 2021

[532] International Crisis Group, *An Opportunity for the EU to Help Steer through Reform in Burundi – Watch List 2021 – Autumn Update*, 7 October 2021

disappeared suggest a clear pattern, undermining limited human rights improvements since the 2020 elections. […]

The combination of violent attacks by unidentified groups and the government's unwillingness to hold state agents accountable has led to a resurgence of serious human rights abuses in 2021. The response to the attacks reveals a longstanding strategy among hardline ruling party members: use the violence as a renewed pretext to arrest, torture, or disappear perceived opponents. […]

Many of those arrested following the attacks were arbitrarily detained, and some tortured or illtreated, at provincial SNR offices before being released or transferred to the SNR headquarters in Bujumbura. There, many underwent days or weeks of torture, ill-treatment and incommunicado detention as officials attempted to extract confessions, information about alleged collaborators or the location of weapons caches. […]

2. "We will cut you in two": upsurge in torture and incommunicado detention at the SNR

The brutal treatment of detainees in Mugamba is an open secret: Arakaza didn't try to conceal it. But at the SNR headquarters in Bujumbura, and at its provincial offices, a more insidious kind of torture is taking place, away from the public gaze. […]

During the second half of 2020, after several attacks by armed opposition groups, reports of torture by the SNR increased. Even during periods when the country appeared relatively calm in 2021, the SNR continued targeting real or suspected government opponents, particularly CNL members, as well as residents of areas such as Mugamba and Burambi (Rumonge province).27

More recently, detainees arrested in different parts of the country and accused of collaborating with the armed opposition have been sent to the SNR headquarters in Bujumbura and tortured there. Some have also been tortured by the SNR in unofficial detention centres in Bujumbura or at the provincial level, including at SNR offices or residences in Gitega, Mwaro, Rutana and Makamba. […]

Despite some changes in personnel at the SNR since President Ndayishimiye came to power in 2020, several officials responsible for killings, torture and other grave human rights violations in previous years remain in place and have been cited in the context of cases in 2021. They include Alfred Innocent Museremu, head of internal intelligence since 2020, Alexis Ndayikengurukiye alias Nkoroka, from the operations department, and Joseph Mathias Niyonzima alias Kazungu.32 Museremu plays a major role in directing local SNR agents to abduct or arrest individuals suspected of collaborating with armed groups.33 He and Nkoroka were also directly involved in cases in which detainees were questioned, threatened and beaten for allegedly collaborating with armed groups in 2021. Museremu and other SNR agents tried to force some detainees to admit they were in contact with individuals outside Burundi – allegedly members of an armed group based in Rwanda.34 […]

2 A term in Kinyarwanda (the language of Rwanda) meaning someone who moves. It is not known how Arakaza acquired this nickname. […]

4 Interview with confidential source, 7 August 2021.

5 Interview with former detainee, 13 August 2021.

6 Interview with source knowledgeable about the case, 27 July 2021.

7 Interviews with confidential sources, 19 and 25 June 2021.

8 Interviews with CNDD-FDD members, August 2021. […]

10 Interview with confidential source, 27 July 2021.

11 Interview with confidential source, 17 July 2021.

12 Interview with former detainee, 30 September 2021. […]

16 Interview with former detainee, 7 August 2021; interview with confidential source, 28 September 2021.

17 Interview with confidential source, 19 August 2021, and photos of detainee's injuries.

18 Burundi is divided into 18 provinces, which are divided into *communes*. Each *commune* is divided into zones, which are further divided into *collines* (hills). […]
21 Burundi National Police, "Décision 530.03.347/IGPNB portant nomination de certains officiers de la police nationale", 25 August 2021. […]
24 Conversation with private source, 6 August 2021.
25 Interviews with confidential sources, September and October 2021.
26 Interview with confidential source, October 2021.
27 See The Burundi Human Rights Initiative, "Ndayishimiye one year on: has he kept his word on human rights?", https://burundihri.org/english/june_2021.php, June 2021, and "Rumonge: torture and killings in the name of security", https://burundihri.org/english/march_2021.php, March 2021. […]
32 For further information on these individuals, see The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/english/december_2020.php, December 2020.
33 Interview with confidential source, 28 September 2021.
34 Interviews with confidential sources, 9 and 13 August 2021.[533]

In January 2022, ACAT Burundi released a monitoring report on violations of prisoners' rights in Burundi that had taken place in September to December of the year before. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> II. CASES OF INHUMAN AND DEGRADING TREATMENT. […]
> By way of illustration, below are the cases documented during the period covered by this report: […]
> 5. In Mpimba prison, after several days without news of the nineteen combatants of the armed movement RED Tabara, we learned that they are being held in a correctional cell called "Tingitingi". The director of this prison ordered that the latter sleep in showers, an environment which is exposed to the cold, they are also deprived of visits from members of their families. According to information collected within this prison, the latter eat only once a day and badly prepared food. They can't get out of this environment. This mistreatment is inflicted on them to punish them for their commitment to fight the government of Burundi.
> 6. In Muramvya prison, we found as of November 22, 2021 that people recently captured on suspicion of belonging to rebel groups spent the night in the showers, exposed to the cold, the order was given by the director of the prison and a certain Régis. Their legs are starting to swell. The ordeal is now over, they sleep in common dormitories with the other prisoners.
> 7. Mistreatment is inflicted on political prisoners, largely those who demonstrated against the 3rd term of the late President Pierre NKURUNZIZA in 2015 have been observed since 23/11/2021 in Rumonge Prison. […]
> 8. A certain NDIRITIRO, the head of security is at the head of those who inflict acts of torture on these political prisoners.[534]

According to Freedom House in its February 2022 Freedom in the World report, "Rights monitors continue to report sexual violence carried out by security forces and the Imbonerakure, who act with impunity. Women are often targeted for rape if they or their spouses refuse to join the CNDD-FDD

[533] The Burundi Human Rights Initiative (BHRI), *Behind the gate: A rise in torture and disappearances*, November 2021, *p. 4 to 16, 21, and 23*
[534] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Report on Monitoring Violations of Prisoners' Rights: Period of the months of September to December 2021*, 10 January 2022 [Rapport sur le Monitoring des Violations des Droits des prisonniers: Période des mois de septembre à décembre 2021], *p. 3 to 5*

[National Council for the Defense of Democracy–Forces for the Defense of Democracy]. Men sometimes experience sexual abuse while in government custody".[535]

In March 2022, BHRI released a report on human rights abuses in Burundi linked to torture. It stated that:

> 1. Torture and abductions: the tip of the iceberg
> […] BHRI has established the identity of more than 55 people who were tortured in 2021, on the basis of interviews with victims and other witnesses.1 These are just the cases that BHRI investigated in detail – probably a fraction of the overall number. BHRI interviewed numerous former detainees who had been tortured by the national intelligence service (Service national de renseignement, SNR). Most of them knew other detainees who had also been tortured, some so badly they feared they might die. Several of them named SNR [National Intelligence Service] or police officials who participated in or sanctioned the torture, including some who have been involved in torturing detainees since at least 2015.
> BHRI has built up evidence of a clear pattern, with many cases following a similar trajectory: suspected opponents – most often, but not always, members of the opposition party National Freedom Congress (Congrès national pour la liberté, CNL) – are usually abducted (rather than formally arrested according to due process) by local SNR agents or police in their area of residence, detained in the provincial SNR office and, in some cases, tortured there.
> They are then often transferred to the SNR headquarters in Bujumbura, where many are tortured even more severely – lashed with electric cables or forced into stress positions and beaten – and held incommunicado for periods ranging from a few days to several months. Intelligence agents often accuse detainees of collaborating with armed groups, even in the absence of credible evidence, and torture them to extract confessions or information about other individuals. […]
> The injuries that some sustained from their torture at the SNR are so serious that the prison clinic is unable to give them the appropriate medical treatment. […]
> 2. A resurgence of abuses by Imbonerakure […]
> Sometimes, Imbonerakure are tacitly given the green light to attack opponents. On 14 May 2021, Imbonerakure in Bubanza province beat a CNL member so badly that he died. They caught the victim – a homeless man nicknamed Rasta, who used to volunteer in the local CNL office – ,accused him of stealing corn and beat him repeatedly. Rasta was found dead the following day. […]
> In October 2020, Ndayisenga also tortured two men, Mélance Ndikumana and Révérien Ninteretse, who were accused of killing Mélance's stepbrother in Kayokwe commune. When he took them to the provincial police detention centre, both men had serious injuries on their buttocks and near their mouths. They said they had been interrogated and tortured by Ndayisenga and his aides in the provincial SNR office. A few days later, after other detainees raised the alarm about Ndikumana's deteriorating health, the police transferred him to a nearby hospital, where he died that night. Ninteretse died of an unrelated illness in January 2022 after his release from prison.77
> Ndayisenga also arrested two CNL members in Mwaro in January 2021, one of whom he beat with a rod on his feet, back, arms and backside. He threatened to kill the man and accused him of forming a rebel group and working with senior opposition military officials. He took him to the SNR headquarters in Bujumbura where SNR agents tried to force him to admit he was a rebel. An SNR agent beat him while a man believed to be a judicial police officer took down his statement.78 […]

[535] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

1 For information on some of these cases and patterns of torture in 2021, see The Burundi Human Rights Initiative, "Behind the gate: a rise in torture and disappearances", https://burundihri.org/rep/Report-November-2021-Engl.pdf, November 2021.
2 BHRI has reported on some of these cases in previous publications, but is drawing attention to them again because of the lack of action by the authorities many months later.
3 Interviews with sources knowledgeable about the events, December 2021 and January 2022. See also "Déclaration du parti CNL consécutive au décès de ses leaders à la suite des tortures leur infligées dans les cachots du Service national des renseignements", https://twitter.com/BurundiCnl/status/1473302243134824451, 20 December 2021.
4 Interview with confidential source, 20 December 2021.
5 Interview with confidential source, 15 February 2022.
6 Interviews with confidential sources, 4, 13 and 20 December 2021, and 17 and 18 February 2022.
7 Interview with CNL source, 1 February 2022.
8 Interview with CNL source, 1 February 2022.
9 See Iwacu, "Inconsolables, les proches de Matata l'accompagnent à sa dernière demeure", https://www.iwacuburundi.org/inconsolables-les-proches-de-matata-laccompagnent-a-sa-derniere-demeure/, 23 December 2021.
10 CNIDH, "Communiqué relatif à deux cas de torture signalés au SNR", https://www.cnidh.bi/publicationsview.php?article=892, 10 December 2021.
11 CNIDH, "Rapport annuel, édition 2021", January 2022. […]
14 Interview with confidential source, February 2022.
15 For information on Museremu, Ndayikengurukiye and Niyonzima, see The Burundi Human Rights Initiative, "A stranglehold on Burundi's future, https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020. […]
18 Interviews with confidential sources, December 2021 and January 2022.
19 Interviews with confidential sources, December 2021 and January 2022.
20 Interview with confidential source, 23 December 2021. […]
22 CNIDH, "Rapport annuel, édition 2021", January 2022.
23 Interviews with sources knowledgeable about these events, 24 and 25 January 2022.
24 For a detailed account of the detention and torture of Égide Sindayigaya, as well as the killing of his brother and related events, see The Burundi Human Rights Initiative, "Rumonge: torture and killings in the name of security", https://burundihri.org/rep/Rumonge-Engl.pdf, March 2021. […]
76 Interview with source knowledgeable about the events, 10 February 2021.
77 Interviews with sources knowledgeable about the events, 4, 18 and 21 February 2022.
78 Interviews with sources knowledgeable about the events, 9 and 10 March 2021.[536]

Human Rights Watch published a piece in May 2022 on the detention, killings, and torture of suspected opponents at the hands of the security forces in Burundi. It reported that:

> Burundi's national intelligence services, police, and ruling party youth members have killed, arbitrarily detained, tortured and harassed people suspected of belonging to opposition parties or of working with armed opposition groups, Human Rights Watch said today. […]
> Human Rights Watch found, in the two provinces, that impunity for the killings, torture, and other abuses is exacerbating, rather than reducing, the insecurity affecting communities. […]
> Kayanza province […]

[536] The Burundi Human Rights Initiative (BHRI), *The Road Ahead: Will Burundi bring its torturers to justice?*, March 2022, *p. 5 to 9, 11, and 23 to 28*

> On November 16, 2021, Imbonerakure members and local administrators took Innocent Barutwanayo, a member of the CNL [National Congress for Liberty], into custody in Matongo commune. A CNL party representative who followed his case said that Barutwanayo was accused of working with "Mwarabu."
> Barutwanayo was taken first to the Matongo commune office, then transferred to an intelligence service detention cell and then a local police station, said people close to him and other reports. He was tortured, said a person who saw him in Kayanza hospital, after he was transferred there, apparently due to the serious injuries he suffered in detention.
> Several national intelligence and police officers took him from the hospital, and transferred him to the intelligence service headquarters in Bujumbura around November 25. A local administrator informed family
> members on December 3 that they should collect his body at Prince Louis Rwagasore hospital's morgue in Bujumbura. They have not had the funds to do so […]
> Cibitoke Province
> Cibitoke province experiences high rates of human rights violations, according to local monitoring groups. The security situation worsened after attacks by armed groups in 2021 were reported in Cibitoke and other provinces along Burundi's borders with the Democratic Republic of Congo and Rwanda. Human Rights Watch has documented multiple cases of people suspected of working with armed groups who were detained and tortured in a security service detention cell in Cibitoke.[537]

In May 2022, Ligue Iteka published its annual report for the period of January to December 2021. It wrote that: "Ligue Iteka noted 63 cases of torture, including 10 members of CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party and 21 members of CNL [National Congress for Liberty] party. These cases were committed mainly by members of the Imbonerakure militia with 42 cases, or 67%, followed by policemen with 9 cases, or 14%, SNR [National Intelligence Service] agents with 7 cases, or 11% and administration officials with 5 cases". The report further noted that this compared with 124 cases of torture in 2020.[538]

The BHRI released a report in July 2022 on Burundi's mission in Democratic Republic of Congo (DRC), describing also RED-Tabara. It reported that:

> Nevertheless, the SNR has deployed significant efforts to identify potential suspects and their collaborators in Burundi. Hundreds of people with suspected links to RED-Tabara and other armed opposition groups have been arrested or abducted since 2020, often in the absence of clear evidence against them; many were previously known for their political opposition to the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. Most of those arrested were initially detained at the SNR, where some were tortured to extract confessions or other information; some died as a result of torture. Most were later transferred to prison. Others have never been seen again.95[539]

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[537] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[538] Ligue Iteka, *Annual report of the Burundian League for Human Rights "ITEKA", January-December 2021*, 24 May 2022, *p. 7 and 11*
[539] The Burundi Human Rights Initiative (BHRI), *An Operation Of Deceit: Burundi's secret mission in Congo*, July 2022, *p. 22*

95 See The Burundi Human Rights Initiative, "Behind the gate: a rise in torture and disappearances", https://burundihri.org/english/november_2021.php, November 2021, and "The road ahead: will Burundi bring its torturers to justice?", https://burundihri.org/english/march_2022.php, March 2022.

f. Extrajudicial Killings or Disappearances

Additional relevant information can be found under section V. Human Rights Situation, especially V*V.a.i. Treatment of Political Opposition*, *V.a.2. Treatment of Members of Opposition Parties*, *V.a.3. Treatment of Persons Critical of the Government* and its sub-headings, *V.b.iv. Situation and treatment of Journalists and those working for Media Outlets*, *V.d.i. Prison and Detention Conditions*, and V*.e. Torture and Inhumane Treatment*.

i. Tanzanian Security Forces

In November 2020, Human Rights Watch released a report on Burundian refugees being tortured and forcibly disappeared by Tanzanian authorities. It wrote that:

> Tanzanian authorities have gravely abused at least 18 Burundian refugees and asylum seekers since late 2019. The whereabouts of several who were forcibly disappeared remain unknown, and additional Burundians may have suffered similar abuse. […]
> Between October 2019 and August 2020, Tanzanian police and intelligence services forcibly disappeared, tortured, and arbitrarily detained at least 11 Burundians for up to several weeks in abysmal conditions in a police station in Kibondo, Kigoma region. Three were released in Tanzania, and Tanzanian authorities forcibly returned the other eight to Burundi in August, where they have been detained without charge. Tanzanian police have arrested and forcibly disappeared seven other refugees and asylum seekers since January 2020. The arrests occurred in Mtendeli and Nduta refugee camps in Kigoma region, near the border with Burundi. […]
> Between August and November 2020, Human Rights Watch conducted phone interviews with 23 victims of abuses, witnesses, and victims' family members. Seven other sources working in the camps who did not wish to be identified corroborated the accounts of victims and family members.
> All the cases documented indicate that Tanzanian authorities were involved in the enforced disappearances. Nine of the victims said they were held incommunicado for up to several weeks at Kibondo police station and that their families were not informed of their whereabouts. […]
> In the cases of the seven other refugees and asylum seekers arrested by the police, family members said they had received no response from police officers in the camps when they asked where their loved ones were. Some of them have also contacted the United Nations refugee agency (UNHCR).
> In response to Human Rights Watch's request for information on these allegations, UNHCR said it was deeply concerned over reports of disappearances of refugees in Tanzania and had repeatedly expressed these concerns with the Tanzanian authorities both orally and in writing, requesting a full investigation and providing a written report to the government. UNHCR wrote: "After multiple inquiries, the government informed UNHCR in August that a high-level investigation was underway. We have not been informed of any results regarding this investigation. We continue to raise this issue with the government as a matter of urgency." UNHCR concluded: "The physical security of refugees is the responsibility of the

country hosting them and to that end UNHCR calls for the Tanzanian authorities to take all the necessary measures to ensure the security of Burundian refugees, in line with their international obligations."

Tanzania's transfer of detained Burundian refugees and asylum seekers to Burundi without basic due process violates the international legal prohibition against refoulement, the forcible return of anyone to a place where they would face a real risk of persecution, torture, or other ill-treatment, or a threat to their life. […]

Arrests, Enforced Disappearances in the Camps

Most of the enforced disappearances Human Rights Watch documented followed a similar pattern. Police arrive at the victim's house between midnight and 3 a.m., saying in Swahili: "Musihofu, musihofu, sisi ni polisi" ("Don't be afraid, we are police"). Many said the men were dressed in green Tanzanian police uniforms but did not present an arrest warrant. Two victims of disappearances and two family members of victims identified police commanders from Nduta and Mtendeli camps as taking part in the operation. […]

Six family members who inquired about their loved ones' whereabouts said police denied they had the victims in custody. None of the family members of the seven currently missing refugees and asylum seekers have been able to locate them. […]

Collaboration Between Burundian and Tanzanian Authorities

Eight Burundian refugees and asylum seekers were arrested in Nduta and Mtendeli camps between late July and early August and detained incommunicado for up to several weeks at Kibondo police station, then handed over to Burundian intelligence officers at the border in August.[540]

In December 2020, ACAT Burundi, Ligue Iteka, and thirteen other civil society organisations released a joint report on the human rights situation in Burundi. Translated from French to English using the online translation tool, Onlinedoctranslator.com, the report raised concerns on:

1.3. Abductions and enforced disappearances […]

In Burundi, since the 2015 crisis and more particularly during the 2020 electoral process, kidnapping followed most often by disappearance is part of the strategies of terror by the executive and the ruling party to weaken the political parties of the opposition and discourage their executives and activists, especially the CNL [National Congress for Liberty] perceived as the only serious competitor. Thus, since the beginning of the year until December 2020, civil society organizations have documented fifty-nine (59) cases of kidnappings sometimes followed by assassinations or enforced disappearances, particularly in the provinces of Bujumbura and Kirundo.

With regard to the main perpetrators and unlike the physical violence of which the Imbonerakure are the linchpin, the kidnappings are generally attributed to people in police uniforms or SNR [National Intelligence Service] agents, and with a few exceptions, the kidnappers are well identified. The modus operandi consists in arresting the victims and embarking them in a vehicle, very often on board double cabin vans with tinted windows or Toyota Probox cars. This type of vehicle as well as the modus operandi are a feared signature of SNR agents. The abductees are not found by relatives despite numerous searches in known places of detention. Organizations working on the documentation of enforced

[540] Human Rights Watch, *Tanzania: Burundian Refugees 'Disappeared,' Tortured*, 30 November 2020

> disappearances continue to ask Burundian institutions and authorities to collaborate in the search for the truth. They respond with an overwhelming silence.[541]

The report of the Secretary-General on the Implementation of the Peace, Security and Cooperation Framework for the DRC and the Region, published at the end of March 2021, stated that:

> II. Major developments […]
> D. Humanitarian situation […]
> 25. The Special Rapporteur on Refugees, Asylum-Seekers, Migrants and Internally Displaced Persons in Africa of the African Commission on Human and Peoples' Rights voiced concern about the situation of Burundian refugees in the United Republic of Tanzania. In that regard, on 15 December, she noted violations of their fundamental rights, such as access to asylum and the principle of non-refoulement. The Special Rapporteur called on the United Republic of Tanzania to fully collaborate with UNHCR with regard to Burundian refugees. In October and November 2020, Human Rights Watch and UNHCR made repeated calls to the Tanzanian and Burundian authorities to respect the principle of voluntary return and refrain from pressuring and intimidating Burundian refugees in the United Republic of Tanzania. Furthermore, UNHCR voiced concern over forced disappearances of Burundian refugees from camps in the United Republic of Tanzania. The Government of the United Republic of Tanzania confirmed that the issue was being investigated.[542]

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it reported on Burundi that: "Tanzanian authorities arrested, forcibly disappeared, tortured and arbitrarily detained several refugees, some of whom were later forcibly returned to Burundi".[543]

In April 2021, a UN press release reported how UN human rights experts condemned the violations of the rights of Burundi refugees, stating that:

> UN human rights experts* today called on the governments of Tanzania and Burundi to respect the rights of refugees and asylum seekers who have fled Burundi, deploring reports of enforced disappearances, torture, forced returns and repression.
> Arbitrary arrests and enforced disappearances have allegedly been carried out by the Tanzanian police and intelligence services in cooperation with the Burundian intelligence services, the experts said.
> "In addition to the strict encampment policy imposed on them by the Government of Tanzania, Burundian refugees and asylum-seekers now live in fear of being abducted in the middle of the night by Tanzanian security forces and taken to an unknown location or being forcefully returned to Burundi," the experts said.

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[541] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi et al. *Burundi at the Pace of Human Rights Violations Daily: Joint Report of Burundian Civil Society on the Human Rights Situation*, 10 December 2020 [Le Burundi au rythme des violations des droits humains au quotidien], *p. 6 and 7*

[542] UN Security Council, *Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General*, 30 March 2021, *p. 2 and 3*

[543] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 104*

Burundian political opponents have allegedly been tracked among the refugee and asylum-seeking population in Tanzania. The security situation in the camps seems to be extremely compromised amid reports that Burundian intelligence agents posing as refugees within the camps are identifying specific individuals who are later arrested by Tanzanian security forces. "The Government of Burundi must stop its repression against its citizens including those seeking international protection in Tanzania," the experts said.

Refugees have confirmed being taken by Tanzanian police, subjected to enforced disappearance and torture before being refouled or coerced into signing for 'voluntary return'. Some have been interrogated about their presumed affiliation with armed groups and possession of weapons, about their activities in the camps, and in some cases were asked for money in order to be released. […]

Growing anxiety over safety has driven many to return to Burundi out of fear rather than a genuine willingness to return to their country of origin.[544]

A report by ACAT Burundi in December 2021 on the situation of Burundian refugees in some countries of the sub-region stated that:

V. RESULTS […]

C. SECURITY OF BURUNDIAN REFUGEES IN HOST COUNTRIES […]

2. Illustrative cases of threats or security incidents […]

e) In Tanzania […]

CBDH-VICAR considers this country to be the first in the region where refugees are the most mistreated and victims of killings, abductions, extraditions and forced disappearances, with a total of 54 refugees victims of forced disappearances between 2019 and 2020.107 Elements of the National Intelligence Service are reported in the camps to force refugees to return by force.

Other emblematic cases of cruel, inhuman or degrading treatment or punishment have been documented by Human Rights Whatch, which denounces serious abuses against at least 18 Burundian refugees and asylum seekers by the Tanzanian police between October 2019 and August 2020. According to the organisation, Tanzanian police and intelligence services forcibly disappeared, tortured and arbitrarily detained at least 11 Burundians for several weeks in deplorable conditions at a police station in Kibondo, Kigoma region. […]

In 2021, Burundian refugees came under another form of pressure to be forcibly repatriated. Indeed, with the aim of permanently closing the Mtendeli refugee camp,111 operations to relocate Burundian refugees to the Nduta camp began on 26 July 2021.

The refugees had only two choices, either to go to the Nduta camp or to be repatriated to Burundi. But this transfer operation was temporarily suspended in August 2021 and resumed in September following the poor transport conditions decried by the refugees and pressure from UNHCR in Geneva. The refugees denounced a manoeuvre to force them to repatriate because the Nduta camp where they were relocated against their will is the scene of "*forced disappearances, targeted assassinations and other forms of abuse committed against Burundian refugees*".112

On 13 April 2021, UN human rights experts called on the Governments of Tanzania and Burundi to respect the rights of refugees and asylum seekers who have fled Burundi, deploring reported cases of enforced disappearances, torture, forced returns and intimidation. The Tanzanian Government, in cooperation with the Government of Burundi, is tracking Burundian political opponents among the refugee population in

[544] UN Office of the High Commissioner for Human Rights (OHCHR), *UN experts deplore rights violations against Burundi refugees*, 13 April 2021

> Tanzania. Arrests and enforced disappearances were reportedly carried out by Tanzanian police and intelligence services in cooperation with Burundian intelligence services, according to these experts.113 […]
>
> 107 Response to the questionnaire […]
> 111 *Officially, the Mtendeli camp should be closed within five days of the start of the relocation process, according to the Tanzanian authorities' wishes.*
> 112 SOS-MÉDIAS BURUNDI, 11 September 2021, Mtendeli (Tanzania): resumption of the transfer of Burundian refugees to Nduta, available at https://www.sosmediasburundi.org/2021/09/11/mtendeli- tanzanie-reprise-du-transfert-de-refugies-burundais-vers-nduta/, [accessed on 10 October 2021]
> 113 *UN-INFOS, 13 April 2021, UN experts deplore rights violations of Burundian refugees, available at https://news.un.org/fr/story/2021/04/1093832, [accessed 18 August 2021].*[545]

On 10 February 2022, VOA Africa published an article on the lifting of international sanctions against Burundi, stating that:

> Rights groups have criticized the European Union for lifting sanctions Tuesday against Burundi for what the EU said was progress on human rights, good governance, and the rule of law. […]
> The decision to lift the sanctions has angered human rights groups.
> Mausi Segun is the executive director of Human Rights Watch's Africa Division. […]
> Segun says the human rights situation has remained the same under the new government.
> "The killings, the disappearances of people suspected by the government of working with the opposition or with so called rebel groups," said Segun. "All of this continues to happen in the last one and half years that Ndayishimiye has been in office. We have seen hundreds of these types of cases, hundreds of cases of Burundians who have been killed unlawfully in that country and the disappearances of many more."[546]

ii. National Intelligence Service

The 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Committee of Inquiry in Burundi stated that violations and abuses committed by the Government, state security forces, including the police, the National Intelligence Service, and members of the youth league of the ruling party include "enforced disappearances […] and extrajudicial killings".[547]

In March 2021, BHRI released a report on torture and extrajudicial killings in Rumonge province, Burundi. It described the following cases:

> Égide Sindayigaya died in the early hours of 25 January 2021 in a police detention centre in Rumonge province, after being tortured by the intelligence service. A few days earlier, intelligence agents had beaten the 64-year-old man with a whip-like instrument, jabbed a needle into him, and forced him to lie

[545] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundian Refugees: Differing Application of Conventions by Countries of Asylum in the Sub-Region*, December 2021, *p. 41 and 42*
[546] Voice of America (VOA) Africa, *Rights Group Criticizes Lifting of Sanctions Against Burundi*, 10 February 2022
[547] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1*

on metal bottle caps. The torture was designed to extract information about his brother, Déogratias Niyongabo, alias Côme, whom the police had killed on 16 January, and other suspected armed government opponents.

In the month before Égide's death, four people were killed in Burambi *commune*, in Rumonge province, where Égide lived. Côme and another man, both accused of being armed opponents, were arrested and later shot dead by the police. Two local government leaders were also murdered in circumstances that remain unclear. More than a dozen people in the area have been arrested, many of them arbitrarily, because of their family ties or perceived association with those killed. […]

Eleven days after Égide's death, President Évariste Ndayishimiye said, during a public event celebrating national unity on 5 February: "The government is responsible for ensuring respect for the law, so that nobody tramples on others." Yet, as has often been the case, the government's positive rhetoric diverged from the reality. Rather than arresting suspects and ensuring they are brought to justice according to due process, the police and the intelligence service in Rumonge have been responsible for killings, torture and arbitrary arrests. […]

Since August 2020, when armed groups clashed with government forces and killed civilians, violence has persisted in Rumonge province, particularly in Burambi – in contrast to other areas affected by the incursions, where the situation has gradually improved. […]

Killing suspected opponents

Égide's ordeal started on 16 January, when a large group of police and military surrounded his house on Gishiha *colline* (hill) in Burambi. They were looking for Côme who had slipped into Égide's house just before they arrived. The police told everyone in the house to go outside: "We'll give you two minutes," they said. "Otherwise, we will burn the house down." When Côme stepped outside, police grabbed him and forced him to lead them to his own house, which was close to his brother's. But before they arrived there, police shot him dead.

The exact circumstances in which Côme was killed are unclear. The ministry of interior, community development and public security said that Côme had shot at the police with a pistol and that police killed him during "an exchange of fire". None of the sources interviewed by BHRI could confirm that version of events. Credible information received by BHRI indicates that Côme handed over a pistol and a small spear he was carrying before the police tied his hands together, and later shot him dead. […]

Two days later, also in Burambi, police killed another member of the former armed forces who they also suspected was a key member of an armed opposition group. Protais Niyungeko was arrested on Buhinyuza *colline* on 14 January and detained by the National Intelligence Service (*Service national de renseignement*, SNR) – according to some sources, in its headquarters in Bujumbura. The spokesperson of the ministry of interior, community development and public security, Pierre Nkurikiye, said that Protais had provided information that led to the arrest of Côme. Witnesses who saw Protais soon after his detention at the SNR said he was very weak, his ribs were injured, and he was unable to walk properly.

On 18 January, the police took him to a valley between the zones of Maramvya and Mariza and told him to show them where he had hidden weapons. Residents who had been ordered to help the police in their search operation were startled when they suddenly heard screams, then gunshots. The police first said Protais had been killed in an "exchange of fire", similarly to Côme, but later changed their story, stating that they had shot him after he attempted to flee and that he died on the spot. When residents arrived at the scene, they saw Protais's dead body with his hands tied behind his back. Provincial police commissioner Hakizimana told the stunned crowd: "People of Maramvya and Mariza, if you don't change, you will suffer the same fate. The example is here."

On the basis of the information available, BHRI does not believe that the police had legitimate grounds for shooting dead two people in their custody, both reportedly with their hands tied and under police escort.

Protais was in such a bad physical state after his detention at the SNR that even if he had tried to escape, the police should have been able to prevent him from doing so without killing him. Burundian law provides that force can only be used if there are no other options, and states that it should be reasonable and proportional. […]

Torture by police and intelligence agents

After killing Côme, the police arrested his brother, Égide Sindayigaya, and two neighbours, accusing them of hiding Côme from the authorities. As they arrested Égide, they kicked him and beat him on his head and thighs with the butt of a gun. […]

The police handed Égide over to the SNR. Michel Ndikuriyo, the provincial head of the SNR, took him to his office, where he instructed a police officer: "You will heat the knife if he doesn't tell the truth. I'm going to cut a few pieces of meat (off him) and put them in the fire." He ordered Égide to take off his clothes and told him to admit he had been hiding his brother and knew Protais, both of which Égide denied. Ndikuriyo beat Égide on his feet, thighs, chest and back with a plastic rod, shouting at him: "I gave you time to think. I'm going to cut you into pieces, one at a time. I regret that your brother was shot dead while we spent years unable to sleep" (referring to their worry about attacks by armed opponents).

The next day, Égide was transferred to another SNR detention centre, believed to be their headquarters in Bujumbura, where he was asked the same questions and continued to deny the accusations against him. He was severely beaten again, all over his body, with a whip-like rod made of several cables. [...] Égide was forced to kneel on upturned metal bottle caps and to lie on a small board studded with nails. His torturers stabbed him with a needle and hurt his genitals. […]

Égide had wounds all over his body when he was later transferred from the SNR to the provincial police station in Rumonge. Despite his poor physical state and repeated pleas for medical treatment, the police refused to transfer him to hospital until after he had died on 25 January. In a phone interview with BHRI on 23 February, the governor of Rumonge, Consolateur Nitunga, claimed that Égide died in the hospital, from chronic illness. Several sources contradicted this. Witnesses saw Égide's lifeless body at the police station before he was taken to the hospital several hours later.

Égide was buried on 27 January. […] A detailed statement published by the ministry of interior, community development and public security on 30 January, entitled "A group of criminals dismantled in Burambi", refers to Égide's arrest, but does not mention his death. […]

A history of opposition and repression […]

In 2020, two other men suspected of being armed opponents were killed by the security services in neighbouring Bururi province. On 9 March 2020, Albert Niyondiko was shot dead in an operation by police and intelligence agents in Mugamba *commune*, and on 15 April 2020, members of the security services killed three people, including Pascal Ninganza, known as Kaburimbo, in Matana *commune*. […]

In September 2020, police arrested and beat members of an armed group in Mugamba *commune* (Bururi province) and killed at least one of them. […]

Several detainees said their family members believed they were dead, as they were unable to locate them – in some cases for several weeks – until the authorities transferred them to a regular prison. […]

BHRI is not aware of any arrests or prosecutions of SNR or police officials for torturing or killing suspected opponents since 2020, despite the government's promises to end impunity.[548]

[548] The Burundi Human Rights Initiative (BHRI), *Rumonge: Torture and Killings in the Name of Security*, March 2021, *p. 1 to 5, 7, and 8*

In March 2021, ACAT Burundi released its annual monitoring report on violations of prisoners' rights in Burundi that had taken place in 2020. Using an online translation tool, Onlinedoctranslator.com, the following was translated from French into English:

> Ill-treatment and torture in prisons […]
> As of November 19, 2020, two detainees from Muramvya prison have been reported missing. The prison management made them available to the head of intelligence in Muramvya province. One is known as Jean Claude IRAMBONA and the other is called Isaac KWIZERA. Sources from Muramvya prison revealed that the two detainees were taken out of prison and handed over to OPC 1 Felix HAVYARIMANA, head of the National Intelligence Service in Muramvya province. The same sources specify that the head of the National Intelligence Services in Muramvya would have handed over the two detainees to his colleague from the neighboring province of Mwaro in the person of Gerard Ndayisenga. Since then, these two detainees have not been found.[549]

At the end of March 2021, the US Department of State published its annual country report on human rights practices, writing on Burundi:

> Section 1. Respect for the Integrity of the Person, Including Freedom from:
> A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS
> There were numerous reports that the government or its agents, including police, the National Intelligence Service (SNR), military personnel, and elements of the Imbonerakure, committed arbitrary or unlawful killings, often against perceived supporters of the political opposition or those who exercised their lawful rights. The banned nongovernmental organization (NGO) Ligue Iteka continued operating from outside the country and documented 205 killings by the end of September, as compared with 281 the previous year. Many were allegedly committed by agents of the security services or members of the Imbonerakure. The assessments of Ligue Iteka and other human rights groups differed on the number of killings for which agents of the state or ruling party were likely responsible. Responsibility for arbitrary killings and exact statistics were difficult to determine due to the government's restrictions on human rights monitors and civil society organizations (CSOs) and refusal to allow international bodies authorization to enter the country. Investigations and prosecutions of government officials and members of the ruling party who allegedly committed arbitrary or unlawful killings were rare. […]
> In its September report, the UN Commission of Inquiry on Burundi (COI), whose members were denied access to the country by the government, but who conducted face-to-face or remote interviews with more than 300 victims, witnesses, and other sources living both in the country and in exile, reported that summary executions and arbitrary killings continued. Despite the fact that bodies bearing signs of violence continued to be found in public places, authorities made no attempt to establish the victims' identities or the circumstances of their death, making it more difficult for the COI and NGOs to document. In addition, the COI reported numerous cases of disappearances, and it was difficult to determine how many of these were cases of forced disappearance or were killings. Some victims were found dead a few days after their disappearance with injuries indicating they had been executed. […] Victims were generally perceived as opponents of the government or the ruling party or, first and foremost, members of the new political opposition party, the National Congress for Freedom (CNL), registered in February. Some media

[549] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Annual Report on Prisons 2020*, 26 March 2021 [Rapport annuel sur les prisons de l'Acat-Burundi pour 2020]*, p. 19*

outlets reported that Burundian nationals who returned to the country after having sought refuge abroad were also targeted, as were young men following travel abroad, who were accused of belonging to or supporting armed opposition groups. […]

B. DISAPPEARANCE

There were numerous reports that individuals were victims of politically motivated disappearances after they were detained by elements of the security forces or in kidnappings where the identities of the perpetrators were not evident. The COI report noted that some victims associated with the opposition or without political affiliation disappeared after refusing to join the ruling political party or the Imbonerakure. A victim's last sighting was often at the time of abduction by the Imbonerakure or SNR. The NGOs Ligue Iteka and SOS Torture Burundi regularly reported disappearances, which were sometimes later determined to be killings when bodies were discovered. As of mid-September, Ligue Iteka documented 30 disappearances, down from 35 the previous year. It linked six disappearances to the Imbonerakure, two to police, 16 to the SNR, one to the military, and five to unidentified actors. Lack of access to reliable reporting, caused in part by restraints on civil society, limited the ability of human rights organizations and researchers to gather complete data. Disappearances of persons returning from exile were also reported. There were no reports of efforts to prevent, investigate, or punish such acts.[550]

In June 2021, the BHRI released a report on Ndayishimiye's rule one year on, with specific reference to his promises around human rights:

2. THE POLICE AND INTELLIGENCE SERVICE: ANTI-CORRUPTION DRIVE MASKS SERIOUS HUMAN RIGHTS VIOLATIONS […]

The government's silence on torture and killings […]

In January 2021, police and intelligence agents in Rumonge province tortured or killed several people suspected of having links with armed groups. Police arrested and later shot dead Déogratias Niyongabo, alias Côme, and Protais Niyungeko, both of whom they suspected of being members of an armed opposition group. BHRI documented the case of Égide Sindayigaya who died in detention in January 2021 after SNR [National Intelligence Service] agents tortured him, as well as more than a dozen other torture cases since the May 2020 elections.51 […]

51 The Burundi Human Rights Initiative, "Rumonge: torture and killings in the name of security" https://burundihri.org/rep/Rumonge-Engl.pdf, March 2021, and "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.[551]

In July 2021, Iwacu Burundi released an article in French on disappearances taking place in Burundi. Using Google Translate, the following passage was translated from French into English:

Amuri Kwizera alias Babu, a 33-year-old boy, was abducted on July 16, 2021 near his home in Nyakabiga I, 15th Avenue. For two weeks, the young man has not been found. The motive for his abduction remains unknown. […] Babu's relatives assure that they searched in all the dungeons, without success. "We asked the army, we were told that he is not there. At the National Intelligence Service, we are told that he is not registered." […]

[550] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021

[551] The Burundi Human Rights Initiative (BHRI), *Ndayishimiye One Year On: Has he kept his word on human rights?,* June 2021*, p. 15 and 16*

> Sitting in the living room watching a movie with his family members, the young man goes outside to get some fresh air. It was around 11:30 p.m. that Friday. "He sat in front of the gate for about two minutes," said a witness who was a few meters from Babu's home. Minani, his friend and neighbor with whom he often shares a drink, called him. There was also a certain Ariette. “Babu went to see them. Before his Viva Malt was opened to him, the kidnappers disembarked,” says another witness. From arriving at the gate to disembarking the kidnappers, less than 3 minutes was enough.
>
> “They were in a white Toyota Hilux pickup with tinted windows. A short man in a suit got out of the vehicle. Two men in military uniforms also landed,” says a witness. One of them pointed to Babu, “That’s him!” Without any further ado, Babu got into the vehicle. The latter heads towards Muyinga Avenue. […]
>
> The relatives of the now missing person assure that on Saturday and Sunday, they went around the dungeons without finding him. “We looked at the military police, at the Special Research Bureau (BSR) in vain. According to them, the police and SNR [National Intelligence Service] agents came to Babu's house. “They brought for questioning, at the zone office, Babu's father, his sisters, Minani and Ariette. From 9 a.m., they were released around 1 p.m. […]
>
> When questioned, the president of the Independent National Commission for Human Rights (CNIDH), Sixte Vigny Nimuraba, indicated that he was not aware of this case: “We were not informed of this. Let the family come to the office, we will welcome it.”
>
> Unfortunately, deplores the human rights activist, we note bitterly that cases of enforced disappearances have been commonplace in Burundi since April 2015 and the perpetrators of these so-called enforced disappearances are employees of the State who remain unpunished and protected by the State. […]
>
> During a press briefing on Wednesday, July 29, 2021, the Attorney General of the Republic, Sylvestre Nyandwi, said that some of these allegations of missing persons are false: "People leave to enlist in armed groups without informing their families and they mistakenly believe that they have been abducted.”
>
> He indicated that files have been opened by the public prosecutor for the cases that have been brought to his attention. “Some of the perpetrators of these crimes have not yet been identified and investigations are still ongoing.” He also encouraged the relatives of the victims to file a complaint in the event of the kidnapping of one of their own instead of confiding in social networks, some of which have only the objective of tarnishing the image of the country. "I take this opportunity to invite any person, relative, friend, neighbor or other, who may have information on these cases of disappearance or these acts of terrorism to entrust it to the police or to the nearest prosecutor's office so that the perpetrators are apprehended and brought to justice”. Mr. Nyandwi reminded all the public prosecutors that, within the framework of the fight against impunity and to establish peace and the security of property and people living on the national territory, investigations must always be carried out whenever that a crime is committed.[552]

The same article also reported on the ongoing disappearance of Elie Ngomirakiza, with the English translation stating that:

> Since Friday July 9, 2021, Elie Ngomirakiza, head of the National Congress for Freedom (CNL), in Mutimbuzi commune, has not been found. Around 4 p.m. Elie Ngomirakiza was transporting his bricks in a dump truck with three other people on board, including the driver and two conveyors. He was to move from Mutimbuzi to the Kanyosha area, south of the economic capital Bujumbura. Arrived very close to the place commonly called "Chanic" on the Bujumbura-Gatumba road, the truck was followed by a

[552] Iwacu Burundi, *Nyakabiga/ After Elie, "Babu", another missing person*, 30 July 2021 [Nyakabiga/ Après Elie, « Babu », un autre porté disparu]

motorcycle and a 4X4. The motorcycle stops in front of the truck forcing it to stop. The 4X4 is registered A 031. Men in military uniform are on board the vehicle. Witnesses recognize a local administrative official. These people seem to be looking for Elie Ngomirakiza. “He was immediately taken on board. His companions took to the road in shock,” said a witness.

After this “arrest”, the CNL party alerted. "The administration, military and police officials and the National Independent Human Rights Commission were alerted, without success," said Simon Bizimungu, secretary general of the party. The vehicle belongs to Lieutenant Colonel Aaron Ndayishimiye, commander of the 212th battalion operating in Rukoko, a native of Kabumba in the Kanyosha area, ex-FNL [National Forces of Liberation]. For those who want to start the investigation, they must start by questioning him,” said Agathon Rwasa, president of the CNL. He loses all hope of finding Elie Ngomirakiza alive. The information in the possession of the CNL indicates that he would be dead and buried in the Rukoko reserve.

When questioned, the army spokesman said he had heard of this affair, but denied any involvement of the army. For more details on the case, Floribert Biyereke referred Iwacu to the police or the administration. The president of the CNIDH, Sixte Vigny Nimuraba, indicated that he is aware of the disappearance: “We continue the follow-up.”[553]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi:

III. Human rights situation

18. […] 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. […]

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

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.

[553] Iwacu Burundi, *Nyakabiga/ After Elie, "Babu", another missing person*, 30 July 2021 [Nyakabiga/ Après Elie, « Babu », un autre porté disparu]

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. […]

D. Opposition political parties […]

36. […] 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. […]

9 See paragraphs 36, 51 and 52 of the present report for other cases of violations of the right to life.[554]

Human Rights Watch reported in September 2021 that:

> New Human Rights Watch research in Cibitoke found that Burundian intelligence services, security forces, and members of the ruling party's youth league, the Imbonerakure, have allegedly killed, disappeared, and tortured real or perceived political opponents and people suspected of having ties with Burundian rebels in neighboring Democratic Republic of Congo. People crossing the Rusizi river to travel between Congo and Burundi's Cibitoke province for personal business have been reported missing, and their fate remains unknown.
>
> "Residents of Cibitoke described the banks of the Rusizi river as a graveyard where they saw new bodies appear every week or month," said Lewis Mudge, Central Africa director at Human Rights Watch. "The combination of rampant corruption, impunity for past abuses, and a crippled judiciary has created the perfect storm for police, national intelligence, and Imbonerakure members to apparently kill, torture, disappear, and steal without consequences."
>
> In one case Human Rights Watch documented and reported in the media, Elie Ngomirakiza, a representative of the National Congress for Freedom (*Congrès national pour la liberté*, CNL), an opposition party, was detained in Ntahangwa commune, in Bujumbura Mairie province, on July 9. Ngomirakiza's whereabouts have not been revealed, although family members have made multiple requests for information and attempts to locate him. In another case, armed men dressed in military clothes took Amauri Kwizera – a driver also known as Babu – from outside his house in Bujumbura on July 16, 2021, and drove him away in a white pickup truck with tinted windows and no number plate, according to two sources present at the time. He has not been located since. […]
>
> While the Rusizi river, which forms the border between Burundi and Congo, has historically been a dumping ground for bodies, this past year saw an increase in bodies being found along its banks, local residents said. Several residents of villages along the Rusizi described hearing pickup trucks driving to the river in the middle of the night and seeing blood on its banks the next morning. A former local administrative official said bodies were brought to the river by intelligence agents and thrown in the river.[555]

[554] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5, 6, and 8*
[555] Human Rights Watch, *Burundi: Allegations of Killings, Disappearances, Torture*, 17 September 2021

In October 2021, International Crisis Group reported in an excerpt in their autumn update for their 'Watch List 2021' that: "The intelligence services, meanwhile, have stepped up abductions and arrests of people considered government opponents, often using internal and cross-border security incidents as cover for round-ups".[556]

In November 2021, BHRI released a report on the rise in torture and disappearances in Burundi. It stated that:

> Tolerating violence: the president's vision threatened by hardliners […]
> There may be several explanations for the renewed human rights violations, but one thing is certain: the number of arrests, enforced disappearances and cases of torture of suspected government opponents by the National Intelligence Service (*Service national de renseignement*, SNR) and the police has increased in recent months. These aren't isolated cases. Their frequency and the profiles of individuals detained or disappeared suggest a clear pattern, undermining limited human rights improvements since the 2020 elections. […]
> Some detainees at the SNR were reported to have disappeared, but eventually turned up in Mpimba prison in Bujumbura or other detention facilities. Others are still missing. […]
> Others have spent months incommunicado in SNR or other detention centres. […]
> 3. Enforced disappearances
> Alongside an increase in torture, enforced disappearances have been reported with alarming frequency since mid-2021. A range of people of different backgrounds have been abducted by police, military or individuals believed to be SNR agents in different parts of the country. Among them are several CNL [National Congress for Liberty] members and members of the former Burundian armed forces, known as ex-FAB, as well as individuals not known for their political activities.
> In some cases, family and friends eventually located the missing individuals in detention after several days or weeks. But in other cases, such efforts were in vain, and the fate of those who were taken away remains unknown. […]
> Increasingly, arrests have taken the form of abductions, with individuals typically being led away and forced into vehicles believed to belong to the SNR; this is particularly the case for individuals suspected of links with armed opposition groups. The blurring between arrests and abductions, and the authorities' complete disregard for due process, makes it even more difficult for friends and relatives of the disappeared to know who to ask for help or how to trace the person's whereabouts. It also poses serious challenges for human rights organisations to investigate these cases. […]
> More than 20 enforced disappearances have been publicly reported since July 2021; in most cases, there is little evidence that the authorities have actively investigated them.[557]

In January 2022, SOS-Torture Burundi released a quarterly report on the human rights situation in Burundi from 1 October to 31 December 2021. It spoke of extrajudicial killings and abductions in this period, writing that:

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[556] International Crisis Group, *An Opportunity for the EU to Help Steer through Reform in Burundi – Watch List 2021 – Autumn Update*, 7 October 2021
[557] The Burundi Human Rights Initiative (BHRI), *Behind the gate: A rise in torture and disappearances*, November 2021, *p. 4, 6, 7, 13, and 17 to 20*

1. VIOLATIONS OF THE RIGHT TO LIFE

The last quarter of 2021 saw a sharp increase in the number of violations of the right to life, with an average of three lives taken in two days. There has been no change to reverse the heavy trends of previous quarters or even years. Impunity remains the rule. Indeed, as in previous periods, the phenomenon of bodies abandoned by the murderers has continued. The theatre of this macabre spectacle remained globally in the province of Cibitoke in the communes of Buganda and Rugombo, near the Rusizi River. However, the phenomenon has spread to the commune of Kanyosha in Bujumbura province, where several bodies have been found. The common denominator is that the two provinces border the city of Bujumbura, reinforcing the suspicion that these bodies were dumped there by agents of the National Intelligence Service and could be those of many people who disappear without trace. Consistently, when bodies are found, the administration gives orders to bury them without identification and without investigation. Also, despite numerous appeals from several human rights organisations to the Burundian authorities to carry out an investigation into these crimes, to date nothing seems to have been done, or if it has been done, the results have not yet been made public.

The other emblematic trend of impunity in Burundi is the high number of unsolved targeted assassinations. The circumstances and responsibilities are never established, leaving the perpetrators unpunished. […]

During the quarter under review, several crimes were attributable to law enforcement officials, especially agents of the National Intelligence Service, who, after arresting people, mainly members of the CNL [National Congress for Liberty], tortured them to death with complete impunity.

These various violations are presented below with a few illustrative cases.

1.1. THE RECURRING PHENOMENON OF BODIES BEING ABANDONED IN THE WILD

A total of 28 bodies were found in the wild, of which about 9 out of 10 were found in the communes of Buganda and Rugombo in the province of Cibitoke, while the remainder were generally found in the commune of Kanyosha in the province of Bujumbura. In Cibitoke province, the bodies were found floating in the Rusizi River or washed up on the riverbank. Several bodies were in plastic bags, sometimes tied up, amputated and naked. The number of victims related to this phenomenon represents approximately one fifth of all crimes committed during the quarter.

In the two communes mentioned, in just four days, between 14 and 17 October 2021, fourteen (14) lifeless bodies of men and women in a state of decomposition were discovered on the banks of the Rusizi River. Most of the victims were men, but three women's bodies were among those found. Several witnesses claimed to see regular movements of vehicles during the night, which they suspect of unloading the bodies in different places in and around the Rusizi River. However, all these areas are under the control of Imbonerakure militiamen who carry out rounds during the night, which leads them to believe that they are in collusion with the perpetrators.[…]

1.5. VIOLATIONS OF THE RIGHT TO LIFE BY LAW ENFORCEMENT OFFICIALS

[…] In three of the cases, the violations of the right to life were attributed to SNR agents who, after arresting the victims, two of whom were CNL members, tortured them to death. Some of these cases, such as that of Augustin Matata and Gérard Bukuru, have made headlines. All these crimes have gone unpunished. Here are some examples. […]

2. ATTACKS ON PHYSICAL INTEGRITY

Abductions followed by risks of enforced disappearance increased by 50% compared to the previous quarter and despite the speeches of the President of the Republic condemning this type of practice. According to all the available evidence, including the modus operandi, the alleged perpetrators of these crimes are SNR and national police members and, from time to time, imbonerakure militiamen acting alone or in collusion with the former. While some officials and agents acted openly, in full view of

> everyone, and in military or police uniform, others operated in disguise, kidnapping the victims and loading them into vehicles with tinted windows, cars or pickups to take them to unknown destinations. After the arrest, the families' search for the victims remained fruitless.
> The people who have been most targeted are firstly members of the CNL and then ex-FAB. In view of these profiles, it becomes clear that most of these acts are politically motivated and potentially constitute enforced disappearances. This presumption is reinforced by the fact that the families of the victims are systematically not informed of the fate or whereabouts of their loved ones, in violation of the rules of the code of criminal procedure in force in Burundi and the international human rights instruments to which it is a party. […]
> 2.1. ABDUCTIONS ATTRIBUTED TO SNR AGENTS
> From the profiles of those abducted by SNR officials and agents, it is clear that these acts are politically or security motivated. The abducted persons are mainly members of the CNL and elements of the ex-FAB or other persons supposed to represent a political threat to the government. In one case, a young student was arrested and questioned about his communications, followed by three members of his family, including his father and uncle, all ex-FAB. Béatrice Nyamoya, sister of François Nyamoya, Secretary General of the opposition Movement for Solidarity and Democracy (MSD), was arrested as she got off the plane at Bujumbura airport and illegally detained in the SNR jails in Bujumbura. Following a multiform pressure from national and international organisations, she was released after six days. This is a rare occurrence, as in the vast majority of cases, abduction by SNR agents has become synonymous with enforced disappearance […].[558]

In Amnesty International's March 2022 report on the state of the world's human rights in 2021, it reported on Burundi that:

> New cases of enforced disappearances were reported, including that of Elie Ngomirakiza, a CNL [National Congress for Liberty] representative from Bujumbura Rural province, who was detained in July. Cases from previous years remained unresolved and there were more than 250 open cases before the UN Working Group on Enforced and Involuntary Disappearances. Despite this, the national authorities sought to minimize the issue. In July, the president told media that there had been no disappearances and referred instead to criminals who fled to Rwanda. Later that month, the Prosecutor General of the Republic underplayed reports of enforced disappearances, referring instead to people who left to join armed groups without informing their families, and criminal groups that carried out abductions disguised as security forces.
> […] Dead bodies, often bearing signs of violence, were regularly found near roads, lakes, ditches and other public places. The human rights organization Ligue Iteka reported that 269 bodies were discovered between January and December; however, investigations were rarely conducted before burials.
> The police, National Intelligence Service and members of the ruling party's youth wing, the Imbonerakure, were accused of killing suspected opponents, including through torture. [559]

In March 2022, BHRI released a report on human rights abuses in Burundi linked to torture. It stated that:

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[558] SOS-Torture Burundi, *Quarterly report on the human rights situation in Burundi from 1st October to 31 December 2021 - Burundi: Empty Promises*, January 2022, *p. 6 to 8 and 11 to 15*
[559] Amnesty International, *International Report 2021/22: The State of the World's Human Rights*, 29 March 2022, *p. 110*

1. Torture and abductions: the tip of the iceberg […]

BHRI has built up evidence of a clear pattern, with many cases following a similar trajectory: suspected opponents – most often, but not always, members of the opposition party National Freedom Congress (Congrès national pour la liberté, CNL) – are usually abducted (rather than formally arrested according to due process) by local SNR [National Intelligence Service] agents or police in their area of residence, detained in the provincial SNR office and, in some cases, tortured there.

They are then often transferred to the SNR headquarters in Bujumbura, where many are tortured even more severely – lashed with electric cables or forced into stress positions and beaten – and held incommunicado for periods ranging from a few days to several months. Intelligence agents often accuse detainees of collaborating with armed groups, even in the absence of credible evidence, and torture them to extract confessions or information about other individuals. They search their phones for contacts of people with whom they have communicated, then also arrest some of these individuals.

Some families give up searching for those who have been abducted, presuming they have been killed. As the weeks or months pass, they lose hope of seeing them again or organising a dignified burial. Some detainees are eventually released, while others resurface in Mpimba central prison in Bujumbura, where they await trial on security-related charges. […]

4. Promises and more promises

[…] the president also admitted, for the first time – albeit in vague terms – that some security officials had been responsible for abductions. However, he played down the magnitude of the problem and the extent to which abductions are organised from the top down, giving the impression it was the work of a few individuals: "(The journalist) talked about those who have been abducted... We are going after that group and some have already been arrested. We found that among them, there were some (officials) responsible for security... The government of the country and the judicial police are there to deal with that and we are continuing to look for them."39 Previously, he and other government officials had either flatly denied reports of disappearances and abductions, or advanced implausible explanations as to why certain individuals had gone missing. To BHRI's knowledge, no security officials have so far been prosecuted for their role in abductions. […]

3 Interviews with sources knowledgeable about the events, December 2021 and January 2022. See also "Déclaration du parti CNL consécutive au décès de ses leaders à la suite des tortures leur infligées dans les cachots du Service national des renseignements", https://twitter.com/BurundiCnl/status/1473302243134824451, 20 December 2021.

4 Interview with confidential source, 20 December 2021.

5 Interview with confidential source, 15 February 2022. […]

15 For information on Museremu, Ndayikengurukiye and Niyonzima, see The Burundi Human Rights Initiative, "A stranglehold on Burundi's future, https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.

16 Interviews with confidential source, 5 and 7 January 2022.

17 The FNL was an armed opposition group, formed in 1980. It turned into a political party in 2009 and changed its name to CNL in 2019.

18 Interviews with confidential sources, December 2021 and January 2022.

19 Interviews with confidential sources, December 2021 and January 2022.

20 Interview with confidential source, 23 December 2021.

21 Interviews with confidential source and source knowledgeable about these events, 5 January, 1 February and 1 March 2022.

22 CNIDH, "Rapport annuel, édition 2021", January 2022. […]

24 For a detailed account of the detention and torture of Égide Sindayigaya, as well as the killing of his brother and related events, see The Burundi Human Rights Initiative, "Rumonge: torture and killings in the name of security", https://burundihri.org/rep/Rumonge-Engl.pdf, March 2021.

25 Ibid. Ndikuriyo is currently the provincial head of the SNR in neighbouring Makamba province. […]
27 For further details of this case, see The Burundi Human Rights Initiative, "Behind the gate: a rise in torture and disappearances", https://burundihri.org/rep/Report-November-2021-Engl.pdf, November 2021. […]
38 For information on Gervais Ndirakobuca's involvement in serious human rights violations, see The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", https://burundihri.org/rep/Report-Dec-2020-Engl.pdf, December 2020.
39 End of year radio broadcast by President Ndayishimiye, 29 December 2021. […].[560]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

Section 1. Respect for the Integrity of the Person
A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS
There were numerous reports that the government or its agents, including police, the National Intelligence Service (SNR), military personnel, and elements of the Imbonerakure, committed arbitrary or unlawful killings, often against perceived supporters of the political opposition or those who exercised their lawful rights. The banned nongovernmental organization (NGO) Ligue Iteka continued operating from outside the country and documented 405 killings by the end of November, as compared with 205 the previous year. Many killings were allegedly committed by agents of police or intelligence services or members of the Imbonerakure. The assessments of Ligue Iteka and other human rights groups differed on the number of killings for which agents of the state or ruling party were likely responsible. The government's restrictions on UN human rights monitors and civil society organizations (CSOs) and refusal to allow international human rights bodies authorization to enter the country made it difficult to determine responsibility for arbitrary killings and exact statistics. Security risks for local activists, witnesses, and victims also posed challenges. Investigations and prosecutions of government officials and members of the ruling party who allegedly committed arbitrary or unlawful killings occurred but were rare […]
B. DISAPPEARANCE
There were numerous reports that individuals were victims of politically motivated disappearances after they were detained by elements of the security forces or during kidnappings where the identities of the perpetrators were not clear; however, lack of access to reliable reporting, caused in part by restraints on civil society, limited the ability of human rights organizations and researchers to gather complete data. Additionally, the UN Working Group on Enforced or Involuntary Disappearances noted in September 2020 that a widespread fear of reprisals prevented the formal reporting and registration of enforced disappearances.
Ligue Iteka and SOS Torture Burundi regularly reported disappearances, which were sometimes later determined to be killings when victims' bodies were discovered. A victim's last sighting was often at the time of abduction by the Imbonerakure, police, military, or SNR. The COI, NGOs, and media reported that persons suspected of being involved in attacks and other security incidents, notably members of the CNL [National Congress for Liberty], were victims of enforced disappearances. […]
In a public question and answer session held on December 29, President Ndayishimiye acknowledged there were cases of disappearances and assured the public the government was conducting investigations into the cases. The president also stated there were criminals among members of the security forces who operated on their own and who did not follow orders from their government organizations. The BHRI

[560] The Burundi Human Rights Initiative (BHRI), *The Road Ahead: Will Burundi bring its torturers to justice?*, March 2022, *p. 5, 6, 8 to 11, 14, 22, 23, and 25*

> reported that some judicial police officers were forbidden by their superiors from investigating disappearances.[561]

Human Rights Watch published a piece in May 2022 on the detention, killings, and torture of suspected opponents at the hands of the security forces in Burundi in Cibitoke and Kayanza provinces. It reported that:

> Burundi's national intelligence services, police, and ruling party youth members have killed, arbitrarily detained, tortured and harassed people suspected of belonging to opposition parties or of working with armed opposition groups, Human Rights Watch said today. […]
> In two cases investigated, security forces may have forcibly disappeared a person they arrested. […]
> Family members of victims said they were afraid to ask about their relatives' situation or to visit police stations and intelligence detention facilities to look for them. In some cases, family members did submit complaints to the local authorities, but said they received no information about their missing relatives. Some families assume their loved ones have been killed and have stopped searching for them.[562]

In May 2022, Ligue Iteka published its annual report for the period of January to December 2021. It wrote that:

> Out of a total of 875 people killed, Gitega province leads with 367 cases, or 42%, followed by Cibitoke with 114 cases, or 13%, Bujumbura mairie with 45 and Muramvya with 45 cases each and Muyinga with 40 cases.
> Most of the persons killed in Cibitoke province were found dead, having been killed by unidentified people and often with injuries. It should be noted that most of these bodies were found all along Rusizi River, tied up or decapitated. The bodies found in the same place were often hurriedly buried by members of Imbonerakure militia under the orders of the administrative authorities.
> The main alleged perpetrators of these killings are unidentified people with 641 cases, or 73%, police officers with 19 cases, soldiers with 17 cases, members of the Imbonerakure militia with 16 cases, administrative officials with 4 cases and SNR [National Intelligence Service] agents with 1 case.
> Out of a total of 62 cases of abductees, Bujumbura mairie province leads with 11 cases, or 18%, followed by Cibitoke with 7 cases, Mwaro with 6 cases, Rumonge with 4 cases and Bururi with 3 cases.
> Out of a total of 62 cases of abduction, SNR agents are the alleged perpetrators with 30 cases, or 48%, followed by unidentified persons with 15 cases, or 24%, police officers with 8 cases, members of the Imbonerakure militia with 5 cases and soldiers with 4 cases. […]
> PART I: COMPARATIVE ANALYSIS OF HUMAN RIGHTS VIOLATIONS IN BURUNDI OVER THE YEARS 2020 AND 2021.
> […] in comparison with the year 2020, the year 2021 recorded 875 cases of persons killed with 269 bodies found, while the year 2020 recorded 454 cases of persons killed with 202 bodies found. Abducted and/or reported missing persons in 2020 were 52 compared to 62 in the year 2021.[563]

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[561] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[562] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022
[563] Ligue Iteka, *Annual report of the Burundian League for Human Rights "ITEKA", January-December 2021*, 24 May 2022, *p. 6 and 7*

The BHRI released a report in July 2022 on Burundi's mission in Democratic Republic of Congo (DRC), describing also RED-Tabara. It reported that:

> Nevertheless, the SNR [National Intelligence Service] has deployed significant efforts to identify potential suspects and their collaborators in Burundi. Hundreds of people with suspected links to RED-Tabara and other armed opposition groups have been arrested or abducted since 2020, often in the absence of clear evidence against them; many were previously known for their political opposition to the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. Most of those arrested were initially detained at the SNR, where some were tortured to extract confessions or other information; some died as a result of torture. Most were later transferred to prison. Others have never been seen again.95 […]
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> 95 See The Burundi Human Rights Initiative, "Behind the gate: a rise in torture and disappearances", https://burundihri.org/english/november_2021.php, November 2021, and "The road ahead: will Burundi bring its torturers to justice?", https://burundihri.org/english/march_2022.php, March 2022.[564]

iii. Other government actors

In its report on Burundi in August 2020, the Commission of Inquiry wrote:

> III. Situation of human rights […]
> B. Violations in the context of the electoral process
> Weakened political opposition […]
> Right to life and physical integrity
> 34. Several members of the CNL [National Congress for Liberty] have been murdered in reprisal for their political activities. Violent clashes between the Imbonerakure and members of the CNL have resulted in injuries and deaths on both sides. Members of the Imbonerakure have also beaten up activists from the CNL individually or in small groups; some victims have been seriously injured, and some of these incidents constitute a form of torture. […]
> C. Other violations […]
> 1. Right to life
> 57. People with a specific profile, such as currency traders and former members of the FAB (the former Burundian army), have been found dead a few days after their disappearance, obviously having been executed. The police have also conducted operations in which people have been summarily executed instead of being apprehended. Bodies bearing signs of violence continue to be found in public places, and the authorities make no attempt to establish the victims' identities or the circumstances of their death. Recently, to set an example, two police officers received sentences for killing civilians with their service weapons, in a welcome first step in the fight against police impunity.[565]

In December 2020, the BHRI released a report on Burundi's future, political trajectory, and human rights record, reporting on the ongoing impunity violations committed by the Imbonerakure. It stated that:

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[564] The Burundi Human Rights Initiative (BHRI), *An Operation Of Deceit: Burundi's secret mission in Congo*, July 2022, *p. 22*
[565] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 8 and 11*

3. A BRIEF RESPITE GIVES WAY TO UNCERTAINTY

Cracks start to show […]

[…] Abel Ahishakiye, the provincial head of the *Imbonerakure* in Kirundo province, had been closely involved in planning abuses against CNL [National Congress for Liberty] members in the run-up to the elections.135 More recently, in September 2020, Ahishakiye was involved in the disappearance of Oscar Nahimana, a member of the CNL and of the local electoral commission in Kirundo province. A witness said Ahishakiye went to a bar in Kirundo accompanied by *Imbonerakure* and told Nahimana that he needed to discuss an election matter with him urgently. Nahimana and another man left with Ahishakiye in his truck. Nahimana hasn't been seen again. Local government officials reportedly told CNL representatives that he was still alive, but CNL and other sources believe he had been killed.136[566]

136 Interview with person with first-hand knowledge of the incident, 11 October 2020; interview with CNL representative, 23 October 2020.

In December 2020, ACAT Burundi, Ligue Iteka, and thirteen other civil society organisations released a joint report on the human rights situation in Burundi. Translated from French to English using the online translation tool, Onlinedoctranslator.com, the report raised concerns on:

1.1. Violations of the right to life […]

Thus, during the year 2020, civil society organizations documented 368 people who were murdered in different circumstances. The majority of these violations of the right to life have been committed just since the establishment of new institutions resulting from the electoral process, more precisely during the period of the first hundred days of the reign of Major General Evariste Ndayishimiye as President of the Republic. […] Indeed, with particular regard to blood crimes while the announcement of his election had raised vain hopes in the circles of certain observers and analysts on the situation in Burundi, civil society organizations have, in a report they have just published recently, documented 278 people who have been assassinated throughout the country since the inauguration of the new President of the Republic. The victims of these violations are essentially made up of members of the CNL [National Congress for Liberty] party, former ex-FAB soldiers and young people from the Tutsi social component. On the other hand, Imbonerakure affiliated with the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] party, police officers, SNR [National Intelligence Service] agents and administrative officials are singled out as being the presumed perpetrators of most violations of the right to life noted.

Other blood crimes were particularly committed in the context of a climate of tension and political intolerance against members of opposition parties, mainly those of the CNL (National Council for Freedom) party. Thus, by way of illustration, twenty-one (21) violations of the right to life were committed between the months of May and September 2020. In view of the profile of the victims of these crimes, almost all of these murdered persons were affiliated to the CNL, members or executives, and the alleged perpetrators of these crimes, most of which are attributed to Imbonerakure, the political motive of these crimes is evident. However, among the victims is also a former member of the CNDDFDD who had joined the CNL and who was thus accused by his former comrades and Imbonerakure militiamen as treason. These electoral crimes were perpetrated in six provinces of the country, including half in the province of Bujumbura and four in the province of Kirundo. In most cases, the victims were found in rivers

[566] The Burundi Human Rights Initiative (BHRI), *A Stranglehold on Burundi's Future*, December 2020, *p. 46 and 47*

> or in fields, including for a person abducted after the attack on his home in the middle of the night. The proven circumstances are that these people were killed in a violent way, by strangulation, sometimes with the help of ropes left around their necks, sometimes these people were found with traces of stab wounds on their bodies, sometimes tied up or their tongues cut off. In one case, it was police who fired point-blank at a CNL member who was trying to prevent a robbery at the ballot box.[567]

In March 2021, the US Department of State published its annual country report on human rights practices, writing on Burundi:

> Section 1. Respect for the Integrity of the Person, Including Freedom from:
> A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS
> There were numerous reports that the government or its agents, including police, the National Intelligence Service (SNR), military personnel, and elements of the Imbonerakure, committed arbitrary or unlawful killings, often against perceived supporters of the political opposition or those who exercised their lawful rights. The banned nongovernmental organization (NGO) Ligue Iteka continued operating from outside the country and documented 205 killings by the end of September, as compared with 281 the previous year. Many were allegedly committed by agents of the security services or members of the Imbonerakure. The assessments of Ligue Iteka and other human rights groups differed on the number of killings for which agents of the state or ruling party were likely responsible. Responsibility for arbitrary killings and exact statistics were difficult to determine due to the government's restrictions on human rights monitors and civil society organizations (CSOs) and refusal to allow international bodies authorization to enter the country. Investigations and prosecutions of government officials and members of the ruling party who allegedly committed arbitrary or unlawful killings were rare. […]
> According to a report by the NGO Ligue Iteka, Bosco Ngabirano, a CNL member, was killed on March 29 in Ryansoro commune, Gitega Province, by a group of Imbonerakure. The report indicated Seconde Ndayisenga, the administrator of the commune, ordered the killing. Ngabirano was killed by machete and his tongue was cut out. He was buried on April 1 at the request of the commune administrator and Gitega governor without the presence of his family members who requested an investigation into his killing before burial. As of November, authorities had not initiated an investigation. […]
> B. DISAPPEARANCE
> There were numerous reports that individuals were victims of politically motivated disappearances after they were detained by elements of the security forces or in kidnappings where the identities of the perpetrators were not evident. The COI report noted that some victims associated with the opposition or without political affiliation disappeared after refusing to join the ruling political party or the Imbonerakure. A victim's last sighting was often at the time of abduction by the Imbonerakure or SNR. The NGOs Ligue Iteka and SOS Torture Burundi regularly reported disappearances, which were sometimes later determined to be killings when bodies were discovered. As of mid-September, Ligue Iteka documented 30 disappearances, down from 35 the previous year. It linked six disappearances to the Imbonerakure, two to police, 16 to the SNR, one to the military, and five to unidentified actors. Lack of access to reliable reporting, caused in part by restraints on civil society, limited the ability of human rights organizations and researchers to gather complete data. Disappearances of persons returning from exile were also reported. There were no reports of efforts to prevent, investigate, or punish such acts. […]

[567] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi et al. *Burundi at the Pace of Human Rights Violations Daily: Joint Report of Burundian Civil Society on the Human Rights Situation*, 10 December 2020 [Le Burundi au rythme des violations des droits humains au quotidien], *p. 4 and 5*

> Section 3. Freedom to Participate in the Political Process […]
> ELECTIONS AND POLITICAL PARTICIPATION […]
> During the year there were reports the Imbonerakure, government officials, or other ruling party supporters employed harassment, arbitrary arrest, and violence, including torture and killings, against individuals for being members of an opposition party or for refusing to join the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy].[568]

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it reported on Burundi that:

> Enforced disappearances continued to be regularly reported, and previous cases remained unresolved. The UN Working Group on Enforced or Involuntary Disappearances raised 81 new cases (primarily from 2015 and 2016) with the authorities. By the end of the year, the government had provided no response to any of the 156 cases raised by the Working Group since 2016. Despite having signed the International Convention for the Protection of All Persons from Enforced Disappearance in 2007, Burundi was yet to ratify and implement it. […]
> Reports of arrests and disappearances of [CNL [National Congress for Liberty]] party members continued throughout the year. […]
> Extrajudicial executions and other unlawful killings continued throughout the year. After fighting in February between an unidentified armed group and the police and army in Bujumbura Rural province, photographs and videos circulated on social media showing at least 12 young men who had been captured and tied up, as well as photographs of the bodies of several of the men. The UN Commission of Inquiry on Burundi analysed the evidence and concluded that the men were killed after being captured and while under the responsibility of police, military and the Imbonerakure, who also featured in the images.
> The Imbonerakure killed several members of opposition parties during the election period. CNL and CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] members also died as a result of violent clashes between the parties. Richard Havyarimana, a CNL member, was abducted in May in Mwaro province and his body was found three days later. In a rare example of accountability, two members of the Imbonerakure were found guilty of his murder. They were sentenced in August to 15 years in prison and ordered to pay his family compensation of BIF10 million (US$5,200).[569]

In its report on Burundi in August 2021, the Commission of Inquiry wrote on the human rights situation in Burundi:

> III. Human rights situation
> 18. […] 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. […]
> A. Human rights violations and abuses in the context of security incidents […]
> D. Opposition political parties […]

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[568] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021
[569] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 105*

> 36. […] Some active CNL [National Congress for Liberty] 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. […]
> F. General population […]
> 2. Main violations […]
> 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 [National Council for the Defense of Democracy–Forces for the Defense of Democracy]. […]
>
> 26 See https://ligue-iteka.bi/wp-content/uploads/2021/06/
> Lettre_au_President_Evariste_Ndayishimiye_du_18_juin_2021.pdf.[570]

In a September 2021 press release by the UN Human Rights Council, it stated:

> While seeking persons allegedly involved in the armed attacks or collaborating with rebel groups, the security forces targeted mainly members from the main opposition party, the National Congress for Liberty (CNL), former members of the Tutsi-dominated Burundian Armed Forces (ex-FAB), returnees and some of their family members. Some were executed, others disappeared or were tortured while detained arbitrarily.
> Although the level of political violence decreased immediately after the 2020 elections, the political climate remains highly intolerant of dissent. Members of opposition parties, in particular the CNL, are still regularly targeted by abusive restrictions and are subject to grave human rights violations such as disappearances, arbitrary arrests and detentions and torture, in particular since June 2021. […]
> Agents of the National Intelligence Service (SNR), police officers – including from the Mobile Rapid Intervention Groups (GMIR) - and the Imbonerakure, the youth-league of Burundi's ruling party CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], known for their brutality, are the main perpetrators of those violations, some of which could amount to crimes against humanity.[571]

[570] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 5, 6, 8, and 11*
[571] UN Human Rights Council, *Burundi: Behind a façade of normalization, grave human rights violations continue, and the democratic space remains closed*, 16 September 2021

According to Human Rights Watch in September 2021:

> New Human Rights Watch research in Cibitoke found that Burundian intelligence services, security forces, and members of the ruling party's youth league, the Imbonerakure, have allegedly killed, disappeared, and tortured real or perceived political opponents and people suspected of having ties with Burundian rebels in neighboring Democratic Republic of Congo. People crossing the Rusizi river to travel between Congo and Burundi's Cibitoke province for personal business have been reported missing, and their fate remains unknown.
> "Residents of Cibitoke described the banks of the Rusizi river as a graveyard where they saw new bodies appear every week or month," said Lewis Mudge, Central Africa director at Human Rights Watch. "The combination of rampant corruption, impunity for past abuses, and a crippled judiciary has created the perfect storm for police, national intelligence, and Imbonerakure members to apparently kill, torture, disappear, and steal without consequences." […]
> Since August 2020, many sources, including farmers working along the banks of the Rusizi in Buganda commune also described seeing or receiving photos from local residents of dozens of dead bodies found by the river, sometimes with bullet or knife wounds, bruises, or with their hands tied behind their backs with ropes. In many cases, sources who were there when bodies were discovered said local administrative officials, Imbonerakure members, or police officers buried the bodies without investigating. Alleged abusers have been arrested and prosecuted in only a few cases, in trials that often lacked transparency.
> Since the land border with Congo was closed in March 2020 due to the Covid-19 pandemic, many cross-border traders or farmers have resorted to crossing the river illegally. Several sources, including a former administrative official, said Imbonerakure members managed these border crossings. Eight sources described cases of people who disappeared after trying to cross the river with money or goods, indicating they believed the Imbonerakure members had killed them. Several cases have also been reported by local media and monitoring groups.[572]

In November 2021, BHRI released a report on the rise in torture and disappearances in Burundi. It stated that:

> Released from prison, then gunned down by police
> Bernardino Baserukiye, 20 years old, was shot dead by police on 30 June 2021. He had been released from Mpimba prison on 18 January after serving a one-year sentence for illegal possession of a weapon. […]
> A few days later, on 30 June, Baserukiye was shot dead by police. Witnesses who saw his dead body said he had been shot at least three times in the chest. While the exact circumstances of his death have not been confirmed, witnesses reported that Baserukiye had received a phone call from an unknown person asking to meet him and was seen escorted by police a short time before his death.19 […]
>
> 19 Interviews with confidential sources, July and August 2021.[573]

[572] Human Rights Watch, *Burundi: Allegations of Killings, Disappearances, Torture*, 17 September 2021
[573] The Burundi Human Rights Initiative (BHRI), *Behind the gate: A rise in torture and disappearances*, November 2021

In January 2022, SOS-Torture Burundi released a quarterly report on the human rights situation in Burundi from 1 October to 31 December 2021. It spoke of extrajudicial killings and abductions by the Imbonerakure and police officers during this period, writing that:

> 1. VIOLATIONS OF THE RIGHT TO LIFE […]
> 1.6. VIOLATIONS OF THE RIGHT TO LIFE BY ELEMENTS OF THE IMBONERAKURE MILITIA
> Strengthened by the impunity that protects them, the Imbonerakure, acting in groups or in isolation, have come to believe that everything is permitted to them, which, in certain circumstances, leads them to commit the irreparable. Here are some examples of crimes attributed to these militiamen. […]
> 2. ATTACKS ON PHYSICAL INTEGRITY
> Abductions followed by risks of enforced disappearance increased by 50% compared to the previous quarter and despite the speeches of the President of the Republic condemning this type of practice. According to all the available evidence, including the modus operandi, the alleged perpetrators of these crimes are SNR [National Intelligence Service] and national police members and, from time to time, imbonerakure militiamen acting alone or in collusion with the former. […]
> 2.2. ABDUCTIONS BY NATIONAL POLICE AGENTS
> Kidnappings by police agents aim the same targets, and generally follow the same modus operandi as those of SNR agents, using vehicles with tinted windows, without informing the victim of the reason for the arrest, without a warrant and often with violence. In cases reported during the period under review, police agents repeatedly extracted victims from places of detention and drove them to unknown destinations […].[574]

Human Rights Watch reported in February 2022 that:

> In June 2020, when Évariste Ndayishimiye was sworn in as Burundi's president after the unexpected death of his brutal, autocratic predecessor, Pierre Nkurunziza, he pledged to "uphold unity among Burundians" and deliver "peace and justice for all." Yet for the last year and a half, his government has largely carried on as Nkurunziza's did. It has intimidated and silenced its critics, detained and tortured its opponents, and as a growing body of evidence gathered by international and Burundian rights groups attests, killed and disappeared many of those it suspects of working with the political opposition or with rebel groups.
> According to local human rights organizations, hundreds of people have been killed since Ndayishimiye took office, some by Burundian security forces or members of the ruling party's notorious youth league and some by unknown assailants. Human Rights Watch, where I work, has received credible reports of scores of killings and gathered hours of bloodcurdling testimony from survivors of torture and loved ones of those who have been killed or disappeared. In the country's northwestern Cibitoke Province, which borders the Democratic Republic of the Congo, residents described a vicious crackdown against people suspected of opposing the Burundian government or aiding an armed opposition group that has attacked Burundian security forces. Dead bodies, most unidentified and many mutilated, have turned up at an alarming rate over the last 18 months in or around the Rusizi River, which runs between the two countries. In most cases, local authorities bury them without investigation. […]
> Then there are the killings. Carried out by security forces, Imbonerakure members, and other unknown perpetrators, they have sowed terror among the population. "Our province has become a graveyard," one

[574] SOS-Torture Burundi, *Quarterly report on the human rights situation in Burundi from 1st October to 31 December 2021 - Burundi: Empty Promises*, January 2022, *p. 13 to 16*

> resident of Cibitoke told my colleagues and me last August. Another man said he witnessed four men in military attire beat to death Emmanuel Baransegeta, a 53-year-old fisherman, as he returned from work on the Rusizi River the evening of July 8, 2021. Two days later on the banks of the river, residents found the body of a man who looked as if he had been beaten. They said they believed he was Baransegeta, but the local authorities buried him without investigating the circumstances of his death or even trying to confirm his identity. […]
> In Cibitoke, residents once again found mutilated bodies of opposition supporters near the river. Now, they are encountering them with appalling frequency.[575]

According to Freedom House in its February 2022 Freedom in the World report: "In July, Elie Ngomirakiza, a CNL [National Congress for Liberty] leader in Mutimbuzi commune, was reportedly kidnapped by soldiers. Ngomirakiza's whereabouts remained unknown as of September".[576]

In March 2022, BHRI released a report on human rights abuses in Burundi linked to torture. It stated that:

> 2. A resurgence of abuses by Imbonerakure […]
> In some cases, Imbonerakure have colluded with police, SNR or local government officials in the arbitrary arrest, ill-treatment or abduction of CNL members, among others. In other cases, they appeared to act on their own initiative, but were not held to account by the authorities. […]
> Sometimes, Imbonerakure are tacitly given the green light to attack opponents.[577]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

> Section 1. Respect for the Integrity of the Person
> A. ARBITRARY DEPRIVATION OF LIFE AND OTHER UNLAWFUL OR POLITICALLY MOTIVATED KILLINGS
> There were numerous reports that the government or its agents, including police, the National Intelligence Service (SNR), military personnel, and elements of the Imbonerakure, committed arbitrary or unlawful killings, often against perceived supporters of the political opposition or those who exercised their lawful rights. The banned nongovernmental organization (NGO) Ligue Iteka continued operating from outside the country and documented 405 killings by the end of November, as compared with 205 the previous year. Many killings were allegedly committed by agents of police or intelligence services or members of the Imbonerakure. […]
> B. DISAPPEARANCE […]
> As of November 30, Ligue Iteka had documented 56 disappearances, compared with 30 in the previous year. It linked five disappearances to the Imbonerakure, eight to police, 22 to the SNR, seven to the military, one to local administration, and 13 to unidentified actors […]
> Media and human rights organizations reported that individuals in military uniforms kidnapped Elie Ngomirakiza, a CNL representative from Bujumbura Rural Province, on July 9. The BHRI reported that

[575] Human Rights Watch, *Burundi's Vicious Crackdown Never Ended*, 8 February 2022
[576] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[577] The Burundi Human Rights Initiative (BHRI), *The Road Ahead: Will Burundi bring its torturers to justice?*, March 2022

> several sources said the 212th battalion was responsible for Ngomirakiza's abduction. Police and military officials issued statements denying detaining Ngomirakiza, and no one claimed responsibility. Ngomirakiza's family was unable to locate him, and his whereabouts remained unknown as of November.[578]

In April 2022, ACAT Burundi released their annual report on prison conditions, and remarked that "On 16 and 18 January 2021, two former retired soldiers, Déogratias NIYONDIKO and Protais NIYONDIKO, were murdered by the police after being arrested by police officers, they did not have the chance to defend themselves in court, it is a case of extrajudicial execution".[579]

Human Rights Watch published a piece in May 2022 on the detention, killings, and torture of suspected opponents at the hands of the security forces in Burundi. It reported that:

> Burundi's national intelligence services, police, and ruling party youth members have killed, arbitrarily detained, tortured and harassed people suspected of belonging to opposition parties or of working with armed opposition groups, Human Rights Watch said today. […]
> In two cases investigated, security forces may have forcibly disappeared a person they arrested. […]
> Family members of victims said they were afraid to ask about their relatives' situation or to visit police stations and intelligence detention facilities to look for them. In some cases, family members did submit complaints to the local authorities, but said they received no information about their missing relatives. Some families assume their loved ones have been killed and have stopped searching for them.[580]

Also in May 2022, Ligue Iteka published its annual report for the period of January to December 2021. It wrote that:

> Out of a total of 875 people killed, Gitega province leads with 367 cases, or 42%, followed by Cibitoke with 114 cases, or 13%, Bujumbura mairie with 45 and Muramvya with 45 cases each and Muyinga with 40 cases.
> Most of the persons killed in Cibitoke province were found dead, having been killed by unidentified people and often with injuries. It should be noted that most of these bodies were found all along Rusizi River, tied up or decapitated. The bodies found in the same place were often hurriedly buried by members of Imbonerakure militia under the orders of the administrative authorities.
> The main alleged perpetrators of these killings are unidentified people with 641 cases, or 73%, police officers with 19 cases, soldiers with 17 cases, members of the Imbonerakure militia with 16 cases, administrative officials with 4 cases and SNR [National Intelligence Service] agents with 1 case.
> Out of a total of 62 cases of abductees, Bujumbura mairie province leads with 11 cases, or 18%, followed by Cibitoke with 7 cases, Mwaro with 6 cases, Rumonge with 4 cases and Bururi with 3 cases.
> Out of a total of 62 cases of abduction, SNR agents are the alleged perpetrators with 30 cases, or 48%, followed by unidentified persons with 15 cases, or 24%, police officers with 8 cases, members of the Imbonerakure militia with 5 cases and soldiers with 4 cases. […]

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[578] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[579] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), *Burundi: Annual Report on Prisons: Edition 2021*, 15 April 2022, *p. 32*
[580] Human Rights Watch, *Burundi: Suspected Opponents Killed, Detained, Tortured*, 18 May 2022

> […] in comparison with the year 2020, the year 2021 recorded 875 cases of persons killed with 269 bodies found, while the year 2020 recorded 454 cases of persons killed with 202 bodies found. Abducted and/or reported missing persons in 2020 were 52 compared to 62 in the year 2021.[581]

In October 2022, Amnesty International reported in its submission to the 43rd session of the Universal Periodic Review (UPR) of Burundi on 4 May 2023 that:

> 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.xxxii 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.xxxiii […] 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.xxxiv In June 2022, a local youth official of the CNL [National Congress for Liberty] party, Jean Paul Ntirampeba, was found dead near the Rusizi river.xxxv Amnesty International is concerned that Burundi continues to fail to thoroughly, transparently effectively investigate and prosecute these cases. […]
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> xxxii Ligue Iteka, *Rapport Annuel 2021*, p. 11
> xxxiii 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
> xxxiv Ligue Iteka, *Rapport annuel Iteka n'Ijambo 2020,* p. 1, 3 January 2021, https://ligue-iteka.bi/rapport-annuel-iteka-nijambo-2020/
> xxxv 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.[582]

VI. Treatment of Women

a. Gender-based Violence (GBV)

On 5 June 2020, ACAT Burundi and twelve other organisations released a civil society report on the implementation of the International Covenant on Civil and Political Rights in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following paragraph was translated from French into English:

> […] despite the promulgation in September 2016 of a law on the prevention, protection of victims and repression of genderbased violence […], there is a persistence of domestic violence and genderbased violence which is due to the inadequacy of social assistance services or shelters for the victims, the

[581] Ligue Iteka, *Annual report of the Burundian League for Human Rights "ITEKA", January-December 2021*, 24 May 2022, *p. 6 and 7*
[582] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *p. 4*

ineffective application of this law due to the climate of impunity and the absence of measures to encourage victims to lodge complaints , since in most cases the complaints filed are not followed up by appropriate investigations and prosecutions, which obviously discourages the victims.[583]

In its report on Burundi in August 2020, the Commission of Inquiry wrote:

> III. Situation of human rights […]
> B. Violations in the context of the electoral process […]
> 4. Women in the electoral process […]
> 53. In the context of the electoral process, women members of opposition parties were victims of arbitrary arrest and detention, but also of intimidation and threats, particularly when the electoral lists were published. Such actions were aimed at discouraging them from actively participating in the electoral process or at blocking them from exercising their civil liberties. […]
> 55. The Commission was unable to document sexual violence directly related to the electoral process, in part owing to time constraints. Because of the trauma and stigma attached to such acts, victims are often discouraged from immediately reporting them. Nevertheless, the Commission has continued to document cases of sexual violence committed inter alia for political reasons, as reported in paragraph 58 of this document. […]
> C. Other violations […]
> 2. Torture and sexual violence
> 58. Acts of torture continued to be committed, including sexual and gender violence affecting mostly women and girls, but also men. Such violence was aimed at intimidating, controlling, repressing or punishing women and men for their supposed or actual political opinions, their refusal to join the ruling party or their links with an armed movement. These include cases of gang rape, but also the infliction of blows or burns on the genitals, buttocks or breasts and cases of forced nudity. Such violence was committed mainly by members of the Imbonerakure or of the police during visits or attacks on the victims' homes, but also in the context of arrest or detention by the National Intelligence Service. Women have been raped after their repatriation to Burundi.
> 59. The Commission is concerned about the structural nature of sexual violence in Burundi, as the testimonials collected since 2015 demonstrate that this type of violence persists and confirm the trends identified in its previous reports. Despite various programmes designed to facilitate access to justice for the most vulnerable persons, and specifically women, and the fact that there has been better judicial treatment of cases of gender violence,17 most victims of sexual violence have received direct or indirect threats and have not dared to report on the perpetrators or to seek assistance. This is inter alia due to the high number of perpetrators who are members of the security forces or the Imbonerakure, who have continued to enjoy almost total impunity. [584]

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[583] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), Civil society report on the implementation of the International Covenant on Civil and Political Rights (ICCPR): Contribution towards the adoption of the List of Issues drawn up prior to the submission of Burundi's third periodic report by the Human Rights *129th session, 29 June – 24 July 2020*, 5 June 2020 [Rapport de la société civile sur la mise en œuvre du Pacte international relatif aux droits civils et politiques (PIDCP): Contribution en vue de l'adoption de la Liste de points établie avant la soumission du troisième rapport périodique du Burundi par le Comité des droits de l'homme: 129ème session, 29 juin – 24 juillet 2020], *p. 9*

[584] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 10 and 11*

17 Republic of Burundi, *Rapport national d'évaluation de la mise en oeuvre de la Déclaration et du Programme d'actions de Beijing*, May 2019, pp. 13 and 32.

The 2020 BHRI letter to the member states of the UN Human Rights Council on the renewal of the mandate of the UN Committee of Inquiry in Burundi stated that violations and abuses committed by the Government, state security forces, including the police, the National Intelligence Service, and members of the youth league of the ruling party include "violations of the rights of women and girls, rape and other forms of sexual and gender-based violence".[585]

In September 2020, the Commission of Inquiry on Burundi reported in an oral briefing that: "Torture and sexual violence against women have continued, especially in the form of politically motivated rape, even when not directly linked to the electoral process. In most cases, the victims' husband was the target because of his political activities, or because he refused to join CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], or because he was suspected of collaborating with the armed opposition. Women were raped as punishment or in order to extract information from them about their husband".[586]

The October 2020 decision by the UN Human Rights Council to extend the mandate of the UN Committee of Inquiry commented on the ongoing human rights violations in the country, stating that it:

> 8. *Expresses particular concern* about accounts of persistent sexual violence, including rape, affecting mostly women and girls but also men and boys and aimed at intimidating, controlling, repressing or punishing the victims of such violence for their supposed or actual political opinions or affiliation, and about the structural nature of such violence, and calls upon the Government of Burundi to prevent such violations and abuses and bring perpetrators to justice in order to fight impunity; […].[587]

On 9 October 2020, Radio Publique Africaine published an article in French on a case of an Kivoga residents demand justice to crack down on Imbonerakure repeat offender in rape cases. Using Google Translate, the following passage was translated from French into English:

> This alleged rapist of young girls is called Japhet Ndagijimana. According to the population of this hill, this man raped a little girl by promising to pay her the ticket to go to Bujumbura. […]
> The population of Kivoga hill indicates that this is not the first time that he has committed such a crime. "We, the people of Kivoga, are against the impunity he enjoys when this girl is his fourth victim. The latest was in 9th fundamental here in Kivoga. After this rape, this man left the locality to take refuge in other provinces. After a few days he came back. This recently raped girl was studying in 7th grade right here at Kivoga Basic School."

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[585] The Burundi Human Rights Initiative (BHRI) et al., *Burundi: Vital role of the Commission of Inquiry in prompting meaningful human rights progress*, 21 August 2020, *p. 1*

[586] UN Human Rights Council, *Interactive Dialogue on Burundi: Oral briefing Of the Commission of Inquiry on Burundi*, 23 September 2020

[587] UN Human Rights Council, *Forty-fifth session, 14 September–7 October 2020: Agenda item 4 - Human rights situations that require the Council's attention - 45/... Situation of human rights in Burundi*, 1 October 2020, *p. 3*

> Japhet Ndagijimana is currently in the hands of the Rutana judicial police. But the population fears that he will be released.[588]

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that: "Gender-based violence, including rape, is still a reality, yet the specific law punishing violence against women faces implementation challenges".[589]

Also in November 2020, the World Organisation Against Torture (OMCT) published an article for the United Nations' 16 days of activism against gender-based violence, remarking that:

> Violence against women and girls affects all places in the world. Burundi though is one of the countries where the lives and dignity of women might carry the least weight. Domestic violence is endemic. Large numbers of sexual assaults are recorded every week, including against little girls or grandmothers.
> Rape is also a political weapon that resurfaces at each crisis in Burundi. It's a tool used to punish those who dare oppose the powers that be. The bodies of wives, mothers and daughters become a battlefield where policemen and members of the *Imbonerakure* militia humiliate and dehumanize their enemies. Men perceived as belonging to the opposition suffer the same fate, though that remains largely a taboo topic.[590]

In December 2020, ACAT Burundi, Ligue Iteka, and thirteen other civil society organisations released a joint report on the human rights situation in Burundi. Translated from French to English using the online translation tool, Onlinedoctranslator.com, the report noted that "During the period covered by this report [January to 10 December 2020], civil society organizations documented thirty three (33) women and girls who were raped in a barbaric manner. Thus, among the victims, some were still minors, including a girl who was raped while she was in custody at the communal police station in Gatumba; others were raped and then beheaded or inserted sharp objects into their genitals".[591]

Freedom House reported on Burundi in its March 2021 Freedom in the World report, covering 2020 and stating that: "Sexual and domestic violence are serious problems but are rarely reported to law enforcement agencies. Rights monitors continue to report sexual violence carried out by security forces and Imbonerakure, who act with impunity. Women are often targeted for rape if they or their spouses refuse to join the CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of

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[588] Radio Publique Africaine, *Kivoga residents demand justice to crack down on Imbonerakure repeat offender in rape cases*, 9 October 2020 [Les habitants de Kivoga demandent à la justice de sévir à l'encontre d'un Imbonerakure récidiviste dans des affaires de viol]

[589] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 11*

[590] World Organisation Against Torture (OMCT), *A cry for justice from rape survivors*, 26 November 2020

[591] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi et al. *Burundi at the Pace of Human Rights Violations Daily: Joint Report of Burundian Civil Society on the Human Rights Situation*, 10 December 2020 [Le Burundi au rythme des violations des droits humains au quotidien], *p. 9*

Democracy], and men sometimes experience sexual abuse while in government custody".[592] The same statement was made in the February 2022 Freedom in the World report, covering 2021.[593]

In its report on Burundi in August 2021, the Commission of Inquiry wrote:

> III. Human rights situation […]
> F. General population
> 1. Socioeconomic situation […]
> 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. […] Violence in schools, including sexual violence and unwanted pregnancy, are further specific barriers to girls' education.[594]
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> 22 Office for the Coordination of Humanita,rian Affairs, "Burundi – Aperçu des besoins humanitaires" (Overview of humanitarian needs) 2021, p. 76
> 23 Ibid.

In September 2021, the International Federation of Action by Christians for the Abolition of Torture (FIACAT), including ACAT Burundi, released an oral statement. It noted, in a translation of the transcript using Google Translate from French to English, that: "Since President Evariste Ndayishimiye came to power, human rights organizations have documented […] 123 victims of gender-based violence".[595]

On 13 January 2022, CARE International reported that "One in three women in Burundi has experienced intimate partner violence in the past year, and 13 per cent of girls are married before the age of 18.47".[596]

> 47 CARE Burundi Strategy and CARE Burundi Project Factsheet (offline- Link will follow)

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[592] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[593] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[594] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 10*
[595] International Federation of Action by Christians for the Abolition of Torture (FIACAT), *FIACAT oral statement co-sponsored by CCPR Centre, Eurac and OMCT: Item 4 - Interactive dialogue with the Commission of Inquiry on Burundi, 48th session of the Human Rights Council*, 23 September 2021 [Déclaration orale de la FIACAT co-sponsorisée par CCPR Centre, Eurac et OMCT: Point 4 - Dialogue interactif avec la Commission d'enquête sur le Burundi, 48ème session du Conseil des droits de l'Homme]
[596] CARE International, *The Most Under-Reported Humanitarian Crises of 2021: 10 humanitarian crises that didn't make the headlines*, *p. 15*

On 28 February 2022, the UN Office for the Coordination of Humanitarian Affairs (OCHA) published its Humanitarian Needs snapshot in French. The following passage was translated using Google Translate:

> 3.5 Protection […]
> Analysis of humanitarian needs […]
> While women and girls are still at risk of GBV, the identification of cases remains very partial due to the fact under-reporting, in particular due to social and security constraints. Negative survival strategies, such as life on the street (especially in relation to children), exploitation and abuse, including sex, trafficking in human beings, forced labor and recruitment, catalyzed by non-schooling and lack of opportunities for reintegration, are examples of risks to which populations are confronted. […]
> Child protection […]
> Insight […]
> Children and adolescents, girls and boys, are also affected by the epidemics experienced by the countries, in particular the Covid-19 pandemic which is come to interrupt an economic recovery still fragile. This situation greatly reduces access to basic social services and protection capacities of parents towards their children, thus increasing certain harmful practices such as negligence, violence, early marriage and pregnancy, child abuse and exploitation of children, including sexual, and which constitute one of the causes of school drop-out young girls. […]
> Gender based violence (GBV) […]
> Affected population […]
> Provinces particularly affected by GBV protection needs are those hosting large numbers of returnees and displaced persons, such as Bujumbura, Cankuzo, Muyinga, Rutana, Bubanza, Cibitoke, Ruyigi, Kirundo and Makamba.
> Analysis of humanitarian needs
> Gender-based violence continues to affect the Burundian population and, disproportionately, women and girls, who face several forms of GBV.
> Domestic violence is still reported in Burundi, most of it being handled within the family circle202. According to an assessment conducted by UNFPA in September 2021, 80 percent of the cases of gender-based violence reported to the administrative authorities of the municipalities assessed are incidents between intimate partners203.
> Sexual and gender-based violence remains a major concern for the entire population, including displaced and returnees. According to the 2020 UNFPA annual report, 10 percent of women reported physical violence during pregnancy and 23 percent sexual violence.
> According to this report, this violence is even on the increase204. In addition, victims of domestic violence lack effective community support mechanisms and knowledge of the legal procedures available to deal with these situations.
> This situation particularly affects women and girls in vulnerable situations, including when they are on the move.
> Also, according to the Protection Monitoring report August 2021 UNHCR report, a number of women returnees mentioned that the main cause of flight to the country of asylum and return to Burundi was linked to violence perpetrated by their partner involving – but not limited to – emotional abuse, sexual assault and denial of resources and of opportunities. […]
> Food insecurity, the multiple impact of deficits in some areas and flooding in others, and the socio-economic impact of Covid-19, have reinforced socio-economic precariousness of women and girls and

thus increased the risks exposure to sexual violence such as rape, sexual exploitation and abuse, as well as trafficking human, forced sex for survival, marriages forced, early pregnancies, domestic violence, etc.
This situation affects women and girls who have to provide for their families alone. It also affects women in couples in a context where men feel responsible for make decisions about household expenses without ask their wife's opinion. According to a study carried out by the GBV sub-sector, 69 percent of respondents in rural areas consider that women should obey their husbands, compared to 58 for cent in urban areas. […]
According to assessments conducted by GBV sub-sector actors, women and girls in displaced communities continue to be at risk of GBV when collecting firewood and fetching water away from residential areas, but also when using latrines and showers, which very rarely meet basic minimum standards (separated by sex, lighting, privacy with a lock, etc.). This risk also exists due to the fact that several families sleep in common sheds. Children from displaced communities walk very long distances to school, increasing their exposure to a number of GBV risks. Women and girls have developed strategies to cope with these risks, including moving in groups of five or meeting their biological needs when it is still daylight and before going to sleep. These risks are compounded by limited access to intimate hygiene products for menstruating women and girls. […]

202 Etude sur les normes sociales en lien avec les violences faites aux femmes et filles, UNFPA, mars 2021, p. 10.
203 Rapport d'évaluation sur les normes sociales en lien avec les violences faites aux femmes et filles, UNFPA, 2021.
204 Rapport d'évaluation sur les violences basées sur le genre (VBG) dans les provinces de Bujumbura, Ruyigi, Cankuzo, Makamba et Kirundo, UNFPA, septembre 2021, p. 12.
205 Ibid, p. 14.f.[597]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

Section 6. Discrimination and Societal Abuses
WOMEN
Rape and Domestic Violence: The law prohibits rape against men and women, including spousal rape, with penalties of up to 30 years' imprisonment for conviction. The law prohibits domestic abuse of a spouse, with punishment if convicted ranging from fines to three to five years' imprisonment. The government did not enforce the law uniformly, and rape and other domestic and sexual violence were serious problems. […]
There were reports of sexual harassment but no data available on its frequency or extent and no evidence of arrests made under antisexual-harassment laws.
CHILDREN […]
Women and girls were smuggled to other countries in Africa and the Middle East, sometimes using falsified documents, putting them at high risk of exploitation. […]
Section 7. Worker Rights […]
C. PROHIBITION OF CHILD LABOR AND MINIMUM AGE FOR EMPLOYMENT
Child domestic workers could be forced to work long hours, some employers exploited them sexually, and girls were disproportionately impacted.[598]

[597] UN Office for the Coordination of Humanitarian Affairs (OCHA), *Burundi: Humanitarian Needs Snapshot 2022* [Burundi: Aperçu des Besoins Humanitaires 2022], *p. 99 to 101, and 103 to 105*
[598] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

In May 2022, Ligue Iteka published its annual report for the period of January to December 2021. It wrote that: “Ligue Iteka recorded 101 cases of SGBV. The leading provinces are Karuzi with 30 cases or 30%, followed by Muramvya with 13 cases or 13%, Rutana with 11 cases, Ngozi with 9 cases and Muyinga with 7 cases” and noted that this compared to 89 SGBV victims recorded in 2020.[599] In January 2022, Ligue Iteka reported 14 victims of SGBV[600], 10 in February 2022[601], and 14 in May 2022.[602]

On 13 September 2022, the report of the Special Rapporteur on the situation of human rights in Burundi was released, a version of which could only be located in French. Using an online translation tool, Onlinedoctranslator.com, the following sentence was translated from French into English: “Moreover, cases of sexual violence perpetrated by the Imbonerakure in rural areas54 are to be deplored”. […]

> 54 Document de séance de la Commission d’enquête sur le Burundi de 2021, par. 157 et 201.[603]

b. Trafficking

The ISS reported in July 2020 that “Almost every month, Kenya’s Directorate of Criminal Investigations reports at least one interception involving victims not only from Uganda but also Burundi, Rwanda and to a lesser extent Tanzania. Most of East Africa’s trafficking takes place in and through Kenya”.[604]

Freedom House reported on Burundi in its March 2021 Freedom in the World report, covering 2020 and stating that: “The government has conducted some trainings for government officials on handling cases of human trafficking. However, the government has largely failed to prevent domestic human trafficking, to protect victims, and to prosecute perpetrators”.[605]

According to the International Organization for Migration in its Mission Overview published in June 2021:

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[599] Ligue Iteka, *Annual report of the Burundian League for Human Rights "ITEKA", January-December 2021*, 24 May 2022, *p. 6 and 7*
[600] Ligue Iteka, *Monthly report « ITEKA N’IJAMBO » of the Burundian League for Human Rights "ITEKA": January 2022*, 30 May 2022, *p. 4*
[601] Ligue Iteka, *Monthly report « ITEKA N’IJAMBO » of the Burundian League for Human Rights "ITEKA": February 2022*, 30 May 2022, *p. 4*
[602] Ligue Iteka, *Monthly report « ITEKA N’IJAMBO » of the Burundian League for Human Rights "ITEKA": May 2022*, 29 June 2022, *p. 4*
[603] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l’homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l’homme au Burundi, Fortuné Gaetan Zongo], *p. 14 and 15*
[604] Institute for Security Studies (ISS), *East African human trafficking rings expand their operations*, 30 July 2020
[605] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021

> Protection issues in this context remain present. Internal and cross-border trafficking in persons persists. An estimated 66 per cent of the victims are women and girls, often for forced domestic labour, sexual exploitation and forced marriage in neighbouring countries or the Gulf states. Burundian refugees, IDPs, and those residing in border provinces are most at risk of human trafficking.[606]

Freedom House reported on Burundi in its February 2022 Freedom in the World report, covering 2021 and stating that:

> Civil Liberties […]
> G Personal Autonomy and Individual Rights […]
> G4 0-4 pts
> Do individuals enjoy equality of opportunity and freedom from economic exploitation?1/4 […]
> Human trafficking continues to be a serious issue in Burundi, with the International Organization on Migration counting over 1,000 trafficking victims between 2017 and July 2021. Burundian government employees are reportedly complicit in trafficking girls. In February 2021, the Burundian and Kenyan governments collaborated to secure the extradition of a Burundian official accused of involvement in trafficking.[607]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

> Section 6. Discrimination and Societal Abuses […]
> Women and girls were smuggled to other countries in Africa and the Middle East, sometimes using falsified documents, putting them at high risk of exploitation. […]
> Section 7. Worker Rights […]
> B. PROHIBITION OF FORCED OR COMPULSORY LABOR
> The law prohibits all forms of forced or compulsory labor, including by children. The penalty for conviction of forced labor trafficking was commensurate with penalties for other serious crimes. The government did not effectively enforce applicable laws. Resources for inspections and remediation were inadequate. Workplace inspectors had authority to impose fines at their own discretion. Three convictions for child trafficking were reported.[608]

The 2022 annual report of the Secretary-General on children and armed conflict, covering the year 2021 and published on 23 June 2022, stated that "Two children were recruited in Burundi and Uganda and trafficked into the Democratic Republic of the Congo for use by the Forces nationales de libération and ADF, respectively".[609]

In July 2022, the US Department of State published its annual 2022 report on trafficking, writing on Burundi:

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[606] International Organization for Migration, *IOM Burundi Mission Overview 2021*, 14 June 2021
[607] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[608] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[609] UN Security Council, *Children and armed conflict: Report of the Secretary-General, Seventy-sixth session*, 23 June 2022, *p. 10*

Burundi (Tier 2)

The Government of Burundi does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Burundi was upgraded to Tier 2. These efforts included increased investigations, prosecutions, and convictions of trafficking crimes, including investigating, and arresting allegedly complicit officials. The government established the new Consultation and Monitoring Commission on Prevention and Repression of Trafficking in Persons (National Commission on Trafficking) to lead the government's anti-trafficking efforts. It identified more trafficking victims among Burundian migrants abroad compared to the previous year and supported their repatriation, and it referred all identified victims to care. The government finalized and began to implement interim standard operating procedures (SOPs) to systematically identify and refer trafficking victims to appropriate care. It continued to operate a dedicated trafficking hotline, which led to the identification of potential trafficking cases. The government also took steps to increase protections for Burundian migrants abroad, including by establishing bilateral agreements with the Kingdom of Saudi Arabia (KSA). However, the government did not meet the minimum standards in several key areas. The government did not identify any trafficking victims in Burundi and largely relied on international and non-governmental partners to provide victim assistance. It did not develop a new national action plan (NAP). A lack of officials' awareness on the trafficking law and the difference between migrant smuggling and human trafficking continued to impede successful investigation and prosecution of trafficking crimes. […]

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Burundi and traffickers exploit Burundian victims abroad. Burundi continued to be a source country for victims who are subjected to forced labor and sex trafficking, both within the country and in destinations in East Africa, particularly Tanzania, Kenya, and Uganda, which can be final destinations or often serve as transit points to Gulf countries such as Saudi Arabia, Oman, the UAE, and Kuwait. Observers reported most traffickers now use land and public transport to leave Burundi and then fly from the neighboring countries to destination countries. […] Throughout 2021, an international organization continued the voluntary returns and repatriation of more than 60,000 Burundian refugees, some of whom returned without formal assistance, increasing their vulnerabilities to trafficking. Returning refugees are generally required to live within camps until reintegration into their communities and have limited access to education and livelihood opportunities. An international organization reported some refugees spontaneously return to Burundi without formal assistance and without adequate identity documentation, which significantly increases their vulnerability to trafficking. IDPs and returning refugees, particularly single mothers and widows, frequently lack access to basic services, food, money, and permanent accommodation, which increases their vulnerability to trafficking. Observers reported returning refugees have insufficient assistance upon arrival and most do not have families to support them or homes to return to, which increases vulnerability to exploitation. […]

Observers reported an increase in fraudulent offers to work abroad. International organizations reported the pandemic-related closure of land, water, and air borders restricted trade and seasonal migration for Burundians and refugees alike, limiting economic growth and increasing their vulnerability to traffickers. Observers reported young boys and girls found work as peddlers, domestic workers, wait-staff, or construction laborers and were forced to work excessive hours, denied payment, and were sexually and physically abused. Government and NGOs reported sexual exploitation of young girls from refugee and

> IDP camps is common as men from host communities promise gifts, pocket money, and tuition funds in exchange for sex. […]
> The government and an international organization reported traffickers have changed their transportation methods, due to increased vigilance at Bujumbura's international airport. Observers noted traffickers now opted for transportation by land, usually by buses that serve the region, and then fly from neighboring countries. Additionally, the government reported traffickers are increasingly using unofficial border crossings to transit to neighboring countries. Both economic necessity and coercion push children and young adults into labor, including domestic service, forced labor on plantations or small farms throughout Burundi, in gold mines in several provinces around the country, in informal commerce in the streets of larger cities, charcoal production, manufacturing, construction, cattle herding, street vending, begging, and in the fishing industry. Traffickers operate as networks to provide successful transnational coordination and include victims' relatives, neighbors, and friends, who recruit them under false pretenses to exploit them in forced labor and sex trafficking. Traffickers increased recruitment of Burundians working in Tanzania and the DRC. Traffickers recruited victims from their hometowns and were paid commissions upon successful recruitment; recruiters often were Burundians, but handlers, guides, and receiving personnel have been foreigners. Some families are complicit in the exploitation of children and adults with disabilities, accepting payment from traffickers who run forced street begging operations. The government reported orphans are particularly at risk of trafficking for forced labor in Burundi and in neighboring countries such as Tanzania, Kenya, and Uganda. International organizations report cases of parents lying about their children's age to meet minimum age employment laws or to receive compensation for offering their children for forced labor. Traffickers fraudulently recruit children from rural areas and those separated from or unaccompanied by parents for forced labor in domestic service and sex trafficking in private homes, guesthouses, and entertainment establishments; the children frequently experience non-payment of wages and verbal and physical abuse. Observers report traffickers recruit Burundian refugees in Rwanda, Uganda, and the DRC for sexual exploitation and forced labor. NGOs report that fishermen exploit some boys in the Lake Tanganyika fisheries in forced labor and some girls and young women in domestic servitude and sex trafficking in restaurants and bars around the lake. Traffickers exploit Burundian adults and children in forced labor in agricultural work, particularly in Tanzania. NGOs reported a significant number of children disappearing in border provinces suggesting traffickers recruited children to forced labor in cattle herding in Tanzania. NGOs reported recruiters from neighboring countries frequently visit border towns in search of Burundian child workers. Observers alleged male tourists from East Africa and the Middle East, as well as Burundian government employees, including teachers, police officers, military, and prison officials, are complicit in child sex trafficking. […]
> Traffickers fraudulently recruit young women from poverty-stricken rural communities, particularly border provinces such as Cankuzo, Cibitoke, Kayanza, Kirundo, and Muyinga, for work in the Middle East, Tanzania, or Kenya as domestic servants, and victims may be subjected to abusive labor conditions and physical and sexual abuse.[610]

The US Department of State's annual 2021 report on trafficking reported along similar lines.[611]

An article by the International Organization for Migration published in July 2022, summarized the situation with regards to trafficking in Burundi:

[610] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 19 July 2022
[611] US Department of State, *2021 Trafficking in Persons Report: Burundi*, 1 July 2021

> Burundi, like many other countries, is not exempted from the grips of traffickers who prey on the vulnerability of victims, both within the country and abroad. Both adults and children are coerced into forced labour, domestic servitude, prostitution, and other forms of sexual exploitation throughout the region and globally.
> According to the United States (US) Bureau of International Labour Affairs (ILAB), Burundian girls are trafficked internationally for commercial sexual exploitation in Kenya, Rwanda, Uganda, the Democratic Republic of the Congo, and countries in the Middle East.
> In Burundi, forced labour forms the majority of the cases in domestic work and childcare, agriculture, hospitality, construction, begging, and peddling. An estimated 66 per cent of the victims are women and girls, often for forced domestic labour, sexual exploitation and forced marriage in neighbouring countries or the Gulf states. Burundian refugees, internally displaced persons (IDPs), and those residing in border provinces are most at risk of human trafficking.
> IOM data sources show that over 1,000 victims of human trafficking have been identified and assisted in Burundi since 2017. The Government of Burundi has significantly increased investigations and prosecutions of suspected trafficking offenses, convicted traffickers, and referred victims for assistance. The country has also institutionalized anti-trafficking training for law enforcement, prosecutors, and judicial officials.[612]

In July 2022, UNICEF published an article on its recent visit to an accommodation centre in Burundi for child victims of trafficking, noting that:

> In accordance with the week's agenda, on Monday, the 25th of July, UNICEF and IOM in Burundi, and La Fédération Nationale des Associations engagées dans le Domaine de l'Enfance au Burundi (FENADEB), and the Fondation Stamm visited the BIRASHOBOKA Accommodation Center in Bujumbura, managed by Fondation Stamm.
> The accommodation center provides services of care to victims of trafficking. The centre has a multi-purpose school where the children are educated, and a hospital which provides several types of care including medical care, Pediatric consultations and surgical care for children. […]
> This accommodation center hosts 38 children, between 5 and 17 years old, who have been victims of either national trafficking, within Burundi, or cross-border trafficking which happens when a Burundian child is trafficked out of the country.
> The latter was the case of Albert*, 15, who worked in Tanzania. His employer in Tanzania refused to pay him his salary and beat him severely, injuring his leg. He was taken back to Burundi where the Fondation Stamm ensured that he was provided with him with immediate medical aid and psychosocial support for his recovery. […]
> During the visit UNICEF also encountered a 10-year-old victim of internal trafficking from Bujumbura. His employer accused him of trying to rape her 4-year-old daughter and refused to pay him.
> This accommodation centre hosts two types of children: children in transit, victims of trafficking who once received relevant aid will be returned to their families, and children in permanent situation, victims who have no place to return.[613]

[612] International Organization for Migration, *Beyond the Call of Duty: Assisting Victims of Trafficking in Burundi*, 25 July 2022
[613] UNICEF, *Visit of the Accommodation Center for Child Victims of Trafficking*, 25 July 2022

On 25 July 2022, the International Organization for Migration (IOM) released an article during World Trafficking Week which stated that:

> Burundi, like many other countries, is not exempted from the grips of traffickers who prey on the vulnerability of victims, both within the country and abroad. Both adults and children are coerced into forced labour, domestic servitude, prostitution, and other forms of sexual exploitation throughout the region and globally. […]
> In Burundi, forced labour forms the majority of the cases in domestic work and childcare, agriculture, hospitality, construction, begging, and peddling. An estimated 66 per cent of the victims are women and girls, often for forced domestic labour, sexual exploitation and forced marriage in neighbouring countries or the Gulf states. Burundian refugees, internally displaced persons (IDPs), and those residing in border provinces are most at risk of human trafficking.
> IOM data sources show that over 1,000 victims of human trafficking have been identified and assisted in Burundi since 2017. The Government of Burundi has significantly increased investigations and prosecutions of suspected trafficking offenses, convicted traffickers, and referred victims for assistance. The country has also institutionalized anti-trafficking training for law enforcement, prosecutors, and judicial officials.[614]

At the end of September 2022, the US Department of Labor published its report on the worst forms of child labour in 2021. Its country report on Burundi stated that:

> In 2021, Burundi made moderate advancement in efforts to eliminate the worst forms of child labor. Burundi developed its first ever data management system to track human trafficking cases and passed a new migration law intended to permit official intervention in cases of international trafficking in persons. The government also established a permanent commission to coordinate anti-trafficking in persons efforts. However, children in Burundi are subjected to the worst forms of child labor, including in commercial sexual exploitation, sometimes as a result of human trafficking. […]
> I. PREVALENCE AND SECTORAL DISTRIBUTION OF CHILD LABOR […]
> Burundi is a source country for children subjected to forced labor and sex trafficking abroad, and children are trafficked within the country from rural areas for domestic work and commercial sexual exploitation. (3,14) Reports indicate that an increasing number of children from the Batwa ethnic group are being transported from rural areas into Bujumbura with promises of work and subsequently are exploited. (2) Women who offer room and board to children sometimes force the children into commercial sexual exploitation to pay expenses. (12) Burundian girls are also trafficked internationally for commercial sexual exploitation in Kenya, Rwanda, Uganda, the Democratic Republic of the Congo, and countries in the Middle East. (7,12,14,20,21) Evidence also suggests that children are trafficked to the Middle East and Tanzania for work in agriculture and for domestic work. (12) In 2021, a local NGO identified 908 cases of children trafficked to Tanzania for forced and child labor purposes. An unreported number of those children were killed when they expressed a desire to return to Burundi. (9) […]
> III. ENFORCEMENT OF LAWS ON CHILD LABOR […]
> Criminal Law Enforcement […]

[614] International Organization for Migration (IOM), *Beyond the Call of Duty: Assisting Victims of Trafficking in Burundi*, 25 July 2022

In November of 2021, the Government of Burundi passed a new migration law that, in addition to defining government agencies' various responsibilities in enforcing migration regulations, also provides a legal basis to enable interventions to prevent the trafficking of vulnerable populations. (41) In addition, the government continued to implement measures to prevent international child trafficking, including sending diplomatic notes to neighboring countries requesting that Burundian minors exiting through their respective ports of entry to Gulf countries be returned to Burundi. (42)

During the reporting period, Burundi developed its first ever data collection system for human trafficking cases and trained prosecutors and judges on how to utilize the system. Developed with assistance from international partners such as the IOM, the database houses information from law enforcement and judicial personnel from all 18 provinces dating back 6 years and is maintained by 54 newly appointed human trafficking specialists. (12,43) Meanwhile, the Ministry of Interior, Community Development and Public Security provided training to 280 Judicial Police on human trafficking issues, including child trafficking. (42)

The government operates multiple hotlines that assist in the identification of child trafficking victims, including one managed by the Ad Hoc Committee for Consultation and Monitoring on the Prevention and Suppression of Trafficking in Persons, and another specifically to report child abuse managed by the Ministry of National Solidarity, Social Affairs, Human Rights and Gender. During the reporting period, authorities indicated that the hotlines identified 33 cases of child trafficking that resulted in investigations and referrals to social services. (42) The government and the IOM reported identifying 61 cases of child labor trafficking, while UNICEF reported identifying 613 cases of child labor trafficking. (42) The government did not provide complete information on its criminal law enforcement efforts for inclusion in this report. (9)

The government lacked resources to fully implement criminal law enforcement strategies. For example, while the Burundi National Police Unit for the Protection of Minors and Morals was responsible for investigating trafficking in persons, sex trafficking, and child and forced labor issues, it lacked capacity and often did not receive referrals from other police units. (20) The government acknowledged that officials are unfamiliar with the 2014 anti- trafficking law and thus are not sufficiently familiar with the concepts of the worst forms of child labor. (12,14,39)

Burundi lacks formal guidance for authorities on how to respond to cases potentially involving the worst forms of child labor, and law enforcement lacked sufficient training to properly identify victims. As a result, some officials, including immigration and police officers, reportedly punished child victims of human trafficking or forced labor. (12) Although a referral mechanism between law enforcement and social services exists, civil society organizations indicate it is utilized on an ad hoc basis, thus making it difficult to ensure victims receive services. (3,12) In general, agencies lacked resources necessary to respond to victims' needs and had to rely primarily on services from civil society and international organizations. (12,20)

IV. COORDINATION OF GOVERNMENT EFFORTS ON CHILD LABOR […]

In order to establish a permanent coordinating body for human trafficking issues, the government inaugurated the Consultation and Monitoring Commission on Prevention and Repression of Trafficking in Persons in 2021. Led by the Office of the Prime Minister, the permanent commission is made up of seven members from relevant ministries and will take the place of the ad hoc committee. (42)

Research was unable to identify evidence of the Ministry of Public Service, Labor, and Employment's participation in the activities of the Multisector Committee for the Elimination of the Worst Forms of Child Labor. Furthermore, while sources indicate the Multisector Committee for the Elimination of the Worst Forms of Child Labor was active during the reporting period, participating NGOs have indicated that the

committee is more effective in the areas around Bujumbura and lacks a presence upcountry, limiting its ability to respond to urgent cases outside of the capital region. (8)
While the Ad Hoc Committee was active during the reporting period, it did not receive any dedicated funds from the government for the fiscal year and thus was reliant upon funding sources from international organizations. (12,14) Furthermore, there is a lack of coordination and training among stakeholders to properly classify and respond to cases of human trafficking. […]
V. GOVERNMENT POLICIES ON CHILD LABOR […]
In 2021, the government had yet to renew its national action plan to address child labor, which expired in 2015, or its anti-human trafficking plan which expired in 2020. The government has indicated it is still implementing the expired action plan on human trafficking. (12,42) [...]

2 U.S. Embassy- Bujumbura. Reporting. January 15, 2020.
3 U.S. Department of State. Trafficking in Persons Report- 2020: Burundi. Washington, D.C., March 2020. https://www.state.gov/reports/2020-trafficking-in-persons-report/burundi/ […]
7 U.S. Embassy- Bujumbura. Reporting. January 18, 2018.
8 U.S. Embassy- Bujumbura. Reporting. January 21, 2021.
9 U.S. Embassy- Bujumbura. Reporting. January 20, 2022. […]
12 U.S. Department of State. 2021 Trafficking in Persons Report-- Burundi. Washington, D.C., June 2021. […]
14 U.S. Embassy- Bujumbura. Reporting. February 16, 2021. […]
20 U.S. Embassy- Bujumbura. Reporting. March 23, 2020.
21 U.S. Embassy- Bujumbura official. E-mail communication with USDOL official. July 10, 2020. […]
39 U.S. Embassy- Bujumbura official. E-mail communication with USDOL official. June 10, 2021. […]
41 Government of Burundi. Law No. 1-25 of 05 November 20201 Regarding Migration in Burundi. Source on file.
42 U.S. Embassy- Bujumbura. Reporting. February 11, 2022.
43 IOM. Burundi improves anti-trafficking efforts. ReliefWeb. July 7, 2021. https://reliefweb.int/report/burundi/burundi-improves-anti-trafficking-efforts-according-united-states-2021-report.[615]

c. Discrimination against women

Additional relevant information can be found under section *XIV. Situation and Treatment of Stateless Persons*.

In June 2020, ACAT Burundi and twelve other organisations released a civil society report on the implementation of the International Covenant on Civil and Political Rights in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following passage was translated from French into English:

III. Section 2
Civil society observations:
The principle of the right to equality and nondiscrimination between all Burundians is laid down in the Constitution in its articles 13, 22, 57 and 62. […]

[615] US Department of Labor, *2021 Findings on the Worst Forms of Child Labor: Burundi*, 28 September 2022*, p. 1, 2, and 5 to 7*

> The same constitution also establishes a minimum quota of 30% of women in legislative and administrative functions, a quota which is not strictly respected as a legislature progresses. […] It should be noted, however, that there is a low representation of women in non-elective public affairs, both at provincial and local level, as well as in all other areas of public life. […]
> From a socio-economic point of view, there is also unequal treatment between men and women in matters of inheritance, matrimonial regimes and gifts. Until now, the Burundian girl does not yet have the guarantee of inheriting from her parents and the bill which envisaged granting the right to the girl to succeed in the same way as her brother is still languishing in the drawers of the government with little chance of being unearthed there under the CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] regime. In the absence of a law that harmonizes and guarantees the enjoyment of this right for girls, the courts and tribunals have diversified and inconsistent practices in the handling of inheritance disputes, particularly in rural areas. […]
> Another form of inequality between men and women can be seen in the Personal and Family Code, more specifically with regard to the minimum age of marriage, which is different for men and women, and the management of marital community. […]
> Indeed, the transmission of Burundian nationality can only be done with regard to the father of the child, except in the case of the child whose paternal filiation is not established and who is the subject of voluntary or judicial recognition establishing his filiation with a Burundian mother (article 2). Moreover, the benefit of acquiring Burundian nationality by marriage is only reserved for a foreign woman who marries a Burundian, which means that a foreigner who marries a Burundian woman cannot claim such a favor (article 4).
> Moreover, despite the promulgation in September 2016 of a law on the prevention, protection of victims and repression of genderbased violence (see above), there is a persistence of domestic violence and genderbased violence which is due to the inadequacy of social assistance services or shelters for the victims, the ineffective application of this law due to the climate of impunity and the absence of measures to encourage victims to lodge complaints , since in most cases the complaints filed are not followed up by appropriate investigations and prosecutions, which obviously discourages the victims.[616]

In its report on Burundi in August 2020, the Commission of Inquiry wrote on the role of women in the May 2020 electoral process:

> III. Situation of human rights […]
> B. Violations in the context of the electoral process […]
> 4. Women in the electoral process
> 52. In 2020, 52 per cent of Burundian voters are women. The Constitution provides for a 30 per cent gender quota system, which has been implemented under the Electoral Code through a co-opting mechanism and blocked lists. Burundi ranks among the countries in Africa14 with the highest rate of women elected to national and decentralized office, for example with 39 per cent of the National

[616] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), Civil society report on the implementation of the International Covenant on Civil and Political Rights (ICCPR): Contribution towards the adoption of the List of Issues drawn up prior to the submission of Burundi's third periodic report by the Human Rights *129th session, 29 June – 24 July 2020*, 5 June 2020 [Rapport de la société civile sur la mise en œuvre du Pacte international relatif aux droits civils et politiques (PIDCP): Contribution en vue de l'adoption de la Liste de points établie avant la soumission du troisième rapport périodique du Burundi par le Comité des droits de l'homme: 129ème session, 29 juin – 24 juillet 2020], *p. 8 and 9*

Assembly and 41 per cent of the Senate. In accordance with the constitutional quota, 5 of the 15 ministers in President Ndayishimiye's Government are women. However, on average, only 12 to 18 per cent of those appointed or elected to institutions without gender quotas, such as provincial governorships or hill district councils, have been women. This shows the importance of special measures to accelerate the achievement of de facto equality between men and women in the country.

53. In the context of the electoral process, women members of opposition parties were victims of arbitrary arrest and detention, but also of intimidation and threats, particularly when the electoral lists were published. Such actions were aimed at discouraging them from actively participating in the electoral process or at blocking them from exercising their civil liberties.

54. The electoral violence experienced by women is different from that affecting men. It is inherently sexist15 and is also linked to the preservation of traditional gender roles and structural gender inequalities.16 Burundian women who engage in politics face multiple forms of discrimination, as there is a perception that political activity is difficult to reconcile with their roles as wives and mothers. Such prejudices, all of which block women from exercising their fundamental freedoms, exist both in the private sphere and in the political parties. The difficulties and violence suffered by women in the opposition is made worse by the general climate of intolerance towards the political opposition.

55. The Commission was unable to document sexual violence directly related to the electoral process, in part owing to time constraints. Because of the trauma and stigma attached to such acts, victims are often discouraged from immediately reporting them. Nevertheless, the Commission has continued to document cases of sexual violence committed inter alia for political reasons, as reported in paragraph 58 of this document. […]

14 See Economic Commission for Africa, Women in decision-making spheres in Africa, fact sheet, June 2019.
15 A/73/301, para. 33.
16 Ibid., para. 13.[617]

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that:

III. Findings […]

E. Human rights, gender equality and women's empowerment […]

38. Significant progress has been made in some aspects of gender equality and the empowerment of women. That progress is reflected, inter alia, in the ratification of international and regional instruments that protect women's rights in general, such as the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; the existence of constitutional provisions that guarantee gender equality; the adoption of a national gender policy for 2012–2025; the establishment of a national action plan to implement Security Council resolution 1325 (2000) on women and peace and security; the adoption of a provision to guarantee a quota of at least 30 per cent representation for women in Parliament, with the possibility of co-optation should that quota not be met; and the issuance of a guide for gender mainstreaming in the national programme for public administration reform. In particular, as a result of the quota provision and other gender-specific aspects of the electoral law, the May–August 2020 elections led to almost 40 per cent representation by women in the National Assembly, 45 per cent representation in the Senate and 30 per cent representation in the

[617] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 10 and 11*

> Government. However, in the absence of binding legal provisions to uphold the 30 per cent quota, the representation of women in elections at the *collines* (hills) level, and at all levels of the administration, has remained minimal.
> 39. The role of women as peacemakers at both the community and national levels, especially through the nationwide network of women mediators and various women's organizations, was commended during the mission. Economic empowerment of women is being recognized for its contributions to livelihoods, education and healthy households. It has also been given attention in the national gender policy, resulting in the creation of an investment bank for women in 2020.
> 40. Nevertheless, some intractable obstacles remain to the full implementation of most of the legal instruments on the protection and empowerment of women, such as the weight of sociocultural norms and practices, the patriarchy, stereotypes and insufficient resources. Gender-based violence, including rape, is still a reality, yet the specific law punishing violence against women faces implementation challenges. Impunity for violence against women is still generalized and out-of-court settlement of cases is still commonly accepted.
> 41. Discrimination against women and girls in inheriting family land and property, but the process to develop legislation to address the matter has been stalled for several years, and the issue continues to be highly politicized. Some stakeholders noted that a lack of emphasis on the importance of gender equality and the empowerment of women in policy statements and declarations made by the current leadership was diverting attention from this critical issue. In most discussions with the strategic assessment mission, issues pertaining to gender equality and the empowerment of women were referred to in terms of the number of women in key institutions or positions. Despite some progress made, women remain underrepresented in nominative decision-making positions, especially management positions, at all levels in both the public and private sectors.[618]

Freedom House reported on Burundi in its March 2021 Freedom in the World report, stating the following:

> Political Rights […]
> B Political Pluralism and Participation […]
> B4 0-4 pts
> Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities? 2/4
> The 2005 constitution requires power-sharing between Hutus and Tutsis in Parliament, and additionally stipulates that women and representatives of the Twa minority be seated in both houses. […]
> Women face social pressure that can deter active political participation, and few women hold political office at senior levels. […]
> Civil Liberties […]
> F Rule of Law […]
> F4 0-4 pts
> Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1/4 […]
> Discrimination against women is common in access to education, healthcare, and employment.
> G Personal Autonomy and Individual Rights
> G1 0-4 pts

[618] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 10 and 11*

> Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 1/4
> […] Some local authorities have imposed curfews on women and girls.
> G2 0-4 pts
> Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1/4 […]
> Due to customary law, women typically are unable to inherit property. The deteriorating security situation hampers private business activity in the country, as does rampant corruption.
> G3 0-4 pts
> Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 1/4 […]
> According to the citizenship code, a Burundian woman married to a foreign national cannot pass on her citizenship to her husband or children.
> G4 0-4 pts
> Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1/4 […]
> Women have limited opportunities for advancement in the workplace.[619]

The February 2022 Freedom in the World report, covering 2021, reported similarly.[620]

In Amnesty International's April 2021 report on the state of the world's human rights in 2020, it commented on Burundi that: "Women's groups criticized First Lady Angeline Ndayishimiye Ndayubaha's speech to the Women's Leaders Forum in September, in which she stated that the country would never see gender equality, and quoted from scripture to support her argument. The Family Code recognizes husbands as the head of the "conjugal community"".[621]

In January 2022, CARE International observed that "Women and girls are confronted with unequal opportunities and rights every day: 60 per cent of the agricultural workforce are women. Yet only 20 per cent of members in local decision-making bodies are female."[622]

According to Amnesty International in their March 2022 report on the state of the world's human rights in 2021:

> Burundian authorities continued to fail to respect and protect women's human rights. A woman who was missing for three months after leaving her husband was accused of "family abandonment", an offence punishable by up to two months in prison. Before going to the police, she had been in hiding at a safe house run by a women's rights organization, which was in turn accused of threatening state security. […]
> An evening curfew was imposed in Gishubi commune in Gitega province to prevent social mixing between men and women, continuing a trend observed in other parts of the country in recent years. New rules

[619] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021
[620] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022
[621] Amnesty International, *International Report 2020/21: The State of the World's Human Rights*, 7 April 2021, *p. 104*
[622] CARE International, *The Most Under-Reported Humanitarian Crises of 2021: 10 humanitarian crises that didn't make the headlines*, *p. 15*

were introduced whereby a woman found in a bar after 7pm with a married man, not her husband, would be fined BIF10,000 (US$5), as would a girl found outside her family home at that time. Men caught with women who were not their wives would be fined BIF20,000 (US$10) and the same fine would be imposed on boys found with girls after 7pm.[623]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

> Section 3. Freedom to Participate in the Political Process […]
> ELECTIONS AND POLITICAL PARTICIPATION […]
> Participation of Women and Members of Minority Groups: No laws limit the participation of women and members of minority groups in the political process, and they did participate.
> The constitution reserves 30 percent of positions in the National Assembly, Senate, and Council of Ministers for women and the government respected this requirement. This was implemented under the electoral code by adding seats to meet the gender requirement and by closed-list voting, whereby voters choose a political party, and the party provides the order in which candidates are selected, taking gender into account. In the sitting government, approximately 38 percent of seats in the National Assembly and 41 percent of seats in the Senate were filled by women, and five of 15 ministers were women. Women were not well represented in political parties and held very few leadership positions. Some observers believed that tradition and cultural factors kept women from participating in politics on an equal basis with men. […]
> Section 6. Discrimination and Societal Abuses
> WOMEN […]
> Reproductive Rights: […] Men often made the final decisions regarding family planning. […]
> There were reports of social and cultural barriers related to menstruation and access to menstruation hygiene that impacted women and girls' ability to participate equally in society, including limits on girls' access to education. Human rights organizations reported that lack of knowledge led to misconceptions, taboos, and negative cultural and social norms around menstruation. As a result, women and girls experienced negative health consequences and higher rates of school absenteeism and poor educational outcomes. Additionally, menstruation stigma prevented women and girls from seeking treatment for menstruation-related disorders or pain. They also refrained from taking certain jobs or were not able to work because of menstruation stigma.
> Discrimination: The law provides for equal status for women and men, including under family, labor, property, and nationality. Women faced legal, economic, and societal discrimination, including regarding inheritance and marital property laws. Traditional practices continued to control distribution of assets in favor of men and boys. A woman does not inherit her father's land and was expected to work on and benefit from the land of her husband.
> By law women must receive the same pay as men for the same work, but the government did not effectively enforce the law (see section 7.d.). Some employers suspended the salaries of women on maternity leave, and others refused medical coverage to married female employees. The government provided only limited resources to enforce labor laws in general and did not enforce antidiscrimination laws effectively.

[623] Amnesty International, *International Report 2021/22: The State of the World's Human Rights*, 29 March 2022, *p. 110*

The law requires unmarried couples who cohabit to legalize their relationships through church or state registrations. On September 28, the minister of interior requested citizens to report any local authorities in unmarried cohabitation so that they would be suspended from their government jobs. […]
CHILDREN […]
Education: […] Girls suffered from lower school enrollment rates and higher dropout rates. Contributing factors included cultural norms that favored boys obtaining education and girls engaging in domestic and agricultural work at home, preparing for marriage, and early pregnancies. […]
Child, Early, and Forced Marriage: The legal age for marriage is 18 for girls and 21 for boys. […]
Section 7. Worker Rights […]
D. DISCRIMINATION WITH RESPECT TO EMPLOYMENT AND OCCUPATION
The law does not specifically prohibit discrimination against any group but rather provides for equal rights. The constitution recognizes workers' right to equal pay for equal work, but women faced discrimination regarding pay and access to equal employment, and authorities did not prosecute any violations of this equal rights requirement. Women were excluded from some jobs, and a government decree prohibits women from performing in traditional drumming groups.
The government did not enforce the law in all sectors. Much of the country's economic activity took place in the informal sector, where protection from discrimination was generally not provided.[624]

The September 2022 report of the Special Rapporteur on the situation of human rights in Burundi reported, as translated from French into English using an online translation tool, Onlinedoctranslator.com, the following:

III. Human rights concerns […]
B. Economic and social rights […]
1. Right to education […]
55. The school dropout rate is particularly high among girls. Girls' access to education is also hampered by discriminatory measures recently decided by the Government, such as the refusal to admit to exams girls whose hair is not short enough, or measures unfavorable to education of teenage mothers. […]
C. Specific rights
1. Women's rights
67. The Special Rapporteur welcomes the measure applying a 30 per cent quota for women in Burundian political institutions, and aimed at guaranteeing their participation in political life. However, it emphasizes the need to better equip the latter to ensure their effective participation in the management of public life.
68. Moreover, cases of sexual violence perpetrated by the Imbonerakure in rural areas54 are to be deplored. The Special Rapporteur is also concerned about the situation of women in places of deprivation of liberty. A large number of them would be imprisoned for crimes related to abortion, an act most often linked to the pressure of the socio-cultural context, which tends to discriminate and stigmatize single mothers.55. Considering the fact that the legislation in Burundi prohibits voluntary abortion56, the Special Rapporteur recommends improving access to information, but also undertaking legislative reform to authorize medically assisted abortion, and harmonizing Burundian legislation with international and regional commitments to Eliminate all grounds for charging that are discriminatory and detrimental to women's rights.

[624] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

69. The Special Rapporteur emphasizes that land disputes are one of the causes of the imprisonment of women57. It should be noted that in Burundi, if the Constitution provides for access of all to property, customary law does not recognize women's right to land ownership, which increases their vulnerability.
70. Moreover, the great majority of women in detention do not have lawyers, which constitutes a handicap as regards the progress of legal proceedings. As a result, many of the defendants did not have their cases examined by a judge – unfortunately, in most cases, for lack of means. […]
72. The Special Rapporteur encourages the implementation of actions and policies to empower women, particularly women and girls living with disabilities or suffering from albinism, in order to curb harmful socio-cultural practices.[625]

54 Document de séance de la Commission d'enquête sur le Burundi de 2021, par. 157 et 201.
55 Haut-Commissariat aux droits de l'homme, « Pour la dignité de la femme en prison – Burundi : note de plaidoyer sur la situation de la femme en milieu carcéral », novembre 2016.
56 Burundi, Code pénal, art. 528 à 534.
57 Haut-Commissariat aux droits de l'homme, « Pour la dignité de la femme en prison – Burundi : note de plaidoyer sur la situation de la femme en milieu carcéral », novembre 2016.
55 Haut-Commissariat aux droits de l'homme, « Pour la dignité de la femme en prison – Burundi : note de plaidoyer sur la situation de la femme en milieu carcéral », novembre 2016.
56 Burundi, Code pénal, art. 528 à 534.
57 Haut-Commissariat aux droits de l'homme, « Pour la dignité de la femme en prison – Burundi : note de plaidoyer sur la situation de la femme en milieu carcéral », novembre 2016.

d. Cultural / Traditional harmful practices

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

Section 6. Discrimination and Societal Abuses
WOMEN […]
There were reports of social and cultural barriers related to menstruation and access to menstruation hygiene that impacted women and girls' ability to participate equally in society, including limits on girls' access to education. Human rights organizations reported that lack of knowledge led to misconceptions, taboos, and negative cultural and social norms around menstruation. As a result, women and girls experienced negative health consequences and higher rates of school absenteeism and poor educational outcomes. Additionally, menstruation stigma prevented women and girls from seeking treatment for menstruation-related disorders or pain. They also refrained from taking certain jobs or were not able to work because of menstruation stigma.
CHILDREN […]
Child, Early, and Forced Marriage: The legal age for marriage is 18 for girls and 21 for boys. Forced marriages are illegal, although they reportedly occurred with frequency in Muslim communities. The Ministry of the Interior discouraged imams from officiating at illegal marriages.[626]

[625] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 12, 14, and 15*
[626] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

In September 2022, the report of the Special Rapporteur on the situation of human rights in Burundi was released. Using an online translation tool, Onlinedoctranslator.com, the following passages were translated from French into English:

> III. Human rights concerns […]
> C. Specific rights
> 1. Women's rights […]
> 72. The Special Rapporteur encourages the implementation of actions and policies to empower women, particularly women and girls living with disabilities or suffering from albinism, in order to curb harmful socio-cultural practices.[627]

e. Sexual and reproductive health

A letter by Human Rights Watch in July 2020 to President Ndayishimiye wrote that "in light of your comments regarding other countries' approach to abortion and same-sex relationships, we would like to emphasize that states' obligations to respect, protect, and fulfill human rights include rights related to reproductive health, bodily autonomy, sexual orientation, and gender identity. Criminalization of or unreasonable restrictions on access to abortion violate the right to health and jeopardize numerous other human rights, including the rights to bodily integrity, nondiscrimination, equality, privacy, information, and the right to decide on the number and spacing of children".[628]

A report by the UN Population Fund and UN Women in April 2021 on the impact of Covid-19 on gender equality and women's empowerment in East and Southern Africa wrote on Burundi that: "Less than half of the demand for family planning was satisfied by modern methods in countries like Burundi […]" and that the country still faces "many challenges in improving maternal health" as well as prenatal care.[629] The report further indicated that Burundi had "large disruptions in share of facility deliveries" and large decreases in caesarean sections during Covid-19 in 2020.[630]

In its report on Burundi in August 2021, the Commission of Inquiry wrote:

> III. Human rights situation […]
> F. General population
> 1. Socioeconomic situation […]

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[627] UN Human Rights Council, *Situation of human rights in Burundi: Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*, 13 September 2022 [Situation des droits de l'homme au Burundi: Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo], *p. 15*
[628] Human Rights Watch, *Letter to President Ndayishimiye: Protecting Human Rights in Burundi*, 13 July 2020
[629] UN Population Fund and UN Women, *Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa*, *p. 72*
[630] UN Population Fund and UN Women, *Impact of COVID-19 on Gender Equality and Women's Empowerment in East and Southern Africa*, *p. 75*

> 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. […] Violence in schools, including sexual violence and unwanted pregnancy, are further specific barriers to girls' education. […]
>
> 22 Office for the Coordination of Humanita,rian Affairs, "Burundi – Aperçu des besoins humanitaires" (Overview of humanitarian needs) 2021, p. 76
> 23 Ibid.[631]

According to CARE International in January 2022, the "birth rate in Burundi averages five children, and only 20 per cent of women have access to family planning methods".[632]

In February 2022, UN OCHA published its Humanitarian Needs snapshot in French. Using Google Translate; the following passage from the Protection section read:

> 3.5 Protection […]
> Gender based violence (GBV) […]
> Analysis of humanitarian needs […]
> Despite advances in taking support for survivors of sexual violence and accessibility of inputs to provide them with treatment such as post-exposure prophylaxis (PEP) aimed at preventing HIV infection, there are still challenges regarding staff availability trained in the care of survivors, the availability of rape kits and PEP, as well as the geographical accessibility of certain centers integrated support services in the country. Moreover, only government doctors can prescribe PEP and issue medical certificates, health center nurses unable to give than emergency contraception. To date, we count only six operational integrated centers in all the countries.[633]

In April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

> Section 6. Discrimination and Societal Abuses
> WOMEN […]
> Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. The government recognized the right of couples and individuals to decide the number, spacing, and timing of their children, and they had access to the information and means to do so

[631] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 10*
[632] CARE International, *The Most Under-Reported Humanitarian Crises of 2021: 10 humanitarian crises that didn't make the headlines*, *p. 15*
[633] UN Office for the Coordination of Humanitarian Affairs (OCHA), *Burundi: Humanitarian Needs Snapshot 2022* [Burundi: Aperçu des Besoins Humanitaires 2022], *p. 104*

free from discrimination, coercion, and violence. Men often made the final decisions regarding family planning.

The government provided free prenatal and postpartum services. There were no restrictions on access to contraceptives; the contraceptive prevalence rate was 29 percent. Health clinics and NGOs freely disseminated information on family planning under the guidance of the Ministry of Public Health. Faith-based clinics promoted the use of traditional family planning methods.

The government provided access to sexual and reproductive health services including emergency contraception for survivors of sexual violence.

The 2016-2017 *Demographic and Health Survey* estimated the maternal mortality rate at 548 per 100,000 live births. According to the Ministry of Health, severe bleeding, infections, high blood pressure during pregnancy, complications during delivery, and unsafe abortions were the leading causes of maternal mortality. Other causes included effects from disease, such as malaria, or were related to chronic conditions like heart disease and diabetes. Mothers and pregnant women suffered from lack of access to adequate medical care, particularly in rural areas.

World Health Statistics indicated the adolescent birth rate was 54 per 1,000 in 2019. Leading causes of high adolescent birth rates likely included high rates of poverty and widespread lack of reproductive health education. Ministry of Education policy requires pregnant girls to stop attending classes until one year after they give birth or if they provide medical records showing the pregnancy ended.

There were reports of social and cultural barriers related to menstruation and access to menstruation hygiene that impacted women and girls' ability to participate equally in society, including limits on girls' access to education. Human rights organizations reported that lack of knowledge led to misconceptions, taboos, and negative cultural and social norms around menstruation. As a result, women and girls experienced negative health consequences and higher rates of school absenteeism and poor educational outcomes. Additionally, menstruation stigma prevented women and girls from seeking treatment for menstruation-related disorders or pain. They also refrained from taking certain jobs or were not able to work because of menstruation stigma. […]

HIV AND AIDS SOCIAL STIGMA […]

During the year an independent study reported, however, that HIV and AIDS stigma was widespread, and the most frequent manifestations of stigma included physical violence, verbal violence, marginalization, discrimination, self-stigma, fear and insecurity, and health-care provider stigma.[634]

CIA World Factbook's page on Burundi wrote "A lack of reproductive health services has prevented a significant reduction in Burundi's maternal mortality and fertility rates, which are both among the world's highest". It further noted that the maternal mortality rate was estimated as "548 deaths/100,000 live births" as of 2017 and infant mortality rate at 37.84 deaths/1,000 live births (42.02 male and 33.54 female) estimated as of 2022. The total fertility rate was "5.03 children born/woman (2022 est.)" and the contraceptive prevalence rate 28.5% as of 2016/17. In 2021, there was an adult prevalence rate of HIV/AIDS at 0.9%.[635]

f. Measures by the state to protect women from SGBV

[634] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022
[635] CIA World Factbook, *Country page – Burundi*, last updated 21 December 2022

In early June 2020, ACAT Burundi and twelve other organisations released a civil society report on the implementation of the International Covenant on Civil and Political Rights in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following paragraph was translated from French into English: "Moreover, despite the promulgation in September 2016 of a law on the prevention, protection of victims and repression of genderbased violence […], there is a persistence of domestic violence and genderbased violence which is due to the inadequacy of social assistance services or shelters for the victims, the ineffective application of this law due to the climate of impunity and the absence of measures to encourage victims to lodge complaints , since in most cases the complaints filed are not followed up by appropriate investigations and prosecutions, which obviously discourages the victims".[636]

In its report on Burundi in August 2020, the Commission of Inquiry wrote:

> III. Situation of human rights […]
> C. Other violations […]
> 2. Torture and sexual violence
> 59. […] Despite various programmes designed to facilitate access to justice for the most vulnerable persons, and specifically women, and the fact that there has been better judicial treatment of cases of gender violence,17 most victims of sexual violence have received direct or indirect threats and have not dared to report on the perpetrators or to seek assistance. This is inter alia due to the high number of perpetrators who are members of the security forces or the Imbonerakure, who have continued to enjoy almost total impunity. […]
>
> 17 Republic of Burundi, *Rapport national d'évaluation de la mise en oeuvre de la Déclaration et du Programme d'actions de Beijing*, May 2019, pp. 13 and 32.[637]

The UN Secretary-General's Strategic Assessment Mission for UN Engagement in Burundi noted in November 2020 that:

> III. Findings […]
> E. Human rights, gender equality and women's empowerment […]
> 38. Significant progress has been made in some aspects of gender equality and the empowerment of women. That progress is reflected, inter alia, in the ratification of international and regional instruments that protect women's rights in general, such as the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; the existence of constitutional provisions that guarantee gender equality; the adoption of a national gender policy for 2012–2025; the establishment of a national action plan to implement Security Council resolution 1325 (2000) on women

[636] Action des Chrétiens pour l'Abolition de la Torture au Burundi (ACAT Burundi), Civil society report on the implementation of the International Covenant on Civil and Political Rights (ICCPR): Contribution towards the adoption of the List of Issues drawn up prior to the submission of Burundi's third periodic report by the Human Rights *129th session, 29 June – 24 July 2020*, 5 June 2020 [Rapport de la société civile sur la mise en œuvre du Pacte international relatif aux droits civils et politiques (PIDCP): Contribution en vue de l'adoption de la Liste de points établie avant la soumission du troisième rapport périodique du Burundi par le Comité des droits de l'homme: 129ème session, 29 juin – 24 juillet 2020], *p. 9*

[637] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 11*

> and peace and security; the adoption of a provision to guarantee a quota of at least 30 per cent representation for women in Parliament, with the possibility of co-optation should that quota not be met; and the issuance of a guide for gender mainstreaming in the national programme for public administration reform. […]
> 40. Nevertheless, some intractable obstacles remain to the full implementation of most of the legal instruments on the protection and empowerment of women, such as the weight of sociocultural norms and practices, the patriarchy, stereotypes and insufficient resources. Gender-based violence, including rape, is still a reality, yet the specific law punishing violence against women faces implementation challenges. Impunity for violence against women is still generalized and out-of-court settlement of cases is still commonly accepted.
> 41. […] Some stakeholders noted that a lack of emphasis on the importance of gender equality and the empowerment of women in policy statements and declarations made by the current leadership was diverting attention from this critical issue.[638]

In mid-April 2022, the US Department of State published its annual country report on human rights practices in the previous year, writing on Burundi:

> Section 6. Discrimination and Societal Abuses
> WOMEN
> Rape and Domestic Violence: The law prohibits rape against men and women, including spousal rape, with penalties of up to 30 years' imprisonment for conviction. The law prohibits domestic abuse of a spouse, with punishment if convicted ranging from fines to three to five years' imprisonment. The government did not enforce the law uniformly, and rape and other domestic and sexual violence were serious problems.
> A 2016 law provides for the creation of a special gender-based crimes court, makes gender-based violence crimes unpardonable, and provides stricter punishment for police officers and judges who conceal violent crimes against women and girls. As of November 30, the special court had not been established, and no police officers or judges had been prosecuted under the law.
> The National Police's Unit for the Protection of Minors and Morals is responsible for investigating cases of sexual violence and rape as well as those involving the trafficking of girls and women. The government-operated Humura Center in Gitega and integrated centers in Makamba, Muyinga, and Cibitoke Provinces, provided a full range of services, including legal, medical, and psychosocial services, to survivors of domestic and sexual violence.
> Sexual Harassment: The law prohibits sexual harassment, including the use of threats of physical violence or psychological pressure to obtain sexual favors. Punishment for conviction of sexual harassment may range from a fine to a prison sentence of one month to two years. The sentence for sexual harassment doubles if the victim is younger than 18. The government did not actively enforce the law. There were reports of sexual harassment but no data available on its frequency or extent and no evidence of arrests made under antisexual-harassment laws.[639]

In January 2021, TRIAL International released a case update on a victim of sexual violence in Burundi. It stated that:

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[638] UN Security Council, *Report of the Secretary-General on the strategic assessment mission for United Nations engagement in Burundi*, 3 November 2020, *p. 10 and 11*
[639] US Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022

> A victim of sexual violence, who was a minor when she was assaulted, finally saw her abuser punished by the law. It is quite rare that such a case should be successful before the Burundian jurisdictions and it should to be celebrated … without blotting out the structural flaws of the justice system.
> At the end of 2020, a tribunal in Bujumbura convicted the rapist of an underage girl. He received a life sentence and, in addition, the young victim was granted reparations amounting to about 500 EUR. […]
> "We are thrilled for the victim and her family, who fought very bravely to obtain this decision", says Pamela Capizzi, TRIAL International's National Coordinator for Burundi. "But one swallow does not a summer make: overall the Burundian judiciary is unable to meet the victims' expectations."
> A report published in December 2020 by TRIAL International details Burundi's profound structural insufficiencies in matters of justice and reparations. Pamela Capizzi maintains, in a nutshell, that "all the findings of this report remain accurate, even in light of this verdict".
> What is more, the positive outcome of this case is at least partly due to the extraordinary relentlessness of the victim's mother and her lawyer. Working together, they sent out many reminders and went over to the tribunal countless times so that the case would not get bogged down like so many others. Such unparalleled dedication should not be necessary to guarantee one's right to justice. […]
> There is no doubt that the verdict must be celebrated, but it does not mean that the case is over, either. First, the accused can appeal the decision. Second, it is rather common that reparations ordered by the court never materialize – an injustice which unfortunately is not limited to Burundi.
> Close scrutiny will therefore be in order in the months – perhaps years – to come, so that justice might effectively and definitely be done.[640]

According to Freedom House's March 2021 Freedom in the World report:

> Civil Liberties […]
> G Personal Autonomy and Individual Rights […]
> G3 0-4 pts
> Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 1/4
> Sexual and domestic violence are serious problems but are rarely reported to law enforcement agencies. Rights monitors continue to report sexual violence carried out by security forces and Imbonerakure, who act with impunity. Women are often targeted for rape if they or their spouses refuse to join the CNDD–FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy], and men sometimes experience sexual abuse while in government custody. […]
> G4 0-4 pts
> Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1/4 […]
> The government has conducted some trainings for government officials on handling cases of human trafficking. However, the government has largely failed to prevent domestic human trafficking, to protect victims, and to prosecute perpetrators.[641]

In its report on Burundi in August 2021, the Commission of Inquiry wrote:

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[640] TRIAL International, *A Rare Win for a Victim of Sexual Violence in Burundi*, 21 January 2021
[641] Freedom House, *Freedom in the World 2021: Burundi*, 3 March 2021

> III. Human rights situation […]
> F. General population
> 1. Socioeconomic situation […]
> 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. […] Violence in schools, including sexual violence and unwanted pregnancy, are further specific barriers to girls' education.[642]
>
> 22 Office for the Coordination of Humanita,rian Affairs, "Burundi – Aperçu des besoins humanitaires" (Overview of humanitarian needs) 2021, p. 76
> 23 Ibid.

In February 2022, UN OCHA published its Humanitarian Needs snapshot. Translated from French to English using Google Translate, the following passage from the Protection section read:

> 3.5 Protection […]
> Gender based violence (GBV) […]
> Analysis of humanitarian needs […]
> […] victims of domestic violence lack effective community support mechanisms and knowledge of the legal procedures available to deal with these situations.
> This situation particularly affects women and girls in vulnerable situations, including when they are on the move. […]
> Despite advances in taking support for survivors of sexual violence and accessibility of inputs to provide them with treatment such as post-exposure prophylaxis (PEP) aimed at preventing HIV infection, there are still challenges regarding staff availability trained in the care of survivors, the availability of rape kits and PEP, as well as the geographical accessibility of certain centers integrated support services in the country. Moreover, only government doctors can prescribe PEP and issue medical certificates, health center nurses unable to give than emergency contraception. To date, we count only six operational integrated centers in all the countries.
> According to the GBV Service Provider Mapping, the provinces of Rutana, Ruyigi, Makamba, Kirundo and Karusi have low GBV service coverage.
> Added to this is the fact that first-line services GBV emergency (in terms of health, support psychosocial, but also to some extent legal and socio-economic) are difficult to accessible and remote in the hills, and the quality services, in particular with regard to confidentiality, remains a major challenge.205 Also, the systems referencing are weakly established and popularized in affected communities. […]
> Community structures play a role important in raising awareness, referencing and the reintegration of GBV survivors.

[642] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 12 August 2021, *p. 10*

> Unfortunately, their capacity remains limited and the strengthening of these structures, such as Family and Community Development Committees, Child Protection Committees, grassroots community organizations, light mothers, remains necessary. This is particularly true in areas affected and at risk of GBV such as in the provinces of Bujumbura, Rumonge, Makamba, Ruyigi, Cankuzo and Kirundo. […]
> Assessments carried out by UNFPA in IDP sites in the commune of Mutimbuzi and the return areas of Busoni, Bugabira, Mishiha, Gisuru, Butaganzwa, Nyanza-Lac and Rumonge in October 2021, show that communities are primarily addressing committee leaders, site managers and humanitarian actors to share their concerns. Moreover, the participants in the focus groups and interviews do not have the same sensitivity and level of information on the prevention of sexual exploitation and abuse. They do not know how to report cases and what situations constitute sexual exploitation and abuse. They also do not know how to support the victim of sexual exploitation and abuse (in seven of the eight municipalities assessed).[643]
>
> 205 Rapport d'évaluation sur les violences basées sur le genre (VBG) dans les provinces de Bujumbura, Ruyigi, Cankuzo, Makamba et Kirundo, UNFPA, septembre 2021, p. 14.

In Amnesty International's March 2022 report on the state of the world's human rights in 2021, it recounted that: "Burundian authorities continued to fail to respect and protect women's human rights. A woman who was missing for three months after leaving her husband was accused of "family abandonment", an offence punishable by up to two months in prison. Before going to the police, she had been in hiding at a safe house run by a women's rights organization, which was in turn accused of threatening state security".[644]

Anti-child labour measures

In September 2022, the US Department of Labor published its report on the worst forms of child labour in 2021. Its country report on Burundi stated that:

> In 2021, Burundi made moderate advancement in efforts to eliminate the worst forms of child labor. Burundi developed its first ever data management system to track human trafficking cases and passed a new migration law intended to permit official intervention in cases of international trafficking in persons. The government also established a permanent commission to coordinate anti-trafficking in persons efforts. However, children in Burundi are subjected to the worst forms of child labor, including in commercial sexual exploitation, sometimes as a result of human trafficking. […]
> III. ENFORCEMENT OF LAWS ON CHILD LABOR […]
> Criminal Law Enforcement […]
> In November of 2021, the Government of Burundi passed a new migration law that, in addition to defining government agencies' various responsibilities in enforcing migration regulations, also provides a legal basis to enable interventions to prevent the trafficking of vulnerable populations. (41) In addition, the government continued to implement measures to prevent international child trafficking, including

[643] UN Office for the Coordination of Humanitarian Affairs (OCHA), *Burundi: Humanitarian Needs Snapshot 2022* [Burundi: Aperçu des Besoins Humanitaires 2022], *p. 103 to 105*
[644] Amnesty International, *International Report 2021/22: The State of the World's Human Rights*, 29 March 2022, *p. 110*

sending diplomatic notes to neighboring countries requesting that Burundian minors exiting through their respective ports of entry to Gulf countries be returned to Burundi. (42)

During the reporting period, Burundi developed its first ever data collection system for human trafficking cases and trained prosecutors and judges on how to utilize the system. Developed with assistance from international partners such as the IOM, the database houses information from law enforcement and judicial personnel from all 18 provinces dating back 6 years and is maintained by 54 newly appointed human trafficking specialists. (12,43) Meanwhile, the Ministry of Interior, Community Development and Public Security provided training to 280 Judicial Police on human trafficking issues, including child trafficking. (42)

The government operates multiple hotlines that assist in the identification of child trafficking victims, including one managed by the Ad Hoc Committee for Consultation and Monitoring on the Prevention and Suppression of Trafficking in Persons, and another specifically to report child abuse managed by the Ministry of National Solidarity, Social Affairs, Human Rights and Gender. During the reporting period, authorities indicated that the hotlines identified 33 cases of child trafficking that resulted in investigations and referrals to social services. (42) The government and the IOM reported identifying 61 cases of child labor trafficking, while UNICEF reported identifying 613 cases of child labor trafficking. (42) The government did not provide complete information on its criminal law enforcement efforts for inclusion in this report. (9)

The government lacked resources to fully implement criminal law enforcement strategies. For example, while the Burundi National Police Unit for the Protection of Minors and Morals was responsible for investigating trafficking in persons, sex trafficking, and child and forced labor issues, it lacked capacity and often did not receive referrals from other police units. (20) The government acknowledged that officials are unfamiliar with the 2014 anti- trafficking law and thus are not sufficiently familiar with the concepts of the worst forms of child labor. (12,14,39)

Burundi lacks formal guidance for authorities on how to respond to cases potentially involving the worst forms of child labor, and law enforcement lacked sufficient training to properly identify victims. As a result, some officials, including immigration and police officers, reportedly punished child victims of human trafficking or forced labor. (12) Although a referral mechanism between law enforcement and social services exists, civil society organizations indicate it is utilized on an ad hoc basis, thus making it difficult to ensure victims receive services. (3,12) In general, agencies lacked resources necessary to respond to victims' needs and had to rely primarily on services from civil society and international organizations. (12,20)

IV. COORDINATION OF GOVERNMENT EFFORTS ON CHILD LABOR […]

In order to establish a permanent coordinating body for human trafficking issues, the government inaugurated the Consultation and Monitoring Commission on Prevention and Repression of Trafficking in Persons in 2021. Led by the Office of the Prime Minister, the permanent commission is made up of seven members from relevant ministries and will take the place of the ad hoc committee. (42)

Research was unable to identify evidence of the Ministry of Public Service, Labor, and Employment's participation in the activities of the Multisector Committee for the Elimination of the Worst Forms of Child Labor. Furthermore, while sources indicate the Multisector Committee for the Elimination of the Worst Forms of Child Labor was active during the reporting period, participating NGOs have indicated that the committee is more effective in the areas around Bujumbura and lacks a presence upcountry, limiting its ability to respond to urgent cases outside of the capital region. (8)

While the Ad Hoc Committee was active during the reporting period, it did not receive any dedicated funds from the government for the fiscal year and thus was reliant upon funding sources from

international organizations. (12,14) Furthermore, there is a lack of coordination and training among stakeholders to properly classify and respond to cases of human trafficking. […]
V. GOVERNMENT POLICIES ON CHILD LABOR […]
In 2021, the government had yet to renew its national action plan to address child labor, which expired in 2015, or its anti-human trafficking plan which expired in 2020. The government has indicated it is still implementing the expired action plan on human trafficking. (12,42) [645]

2 U.S. Embassy- Bujumbura. Reporting. January 15, 2020.
3 U.S. Department of State. Trafficking in Persons Report- 2020: Burundi. Washington, D.C., March 2020. https://www.state.gov/reports/2020-trafficking-in-persons-report/burundi/ […]
7 U.S. Embassy- Bujumbura. Reporting. January 18, 2018.
8 U.S. Embassy- Bujumbura. Reporting. January 21, 2021.
9 U.S. Embassy- Bujumbura. Reporting. January 20, 2022. […]
12 U.S. Department of State. 2021 Trafficking in Persons Report-- Burundi. Washington, D.C., June 2021. […]
14 U.S. Embassy- Bujumbura. Reporting. February 16, 2021. […]
20 U.S. Embassy- Bujumbura. Reporting. March 23, 2020.
21 U.S. Embassy- Bujumbura official. E-mail communication with USDOL official. July 10, 2020. […]
39 U.S. Embassy- Bujumbura official. E-mail communication with USDOL official. June 10, 2021. […]
41 Government of Burundi. Law No. 1-25 of 05 November 20201 Regarding Migration in Burundi. Source on file.
42 U.S. Embassy- Bujumbura. Reporting. February 11, 2022.
43 IOM. Burundi improves anti-trafficking efforts. ReliefWeb. July 7, 2021. https://reliefweb.int/report/burundi/burundi-improves-anti-trafficking-efforts-according-united-states-2021-report.

In October 2022, Amnesty International published its submission to the 43rd session of the Universal Periodic Review (UPR) of Burundi on 4 May 2023. It noted, among other follow ups to the previous review, that "Burundi committed to ensure effective investigation and prosecution of sexual and gender-based violence. xi 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". The submission also stated that "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". […]

xi A/HRC/38/10/Add.1 recommendation 137.229 [Poland], Para. 7.[646]

Anti-trafficking measures
In early July 2021, the US Department of State published its annual 2021 report on trafficking, writing on Burundi about the prosecution and protection:

BURUNDI: Tier 2 Watch List

[645] US Department of Labor, *2021 Findings on the Worst Forms of Child Labor: Burundi*, 28 September 2022, *p. 1, 2, and 5 to 7*
[646] Amnesty International, *Burundi: New administration's broken promises to improve human rights: Amnesty International: Submission to the 43rd session of the UPR Working Group, 4 May 2023*, 11 October 2022, *p. 2 and 3*

The Government of Burundi does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. Considering the documented impact of the pandemic on the government's anti-trafficking capacity, the government made key achievements during the reporting period; therefore Burundi was upgraded to Tier 2 Watch List. These achievements included the government significantly increasing investigations and prosecutions of suspected trafficking offenses, convicting traffickers for the first time in six years, and referring victims to assistance for the first time in six years. The government institutionalized anti-trafficking training for law enforcement, prosecutors, and judicial officials. The government developed and implemented the country's first-ever national data collection system on law enforcement's efforts to combat human trafficking and trained prosecutors, judicial officials, and law enforcement on its use. Despite these achievements, the government decreased the number of victims identified. The government continued to lack standard operating procedures to identify and refer victims to services and did not have adequate protection services available for victims. The government failed to allocate resources to complete implementation of the 2019-2020 National Action Plan (NAP) through the anti-trafficking inter-ministerial committee. […]

PROSECUTION […]

The government investigated 32 cases involving arrests of 46 suspects during the reporting period, compared to eight cases in the previous reporting period. The government prosecuted 28 cases during the reporting period, compared to 11 cases during the previous reporting period. The government convicted three traffickers during the reporting period, compared to zero convictions during the previous six reporting periods. All three perpetrators were convicted on child trafficking charges; one trafficker was sentenced to seven years in prison and the other two were both sentenced to three years in prison. Law enforcement reported collaborating with foreign police in Saudi Arabia and Uganda on trafficking cases. The government increased border security and surveillance to prevent migrants and potential victims crossing to neighboring countries. Corruption and official complicity in trafficking crimes remained significant concerns, potentially inhibiting law enforcement action during the year. In February 2021, the government collaborated with the Kenyan government to investigate and extradite a Burundian diplomatic official accused of trafficking 89 Burundians. Observers alleged trafficking networks included officials handling passport and travel documents at the Commissary General of Migration, a division of the Ministry of Interior. The government also reported collaborating with Saudi Arabian police to investigate suspicious deaths of Burundians.

In January 2021, the government, with technical and financial support from international organizations, developed and began use of the country's first-ever institutional data collection system on law enforcement efforts to combat human trafficking during the reporting period. The centralized database maintained information compiled from courts, magistrates, and prosecutors from all 18 provinces over the past six years. The government appointed 54 counter-trafficking focal points to regularly update the system and classify trafficking cases, charges, and potential perpetrators and trained them on this tool, as well as 409 magistrates from higher courts and prosecutor offices. The government translated the 2014 anti-trafficking law into Kirundi and distributed it to law enforcement, magistrates, and judicial officials in all provinces.

The government's anti-trafficking inter-ministerial committee collaborated with an international organization to provide anti-trafficking training including on the definition of trafficking, the anti-trafficking legal framework, investigating trafficking cases and prosecuting suspected perpetrators, identification and referral to care of potential victims, domestic and international trafficking trends, international approaches to combat human trafficking, and border management and cross-border crimes to 407 local police officers, prosecutors, judges, immigration offices, and law enforcement officials from Bujumbura and seven other provinces. Although the government trained law enforcement and

immigration officials during the reporting period, government officials reported that a lack of awareness on the trafficking law, as well as a misunderstanding of the difference between migrant smuggling and trafficking, impeded successful investigation and prosecution of trafficking crimes. Authorities also reported parents of victims authorized their children to be recruited for work inside and outside the country, creating obstacles for successful convictions. Observers reported many arrests were not elevated to prosecution because of insufficient evidence, corruption, and interference of high-ranking officials. Authorities reported the pandemic modestly inhibited the government's ability to collect evidence and victim testimony during trafficking investigations due to limitations on in-person meetings.

PROTECTION

The government maintained mixed protection efforts. The government continued to lack a centralized system to share victim identification and referral information between government stakeholders. Despite travel restrictions and closures necessitated by the pandemic that affected anti-trafficking operations and stymied completion of bilateral agreements, the government identified 174 victims during the reporting period; of these 45 were identified abroad—including in China, Oman, Saudi Arabia, and Tanzania—compared to 372 identified victims and 314 victims identified abroad, respectively, during the previous reporting period. Officials identified 101 female victims during a raid of a fraudulent labor company in December 2020. Of the 174 identified victims, authorities reported identifying 113 victims en route to the Middle East and 16 victims en route to Tanzania. The government has yet to report identifying a foreign national victim of trafficking domestically. The government referred all 174 identified victims to government and NGO-run shelters for care and assistance compared to zero victims referred to government and NGO-run shelters during the previous six reporting periods. Child victims were referred to government and NGO-run shelters and sometimes placed into foster care. Adult victims had a choice between independent living or referral to shelters run jointly by the government and NGOs. The government reported offering the option for victims to remain in shelters to ensure their security for specifically sensitive cases. The government collaborated with foreign governments to repatriate 134 Burundian victims from abroad. The government provided consular and legal assistance to these Burundian victims, including facilitating the return and reintegration into their home communities and waiving COVID-19 test fees. In 2020, an international organization and its partners reported identifying an additional 25 victims of human trafficking, six children repatriated from abroad and 17 children identified en route to Tanzania. All six children were victims of labor exploitation, though some may have also been sex trafficking victims unwilling to disclose. Separately, another international organization reported identifying an additional 403 child victims, including 361 boys and 42 girls.

In November 2020, immigration authorities, in coordination with the Inter-Ministerial Anti-Trafficking Committee, drafted victim identification procedures for use at points of entry; however, the government continued to lack standard operating procedures for authorities to identify and refer trafficking victims to protection services and many law enforcement officials lacked adequate training to identify potential victims. Authorities penalized victims for crimes their traffickers compelled them to commit. Observers reported immigration officials arrested children fleeing exploitive situations and police officers detained street children identified as victims and held them in police facilities. International organizations reported police officers arrested and detained children coerced into street vending without screening for human trafficking. Observers reported law enforcement detained victims who later became involved in running the trafficking scheme.

Overall, a lack of dedicated funding for victim protection measures and the pandemic restricted the government's ability to repatriate victims. The government did not operate any shelters specifically dedicated to victims of trafficking; however, the government continued to operate Humura Center in Gitega, which provided protection services to foreign and domestic victims of sexual abuse, gender-based

violence, and trafficking. The government collaborated with NGOs to provide temporary and long-term shelter, medical care, financial assistance, training for income-generating activities, legal assistance, family reunification, community and school reintegration, and guidance on engaging with law enforcement. An NGO-run center in Bujumbura offered medical and psycho-social assistance, as well as legal assistance to victims of various abuses, including human trafficking. The NGO reported victims returned to their families after a short stay at the shelter. There were four additional NGO-run shelters that trafficking victims could utilize; all NGOs operated with little to no funding from the government. Adults, children, and foreign victims all had access to the same care. The government offered limited assistance for victims, including allowing victims to enter the country without paying for COVID-19 tests or fees for quarantine. Although the government's financial restraints limited assistance to NGOs during the pandemic, it implemented cost-saving measures for NGOs, such as lowering soap prices and water tariffs.
In accordance with the 2016 law for the protection of witnesses, victims, and the vulnerable, which outlined provisions for the protection of witnesses and victims, the government provided witness protection to 123 women and children during the reporting period, compared to zero witnesses protected during the previous reporting period. The government reported it placed victims in guarded secure locations; protected minors' identities in investigations and prosecutions; prohibited the media's use of victims' identities, utilizing written statements in lieu of in-person testimony; and closed all trials to the public for sexual exploitation cases or when cases involved a minor. Labor laws continued to lack sufficient protection for domestic workers or employees in the informal economy, leaving the population vulnerable to trafficking. Burundian law allowed prosecutors to request restitution in trafficking cases; however, the government did not report any court cases ordering restitution for victims. The law provided foreign trafficking victims with legal alternatives to their removal to countries where they may face hardship or retribution, subject to judicial decision, and allowed the government to grant temporary residency; the government did not report identifying any foreign victims who could benefit from this protection during the reporting period.[647]

On 19 July 2022, the US Department of State published its annual 2022 report on trafficking, writing on related prosecution in Burundi:

PROSECUTION
The government increased criminal investigations, prosecutions, and convictions of officials complicit in trafficking crimes; however, corruption and official complicity in trafficking crimes remained significant concerns during the reporting period. The government reported taking disciplinary actions against five police officials suspected of providing travel documents to potential trafficking victims in June 2021. Observers reported the government charged the five officers with crimes related to trafficking and received 15 days' suspension and disciplinary transfers, although they remained free on conditional release while the investigations remained pending. In February 2021, the government collaborated with the Kenyan government to investigate and extradite a Burundian diplomatic official accused of trafficking 89 Burundians. The government reported it dismissed, arrested, and detained the official in prison until May 2021, when conditional release was granted while awaiting trial; the case remained pending at the end of the reporting period. Observers alleged trafficking networks included officials handling passport and travel documents at the Commissary General of Migration, a division of the Ministry of Interior. […]

[647] US Department of State, *2021 Trafficking in Persons Report: Burundi*, 1 July 2021

Observers reported many arrests were not elevated to prosecution because of insufficient evidence, corruption, and interference of high-ranking officials.[648]

VII. Treatment of Individuals of Diverse Sexual Orientations or Gender Identities

a. By the state

According to the East Africa Trans Health & Advocacy Network (EATHAN), "Burundi through Article 567 of the 2009 revised and amended penal code, criminalises adult same sex sexual activity for both men and women with a penalty of up to 2 years' maximum imprisonment and a stipulated fine".[649] Specifically, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) highlighted that "Article 567 of Section 5 states that "anyone who has sex with a person of the same sex" is liable to a fine of 50 000 to 100 000 Francs, or a prison sentence of 3 months to 2 years".[650] Moreover, ILGA reports that "Article 564 of the Penal Code (2009) prohibits the exhibition, sale, or distribution of songs, pamphlets, writings, images, emblems, or other materials 'contrary to good morals'. Furthermore, anyone who has sings, reads, recites, or utters obscenities in meetings or public places in front of several people is punished with a fine. This provision is included in the same chapter as the provisions criminalising sexual acts with beasts and people of the same sex".[651]

ILGA noted in its 2021 global overview on the enforcement of laws criminalizing consensual same-sex sexual acts that "Owing to its small size and the relative prominence of its neighbours, Burundi has not garnered much international attention in recent years, leading to a dearth in verifiable, accessible sources in the course of researching this report. That should not be taken, however, to mean there is not a significant issue around criminal enforcement in the country, with ILGA World identifying at least 12 cases between 2009 and 2021".[652] In 2017 "authorities reportedly announced a 'hunt' for individuals with diverse sexual orientations and gender identities. Local organisations have decried the fact that in many cases police officers will offer the possibility of release upon payment of an unspecified 'fine' which is oftentimes unrecorded. Hundreds, or even thousands, of these instances fly under the radar of

[648] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 19 July 2022
[649] East Africa Trans Health & Advocacy Network (EATHAN), *Legal Gender Recognition & Access to Trans-Affirming Healthcare in East Africa*, 1 November 2021, *2.2. Country Context, p. 12*
[650] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State-Sponsored Homophobia 2020: Global Legislation Overview Update*, December 2020, *Consensual same-sex sexual acts between adults in private: Illegal, Africa, p. 114*
[651] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State-Sponsored Homophobia 2020: Global Legislation Overview Update*, December 2020, *Legal barriers to freedom of expression on sexual and gender diversity issues, Africa, p. 148*
[652] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *Our Identities Under Arrest, A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions*, December 2021, *Africa, Burundi, p. 53*

this and other reports. Additionally, mistreatment and poor detention conditions are reported to be common situations".[653]

The U.S. Department of State in its annual report covering 2021 reported that "There were reports that government agents incited, condoned, and tolerated violence against LGBTQI+ persons".[654] In particular, "There were reports that members of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community were threatened, beaten, and arrested by local administrators and other citizens with the support of security forces".[655]

Intersex, Transgender, and Gender Non-Conforming

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) noted in its 2021 global overview on the enforcement of laws criminalizing consensual same-sex sexual acts that "Under Burundian law transgender and gender-diverse people are indirectly criminalised through a number of Penal Code provisions criminalising 'impersonation' and 'falsifying identity'. These can be found in Law No. 1/27 of 29 December 2017 concerning the revision of the Penal Code, Articles 366, 367, 368, 378, 379 and 380. Burundi also retains several provisions that are used to disproportionately target trans and gender-diverse individuals whose gender expressions do not align with their legal documents".[656] In its 2019 *Trans Legal mapping* Report, ILGA reported that:

> The criminalisation of adult consensual same-sex sex and conduct, public morality provisions, and impersonation and forgery laws that are aimed at preventing fraud, theft, embezzlement and other acts of deceit that may cause harm are used to subject transgender and gender diverse people to harassment, extorsion, arbitrary search, arrest and detention […]
> There have also been cases where transgender and gender diverse people who are facing violence or at risk of facing violence have been arbitrarily arrested and detained by the police on the basis that the police are attempting to protect the safety of the transgender and gender diverse person(s).[657]

The EATHAN report, published in November 2021 with research conducted in 2019 and 2020, further found that "State sponsored intolerance for sex and gender diverse persons fuels the levels of stigma

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[653] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *Our Identities Under Arrest, A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions*, December 2021, *Africa, Burundi, p. 53*

[654] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Acts of violence, criminalization, and other abuses based on sexual orientation and gender identity*

[655] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 1., C. Torture and other cruel, inhuman, or degrading treatment or punishment*

[656] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *Our Identities Under Arrest, A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions*, December 2021, *Africa, Burundi, p. 53*

[657] International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *Trans Legal Mapping Report 2019: Recognition before the law*, 2020, Africa, Burundi, p. 25

and discrimination of ITGNC [Intersex, Transgender, and Gender Non-Conforming] persons in Burundi with multiple reported cases of illegal arrests and detentions by law enforcement officers".[658]

b. By the family, wider community and society

The U.S. Department of State in its annual report covering 2021 reported that "Societal discrimination against LGBTQI+ persons was common".[659]

Access to health services

The U.S. Department of State in its annual report covering 2021 reported that "Some NGOs highlighted that stigma and discrimination against the LGBTQI+ and sex worker communities was disproportionately high" when it comes to HIV and Aids social stigma.[660]

Intersex, Transgender, and Gender Non-Conforming – Access to health services

The East Africa Trans Health & Advocacy Network reported in its November 2021 publication on legal gender recognition and access to trans-affirming healthcare, based on research collected in 2019 and 2020: "This [state sponsored intolerance] hostile context poses major challenges for ITGNC [Intersex, Transgender, and Gender Non-Conforming] persons to access health and legal services. This negative context has resulted in almost non-existent ITGNC specific health care with many ITGNC persons lacking access to general health care and other gender affirming care such as access to hormonal therapy and gender affirming surgery".[661] The same report further found that "58.1% of study participants reported to have been denied healthcare because of their gender identity, expression or sex characteristics. The highest numbers were seen in Burundi with 65% reporting to have been denied health care because of being ITGNC and 55% reporting to have had their bodies put on display by health care staff".[662]

c. Measures by the state to protect persons of the LGBTIQ+ community

The U.S. Department of State in its annual report covering 2021 reported that "LGBTQI+ persons refrained from reporting such incidents [acts of violence] to media or authorities because of stigma, a desire to protect their identities, and concern regarding prosecution of consensual same-sex sexual

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[658] East Africa Trans Health & Advocacy Network (EATHAN), *Legal Gender Recognition & Access to Trans-Affirming Healthcare in East Africa*, 1 November 2021, *2.2. Country Context, p. 12*

[659] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Acts of violence, criminalization, and other abuses based on sexual orientation and gender identity*

[660] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., HIV and Aids Social Stigma*

[661] East Africa Trans Health & Advocacy Network (EATHAN), *Legal Gender Recognition & Access to Trans-Affirming Healthcare in East Africa*, 1 November 2021, *2.2. Country Context, p. 12*

[662] East Africa Trans Health & Advocacy Network (EATHAN), *Legal Gender Recognition & Access to Trans-Affirming Healthcare in East Africa*, 1 November 2021, *3.2.2 Emerging Themes, p. 27*

relations. There were no reports of official actions to investigate or punish those complicit in violence and abuses by state or nonstate actors".[663]

Intersex, Transgender, and Gender Non-Conforming

The East Africa Trans Health & Advocacy Network reported in its November 2021 publication on legal gender recognition and access to trans-affirming healthcare, based on research collected in 2019 and 2020: "Safety and security is a major issue that affects the ITGNC [Intersex, Transgender, and Gender Non-Conforming] community in Burundi".[664]

VIII. Treatment of Persons Living with Disabilities

The U.S. Department of State in its annual report covering 2021 reported that "There were no reports of violence, harassment, intimidation, and abuses against persons with disabilities", without specifying whether the report was referring to state or non-state agents.[665]

a. By the state

The U.S. Department of State in its annual report covering 2021 reported that "Persons with disabilities could not access education, health services, public buildings, and transportation on an equal basis with others. No legislation mandates access to buildings, information, or government services for persons with disabilities".[666] The same report further noted that "The constitution prohibits discrimination against persons with disabilities, but the government did not promote or protect their rights. Although persons with disabilities are eligible for free health care through social programs targeting vulnerable groups, authorities did not widely publicize or provide benefits".[667]

b. By the family, wider community and society

The U.S. Department of State in its annual report covering 2021 noted that "Persons with disabilities faced discrimination in hiring and access to the workplace".[668]

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[663] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Acts of violence, criminalization, and other abuses based on sexual orientation and gender identity*
[664] East Africa Trans Health & Advocacy Network (EATHAN), *Legal Gender Recognition & Access to Trans-Affirming Healthcare in East Africa*, 1 November 2021, *4. Key Observations From The Field, p. 40*
[665] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Persons with disabilities*
[666] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Persons with disabilities*
[667] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Persons with disabilities*
[668] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 7., D. Discrimination with respect to employment and occupation*

IX. Treatment of persons with albinism

The U.S. Department of State in its annual report covering 2021 provided the following overview:

> Criminals sometimes killed persons with albinism, particularly children, to use their body parts for ritual purposes. According to the Association of Albinos without Borders chairperson, society did not accept persons with albinism, and they were often unemployed and isolated. He added that children with albinism failed in school primarily due to harassment, uncorrected vision problems, and lack of support from the education sector. Women with albinism often were "chased out by their families because they are considered as evil beings." The government took steps to improve integration of persons with albinism into society and sensitize communities to promote antidiscrimination efforts, including creation of socio-economic integration groups of persons with albinism that offered opportunities for loans and specialized health care […]
> Persons with albinism experienced discrimination in employment.[669]

X. Treatment of Ethnic Minorities

In its report on Burundi in August 2020, the UN Commission of Inquiry wrote that: "Particularly virulent messages of hatred and hostility towards political opponents of the CNDD-FDD party, sometimes with an ethnic dimension, circulated on social networks without eliciting the authorities' condemnation or rebuke".[670]

The U.S. Department of State in its annual report covering 2021 reported that "There were no reports that police or other government officials incited, perpetuated, condoned, or tolerated violence or discrimination based on ethnicity".[671] However, the same report also mentioned with regards to workers rights that "Members of the Twa ethnic minority, who in many cases lacked official documentation, were often excluded from opportunities in the formal economy".[672]

In July 2021, the Canadian Immigration and Refugee Board's Research Directorate found on the situation of Tutsi, based on a number of telephone interviews conducted during the summer of 2021:

> In a telephone interview with the Research Directorate, an associate professor at the University of Ottawa whose research focuses on governance and contentious politics in the Great Lakes region stated that ethnicity is "one of the divides [in Burundi] and it does get instrumentalized," but it is not the only or "biggest" divide; rather, political tensions are currently [as of July 2021] "more dominant" and for

[669] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Other societal violence or discrimination* and *Section 7., D. Discrimination with respect to employment and occupation*
[670] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, 13 August 2020, *p. 8*
[671] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 6., Systemic racial or ethnic violence and discrimination*
[672] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 7., D. Discrimination with respect to employment and occupation*

> ordinary Burundians tensions are not centred around only ethnicity but also socio-economic status and issues of access (Associate Professor 6 July 2021). In correspondence with the Research Directorate, a PhD fellow at the Institute of Development Policy (IOB) at the University of Antwerp who conducts research on the development process in Burundi, speaking on their own behalf, stated that "the political nature of discrimination has become more clear in recent years" and targets both Hutu and Tutsi "in positions of (economic) power" (PhD fellow 13 July 2021). In correspondence with the Research Directorate, a researcher at the IOB at the University of Antwerp with expertise on human rights, peacebuilding, and governance in Burundi, speaking on their own behalf, stated there is "repression," which is "more and more" along political lines and less along ethnic lines (Researcher 19 July 2021).[673]

During the 48th session of the Human Rights Council, the Commission of Inquiry on Burundi reported in September 2021 that "from June 2021, we noted an increase in violations, mainly in the context of the fight against armed groups allegedly responsible for attacks perpetrated throughout the country since August 2020". [674] According to the Commission, it "was not able to establish, on a case-by-case basis, whether the authorities' suspicions with regards to their involvement in the attacks were founded on objective evidence or only based on their political affiliation or ethnic profile, thus constituting repression against political opponents".[675]

In July 2022 CIVICUS interviewed Severin Sindizera, Global Coordinator of the Indigenous Peoples Global Forum for Sustainable Development (IPGFforSD) [a "civil society organisation (CSO) that advocates for the rights of Indigenous peoples in Burundi and monitors the implementation of the Sustainable Development Gaols (SDGs) in relation to Indigenous peoples at the national and international levels"[676]], who highlighted with regards to the Batwa people:

> The Batwa Indigenous people represent approximately two per cent of Burundi's population. The context is disheartening because most of our rights are not recognised. Most Batwa people live in extreme poverty and are marginalised and discriminated against. They are often excluded from access to basic resources such as public services, education, land and healthcare […]
>
> The Batwa people are not exempt from this, as our land rights are not recognised in Burundi. We need land to survive – to build our houses, grow our crops, graze our animals and preserve our culture.
>
> Batwa people are not well represented in decision-making processes, which explains why development strategies rarely cater to us and our needs. We have been excluded from the economic, social, political and cultural development of our country […]
>
> Batwa people in Burundi do not have access to education, healthcare and proper legal services. Many people have suffered and died due to being denied access to healthcare facilities in their communities. When we try to get legal help to hold accountable those responsible for negligence in healthcare centres, we do not qualify to receive it […]

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[673] Immigration and Refugee Board of Canada, *Burundi: Situation of Tutsi, including the Tutsi elite; impact of COVID-19; treatment by society and by the authorities; state protection (2019–July 2021), Research Directorate, Immigration and Refugee Board of Canada*, 30 July 2021

[674] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 23 September 2021

[675] UN Human Rights Council, *Oral briefing of the Commission of Inquiry on Burundi*, 23 September 2021

[676] CIVICUS, BURUNDI: *'Our right to be recognised and represented as an Indigenous community is being violated'*, 12 July 2022

> Batwa people are disproportionately affected by arbitrary arrests and rights violations, as well as by land grabbing from the government and international stakeholders.[677]

XI. Treatment of Returnees

a. Stigmatisation and Discrimination

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, V. Human Rights Situation, especially *V.a.3. Treatment of Persons Critical of the Government* and its sub-headings, and *V.a.iii. Treatment of persons participating in protests and anyone perceived as opponent to the government, including those perceived as supporting armed groups*.

In an article in the New Humanitarian in May 2020, it was stated that:

> The government has also long denied that there is a political crisis, repeatedly declaring the country safe to hundreds of thousands of Burundians still living in exile in neighbouring countries and making periodic threats of forced repatriation.
> Most of those who fled in 2015 have remained in exile, however, and those who have returned often face harassment from the ruling party's youth wing – the Imbonerakure – who consider them traitors or associate them with the opposition, according to refugee rights groups.
> "The apparent reluctance of many Burundian refugees in Tanzania to sign up for 'voluntary repatriation' speaks to their concerns about the uncertainty in the lead-up to elections – uncertainty that is no doubt accentuated by the potential spread of COVID-19," said Jeremy Taylor, an East Africa analyst for the Norwegian Refugee Council.[678]

In another article in the New Humanitarian in May 2020, it was stated that:

> Refugee rights groups say the Imbonerakure regularly harass returned refugees, who they consider traitors or accuse of associating with opposition groups. Expecting fresh violence, recent arrivals often choose to live in provinces close to the border rather than their home villages.[679]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council, and published in August 2020, it was noted that:

> Some returnees have continued to face hostility from local officials and the Imbonerakure, who have intimidated and threatened them and have stolen their return kits. Returnees have sometimes been victims of serious violations that have forced them to go back into exile.[680]

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[677] CIVICUS, BURUNDI: *'Our right to be recognised and represented as an Indigenous community is being violated'*, 12 July 2022
[678] The New Humanitarian, *Coronavirus response takes backseat as election looms in Burundi*, 13 May 2020
[679] The New Humanitarian, *Five years after a bloody crackdown, a new vote stirs violence in Burundi*, 19 May 2020
[680] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi*, ** (A/HRC/45/32)*, 13 August 2020, *para. 60*

In November 2020, the Office of the Commissioner General for Refugees and Stateless Persons published a report on the security situation in Burundi in French. Using an online translation tool, Onlinedoctranslator.com, the following text was translated from French into English:

> […] several returned refugees reported having been perceived as profiteers, disloyalties and opponents. They were subject to closer surveillance by the Imbonerakure, who intimidated and extorted them. Suspicion towards them, and towards anyone coming from abroad, has increased in the run-up to the elections, especially in rural areas.[681]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council in September 2021, it was stated that:

> […] 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. […][682]

In both annual reports covering political rights and civil liberties in 2020[683] and 2021[684], Freedom House noted that returning refugees had been violently targeted by the CNDD-FDD apparatus on suspicion of having opposition sympathies.

In a February 2022 Bertelsmann Stiftung report, it was stated that:

> Government measures to accommodate refugees from 2015 in the country are supposedly flawed, as former civil society and opposition party members apparently experience discrimination. The fact that relatively few refugees have returned is another hint that the government agenda does not prioritize reconciliation.[685]

Amnesty International's annual report on the human rights situation covering 2021, and published in March 2022, stated that: "Some returning refugees faced intimidation."[686]

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[681] Office of the Commissioner General for Refugees and Stateless Persons, *Burundi; Situation securitaire*, 19 November 2020, *p.39* [[…]plusieurs réfugiés retournés ont signalé avoir été perçus comme des profiteurs, des déloyaux, des opposants. Ils ont fait l'objet d'une surveillance plus étroite de la part des Imbonerakure, qui les ont intimidés et rackettés. La suspicion à leur égard et à l'égard de toute personne venant de l'étranger, a augmenté à l'approche des élections, en particulier dans les zones rurales.]

[682] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *para. 44*

[683] Freedom House, *Freedom in the World 2021 – Burundi*, 3 March 2021, *B4*

[684] Freedom House, *Freedom in the World 2022 – Burundi*, 24 February 2022, *B4*

[685] Bertelsmann Stiftung, *BTI 2022 Country Report Burundi*, 23 February 2022

[686] Amnesty International, *Amnesty International Report 2021/22; The State of the World's Human Rights; Burundi 2021*, 29 March 2022

b. Arbitrary Arrest, Detention and Forced Disappearances

Additional relevant information can be found under sections I. Background Information, especially *I.c.iii.1.c. Imbonerakure*, V. Human Rights Situation, especially *V.d. Arbitrary Arrest and Detention* and its sub-headings on Prison and Detention Conditions.

In its annual World Report published in January 2021, Human Rights Watch stated that:

> Human Rights Watch received credible reports alleging that Tanzanian police arbitrarily arrested and forcibly disappeared Burundian refugees in Tanzania, some of whom were forcibly returned to Burundi.[687]

In its annual report on human rights practices, published in March 2021 and covering the events of 2020, the US Department of State noted that "[d]isappearances of persons returning from exile were […] reported. There were no reports of efforts to prevent, investigate, or punish such acts".[688] The same report also noted that:

> There were credible reports that the government attempted to use international law enforcement tools for politically motivated reprisals against specific individuals located outside of the country. Human Rights Watch reported that authorities collaborated with Tanzanian officials to arrest, torture, forcibly repatriate, and detain without charges refugees and asylum seekers residing in Tanzania for allegedly "attempting to destabilize the country".[689]

The US Department of State noted in its annual report on human rights practices in 2021, published April 2022, that:

> In 2020 Human Rights Watch and UN experts reported that authorities collaborated with Tanzanian officials to arrest, torture, forcibly repatriate, and detain without charges refugees and asylum seekers residing in Tanzania for allegedly "attempting to destabilize the country." Some of those detained in 2020 remained detained in Burundi in the early part of the year before being released.[690]

Freedom House also reported on Burundi in its February 2022 Freedom in the World report, covering 2021, that "The CNDD-FDD [National Council for the Defense of Democracy–Forces for the Defense of Democracy] apparatus has violently targeted returning refugees on suspicion of opposition sympathies".[691]

In an oral briefing of the Commission of Inquiry on Burundi to the UN Human Rights Council, in September 2020, it was stated that:

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[687] Human Rights Watch, *World Report 2021 – Burundi*, 13 January 2021

[688] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021, *section 1b*
[689] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021, *section 1e*
[690] US Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *section 1e*
[691] Freedom House, *Freedom in the World 2022: Burundi*, 24 February 2022

> […] on 13 August 2020, 13 persons, including 3 policemen, 2 local administration officials, 1 CNDD-FDD official and 7 Imbonerakure, were sentenced to prison terms varying from 5 to 10 years for having extorted and even assassinated Burundian agricultural workers who were returning from Tanzania.[692]

A summary of a report by the International Refugee Rights Initiative (IRRI) on the dynamics generated by the return of Burundian refugees, and IDPs, published in September 2020 noted that:

> […] in many cases, returnees were perceived by the authorities as being linked to the main opposition party, CNL, and were intimidated and harassed by the «Imbonerakure», youth wing of the ruling CNDD-FDD, often with the complicity of the local authorities. This constituted the major source of human rights violations at the local level, reflected by torture, arbitrary arrests, denial of the freedom of expression and association, long term detention and/or imprisonment on framed charges, among others. To make it worse, there were allegations of disappearances and summary executions. In that kind of situation, new departures into exile were not uncommon.[693]

In March 2021, Human Rights Watch stated:

> Burundian authorities should drop baseless charges and release eight former Burundian refugees who were forcibly returned from Tanzania in August 2020. On February 26, 2021, the Muha High Court in Bujumbura ruled against their provisional release, even though the prosecution produced no evidence to justify their continued detention and their right to due process has repeatedly been violated. […]
> The eight men – Anaclet Nkunzimana, Felix Cimpaye, Radjabu Ndizeye, Revocatus Ndayishimiye, Saidi Rwasa, Emmanuel Nizigama, Didier Bizimana, and Ezéchiel Stéphane Niyoyandemye – were arrested in Mtendeli and Nduta refugee camps in Tanzania between late July and early August 2020. Tanzanian authorities detained them incommunicado for several weeks at Kibondo police station, where they were tortured.
> The refugees said that during their time at Kibondo police station, Tanzanian national intelligence and police abused them and asked for one million Tanzanian shillings (US$430) to free them. Unable to pay, the refugees were taken by the security forces to the Burundian border with their hands tied and their faces covered. Four are currently in Bubanza prison and four in Muramvya prison. […]
> A first pretrial hearing in their case was held on February 24, 2021, six months after their files were transferred to the high court on September 7. Burundi's code of criminal procedure gives the court two weeks to organize the hearing after it receives the file. Prison authorities only informed the detainees late on February 23 that their cases would be heard the next morning. […]
> During the hearing, one of the three judges said that the case was "political" in nature and the prosecution provided no evidence to support its charges of "participation in armed groups" and "threat to the national territorial integrity." A source present said the prosecution failed to mention the first charge at all during the hearing. The prosecution accused the former refugees of discouraging fellow refugees in

[692] UN Human Rights Council, *Human Rights Council Forty fifth session Interactive Dialogue on Burundi*, 23 September 2020
[693] IRRI, *Summary of the research on the dynamics of refugee and IDP returns and reintegration in Burundi*, 6 December 2020

> Tanzania from returning to Burundi to support the charge of threatening “national territorial integrity,” even though the refugees’ decisions to return to Burundi have no bearing on this issue. […][694]

In April 2021, UN experts reported that Burundian refugees in Tanzania have been subject to arbitrary arrests and enforced disappearances in coordinated efforts by the Tanzanian police and intelligence and the Burundian intelligence services:

> Arbitrary arrests and enforced disappearances have allegedly been carried out by the Tanzanian police and intelligence services in cooperation with the Burundian intelligence services, the experts said.
> "In addition to the strict encampment policy imposed on them by the Government of Tanzania, Burundian refugees and asylum-seekers now live in fear of being abducted in the middle of the night by Tanzanian security forces and taken to an unknown location or being forcefully returned to Burundi," the experts said.
> Burundian political opponents have allegedly been tracked among the refugee and asylum-seeking population in Tanzania. The security situation in the camps seems to be extremely compromised amid reports that Burundian intelligence agents posing as refugees within the camps are identifying specific individuals who are later arrested by Tanzanian security forces. […]
> Refugees have confirmed being taken by Tanzanian police, subjected to enforced disappearance and torture before being refouled or coerced into signing for 'voluntary return'. Some have been interrogated about their presumed affiliation with armed groups and possession of weapons, about their activities in the camps, and in some cases were asked for money in order to be released.
> "We are extremely alarmed by reports that some Burundian refugees have been killed after having been abducted by Tanzanian security forces," the experts added.
> Growing anxiety over safety has driven many to return to Burundi out of fear rather than a genuine willingness to return to their country of origin.
> "It is extremely discouraging that since the Government announced in August 2020 that an investigation into the disappearances was underway no results have been made public yet," the experts said. "The Government of Tanzania is aware of the situation and must take all necessary measures to immediately stop and remedy the violations.[695]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council in September 2021, the Commission stated that returnees had been subject to arbitrary arrest, detention, and torture:

> 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

[694] Human Rights Watch, *Burundi: Free Forcibly Returned Refugees*, 8 March 2021
[695] UN Office of the High Commissioner for Human Rights, *UN experts deplore rights violations against Burundi refugees*, 13 April 2021

> 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.[696]

A press release by the UN Human Rights Council in September 2021, summarized that returnees were among those targeted by security forces who were seeking people involved in armed attacks since August 2020:

> […] many serious human rights violations have happened in the context of multiple armed attacks committed since August 2020. While seeking persons allegedly involved in the armed attacks or collaborating with rebel groups, the security forces targeted mainly members from the main opposition party, the National Congress for Liberty (CNL), former members of the Tutsi-dominated Burundian Armed Forces (ex-FAB), returnees and some of their family members. Some were executed, others disappeared or were tortured while detained arbitrarily.

A report was published in February 2022 by the Office of the Commissioner General for Refugees and Stateless Persons (Belgium), addressing the specific situation of Burundian returnees who had returned from or passed through Belgium on the journey back to Burundi. The report found no reported instances of problems experienced by Burundian returnees coming from Belgium, however, interviewees pointed to problems faced by returnees coming from other locations, including Beatrice Nyamoya, an activist who was arrested at the airport on return from Rwanda.[697]

c. Reintegration and Humanitarian Situation of Returnees

An August 2020 report by Amnesty International noted that: "Refugees returning to Burundi have faced difficulties reintegrating and receiving sufficient support."[698]

A summary of a report by the International Refugee Rights Initiative (IRRI) on the dynamics generated by the return of Burundian refugees, and IDPs, published in September 2020 noted that:

> Assistance by UNHCR, the local administrative authorities and other stakeholders focused on the distribution of food and household items, as well as local resettlement and house reconstruction. Although this assistance was insufficient, it did generate jealousy and a sense of injustice among vulnerable groups in the community such as spontaneous returnees, host families and IDPs. There was widespread perception among the population that a link existed between humanitarian assistance and affiliation and loyalty to the ruling CNDD-FDD party but authorities at the grassroots level have firmly refuted this criticism
>
> Furthermore, in many cases, returnees were perceived by the authorities as being linked to the main opposition party, CNL, and were intimidated and harassed by the «Imbonerakure», youth wing of the

[696] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *para. 42*

[697] Office of the Commissioner General for Refugees and Stateless Persons, *Burundi; Le traitement réservé par les autorités nationalesà leursressortissants de retour dans le pays*, 28 February 2022

[698] Amnesty International, *BURUNDI: HUMAN RIGHTS PRIORITIES FOR NEW GOVERNMENT*, 11 August 2020

> ruling CNDD-FDD, often with the complicity of the local authorities. This constituted the major source of human rights violations at the local level, reflected by torture, arbitrary arrests, denial of the freedom of expression and association, long term detention and/or imprisonment on framed charges, among others. To make it worse, there were allegations of disappearances and summary executions. In that kind of situation, new departures into exile were not uncommon. Nevertheless, the research revealed that in some places, thanks mainly to the firmness of senior administrative officials, there was cohabitation, collaboration and joint working between the two main rival political parties in community activities, thus contributing to sustainable peace and security in those areas. Peace and security were some of the major determinants influencing refugees' decision to return home.[699]

In a funding appeal published in November 2020, the International Organization for Migration noted that:

> Social tensions have been observed in Ruyigi, Makamba, Kirundo, Rutana, Muyinga and Cankuzo, primarily related to a scarcity of resources (land for agriculture, food, shelter), unlawful occupations, gender-based violence (GBV), banditry and/or homes being destroyed by natural disasters. Indeed, the influx of returnees and displaced persons has had a major impact on already vulnerable local communities, creating tensions that have led to several incidents. Local authorities face difficulties in ensuring land access rights for registered returnees upon their arrival, due to a lack of available land and institutional capacity to sensitize the population on land regulation. Supplementary support is needed to ensure that returnees have adequate and safe shelter and are sustainably reintegrated, without creating undue strain on already fragile host communities.[700]

In its February 2022 annual report on political rights and civil liberties in 2021, Freedom House stated that:

> Land conflict has been an explosive issue in Burundi for decades, which was exacerbated by the return of displaced populations after the end of the civil war in 2005. Many returnees found new owners occupying their land, and the courts have often failed to fairly adjudicate land disputes. Some refugees who fled in 2015 reportedly returned to find their land occupied.[701]

In April 2022, the US Department of State published its annual report on human rights practices in 2021 in Burundi, and noted the following:

> Property Seizure and Restitution
> There were reports that, following the 2015 crisis, government officials and private citizens seized some of the land that was owned or legally occupied by citizens who fled into neighboring countries, which complicated the reintegration of some of those who returned during the year. Some returnees also found that their houses were destroyed, either due to natural conditions or to intentional property destruction.

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[699] IRRI, *Summary of the research on the dynamics of refugee and IDP returns and reintegration in Burundi*, 6 December 2020
[700] International Organization for Migration, *Voluntary Repatriation and Reintegration of Burundian Refugees Plan 2020*, 6 November 2020
[701] Freedom House, *Annual report on political rights and civil liberties in 2021*, 24 February 2022, *G2*

> In general, however, government officials prevented others from occupying lands belonging to refugees.[702]

Similar had already been reported in the annual report covering the year 2020.[703]

The UNDP and UNHCR noted in their Joint Refugee Return and Reintegration plan published in February 2021 that it was revealed through the UNHCR's protection monitoring system that by November 2020, a third of returnees going back to rural communities were not found in their respective areas of return and had presumably moved onward:

> UNHCR undertakes regular returnee protection monitoring since 2019[…]. Since January 2020, the protection monitoring system has revealed an increase in the number of returnees not found in the return areas during the monitoring exercises. By November 2020 an estimated 33 per cent (4698 households) of those refugees returning to rural communities have not been found at their respective return areas and have presumably moved onward[…]. This is a substantial increase as compared to the percentage of returnees not found in 2019 (9%). The increase is likely to have been caused by a combination of factors ranging from difficulties in accessing socio-economic opportunities, including lack of livelihoods, shelter or land upon and after return, access to schools and health services, or security concerns, including local conflicts, but also harassment, persecution and discrimination by local communities or others.[704]

The same report further highlighted:

> […] refugee returnees are among the most vulnerable segments of the population and the areas they are returning to in substantial numbers, such as Makamba, Kirundo and Ruyigi, are among the poorest and chronically food and nutrition insecure provinces of Burundi. These provinces are also affected by the socio-economic impact of COVID-19. Against this backdrop, the socio-economic re-integration of up to 400,000 Burundian refugees expected to return over the next few years cannot be sustained without significant development assistance.[…]
>
> Refugee returns and, at times, secondary displacements are exerting additional pressure in the already extremely vulnerable and fragile Burundian communities. Most refugees have returned to the provinces of Makamba, Kirundo and Ruyigi, provinces which lack the required social and economic infrastructure for a sustainable reintegration of refugee returnees. These are also the provinces with the highest number of internally displaced persons (IDPs) and victims of natural disasters (HRP 2020) facing persistent food insecurity. The challenges faced in the areas of highest return include:
>
> • Funding shortages for humanitarian interventions and development support;
>
> • Concerns in connection with the fragile socio-political environment, inter-ethnic dynamics and localized violence;
>
> • Protection concerns and needs in-transit from asylum countries;
>
> • Specific needs of returnee women and children;

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[702] US Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, section 1e
[703] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021**,** *section 1e*
[704] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.12*

• Difficulties in tracking refugee returnees' locations to determine their protection and material assistance needs;
Inadequate income generation schemes to enable rural populations to diversify their livelihoods and strengthen household resilience;
• Inefficient or negative coping mechanisms in the face of food insecurity;
• Scarcity of land, compounded by lack of compensation measures for expropriated families' properties, and consequent soil depletion;
• Challenges [sic] related to strengthening and upgrading education and health systems and WASH as primary basic services to ensure that returns are sustainable;
• Complications related to implementing a nuanced approach for inclusion of returnees within local and national systems; and
• Risk of onward movements or further displacement if basic services and protection are not in place in the return areas.[705]

According to the same report, nearly a third of returnees were unsatisfied with their level of reintegration and noted the following challenges:

• Insufficient access to shelter: at 36% of returnees could access housing upon arrival; 63% of returnees reported to live in temporary homes upon arrival; 50% of returnees have access to their old homes 3 months after return.
• Insufficient daily nutritional intake: 56% of returnees report consuming only one meal per day. Almost all returnee households rely on food obtained from their own gardens (93%) and/or fields - households struggle to get food during the period they do not produce. 81% of households declared that they are not satisfied with their level of food security because of the low dietary diversity.
• Lack of access to livelihoods: 88% of returnee heads of households are subsistence farmers, but most of them declared not having the adequate resources to produce their land
• Lack of school attendance: 52% of returnee children do not attend school.
• Lack of access to administrative and national documentation procedures: only 46% of children reported having a birth certificate; 72% of returnee households reported that household members have a national identification card.[706]

The same report noted that according to UNHCR's monitoring activities, the current support package was not sufficient to support returnees' reintegration:

Based on findings from UNHCR's protection monitoring activities, the return package is not sufficient to support returnees' reintegration, and the community-based protection structures and public support services require reinforcement. Urgent protection needs persist upon return and the response to them should be oriented towards the identification of durable solutions right from the start. At the same time, host communities need to be supported in their resilience building efforts, in order to effectively ensure social cohesion. The deterioration of living conditions as well as family separation (also due to secondary displacement) expose the most vulnerable individuals - including women at risk, children and youth,

[705] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.6, 7, 8*
[706] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.12*

> persons with disabilities and persons with other specific needs - to additional protection risks, such as survival sex, forced labor, trafficking and harmful coping mechanisms.
> The most pressing protection needs include access to administrative documentation, including birth registration for children; medical care and psycho-social, legal and material assistance to survivors/witnesses of violence, abuse and exploitation; and access to diversified income generating activities, particularly for women and youth. For women at high risk of violence, as well as GBV survivors living in Burundi, safe housing is a critical gap due to the absence of national or communal safe havens to guarantee the physical integrity and provide mental health support interventions for these women. As of November 2020, the most affected provinces, according to Protection Monitoring, which considered different indicators, such as access to basic services, against the current response capacity, are: Kirundo, Ruyigi, Muyinga and Gitega. Cankuzo, Makamba and Rutana proinces [sic] were found to present a medium level of vulnerability, with challenges also due to their geographical location at the border with DRC, Rwanda and Tanzania.[707]

According to the same report by the UNDP and UNHCR, returnee children experience particular barriers in accessing civil documentation and birth registration, which hampers their access to basic services:

> The protection assessments also demonstrated a high rate of returnee children out of school during 2020. This situation has led a large number of children and adolescents to leave their homes and start working, which puts them at an increased risk of sexual exploitation, abuse and trafficking. Unaccompanied and separated children (UASC): 2,755 UASCs have been identified among the returnees who require special attention, including family tracing, reunification or alternative care arrangement for children whose families have not been identified.
> Civil documentation, in particular birth certificates: The absence of civil affairs structures at transit centres, with the capacity to provide identification documents immediately upon return, remains a gap that is hampering children's access to basic social services, including access to health and education (52 per cent of returnee children do not have access to schooling).
> 54 per cent of returnee households report their children not having any birth certificates. Most refugee returnee children hold a notification of birth issued by health partners in Tanzania. This birth notification does not have the same legal standing as a birth certificate under either Tanzanian or Burundian law. The absence of a recognized birth certificate may create risks of statelessness, particularly when returnee children are born out of wedlock or to parents of different nationalities.[708]

The same report highlighted concerns among some returnees that the security situation had not improved since their flight, and that local communities held prejudices against returnees:

> 22 per cent of the returnees interviewed at the return areas upon arrival indicated that they felt that the security situation in the country had not improved since their flight. Secondary sources of the protection monitoring methodology revealed stereotypes and prejudices by local communities against returnees, affecting social cohesion and returnees' access to rights and/or services, and at times leading to discrimination and harassment towards returnees. The situation is compounded by the COVID-19

[707] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.13*
[708] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.13 - 14*

pandemic and the erroneous perception of returnees' being "virus carriers". Meanwhile, whereas the local authorities/administration are making efforts to tackle these challenges, they are not always sufficiently equipped to promote awareness and openness to inclusion and diversity.
Returnees need to be included in more active and regular community dialogues and joint community activities and events to ensure peaceful coexistence and social cohesion; in the meantime, awareness raising campaigns on human rights and on their rights to access public services are strongly needed.[709]

The same report by the UNDP and UNHCR, noted the vulnerabilities experienced by returnee women, including gender-based violence and abandonment by their legal husbands upon return to Burundi:

Intimate partner violence continues to be a risk for for returning refugee women and girls, who often lack effective community support mechanisms and awareness of the legal procedures available to address these risks. Poor socio-economic situations expose returning refugee women and girls to increased risks of sexual abuse and exploitation. In parallel, access to regular GBV services can be a challenge for survivors due to lack of awareness of the mechanisms available to support survivors and combat sexual violence. Underreporting, linked to social stigma and/or lack of access to survivor care services, means that limited reliable information is available on sexual and gender-based violence trends and patterns in the areas of return. Nevertheless, given the very precarious socio-economic conditions in return areas and evident protection challenges, risks of GBV exposure for women and girls must be mitigated. Between January and June 2020, 214 SGBV cases were identified by protection mechanisms implemented at the Voluntary Repatriation Transit Centres and by the protection monitoring system in place at the return areas. Those cases were immediately referred/responded to through the established case management systems and local referral pathways.
The lack of a standardized GBV case management system, which would guarantee a safe and ethically sound collection of information, as well as the confidential management of the collected data, poses difficulties to capturing reliable information on survivors' legal access to law enforcement agencies. Past evaluations have indicated that women and girls may not feel comfortable or safe in some public spaces. At the same time, rape was mentioned during 2019 focus group discussions by a number of female participants as a primary source of fear. In addition, there have been reports of cases of sexual exploitation and abuse as well as intimidation of survivors by perpetrators of sexual violence, including through threats of retaliation.
On the same note, the analysis of the responses given by the interviewees reveals a high trend of domestic violence (sexual violence, as well as other types of violence linked to domestic abuse etc.) with a significant increase in cases in the context of movement restrictions imposed by the COVID-19 pandemic, which requires reinforced awareness sessions with the entire returnee community. Group discussions around certain themes related to child protection, gender equality and violence against women and girls must be intensified and specific training on safe identification and referrals should be delivered to social workers, humanitarian staff and members of the local community.
Women and girls have also indicated not being promptly and properly counseled at the clinics and health facilities on their rights and on how to submit a criminal complaint against perpetrators, which reflects a critical gap in awareness and knowledge of legal redress mechanisms. This needs to be urgently addressed to mitigate the protection risks to which these women and girls may be exposed.

[709] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.14*

> Moreover, returnee women reported that they are frequently abandoned by their legal husbands or the de- facto male partners upon return to Burundi. This scenario exposes returnee women to denial of resources, destitution and economic hardship, in addition to other protection risks.
> According to the protection assessments concluded by UNHCR, women often lose their marital status in the country of origin or in the country of asylum. Cases where a man and a woman lived together without a legal certificate, which is illegal in Burundi, were also identified. These scenarios can impede their formal reintegration and leave spouses and children without any income, emotional or economic support. There is a need to support the authorities in addressing such cases, by means of regularizing their marital status, with the primary objective of protecting vulnerable women and their families.[710]

The same report noted that returnees raised technical maintenance issues regarding access to a water supply, as well as protection risks faced by women and girls who had responsibility for procuring water for their household:

> Water access is available in almost the whole country: 93 per cent of households have access to water for domestic use. Nevertheless, returnees raised challenges relating to lack of technical maintenance of the water supply (such as the faucets, developed sources of water) and the climatic hazards mainly during the rainy season; the floods and violent currents of water destroy the structure of public water provision from the communal Poor sanitation in areas of return is also a significant challenge, especially in areas at higher risk of water borne diseases including cholera.
> Using a GBV mainstreaming perspective to identify potential protection risks experienced by the community, a focus group discussion carried out in 2019 indicated that women and girls who are responsible within their households to procure water, faced security risks while walking long distances. Sexual violence was named by most participants as a primary source of fear due to their exposure to opportunistic attacks while waiting in line to collect water at the communal taps. [711]

In terms of livelihoods, the same UNDP and UNHCR report noted:

> While the overall security situation remains relatively calm across Burundi, the socio-economic situation continued to deteriorate, compounded by the COVID-19 pandemic. Most of the State infrastructure within areas of return is inadequate to respond to the basic needs of the host population and the returnees.
> Therefore, meaningful activities to facilitate the returnees' reintegration, to strengthen the resilience of both the returnees and their host communities, as well as to support social cohesion is paramount to ensure the sustainability of return and reintegration.
> Refugee returnee households are often compelled to monetize their food rations to address unmet needs, such as shelter, and other expenses linked to health, education and day-to-day survival. A main gap is the need of agricultural inputs and training, such as high-quality seeds, restored soils, fertilizers, insecticides, pesticides, water, tools, irrigation systems and good practices learning, to resume agricultural activities and to start the production of food for families' consumption needs and for the market.

[710] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.15*
[711] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.18*

> The limited access to land weakens the returnee households' income generation. There is a need of diversifying sources of income for those households who are depending on subsistence agriculture productions for survival. A sound market analysis is required before launching income generation activities which constitute a sustainable means to a living. Taking into account that the provinces of return provide limited opportunities to engage in economic activities outside the agriculture sector, the needs focus on the lack of opportunity of provision of cash assistance and community based labour intensive programmes and/or cash-for work schemes, opportunities to establish IGAs, including through access infrastructures, renewable energy, financial resources, vocational training and skills development.
> Agricultural production remains extremely low due to different constraints and challanges [sic] including the progressive fragmentation [sic] of farms resulting from high demographic growth and vulnerability to climate change as agriculture is highly dependent on rainfall and on traditional farming methods with no or little investments. In 2020, the population suffered from an unfavourable rainfall, particularly in the northern and eastern provinces of the country, which are among the main areas of return. Heads of households have shown an eagerness to work to meet their level of food security; however, they lack the financial means to purchase tools, hire a farm labour, and make the necessary investments to face climatic hazards and infestations. The rural population should be prioritized for humanitarian assistance in the form of seeds and food during lean periods.[712]

According to the same UNDP and UNHCR report, access to shelter, housing, land and property was challenging for many returnees, negatively affecting their prospects of reintegration:

> The state of being landless with no tenancy rights reduces refugee returnees' reintegration prospects. According to protection monitoring data, 37.5 per cent of returnees do not have access to the homes they owned prior to exile and 26 per cent did not have any proper housing before fleeing the country. This means
> that 63 per cent of returnees do not have access to adequate housing upon return. A substantial number of the returnees live in shared houses with the local communities (21.5 per cent), which increases the risk of social conflict, as well as exposure to sexual and other types of violence and exploitation. Access to housing remains one of the main challenges preventing effective reintegration. Households that have access to land (82%) report not having enough resources to develop and live on this land (90 per cent of households declare agriculture is the main source of income).
> Protection monitoring in the predominant areas of return has shown that an overwhelming majority of refugee returnees found their property (land, housing etc.) either occupied, destroyed or no longer in a habitable condition. These reports have also shown that a large segment of the returnees was compelled to reside with family or friends upon their return in exchange for shelter or/ work. In 2020, 63 per cent of returnees reported living in temporary homes upon arrival. Most of the temporary shelters are observed to be in very poor condition (71 per cent), 27 per cent are in relatively good/medium conditions and only 2 per cent are categorised as being in good condition. In this context, returnees have neither the time nor the means to regain or farm their own land. Temporary shelters create additional protection risks as more roofing maintenance is required and returnees, often women and girls, walk long distances to find roofing materials to rehabilitate these structures, further adding to the risk of GBV.
> Returnees with specific protection needs (especially older persons and children) who are identified at reception and transferred to return areas face problems with regard to access to shelter, land for

[712] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.17-18*

> cultivation
> and livelihoods. Moreover, in the absence of a special national programme to assist older refugee returnees, they fall within the category of people most at risk of becoming homeless. UNHCR protection monitoring findings have revealed the existence of conflicts between “returnees” and “residents” over land expropriation or occupation. Such disputes are referred to the local authorities and the local courts systems in the return areas, and experience has shown that generally the authorities support returnees to regain their land. However, women still experience difficulties in the face of “customary law”, which discriminates against them by excluding them from family succession. In some cases, legal aid intervenes to decide in favor of the women, but most women indicated that they are now aware of their rights but do not know how to claim them.[713]

In terms of access to healthcare for returnees, the same report noted that:

> While most refugee returnees have reported access to health services, in some communes of return this access is constrained by a lack of medical personnel and long distances that returnees must travel in order to reach the nearest health centre. Access to health care services is rendered at a cost for returnees and the previous social safety net for the most economically impoverished households is no longer in existence.
> The Ministry of Health introduced the Medical Insurance Card (CAM), to allow all Burundian citizens without insurance to have access to health care. The card costs 5000 FBU (2.67 USD) and covers the card holder and his/her dependants [sic] under the age of 18. The card is supposed to give access to medical consultations and basic healthcare to returnees at public health institutions. However, the CAM does not provide comprehensive healthcare coverage to the medical needs of returnees, considering that health facilities are
> generally far from the areas of return. Many returnees do not have the financial means to buy the card. 92
> per cent of households among those that do not have access to health services, responded that the reason
> was lack of financial resources.[714]

The same report stated that monitoring had shown that the three-month returnee assistance package was insufficient, and noted that the presence of returnees in provinces already experiencing food insecurity put further strain on resources:

> In addition to the fragile political environment and related challenges, the economic context is marked by widespread poverty. The Burundian economy is agriculture-based, consisting mainly of subsistence agriculture. Food insecurity, especially in rural areas where returnees are hosted, is on the rise, with most children suffering malnutrition.
> WFP’s Post Distribution Monitoring, combined with UNHCR returnee monitoring, has shown that the assistance provided to each household, by way of three months rations as part of the refugee returnee kit,

[713] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.15 - 16*
[714] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.16 - 17*

> has proven to be insufficient. The rations are often shared with family and friends in communities of return,
> rapidly depleted and often do not last for the intended period of three months.
> 57 per cent of returnees reported that they consume only one meal per day, while 82 per cent of households declared that they are not satisfied with their level of food security because of the low dietary diversity.
> According to WFP, Burundi has the highest hunger score in the world and is the 9th food security crisis in the world. This is compounded by the fact that 50 per cent of the Burundian population are facing chronic food insecurity and need immediate assistance. The presence of returnees in provinces already affected by food insecurity puts additional pressure on available resources. Unless interventions are implemented to promote more sustainable livelihoods and ensure community cohesion, there is a likelihood of increasing tension between the returnee and resident communities. The shrinking economy, compounded by worsening unemployment of youth (65 per cent in 2020) and cuts in basic services are further affecting the self-reliance of the most vulnerable households in the six targeted provinces (Kirundo, Muyinga, Ruyigi, Makamba, Cankuzo and Rutana).[715]

In terms of education, the same UNDP and UNHCR report noted a high dropout rate among returnee children, with older children between 15 – 17 facing greater challenges in integrating into the national education system:

> The main risks are the high rate of school drop-outs; 52 per cent of returnee children do not attend school.
> Reintegration interventions such as establishment of clubs to enhance integration into local communities, support to attend school, or accelerated learning programmes particularly for children who have missed a substantial amount of schooling are very limited. In particular, those aged 15-17 years face greater challenges in integrating into the national education systems in formal high schools or institutions for vocational training, which often results in children abandoning their education and homes, and traveling to other regions or neighbouring countries in search of better opportunities.
> Lack of school supplies, compounded by insufficient classrooms, was highlighted as a major problem by refugee returnees in their areas of return. Returnee children reported that they found it particularly difficult to join in the middle of the academic school year, which starts in September. Returnee children often 1) have been out of school for long periods of time and return to Burundi after the academic year has commenced, 2) have insufficient French language skills to be reintegrated in the formal education system, and 3) are often required to contribute to the family's livelihoods and are therefore not enrolled or able to attend school.[716]

In its Protection Monitoring report on reintegration trends, published in May 2021 and covering the period July – December 2020, the UNHCR noted that:

> The results of the protection monitoring paint a varied picture on reintegration and access to services. On a positive note, in 2020, 79% of returnees reported having access to primary health care in return areas,

[715] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.17*
[716] UNDP, UNHCR, *Burundi: Refugee return and reintegration plan (January - December 2021)*, 15 February 2021, *p.16 - 17*

> 82% of returnee households reported having access to land and 95% of returnee households reported having access to drinking water. However, it is evident that urgent protection needs persist throughout the reintegration process, and despite local efforts to welcome and reintegrate former refugees, most areas of return do not have adequate capacity to meet the socio-economic needs of retunes and host communities.[717]

A lack of documentation and particular challenges in accessing birth registration were noted in the same UNHCR report:

> Among the most pressing protection needs affecting returnees identified during 2020 were lack of access to administrative and national documentation procedures. In average, 33.5 per cent of returnees in 2020 reported they did not have access to identification documents and 28% of returnees surveyed during the second and consecutive protection monitoring visits also declared not being in possession of IDs. Returnees reported it was especially difficult to obtain birth certificates for children (42 per cent of households reported that their children didn't have birth certificates upon arrival and 54 per cent of returnee households reported that their children did not have any birth certificates after return). Most refugee returnee children hold a notification of birth issued by health partners in Tanzania. This birth notification does not have the same legal standing as a birth certificate under either Tanzanian or Burundian law. Lack of resources and the limited presence of national authorities at the transit centres to provide national identification documents immediately upon return has a significant impact and this delayed response severely hampers access to basic social services including health and education. This exposes the returnee families to additional protection risks, including the risk of statelessness.[718]

The same report further notes challenges in accessing to justice and shelter upon return, lack of school attendance and unsatisfactory levels of food security:

> In addition, returnees identified access to justice, including legal advice and support from communal courts, as one of the major gaps. According to protection monitoring results in 2020, 24 per cent of returnees interviewed three months after return responded that there are no local legal courts in their return areas. Other most pressing protection needs affecting returnees identified include:
> 1) Access to shelter upon return: In 2020, only 36 per cent of returnees could access housing upon arrival, while 70 per cent of spontaneous returnees had access to Housing, Land and Property (HLP).
> 2) Lack of school attendance: In 2020, 52 per cent of returnee children were not attending school exacerbating children's exposure to neglect, exploitation and sexual and other forms of violence and abuse.
> 3) Food Security & Nutrition: 57 per cent of returnees reported that they consumed only one meal per day, while 82 per cent of households declared that they were not satisfied with their level of food security because of the low dietary diversity.[719]

The same authors reported on the difficulties faced by returnees in accessing food given that they did not have access to land:

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[717] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.6*
[718] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.7*
[719] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.7*

> The returnee population consists mainly of farmers, however agricultural production remains extremely low due to various constraints. Since the beginning of 2020, the population has been suffering from an unfavourable rainfall for agriculture, particularly in the northern and eastern provinces of the country. Despite the desire of the heads of households to work to achieve a sufficient level of food security, the lack of financial means to acquire the necessary tools and to hire a large workforce, climatic hazards and pests, make this difficult. The priority for this rural population would be assistance in seeds and foods during the lean period. The vulnerability and displacement-related poverty negatively impacts on integration in general.
> Most of returned households obtain food from their own gardens and / or fields. For this reason, households find enormous difficulties to get food if they have no access to land upon return or during the period they do not produce. Additionally, returned households need assistance in agricultural inputs and seeds to relaunch income generating activities and provide adequate subsidence to their families.[720]

The same report observed nutritional and healthcare challenges for returnees:

> In 2020, 58 per cent of household's report that they eat once per day, versus 41% who eat twice per day. Access to health care is difficult in the return provinces due to lack of infrastructure, staffing and resources. The Ministry of Health introduced the Medical Insurance Card (CAM), to allow all Burundian citizens without
> insurance to have access to health care. The card costs 5000 FBU (2.67 USD) and covers the card holder and
> their dependants under eighteen. The card is supposed to give access to medical consultation and basic healthcare to returnees at public health institutions, however health facilities are generally far from the return locations and returnees sometimes do not have the financial means to buy the card. Among those that do not have access to health services, 92 per cent of households responded that the reason is lack of financial resources.
> Additionally, many services are not available in public health institutions in the return areas and people have to request services (examinations, medicines, etc.) from private providers. Some 33 per cent of heads of households raised the fact that medical assistance is inadequate, while 25 per cent of households reported having children in their household who were not vaccinated against measles.[721]

Regarding returnees' access to water, the same report stated that:

> Water access is available in almost the whole country and 93 per cent of returnee households have access to water for domestic use. However, returnees report challenges raised related to a lack of technical maintenance of the water supplying sources (the fountains, developed sources of water) and climatic hazards during the rainy season. Floods and violent currents of water destroy the developed sources of water at the communes and they take a long time to be replaced or repaired.[722]

[720] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.11*
[721] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.12*
[722] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.12*

Gaps protection for women and girls against gender-based violence were also reported by UNHCR in the same report:

> The lack of a standardized GBV case management system, which would guarantee a safe and ethically sound
> collection of information, is among the major gaps related with reintegration support to woman and children. When asked about their primary source of fear upon return during Focus Group Discussions, returnee women and adolescents reported opportunistic attacks and rape while collecting firewood, water or accessing other services that are only available upon walking long distances. In addition, returning refugee women and girls continue to be at risk of intimate partner violence, and often lack effective community support mechanisms and awareness of the legal procedures available to address these risks. Underreporting, linked to social stigma and/or lack of access to survivor care services, means that limited reliable information is available on sexual and gender-based violence trends and patterns in the areas of return.[723]

The same UNHCR Protection Monitoring report noted multiple barriers to reintegration faced by returnee children, including challenges in accessing birth registration which undermined access to health and education and raised the risk of statelessness among children, as well as vulnerability to violence and abuse, and lack of educational opportunities:

> In 2020, less than half of returnee households (47%) reported that their children had birth certificates, further undermining access to health and education services and risk of statelessness. Protection monitoring confirmed children are the most vulnerable population among returnees and the lack of reintegration and protection support in return areas impacts their wellbeing considerably. Despite the lack of official child protection data/assessments, actors have noted a significant increase in numbers of children at risk of violence, psychological abuse, sexual exploitation, abuse and trafficking, exacerbated by the difficult socio-economic situation in the return areas in 2020.
> The nutritional situation of Burundian returnee children deteriorated among the returnee new arrivals in 2020 with cases of SAM found and treated at the transit centres.
> After return, the biggest protection risks faced by Burundian children are the lack of education opportunities, with only 48 per cent of returnee children attending school upon return. There are very limited reintegration opportunities for adolescents and young adults, particularly those aged 15-17 years, who face greater challenges in integrating into the national education systems in formal high schools or institutions for vocational training. This results in children abandoning their homes and traveling to other regions and neighbouring countries in search of better opportunities. According to protection monitoring activities and information provided by key informants in all the 18 provinces of return, school infra-structure is insufficient in all communes (21 communes). There are basic / primary schools in most municipalities, but very few or no vocational training schools for young people.[724]

According to the same report, lack of access to land remained a major challenge to effective reintegration of returnees, and noted that expropriation of land belonging to returnee women was common:

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[723] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.8*
[724] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.9*

> 64% of returnees do not have access to land or a house upon return. This remains, without question, one of the major challenges preventing an effective reintegration. For most of these cases, their homes were destroyed and damaged while seeking asylum outside of Burundi. Most of the temporary shelters where returnees live are noted to be in very poor conditions (60 per cent), relatively good/medium condition (38 per cent) and only 2 per cent in good condition. For households that have access to land (82 per cent), most of them do not have enough resources to develop and live on them (93 per cent of households practiced agriculture as their main source of income).
> According to the protection monitoring findings, returnees and residents do have conflicts over land expropriation or occupation. The cases are referred to the local authorities and the local courts systems in the return areas and in general the authorities support and favour the returnees to regain their house or land. However, woman still experience difficulties in the face of "custom law" which discriminates against them by excluding them from family succession. Expropriation of land is common for returnee women but very difficult to monitor given the lack of protection support to women after return. Returnees need information and understanding of relevant laws, procedures, and systems.
> For those who have no access to land, support is provided by a counterpart from the community, either in cash or in exchange for work (mostly in farms and for agricultural production). This leaves the returnee families extremely vulnerable to labor exploitation and limited livelihood opportunities, especially after the initial three months of assistance provided by UNHCR and partners has run out. With all the time spent in asylum, some returnees found their homes or land occupied by third parties upon return (12 per cent).[725]

In May 2021, UNHCR published an article reporting on a visit by the High Commissioner for refugees, who accompanied a convoy of Burundian refugees returning from Rwanda. The article highlighted that "In February [2021], UNHCR, the government of Burundi and 19 partners launched the Joint Refugee Return and Reintegration Plan which appeals for US$ 104.3 million from the international community to assist returnees and the communities where they are returning. Less than ten percent of the funding needed to support the reintegration of returnees in Burundi has been committed, despite the increase in the number of refugees returning from around the region.[726]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council in September 2021, the Commission stated that:

> […] 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. […]
> 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. […] Households headed by women are even

[725] UNHCR, *Protection Monitoring - Reintegration trends - 31 December 2020*, 31 May 2021, *p.10*
[726] UNHCR, *Starting over is not easy but Burundian refugees are hopeful as they return home*, 3 May 2021

> more vulnerable and encounter specific difficulties.[…] In 2021, 22 per cent of returnees believed that the security situation in Burundi had not improved since they had fled.[727]

In an article published in October 2021, the UNHCR noted that: "Most returnees face the unknown back home. Many sold their properties before fleeing, while others return to find them occupied or uninhabitable. By last August, UNHCR estimated that 37 per cent of returnees could not access their previous houses when they first returned."[728]

In December 2021, the UNHCR published a Joint Regional Refugee Response Plan in which it was noted that, "[w]hile returnees are generally being welcomed back by the Government of Burundi and their communities of origin without incident, monitoring indicates that many refugee returnees face considerable reintegration challenges."[729]

The same report noted challenges for returnees in a number of areas, from civil documentation and justice to access to housing, land and property, and education:

> Despite ongoing advocacy, access to civil documentation and justice for returnees is challenging due to the weak infrastructure and limited capacity of formal and informal justice mechanisms in Burundi […]
> Reintegration: strengthening resilience and development
> Under the current conditions, the absorption capacity of the return areas is very limited, and the investment towards sustainable reintegration has been insufficient. Critical gaps remain in all areas, including access to adequate housing, education and health services, livelihood support and social cohesion.
> Access to Housing, Land and Property
> While many families opted to utilize cash-assistance to purchase or rent a piece of land, serious gaps and challenges remain for refugees to access housing and/or land. Another issue relating to household shelter is the limited supply of renewable construction materials, which considerably impacts the environment […]
> Access to basic services
> Funding shortfalls, poor school infrastructure in Burundi, the COVID-19 pandemic and school closures in some asylum countries resulted in loss of learning and increased protection risks, with girls disproportionately affected [...][730]

In terms of gaps and challenges to reintegration faced by Burundian returnees, the same report provided the following statistics:

- 38% of head of households possess a national ID card
- 52% of repatriated children do not have a birth certificate
- 59% of returnees could not access housing upon their return

[727] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *paras. 43-44*
[728] UNHCR, *Burundian refugees head home but face reintegration challenges*, 27 October 2021
[729] UNHCR, *Burundi Joint Regional Refugee Response Plan 2021 Update*, 9 December 2021
[730] UNHCR, *Burundi Joint Regional Refugee Response Plan 2021 Update*, 9 December 2021

- 37% of returnee households have access to shelter upon return
- 53% of returnee children do not attend school
- 71% of communes have insufficient health infrastructures
- 57% of returnees reported eating only one meal a day
- 97% of school infrastructure are in a bad condition
- 83% of households reported being dissatisfied with their level of food security
- 43% of the population aged between 17 – 60 are not employed after their return
- 63% of returnee women do not have access to land.[731]

Drawing on an Overview of Humanitarian Needs by the UN Office for the Coordination of Humanitarian Affairs in its submission to the UN Human Rights Council in September 2021, the Commission of Inquiry on Burundi noted that "[a]n estimated 70 per cent of returnees are in serious humanitarian need and 23 per cent are in extreme humanitarian need. […] Returnees face, inter alia, a lack of livelihoods, shelter and land and limited access to schools and health-care services […]."[732]

Regarding returnees, ACAPS stated in May 2022 that:

> Returnees, who are mostly subsistence farmers, are generally well received. 81% of returnees' households have access to land, 95% have access to water, and 81% have access to healthcare. The majority, however, have difficulties accessing housing; many returnees find their previous homes uninhabitable. Only 50% of returnee children attend school.[733]

The UN Office for the Coordination of Humanitarian Affairs published a situation report in French in April 2022. Using an online translation tool, Onlinedoctranslator.com, the following text was translated from French into English:

> […] refugees who return to their country of origin are often face challenges, such as the lack of a stable income - a key element in the reintegration process. Returning to communities where resources are already scarce can also put a strain on the local population and lead to social conflict between host communities, returnees and IDPs there. […]
> Not all returnees have the opportunity to be easily reintegrated into the community, although assistance to boost the integration of returnees into the community is available. Often, they return after having spent several years in exile in the hope of finding a slight improvement. When they arrive, most are disillusioned, especially when they find themselves without family who can support them. They live thanks to the generosity of the population. The family or neighbors have already used their property as their own. […][734]

[731] UNHCR, *Burundi Joint Regional Refugee Response Plan 2021 Update*, 9 December 2021
[732] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *paras. 43-44*
[733] ACAPS, *Overview*, 31 May 2022
[734] Le Bureau des Nations Unies pour la coordination des affaires humanitaires, *BURUNDI Rapport de situation*, 25 April 2022, *p.5-7*

In its update in July 2022, the Famine Early Warning Systems Network makes the observation that returnees who arrived in Burundi between January and April 2022 would likely have exhausted the three months of humanitarian food assistance they received upon return, and would likely not have established other sources of income and crop production:

> In July 2022, WFP provided a three-month return package of humanitarian food assistance to around […] 4,000 returnees. […] The daily ration in each three-month package is equivalent to 360 g of cereals, 120 g of beans, 25 g of vegetable oil, and 5 g of salt per person. Due to cereals stock shortages, maize assistance has been replaced by 13,000 BIF per person per month. The aid is supporting Minimal! (IPC Phase 1!) acute food security outcomes among beneficiaries. However, around 7,000 returnees from January to April 2022 have likely exhausted their three months of food assistance. They are Stressed (IPC Phase 2) as they probably have not established typical sources of income and crop production.[735]

The UNHCR published its Protection Monitoring report in November 2022, aimed at understanding ongoing protection concerns and challenges faced by Burundian returnees. Analysis carried out in May, June and July 2022 found that 90% of returnees interviewed said that "justice is fair", however a number of challenges for returnees in accessing the judicial system were raised:

> For returnees who do not go to the judicial system when they have a problem, two main reasons were put forward by returnees to explain why they do not file cases before court : (1) lack of sufficient financial means as filing a case has a cost and (2) fear of retaliation from those who did not flee. In addition, it was raised in the focus groups that the perception of justice by most of the returnees is that no one can have justice without resorting to corruption. Furthermore, it is worth mentioning that courts have many needs in terms of equipment.[736]

The same report noted gaps in available support for returnees who had experienced gender-based violence:

> During the focus group discussions, men and young people said that they were not aware of cases of GBV among returnees. The women said that they knew about cases of GBV among returnees and that these cases were usually handled by the courts and the administration. They also indicated that they did not have any information on the existence of prevention and management mechanisms for these cases. Access to justice, including legal advice and support from communal courts, remains a major gap. UNHCR through its partner "Icirore Amahoro" (ICCA) has been able to support some vulnerable returnees in the provinces of Makamba, Rutana Kirundo, Muyinga, Ruyigi etc.; which means that this support is not available in all areas of return and more support from partners is needed.[737]

The same report on reintegration of returnees found that the rate of school attendance among returnee children was low, and those visited during the monitoring exercise were found to be experiencing material deprivation:

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[735] Famine Early Warning Systems Network, *Burundi Key Message Update: Above average production in Season B harvest, but staple food prices remain high, July 2022*, 29 July 2022
[736] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.5*
[737] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.6*

> During the pilot phase, it was observed that the rate of access to education for returnee children is largely low. Three basic reasons were cited by the interviewees. The main reasons were the extreme poverty of some households (lack of uniforms/clothes, materials and school fees), the lack of available places in the school and the lack of food. In the areas of return visited, most children were observed to be alone during the day, as their parents left in the early morning to look for income-generating activities in the nearby farms. Children were observed to be in need of shoes and clothing.[738]

The same report also noted that the fees associated with accessing civil documentation including a National Identity Card or birth certificate, were barriers for returnees without the means to pay:

> Civil documentation
> Regarding access to civil documentation, most participants stated that they have easy access to administrative and civil status documents. The only obstacle would be that all these documents cost BIF 500 for the National Identity Card (CNI) and BIF 1,000 for birth certificates, whereas many returnees do not have the means. […]
> During the group discussion, participants pointed out that in addition to the fees set for access to civil status documents, some communal administrators charge returnees a lump sum of BIF 5,000 and BIF 3,000 at the level of the hill authorities.[739]

According to the same UNHCR report, 63% of returnee children had a birth certificate in 2022.[740] The same report noted that despite an increase in the number of returnee children whose births were registered compared to 2021, the number whose births were registered remained "unsatisfactory" in 2022:

> More than one-third of repatriated children (36%) were at risk of being stateless. Despite the government's efforts to establish a moratorium on the registration of birth for repatriated children whose birth has exceeded the legal deadline for registration, the average number of children with this document is still unsatisfactory, although it has increased compared to 2021 (48%).[741]

Regarding relations between returnees and host communities, the same report noted the following:

> Upon their return to Burundi, the Burundian government, UNHCR and its partners mobilized to facilitate their reintegration into communities. In their communes, returnees are welcomed by the communal administrator before going to their hills of final destination of return. 81% of returnees interviewed confirmed that they were welcomed by the community and lived in good relationship with community members and the authorities in their locality of return.[742]

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[738] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.6*
[739] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.6*
[740] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.5*
[741] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.7*
[742] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.6*

Less than half of returnees could access drinking water at "shorter distances" noted the report, explained by the fact that "86% of returnees return to rural areas."[743] The same report noted that "[t]he rate of access to safe water is reduced by 2% between returnees arriving in 2021 and those arriving in 2022 […] despite the many programmes or projects implemented, such as the Water Sector Programme (PROSECEAU), the Agence de l'Hydraulique et de l'Assainissement en Milieu Rural (AHAMR) and REGIDESO projects, the supply of drinking water to repatriated households remains a serious issue."[744]

The same report observed that adequate hygiene and sanitation remained a problem for returnees:

> In terms of basic sanitation, about 60% of returnees use unimproved toilets. These unimproved toilets are covered, for the most part, with cloth, dobe bricks or dead leaves and often have no door or roof. Focus group participants indicated that some households do not have latrines and those that do, are in very poor condition due to lack of resources. Latrines in schools are also reported to be in very poor condition. Protection Monitoring data conducted at the household level show that over 1/3 of returnee households use shared toilets. This situation is similar in rural areas as in urban centres (cities).
> In terms of hygiene, there seem to be a general problem of sanitation of latrines. Between the host community and returnees, differences are limited. It should also be noted that shared latrines are less clean than private latrines. In schools, the situation remains alarming. Many schools have toilets in very poor condition.[745]

With regards to housing and land, the UNHCR's Protection Monitoring report indicates that returnees faced difficulties in accessing permanent accommodation and adequate land to use for production and consumption of food:

> In 2020 and 2021, approximately 70% of returnees had access to shelter, of which 37% to their own houses. In 2022, 75% of returnees have access to housing immediately after their return. The nuance is that 1 out of 2 returnees in 2022 live in rented houses (48%). Even if more than half of the returnees have access to housing, it remains a temporary occupancy as occupation can refer also to something else. […]
> Since the increase of cash grant in the return package in 2020, more and more returnees are buying a piece of land, either to build a house or farmland in the community. For those who have chosen to build a house, the majority face financial and other difficulties in obtaining materials for solid walls as well as iron sheets to cover their houses. Some of them use straw and other tarpaulins to roof their houses. Despite the shelter distribution project (Sheets, poles, nails, doors and windows) launched by UNHCR since 2021, there is still a great need in this area, as returnee households receive little assistance. […]
> Problems with access to land
> In Burundi, access to land is a concern to many as the plots are generally small. […]
> Given the size of the country, land has become too scarce. This situation is said to cause recurrent land conflicts within the community.

[743] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.9*
[744] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.9*
[745] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.9*

> Because of the unequal land distribution, most returnees and/or peasant households cannot produce for consumption and sale. As a result, per capita, food production continues to decline over time, although overall rural food consumption is increasing.[746]

According to the UNHCR's Protection Monitoring report, Burundian returnees experienced food insecurity. The report stated that:

> 61% of the returnees eat one meal per day.
> 71% of returnees report that they never had food assistance in their area of return.
> 62% of returnee households worked as daily workers to provide for the family's basic needs.
> 71% of returnee households earn less than BIF 25,000 on average per month (US$12.5). […] Protection Monitoring data shows that once returnees have exhausted the three-month rations they received upon arrival, they enter the food stress phase.
> Even with nationally acceptable household food availability and access, returnees face enormous challenges during the resilience period before reaching the reintegration level. Data collected between May and July 2022 indicate that 61% of returnees eat only one meal per day, which is likely to have an impact on children's health and growth due to inadequate nutritional intake.[747]

The same report notes that most returnees are agricultural workers, however wages are low, and returnee households struggled to access essentials:

> The main source of livelihood for returnees
> The returnee population consists primarily of agricultural workers. For those who returned to the Eastern and Northern provinces, the border areas, access is limited due to the high cost of COVID-19 tests to cross the Tanzanian border and the closure of the Burundian side of the Rwandan border.[748]

In terms of access to healthcare for returnees, the report noted:

> Protection monitoring data show that 89% of communes are covered by health facilities. Some provinces ranking lower than others. The major problem is the level of access to health services, particularly in terms of the presence of facilities, distance, equipment, availability of health care personnel and medicines, etc.
> Family Health
> The policy of the issuance of health insurance card (CAM) for all categories of families, which cost three thousand francs, has been suspended. Thus, this CAM is now only given to vulnerable people who are identified by the administration. The other categories of families are obliged to subscribe to private health insurance companies which are expensive (twenty thousand and more per year). As a result, many families decide not to apply for a health insurance card […] and find themselves at risk of being treated at exorbitant costs. […]
> Returnees with serious medical conditions, such as ongoing medical care, still present a burden to already vulnerable families. […]

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[746] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.10*
[747] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.11*
[748] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.11*

> These problems are much more serious in the provinces where access to health insurance cards is difficult.[749]

Reintegration issues faced by victims of trafficking

In its annual report on trafficking in persons, published in July 2021, and covering April 2020 to March 2021, the US Department of State noted the vulnerability of returnees to trafficking due to lack of access to basic services:

> In 2019, the Government of Tanzania told refugees within its borders, a majority Burundian-born, to return home and commenced an operation with the goal of repatriating some 200,000 Burundian refugees despite concerns that they faced a lack of protection and security […] Returned refugees frequently lacked access to basic services and accommodation, which subsequently increased their vulnerability to trafficking.[750]

In its report on trafficking in persons published in July 2022, covering April 2021 – March 2022, the US Department of State noted the vulnerability of returnee women and girls to trafficking and sexual exploitation:

> Throughout 2021, an international organization continued the voluntary returns and repatriation of more than 60,000 Burundian refugees, some of whom returned without formal assistance, increasing their vulnerabilities to trafficking. Returning refugees are generally required to live within camps until reintegration into their communities and have limited access to education and livelihood opportunities. An international organization reported some refugees spontaneously return to Burundi without formal assistance and without adequate identity documentation, which significantly increases their vulnerability to trafficking. IDPs and returning refugees, particularly single mothers and widows, frequently lack access to basic services, food, money, and permanent accommodation, which increases their vulnerability to trafficking. Observers reported returning refugees have insufficient assistance upon arrival and most do not have families to support them or homes to return to, which increases vulnerability to exploitation.[751]

XII. Internally Displaced Persons and Refugees

Additional information can be found under section *XIII. Humanitarian Situation (with focus on 2022)*.

a. Living conditions of IDPs

[749] UNHCR, *Burundi: Protection Monitoring - Reintegration trends - 31 July 2022*, 8 November 2022, *p.8*
[750] US Department of State, *Annual report on trafficking in persons (covering April 2020 to March 2021)*, 1 July 2021
[751] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 29 July 2022

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its 2021 humanitarian response plan in French, focusing on the situation in 2020. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> The occurrence of natural disasters – landslides and floods – has caused deaths, destroyed shelters, agricultural production, infrastructure and livelihoods. It also generated significant population displacements during the year 2020. The number of internally displaced people has thus increased by almost 25 percent compared to the previous year and was estimated at 131,000 in August 2020. These people – the most vulnerable of whom are in the east (Cankuzo and Ruyigi) and west (Bujumbura and Bujumbura Mairie) of the country – have seen their already precarious nutritional, health and food security conditions deteriorate. [752]

The same report notes the following findings, which have been translated from French to English using an online translation tool Onlinedoctranslator.com:

> In 2020, sites for displaced persons were created. Due to the stagnation of water in certain localities (particularly in the west of the country), the duration of displacements has been prolonged. In the west of the country, some IDPs have indicated that they carry out pendular movements, in particular to access their fields and check the condition of their homes. Challenges remain with regard to durable solutions due to the uninhabitable nature of some places of origin and the difficulty of accessing new land for relocation. According to the intention to return survey conducted by IOM among IDPs in the sites of Gatumba (west of the country), while 69 per cent of households make visits to their places of origin. These IDPs, mostly farmers (25percent) or living from petty trade (21 percent) or agricultural work for wages (14 percent), have lost their livelihoods with displacement and Covid-19 prevention measures. Indeed, the Gatumba area is located on the border with the DRC and highly dependent on cross-border trade. It has therefore been particularly affected by the closing of the borders […]
>
> In IDP sites, the situation is just as difficult, particularly for children, women and people living with disabilities. Despite the efforts of humanitarian actors and the Government of Burundi, the multisectoral assessment 89conducted in the sites in June 2020 indicates in particular precarious hygiene and sanitation conditions conducive to the development of waterborne diseases, the lack of tents and non-food items including mosquito nets in a locality prone to malaria , and the adoption of negative survival strategies including reducing the frequency of meals (on average one meal per day and two meals per day for 2 out of 10 households). Thus, various pathologies related to poor living conditions (30.7 percent), waterborne diseases (48 percent) and other types of diseases (20.8 percent) that have consequences on physical and mental health of IDPs in the sites. These are mainly acute respiratory infections (ARI), pain, diarrheal diseases particularly affecting children, malaria and dermatoses caused in particular by the insufficiency of mats and shelters. […]
>
> The displacement has also impacted the living conditions of IDPs and particularly their access to services, including basic social services. In some localities, IDPs reported walking more than 30 minutes to access drinking water. The distance from local sources has consequences for the schooling of children, who are often responsible for devoting part of their time to draw water. In total, 42 percent of IDP households

[752] UN Office for the Coordination of Humanitarian Affairs, *Burundi: Plan de réponse humanitaire 2021*, March 2021, *p.10*

> report that their children do not attend school. According to the households surveyed, this lack of schooling is mainly due to the lack of school materials (66%).[753]

In March 2022, the UN Office for the Coordination of Humanitarian Affairs published its 2022 Humanitarian Response Plan in French, mainly reviewing the situation in 2020 and 2021. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> In Burundi, disasters related to climate shocks are the reason for all internal displacement recorded in 2021, and the reason for the displacement of 83 percent of people currently in displacement in the country […]. The number of displaced people was down in August 2021 compared to the same month of 2020, with 115,000 IDPs registered in August 2021 compared to 131,000 in August 2020 […]. Regarding new displacements, almost 40,900 people were displaced between January and October 2020 compared to almost 32,300 people during the same period in 2021[…], which represents a decrease of 21 percent. The displaced people are mainly (70 percent) in the coastal provinces continuously and cyclically affected by the rising waters of Lake Tanganyika and the Rusizi River since the beginning of 2020. The majority of the displaced (94 percent) hundred) live in host communities, mainly in host families, and the rest in displacement sites located in the areas of Gatumba and Maramvya, in the commune of Mutimbuzi (Province of Bujumbura) […]
>
> Needs are particularly severe in the western (Makamba, Rumonge) and eastern (Ruyigi) provinces, with a level of severity of 5 on a scale of 1 to 5. The level of severity of needs is also high in the provinces of Rutana, Kirundo, Bujumbura and Cankuzo, with a severity level of 4. The cyclical nature of the displacement problem, particularly in the context of floods, the recurrent rise in the level of Lake Tanganyika and the water deficit, poses a real challenge. In fact, 34 percent of displaced households report having experienced displacement at least once in the past. […] and among them, 60 percent have already been displaced once, 28 percent twice and 12 percent several times […]. Moreover, displacement, especially protracted displacement, contributes to weakening host communities that are already vulnerable, putting additional pressure on already limited access to basic infrastructure and services. According to actors in the food security sector, 47 percent of the population is in a situation of food stress. Overall, for this category of the population, the various pre-existing vulnerabilities, reinforced by the displacements of both IDPs living in the sites and outside the sites, have exacerbated the needs related to their physical and mental well-being and to their living conditions.[754]

The International Organization for Migration summarized the situation of IDPs in its September 2020 report on humanitarian needs:

> 67% of households reported the lack of school materials Among the 24,783 displaced school-age children (aged 6 to 17), 77 per cent attended school. The lack of school materials was the main reason reported by households as it prevented children from going to school. Households in the provinces of Bururi, Gitega, Kayanza, Ngozi et Mwaro were the most affected by this lack of school materials. For some IDP households (13%), lack of food was also a reason preventing children from going to school. […]

[753] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.35 – 36*,]

[754] UN Office for the Coordination of Humanitarian Affairs: *Burundi: Plan de réponse humanitaire 2022*, 23 March 2022, *p.20*

> 32% of households have non-functional latrines Bujumbura Mairie, Ruyigi, Bubanza and Makamba are provinces with large majority (more than 60%) of displaced households without functional latrines. Due to their high degree of vulnerability, IDPs spend most of their income on food at the expense of of building latrines. […]
> 44% of households had access to only one meal per day Most IDP households (more than 70%) in Kirundo, Ngozi and Rumonge provinces reported that they only ate one meal per day. The province of Kirundo was the most affected due to the vulnerability of IDP households. The province of Cibitoke (62%) was also affected and the reason would be the natural disasters which have destroyed crops during the rainy seasons. […]
> 37% of households did not have access to a pharmacy The most common health problems reported by surveyed households were malaria (91%), flu (68%) and amoeba (57%). The majority of households in Bururi, Ruyigi, Muramvya, and Rumonge provinces reported that they did not have access to pharmacies. These were available in cities or provincial capitals while the majority of IDPs lived in the countryside. […]
> 56% of households did not have access to arable land According to the surveyed households, the main occupations of IDPs were daily work (50%) and agriculture (43%). The vast majority of IDP households in Bujumbura Mairie, Bubanza, Rumonge and Makamba provinces did not have access to arable land. The particularity of Bujumbura Mairie is the unavailability of cultivable land in general, and in the other provinces, the high population density could explain the lack of arable land.
> 41% of households reported small hosting capacity as a shelter issue The majority of households in Kirundo, Muramvya, Cibitoke, and Makamba provinces reported small hosting capacity as a shelter issue considering that IDPs and host families shared the same roof. Another major shelter issue was weather protection reported by 39 per cent of displaced households. […]
> The majority of internal displacement (83%) was due to natural disasters. The destruction of houses by torrential rains and strong winds was one of the causes of internal displacement in several provinces of the country and also one of the reasons for preventing the return of 68 per cent of displaced households to their damaged homes. Surveyed households in the provinces of Rumonge (100%), Muramvya (97%), Karusi (92%), Gitega (90%), Bujumbura Rural (89%) and Rutana (85%) reported damaged houses as the reason for not returning home. In addition, lack of financial resources was an impediment for these displaced households who are not able to rebuild their destroyed homes. The majority of households in Kirundo province (63%) reported food scarcity as the reason for not returning to their community of origin. This lack of food was due to prolonged drought in this province. These households preferred to stay in their areas of displacement where the food was available. Displaced households in the provinces of Cankuzo (22%), Muyinga (15%) and Ngozi (15%) reported the same reason for displacement (lack of food), as a significant number of IDPs in these provinces were displaced from Kirundo.[755]

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. The report highlights how cyclical natural disasters that cause displacement impact on the resilience of households. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Internal displacement in 2021 was exclusively caused by natural disasters, as has been the case every year since 2018. The repetition and cyclical nature of disasters significantly affect the resilience and response capacity of populations in the face of disasters, and cause repeated or prolonged internal displacements.

[755] International Organization for Migration, *Burundi - Displacement Report (September 2020)*, 31 December 2020

> For example, the continuous rise in the water level of Lake Tanganyika, a phenomenon that has increased in recent years, constitutes a particularly difficult challenge to overcome for households already displaced and affected by the different cycles of floods over the years. previous ones. These affected populations are also increasingly vulnerable because climatic shocks cause significant damage to their agricultural production, shelter and infrastructure, thus reducing their chances of return.[756]

The same report highlights particular health issues experienced by IDPs. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Internally displaced persons and returnees are particularly vulnerable in terms of health, in particular due to a general decline in their standard of living and food insecurity, which weaken their immune system and limit their access to health care. These displacement situations lead to greater promiscuity, particularly in the sites of displaced persons and host households, where they have to share their living space. This overcrowding is the result of a lack of shelter and is one of the factors that increases the risk of the appearance and transmission of diseases. People on the move do not have basic ANA, such as impregnated mosquito nets (LLINs) or blankets to reduce the risk of colds and acute respiratory infections in children. […]
> In addition, these displacement situations increase protection risks, with repercussions on both the mental (trauma) and physical health of those affected. The host communities are, for their part, faced with difficulties related to the reduction of living space and its impact on the health situation; additional pressure on pre-existing resources and capacities, including health, which are already limited; as well as the rapid and progressive deterioration of basic infrastructure such as latrines, which are not renewed, leading to negative practices of open defecation which constitute foci of an epidemic in the making. It is important to note that certain population groups are particularly affected, in particular those who live with a disability and who have limited access to health facilities.[757]

In its annual report on human rights practices in 2021, published in April 2022, the US Department of State noted that the majority of IDPs remained in IDP sites or relocated to urban centers, with those at IDP sites included in humanitarian assistance programmes:

> The International Organization for Migration (IOM) estimated there were 113,408 internally displaced persons (IDPs) in the country as of September, of whom 54 percent were children. According to the IOM, 83 percent of IDPs were displaced due to natural disasters while 17 percent were displaced for other reasons. […] Some IDPs returned to their homes, but the majority remained in IDP sites or relocated to urban centers. The government generally permitted IDPs at identified sites to be included in programs provided by the Office of the UN High Commissioner for Refugees (UNHCR), the IOM, and other humanitarian organizations, such as shelter and legal assistance programs.[758]

[756] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.25*
[757] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.109-110*
[758] US Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, section 2e

In May 2021, ACAPS stated the following with regard to the conditions of Burundians displaced by flooding:

> Heavy rainfall and rising water levels in Lake Tanganyika since the beginning of April have resulted in flooding in Makamba, Rumonge, and Bujumbura provinces, southwest Burundi. Over 47,000 people have been affected by flooding and landslides. Around 9,600 people across the flooded areas are staying in emergency shelters or with host families, while others are choosing to stay in their partially submerged homes. Villages, roads, WASH, and agricultural infrastructure have been affected by the rising water levels. Affected people in Rumonge province need WASH assistance as they continue to use unsanitary water from the lake, mixed with faecal waste and flooding latrines. The use of contaminated water increases risk of outbreak of waterborne diseases such as cholera, which is endemic along Lake Tanganyika. Lack of personal protective equipment and the inability to practice social distancing within displaced communities increases risk of COVID-19 spread.[759]

The International Organization for Migration in its Mission Overview published in June 2021 stated the following, regarding the living conditions of IDPs:

> The needs of IDPs and returnees are like those of an emergency in terms of life-saving assistance, ranging from shelter, non-food items (NFI), and water, sanitation and hygiene (WASH) support, to access to housing, land and property (HLP) and protection. Several generations of post-conflict trauma have resulted in untreated and stigmatized ill mental health, alcohol and substance abuse, as well as sexual and gender-based violence and familial violence at the community level, thus requiring psychosocial support. Protection issues in this context remain present. Internal and cross-border trafficking in persons persists. An estimated 66 per cent of the victims are women and girls, often for forced domestic labour, sexual exploitation and forced marriage in neighbouring countries or the Gulf states. Burundian refugees, IDPs, and those residing in border provinces are most at risk of human trafficking.[760]

In its July 2021 humanitarian situation report, UNICEF described the displacement caused by natural disasters in the first half of 2021, and the needs that had arisen as a result:

> Burundi has faced once again natural disasters in the first half of the year, with a period of water deficit in January-February affecting some regions of the country, but also with a significant rise in the water level of Lake Tanganyika during the rainy season and the overflowing of the Rusizi and Kajeke rivers. The latter phenomenon caused major flooding between March and May, resulting in significant damage to affected households as well as to basic social services, with the partial or total destruction of schools and health facilities. In May, an estimated 14,000 households (approximately 70,000 people) in the provinces of Bujumbura Rural, Rumonge, and Makamba were affected, including over 5,000 displaced families. According to the population projection of the Institute of Statistics and Economic Studies of Burundi (ISTEEBU), it is estimated that nearly 850,000 people are at risk in the coastal communes […]. The needs of the affected populations are multidimensional and priorities set are housing, access to safe water, hygiene and sanitation, and immediate food and nutritional assistance while waiting for income-generating activities to resume. Children and women in particular are at high risk of violence and

[759] ACAPS, *CrisisInSight Weekly Picks*, 5 May 2021
[760] International Organization for Migration, *IOM Burundi Mission Overview 2021*, 14 June 2021

> protection issues, especially in displacement situations. Finally, children need access to educational and safe spaces to limit the risk of dropping out of school and to ensure a protective environment.[761]

The International Organization for Migration noted in its Internal Displacement Report published in September 2021:

> About 74 per cent of school-age displaced children attended school whereas the remaining did not attend school because of some difficulties. The main reasons for non-enrollment of displaced children were the lack of school materials (54%), the responsibility to work to support their family needs (25%) and the lack of food (10%). […]
> Only 12 per cent of displaced households lived in hard standing shelters whereas other displaced households lived in adobe brick shelters (44%), banco shelters (20%), tents (12%) and straw shelters (12%). Moreover, the main shelter-related issues reported were small hosting capacity (71%) and weather protection (29%). Low hosting capacity is explained by overcrowding experienced by IDPs living with host families whereas those living in temporary shelters experienced issues related to weather protection. […]
> The main livelihood activities of displaced households were daily labor(75%) followed by agriculture (19%). In addition, only 40 per cent of displaced households had access to arable land whereas market prices were not accessible to most displaced households (80%). […]
> Most displaced households (64%) reported equipped source as the main source of water and 61 per cent of households indicated that the walking time of going to and coming back from the nearest drinking water source was more than 30 minutes. Moreover, 32 per cent of surveyed households reported drinking water-related complaints. These concerns were mainly related to the presence of residues (79%), color (50%), flavor (44%) ,odor (42%) and insufficient quantity (35%). In addition, 42 per cent of displaced households had no access to functional latrine.[…]
> The majority of displaced households reported malaria (96%), flu (82%) and bacterial infections (66%) as the most recurrent diseases. In addition, 90 per cent of surveyed households indicated that they could not afford health-related cost. Furthermore, the walking time to the nearest health centre varies between 30 minutes to an hour for 69 per cent of displaced households whereas 3 per cent had no access to sexual and reproductive health services. […]
> The majority of displaced households surveyed (76%) reported that wood collection areas were the places where women and girls felt most at risk of experiencing gender-based violence (GBV). In addition, 49 per cent of displaced households indicated that women and girls could not safely report violence. Moreover, 57 per cent of surveyed households reported that GBV victims had difficulty accessing specialized services mainly due to fear (66%) and long distance (54%). Furthermore, a child protection committee was operational in most of the surveyed communities (68%).[762]

The International Organization for Migration internal displacement dashboard covering the month of April 2022, reported that 52% of internally displaced people live in adobe brick shelters, meanwhile, 16% live in mud/clay shelters, 12% in straw shelters, 10% in tents, and 10% in hard standing shelters.[763]

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[761] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 1: January to June 2021*, 27 July 2021
[762] International Organization for Migration, *IOM Burundi - Internal Displacement Report (July 2021)*, 30 September 2021
[763] International Organization for Migration, *IOM Burundi Internal Displacement Dashboard - April 2022*, 30 May 2022

ACAPS noted that the majority of IDPs were integrated with host communities rather than living in camps:

> Over 122,400 Burundians are internally displaced, primarily because of natural disasters. 34% of them have been displaced for at least five years. The majority of IDPs have integrated with host populations, and only 6% reside in IDP camps.[764]

An International Organization for Migration press release published in June 2022 announcing funding by the Government of Japan to support people displaced by flooding stated:

> Burundi faces challenges combining the devastating effects of natural hazard-related disasters and the deterioration of the country's socio-economic situation. Frequent natural disasters such as floods and storms have caused massive displacement of people both in Bujumbura and in the provinces. The people affected by these disasters then find themselves homeless, landless, malnourished without means of subsistence, and sometimes even injured during the event. Indeed, IOM's Displacement Tracking Matrix (DTM) estimates that between January 2018 and October 2021, 474 natural disasters were recorded in Burundi, for an estimated total of 279,641 people affected by natural disasters and 108,250 displaced. during this period. More specifically, in June 2021, the DTM reported a total number of 52,182 people specifically affected by the floods, including 22,580 displaced in the four provinces bordering Lake Tanganyika: Bujumbura Mairie, Bujumbura Rural, Makamba and Rumonge (including 62 % of women) […] The needs identified were, and still are, multiple – along the coast, the most urgent needs of the 52,182 IDPs were shelter (100%), followed by food (86%), ANA (74%), water clean (5%) and protection needs (2%). The lack of latrines has also contributed to increased protection risks to which internally displaced persons (IDPs), especially women and girls, are particularly exposed.[765]

According to the Displacement Tracking Matrix produced by the Croix-Rouge du Burundi and the International Organization for Migration, the large majority of IDPs were displaced due to natural disasters, and they experienced a number of challenges:

> Natural disasters was the main cause of displacement as of April 2022 (91%). Apart from IDP returnees from
> abroad, most IDPs (40%) were hosted in the provinces of Rumonge (15%), Cankuzo (13%) and Bujumbura Rural (13%). Even though natural disasters were the main displacement reason, a considerable share of IDPs in the provinces of Bujumbura Mairie (44%), Mwaro (44%) and Muyinga (36%) were displaced due to other reasons. […]
> > 90% of collines [according to the report, collines are the smallest administrative entities in Burundi] in all surveyed provinces except Kirundo reported that displaced households did not receive support to develop income generating activities in the last three months. […]
> > 90% of collines in the surveyed provinces except Bujumbura Mairie, Cankuzo and Muramvya reported that there were no NFI [non-food items] distributed to displaced households in the last three months.

[764] ACAPS, *Overview*, 31 May 2022
[765] International Organization for Migration, *Japan funds efforts to support displaced population in Burundi*, 28 June 2022

> 70% of collines in the provinces of Bujumbura Mairie, Bujumbura Rural, Karusi and Rutana reported that under-five IDPs children were not screened for malnutrition in the last six months.[766]

In its regional overview of the situation of IDPs published in August 2022, the UNHCR noted of the situation in Burundi:

> As of 30 June 2022, the IDP population in Burundi was estimated at 85,000 persons (displaced since 2013) according to IOM's Data Tracking Matrix (DTM). This is the only operation where IDP numbers have reduced in the last year (from more than 100,000 a year ago). Many are residing within host communities; some living in makeshift or temporary shelters and have serious protection needs.
> In 2022, humanitarian needs and vulnerabilities in Burundi remain significant due to the combined effects of the COVID-19 pandemic, natural disasters (in particular torrential rains, floods and strong winds), and the significant return of Burundian refugees from neighbouring countries. The many shocks facing the country continue to affect already fragile and vulnerable communities. Flooding caused by the continued rise in water levels in Lake Tanganyika and the overflowing of the Rusizi river pose a particularly difficult challenge for households formerly displaced and affected by the various flood cycles that have occurred since 2018 displacing respectively 17,878 people in 2018; 13,856 people in 2019; 44,222 people in 2020; 35,727 people in 2021 and so far 1,792 in 2022. It is important to note that a number of displacements caused by the floods are cyclical, and the people displaced return to their houses once the water levels have diminished, only to be displaced again during the next flood. Due to a lack of international attention and therefore funding, there is very little being done to provide a durable solution to these cyclical displacements.[767]

In November 2022, the Food and Agriculture Organization of the United Nations noted that: "Particular concerns exist for the food security situation of 85 000 Internally displaced persons (IDPs), mainly displaced by natural disasters […]".[768]

b. Violence and abuse against IDPs

According to the International Organization for Migration in its Mission Overview published in June 2021:

> Protection issues in this context remain present. Internal and cross-border trafficking in persons persists. An estimated 66 per cent of the victims are women and girls, often for forced domestic labour, sexual exploitation and forced marriage in neighbouring countries or the Gulf states. Burundian refugees, IDPs, and those residing in border provinces are most at risk of human trafficking.[769]

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[766] Croix-Rouge du Burundi, International Organization for Migration, *Burundi - Displacement Tracking Matrix (DTM) April 2022*, June 2022
[767] UNHCR, *Internally Displaced Persons; Regional Overview; East and Horn of Africa, and the Great Lakes Region; January - June 2022*, 12 August 2022, *p.9*
[768] Food and Agriculture Organization of the United Nations, *GIEWS Country Brief Burundi*, 14 November 2022
[769] International Organization for Migration, *IOM Burundi Mission Overview 2021*, 14 June 2021

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. Using an online translation tool, Onlinedoctranslator.com, the following finding was translated from French to English:

> […] the sexual exploitation of young girls in IDP sites and refugee camps is frequent, and an increase in fraudulent job offers has been observed in IDP sites.[770]

In its annual report on human rights practices in 2021 in Burundi published in April 2022, the US Department of State noted that IDPs believed themselves threatened due to their perceived political sympathies:

> The International Organization for Migration (IOM) estimated there were 113,408 internally displaced persons (IDPs) in the country as of September, of whom 54 percent were children. According to the IOM, 83 percent of IDPs were displaced due to natural disasters while 17 percent were displaced for other reasons. Some IDPs reported believing themselves to be threatened because of their perceived political sympathies. […] [771]

In its report on trafficking in persons published in July 2022, covering April 2021 – March 2022, the US Department of State noted the vulnerability of IDPs to trafficking:

> IDPs and returning refugees, particularly single mothers and widows, frequently lack access to basic services, food, money, and permanent accommodation, which increases their vulnerability to trafficking. Observers reported returning refugees have insufficient assistance upon arrival and most do not have families to support them or homes to return to, which increases vulnerability to exploitation.
> In April 2020, Burundi experienced severe flooding that displaced more than 35,000 people; many were placed in IDP camps and did not have access to income-generating activities, increasing their vulnerability to traffickers. Observers reported traffickers increased activity due to the government's attention on the natural disaster. Observers reported an increase in fraudulent offers to work abroad. International organizations reported the pandemic-related closure of land, water, and air borders restricted trade and seasonal migration for Burundians and refugees alike, limiting economic growth and increasing their vulnerability to traffickers. Observers reported young boys and girls found work as peddlers, domestic workers, wait-staff, or construction laborers and were forced to work excessive hours, denied payment, and were sexually and physically abused. Government and NGOs reported sexual exploitation of young girls from refugee and IDP camps is common as men from host communities promise gifts, pocket money, and tuition funds in exchange for sex.[772]

c. Living conditions of refugees

[770] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.58*, [l'exploitation sexuelle de jeunes filles dans les sites de déplacés et camps de réfugiés est fréquente, et une augmentation des offres frauduleuses de travail est observée sur les sites de déplacés]
[771] US Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *section 2e*
[772] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 29 July 2022

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its Humanitarian Needs Overview in French, mainly focusing on the situation in 2020. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Urban refugees are considered to be able to support themselves and those living in camps in Burundi rely mainly on humanitarian assistance and the lack of funding carried over for several years has consequences for their entire condition. of life. In general, their most basic needs are not met. In the four oldest camps (Kavumu, Bwagiriza, Musasa and Kinama) many refugees are in a protracted asylum situation. Infrastructure, including housing, is dilapidated and hygiene and sanitation conditions are worrying. The food rations distributed are insufficient to meet the needs of these people and chronic malnutrition is a major concern, particularly for pregnant and lactating women and children under five. According to the 2017 nutrition survey, the prevalence of MAM in refugee camps was 1.3 and that of SAM was 0.3. Chronic malnutrition was 52 percent, which exceeds the critical threshold of 40 percent defined by WHO. Access to health services is limited due to lack of personnel, medicine and equipment. It should however be noted that the situation is however relatively better than in the host population. In education, classrooms are overcrowded while qualified teachers, teaching materials and professional training opportunities are lacking. This situation contributes to the high rate of children and teenagers out of school. Despite these findings, it should be noted that the situation of refugees is slightly better than that of the host population in terms of access to care and chronic malnutrition. This precariousness goes hand in hand with significant protection risks such as early marriage, sexual exploitation, drug addiction and juvenile delinquency. Incidents of GBV are increasing due to the conditions of vulnerability and poverty experienced by refugees. Protection and GBV risks particularly affect adolescent girls. Identified cases of GBV benefit from medical care provided in health centers by health personnel trained for this purpose. However, health centers are sometimes out of stock of post-exposure prevention (PEP) kits and are forced to urgently transfer some GBV cases to Bujumbura for medical treatment within the given time frame.[773]

In its annual report on human rights practices covering events in 2020 and published in 2021, the US Department of State reported that:

> Refugees residing in camps administered by the government and by UNHCR and its partners had access to basic services. The large percentage of refugees residing in urban areas also had access to services, such as education, health care, and other assistance offered by humanitarian organizations. Due to their inability to work, most refugees lacked sufficient resources to meet their basic needs, even with support from the international community.[774]

In its review of refugee policy and the institutional environment for refugees in Burundi as at 30 June 2020, the UNHCR noted the following with regards to social cohesion between refugees and hosting communities:

> […] 1.2 Social cohesion […]

[773] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.85*
[774] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021, *section 2f*

> Although the national legal framework in Burundi does not specifically entail provisions on social cohesion or the identification, prevention and mitigation of potential social tensions and risks of violence in refugee-
> hosting areas, there is generally a relatively positive interaction between refugees and host communities. The main sources of tension between the two communities relate to competition over scarce natural resources (wood, fuel, groundwater and cultivable land) and the perception of rising market prices attributed to increased demand due to the presence of refugees. The Government's ban on wood collection
> around the camps has had a positive effect on community relations. The presence of refugees and the implementation of related assistance projects have provided host communities with access to health care, water and additional markets as well as job opportunities for Burundian nationals, which have positive effects on the relationship between both communities. The protracted exiles of some refugee communities,
> particularly those from the Democratic Republic of the Congo, have resulted in increased cross-socialization
> and mixed marriages with host communities.
> Neither camp-based nor urban refugees are reported to be subject to systematic discrimination or ostracism on the part of the host communities, which are generally observed to be very tolerant towards foreign nationals and refugees alike. Isolated incidents involving refugees and members of the host community do occur, but not at a significantly higher rate than incidents between host community members. Most such incidents are motivated by personal disputes rather than xenophobia or hostility towards refugees. […]
> Refugee inputs are not sought in national or local decision-making, but refugees have had active elected representation structures (refugee committees) in the camps since 2010 […].[775]

The same report notes challenges with regard to access to documentation for refugees, sometimes exposing refugees to the possibility of arrest and detention:

> […] 2.4 Access to civil registration and documentation
> Refugees aged 14 or over receive official personal identification in the form of a refugee ID card. This card bears the name of ONPRA and the signature of the CCER President. These cards are electronic, and enable refugees to apply for documents such as driving licences. Refugee ID cards also allow refugees to open a bank account, obtain a telephone Subscriber Identity Module (SIM) card and access other services […]. While there are no policy limitations hindering refugees from obtaining and renewing their documentation, technical difficulties regularly cause delays in the issue of refugee ID cards, thereby exposing individual refugees to possible arrest and detention. Asylum-seekers receive a temporary residence permit that bears digital photos of the applicant and their relatives and is signed by the police authorities (Commissariat Général des Migrations). This temporary residence permit serves as an ID card for asylum-seekers and is accepted as identification by banks and telecommunication institutions. However, it needs to be accompanied by a supporting letter from ONPRA in order for the bearer to have access to bank and telecommunication services. In line with Article 73 of the Asylum Law, Convention Travel Documents (CTD) are issued by the CGM to refugees who meet the documentary requirements to establish a legitimate reason for travelling abroad, such as trade activities or education needs. CTD are

[775] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.3-4, 6*

issued pursuant to UNHCR guidance and are compliant with International Civil Aviation Organization (ICAO) standards. However, Burundian law enforcement officials and authorities generally have limited familiarity with the documentation issued to refugees and asylum-seekers. This negatively impacts the ability of refugees to enjoy some of their rights (to work and to move freely, for instance) and to access services. Refugees regularly report concerns about the risks of being arrested and detained. UNHCR and its partners are addressing this issue with the authorities. ONPRA and UNHCR work jointly to increase refugees' awareness of their rights and obligations and also regularly organize training workshops on asylum procedures and refugee rights and obligations for judiciary and police and law enforcement officials, particularly those based at border crossings and in provinces hosting refugee camps. The Asylum Law stipulates that the personal status of a refugee is governed by Burundian law (Article 63) and recognizes the rights deriving from a personal status acquired in another country, notably resulting from marriage (Article 64). Refugees and asylum-seekers are entitled to register vital events such as births, marriages, divorces, and deaths occurring in Burundi and to receive the corresponding documentation, including birth certificates. Book one of the Civil Code, on persons and family (April 1993, updated 2006) applies to refugees as it does to nationals for registering and receiving documentation for vital events. Late birth registration is governed by the provisions of Article 45 of the Book one of the Civil Code on persons and family regulating late declarations of births, which stipulates fines for any delay of over 14 days. However, since March 2017, a ministerial order has been issued that exempts late birth registrations from fines in the case of vulnerable children, including refugee and returnee children. This order, which has been extended until the end of July 2021, also governs the implementation of a five-year birth registration campaign launched by the government of Burundi on 13 June 2018, which includes refugee children. Birth registration in the camps and transit centres is conducted differently, depending on the location. In the refugee camps of Kavumu (Cankuzo province) and Nyankanda (Ruyigi province), the civil registrar visits the camps once a week to register newborns based on the birth notification issued by the medical centre. A few days later, extracts of the resulting birth certificates are sent to ONPRA to register these children as refugees benefiting from the derivative status and issue them with appropriate documentation. At Bwagiriza (Ruyigi province), Musasa (Ngozi province) and Kinama (Muyinga province) refugee camps, refugees have to go to the respective local municipality to register their children. They then collect the birth certificate extracts a few days later. As for the Cishemere transit centre (for asylum-seekers), newborns are registered at Buganda commune, which is around 8 to 10 km away. ONPRA facilitates the transport of the parents and their two witnesses.[776]

The same report notes that refugees have faced security concerns:

[…] 2.5 Justice and security

Refugees enjoy a level of security comparable to that of nationals in the same areas... While overall security has improved since 2015, the United Nations commission of inquiry has regularly reported on ongoing security concerns and localized insecurity throughout the country. The population is, in fact, confronted with crimes of a minor and sometimes violent nature, some committed by armed groups targeting homes at night. The September 2019 report indicates a climate of impunity, particularly for cases of violations of political rights committed in Burundi since May 2018. UNHCR has received little indication of refugees

[776] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p. 6-7*

being systematically targeted or singled out for verbal abuse or physical violence based on their foreign origin or refugee status, although it has received complaints from some urban refugees of incidents of verbal and physical abuse on these grounds during isolated incidents.[777]

The same report reports that gender-based violence remains highly prevalent among refugee and host communities:

> […] 2.5 Justice and security […]
> GBV remains highly prevalent in both host and refugee communities. It is a palpable threat for many camp residents, heightened in particular by limited livelihoods opportunities within the camps, insufficient access to energy sources such as firewood, poor lighting and overcrowded shelters. Denial of resources by male partners and family members is one of the key protection issues reported regularly by refugee women, who have also highlighted the risks that they face when venturing outside the camps to collect firewood or to pursue small-scale commercial activities. Similarly, refugee survivors of GBV are often apprehensive about reporting incidents, as are Burundian nationals, for fear of reprisals from perpetrators. When such incidents are reported, they are most often not punished or only very lightly sanctioned, generating a climate of impunity. GBV claims are often addressed and mediated by members of the refugee community themselves. However, this usually offers solutions that are unsatisfactory and not in line with the survivors' rights in receiving proper care and judicial assistance. In light of this, UNHCR and its partners engage in GBV prevention and awareness-raising activities within the camps and provide material and legal support to assist most of the survivors.[778]

According to the same report, refugees have faced restrictions of their freedom of movement, which has negatively affected their prospects for earning a living:

> […] 3.1 Freedom of movement
> The 2008 Asylum Law stipulates that refugees residing in Burundi have the right to choose their place of residence and to move freely within the territory under the same terms as other foreigners (Article 74). Within Title III of the Asylum Law which includes special provisions applicable in the event of massive influx, Article 88 indicates that prima facie refugees should reside in assigned camps while Article 89, derogating from Article 74, stipulates that freedom of movement can be forbidden or restricted for prima facie refugees and that they require a written authorization to move around. In practice, all refugees in camps (not only prima facie refugees) face restrictions of movement. Motivated by security concerns, the Government controls movement outside of the camps by requiring issuance of an exit permit (billet de sortie) provided by ONPRA for any movement beyond the commune where the camp is located... Although the permit system is the same for all camps, the procedure for issuance by the various camp administrators is not uniform and different conditions may apply in different locations. Since late 2019, considering the risks of Ebola transmission, the subsequent COVID-19 pandemic, and in view of the beginning of the pre-election period, it has become increasingly difficult for refugees to obtain exit permits. In January 2020, the coordination within ONPRA

[777] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.7*
[778] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.8*

> announced that exit permits to Bujumbura would be also restricted and throughout the first half of 2020 it became increasingly difficult for refugees to obtain exit permits. These restrictions have had a decisive negative impact on camp-based refugees' livelihoods, especially those having small businesses or (casual) labour engagements outside the camps. Asylum-seekers in the transit centres are also facing comparable restrictions in the issuance of exit permits. Once refugee status is obtained, refugees in Burundi are given the choice of moving to Bujumbura or settling in camps. Their choice is typically based on their economic and social prospects to pursue self-reliant livelihoods in Bujumbura or other urban areas, or on their reliance on humanitarian assistance, which is delivered only in the camps. Some refugee families split their household between the camps and Bujumbura to access both humanitarian aid and work opportunities.[779]

According to the same report, despite inclusive legal provisions, refugees face challenges in accessing formal salaried employment:

> […] 3.2 Rights to work and rights at work
> Refugees are legally allowed to work in Burundi and can obtain a work permit with their refugee ID card. The 2008 Asylum Law recognizes refugees' right to work (Article 65). Moreover, refugees can work in the liberal professions as per the conditions established by Article 66 of the 2008 Asylum Law. The provisions of the Labour Code (Law No 1-037 of 7 July 1993) relating inter alia to general working conditions, remuneration and social security benefits apply equally to refugees, as does Ministerial Order No 650/11/88
> of 30 April 1988 on the interprofessional minimum wage. However, both urban and camp-based refugees need a work permit to engage in formal employment. A contract from an employer is required to apply for a permit and the Inspection Générale du Travail et de la Sécurité Sociale will check with the employer before issuing the permit. Since a refugee ID card is required to obtain a work permit, asylum-seekers are effectively excluded from accessing formal salaried employment. Despite the inclusive legal provisions, relatively few refugees are engaged in formal wage-earning employment. Reasons for this include generally high unemployment rates, administrative challenges related to obtaining work permits, and limitations on movement, particularly for those living in the camps. Furthermore, many potential employers are not aware of refugees' right to work and even when they are, they tend to prefer to hire their compatriots rather than refugees. Refugees also often lack the skills to be competitive within the urban marketplace. Refugees can set up businesses upon fulfilment of certain preconditions set by the national laws governing business and investment regulations and after payment of a fee. However, in practice refugees often find it difficult, if not impossible, to access the formal finance needed to set up or grow a business […][780]

The same report notes the following with regards to access to land, housing and property for refugees:

> […] 3.3 Land, housing and property rights

[779] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.8*
[780] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.9*

> The main laws governing housing, land and property are the Constitution of the Republic of Burundi (2018 Constitution), the Land Policy Letter 2008 (Lettre de politique foncière) and Law No 1/13 of 9 August 2011 revising the Land Code of Burundi (Code foncier du Burundi). Article 36 of the 2018 Constitution states that every person has the right to property. Article 1 of the Land Code provides that any individual or legal entity may enjoy, without discrimination, all of the rights defined by the Code and may exercise them freely, subject to respect for the rights of others and to restrictions resulting from the law. In the absence of explicit restrictions on refugees, the latter enjoy land, housing and property rights. In practice, however, very few refugees can afford to buy land or even rent it. Where land is available to refugees outside the camps, access is generally obtained through purchase, rental or land provided free of charge for agriculture use. The latter two systems, being rooted in good relations between refugees and host communities, tend to favour long-staying refugees who have managed to forge trusting relations with their neighbours. Similarly, despite the legal right for refugees to buy and own houses or other types of property, in practice this is usually beyond their financial means. The vast majority of the 35,000 refugees residing out of camps in urban areas (mostly in and around Bujumbura) live in rented accommodation and with host families. Refugee families can at times be evicted for non-payment of rent. There is no systematically reliable data on how this compares to similar challenges faced by poor Burundians.
> There is no public or social housing scheme in Burundi.[781]

With regards to refugees' access to financial services, the same report notes:

> […] Financial and administrative services
> The Asylum Law is almost silent about refugees' financial rights with the exception of Article 75, which authorizes refugees who have been admitted to a third country for resettlement to transfer the assets they had brought into Burundi to their country of resettlement. However, in the absence of provisions to the contrary, refugees have the right to open bank accounts and access financial services and mobile money in the same way as the country's nationals. With a refugee ID card, refugees can open a bank account. Asylum-seekers with a temporary residence permit are not able to access bank services. In practice, refugees and asylum-seekers have limited access to the microfinance opportunities available to Burundian nationals because they tend not to have property or assets, such as houses, to mortgage as collateral for banks and microfinance institutions to secure loans. Camp residents' access to financial services is also constrained due to the lack of financial service providers in the vicinity of the camps, meaning that they must pay transport costs to reach the nearest town to access a bank. Within the camps there are Village Savings and Loan Associations (VSLAs) supported by UNHCR partners, but the cash volumes are too low to meet the demand for capital to start and maintain small businesses. Besides supporting group formation and savings activities, the VSLAs also have been used to channel small grants for income-generating activities.[782]

In terms of access to education for refugees in Burundi, the same report stated:

> […] 4.1 Education
> The right to primary education for refugees in the same way as nationals is confirmed under Article 67 of the 2008 Asylum Law. The Government has also repeatedly committed to establishing mixed fundamental

[781] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.9*
[782] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.9-10*

schools (grade 1 to grade 9) accommodating both refugees and host communities. Currently, camp residents attend schools supported by UNHCR and its partners that follow the country of origin's school curriculum, which is are taught by refugee teachers and Burundian nationals on a part-time basis. These are considered private schools. In principle, refugee students can opt for their inclusion in the national public education system. However, the geographical isolation of some camps, such as Kavumu, makes it impossible for refugee children to attend a public school. Moreover, during UNHCR annual Participatory Assessment discussions, refugees have on occasion expressed reluctance to subscribe to the inclusion of refugee students in the national system due to the use of Kirundi as the language of education. Some Congolese refugees have also indicated that they perceive a Burundian education to be a potential disadvantage in the event that they return to their country of origin. However, it should be noted that, in the Congolese refugee camps, final examinations come from the Democratic Republic of the Congo and are administered by Congolese government education officers. Urban refugees have the option of enrolling in public or private schools, subject to their financial resources. In public schools, primary education is free of charge while post-primary requires the payment of school fees, although the fees are modest and accessible to most urban refugees. However, many refugees who can afford to do so opt for private schools that offer alternatives to instruction in Kirundi.

At tertiary level, academic fees in both private and public universities are expensive and beyond the means of most refugees. Refugee students who do attend university tend to opt for private universities, for which they pay the same academic fees as nationals. They can also attend public universities for the same fees levied on other foreigners living in Burundi.

There are currently no remedial mechanisms in place to help children who have missed education for some extended periods, such as accelerated education classes or language training for those enrolling in the Kirundi curriculum.[783]

With regard to access to healthcare, the same report notes that UNHCR provides healthcare for refugees in camps, meanwhile urban refugees can access the same medical services as Burundian nationals, but must pay for their healthcare and are not eligible for national health insurance schemes:

[…] 4.2 Healthcare

Article 55 of the 2018 Constitution guarantees access to health care for everyone without distinction. Article 67 of the 2008 Asylum Law affirms refugees' access to health care on a par with Burundian nationals. The Government has referred to the establishment of mixed health-care facilities servicing both refugees and host communities, but these have not yet been established.

Camp-based refugees have free access to medical facilities provided by UNHCR partners. Members of neighbouring host communities regularly access the camps' health facilities and services under the same conditions as the refugees.

While urban refugees have access to the same medical services as Burundian nationals, they remain responsible for payment of health-care costs and are not eligible for national health insurance schemes. At the UNHCR annual Participatory Assessment discussions, urban refugees have stated that they do not have access to medical services in practice because they cannot afford the fees.

Maternal and child health care (under 5 years) has been provided without charge in Burundi's national healthcare system since 2006, but in practice urban refugees do not access these services for free. This was a political decision affirmed through a Decree and Ministerial Ordinance in 2010, which specifies

[783] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p.10-11*

> eligibility criteria for children under 5 years of age. It is noted that health care is 100 percent subsidized for children whose parents "are not wage earners in the formal sector, of Burundian nationality, living in Burundi." Likewise, the Ordinance specifies that free maternal health care is available for women of Burundian nationality residing in Burundi. However, urban refugees do access certain free national health-care services provided through Government primary health-care facilities, such as treatment for malaria, HIV and TB and certain vaccinations. Some vulnerable urban refugees or those with chronic conditions receive subsidies for medical expenses by UNHCR.[784]

The same report by UNHCR notes that refugees are not currently included in social protection programmes, and states the following with regards to protection for vulnerable groups within the refugee population:

> […] 4.4 Protection for vulnerable groups
> In 2020, the government validated the updated national child protection policy for a period of five years (2020–2024). This is articulated around five strategic axes, namely: (i) Preventing and responding to violence, exploitation, discrimination, abuse and neglect; (ii) Strengthening the legal and regulatory framework; (iii) Institutional strengthening; (iv) Strengthening the information system, monitoring and evaluation; and (v) Strengthening the cooperation and coordination system. While not expressly mentioned, refugee children are also covered by this normative framework.
> Notwithstanding the above, children in Burundi, both nationals and refugees, are often unable to exercise their rights due to the difficult context in which they live. At-risk refugee children regularly cannot benefit from meaningful support from the national programmes in place. This is often due to the lack of awareness of national service providers on the rights of refugee children to receive support through national systems.
> In refugee settings, systems designed by UNHCR are in place to identify children at risk when they first seek asylum and to ensure that measures are taken to prioritize them for protection and assistance. Other humanitarian organizations provide additional support through programmes to protect separated and unaccompanied children in the camps. As at January 2020, the five camps were hosting 244 unaccompanied
> and 1,975 separated children.
> Burundi has ratified the Convention on the Rights of Persons with Disabilities and supports these persons through the Ministry of Solidarity for the Elderly and Disabled within the existing resource constraints. In practice, refugees living with disabilities are exclusively supported by UNHCR and its partners. For refugees and asylum-seekers in urban areas, most protection services are provided at the Centre Urbain d'Accueil et Orientation des Réfugiés (CUCOR), which is managed by ONPRA. Some GBV survivors are being referred to integrated centres such as the SERUKA centre, run by a national NGO, which offer health services and temporary accommodation to survivors without discrimination. In the camps, GBV survivors rely mainly on the care and protection systems designed and implemented by UNHCR and its partners.[785]

[784] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p. 11*
[785] UNHCR, *Burundi: Refugee Policy Review Framework Country Summary as at 30 June 2020*, 24 March 2022, *p. 12*

In its annual report on human rights practices in Burundi in 2021, published in April 2022, the US Department of State noted that refugees in Burundi face restrictions on their freedom of movement and are not permitted to access employment in the formal labour market:

> Freedom of Movement: Refugees are required to obtain exit permits from the National Office for the Protection of Refugees and Stateless Persons in the Ministry of Interior to leave refugee camps, although the law was inconsistently enforced. […]
> The government does not permit refugees and asylum seekers to work in the formal labor market. UNHCR and camp partners implemented some livelihood programs, such as cooperative-led sustainable year-round gardens, mask making, and small-scale soap making, and encouraged refugees to initiate income-generating activities. In response some refugees started hair salons, tailoring shops, and small markets inside their camps, although insufficient funds to promote their businesses and difficulties obtaining exit permits to sell their products outside the camps hampered their ability to expand their businesses.
> Access to Basic Services: Refugees residing in camps administered by the government and by UNHCR and its partners had access to basic services. The large percentage of refugees residing in urban areas also had access to services, such as education, health care, and other assistance offered by humanitarian organizations.[786]

In September 2022, a written report in French was submitted to the UN Human Rights Council by the Special Rapporteur on the situation of Human Rights in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> 3. Humanitarian Situation and Refugee Rights […]
> The torrential rains, severe floods and the consequences of the COVID-19 pandemic have led to the displacement of thousands of people, which has had a strong impact on agricultural activities, already marked by a fragile socio-economic situation, and accentuated the decrease of economic activity. Political tensions between the Democratic Republic of the Congo and Rwanda are also increasing the number of Congolese refugees and asylum seekers, in a context marked by the precariousness of natural resources.[787]

The same report outlines the following findings, which were translated from French to English using an online translation tool Onlinedoctranslator.com:

> 3. Humanitarian Situation and Refugee Rights […]
> The Special Rapporteur stresses that although Protocol IV of the Arusha Agreement had listed the principles and mechanisms to be applied on land issues, there are no mechanisms in Burundian legislation to ensure refugees' access to land. . Customary arrangements only give them precarious rights, generally over the least coveted areas of the host territory. In the event of pressure in the community, they lose

[786] US Department of State, *2021 Country Report on Human Rights Practices: Burundi*, 12 April 2022, *section 2f*
[787] Nations Unies Conseil des droits de l'homme, *Situation des droits de l'homme au Burundi Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo **, 13 Septembre 2022, para. 76

> their rights to these already less coveted lands, which exposes them to violence and hinders their right to food, because their production is affected.[788]

In November 2022, the Food and Agriculture Organization of the United Nations observed that "Particular concerns exist for the food security situation […] for about 87 000 refugees and asylum seekers, predominantly from the Democratic Republic of the Congo, which have limited livelihood opportunities and need to rely on humanitarian assistance."[789]

d. Violence and abuse against refugees

In its annual report covering the human rights situation in Burundi in 2020, published in January 2021, Human Rights Watch stated that:

> Abuses Related to the Elections and Security Incidents […]
> Reports of arrests of scores of Kinyarwanda-speaking Banyamulenge asylum seekers and refugees from eastern Congo appeared to escalate after the Burundian interior and public security ministry's spokesperson told the population in October to inform the authorities of anyone speaking Kinyarwanda.[790]

In its May 2021 briefing, Insecurity Insight cited information from ACLED indicating that:

> In Mutaho refugee camp, Mutaho commune, Gitega province, a refugee was tortured and injured by police.[791]

In its report on trafficking in persons published in July 2022, covering April 2021 – March 2022, the US Department of State noted the vulnerability of refugees to trafficking:

> Government and NGOs reported sexual exploitation of young girls from refugee and IDP camps is common as men from host communities promise gifts, pocket money, and tuition funds in exchange for sex.[792]

XIII. Humanitarian Situation (with focus on 2022)

a. Poverty and Livelihoods

[788] Nations Unies Conseil des droits de l'homme, *Situation des droits de l'homme au Burundi Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo **, 13 Septembre 2022, para. 77
[789] Food and Agriculture Organization of the United Nations, *GIEWS Country Brief Burundi*, 14 November 2022
[790] Human Rights Watch, *World Report 2021 - Burundi*, 13 January 2021
[791] Insecurity Insight, *Protection in Danger Monthly News Brief May 2021*, June 2021
[792] US Department of State, *2022 Trafficking in Persons Report: Burundi*, 29 July 2022

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its Humanitarian Needs Overview in French, focusing mainly on 2020. Using an online translation tool, Onlinedoctranslator.com, the following finding, which cites a World Bank statistic, was translated from French to English: "According to the World Bank, in 2019, 83.4 percent of the population lived below the poverty line".[793]

A further finding from the same report was translated from French to English using Onlinedoctranslator.com:

> The combination of the various shocks and their impacts on people and services has resulted in a deterioration of the humanitarian conditions of the most vulnerable populations compared to 2020. Thus, 2.3 million people are estimated to be in need of humanitarian assistance in 2021 compared to 1.7 million in 2020. This increase has reversed the downward trend (or relative stabilization) in the number of people in need observed since the end of 2018.[794]

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its 2021 Humanitarian Response Plan in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> The occurrence of natural disasters – landslides and floods – has caused deaths, destroyed shelters, agricultural production, infrastructure and livelihoods. It also generated significant population displacements during the year 2020.[795]

In an oral brief of the Commission of Inquiry on Burundi to the UN Human Rights Council in July 2020 it was stated that:

> […] at the beginning of the year over 70 % of the Burundian population were living in poverty and that an estimated 1.7 million Burundians were in a situation of food insecurity and in need of humanitarian assistance.[796]

In February 2021, a CARE report noted that: "Women in Burundi, 80% of whom depend on agriculture for
their livelihoods, experience low productivity and profitability of their economic enterprises due to

[793] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.14*
[794] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p. 32*
[795] UN Office for the Coordination of Humanitarian Affairs, *Burundi: Plan de réponse humanitaire 2021*, March 2021, *p.10*
[796] UN Human Rights Council, *Oral briefing by the Commission of Inquiry on Burundi*, 14 July 2020

deeply rooted gender discrimination, which exacerbates poverty as well as food and nutrition insecurity."[797]

In its food security outlook report published in June 2021, the Famine Early Warning Systems Network noted the very high Covid-19 screening fees at the border between Burundi and DRC, which hampered opportunities:

> Despite the reopening of borders with DRC on 1 June 2021, COVID-19, screening fees estimated at 15,000 BIF (8 USD) on the Burundi side and USD 30 on the DRC side continue to hamper the free movement of goods and people. This amount is exceptionally high for poor and very poor households relying on wage labor and petty trade. As a result, fees continue to restrict access to typical cross-border opportunities.[798]

In July 2021, the International Organization for Migration noted that: "During the past two years persistent heavy rain, followed by floods, landslides, and strong winds, has raised Lake Tanganyika to dangerous levels, engulfing entire roads, markets, school playgrounds and churches. Welcome at first, the downpours soon began to wreak havoc on lives and livelihoods in the Republic of Burundi and across the entire sub-region."[799]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council in September 2021, it was stated that:

> 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. […]
>
> 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. […]
>
> 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

[797] CARE, *A win-win for gender and nutrition: Testing A Gender-Transformative Approach From Asia In Africa*, 4 February 2021

[798] Famine Early Warning Systems Network, *Burundi Food Security Outlook, June 2021 to January 2022*, 30 June 2021

[799] International Organization for Migration, *Burundi: How rising Lake Tanganyika triggers urgent humanitarian needs*, 13 July 2021

> fund a football tournament in memory of President Nkurunziza. Some people have also been threatened because they were not contributing enough to CNDD-FDD.[800]

In a joint report by the Alliance of Bioversity International and the International Center for Tropical Agriculture (The Alliance), the CGIAR Research Program on Climate Change, Agriculture and Food Security (CCAFS), and the World Food Programme (WFP), published in December 2021, it was stated that:

> The majority of Burundians are smallholder farmers facing serious constraints that will be further exacerbated under climate change. Most Burundian agricultural systems are highly vulnerable to climate hazards, including flooding, landslides, water deficit, drought, and erratic rainfall (both in terms of shifting precipitation patterns across time and space and the rapid coupling of drought and torrential rain in the same area). In the next 10 to 30 years, changes in precipitation patterns, increased temperatures, and protracted dry seasons are expected to have significant implications for productivity, crop suitability, and food security. Domestic demand for basic food products will continue to outpace supply resulting in increased import dependence for most key commodities, particularly livestock.[801]

According to the World Food Programme's analysis of the implications of the conflict in Ukraine on food access and availability in the Eastern African region, following the Burundian government's decision to increase fuel prices by 13% in January 2022, the country saw a year-on-year increase in the price of fuel of 24 percent in February 2022, compared to February 2021. [802]

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> […] the socio-economic impacts of the Covid-19 pandemic continue to weaken the most vulnerable populations and to slow down the economic and human development of the country […]
> Being one of the least developed countries in the world12 in terms of the human development index13, Burundi is ranked 185th out of 189 countries14. The World Bank estimates that 87 percent of Burundi's population lived below the poverty line in 2021 […] (based on the international poverty line of $1.90 per day in 2011). This represents an increase of 4.4 percentage points compared to 2019 (83.4 percent)16. In an already fragile economic context, medium-term growth prospects remain modest and the country remains vulnerable to risks related to new shocks and persistent negative impacts of the Covid-19 pandemic on social and economic life. Estimates predict an increase in poverty, the rate of which is expected to rise to 87.5 percent of the population in 2022.[803]

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[800] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *paras 45, 47, 49*

[801] CCAFS, CGIAR, CIAT, WFP, *Burundi: Critical Corporate Initiative: Climate Response Analysis for Adaptation*, December 2021

[802] World Food Programme, *Implications of Ukraine Conflict on Food Access and Availability in the Eastern Africa Region, Update #2, March 2022*, 4 April 2022, *p.10*

[803] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.13*, *p.16*

The same report addressed the ownership of assets by women. Using an online translation tool, Onlinedoctranslator.com, the following finding was translated from French to English:

> […] despite the essential role they play in ensuring household food and nutrition security, women continue to face inequitable access to means of production, such as land ownership. Less than 15 percent of land registered in the name of natural persons is in the name of a woman, individually or jointly44. This situation is aggravated by the the fact that women often do not participate in the management of family assets and income.[804]

The same report noted that the majority of the Burundian population gain their livelihoods through sectors that are vulnerable to climatic shocks. Using an online translation tool, Onlinedoctranslator.com, the following text was translated from French to English:

> A total of 86 percent of Burundi's population lives from climate-sensitive economic sectors, such as agriculture and livestock45. In addition, the agricultural sector accounts for nearly 94 percent of all female employment.46. However, agricultural practice remains subsistence agriculture, mainly traditional, without effective access to efficient irrigation systems and with fairly low yields. It is marked by a reduction in the size of plots due to population growth, and is highly vulnerable to climatic shocks. Consequently, the agricultural sector contributes only 40 percent of Burundi's GDP and nearly one in two households is in a situation of chronic food insecurity. […][805]

The same report noted that due to pressures on livelihoods, households have resorted to negative coping strategies. Using an online translation tool, Onlinedoctranslator.com, the following text was translated from French to English:

> The loss and deterioration of livelihoods due to the negative socio-economic impacts of the Covid-19 pandemic persisted in 2021 and in particular had consequences on people's ability to access goods and services […]
>
> In fact, 31.2 percent of households surveyed in August 2021 claimed to have negative coping strategies in place during the previous 30 days. Of these people, 6.8 percent had emergency strategies in place – such as begging or selling their last female animals. This represents a significant increase from data collected at the same time of year in 2020, which indicated that 16.3 percent of households had negative coping strategies in place and 2.9 percent of households had put in place emergency strategies […]
>
> Some survival strategies expose populations to 11.8% greater protection risks, including the risk of trafficking. Indeed, organized networks or individuals who recruit, transport, or receive people by force or deception with the aim of exploiting them for profit thrive in situations of great vulnerability. Humanitarian situations caused by displacement or natural disasters can thus exacerbate existing trafficking trends, or even give rise to new ones. […]

[804] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.18-19*

[805] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.19*

> In 2021, Burundian men, women and children were forced into domestic servitude, prostitution and other forms of exploitation at the national and cross-border level. Economic necessity and coercion push children and young adults to work in gold mining, informal trading, the fishing industry, and other odd jobs conducive to verbal and physical abuse and non-payment. Some families agree to be paid by traffickers who carry out forced begging operations in the streets with disabled children and adults. Also, recruiters from neighboring countries frequently visit border towns (mainly on the Tanzanian border) in search of child labourers. The Batwa minority, populations living in border provinces and girls are particularly vulnerable to forced labor and sex trafficking. Children in rural areas and children separated or unaccompanied by their parents are also targeted […].[806]

In March 2022, the UN Office for the Coordination of Humanitarian Affairs published its 2022 humanitarian response plan in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> The trend of slightly improving economic growth, which had been observed in 2018 and 2019, was interrupted by the shock of the pandemic which contributed to increasing uncertainty. The negative impacts of the pandemic continue to hamper the country's economic development and affect the country's overall social and human development (for example in the food security, health and education sectors). The effects endured are particularly disproportionate for population groups that were already in a situation of vulnerability. The World Bank predicts an increase in poverty, the rate of which could rise to 87.5 percent of the population in 2022 […].[807]

According to the World Food Programme's analysis of the implications of the conflict in Ukraine on food access and availability in the Eastern African region, following the Burundian government's decision to increase fuel prices by 13% in January 2022, the country saw a year-on-year increase in the price of fuel of 24 percent in February 2022, compared to February 2021.[808]

According to the World Food Programme's June 2022 Country Brief:

> Over 90 percent of the population depends on agriculture for their livelihood. Burundi's preparedness for emergencies and crises is weak and cannot cope with severe shocks such as droughts, epidemics and floods, which often claim lives and undermine livelihoods.[809]

In July 2022, the UN Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Martin Griffiths, announced a US$1 million contribution from the Central Emergency Relief Fund to assist around 340,000 people affected by Rift Valley Fever. A press release by the UN Office for

[806] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.57 – 58*
[807] UN Office for the Coordination of Humanitarian Affairs: *Burundi: Plan de réponse humanitaire 2022*, 23 March 2022, *p.12*
[808] World Food Programme, *Implications of Ukraine Conflict on Food Access and Availability in the Eastern Africa Region, Update #2, March 2022*, 4 April 2022, *p.10*
[809] World Food Programme, *WFP Burundi Country Brief, June 2022*, 30 June 2022

the Coordination of Humanitarian Affairs summarizes the negative impacts of Rift Valley Fever on livelihoods:

> The RVF primarily affects livestock, cattle in particular, and small ruminants. Livestock is one of the key sectors of the national economy accounting for 14% of GDP. Loss of animal livestock for farmers has considerable impacts on family livelihoods, representing losses of both assets and sources of revenue, potentially pushing entire families into deeper poverty, food insecurity and malnutrition. To date, there are no report of humans contracting the disease in Burundi, though human infection remains a possibility, through mosquito bites or for people in direct contact with infected animals.[810]

In an update on the impact of the conflict in Ukraine published in November 2022, the World Food Programme stated that Burundi continued to see inflation running at 20.9%.[811] The same source noted that the cost of fuel has almost doubled compared to levels before the conflict in Ukraine, and had seen a 127 percent increase compared to September 2021. According to the source, the Burundian government decided to revise the price of fuel in August 2022, leading to a reduction of "12.7 percent […] observed in the overall price of oil products."[812]

b. Food Security

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its Humanitarian Needs Overview in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> […] nearly one in two households is in a situation of chronic food insecurity. 38. This has implications for the nutritional health of the most vulnerable populations, including children. Thus, in 2020, 28.3 percent of children under the age of 5 suffer from stunted growth due to chronic malnutrition, which is also the cause of the death of one in two children […][813]

In January 2021, ACAPS summarized the factors contributing to food insecurity:

> Over 90% of Burundi's population depend on subsistence farming. High exposure to extreme climatic events (dry spells, floods, hail, and landslides) coupled with intensive exploitation of croplands weaken agricultural production however, driving food insecurity. Provinces in the north and north-east of the country, as well as areas along Lake Tanganyika, are particularly affected. The return of Burundian refugees from Tanzania and Rwanda and internal displacement driven by natural disasters are adding further pressure to already scarce natural resources; only 36% of the country's land is cultivable, leading

[810] UN Office for the Coordination of Humanitarian Affairs, *CERF allocates $1 million to the Rift Valley fever response in Burundi*, 20 July 2022
[811] World Food Programme, *Implications of the Conflict in Ukraine on Food Access and Availability in the East Africa Region update #7 (October 2022)*, 11 November 2022, *p.4*
[812] World Food Programme, *Implications of the Conflict in Ukraine on Food Access and Availability in the East Africa Region update #7 (October 2022)*, 11 November 2022, *p.6*
[813] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.16*

> to competition over land. COVID-19 mitigation measures also disrupt trade – especially informal commerce – and limit cross-border movements, leading to loss of income. Between October–December 2020, 1.33 million people (11% of the assessed population) were estimated to be facing high acute food insecurity (IPC Phase 3 or above). Returnees and IDPs are particularly vulnerable to food insecurity and malnutrition.[814]

In its November 2021 report, IDMC stated that:

> Most of the households of IDPs in Kirundo, Ngozi and Rumonge provinces suffered from food insecurity, with more than 70 per cent of the IDPs in these provinces reporting that they consumed only one meal a day.17 Insufficient livelihoods are also a concern, with 44 per cent of all IDPs not having access to arable land. The most pronounced cases were in the provinces of Bujumbura Mairie (92% of IDPs), Rumonge (73% of IDPs) and Bubanza (68% of IDPs).18 Many IDPs were also unable to access basic services, with healthcare unaffordable for 93 per cent of the households of IDPs.19[815]

In its November 2021 key message update, the Famine Early Warning Systems Network summarized the food security situation in Burundi as follows:

> Most poor and very poor households are experiencing Minimal (IPC Phase 1) acute food security outcomes with average ongoing 2021 C Season production, stocks from 2021 B Season and some wild vegetables from 2022 A Season. However, in the Northern and Eastern Lowlands, Stressed (IPC Phase 2) outcomes are ongoing. Despite the decrease in COVID-19 cases by more than 80 percent compared October, measures to restrict cross-border movement persist, reducing food and income sources for nearly 40 percent of the communities living in the Eastern and Northern Lowlands livelihood zones. These households depend heavily on crop production and labor income from Tanzania and are expected to experience Stressed (IPC Phase 2) outcomes during the lean period. In addition, domestic agricultural and non-agricultural labor opportunities remain below average, negatively affecting household incomes. Below-average incomes restrict food access while prices are five to 10 percent above average.
>
> Erratic and below-average rainfall during the October to November sowing period is adversely affecting 2022 A Season performance. Recent rains have slightly improved soil moisture but remain insufficient for maize and bean crop development in Imbo Plains, Eastern and Northern Lowlands. NDVI data indicates that vegetation conditions are below average across the country in general, but significantly below average in the lowland areas, leading to below average 2022 A Season crop production expected in February 2022.
>
> The Burundian government, in collaboration with the humanitarian community, continues to provide three months of food aid to approximately 7,000 returnees, supporting None! (IPC Phase 1!) outcomes until January. 51,000 Congolese refugees accommodated in camps receive continuous monthly assistance and are also likely to face None! (IPC Phase 1!). However, while the measure to restrict the import of maize persists, and food prices increased five percent compared to the average, the local market cannot supply the quantities needed to cover the necessary needs, a pipeline break is likely from January and that situation could lead to a reduction in daily rations, forcing them to Stressed (IPC Phase 2) outcomes. The remaining 31,500 urban refugees are unassisted but able to meet their basic food needs through

[814] ACAPS, *Food Security and Livelihoods*, 20 January 2021
[815] IDMC, *Severity of Internal Displacement*, 3 November 2021, *p.24*

> remittances and some wage labor and are likely facing Stressed (IPC Phase 2) outcomes. In addition, the pipeline break will also likely impact local communities located in Imbo Plains affected by natural disasters who are expected to experience Stressed (IPC Phase 2) due to lack of assistance beginning in January 2022.[816]

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. The report noted the main causes on food insecurity in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> The shocks faced by Burundi combine with various underlying socio-economic and chronic vulnerability factors. They aggravate the country's health and nutritional situation, as well as food insecurity, which continues to be a central driver of humanitarian needs. Food insecurity is caused by a combination of factors, such as the poor performance of the agricultural sector, soil erosion, lack of access to land, high population growth, the effects of climate change, and the impacts socioeconomics of COVID-19. Also, the effects of climate change affect, in a localized and regular way, the agricultural seasons, destroy crops and further weaken the nutritional status of the most vulnerable.
>
> Food insecurity is one of the main threats to the physical and mental well-being of vulnerable communities. According to IPC projections, 1.44 million people, or 12 percent of Burundi's population, are in food emergency (phases 3 and 4) at the end of 2021, compared to 1.3 million people (11 percent of the population) over the same period in 2020, representing a decrease of 18 percent […] [817]

In March 2022, the UN Office for the Coordination of Humanitarian Affairs published its 2022 Humanitarian Response Plan in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Climate change generates most of the humanitarian needs in Burundi. In 2021, recurring disasters, such as repetitive floods, torrential rains accompanied by violent winds in some parts of the country and water deficit in others, have had an impact on the lives of the most vulnerable populations. They caused the majority of internal population displacements as well as the destruction of fields and food stocks, thus weakening food security. […]
>
> Food insecurity continues to figure as one of the main causes of humanitarian needs in Burundi. The agricultural sector, which employs more than 86 percent of the population, is characterized by low productivity and high vulnerability to shocks and climatic hazards, which contributes to food insecurity and malnutrition, which particularly affects children from less than five years. The nutritional situation among children under five has deteriorated in recent years, with a prevalence of global acute malnutrition (GAM) of 6.1 percent [...] 2020. This prevalence was 5.1 percent in 2019 and 4.5 percent in 2018 […]. At the country level, according to IPC projections, 1.44 million people, or 12 percent of the Burundian population, were in a food emergency (phase 3) at the end of 2021, compared to 1.3 million people (11

[816] Famine Early Warning Systems Network, *Burundi Key Message Update: Late and irregular rainfall likely to lead to below-average localized 2022 A Season production, November 2021*, 30 November 2021

[817] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.20, p.50*

> percent of the population) during the same period in 2020, which represents an increase of 10.8 percent […][818]

The World Food Programme's June 2022 Country Brief noted that 9 percent of the population faced emergency and crisis levels of food insecurity due to multiple factors, meanwhile Burundi faces one of the highest rates of malnutrition in the world:

> According to the projections for April 2021 (lean season) IPC results, 9 percent of the population (1.18 million) is facing emergency and crisis levels of food insecurity (Phase 3). However, food security situation remains worse in livelihood zones of " Depression du Nord, Crete Congo Nil and Plaine de l'Imbo". Factors,
> such as rainfall deficit, rising waters of Lake Tanganyika, floods, population displacement in the western provinces, consequences of the COVID-19 pandemic and recurrent population movements are aggravating the food insecurity in the country: staple food prices have soared highest in the past five years.[…]
> Burundi is the second country most affected by chronic malnutrition in the world. According to the SMART 2022, the national average stunting rate is at 55.6 percent well above the emergency threshold (40 percent).[819]

In its report on the humanitarian situation in Burundi between 1 January and 30 June 2022, published in August 2022, UNICEF observed the effects of climate-change related natural disasters on food security:

> Burundi bears the brunt of climate-change related natural disasters, with ongoing hydric deficit in Kirundo province, and early floods which occurred at the end of March in Bubanza, Bujumbura Rural, Cibitoke, Makamba Nyanza-Lac and Rumonge provinces. The hydric deficit experienced in Kirundo has severely damaged crops, with over 90 per cent of legume crops and over 70 per cent of cereal crops destroyed, putting over 200,000 people […] at risk of food insecurity and increased vulnerability.[820]

The same report noted:

> Heavy floods reached Burundi earlier than expected, commencing at the end of March (which normally occur around April and May) as a consequence of torrential rains and strong winds. The provinces of Rumonge, Cibitoke and Bubanza were heavily hit, accounting for: i) over 534 hectares of food crops damaged; ii) 56 damaged classrooms; iii) the disruption of the water supply network with increased risk of water borne illness due to sanitation challenges and iv) displacement of 180 households. The needs of the affected populations are multidimensional including access to safe water, hygiene and sanitation, along with immediate food and nutritional assistance while waiting for income-generating activities to resume.[821]

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[818] UN Office for the Coordination of Humanitarian Affairs: *Burundi: Plan de réponse humanitaire 2022*, 23 March 2022, *p.10-11, p. 25*
[819] World Food Programme, *WFP Burundi Country Brief, June 2022*, 30 June 2022
[820] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 1, 1 January to 30 June 2022*, 1 August 2022
[821] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 1, 1 January to 30 June 2022*, 1 August 2022

In its August 2022 Country Brief, the World Food Programme reported that the Burundian government had lifted the ban on maize imports, which the World Food Programme stated "should result in improved availability and reduced maize food prices."[822]

According to a Situation Report by the UN Office for the Coordination of Humanitarian Affairs, published in September 2022, there was a relative improvement of food security in Burundi compared to the same period in 2021.[823] The report notes:

> In August 2022, using the IPC tool, the actors of the food security sector and the Burundi Government conducted analyses on the level of food security related to the 2022 B growing season (June to September: harvest and post-harvest) as well as on its implication for the 2023 A saison, which starts in October and runs until December 2023. Favorable factors used in the analysis, in particular a generally sufficient rainfall regime for the 2022B season; the promotion of agricultural production through the development of state land distributed to community cooperatives, the encouragement of the joint exploitation of small individual plots, the intensification and encouragement of the establishment of so-called "model" farms, the establishment of strategic stocks by ANAGESSA and on the other hand unfavourable factors such as climatic hazards located in the Eastern Depression, Northern Depression and Imbo wool, the impact of COVID-19 on access to cross-border opportunities, the need for chemical fertilizers not covered by the company Organo-Mineral Fertilizers, FOMI, the impact of the Ukraine crisis on the market, the impact of rift valley fever disease on lifting and its related activities, restrictions on cross-border trade and the return of returnees in need of socio-economic reintegration have determined that 1.2 million people (10% of Burundi's population) are food insecure for the period of June to September 2022, including 50,640 in the emergency phase (IPC4). This period coincides with the harvest and post-harvest period of the main agricultural season "Impeshi", which is marked by relatively good food availability and accessibility. The analysis classified all livelihood areas in a stress phase (IPC2) with the exception of the Crête Congo Nile (CCN) livelihood zone which is classified in IPC1. Households in crisis (IPC3) are mainly those with low capacity to produce their own food. Highly dependent on the market on the one hand, and whose income comes mainly from low-paid activities on the other hand. For the projected period (October to December 2022), food security actors estimated that 1.4 million people (12% of Burundi's population) are food insecure, including 50,640 in the emergency phase (IPC4). The analysis shows a slight deterioration in the situation between the current and projected situation, moving the SCC from Phase 1 to Phase 2 (Stress) and the Eastern Depression Subsistence Zone to IPC3.[824]

In September 2022, a written report in French was submitted to the UN Human Rights Council by the Special Rapporteur on the situation of Human Rights in Burundi. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> 3. Right to Food

[822] World Food Programme, *WFP Burundi Country Brief August 2022*, 20 August 2022
[823] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Situation Report (5 Sep 2022)*, 5 September 2022
[824] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Situation Report (5 Sep 2022)*, 5 September 2022

59. The Special Rapporteur welcomes the efforts made by the Burundian authorities to curb Rift Valley fever, which has affected livestock since April 2022.

60. However, weather conditions, access to water and land, trade with neighboring countries, migration flows (both economic and climate-related), labor and soil fertility marked by climate change poses serious challenges to ensuring access to healthy food.

61. The ongoing Ukrainian crisis has a considerable impact on Burundi's growth, and increases speculation and inflationary pressures, particularly for basic food products. Global food prices have increased since 2021, mainly due to the fallout from the COVID-19 pandemic. Against the backdrop of an already gradually deteriorating situation, the impacts of the ongoing conflict in Ukraine will likely contribute to a further increase in food prices in Burundi. The price of natural gas has risen since the start of the conflict, directly inflating the production costs of fertilizers, which, in turn, are passed on to consumers through increased retail prices for fertilizers and ultimately foodstuffs.[825]

An update by the Famine Early Warning Systems Network on food security, published in September 2022 and reporting on the situation as of August 2022, summarised the situation as follows:

> Most areas in Burundi will continue to experience Minimal (IPC Phase 1) outcomes through January 2023, supported by food stocks from the near-average 2022 B Season harvest, average 2022 C Season crop production, and regular access to income sources and 2022. However, Stressed (IPC Phase 2) outcomes are expected in the Eastern and Northern Lowlands and Eastern Dry Plateau livelihood zones through January 2023, driven by below-average income from bean sales, high staple food prices, and below-average income from cross-border trade with Tanzania and Rwanda.
>
> In August, staple food prices are around 20 to 30 percent above the five-year average and 5 to 40 percent above prices last year. The rise in food prices is primarily driven by increased transportation costs, high production costs, and high inflation rates. Between January and July, fuel prices have increased nearly 40 percent on the official market but are three times higher on the parallel market. The high fuel prices are increasing transportation and food costs. However, the lifting of the maize import ban that has been in place since March 2021 is likely to improve maize imports through January 2023, slightly improving its availability and lowering food prices.
>
> In August 2022, WFP provided a three-month package of humanitarian food assistance to 55,556 refugees from DRC and around 2,450 returnees. Additionally, WFP assisted around 10,800 food-insecure people affected by torrential rains, violent winds, landslides, and river flooding in Cibitoke and Bubanza provinces. The daily ration in each three-month package is equivalent to 360 g of cereals, 120 g of beans, 25 g of vegetable oil, and 5 g of salt per person. Due to cereal stock shortages, maize assistance for refugees and returnees has been replaced by 13,000 BIF per person per month. The humanitarian assistance is supporting Minimal! (IPC Phase 1!) acute food insecurity outcomes among beneficiaries. However, around 6,350 returnees from January to April 2022 have likely exhausted their three-month food assistance rations and are Stressed (IPC Phase 2) having not yet established typical sources of income and crop production.[826]

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[825] Nations Unies Conseil des droits de l'homme, *Situation des droits de l'homme au Burundi Rapport du Rapporteur Spécial sur la situation des droits de l'homme au Burundi, Fortuné Gaetan Zongo**, 13 Septembre 2022, *paras 59 – 61*

[826] Famine Early Warning Systems Network, *Burundi Food Security Outlook Update, August 2022*, 14 September 2022

According to UNICEF, "each year in Burundi, about 60,000 children suffering from severe acute malnutrition must be treated; […] Nathalie Meyer [deputy representative of UNICEF in Burundi] also warned that the prevalence of chronic malnutrition in children under five years of age has increased in the last few months of 2022. The province of Karuzi is particularly affected, with figures approaching 60%."[827]

A UNICEF article notes that children are disproportionately impacted by food insecurity in Burundi:

> Availability and access to nutritious food remains a challenge for many households. More than 67% of the Burundian population cannot afford a nutritious diet on the market. Women and children are disproportionately affected by food and nutrition insecurity due to gender inequality and structural vulnerabilities. With more than 50% stunting in children under five, Burundi is one of the countries with the highest prevalence of stunting, far exceeding World Health Organization thresholds. Muyinga is one of the most severely nutritionally insecure provinces with multifaceted underlying factors such as poverty, limited access to foods rich in micronutrients such as vitamin A, protein, and iron.[828]

The Food and Agriculture Organization of the United Nations noted the increasing prices of maize and beans due largely to high fuel prices:

> Prices of maize and beans higher than year earlier mainly due to high fuel prices
> Prices of maize increased by 20-50 percent between June and October 2022, despite increased market availabilities from the "2022B" season harvest, gathered in June and July and estimated at above-average levels. Maize prices in October were 40-55 percent higher than a year earlier, despite adequate domestic availabilities, mainly due to high transport costs owing to high prices of fuel, underpinned by the impact of the war in Ukraine on international prices. Similarly, prices of beans in October were 25-45 percent higher on a yearly basis.[829]

The same report noted with regard to internally displaced persons, refugees and asylum seekers: "Particular concerns exist for the food security situation of 85 000 Internally displaced persons (IDPs), mainly displaced by natural disasters, and for about 87 000 refugees and asylum seekers, predominantly from the Democratic Republic of the Congo, which have limited livelihood opportunities and need to rely on humanitarian assistance."[830]

The same source noted the seasonal deterioration of food security heading into the lean season of October – December 2022, and observed that the Integrated Food Security Phase Classification (IPC) estimate of the number of people who will face severe acute food insecurity during the current lean period, is similar for the same period in 2021:

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[827] UNICEF, *The USA Embassy and UNICEF support children suffering from severe acute malnutrition in Burundi*, 27 September 2022
[828] UNICEF, *An innovative step in the fight against malnutrition*, 19 October 2022
[829] Food and Agriculture Organization of the United Nations, *GIEWS Country Brief Burundi*, 14 November 2022
[830] Food and Agriculture Organization of the United Nations, *GIEWS Country Brief Burundi*, 14 November 2022

> According to the latest Integrated Food Security Phase Classification (IPC) analysis, 1.4 million people (12 percent of the analysed population) are estimated to face severe acute food insecurity in the lean period between October and December 2022. This figure, which includes 1.35 million people in IPC Phase 3 (Crisis) and 51 000 people in IPC Phase 4 (Emergency), is about 17 percent higher than the previous estimate for the post-harvest period between June and September 2022 and similar to the estimate for the same period in 2021.
>
> The seasonal deterioration of the food security situation between the June-September post-harvest period and the October-December lean season has been more substantial in the eastern Lowland and in the central Humid Plateaus livelihood zones. In these areas, the prevalence of severe acute food insecurity increased from 10 to 15 percent and from 15 to 20 percent, respectively, mainly due to the reduced "2022B" season production of beans, caused by erratic February - May "long - rains".[831]

The World Food Programme noted the effects of the conflict in Ukraine, and Covid-19 containment measures on food insecurity in Burundi, and a continuing increase in the cost of rice and beans:

> The inflationary effect of the Ukrainian crisis compounded with the trade and market supply disruptions imposed by the COVID19 containment measures have exacerbated the national economic crisis and the food insecurity in the country: compared to July 2021, the price of staple food on local markets has increased by 53 percent […] The monthly increase in food prices observed since June 2022 continued in September 2022. The average price of beans and rice has increased by 16 percent and 4 percent respectively between August and September 2022 in all provinces of Burundi. This price increase will continue, particularly as we enter the lean season (October to December 2022) which, in addition to the normal depletion of household reserves, is also compounded by disruptions to market supplies caused by fuel shortages. [832]

The World Food Programme September 2022 Country Brief described challenges in the delivery of programmes to provide nutritious foods to children and pregnant and breast-feeding women and girls in Burundi:

> School Feeding Programme: On 12 September, schools reopened for the new 2022/2023 schoolyear after a two-month vacation, and school feeding activities resumed in schools assisted under the school feeding programme. However, WFP reached only 119,200 school children which is 20 percent of its target because of a pipeline break in cereals, vegetable oil and salt. The programme assisted the school children with 105 mt of food.
>
> Treatment of moderate acute malnutrition (MAM): In September, MAM treatment activities benefitted 3,853 children aged 6-59 months who received 15 mt of specialized nutritious foods in Cankuzo, Kirundo, Ngozi, and Rutana provinces. Pregnant and breastfeeding women and girls could not be treated due to lack of SuperCereal Plus (CSB++).
>
> Stunting prevention: Under the KfW-funded nutrition and resilience programme and BMZ-funded nutrition programme, WFP provided 103 mt of specialized nutritious food to 34,363 PLWGs and children aged 6-23 months (14,769 PLWGs and 19,594 children) for the prevention of stunting in Kirundo, Karusi, Ruyigi and Rutana provinces […]

[831] Food and Agriculture Organization of the United Nations, *GIEWS Country Brief Burundi*, 14 November 2022
[832] World Food Programme, *WFP Burundi Country Brief September 2022*, 21 November 2022

> Since July, the programme has been facing a shortfall in nutritious food (CSB++ and Plumpy Sup) to distribute to moderately malnourished pregnant and breastfeeding women and girls and children 5-59 months. [833]

c. Water and sanitation

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its Humanitarian Needs Overview in French. Using an online translation tool, Onlinedoctranslator.com, the following findings:

> If the rate of access to drinking water is 83 percent in urban areas and 60 percent in rural areas51, only 27 percent and 15 percent of the urban and rural population respectively have access to adequate sanitation.[834]

Further findings from the same report were translated using an online translation tool Onlinedoctranslator.com,:

> To the inadequacy and lack of maintenance of WASH infrastructure in some localities, there has been added the destruction/damage of this infrastructure following natural disasters. Thus, according to DTM data, from October 2019 to October 2020, natural disasters destroyed 37 water sources or networks. As a result, vulnerable populations sometimes resort to surface water or undeveloped water points, exposing them to the risk of waterborne diseases in particular.[835]

In its report on internal displacement published in September 2021, the International Organization for Migration noted the following, regarding the situation for IDPs:

> Most displaced households (64%) reported equipped source as the main source of water and 61 per cent of households indicated that the walking time of going to and coming back from the nearest drinking water source was more than 30 minutes. Moreover, 32 per cent of surveyed households reported drinking water-related complaints. These concerns were mainly related to the presence of residues (79%), color (50%), flavor (44%) ,odor (42%) and insufficient quantity (35%). In addition, 42 per cent of displaced households had no access to functional latrine.[836]

In a December 2021 appeal by UNICEF, it was stated that: "About 39 per cent of the population lack access to basic water, while 56 per cent lack access to basic sanitation services."[837]

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[833] World Food Programme, *WFP Burundi Country Brief September 2022*, 21 November 2022
[834] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.19*
[835] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.26,*
[836] International Organization for Migration, *IOM Burundi - Internal Displacement Report (July 2021)*, 30 September 2021
[837] UNICEF, *Humanitarian Action for Children 2022 – Burundi*, 7 December 2021

In March 2022, the UN Office for the Coordination of Humanitarian Affairs published its 2022 humanitarian response plan in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Natural disasters and population displacements reduce the level of access to health infrastructure as well as water, hygiene and sanitation infrastructure, thus increasing the risk of transmission of waterborne diseases. […][838]

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Significant disparities persist in access to basic services and infrastructure. The drinking water access rate is 83 percent in urban areas and 60 percent in rural areas68. In terms of access to adequate sanitation infrastructure, only 27 percent and 15 percent respectively of the urban and rural population have access to such infrastructure […]
> According to the WASH sector, the main needs of the sector in Burundi are caused by structural problems which are aggravated by recurrent shocks. Difficulties in terms of insufficient and quality WASH infrastructure, as well as the destruction of these infrastructures following natural disasters, indeed continue to cause problems and expose populations to multi-sectoral impacts such as health problems and malnutrition, as well as protection risks. With the return of returnees and internal movements, additional pressure is also exerted on the already fragile sanitation systems, while these systems were already strained in the context of the Covid-19 pandemic. [839]

In its report on the humanitarian situation in Burundi between 1 January and 30 June 2022, UNICEF noted the effects of climate-change related natural disasters on water and sanitation:

> Heavy floods reached Burundi earlier than expected, commencing at the end of March (which normally occur around April and May) as a consequence of torrential rains and strong winds. The provinces of Rumonge, Cibitoke and Bubanza were heavily hit, accounting for: […] iii) the disruption of the water supply network with increased risk of water borne illness due to sanitation […] The needs of the affected populations are multidimensional including access to safe water, hygiene and sanitation […].[840]

In its humanitarian situation report published in April 2022, UNICEF noted that:

> Heavy floods have reached Burundi earlier than expected, commencing at the end of March (which normally occur around April and May) as a consequence of torrential rains and strong winds. The provinces of Rumonge, Cibitoke and Bubanza were heavily hit, accounting for: i) over 534 hectares of food crops damaged; ii) 56 damaged classrooms; iii) the disruption of the water supply network with increased

[838] UN Office for the Coordination of Humanitarian Affairs: *Burundi: Plan de réponse humanitaire 2022*, 23 March 2022, *p.13*
[839] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.23*, *p.34*
[840] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 1, 1 January to 30 June 2022*, 1 August 2022

> risk of water borne illness due to sanitation challenges and iv) displacement of 180 households. UNICEF is monitoring the multiple consequences of the hydric deficit and earlier than anticipated floods. The needs of the affected populations are multidimensional including housing, access to safe water, hygiene and sanitation […][841]

In July 2022, a UNICEF article noted that:

> In Burundi, the [UNICEF] SMART report 2022 states that only 28% of people have access to basic sanitation, and 0.5% of people do not have latrines, which means that 71.5% have not adequate latrine unfortunately with only 86% of people do the hand washing practices. […]
> In the absence of toilets, people practice open defecation, and use inadequate latrines. This leads to exposure to bacteria and contamination of water in the household or other food and causing water-borne diseases such as diarrhea, cholera, and typhoid claim millions of lives each year.
> But the lack of toilets does not only pose health and environmental problems. It can also expose children to a range of dangers, including sexual abuse, when they have to walk away from facilities to relieve themselves. Having adequate sanitation allows children, especially adolescent girls, to have access to decent sanitation facilities in their communities.[842]

According to a UNICEF report on the humanitarian situation published in October 2022, as a result of climate-change related natural disasters, communities were in need of access to safe water, hygiene and sanitation:

> Burundi bears the brunt of climate-change related natural disasters, with ongoing hydric deficit in Kirundo province, and heavy rains which displaced 1,000 households in Cibitoke province at the end of September. The needs of the affected populations are multidimensional including access to safe water, hygiene and sanitation […][843]

d. Access to health services

In its annual report on human rights practices in 2020, published in 2021, the US Department of State noted that:

> The government provided free prenatal and postpartum services. There were no restrictions on access to contraceptives; the contraceptive prevalence rate was 29 percent. Health clinics and NGOs freely disseminated information on family planning under the guidance of the Ministry of Public Health. Faith-based clinics promoted the use of natural family planning methods.
> The government provided access to sexual and reproductive health services for survivors of sexual violence.
> The 2016-2017 Demographic and Health Survey estimated the maternal mortality rate at 334 per 100,000 live births in 2016-2017. The main factors influencing maternal mortality were inadequate medical care

[841] UNICEF, *Burundi Humanitarian Situation Report No. 1: 1 January to 31 March 2022*, 28 April 2022
[842] UNICEF, *Latrine accessibility, a dignity more than a comfort*, 19 July 2022
[843] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 3, 1 July to 30 September*, 25 October 2022, *p.2*

> and low use of family planning services. World Health Statistics indicated the adolescent birth rate was 58 per 1,000 in 2016. […]
> The constitution prohibits discrimination against persons with disabilities, but the government did not promote or protect their rights. Although persons with disabilities are eligible for free health care through social programs targeting vulnerable groups, authorities did not widely publicize or provide benefits. Employers often required job applicants to present a health certificate from the Ministry of Public Health stating they did not have a contagious disease and were fit to work, a practice that sometimes resulted in discrimination against persons with disabilities. […]
> By law, local administrations must provide free schoolbooks and health care for all Twa children. Local administrations largely fulfilled these requirements […]
> The law does not prohibit discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons in housing, employment, nationality laws, and access to government services such as health care. Societal discrimination against LGBTI persons was common.[844]

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its 2021 humanitarian response plan in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Children, adolescents and women are particularly exposed to protection risks, including gender-based violence (GBV) and human trafficking. It is important to note that even if women and girls are still at risk of GBV, the identification of cases remains very partial due to under-reporting due to social constraints. Access to support services for GBV survivors remains limited. Also, reproductive health, including family planning for women and girls and their empowerment, remains a problem across the country […].
> Food insecurity continues to figure as one of the main causes of humanitarian needs in Burundi. The agricultural sector, which employs more than 86 percent of the population, is characterized by low productivity and high vulnerability to shocks and climatic hazards, which contributes to food insecurity and malnutrition, which particularly affects children from less than five years. The nutritional situation among children under five has deteriorated in recent years, with a prevalence of global acute malnutrition (GAM) of 6.1 percent26in 2020. This prevalence was 5.1 percent in 2019 and 4.5 percent in 2018[845]

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its Humanitarian Needs Overview in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> While free health care for mothers and children under 5 has reduced mortality among children under 5 (from 96 to 78 per 1,000 live births between 2010 and 2017), this this remains important.[846]

Further findings from the same report also translated from French to English:

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[844] US Department of State, *2020 Country Reports on Human Rights Practices: Burundi*, 30 March 2021
[845] UN Office for the Coordination of Humanitarian Affairs, *Burundi: Plan de réponse humanitaire 2021*, March 2021, *p.13, 25*
[846] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.16*

> Burundi continues to face significant problems of access to health care. According to the latest Demographic and Health Survey in Burundi (EDSB-III), the walking time to get to the nearest health facility (FOSA) is less than 30 minutes for only 49 percent of households.126. For 46 percent of households, this time varies between 31 and 120 minutes and for 5 percent of households, it is more than 120 minutes. The results show that travel time in rural areas is longer than in urban areas. In total, 9 out of 10 households (i.e. 90 percent of households) in urban areas take less than 30 minutes compared to 44 percent in rural areas where 20 percent of households take between 61 and 120 minutes to get to the nearest health facility. […]
> Due to the insufficiency of the technical platform of the health services and the extremely limited capacity to offer basic emergency obstetric care, the ratio of maternal deaths and the rate of neonatal deaths are extremely high. The latest data indicate that the risk of dying between birth and the 28th day of life is 23 percent and that the maternal mortality rate (MMR) is 334 deaths per 100,000 live births, this rate being strongly influenced by the complications of early and unwanted pregnancies (MSPLS, EDSB-III 2016-2017).[847]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council in September 2021, it was stated that:

> 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. […]
> 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. [848]

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Concerning reproductive health, a high rate of maternal mortality persists due in particular to the insufficiency of the technical platform of the health services […] in 2020, more than 50 percent of children under the age of 5 suffer from stunting due to chronic malnutrition, which is also the cause of the death of one in two children.48. While free health care for mothers and children under 5 has reduced mortality

[847] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p. 78 – 79*
[848] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *para 46 - 47*

> among children under 5 (from 96 to 78 per 1,000 live births between 2010 and 2017), this this remains important. [849]

The same report notes the impact of the pandemic on access to health care. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> In terms of health, in terms of response to the Covid-19 pandemic, the people mentioned above, whose needs have continued to grow, remain poorly covered by the public health actions implemented in the country to respond to this pandemic. Indeed, these people live in overcrowded conditions, in host communities or in camps, and have limited access to screening, care and vaccination sites against Covid-19 set up in the country.
> In Burundi, the Covid-19 pandemic has caused an overload of the health system, with a reduction in the number of healthcare personnel assigned to the treatment of the most common pathologies - to the detriment of the response to COVID-19 - and a strong demand for care inputs and infrastructure dedicated to the care of host populations. Even if the statistics are not yet available, this increased demand for health care has limited access to health care for populations in humanitarian emergencies mentioned above. […]
> The shocks suffered by Burundi at the end of 2020 and during 2021 led to:
> • A reduction in the use of certain services, in particular health services and certain protection services
> • Deterioration of health infrastructure.[850]

The same report notes that the majority of the Burundian population live more than a 30 minute walk from a health facility:

> Burundi continues to face significant problems in terms of access to health care. According to the latest Demographic and Health Survey in Burundi (EDSIII), only 49 percent of households are within a 30-minute walk of a health facility (FOSA). For 46 percent of households, this time varies between 31 and 120 minutes and for 5 percent of households, it is more than 120 minutes. The results show that travel time in rural areas is longer than in urban areas. In total, 90 percent of households in urban areas take less than 30 minutes to get to the nearest health facility, compared to 44 percent in rural areas. In rural areas, 20 percent of households take between 61 and 120 minutes to get to the nearest health facility.[851]

In a report by Oxfam published in February 2022, it was noted that the Government of Burundi played down the prospective impact of the Covid-19 pandemic throughout 2020, and launched a response only in 2021, which was partly funded by cutting other spending.[852]

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[849] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.18 - 19*
[850] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.21*
[851] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.109*,
[852] Oxfam, *The Inequality Crisis in East Africa: Fighting austerity and the pandemic*, 9 February 2022, *p.11*

In April 2022, the World Health Organization published a Mental Health Atlas, covering information on mental health provision in Burundi. The country profile indicates that while Burundi produced a policy/plan related to mental health in 2015, no human or financial resources have been estimated or allocated for the implementation of the plan.[853] The briefing notes that treatment of persons for mental health conditions is not included within national health insurance, and people must individually pay for any treatment they require.[854] The briefing additionally indicates that the number of mental health workers per 100, 000 of the population had increased from 0.49 in 2014, to 0.64 in 2017.[855]

In April 2022, an article on HealthNet TPO noted that:

> The notion of mental health is still struggling to find its place in communities in Burundi. Mental health has long been relegated to the realm of taboo and superstition. The tendency is to consider mental illnesses, that are unknown to the population, as supernatural sufferings that can only be cured by spiritual interventions or by resorting to traditional medicines and rituals. People living with mental health issues are stigmatised and often held responsible for their illness. For these reasons, people are marginalised, ignored and become invisible to a society that fears them.[856]

e. Humanitarian Situation for Children

In March 2021, the UN Office for the Coordination of Humanitarian Affairs published its Humanitarian Needs Overview in French. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> […] nearly one in two households is in a situation of chronic food insecurity. 38. This has implications for the nutritional health of the most vulnerable populations, including children. Thus, in 2020, 28.3 percent of children under the age of 5 suffer from stunted growth due to chronic malnutrition, which is also the cause of the death of one in two children […][857]

Findings from the same report were translated using an online translation tool, Onlinedoctranslator.com:

> Burundi experienced various shocks throughout 2020 which affected the already pronounced educational needs. While progress has been observed in education over the past decade, it there are still children and adolescents who are out of school or who have never been to school. This situation can be explained by various factors including the high level of poverty, a limited educational offer both in terms of infrastructure and the number of teachers and an unfavorable learning environment (with in particular a lack of teaching materials, water and electricity). Thus the preliminary results of the study on children and

[853] World Health Organization, *Mental Health Atlas 2020; Member State Profile; [Burundi]*, 15 April 2022
[854] World Health Organization, *Mental Health Atlas 2020; Member State Profile; [Burundi]*, 15 April 2022
[855] World Health Organization, *Mental Health Atlas 2020; Member State Profile; [Burundi]*, 15 April 2022
[856] HealthNet TPO, *Addressing Mental Health in Burundi*, 21 April 2022
[857] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.16*

> adolescents outside school (EADE), which dates from 2020, estimates the number of out-of-school children at 1.9 million: 0.9 million in pre-school education. school, 392,933 in basic education, 231,190 in lower post-basic education and 430,959 in higher post-basic education121.
> Floods, violent winds and landslides in the first half of 2020 have increased the risk of abandonment by destroying school infrastructure and teaching materials, by transforming school infrastructure into shelters for the affected populations and by forcing people to move. Burundi Red Cross figures for January 2020 show 748 affected households, or 5,984 displaced people, who have gathered in schools or administrative premises in the city of Bujumbura. More than 78.5 percent of basic schools in Gatumba and Rukaramu areas in Bujumbura province have suspended classes for at least two weeks due to flooding. […][858]

UNICEF's humanitarian situation report published in February 2021 noted the following:

> The nutrition sector succeeded in maintaining critical services to save children's lives in 2020 despite the pandemic. A total of 100% of district hospitals (53 inpatient facilities (IPF)) and 83% (602 outpatient therapeutic programmes (OTP) out of 725) of health facilities offered therapeutic nutrition care for children under five with severe acute malnutrition (SAM). From January to November 2020, 44,466 children with SAM (23,567 girls and 20,899 boys) were admitted and treated in the twelve most vulnerable provinces and those hosting IDPs and returnees targeted in the Humanitarian Response Plan (HRP)/Humanitarian Action for Children (HAC) appeal. The trend in SAM admissions in 2020 is similar to the two previous years (2019 and 2018). Community management of acute malnutrition (CMAM) performance indicators are within SPHERE standards with 90 per cent cured. Government successfully organized two rounds of Vitamin A supplementation campaigns in July and December 2020. The first round using community-based distribution reached 99.5% of targeted under five children.[859]

In a report of the Commission of Inquiry on Burundi, submitted to the UN Human Rights Council in September 2021, it was stated that:

> 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.[860]

In an appeal published by UNICEF in December 2021, it was noted that:

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[858] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2021*, 11 March 2021, *p.67*
[859] UNICEF, *Burundi Humanitarian Situation Report No. 4 - Reporting Period: 01 January to 31 December 2020*, 1 February 2021
[860] UN Human Rights Council, *Report of the Commission of Inquiry on Burundi* (A/HRC/48/68)*, 12 August 2021, *para.48*

> The education rate remains low, as 1.9 million children and adolescents of school age (4 to 19 years) out of 5.1 million are still out of school, (37 per cent dropouts and 63 per cent never attended school13 and half of repatriated children lacking access to formal education).14 Child protection remains a concern as 93,498 children15 do not have birth certificates as of July 2021, thus limiting their access to basic social services, and 2,903 unaccompanied children are particularly at risk of trafficking, abuse, exploitation and violence, including gender-based violence (GBV). The prevalence of global acute malnutrition (GAM) is not improving over the years, reaching 6.1 per cent, with 31 of the 47 districts in a precarious situation (GAM 5 to 9.9 per cent).16 Only 6.8 per cent of children (6 to 23 months) receive a minimum acceptable diet. More than 58,000 children under 5 years of age are estimated to be at risk of severe acute malnutrition (SAM)17 in 2021.[861]

The UN Office for the Coordination of Humanitarian Affairs published a Humanitarian Needs Overview in French in February 2022. Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English:

> Nearly 946,000 children affected by the humanitarian situation will be in need in 2022. […] The shocks of recent years, linked to the socioeconomic impact of Covid-19, adverse climatic hazards, population displacements and epidemics, have multiplied the risk factors for survival, protection and well-being. to be children. Parents' loss of income sometimes forces them to cut back on essential spending on health, food security and education. Loss of access to school linked to situations of displacement, climatic hazards (destruction of infrastructure) or loss of means of subsistence, increases the risk of abuse and exploitation or recourse to negative strategies. of survival such as child labour.
> Among populations displaced by the 2021 floods, about 5 percent of school-aged children do not attend. This situation is much greater in Makamba province, where 11 percent of children are out of school. The main causes cited were the lack of school materials (43 percent), the lack of financial means (39 percent), and the need to send the child to work to contribute to household expenses (5 percent) […] Children are also very vulnerable to acute malnutrition, especially those at a young age. The vulnerability of children to malnutrition is caused by population movements (internal displacements and repatriations), food insecurity, epidemics, but also by their poor access to drinking water, preventive and curative nutritional care and poor maternal food and nutrition practices. […

Using an online translation tool, Onlinedoctranslator.com, the following findings were translated from French to English from the same report:

> An estimated 30 per cent of adolescent girls aged 10-19 are currently out of school for a variety of reasons, including working in the fields or obtaining other means of survival, such as working as housekeepers in wealthy households.[862]

In its January 2022 Country Brief, the World Food Programme noted challenges in delivering food assistance to children through its school feeding programme:

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[861] UNICEF, *Humanitarian Action for Children 2022 – Burundi*, 7 December 2021
[862] UN Office for the Coordination of Humanitarian Affairs, *Burundi : Aperçu des Besoins Humanitaires 2022*, 28 February 2022, *p.18*

> School Feeding Programme: The programme assisted 112,020 school children with 58 mt of food (including 22 mt of milk). WFP assisted only 16 percent of the targeted children due to a pipeline break in cereals. Fortified maize flour was not available for distribution, due to the unavailability of the premix for fortification. As a lesson learned, it was recommended to proceed with the distribution of non-fortified maize meal, should such a case occur in the future.[863]

The World Food Programme's June 2022 Country Brief noted that "[a]ccording to the SMART 2022, the national average stunting rate is at 55.6 percent well above the emergency threshold (40 percent)."[864]

In its June 2022 update, the Famine Early Warning Systems Network noted that: "Around 35,000 children and pregnant and lactating women received specialized nutritious food for stunting prevention."[865]

In July 2022, a UNICEF article noted how a lack of sanitation affects children:

> In Burundi, the [UNICEF] SMART report 2022 states that only 28% of people have access to basic sanitation, and 0.5% of people do not have latrines, which means that 71.5% have not adequate latrine unfortunately with only 86% of people do the hand washing practices. […]
> In the absence of toilets, people practice open defecation, and use inadequate latrines. This leads to exposure to bacteria and contamination of water in the household or other food and causing water-borne diseases such as diarrhea, cholera, and typhoid claim millions of lives each year.
> But the lack of toilets does not only pose health and environmental problems. It can also expose children to a range of dangers, including sexual abuse, when they have to walk away from facilities to relieve themselves. Having adequate sanitation allows children, especially adolescent girls, to have access to decent sanitation facilities in their communities.[866]

The World Food Programme's July 2022 Country Brief notes challenges in treating Moderate Acute Malnutrition among pregnant and breast-feeding women and girls, and children aged 0-59 months:

> Starting in July until November, the programme is facing a shortfall in nutritious food (CSB++ and Plumpy Sup) to distribute to moderately malnourished pregnant and lactating women and girls and children 5-59 months. WFP is only expecting some nutritional inputs provided by BHA under FY 2022 to reach Burundi in October and December (49 mt of CSB++ in October; and 510 mt of CSB++ and 170 mt of Plumpy Sup in December). Meanwhile, WFP needs support to be able to cover the period from July to November. Otherwise, the nutritional status of thousands of malnourished children and PLWG will further deteriorate.[867]

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[863] World Food Programme, *WFP Burundi Country Brief, January 2022*, 1 March 2022
[864] World Food Programme, *WFP Burundi Country Brief, June 2022*, 30 June 2022
[865] Famine Early Warning Systems Network, *Burundi Food Security Outlook Update, June 2022 to January 2023*, 7 July 2022
[866] UNICEF, *Latrine accessibility, a dignity more than a comfort*, 19 July 2022
[867] World Food Programme, *WFP Burundi Country Brief, July 2022*, 31 July 2022

In its report on the humanitarian situation in Burundi between 1 January and 30 June 2022, UNICEF noted the effects of climate-change related natural disasters on children and schools, and the challenges faced by returnee children:

> Heavy floods reached Burundi earlier than expected, commencing at the end of March (which normally occur around April and May) as a consequence of torrential rains and strong winds. The provinces of Rumonge, Cibitoke and Bubanza were heavily hit, accounting for: […] ii) 56 damaged classrooms; iii) the disruption of the water supply network with increased risk of water borne illness due to sanitation challenges and iv) displacement of 180 households. The needs of the affected populations are multidimensional including access to safe water, hygiene and sanitation, along with immediate food and nutritional assistance while waiting for income-generating activities to resume. Children and women in particular are at heightened risk of violence, exploitation, neglect and abuse, especially while displaced. Finally, children are at increased risk of school drop-out due to damaged education facilities, school materials and the loss of birth certificates that enables access to education […]
> The voluntary repatriation of Burundian refugees continues covering 13 countries […] As of end May 2022, 140,788 people have returned since the voluntary repatriation program was established in 2017, including 7,146 from January to 31 May 2022 […] . Of this population, 56 per cent are children. The most pressing needs reported are related to birth registration which allows access to free basic social services such as health and education. Only half of the children reportedly attend school (34 per cent primary school and 15 per cent secondary school) and 20 per cent of families do not have access to health services..[868]

According to September 2022 UNICEF article, "each year in Burundi, about 60,000 children suffering from severe acute malnutrition must be treated; […] Nathalie Meyer [deputy representative of UNICEF in Burundi] also warned that the prevalence of chronic malnutrition in children under five years of age has increased in the last few months of 2022. The province of Karuzi is particularly affected, with figures approaching 60%."[869]

An October 2022 UNICEF article notes that children are disproportionately impacted by food insecurity in Burundi:

> Availability and access to nutritious food remains a challenge for many households. More than 67% of the Burundian population cannot afford a nutritious diet on the market […] children are disproportionately affected by food and nutrition insecurity due to gender inequality and structural vulnerabilities. With more than 50% stunting in children under five, Burundi is one of the countries with the highest prevalence of stunting, far exceeding World Health Organization thresholds. Muyinga is one of the most severely nutritionally insecure provinces with multifaceted underlying factors such as poverty, limited access to foods rich in micronutrients such as vitamin A, protein, and iron.[870]

[868] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 1, 1 January to 30 June 2022*, 1 August 2022
[869] UNICEF, *The USA Embassy and UNICEF support children suffering from severe acute malnutrition in Burundi*, 27 September 2022
[870] UNICEF, *An innovative step in the fight against malnutrition*, 19 October 2022

According to another UNICEF article, published in October 2022, ongoing crises have negatively impacted on basic social services, particularly children's education:

> The chronic crises that Burundi has experienced have weakened basic social services, particularly education. The government's financial resources are not sufficient to provide adequate infrastructure to accommodate the ever-increasing school population. […]
> The enrolment rate started to increase in Burundi with the introduction of free primary education (6 to 12 years old) in 2005, which was extended to basic education (13 to 15 years old) in 2013; all this to promote the enrolment of children from families with limited resources.
> As a result of these measures, a rapid increase in enrollment has followed, from 2314823 children enrolled in preschool and basic education in 2005 to 2681835 in 2020, an increase of 16%. […]
> However, even if all these measures have favored the access of many children to school, the needs resulting from this increase, accentuated by natural disasters and population displacements, constitute an obstacle to the continuity and quality of learning.[871]

A UNICEF report on the humanitarian situation in Burundi, published in October 2022 and covering the situation between July and September 2022, stated that: "Children […] in particular are at heightened risk of violence, exploitation, neglect and abuse, especially while displaced. […] children are at increased risk of school drop-out due to damaged education facilities, school materials and the loss of birth certificates that enables access to education."[872] In relation to the intersection between climate-change related disasters and children's access to food, health, education and child protection, the same report stated:

> Burundi is currently ranked 169th out of 181 countries ranked accordingly to their vulnerability to climate change […] . According to the Children's Climate Risk Index (CCRI) […] , children in Burundi are highly vulnerable with a measurable impact on: i) nutrition, as climate shocks severely impact food availability and quality, which is detrimental to the Burundian population which is strongly dependent on agriculture […] ; ii) health, with an increased frequency of waterborne diseases and a significant increase in malaria which may be exacerbated by changing temperatures and may be increased due to stagnant waters during the floods; iii) education, with an increase in school drop-out caused by displacement or the destruction of education facilities and iv) child protection, with an increased risk of exploitation, human trafficking and child labour as negative coping mechanisms increase in response to climate shocks.[873]

XIV. Situation and Treatment of Stateless Persons

The U.S. Department of State in its annual report covering 2021 noted that "According to UNHCR, an estimated 783 persons at risk of statelessness lived in the country. All had lived in the country for decades, originally arriving from Oman, and were awaiting proof of citizenship from the government of Oman. Most of those who remained at risk of statelessness had refused an offer of Burundian

[871] UNICEF, *UNICEF supports learning continuity in emergencies*, 25 October 2022
[872] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 3, 1 July to 30 September*, 25 October 2022, *p.2*
[873] UNICEF, *UNICEF Burundi Humanitarian Situation Report No. 3, 1 July to 30 September*, 25 October 2022, *p.5*

citizenship from the government if they could not get Omani citizenship. Stateless persons faced limited freedom of movement because they were ineligible for driver's licenses and passports".[874]

The UN High Commissioner for Refugees (UNHCR) stated in their annual note on gender equality, nationality laws and statelessness 2022 on Burundi:

> The #IBelong Campaign to End Statelessness […]
> In December 2021, at the High-Level Official's meeting, Burundi pledged to adopt a national action plan to eradicate statelessness, which presents an opportunity to reform sex discrimination in its nationality and other related laws. […]
> Overview of nationality laws […]
> Africa […]
> States with constitutional guarantees of equality that have not yet reformed nationality laws to introduce gender equality
> Four African States – Burundi, Liberia, Sudan, and Togo – have enshrined the principle of gender equality in recent constitutions but have yet to reform the relevant provisions of their nationality laws.15 In principle, constitutional provisions prevail over the nationality law in each State. However, because nationality laws tend to be more specific and practice-oriented, administrative authorities may be more likely to apply the older provisions of these laws rather than look to constitutional guarantees of gender equality.
> For example, in Burundi, the 2000 Nationality Code does not allow Burundian mothers to confer nationality to their children except when maternal filiation is established in situations where they are born out of wedlock to unknown fathers or disowned by their fathers. This is at variance with Article 12 of Burundi's 2005 Constitution, which guarantees Burundian men and women equality in nationality matters. […]
>
> 15 The discrepancies between constitutional and nationality law provisions in the Gambia, Lesotho and Zimbabwe are not included in this list as it is clear that in these countries the provisions of their respective constitutions prevail. In the Gambia, the chapter on citizenship in the Constitution, which is the law applied for nationality matters, has addressed the discrimination related to transmission of nationality to children born abroad contained in the Citizenship Act. In Lesotho, discrimination with respect to women's ability to confer nationality to children present in Part II of the Citizenship Act was repealed by Article 166 of the Constitution. In Zimbabwe, the Constitution contradicts the discriminatory provisions contained in the Citizenship Act, and in the cases where inconsistencies were challenged in court the Constitution prevailed. However, these citizenship acts should still be amended in order to be aligned with the gender equal provisions of each constitution.[875]

[874] U.S. Department of State, *2021 Country Reports on Human Rights Practices: Burundi*, 12 April 2022, *Section 2., G. Stateless Persons*
[875] UN High Commissioner for Refugees (UNHCR), *Background Note on Gender Equality, Nationality Laws and Statelessness 2022*, 4 March 2022, *p. 6 and 9*