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**Human Rights Council**

**Forty-fifth session**

24 September – 2 October 2020

Agenda item Point 4

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

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

 **[Extracts]**

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\*Parts with extracts available in English.

II. Human rights situation

[…]

C. Violations in the context of the electoral process

162. Violations observed and documented since May 2019 during the electoral process reveal that these are neither isolated nor random incidents, but rather the result of a strategy established by the ruling party and authorities at various levels, to remain in power following the 2020 elections[[2]](#footnote-2). Political violence, both symbolic and physical, is a standard feature of political mobilisation used to gain and hold on to power. The numerous human rights violations committed during the electoral process are clearly part of a strategy: to weaken the political opposition which is considered as a threat by the ruling power, muzzle independent observers such as the press and civil society to prevent them from reporting the situation in the country, and closely monitor the population, to intimidate them into supporting the ruling party.

 1. Weakened political opposition

163. Opposition political parties and their members, primarily CNL, which is considered as the main opponent of the ruling party, have been victims of serious human rights violations, which intensified towards the election period. The objective was to reduce CNL's chances of winning the elections by preventing it from carrying out certain political activities, such as the organisation of rallies during campaigns.

164. Officials of the CNDD-FDD party and its militants have been frequently reminding its members as well as political opponents that the ruling party will remain in place "*for centuries to come*" and will not tolerate losing power[[3]](#footnote-3). For instance, during an election rally, participants chanted "*They have lost their mind, these fools are going crazy, let them wait for 500 years and some 500 more"*[[4]](#footnote-4). On other occasions, they said CNDD-FDD members "*had suffered a great deal for the country and that they will not let go […] that they will only let go of the country when Jesus returns"*[[5]](#footnote-5). During demonstrations of force, Imbonerakure chanted "*If you think you have enough power to go against us, it will turn against you"*[[6]](#footnote-6).

165. CNL members, candidates and representatives have therefore been intimidated in order to discourage them from carrying out their political activities, by arresting, detaining, torturing, mistreating or even eliminating them. Some of them have had their houses or crops destroyed or their goods and food reserves stolen.[[7]](#footnote-7)

166. A particularly critical moment was when the lists of CNL candidates and representatives, notably for the legislative and communal elections, were prepared by the National independent electoral commission (CENI) and the Provincial independent electoral commissions (CEPI) and shared – sometimes before their official publication – with CNDD-FDD bodies. These lists were used to identify persons to be intimidated, arrested or to be made to disappear first.

167. In this regard, the Commission has received information which gives it reasonable grounds to believe that violations committed against CNL candidates, its representatives and most active members during various elections were orchestrated by CNDD-FDD and instructions to this effect were shared at various levels of the party, especially during meetings attended by partisans, Imbonerakure and local administrative officials who are predominantly affiliated with CNDD-FDD, and sometimes judicial staff.[[8]](#footnote-8) Clear instructions to this end were given during meetings organised by CNDD-FDD and local administrative officials, or were relayed through messaging apps such as WhatsApp.

 A witness recounted:

*"During a meeting we recently had [before campaigns started in May 2020], we received instructions to prevent CNL members from meeting [...] [during] a meeting organised by a CNDD-FDD official [...] he clearly indicated that we have to fight CNL at all costs. [...] Each commune now has a list of CNL candidates [...] It is now a manhunt for CNL members [...] [He] explained the strategy to win elections at all costs, commune by commune. He specified that our task was to identify and prevent them from speaking at the level of the collines where they are running as candidates"*[[9]](#footnote-9)*.*

168. On the election day, actions against political opponents of CNDD-FDD were aimed at preventing them from voting freely and secretly, as well as preventing representatives designated by opposition parties, especially CNL, from freely observing the conduct of elections. Candidates of parties other than CNL and individuals were rarely targeted, which also attests to the organised and targeted nature of these acts.

[…]

 b) Right to life

180. Active members of CNL lost their lives during the electoral process. Many of them were individually targeted and deliberately eliminated, either to prevent them from fully participating in the process or in retaliation for their political commitment whereas others died from injuries sustained during confrontations with Imbonerakure[[10]](#footnote-10).

 Summary executions

181. In the run-up to the May 2020 elections, CNDD-FDD organised meetings to identify CNL partisans who should be executed for being *ibipinga* (traitors/opponents) and *mujeri* (stray dogs) that had to be "*washed away*" (i.e. killed)[[11]](#footnote-11)..

182. Actually, CNL members especially those who were perceived as particularly active or influential were killed by Imbonerakure, sometimes accompanied by agents of the National Intelligence Service, after being personally targeted. They were killed with machetes or sticks during nocturnal expeditions in their homes, sometimes after being taken to another place.[[12]](#footnote-12)

*"They broke the back door of the house […] We noticed that he was putting up a struggle […] he was put in a vehicle […] he was found [X] days later […] and it is then we noticed the machete wounds that he had sustained"*[[13]](#footnote-13).

183. A former Imbonerakure confirmed that this was the operating method they were taught:

"*We were also told what should be done in certain cases, for instance, if we identify persons who are opponents or who are not CNDD-FDD members, we have to arrest and kill them. We were told how to go about it. For instance, when we go to arrest someone, we call the person, we make him come out and then all we need to do is take the person and kill him. We use the word "kumesa" which means to wash implying "to kill". Everything had to be done at night [...] we would bury him so there wouldn’t be any traces, so that no one will know what happened to him. We even buried some on their own land and planted banana trees above so that no one will know there was a corpse buried. […] If we noticed that some people were still awake during our night patrols, the person was not killed on the spot, but rather taken and killed elsewhere"*[[14]](#footnote-14).

184. Other persons affiliated to CNL were killed by Imbonerakure, sometimes in broad daylight, including on orders of a local administrative official, following a quarrel between a CNL militant and CNDD-FDD members[[15]](#footnote-15).

 Other cases of violations of the right to life

185. CNL as well as CNDD-FDD militants were killed during violent clashes between these groups or died from injuries inflicted during such incidents[[16]](#footnote-16).

186. These clashes mainly occurred during major public gatherings organised by CNL, such as the inauguration of a party office or political rally during campaigns, when Imbonerakure tried to disrupt those activities[[17]](#footnote-17). Sometimes, Imbonerakure armed with machetes attacked and beat isolated or small groups of CNL militants, especially when they were returning from a political rally[[18]](#footnote-18).

187. A witness recounted an ambush against a CNL group that was returning from the inauguration of a party office in which a CNL member was killed:

"*Imbonerakure armed with machetes, bludgeons and bows and arrows arrested [them]. I could not see the number, but they were many and they had surrounded [them]. [...] They asked: "Where are you coming from?". [...] The CNL party leader of the* colline *was the person responding on behalf of the group. [...] He said: "We come in peace, we are not here to cause trouble". When he said this, [Imbonerakure] pounced on him, they started hitting with sticks, machetes and bludgeons. […] Imbonerakure swung a machete into the crowd. […] The machette hit the forehead of the person who was behind […] at the same time another Imbonerakure did the same thing from behind, and his machete touched the same person around the lower neck*"[[19]](#footnote-19).

188. In the midst of campaigns for presidential, legislative and communal elections in the Ntega commune, Kirundo province, a group of Imbonerakure armed with spears, machetes, bows and arrows attacked a group of CNL members who were trekking back from a rally. During this incident, an Imbonerakure was seriously injured and died a few hours later at the hospital[[20]](#footnote-20).

"*This was on Sunday, 3 May 2020. At 3 p.m., members of the CNL party had a sensitization meeting for their members [...] The meeting lasted from 3 p.m. to 6 p.m. [...] After the meeting, certain members stopped by a small bar [...] to share a drink. [...] Around 7 p.m., some members started going home. On the way, about 20 CNL members were attacked by Imbonerakure [who] were about 30 to 40, armed with knives, sticks, bows and arrows. Imbonerakure hid along the road that CNL members had planned to use. When they arrived [...] Imbonerakure attacked [...] Some CNL members were injured [others] fled. Imbonerakure pursued them without knowing that other CNL members were still in the bistro [...] They attacked and disarmed Imbonerakure and used their weapons against them. Ten members of Imbonerakure were caught and severely beaten. Many were injured. A CNL member who had seized a bow and arrows from an Imbonerakure shot two arrows that hit an Imbonerakure's lower abdomen and lungs"*[[21]](#footnote-21).

189. The Government of Burundi officially recognised this incident and other similar incidents in a report drawn up on 18 May 2020 by the Minister of Public Security and Disaster Management on the eve of elections[[22]](#footnote-22). According to the Minister, a total of two CNDD-FDD members and one CNL member died during the campaign. However, contrary to the elements of information gathered by the Commission, which clearly establish that Imbonerakure groups had received orders to provoke such incidents in order to intimidate CNL members and prevent them from continuing political activities, the authorities systematically held CNL members responsibles, maintaining that they were the ones who attacked Imbonerakure.

[…]

 c) Torture and sexual violence

194. Members of opposition political parties, particularly CNL, were victims of beatings before and after the 20 May 2020 elections, which constitute ill-treatment and torture in some cases[[23]](#footnote-23).

195. Several victims were mainly beaten by Imbonerakure, and sometimes local administrative officials, with sticks[[24]](#footnote-24) and others were hit with machetes[[25]](#footnote-25). These incidents often occurred when CNL members were attending or returning from a meeting or political rally[[26]](#footnote-26), and when they met Imbonerakure by chance, when the latter were on night patrols[[27]](#footnote-27) or when Imbonerakure came to fetch them from their homes or elsewhere[[28]](#footnote-28).

 A witness recounted:

*"On [X] May 2020, I was arrested by the Imbonerakure leader of the […] commune. I found him with [X] other persons, all Imbonerakure. […] Four had knives and two had sticks. […] They seriously hit and threatened me. […]. They injured me on the arms with knives. […] They also hit me with sticks. Several times. […] They told me that just like Palipehutu-FNL, CNL's name had to disappear*"[[29]](#footnote-29).

196. Most often, the level of violence and suffering inflicted was such that these deliberate and organised acts, which were intended to punish and discourage them from continuing their political commitment within the CNL, clearly constitute acts of torture.

 *"Since the action was orchestrated by the head of the* colline *and these young Imbonerakure, they started attacking our leader who is the CNL party leader [...] These [X] people were seriously beaten to the extent that their faces were covered in blood. […] The entire crowd, I would say, kept going at these four persons. They hit them as if they were hitting a snake"*[[30]](#footnote-30).

197. According to the official report of Burundian authorities, 49 CNDD-FDD members were injured during the official campaign period from 27 April to 17 May 2020, especially during such confrontations, compared to just 13 CNL members, who were allegedly responsible for these confrontations[[31]](#footnote-31). Information gathered by the Commission reveals higher casualties with regard to CNL members and indicate that in most cases these incidents were deliberately provoked by CNDD-FDD members or Imbonerakure.

198. People were tortured, including in the form of sexual violence, during their arbitrary detention linked to their political commitment, especially within CNL[[32]](#footnote-32). A CNL official who was arrested a few days after having participated in a big CNL campaign rally explained that they did not hit him during his arrest but later during his detention:

"*Imbonerakure ordered us to lie on the ground after removing the handcuffs. We lay on the stomach. They pulled our arms behind our backs and tied them around the elbows. Imbonerakure did that. Police officers were guarding us. After tying us, they hit us with sticks and trod on us with military boots. I had several internal bruises at the level of the spine*"[[33]](#footnote-33).

199. A CNL member was arrested by Imbonerakure after elections and subjected to sexual violence to punish him for his affiliation to the opposition:

*"I was warned that Imbonerakure were planning something to harm me, since they knew I'm a member of the CNL party. [Imbonerakure] pursued me. […] They asked me to kneel. I obeyed and they started hitting me [...] with sticks on my back, buttocks and everywhere on my body. They were asking: "Who told you that the* ibipinga *[term that means recalcitrant and refers to opponents] have to vote? "[…] They undressed me […] They hit my testicles with sticks"*[[34]](#footnote-34).

200. Witnesses reported that in one case, Imbonerakure in association with agents of the National Intelligence Service, had kidnapped and executed a CNL member, and when they recovered his remains, they noticed his body had suffered genital mutilations[[35]](#footnote-35).

[…]

 e) Freedom of expression

[…]

 Hate speech and incitement to hostility and violence

222. Any hate speech which constitutes incitement to discrimination, hostility or violence is prohibited by the International Human Rights Law and should also be prohibited by domestic law[[36]](#footnote-36). The distinction between hate speech and incitement to violence is often thin since certain messages, as is often the case in Burundi, consist of metaphors, proverbs, euphemisms or innuendos which are perfectly clear to the audience to which the authors are speaking, but not to external third parties. For instance, in the Burundian context, terms such as "to work", "to wash " or "to have someone wear the red beret" can mean the act of killing someone.

223. During the May 2020 electoral process, particularly scathing messages towards the opponents of CNDD-FDD - sometimes with an ethnic dimension - some of which contained statements that could be understood as incitement to violence, circulated freely, especially on social media. The objective was to recall that victory belonged to CNDD-FDD and that the latter would not relinquish power. Even though officially, Burundian authorities were advocating for appeasement and political tolerance in the electoral context, they allowed the proliferation of such messages without condemning them, let alone prosecuting or punishing the authors. Moreover, officials of the CNDD-FDD party also made such statements, without being sanctioned. Generally, songs and slogans to praise the party regularly chanted by Imbonerakure or party members contain such comments.

224. CNDD-FDD officials and sympathisers made statements based on the most dramatic periods of the Burundian history that were and remain sources of division, in an attempt to liken CNL opponents to the perpetrators of past criminal atrocities or to qualify them as enemies of the country. Some references and comparisons were quite surprising: Agathon Rwasa is the former leader of the Palipehutu-FNL rebellion, who is known to be a strong promoter of "Hutu power" and for being more radical on this subject than the FDD rebellion. However, he was presented by senior CNDD-FDD officials as a hidden candidate of the Tutsi community and "puppet" of former President Buyoya or that of "colonisers" or even that of the President of Rwanda, Paul Kagame, and therefore as an enemy of Burundi in all cases and a danger to the country[[37]](#footnote-37). For instance, Rwasa's campaign promise to reintegrate Burundi into the international community and resume international cooperation[[38]](#footnote-38) was denounced as treason.

225. On 8 May 2020, the then CNDD-FDD candidate and current President of the Republic, Évariste Ndayishimiye, reacted to Rwasa's statements that called for the presence of international observers for the elections:

"*For elections to be observed by white people from abroad, by some whites. This person has therefore deprived Burundians of their dignity, this has already been done. I find it difficult to understand him, his plan has nothing in common with that of the Government. This person is working for other interests, for other persons. Let this person not come and dispute that. Here is proof: he should not have asked that elections be observed by foreigners, he should neither have talked of the dissolution of the Government and the establishment of an interim government. Moreover, this person should not have demanded that the legislation governing mines and land should be examined in Arusha whereas these same mines and land belong solely to Burundians. Such is the overwhelming evidence which indicate that the MP Rwasa has nothing to do with the State of Burundi, which is at the service of the Burundian people*"[[39]](#footnote-39).

226. On the eve of the May 20 elections, a local CNDD-FDD official publicly claimed responsibility for violence perpetrated by Imbonerakure against a CNL official at his instigation and boasted of his immunity:

"*Let me say it out loud for all of you to know […] we heard him say that he was going to change the ruling power in this country […] I went with the Imbonerakure of our area […] they slapped, beat and tore his shirt. […] The police summoned me and the Imbonerakure leader […] You cannot file a complaint against a DD [a CNDD-FDD member] in this country when you are a nobody. It does not work, a judicial police officer, member of the party or not, works for the ruling party. I just said a few words and [he] found himself in a cell for three days [...]. He paid 50 000 Burundian francs before being released. […] So in short, [he] was beaten openly and publicly, he filed a complaint, he was detained and he paid money before he was released. […] and he is the one seeking your votes while promising you change"*[[40]](#footnote-40).

227. This same official of the ruling party later listed CNL candidates, insulted them and made more or less veiled threats, particularly with regard to the fact that they would not be able to continue their professional activity and he accused those who were not from the area of being mere criminals.

228. CNL militants have regularly been victims of insults and death threats because of their political activities, in a sense that can be understood as incitement to violence.[[41]](#footnote-41)

229. A witness recounted that Imbonerakure accompanied by a local administrative official told him the following about CNL members:

"*People who are not normal, who are clumsy, with physical deformities, people who do not understand anything should be washed away [i.e. killed]*"[[42]](#footnote-42)

230. On the other hand, when Agathon Rwasa said in a speech on 27 April 2020 that faced with the violence and attacks CNL members have been suffering for months, the latter should henceforth defend themselves and not let things slide, Burundian authorities and their supporters immediately stood against such statements, which they considered as vile and incitement to violence and hatred[[43]](#footnote-43). The Commission notes that however Rwasa was not prosecuted for his statement.

 Censorship of opposition candidates

231. Burundian authorities have tolerated hate speech and incitement to violence against CNL members, but have tried to censure critical statements against the Government or the ruling party made by CNL candidates during campaigns, notably by mobilising the judicial system. The most emblematic case of censorship of a CNL candidate is that of Kathy Kezimana, one of the CNL candidates for the legislative elections in the Bujumbura (rural) province. On 5 May 2020, she was arrested for a speech she made during a rally organised as part of the official campaign a few days before in the Mugongomanga commune, Bujumbura (rural)[[44]](#footnote-44) province. She had openly criticised the Government and denounced poor governance:

"*We only have four months left for our rights that were denied by these* abanyonyezi[[45]](#footnote-45) *(criminals) to be restored. […] We need to get rid of this ruling power, this burden. This is the truth, do not let them deceive you! They are deceiving several people [TN - by corrupting them] with pigs, loincloths, petty sums of money. Accept and make the most of them, they are yours, they come from the taxes you pay, these are not gifts that they are offering you. […] Our commune is a very good commune that has had the misfortune of being poorly managed. It is a good, beautiful and fertile commune, and it feels great to live here. However due to poor governance, instead of progressing, we have regressed. I am 40 years old, I am not young, but since I was born, there has been no development in our area. This is due to the poor governance we have had the misfortune to endure. I am therefore saying, vote for CNL. Choose a good, smart and upright administrator. You don't have water, electricity and roads in Mugongomanga. We are only 30 minutes away from Bujumbura and our commune is far from being developed. […] We were followed by two men on our way here. They are really courageous: two men trying to intimidate a crowd! We are not intimidated, we are not afraid. We are strong. We are telling you to defend yourselves if you are attacked. I will tell you this, do not let things slide*! "[[46]](#footnote-46).

232. The communal administrator filed a complaint for libel and she was arrested, placed in pretrial detention at the prison of Mpimba and prosecuted for harmful accusations, libel, false allegations and undermining the internal security of the State before her provisional release on 8 May 2020. Initially removed from the list of CNL candidates for the legislative elections at the request of the Attorney General (*Procureur de la République*), she was finally elected Member of Parliament for the Bujumbura (rural) province[[47]](#footnote-47) since the Constitutional Court considered that she was entitled to the presumption of innocence given that she had not yet been convicted[[48]](#footnote-48).

[…]

 3. Population under control

 a) Population controlled by Imbonerakure

274. The control of the population by Imbonerakure, often with the complicity of local administrative authorities, based on acts of intimidation and use of violence, including forced recruitment within CNDD-FDD, has increased in recent years. These practices continued during the electoral process, even though they mainly targeted CNL members.

275. Imbonerakure have control over the joint human security committees established in 2014 in all *collines*, which are responsible for a plethora of missions, including protecting the population[[49]](#footnote-49). These entities have rapidly become a privileged platform for controlling and monitoring the population, especially during the electoral process. The Permanent Secretary of the National Security Council (CNS), Colonel Pierre Claver Nzisabira, thus indicated at the beginning of the year 2020: "We must monitor the movement of the population and travellers and have daily information on foreigners staying in each household and hotel around"[[50]](#footnote-50). Between 10 December 2019 and 20 January 2020, capacity-building workshops for officials of joint committees on early warning and rapid response in the area of human security, preventive intelligence and the fight against rumours during the pre-election period, were organised in the Centre and South provinces of the country (Karusi, Gitega, Muramvya, Mwaro and Bururi)[[51]](#footnote-51).

276. The Chairperson of CNS also indicated that he wished to revive the joint security committees in order to consolidate peace and security in the country and to this end, committees should be effectively joint and inclusive with two-thirds of members from the administration, defence and security organs and one-third from political parties and civil society (religious denominations, NGOs and associations etc.). In any case, youths should by represented by 40% and women by 30%.[[52]](#footnote-52)

277. The Commission had already indicated its concerns regarding the all-present Imbonerakure on the *collines* and within joint security committees, the fact that they substitute defence and security forces and the possible tensions that this might create within the defence and security forces[[53]](#footnote-53). The Commission notes that some Burundian authorities are trying to take measures to limit their activities whereas others are encouraging them to continue.

278. During one of the capacity-building workshops of the joint committees, it was recalled that Imbonerakure should neither substitute the police nor justice, nor should they organise night patrols in the absence of representatives of police forces[[54]](#footnote-54). On 3 March 2020, the Minister of Interior demanded that "*Ikarashishi*" demonstrations "organised by youths affiliated with political parties chanting songs and slogans of their political party" should be suspended till the start of the official campaigns[[55]](#footnote-55). This decision was taken in application of recommendations formulated by participants of workshops to build the capacities of the officials of joint committees[[56]](#footnote-56). On 29 April 2020, the Regional Commissioner for the North of the country sent a very urgent messaged in which he indicated:

"*The Regional Commissioner for the North observes with bitterness that some young members of political parties meeting in our sector are wearing boots, police raincoats, and other military items such as belts and batons, and are parading before authorities and police officers who allow them to pass undisturbed. As from today, you are instructed to indiscriminately recover and report all police and military items. Any act of complicity or indulgence shall lead to sanctions"*[[57]](#footnote-57).

279. At the end of July 2020, the new governor of the Kayanza province asked Imbonerakure to end their night rounds. However, on 29 August, on the occasion of the "2020 Imbonerakure Day", the Minister for East African Community Affairs, Youth, Sports and Culture, Ezéchiel Nibigira, former official of Imbonerakure, contradicted the governor. He explained that the governor's message was "misunderstood" and that on the contrary, Imbonerakure should continue to play their role at the level of security:

« *Stand up and remain vigilant! We will not have a soldier or police officer positioned in each house. Some heard what was said but misunderstood it. However, I will clearly explain what was said: we urge Imbonerakure to remain vigilant as from this minute* "[[58]](#footnote-58).

280. On the same day, the new President of the Senate, who was participating in the Imbonerakure Day celebrations in the Cibitoke province, urged Imbonerakure to "work in close collaboration with the [security] quadrilogy to safeguard natural resources and consolidate peace in their respective localities"[[59]](#footnote-59). The new Speaker of the National Assembly, on his part, stated that the CNDD-FDD party was satisfied with the achievements of Imbonerakure[[60]](#footnote-60).

281. The impact of these statements and decisions which come a little bit late after years of Imbonerakure rising in power, has yet to be demonstrated. The Commission has not noted any significant changes recently. Throughout the period covered by this report, Imbonerakure have remained omnipresent on the *collines*, especially at night, and have continued to organise marches, sports training with military connotations at times, chant hostile slogans and songs to political opponents such as CNL members, with death threats. Their group activities were organised mostly on early Saturday mornings. Groups will move around conspicuously and some will deliberately go in front of the houses of CNL members in order to intimidate them[[61]](#footnote-61)

282. A former Imbonerakure explained the push to control the *collines*:

"*We calculate the number of Imbonerakure; there should be an Imbonerakure at all district level of the* colline*, that is at the level of the* sub-colline*,* colline *and 10 houses. At the level of 10 houses, you should have maybe five Imbonerakure and 10 maximum. The most important thing is to have Imbonerakure at all levels so that when you are walking, you meet one as often as possible*.

283. He also detailed the procedure and objectives of the usual collective Saturday morning sports sessions.

"*A typical sports Saturday involved running on the streets with branches while chanting and shouting "*Shirira*" (be vigilant, be alert) "*Komera*" (greetings meaning "may strength be in you"), "*Bangumyabanga*" (militants of CNDD-FDD) and "Imbonerakure". When we were running, we had not only branches but also sticks and bludgeons. It happened that we would even hit people as we passed; we were provoking passers-by. […] We were also shouting "*tuzobamesa*" which means "we will beat you up". […] If you see us on the street, if you are a smart person, you will make yourself small or hide since Saturday is our day. […] The objective of engaging in sports was to show that we are there, that we are ready to fight, that we should not be confused with the population and that we have an important role to play*"[[62]](#footnote-62).

284. Imbonerakure have continued to almost systematically act in place of law enforcement and security officers, especially in rural areas. They consider themselves to be in charge of ensuring security, especially given that they are members of joint security committees, and to this end, they do not hesitate to carry out identity checks, arrests of a political or common law nature, organise night patrols, collect various contributions for elections or for the party or any other cause and organise mandatory community work. Most of their activities are carried out using physical violence or intimidation.[[63]](#footnote-63)

285. In some cases, they have gained the upper hand over police officers, who are often afraid to contradict, confront them or refuse to obey their orders. Generally, police officers let Imbonerakure do as they will, even when it involves serious violations, as they know that they have the support of political officials and high-ranking representatives of the party.[[64]](#footnote-64)

286. Imbonerakure are recognizable and identifiable by their outfits or accessories since they mostly wear raincoats, party uniforms and military boots reserved for the national police or defence forces in Burundi or signs such as T-shirts marked with party initials or that of Imbonerakure. They often have long sticks, bludgeons or knives, and occasionally firearms.[[65]](#footnote-65) As mentioned above, the Regional Commissioner for the North demanded that such things which are officially reserved for defence and security forces should be taken away from them.

287. It should be recalled that officially, Imbonerakure are just a youth league of a political party. It is therefore impossible to justify that this political organisation is given competences of public authorities and is authorised to appear with objects and elements that create confusion as to the status of its members and their competences.

 Extortion of the population

288. Some people have continued to be forced by Imbonerakure and local administrative officials to make contributions in cash or in kind, to support CNDD-FDD to organise political rallies or offer gifts to the President, the designated candidate of CNDD-FDD, or finance the elections, still at the beginning of 2020, as the Government had stated that elections would be entirely financed by Burundians[[66]](#footnote-66).

"*Everybody was obliged to pay contributions. I contributed more than I should have done. I gave 20 000 Burundian francs [about 10 dollars]. I gave the money in February 2020 on my native* colline *all at once. I gave the money and they gave me a receipt. There were people in charge of collecting the money. These are people affiliated with the ruling party. There are positions they take publicly, for instance that contributions are no longer obligatory, whereas what happens on the ground is different. For example, I was asked: "Why have you not yet contributed?" (I had refused) "Don't you want the elections to hold?" I was intimidated and, since I did not want to be associated with those who did not want elections in Burundi, I finally gave 20 000 Burundian francs*".[[67]](#footnote-67)

289. In the months leading up to the elections, local authorities "mobilised" local entrepreneurs and the populations to make donations to the CNDD-FDD's designated candidate during his field visits. This practice is similar to that of donations made to President Nkurunziza to thank him as he visited a locality or inaugurated an infrastructure. The latter had received not less then 37 cows between 3 November 2019 and 10 January 2020[[68]](#footnote-68). These practices drawn from the "circular donation" tradition rooted in the Burundian culture[[69]](#footnote-69) which establishes loyalty and accountability relations between people, imply that in return and during the same period, President Nkurunziza himself donated several cows to members of the defence and security forces of the Ngozi province, and to friends and members of Government from his native province[[70]](#footnote-70).

"*In January 2019, the communal administrator of […] asked for contributions. […] [Police officers] were 45 in number. They each had to give 10 000 Burundian francs [approximately 5 dollars] to contribute to buy cows for the President of the Republic. He was to come […] in February 2019 and when he came, he was given 18 cows and 15 motorbikes*"[[71]](#footnote-71).

290. According to the independent press in Burundi, candidate Ndayishimiye on his part received not less than 66 cows during his visits made between the time of his designation as official candidate of the party on 27 January 2020 and 7 March 2020[[72]](#footnote-72).

291. Burundian youths had joined the Imbonerakure league with the hope of obtaining material and financial advantages – since as documented by the Commission in its previous report, access to employment largely depends on membership in the ruling party[[73]](#footnote-73). Imbonerakure, who feel untouchable thanks to the near-total impunity they have been enjoying for several years now, are using their status to commit more crimes and offences, such as refusing to pay for their drinks or food[[74]](#footnote-74).

292. Imbonerakure have also set up a full-fledged system of extorting the population, which is now accustomed to being forced, under threats of physical violence or verbal intimidation, to give them money. The arbitrary nature of these collections is such that it is almost impossible for the population to know if it is an official collection or a case of pure extortion by Imbonerakure since the line between the two is often blurry. From the point of view of the population, payment of these forced contributions is also regarded as "buying protection"[[75]](#footnote-75).

 A witness explained:

"*I also had to pay contributions for the CNDD-FDD party. It was mandatory. […] The person who could not pay was considered as an opponent of the authorities. You had to pay to protect yourself. The last time I contributed for the party was in April 2020*"[[76]](#footnote-76).

 A former Imbonerakure confirmed these dirty extortion practices:

"*Imbonerakure, I would say, are thieves. Sometimes provocations are simply a pretext to extort money or steal their belongings, and therefore if we identified someone who had possessions or money or who had just sold something, this person was systematically targeted and robbed of everything*"[[77]](#footnote-77).

293. The new Burundian authorities are becoming aware of this phenomenon, especially with the criminal case of Kayogoro which has been in the spotlight in the country[[78]](#footnote-78). In mid-July 2020, a group composed of Imbonerakure, police officers, including a communal police commissioner, a CNDD-FDD official and local administrative officials of the Kayogoro commune, Makamba province, was arrested, prosecuted, and finally convicted of murder (or accessory to murder) and aggravated extortion on 13 August 2020. For several months, especially with the closing of borders due to the COVID-19 pandemic, this group had organised operations to forcefully rob seasonal Burundian workers who were returning from Tanzania[[79]](#footnote-79).

[…]

 c) violations of the freedom of expression and information

[…]

Hate speech and incitement to hostility and violence with an ethnic dimension

308. Hate speech includes any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are (their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor). Such speech is often rooted in, and generates, intolerance and hate[[80]](#footnote-80).

309. International law does not prohibit hate speech as such, but rather incitement to discrimination, hostility and violence, given that this is a form of speech that explicitly and deliberately seeks to trigger hostility and violence or to establish discrimination[[81]](#footnote-81). It is not always obvious to distinguish between incitement to hate and a "simple" hate speech. However, the two remain harmful, especially in a society that has been widely torn apart and divided on ethnic bases in a relatively recent past, particularly given that no genuine reconciliation measure has been implemented so far.

310. Hate speech, especially that with an ethnic and/or political dimension, is a form of symbolic political violence that is purely utilitarian, even in an electoral context. "It is a means among others, of imposing one`s point of view in the face of adversaries. […] sometimes these peaceful means are used in parallel with others that are less peaceful, in proportions that are likely to change over time. What drives the use of violence, is the point of view of actors according to which it is necessary, or efficient, to achieve the objectives sought. The "determination of usefulness" is itself influenced by the institutional framework (power structure, place of negotiation) in which it is done"[[82]](#footnote-82).

311. A study on hate speech and violence against specific groups, which focuses on the role of speech in violent conflicts[[83]](#footnote-83) has clearly highlighted the common features and motivations of hate speech and propaganda – generally orchestrated by leaders or elites – with "emphasis on the difference between 'them' and 'us'"[[84]](#footnote-84). Leaders manipulate major political, economic and social issues by laying the blame on a single enemy and by reformulating the problem from an ethnic angle. Those who incite violence and the perpetrators of violence portray themselves as victims while blaming and stigmatising the targeted group and they justify this violence in the name of self-defence, including preventive, as a question of survival of their own group. Moreover, they erase the difference between civilian and non-civilian populations, with the enemy thus becoming the whole group. Another common tactic is to dehumanise and stereotype the targeted group, manipulate the concept of patriotism, cite past conflicts whose consequences must be corrected in the present and finally inflate or reduce the number of victims in order to serve a specific agenda[[85]](#footnote-85).

312. The context in which hate speech or propaganda is made is very important to determine if it constitutes incitement to hatred. The meaning of the speech depends on the context in which it is made. There is need to take into account the speaker, his intent, the relationship between the author and the audience and how the audience understands the message. Even the most hateful or incitement statements remain harmless if there is no audience. However, on the contrary, statements that are apparently harmless can use a coded, symbolic or vernacular language rooted in the historic and cultural context specific to a country, which would still not be understood as hate speech or incitement to violence by external observers[[86]](#footnote-86).

313. In Burundi, hate statements with a political and/or ethnic dimension increased with the approach of elections. This falls within the utilitarian logic of hatred and violence. Fortunately, these calls have not been followed by mass violence though they have rekindled old divides within the Burundian society.

314. Former President Nkurunziza had preferred the use of the term "*abenegihugu"*to refer to those "to whom Burundi belongs", instead of "*abanyagihugu*", a more neutral term traditionally used to refer to the "inhabitants of Burundi". This change in vocabulary is damaging since it implicitly differentiates Burundians, with real patriotic Burundians on the one hand - understood as CNDD-FDD members – and the "others" who have a more passive role, on the other hand.

315. The division of the Burundian people on the basis of a political dimension has been understood and revived by giving it an ethnic dimension that seeks to oppose authentic Burundians to whom the country belongs – the Hutu – against those living in Burundi but who are not really Burundians.

316. The best symbolic example is that of radio programmes broadcasted through social media, notably WhatsApp and YouTube since 2019 by a certain Kenny Claude Nduwinmana, purporting to be a journalist. He broadcasts provocative and insulting statements directed at the Tutsi which became increasingly venomous as the elections were approaching.

317. For example, in October 2019, after denouncing the fact that Tutsis were still dominating Burundi’s economy and that Hutus were discriminated against and were living in poverty, he mentioned that all Tutsis were enemies of the Hutu and of Burundi:

"*I am telling you that I never set foot in a bar that belongs to a Tutsi. I never go to a store that belongs to a Tutsi. […] That is how I go about it, since you should never trust them […] They will use all what we give them to fight us […] Be careful my dear friends. Be careful! This situation should be addressed. We have to fight and fight so as to reach a point where nobody can even think of trying to overthrow the government; this very notion should be obliterated"*[[87]](#footnote-87).

318. In November 2019, he declared that the Hutu are the chosen people of God; he criticised Hutus who are getting married to Tutsi women, and he denied the reality of the genocide against the Tutsi in Rwanda. According to him, Tutsis are the eternal enemies of the Hutus and will continue to threaten them, which justifies the use of violence against the Tutsi.

"*Don't you know the Hutus are the true people of God? The Tutsis are* ibinyendaro*. [TN - passers-by who are in a country that does not belong to them]. […] Wake up and see who our adversaries and our enemies are. The Bible says that we are not fighting against human beings but against the powers of darkness and evil spirits that are between heaven and earth. […] We, Hutus, are children of God. Children of Israël. And as such, there are things we cannot do! Shed blood: we don't know how to do it and God forbids it! We, we do not kill, we do not attack, we only defend ourselves. We defend ourselves! […] As a patriot, stand up, let us fight for the country. […] it is time to stand up! […] Kagame has shown us that it is time to stand up, to fight the enemy of the country and if you still have doubts, the enemy of Burundi is Kagame and all those who support him, as well as his ethnic group"*[[88]](#footnote-88).

319. In late December 2019, he listed the poverty issues experienced by the Burundian population ─ lack of infrastructures and development problems. He explained that this is the fault of the Tutsis, who represent a threat to the Hutus, and indirectly that of the Hutus who have gotten married to a Tutsi woman:

"*Here we are on the eve of 2020, on the eve of elections. Those who will be confused will start going out of their minds. The stupid Hutus, those without brains, will start marrying people they were not supposed to marry. […] You abandon the women with whom you were before, the Hutu women, and you marry Tutsi women. […] On Friday, we will start the election year. Some will forget the people who placed them in power, others will forget their origins, others will forget where they are heading and you will even start to forget the future of your children. You are satiated and satisfied today but what are you doing to ensure that your child will not die like their grandfather [...] These guys are full-blown criminals! I am surprised to see people marrying them!*”[[89]](#footnote-89).

320. In one of his audio recordings of April 2020, he urged, among others, the repatriation of the Tutsis to Ethiopia and Rwanda, their "native" countries, according to him, using violence if necessary:

"*Let Rwandan Tutsis who stayed back in Burundi and are passing off as Burundians return to their country. Send them back to Kagame. They should be chased and beaten. Burundi, for a long time, belongs to Ntare. We, the descendants of Ntare, are here. We are in power […] We don't have to continue to be mistreated by the descendants of Ruhinda, they should stay in their country; […] They should return to their country, Ethiopia, from where they came! They should return to Ethiopia. […] So let us continue to seek peace, justice and development and allow the dogs to keep barking, as long as they are doing that from outside. However, if they try to do that from within, take a bludgeon and hit them with it"*[[90]](#footnote-90).

321. In an audio in May 2020, he reiterated his tirade against the Tutsis, calling them cockroaches and vultures[[91]](#footnote-91).

322. These recordings made during his broadcasts, particularly on WhatsApp and Youtube, were widely circulated in Burundi, with the authorities neither intervening nor condemning them. On the contrary, as a journalist, Kenny Claude had direct access to members of the Truth and Reconciliation Commission (TRC) and to its President. In the face of this controversy, on 27 July 2020, the National Communication Council (CNC) denied that a press card had been issued to him, and therefore, the CNC considered itself incompetent to take action against him, even if on 22 April 2020, the President of the CNC emphasized that persons without a press card could not work as journalists[[92]](#footnote-92). Beyond the question about his official status, it is preoccupying that authorities have not taken any steps to put an end to such regular hate speeches and incitement to violence on the basis of ethnicity.

323. Other calls to ethnic violence have been circulated with no identification of the authors. In May 2020, a recording made by an Imbonerakure which was circulated via WhatsApp was quite explicit:

"*This time, we will cut their throats, I tell you frankly, I am serious. Let them make the mistake and dare say elections have been rigged. Do you see how a fowl is killed or how Muslims slaughter a sheep during the feast of sacrifice? It will be the same. […] The situation is different compared to the time of Ndadaye who did not have an army. In 2015, we forgave them, we forgave them. These are the same Tutsis,* Kadikadi *[TN: derogatory Kirundi word similar to "*mujeri*", which means stray dog] who supported what happened in 2015. […] let them dare contest the results. […] We are better armed now"*[[93]](#footnote-93).

324. The silence and failure of Burundian authorities to react to such ethnic hate speech and incitement to violence intended to be circulated to a wide audience is so striking as these same authorities have shown their ability to take firm and prompt action in another case of hate speech, which however did not contain incitement to violence.

325. On 3 July 2019, Gloriose Kamikazi, a Tutsi woman, sent an audio message to one of her colleagues, in which she mocked and insulted women of the association *Femmes Intwari* (valiant women) which brings together the spouses of CNDD-FDD ex-fighters and servicemen and which is chaired by the wife of Évariste Ndayishimiye. She had made fun of and denigrated their parade during the 1 July 2019 celebrations:

"*I did not see it [TN: the text message]; these good-for-nothing (*Abagesera’*). Valiant women? Really? These Hutu women who were lined up like pigeons on a wall. Let's not even go there! (Bursts of laughter) (ooouuuaaa: an expression of scorn). And you wanted me to be impressed by that?! I saw nothing. Is it even worth sending these disgusting and sickening things? In any case, I did not see it"*[[94]](#footnote-94).

326. Her colleague forwarded the message to members of the association *Femme Intwari*. On 4 July 2018, Gloriose Kamikazi was arrested and taken to the National Intelligence Service[[95]](#footnote-95). On 19 July 2019, she was brought before the office of the prosecutor of Mukaza where she was charged with offensive racial aversion[[96]](#footnote-96), insults directed at authorities or a person tasked with a public service mission in the fulfilment of his mission[[97]](#footnote-97), with aggravating circumstances as the insults were made during a public demonstration[[98]](#footnote-98). The association *Femmes Intwari* acted as a civil party and demanded 610 million Burundian francs (about 316 600 dollars) as moral compensation, representing one million (about 520 dollars) for each of its members[[99]](#footnote-99). During the trial, the accused admitted the facts and asked for forgiveness[[100]](#footnote-100). According to information gathered by the Commission, the court found Gloriose Kamikazi guilty of the offences cited above in January 2020. The public prosecution service lodged an appeal for a heavier sentence since it had called for three years imprisonment. The association *Femmes Intwari* also lodged an appeal to obtain the total amount of 610 million demanded as moral compensation.

[…]

 5. Concentration of power in the hands of CNDD-FDD

372. The strategy adopted by CNDD-FDD to hold on to power after the 2020 elections by preventing the main opposition political parties from fully participating in the electoral process, by muzzling and censoring independent observers and closely controlling the population, was successful. The party officially won the 2020 elections by a wide margin, even if due to massive fraud according to some observers. Following the 2020 political transition, it is clear that CNDD-FDD has been concentrating practically all powers, in an unprecedented proportion since 2005.

373. The Arusha Peace and Reconciliation Agreement for Burundi and the Constitution adopted in 2005 had established a "consociational" system of democracy that was achieved specifically through ethnic quotas within the main political institutions and defence and security forces. It also provided for some political balance at the level of the composition of Government since members had to be from "various political parties having had above one twentieth of votes cast"[[101]](#footnote-101). In addition to the voting of laws by the qualified majority of two-thirds of members present or represented[[102]](#footnote-102) instead of a simple majority, this system aimed at ensuring a potential blocking minority. Moreover, the President could not serve more than two mandates.

374. CNDD-FDD came to power in 2005 with the Parliament electing Pierre Nkurunziza as President of the Republic. He stayed in power from then through the 2010 and 2015 presidential elections which for the first one, were boycotted by opposition political parties, and for the second one, marked by controversy regarding the legality of the President's candidacy for a third mandate. All the elections were marred by serious human rights violations. Considering the deterioration of the political climate since the 2010 communal, legislative, and presidential elections, the hopes that had been raised by the Arusha Agreement were rapidly dashed[[103]](#footnote-103).

375. In 2018, in the midst of President Nkurunziza`s controversial mandate, he promulgated a new Constitution which was adopted by referendum. The revision of the Constitution is one of the most significant developments of his mandate, which led to the electoral process observed in 2020.

376. The major modifications in this Constitution include increased powers for the President. The presidential term has not only been extended to seven years, instead of five[[104]](#footnote-104), but he also has *de facto* legislative veto power: if the President does not promulgate a law adopted by Parliament this law shall become automatically null and void. The President also appoints the Prime Minister[[105]](#footnote-105), a position created to replace one of the two Vice-Presidents. The Prime Minister however is merely coordinating Government action[[106]](#footnote-106) implementing the Nation's policy, which is defined by the President of the Republic[[107]](#footnote-107).

377. One Vice-President is maintained. He is officially tasked with assisting the President in the performance of his duties, though he has little power and depends on the President who appoints him and can dismiss him at his discretion[[108]](#footnote-108). The only constraint for the President is to choose a Vice-President who is from a different political party and a different ethnic group[[109]](#footnote-109).

378. While members of Government are criminally liable for offences committed in the performance of their duties, with a jurisdictional privilege before the Supreme Court[[110]](#footnote-110), the Head of State has full immunity for all his acts, except in the case of treason[[111]](#footnote-111). This aspect is particularly important since he now exercises direct authority and exclusive control over the National Intelligence Service[[112]](#footnote-112).

379. The procedure for the adoption of laws by a simple majority at the National Assembly and the Senate strengthens the weight of the ruling party, the CNDD-FDD, which has been holding the majority of seats in Parliament since 2005, in unprecedented proportions, with 34 out of 36 senators for instance. It also widens the scope of presidential power that controls in practice the parliamentary majority.

380. The ethnic quotas within public institutions are on borrowed time, given that within a period of five years following the establishment of institutions resulting from the 2018 Constitution, the Senate has to assess whether it should terminate or continue the system of ethnic quotas in the Executive, Legislative and Judiciary[[113]](#footnote-113). The National Intelligence Service is already exempted from the ethnic quotas of 50% for the Hutus and 50% for the Tutsis provided for by the Arusha Peace Agreement for defence and security forces.

381. The situation of concentrating exceptional powers in the hands of the CNDD-FDD is noteworthy and preoccupying for the future of Burundi as well as the actors who are traditionally playing an important role in a democratic society, that involves observing the authorities and how they exercise their power, and possibly holding them accountable or demanding explanations. These actors, namely the national press and an independent and strong civil society, are muzzled and closely monitored and are unable to fulfil their legitimate role of "counterpower".

[…]

E. Sexual violence against men since 2015

 1. Background

444. Since its establishment, the Commission has collected a substantial number of witness accounts related to sexual violence against men and boys committed in Burundi between April 2015 and June 2020, particularly in the context of detention.[[114]](#footnote-114)

445. Sexual violence against men and boys in conflict situations or countries in transition receives little recognition or consideration, due to the tendency to prioritize sexual violence against women and girls in international organizations’ policies and programmatic frameworks, and the United Nations in particular.[[115]](#footnote-115) This situation, which essentially results from the observation that women and girls are disproportionately[[116]](#footnote-116) affected by sexual violence in situations of armed conflict and transition, has the effect of creating a conflation between *sexual violence* and *violence against women and girls.*[[117]](#footnote-117)

446. In addition, due to the gender roles and norms that prevail in Burundi, as in most societies, which associate masculinity to strength and power,[[118]](#footnote-118) men and boys are particularly reluctant to report the violence which they have been subjected to as *sexual violence* and would rather speak of torture. Indeed, as a result of sexual violence, men feel diminished or stripped of their virility and masculinity, and they call into question their ability to procreate and their role in the family and the community.[[119]](#footnote-119)

447. Moreover, when social norms prohibit homosexuality and national legislation criminalizes homosexual relations without distinguishing between consensual and non-consensual sexual acts, as it is the case in Burundi, men who survive sexual violence are also at risk of being stigmatized for their alleged sexual orientation and even run the risk of being prosecuted, thus fostering a sociocultural and legal framework that favors impunity for such violence. Furthermore, it is not uncommon for survivors to find it easier to initially report that they witnessed these acts rather than declaring themselves victims[[120]](#footnote-120) of the reported acts.

448. Interviews and research conducted by the Commission suggest that the difficulty of conceptualizing acts constituting sexual violence against men as *sexual violence* and not simply as acts of torture or ill-treatment also extends to human rights organizations that work in Burundi or on Burundi.[[121]](#footnote-121) Since at least 2006, methods of torture constitutive of sexual violence have been used regularly against men and women in detention, especially those under the responsibility of the SNR.[[122]](#footnote-122) However, in most cases, sexual violence against men was solely reported as *torture and ill-treatment*, while violence against women was reported as *sexual and gender-based violence.*[[123]](#footnote-123)

449. This partial recognition - or lack thereof - of sexual violence committed by state agents against men and boys has multiple consequences. Indeed, when the sexualized nature of the acts is obscured, there is little chance that the violence will receive any adequate and specific response, be it in the form of providing assistance to survivors, fighting impunity and preventing this type of violence or access to justice and reparations. The African Commission on Human and Peoples’ Rights also underlined in 2017 that acts of sexual violence can target any individual, no matter their gender, and that sexual violence against men and boys (among others gender categories) must receive adequate and effective response from States.[[124]](#footnote-124) Better understanding of sexual violence against men is therefore necessary to improve and complete the analysis of the gender dimension of a conflict or a crisis.[[125]](#footnote-125)

 2. Main victims

450. Victims were born between 1977 and 2000, and two of them were minors[[126]](#footnote-126) at the time of the occurrence. Several were students,[[127]](#footnote-127) some were unemployed,[[128]](#footnote-128) some others were employed in the public service,[[129]](#footnote-129) or in the private sector[[130]](#footnote-130). Many of them resided in Bujumbura (Mairie), although they often were natives of other provinces. Several victims were affiliated with an opposition party (mainly MSD in 2015-2016 and mostly CNL in 2019-2020),[[131]](#footnote-131) but others said they were not members of any party[[132]](#footnote-132).

451. Commenting on the profile of male victims of sexual torture in detention at SNR, one witness said “*the people targeted were mostly strong young men who looked intelligent*”.[[133]](#footnote-133)

452. The reasons cited for targeting the victims were, above all, political and security related and were generally multiple. Victims were accused of participating in protests against the third term;[[134]](#footnote-134) supporting or participating in armed actions against the Government in the capital or in certain provinces or of having information on these actions;[[135]](#footnote-135) possessing arms or ammunition;[[136]](#footnote-136) being in contact with rebels or of spying on behalf of a foreign government;[[137]](#footnote-137) providing information or working in collaboration with civil society or independent media;[[138]](#footnote-138) supporting an opposition party or of having refused to support CNDD-FDD[[139]](#footnote-139). They were also targeted because one of their relatives was wanted for one of these reasons.[[140]](#footnote-140)

 3. Sexual violence as a form of torture used by the SNR

453. The vast majority of sexual violence against men documented by the Commission was committed in the context of arbitrary detentions under the responsibility of the SNR and ranged from a few hours to several weeks, in official or unofficial places, mainly at SNR’s headquarters located near the cathedral in Bujumbura,[[141]](#footnote-141) but also residential houses, rooms or containers located in Bujumbura, Rumonge, Ruyigi or Ngozi. Moreover, even when a place of detention was not identified, victims recognized their aggressors as SNR agents, in particular by their attire or through the presence of certain senior officers whom they identified or recognized.[[142]](#footnote-142)

454. Sexual violence was also perpetrated by police officers, in particular the unit for the protection of institutions (API - *Appui à la protection des institutions*), and Imbonerakure in places of detention under the responsibility of the SNR.[[143]](#footnote-143)

455. Sexual violence was always committed jointly with other forms of violence that also constitute torture or cruel, inhuman or degrading treatment, particularly kicking, beating with sticks, truncheons or even with the butt of a gun or electric cables. It was also accompanied by death threats, mock executions, and victims were forced to witness the torture or execution of others.

456. Certain acts of violence, particularly those targeting genitals and rape, have been committed with the intention of inflicting severe mental or physical suffering on the victims with the aim of punishing them or extracting a confession, and are therefore constitutive of torture. Others, such as forced nudity and insults, which were clearly intended to humiliate or intimidate victims, amount to inhuman or degrading treatment.

457. The analysis of the modus operandi of this sexual violence reveals that the sexual organs and sexuality of men were strategically and deliberately targeted, and several witness accounts suggest that the choice of torture methods to be applied on a detainee was not intuitively decided by the questioning agent.[[144]](#footnote-144)

458. In some cases, senior SNR officers were present during torture sessions and they either participated in interrogations or left the scene after leaving instructions.[[145]](#footnote-145)

*“He then told me to stand up and walk with the can […] [a SNR official] said, ‘this bastard of a Tutsi does not want to talk. He is going to talk whether he wants to or not’. He ordered the [officers] to do the job”.[[146]](#footnote-146)*

459. In addition, several witness accounts indicate that there were tools dedicated to torture, including those targeting genitals, and that the tools was stored in a specific location at the SNR headquarters in Bujumbura.[[147]](#footnote-147) Some detainees found the tools already set up in the room where they were questioned.[[148]](#footnote-148)

460. One man described his arrival at SNR’s detention center as follows:

“*They undressed me […] because my hands were still [tied up]. Then they […] tied my testicles […] and the rope was attached to a can filled with sand. […] The can and the rope were in the room already*”.[[149]](#footnote-149)

 a) Violence targeting genitals

461. One of the most common forms of sexual violence inflicted upon men and boys in detention involves tying up their genitals – testicles in most cases, to a ballast, most often a water or sand-filled container – and forcing the victim to stand up and walk, or suspend the victim in the air with their feet not touching the ground, in order for the weight of the container to pull down their testicles, for a timeframe ranging from a few minutes to several hours.[[150]](#footnote-150) This practice already existed at the SNR before the 2015 political crisis, but several sources indicated that the security forces have used it more systematically since 2015.[[151]](#footnote-151)

462. This method, commonly referred to as the *canister technique*, which aims at inflicting severe pain, has been used during interrogations to force victims to give information they may have, particularly on hidden weapons caches or armed groups activities or to punish them for acts they allegedly committed.[[152]](#footnote-152)

“*This technique was used against anyone accused of being against the Government. The goal was to inflict as much pain as possible, often in order to make one confess doing things they had not done and have an excuse for sending them to prison […] these same confessions were used to bring people to court […] [or to] extract confessions against [other persons]*”.[[153]](#footnote-153)

463. One man recounted how the individuals who tortured him hung him from the ceiling before attaching a weight to his penis and testicles:

*“They took a canister […] filled with sand mixed with water and tied it to my genitals. […] I felt unspeakable pain because it was my genitals that carried the canister. […] They left it there for at least ten minutes. Then I was brought down. […] They kept telling me […] ‘why do you not contribute to the leading party?*’, *that I am a spy for the civil society”.*[[154]](#footnote-154)

464. The same man testified that after several days in detention during which he was subjected to various forms of torture, including on his genitals, he ended up acknowledging everything he was accused:

*“Begging for forgiveness, I was in so much pain, I accepted all of their accusations when in reality I am not in contact with any of the people whose names they mentioned”*.[[155]](#footnote-155)

465. Witness accounts collected by the Commission describe certain variations of this technique,[[156]](#footnote-156) such as the replacement of the container by a system of cords or tying up bags filled with mud or applying this system to several detainees concurrently, for added humiliation.[[157]](#footnote-157)

466. Several men detained at SNR were subjected to injections of unidentified fluid into their testicles.[[158]](#footnote-158) These injections caused a burning sensation, severe pain and dizziness, sometimes fainting. A man also reported being badly burned from boiling water poured over his penis, which SNR agents lifted with sticks.[[159]](#footnote-159) Another man reported that his testicles were pinched and injured with pliers.[[160]](#footnote-160)

467. Several men reported being kicked, including with boots,[[161]](#footnote-161), beaten with sticks[[162]](#footnote-162) or hardwire or metal cables,[[163]](#footnote-163) and explained how the beating specifically targeted their genitals.

“*They also kicked me on the chest, [in] the ribs, on my genitals […] The blows on the genitals, they were precise; they forcibly spread my legs and then they kicked me […] the beating lasted about 30 minutes*”.[[164]](#footnote-164)

468. In some cases, detained victims were taken into the forest or the bush by SNR agents, with or without Imbonerakure, where they were subjected to sexual violence and other forms of violence:[[165]](#footnote-165)

“*After we got out [of the vehicle], we were beaten; our pants pulled down and they hit us on the genitals while asking who sent us [mandated]. It was they [members of the SNR] who lowered our pants. To hit us, they used the rod of the Kalashnikov rifles*”.[[166]](#footnote-166)

 b) Rape

469. In the course of their detention under SNR responsibility, men were raped by SNR agents or Imbonerakure, or forced under threat to have sex with other men or women detainees.

470. Literature on sexual violence against men in conflict situations recognizes that men can be affected by different forms of rape that have not yet been specifically qualified, including situations in which a man is forced to have sex with another victim, male or female, including someone who may be a family member.[[167]](#footnote-167)

471. More than any, this type of sexual violence touches on taboos on sexuality and the morality of the society; and is therefore much more difficult for the victims or the witnesses to denounce. It is therefore likely that many victims refuse to tell anyone about what happened to them. One victim explained:

*“After forcing me to sleep with [X] they laughed a lot. Reflecting on what I had done, I wondered why they made me do it. Maybe to make a fool of me, maybe to hurt me. […]. What has happened to me has happened to other people even though people do not talk about it a lot […] There are people who cannot talk about it for mental reasons. Some are relieved to talk about it while others are so troubled, they cannot talk about it”*.[[168]](#footnote-168)

472. Men detained by the SNR were coerced into having vaginal sex with a woman detainee also under threat of death if they did not do so; act which constitutes both the rape of the detainee and the rape of these men, in the presence of the officers who had ordered them to do so.[[169]](#footnote-169)

473. Men have been forced by SNR members to have anal sex with fellow men detainees. In case of refusal, they were severely beaten or subjected to other painful treatments. While they were complying, SNR members laughed at them and humiliated them with insults.[[170]](#footnote-170)

“*We were forced to do anal penetrations. We were told that we are friends, that we can [do anything]*”.[[171]](#footnote-171)

“*They took a young man who was next to [me], told him to lie down on the ground and told me to go inside him. Then we reversed. […] During that time, the police were there laughing, hitting, saying ‘these Tutsi dogs, go back to where you come from’.*”[[172]](#footnote-172)

474. In addition, at SNR, a man was raped by a man he identified as an Imbonerakure.[[173]](#footnote-173)

475. Anal penetration, whether consensual or not, is taboo in the Burundian society. For men, it represents the opposite of a virile, socially valued sexual relationship, and therefore constitutes a factor of stigma. In addition, it should be remembered that sexual relationships between persons of the same gender are criminalized under Burundian law.

 d) Coerced nudity

476. Many men were subjected to forced nudity during their detention.[[174]](#footnote-174) They were forcibly stripped of their clothes or forced to undress, usually prior to an interrogation session during which they were in the presence of several other dressed men, and during which they were subjected to various forms of physical or psychological violence. This forced nudity served both to intensify the pain of other forms of violence,[[175]](#footnote-175) as well as the victims’ humiliation and sense of vulnerability, particularly because that caused them to expect further sexual violence.[[176]](#footnote-176)

477. A man detained by SNR police officers reported that he was stripped naked before being kicked as well as beaten up with sticks and rifle butts. Policemen threatened to cut off his penis.[[177]](#footnote-177) Another, also held by the SNR, explained:

“*We were naked, that is how they got to our testicles. […] Every time [the police] entered the container, they would ask us to undress. It was systematic*”.[[178]](#footnote-178)

478. Some have reported remaining naked for hours or even days among fellow inmates, men and sometimes women, who were also naked.[[179]](#footnote-179)

“*In total we were 31 people imprisoned in a small cell […]. We remained naked for the duration of the detention there [a month and a half]. The girls had also been tortured; we could see it on their bodies but we did not discuss the type of torture they suffered*”.[[180]](#footnote-180)

 e) Insults

479. While subjected to sexual violence, several men were humiliated with insults referring to their ethnicity[[181]](#footnote-181) or sexuality.[[182]](#footnote-182)

480. A man subjected to violence targeting his genitals declared:

“*As soon as the [SNR agents] entered [the dungeon] they began to hurl insults at us, saying: ‘You Tutsis, you want us to return where we came from [the bush]. […] And now we are going to do something for you to make sure that you do not have children who are going to come and cause us problems. We are also going to ensure you are never going to want a girl’. […] Every one of them repeated the same thing every time*”.[[183]](#footnote-183)

481. Another man reported how, after being severely beaten, police officers used their hands to crush the testicles of his fellow inmate, whose arms and legs were tied, saying, “*You little Hutu fool. Are you the one to want to protest against the President when you are of the same ethnic group? Tutsis are deceiving you*”.[[184]](#footnote-184)

4 . Rape and sexual violence targeting women at SNR

482. During its investigations, the Commission also collected witness accounts relating to rape and other forms of sexual violence against women while in detention and under the responsibility of the SNR[[185]](#footnote-185). Some of this violence was inflicted in the context of interrogations using procedures similar to what has been described for the men in order to make them confess certain information, to intimidate them or to punish them in relation to their alleged activities against the Government.[[186]](#footnote-186)

483. Women were also raped on several occasions during their detention outside the context of interrogation. Far from constituting isolated opportunistic acts, the modus operandi of these rapes shows that this violence also helped to create the intimidating and punitive environment in which these women would confess the desired information.[[187]](#footnote-187)

484. Witness accounts indicate that high-ranking officials of the SNR were aware of the ongoing violence and did not provide an adequate response, and that sometimes they were directly involved.[[188]](#footnote-188)

485. Another indicator of the institution’s reputation in this regard is that relatives of women detainees at the SNR sought to ensure that these women would not be sexually tortured, mostly through their network of influence within the ruling party.[[189]](#footnote-189)

486. A woman who had been detained by the SNR recounts her meeting with a member of her family who had pursued such steps: “*the first thing [he] asked me was if I had been raped because I cried when I saw him*”.[[190]](#footnote-190)

487. Additional research and surveys would be warranted in order to determine the prevalence of this type of violations against women.

 5. Other forms of sexual violence against men

488. In the context of the crisis, other forms of sexual violence have been perpetrated against men, outside the context of SNR detention, particularly cases of “forced incest” and cases of emasculation. The violence was sometimes committed by Imbonerakure acting alongside police officers, or by armed men dressed in police or army uniforms and as civilians.

489. This violence took place outside official places of detention, during raids on victims’ homes[[191]](#footnote-191) or during arbitrary arrests[[192]](#footnote-192). Some cases were committed as part of the operations by security forces in the wake of the attacks on military camps in Bujumbura in December 2015 and during the first half of 2016.

490. Men, under threat of physical violence, have been forced to commit incest by engaging in sex with a family member.[[193]](#footnote-193) In one case, the man who refused to carry out the order was severely beaten and forced to watch two of his family members being raped by police and Imbonerakure. He was later executed. In another case, the man who refused was beaten and threatened to be killed, before he obeyed orders by the police and the military who threatened him and his family. Such violence has had a highly traumatic impact on the affected families.

491. Two witnesses said they saw that a male relative had been emasculated when his body was found.[[194]](#footnote-194) In one case, the emasculation took place before the victim’s execution as part of a night attack on his home by a group of armed men wearing different uniforms and civilian outfits. In the other case, the Imbonerakure are said to have mutilated the victim’s body; there was no way of telling whether the mutilation took place before or after his execution. Both victims were members of opposition political parties.

 6. Consequences on the victims and their families

492. Similarly to sexual violence against women and girls, sexual violence against men and boys has serious, long-lasting effects on the lives of the survivors, their health, their family relations as well as their role and place within community.

493. The majority of survivors of sexual violence cases documented by the Commission were forced to leave Burundi, many of them believing that they would have been killed if they had stayed longer. Many of them left on their own, leaving their families behind; whom they have sometimes not heard since their departure, or even since their arrest months or years before.

494. The men and boys subjected to violence targeting their genitals testified about pain and swelling of their testicles which, among other things, prevented them from walking normally[[195]](#footnote-195) and about severe pain that persisted for several months after these occurrences, especially when urinating.[[196]](#footnote-196) Some have developed erectile dysfunction.[[197]](#footnote-197)

*“I have been hit so many times in the genitals. They told me to bow with my arms at knee level and kicked me in the genitals. One consequence of the beating is that I can no longer have sex, I cannot have an erection, I have become like impotent”*.[[198]](#footnote-198)

495. Several of them requested access to medical care while in detention. However, treatment was only granted to two of them, in one case several months after the violence. The care in both cases proved to be clearly inadequate.[[199]](#footnote-199)

496. Survivors did not always dare report to the medical staff that they had been raped.[[200]](#footnote-200)

“*I did not tell the doctor who was treating me because this is taboo in our culture. They gave me medicine. I have not recounted what happened to me, I am ashamed. I cannot talk about what happened in my life because I went through hell. I was humiliated and made to feel worthless*”.[[201]](#footnote-201)

497. Due to the multiple forms of violence that some men have suffered, they often present complex or severe clinical cases, sometimes also including fractures, digestive or respiratory problems.[[202]](#footnote-202)

*“The symptoms [I have]: diarrhoea, vomiting, dizziness, reddish urine, weakness […] they will not stop. The doctor is worried because even he can see that I am not getting better. […] I do not receive any psychological support, it would be better if I did, but I have to find someone who can help me”.*[[203]](#footnote-203)

498. Several men also described symptoms of depression and suicidal thoughts.[[204]](#footnote-204)

499. A man detained by the SNR who suffered various forms of violence, including violence targeting his genitals, explained that he first thought of dying after escaping, before seeking asylum in another country:

*“My problem was not so much about having a place to live as about going to a place where I did not feel the need to end my life”*.[[205]](#footnote-205)

500. Men who were raped expressed shame and fear of stigmatisation and marginalization associated with the kind of violence to which they were subjected.[[206]](#footnote-206)

*“Some things are shameful and one thinks that, if recounted, those who hear about them will start treating you differently. […] Even when I talked about it, it was not easy because I feared it would spread outside. […] You do not want to be known on the street as ‘the one who was taken from behind’. If what happened to me should be known in today’s society, it would be considered something dishonourable, for which one could be banished from society […] I would do not know where to go if that were to be known”*.[[207]](#footnote-207)

501. Sexual violence has also had a significant impact on these men’s sexuality and their emotional lives.[[208]](#footnote-208)

“*I no longer want to make love. They touched sensitive parts. […] I cannot make love to a woman because images of torture come back to me*”.[[209]](#footnote-209)

502. Survivors also expressed doubts on their ability to perform the valued and expected social functions of a man in Burundian society, particularly within the context of marriage and family.

*“When I think back to what happened [violence on genitals], it hurts a lot. And the idea of taking a wife is not something I envision because I do not know if I could manage”*.[[210]](#footnote-210)

503. In Burundian culture, marriage is a necessary step for one to be considered a successful man (or woman) in that it is the basis of the family. It is one of the most important traditional gender roles’ indicators,[[211]](#footnote-211) and a couple is generally expected to have their first child within 18 months of marriage. In a relationship, it is difficult to imagine that infertility can be caused by the man, the woman being generally held responsible. A study points out that a man’s impotence can thus become a domestic violence factor.[[212]](#footnote-212)

*“Because of this injection [into the testicle], I am afraid I will not be able to have children. I was in pain, there was pus coming out of my penis on its own and I was in great pain when I urinated”*.[[213]](#footnote-213)

504. Beyond the sometimes irreversible damage to their physical and mental health, sexual violence targeting men therefore has significant consequences on an essential component of the Burundian social fabric: the family, and on the way survivors perceive themselves and are perceived as men at the heart of the community.

505. One woman said of the sexual torture inflicted on her husband: “*Somehow this ensures that, even when he does not succumb to the torture, the victim cannot reproduce and they will live the handicap of not having sexual intercourse; it is a handicap, especially for a man. The aim is to ruin their lives permanently”.*[[214]](#footnote-214)

506. Depending on the country in which they sought asylum, these survivors had access to care more or less adapted to their physical and psychological problems. However, this assistance has not been provided as part of the support mechanisms for survivors of sexual and gender-based violence, which are generally not adapted to the specific needs of men. Programs intended to respond to and prevent sexual and gender-based violence are generally designed according to the logic of “woman and girl – victims and man – potential or actual perpetrator of violence”.

507. Having support groups, community associations and non-governmental organizations sensitized to the issue of sexual violence against men and boys would undoubtedly be a factor that would encourage survivors to speak up about their experience and help them obtain appropriate support.[[215]](#footnote-215)

F. Major violations of the rights of the child since 2015

508. The Commission considered it useful to focus on the issue of violations suffered by children since the beginning of the crisis in 2015, given that children have not been spared. They have been direct victims of violations of their right to life, liberty, security, and physical integrity. Their rights to education, healthcare and food have also been violated. These violations are often related to the real or supposed political affiliation of their parents or one of their family members. The Commission also focused on the possible medium- and long-term effects of such violations. It is obvious that the right of the child to have his or her best interests taken as a primary consideration[[216]](#footnote-216), has not always been taken into account, especially in judiciary and administrative decisions, as well as in other actions concerning the child as an individual.

 a) Right to life

509. Children of all ages have lost their lives during incidents related to the social and political crisis Burundi has been experiencing since 2015, especially within the framework of violations that targeted members of their families for political reasons. Children have not always been directly targeted though the indiscriminate nature of violence perpetrated against their families, including the use of grenades thrown into the homes of persons targeted, led to their death.[[217]](#footnote-217)

510. A witness recounted how children were killed by soldiers at the same time with their parents:

"*The day after the* coup d’État*, on 14 May 2015, soldiers went to his place, surrounded his compound to ensure that nobody could leave and then killed his wife and three children. The corpses were found in the house with gunshot wounds"*[[218]](#footnote-218).

511. Children were also killed during the crackdown on the 2015 protests by security forces. A witness recounted:

*"I saw them shooting [...] Elvis was the very first victim during the protests. Then another boy of about 15 to 16 years was killed by a bullet to the head [...] He was called Komezamahoro [...] He was killed […] the same day than Elvis"*[[219]](#footnote-219).

512. The normalization of violence in the country, especially due to the general impunity enjoyed by perpetrators, including with regard to the settlement of personal scores, has enabled the multiplication of violent incidents during which children have lost their lives[[220]](#footnote-220). On 13 October 2015, the 16-year old daughter and 14-year old son of an RTNB cameraman, Christophe Nkezabahizi, were killed by API police officers during an attack at the residence of the latter in Bujumbura, during which he was killed as well as his wife[[221]](#footnote-221).

 b) Rights to liberty and security

513. Since 2015, Burundian children have been victims of arbitrary arrests and detention[[222]](#footnote-222) in violation of the international law on the rights of the child[[223]](#footnote-223) and whereas the detention of a child should be a measure of last resort[[224]](#footnote-224). Minors have been arbitrarily detained, including under the responsibility of the National Intelligence Service, for political reasons, specifically due to their real or supposed involvement in protests against the third mandate of President Nkurunziza in 2015 or because they were suspected of collaborating with rebel armed groups[[225]](#footnote-225). Children have been detained in the place of some of their family members wanted by defence and security forces[[226]](#footnote-226). In 2016, one year after the crisis started, it was estimated that at least 300 children had been arbitrarily arrested and detained for reasons linked to the crisis, especially for "participating in the activities of armed groups", many of whom were sent to adult prisons[[227]](#footnote-227).

514. Another example of arbitrary detention concerns a group of minor students who were arrested and detained as a preventive measure for about ten days in 2019 and prosecuted for "insulting the Head of State" after scribbled photos of the President were discovered in schoolbooks[[228]](#footnote-228).

515. Very young children were also placed in de facto detention in prison or police cells with their detained parent or caregiver, when no other person in the family could take care of them[[229]](#footnote-229). These children were placed under conditions which made it difficult to satisfy their needs, particularly with regard to hygiene, healthcare and food since generally, detention conditions in Burundi do not comply with international principles and standards in this area[[230]](#footnote-230), and are therefore obviously incompatible with those relating to the detention of children[[231]](#footnote-231).

 c) Right to physical integrity

516. Since 2015, children have been victims of the violation of their right to physical integrity, through acts which either fall under torture or cruel, inhuman and degrading treatment[[232]](#footnote-232). The Commission has documented cases of torture and ill-treatment during the detention of minors who were suspected to be members of opposition armed groups, or of taking part in the 2015 protests. This torture and ill-treatment sometimes took the form of sexual violence[[233]](#footnote-233).

517. A young man of 17 years recounted what happened to him when the National Intelligence Service arrested him:

*"When we reached the office of the National Intelligence Service, the [X] police officers who accompanied [me] completely undressed me and I was completely naked and they started beating me with a stick and [their] club […] All the [X] especially the National Intelligence Service officer and the [X] police officers were beating me. They made me lie on my stomach and were beating me from my feet up to my shoulders. […] I lost conciousness at one moment, but since one could not sleep given the small nature of the cell where I was with [X] cellmates, there were times it was murky, as if I had my head in the clouds. It was cold at night and very hot during the day. [...] I was detained for three weeks and each day the head of the local office of the National Intelligence Service and two police officers would come look for me and beat me.**While beating me, he would ask me to tell them where to find [one member of my family]. I would respond that I did not know where he was […]* "[[234]](#footnote-234).

518. Girls were also victims of sexual violence which took the form of rape, especially by Imbonerakure during night attacks of homes[[235]](#footnote-235). A young girl explained the rape she suffered in 2018 by an Imbonerakure when she was an adolescent:

"*My father was in the MSD party. […] After protests, my father wanted to stay, since he did not think he would be targeted, but he was wanted. […] In the evening, we saw people who came and took my father. The others stayed back and raped my mother and killed her. Then, they took us and raped us. […] They beat us since we were crying. We then decided to remain calm. They placed us on a mattress, with arms stretched in the form of a cross, and legs spread. […] A man inserted his finger and penis into my vagina. […] He was maintaining my arms in that position as I was trying to hit […] he was also hitting me, and then I lost all my strength"*[[236]](#footnote-236).

519. Children have also been beaten or have been victims of violence inflicted particularly by Imbonerakure during operations targeting one of their close relatives[[237]](#footnote-237). A young girl explained:

"*My father and mother were taken away at night by Imbonerakure. […] They wanted my father to join CNDD-FDD and he was unwilling. […] As they were entering the house, they told my father, 'follow us'. Those who remained in the house were beaten, that is me, my mother, and my [...] brothers and sisters. I was beaten with sticks on my legs while I was lying down. After taking away my father the [X] same Imbonerakure came back to take my mother"*[[238]](#footnote-238).

520. Children have often been detained with adults and under the same bad conditions that have been documented by the Commission, namely in overcrowded cells with no ventilation or light, with insufficient and poor quality food, and no access to water and sanitary facilities[[239]](#footnote-239). The conditions under which children have been detained in prisons, police or National Intelligence Service cells, constitute ill-treatment.

521. A minor boy explained what happened when the National Intelligence Service arrested him:

*“Agents of the intelligence service would give us food once a day and sometimes they would not give us anything at all. The food they were giving us was of really of poor quality and was not enough for us. Sometimes the food had grains of sand or salt for instance. The cell in which I was held with seven other persons was about two by three metres. We had no place to lie down. We were always sleeping while seated with legs stretched out or standing"*[[240]](#footnote-240)*.*

 d) Right to education

522. The right to education has "a qualitative dimension which reflects the rights and inherent dignity of the child; it also insists upon the need for education to be child-centred, child-friendly and empowering, and it highlights the need for educational processes to be based upon the very principles it enunciates[[241]](#footnote-241). The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child’s capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values. The goal is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence. “Education” in this context goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society [...] The right of the child to education is not limited to the issue of access to education (Art. 28), but also concerns the content of education"[[242]](#footnote-242).

 i. Access to education

523. Generally, the crisis which started in 2015, has significantly reduced State resources, notably those allocated to the Ministry of Higher Education and Scientific Research[[243]](#footnote-243) – even if it remains one of the main areas of expenditure of the State – and has resulted in structural problems in the area of education such as insufficient teachers, including qualified teachers, insufficient material and inadequate financing for schools, and thereby indirectly increasing direct costs related to education for families and a high dropout rate in primary schools, especially for girls in secondary schools[[244]](#footnote-244).

524. It should be recalled that there are many school dropouts, especially girls, particularly due to the existence of indirect barriers such as the cost of supplies and uniforms or tuition for higher levels, which have compelled impoverished families, particularly linked to the socio-political crisis, to withdraw their children from school[[245]](#footnote-245).

525. In the context of the 2020 electoral process, children, both girls and boys, were compelled to participate in political rallies organised by CNDD-FDD during the May 2020 campaigns. To achieve this, classes were suspended and school administrators threatened students to have their grades reduced if they failed to participate in rallies[[246]](#footnote-246).

526. The Commission also received testimonies according to which students, including minors, and teachers were expelled from schools for political and economic reasons, particularly for refusing to join CNDD-FDD or for failing to pay forced contributions demanded in school even if they had no means at the time[[247]](#footnote-247).

527. Children detained as a preventive measure or after being found guilty of crimes or offences, have been deprived of education[[248]](#footnote-248). This was the case with some secondary school girls accused, in March 2019, of scribbling on President Nkurunziza`s photo in school manuals. They were prevented from attending school for the whole duration of the legal proceedings against them, even after they were bailed[[249]](#footnote-249). In 2016, several students including minor girls and boys had been arrested in the provinces of Muramvya and Rumonge. Some of them had been detained for several months based on similar accusations[[250]](#footnote-250)..

528. In June 2018, the Government of Burundi, through the Minister of National Education, took the decision to exclude pregnant girls and fathers-to-be from the education system. This decision, recorded in a circular that was sent to provincial officials in the education sector for implementation, provided that "every girl who has been a victim of pregnancy or forced into marriage while still at the primary or post primary level, as well as any boy responsible for a pregnancy, does not have the right to return to the public or private formal education system. However, they shall be authorised to learn a trade or undergo vocational training*"*[[251]](#footnote-251). The Commission received information indicating that faced with criticisms, the circular was withdrawn, but it was unable to obtain the formal confirmation of this withdrawal. However, in practice, pregnant girls continue to be temporarily excluded from school, though such measures rarely concern the fathers-to-be. On 21 July 2020, the new Minister of National Education signed a new ordinance[[252]](#footnote-252) with a view to regulating the reintegration of girls having "dropped out" of school due to pregnancy. They can be reintegrated into another school other than the first once their baby is 12 months old. However, married girls can not benefit from such a reintegration measure.

 ii. Discrimination in access to education

529. During the period of the socio-political crisis, the Commission documented cases of discrimination against children in the education system based on their political opinion or affiliation, actual or perceived, or those of their parents[[253]](#footnote-253).

530. For instance, a teacher working at a primary school in the country declared: *"if Imbonerakure tell the head teacher or a teacher who is member of the party that such or such pupil is of another party, this pupil can be threatened and he/she may fail. […] And this is seen at the end of the year when the children's fate is decided. There are cases of discrimination in school in a situation where an intelligent student whose parents are not CNDD-FDD members can be promoted [to the next class], and the students whose parents are CNDD-FDD members can [also] be promoted even if they are weak*"[[254]](#footnote-254).

531. Another teacher explained the contrasting treatment granted to Imbonerakure students:

"*The students who have proved to be competent militants have more favours than others in schools. Even if an Imbonerakure student does not work, he is attributed marks to make him pass, and this task is incumbent upon the school principals, generally in public schools. The teacher has no authority over his Imbonerakure student, he is under [the authority of] his student"*[[255]](#footnote-255).

532. This form of discrimination against children in school, based on the political affiliation of children or their parents also constitute a violation of children’s right to education, especially with regard to the quality and content of education offered to children in public schools in Burundi, whether in relation to the level of training and capacities of teachers selected on a political basis or values taught, which are not compatible with those relating to the human rights promoted by the CRC[[256]](#footnote-256).

533. Moreover, the Commission had documented that there was discrimination in access to teaching positions, which was conditioned by the political affiliation of the candidate rather than the level of competence[[257]](#footnote-257). The politicisation of recruitment into the education system has direct consequences on the quality of education offered[[258]](#footnote-258).

 iii. Politicisation of the education system and school environment

534. Schools have not been spared from the 2015 political crisis. Students as well as teachers have been dismissed for political reasons. Schools have become recruitment places for Imbonerakure, particularly through pressure exerted on students for them to join CNDD-FDD, specifically Imbonerakure[[259]](#footnote-259). Such practices continued during the electoral process[[260]](#footnote-260).

535. Imbonerakure cells have been created in several schools, especially public primary and secondary schools[[261]](#footnote-261). This has been facilitated by the fact that several school principals are CNDD-FDD members. A teacher working in a primary school explained:

"*There are Imbonerakure pupils in all primary schools as from the 7th to 9th year. […] School Imbonerakure are recruited by the authorities of each school. […] public schools are managed by the authorities, and there are Imbonerakure in these schools. The pupils whose parents are Imbonerakure or CNDD members are often chosen to be in charge of Imbonerakure in schools. There are several minors who are Imbonerakure. They also participate in the night rounds of Imbonerakure*"[[262]](#footnote-262).

536. Recruitment is carried out through promises of advantageous treatment at the academic level such a good grades in class and promotion to the next class even if their results are not good.[[263]](#footnote-263).

537. However, some children are also subjected to pressure, threats, intimidation and physical violence in order to force them to join Imbonerakure. This has compelled some of them to flee the country as they fear for their security[[264]](#footnote-264). A 17-year old boy explained:

"*I left the country three days after Imbonerakure tried to recruit me. […] they came […] and stayed for about thirty minutes. They tried to convince me to join them, without really giving any reason, but while repeating that it was in my interest to join them. […] They were calm at the beginning but later started threatening. They threatened me when I refused. They told me 'now we have seen your true colours, we know who you are, we will not be responsible for what will happen to you in the future'*"[[265]](#footnote-265).

538. The Commission had also documented that the teaching of history in Burundian schools does not comply with quality standards for this essential subject to transmit the collective memory and values which help to build the identity of the nation, and thus contribute to guarantee social ties and the feeling of belonging. On the contrary, the teaching of history has been exploited for political reasons, especially in order to justify the maintenance of the CNDD-FDD party in power and convince students to join it. A witness recounted that his teacher narrated the history of Burundi to this students in such a way as to indicate that it was thanks to CNDD-FDD that the Hutus had the means to live comfortably in the country and thus convince them to join the party.[[266]](#footnote-266)

539. The Commission considers that all these facts constitute violations of the right to education of children guaranteed by the International Convention on the Rights of the Child[[267]](#footnote-267) and the African Charter on the Rights and Welfare of the Child[[268]](#footnote-268). By virtue of the obligations incumbent upon the State of Burundi with regard to its international commitments in the area of human rights and the rights of the child, it must respect, protect and fulfil the right to education for children in all its aspects and at all times, by taking into consideration the best interest of the child, which is to enjoy quality education that reflects the values of peace, tolerance, cohesion and national harmony.

540. Moreover, such practices are likely to prevent the achievement of Sustainable Development Goals by 2030, especially Goal No. 4. The economic and social development of a country requires well trained, qualified and competent human resources in all sectors and at all levels of the State. In this context, the education sector is a crucial element of development considering the importance of its mission which is to educate and train.

 e) Exploitation of children for political reasons

541. The Convention on the Rights of the Child provides that State parties have to take "all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child"[[269]](#footnote-269).

542. However, children were involved in the 2020 electoral process, which was denounced by CNIDH in its declaration of 23 May 2020 on the conduct of the 20 May 2020 elections[[270]](#footnote-270). The Commission particularly documented that children were forced to take part in CNDD-FDD political rallies and to vote for the candidates of this party[[271]](#footnote-271), as had been the case during the constitutional referendum of May 2018[[272]](#footnote-272), even though it is against the law[[273]](#footnote-273).

543. The Commission is also concerned by the enrolment of very young children, as early as seven years, in a movement attached to the CNDD-FDD – "the eaglets" or "the children of the eagles" – which publicly appeared in 2019 during celebrations of the 2019 Imbonerakure Day[[274]](#footnote-274). The parade of barefoot children led by a police sergeant with wooden weapons in hand chanting slogans inciting violence and ethnic hate, that took place in May 2020 in Busoni in the Kirundo province, during the electoral campaign, is an eloquent illustration[[275]](#footnote-275). Other videos of songs by very young children praising the CNDD-FDD party and condemning its opponents have been circulated on social media[[276]](#footnote-276).

544. Considering the predominant role played by Imbonerakure in human rights violations committed in Burundi since 2015, recruiting children into Imbonerakure or other youth movements affiliated with the CNDD-FDD party involves some indoctrination of these children to political and/or ethnic hate and to the glorification of violence against perceived or actual "enemies".

545. A significant portion of future adults in Burundi will therefore neither have benefitted from quality education that promotes the values of peace, tolerance and human rights, nor appropriate basic education, given that the average duration of schooling in Burundi is 3.1 years instead of the expected 11.3[[277]](#footnote-277). Several Burundian children do not therefore have the possibility of developing their full potential. It is in the interest of the Burundian State to undertake in-depth reforms of its education system for it to offer quality education in a calm and secure environment which enables each child to become an educated and trained citizen that is able to significantly contribute to the development of the country and to economic diversification.

 f) Impact of the crisis on children

546. The Burundian crisis has had a considerable negative impact on children, both girls and boys, particularly due to violations suffered by members of their families, especially parents, who were killed, detained, disappeared or fled the country, often leaving behind family members including children[[278]](#footnote-278). Children have thus been abandoned to themselves in Burundi or have found themselves taking care of their younger siblings and could only survive in the streets or by resorting to domestic work in households or by fleeing the country, which increased their vulnerability[[279]](#footnote-279).

547. Violations documented by the Commission since the first term of its mandate[[280]](#footnote-280), coupled with the resulting economic crisis, have jeopardised the rights of Burundian children, especially those whose parents have been victims of human rights violations for political reasons. The right of these children to an adequate standard of living[[281]](#footnote-281), which include the right to food and the rights to healthcare and education, has been compromised in the short and long-term as a result of these violations[[282]](#footnote-282).

548. A young woman, whose father was arbitrarily arrested by the National Intelligence Service in 2016 while she was 14 years, stated: *"My father's situation disturbed my studies. I was not feeling at ease with the other children of my age and my school mates. I fell sick and I was always having headaches. With my father's problems, the family had difficulties satisfying our needs, since it was daddy who supported the family. He was the one buying everything for us, my mother could not do that. Before my father was arrested, we ate four times a day and after his arrest, we could barely eat once or twice a day. […] I could not concentrate on my studies in school. […]. This did not make me to fail in school but my average dropped in school"*[[283]](#footnote-283).

549. Beyond these individual situations which indicate the difficulties encountered by children to eat adequately, the Commission notes that the severe economic and financial crisis that Burundi has been experiencing since 2015 has also had an impact on the prevalence of malnutrition in the country, given that 1.7 million Burundians are food insecure[[284]](#footnote-284). The stunting rate among Burundian children aged under five years is very high, about 56%, while the average in other developing countries is 25%. On the other hand, the emaciation rate is just 5.1%, whereas on average, it is 9% for other developing countries.[[285]](#footnote-285) Such a prevalence of stunted growth is preoccupying as there is increasing proof that there are links between slow growth in early life, and health issues, school and economic performance in later life. Recent research indicates that stunted growth can have long-term consequences on cognitive development, academic success, economic productivity in adult life and the results of maternal reproduction[[286]](#footnote-286), and therefore on the economic and social development of the country.

550. A minor witness whose father was arbitrarily arrested and detained since 2015 explained: *"When me and my brothers and sisters fell sick in Burundi, we received treatment at the hospital and papa would pay the bills. […] now, the family no longer has the means to get all that we need since my parents are no longer working, they no longer have resources, we can no longer afford private healthcare, except receiving treatment at the camp hospital"*[[287]](#footnote-287)*.*

551. The impact of violations suffered by parents has been more remarkable among girls. In addition to the secondary effects or repercussions of the crisis generally observed in children, girls have also had the responsibility of taking care of their parents suffering from the aftereffects of the violation suffered, sometimes to the detriment of their studies[[288]](#footnote-288).

552. For instance, a young girl explained her responsibility towards her mother who developed health issues following violations suffered:

"*I cannot go to school like others, as my mother regularly has back pains and I need to stay at home to take care of her. Sometimes it can be three weeks without going to school when my mother starts having her episodes [back pain] [...]. She is suffering considerably from this, she cannot even go to the toilet by herself [...]. I failed in school because of this situation. My mother can not work because of this problem [...]. The beating my mother received from Imbonerakure and the police [...] resulted in her health issues"*[[289]](#footnote-289).

553. Some parents have lost their means of supporting their families, since they fled the country[[290]](#footnote-290). A young girl who left Burundi during the crisis recounted:

"*We also left our lives, our property behind us, our land, we came here where we are sleeping on mats, when we are sick, we don't have access to adequate healthcare here […]. My life has changed significantly"*[[291]](#footnote-291).

554. The disappearance or assassination of a family member, especially the father, has deprived families of their abilities to provide the basic needs of children[[292]](#footnote-292). A girl whose father disappeared explained:

"*When my father was with us, life was beautiful, he gave us everything. I lost my father, […] a lot of things have changed in our lives. Moreover, my mother is sick. […] At school, my education is no longer as it was before […] for me, my younger brothers and sisters, and my mother. […] Before, when we went to school, it was by car, dad was doing everything for us. We were attending a private school and dad was paying our school fees. Today […] we can barely eat once a day"*[[293]](#footnote-293).

555. Families have been separated due to these violations, including when they are fleeing to other countries[[294]](#footnote-294), and several children have become orphans[[295]](#footnote-295). A young boy recounted how his mother was separated from him after the disappearance of his father:

"*After this incident, my mother was so scared and she first left us with her elder sister while telling us that she was going to look for our father and that she will come back, this is how she left and never returned"*[[296]](#footnote-296).

556. Thus, more than half of Burundian refugees are children, with a good number of them unaccompanied[[297]](#footnote-297). Several boys and girls have been traumatised by serious violations suffered by a member of their family which they have often witnessed. They have not been able to forget the violence and they often have difficulties sleeping, eating and concentrating on their studies[[298]](#footnote-298). A young boy who witnessed his mother's rape and the violence inflicted on his father by Imbonerakure, explained:

"*When I think of what my father went through, I hate Burundi. […] I felt so sad for my mother. If I had the means, I would kill them all. My mother suffered a lot of violence and today she is a disabled person. […] Her situation continues to hurt me. When I think about that, I can't sleep and as such I am unable to concentrate on studies"*[[299]](#footnote-299).

557. Many of them would need psychological or even medical care[[300]](#footnote-300). A child who was present during his mother's rape explained:

"*Personally, I […] was traumatised, I often had nightmares, I would wake up crying and saying: "they are coming, they are coming with this, they are coming with that"  […] when I think about that, I fall sick, I have headaches, it is as if I am an orphan whereas I'm not; it makes me physically and emotionally sick, and I tell myself that maybe it is better to die rather than have to live this way"*[[301]](#footnote-301).

558. Any violation of the rights of the child is likely to have physical and/or psychological consequences on the victim, which can compromise the welfare of the child in the short, medium or long term. This situation is particularly observed, among others, in cases of violation of the right to the physical and mental integrity of children, as well as their right to freedom and security. It is recognized that children who suffer from severe stress following the death of or death threats against a close family member or friend, or violent incidents directed towards them or that they witness, can be affected by such events in the long-term.[[302]](#footnote-302)

559. Although most children return to the way they function after several months, a significant minority of children develop acute or persistent psychological symptoms, including symptoms of post-traumatic stress disorder (PTSD) which disturb them, interfere with their daily functioning and justify clinical attention. The most frequent symptoms include reliving the event by thinking about it or playing it over and over in one's mind, having several nightmares and sleep problems, feeling upset when something brings back memories of the event, lacking positive emotions, constantly having feelings of fear and sadness, being irritable, having outbursts of anger, feeling powerless, desperate or withdrawn. Some of these reactions can be quite severe and chronic.[[303]](#footnote-303)

560. Symptoms of PTSD can last for months or years, after a trauma, which, if not treated in a child, can have long-term consequences, including at the biological level and therefore indirectly on the society as a whole[[304]](#footnote-304). Early intervention is essential to help restore the feeling of security in a child. Psychotherapy (individual, group or family) which enables the child to speak, draw, play or write about the event is necessary to reduce fear and anxiety, as well as behaviour management techniques and cognitive therapy. Medicines can also be required to treat restlessness, anxiety or depression.[[305]](#footnote-305)

561. Unfortunately, to the knowledge of the Commission, most children who have been direct or indirect victims of the crisis in Burundi have not received such care or specialised and tailored services, which could have significant consequences on the Burundian society in the long-term, especially with regard to economic and social development.

[…]

IV. Risk factors

[…]

B. Risk factors indicators related to political transition

747. Risk factor 1 relating to an unstable political, economic and security environment, is still present as evidenced by the following indicators: the security situation is still volatile given that security incidents on the Burundian territory have increased since October 2019; indicating that opposition armed groups maintain a capacity to act on the Burundian territory. Tensions with some neighboring countries are recurring and sometimes take on a military dimension (1°b) and (1°e) – as was the case during the alleged operations of Burundian soldiers in the Democratic Republic of Congo against Burundian armed groups. The attack carried out on the Rwandan territory in July 2020 by an armed group allegedly from Burundi is another example, which is a reminder of the accusations that Burundi is allegedly hosting and supporting Rwandan opposition armed groups, including former genocidaires of the *Forces démocratiques de libération du Rwanda* (FDLR).

748. The new President sends contradictory messages on this issue. On 6August 2020, in his opening remarks for the introduction ceremony for the new governor of Kirundo province, he rejected the invitation from the Rwandan President to resume cooperation and renew diplomatic relations between the two countries. He said “we are not going to have good relations with a hypocritical country, a malicious country. It is not possible for a country to say that it wishes to have good relations with Burundi and at the same time engage in double-dealing by being a thorn in our side […] we do not want relations with a country which pretends to be on good terms with us while laying traps to harm us. We know why they are holding hostage the refugees. They are holding them hostage to use them as human shields for the criminals who plunged Burundi into mourning in 2015”[[306]](#footnote-306). However, on 28 August 2020; for the first time in five years, a meeting between the Burundian and Rwandan intelligence services were facilitated by the Extended Joint Verification Mechanism (EJVM) of the International Conference for the Great Lakes Region (ICGLR); to « re-establish dialogue and communication between the two intelligence services; for the restoration of peace and dialogue between the two countries » and re-establish security at the border[[307]](#footnote-307)*.*

749. Several Burundians, inside and outside the country, remain in a situation of humanitarian emergency[[308]](#footnote-308)(1°c); the country is still in the throes of economic instability due to a shortage of resources (1°g), as well as an acute national economic crisis (1°h), and most of the population lives in extreme poverty (1°i)[[309]](#footnote-309). After the elections, the political tension caused by an autocratic regime that perpetrates severe political repression against any opponent; remains present as active CNL members were the target of serious retaliation. It remains to be seen whether these will persist, but also if CNL militants will remain mobilised or will instead abandon their political engagement (1°f).

750. The indicators, linked to this first risk factor, that changed are the profound political crisis following the transfer of power in 2015 was never resolved, while the ongoing political transition constitutes a determining element to consider. Nonetheless, the impact that this element will have on the repercussions of the 2015 political crisis, still present, remains to be seen. Similarly, the allegations of massive electoral fraud[[310]](#footnote-310) could, in the long term, bear on the legitimacy of the new Government (1d); the risk of political instability due to possible conflicts of power within CNDD-FDD in relation to the succession of President Nkurunziza has shrunk, the « circle of generals » having clearly asserted its dominating position and squelched the possible internal tensions and disagreements with the late President Nkurunziza. The person chosen by the latter to succeed him, Pascal Nyabenda, former secretary general of CNDD-FDD (2012-2016) and former President of the National Assembly (2015-2020), was definitively barred from any official position and political responsibility. The *ad interim* Presidency which, as per the Constitution, could have been his; was ruled as unnecessary by the Constitutional Court which decided on an early swearing-in of the President elect Ndayishimiye[[311]](#footnote-311). Pascal Nyabenda was not even elected as Senator of his province, Bubanza, by the new communal councilors, who are nonetheless largely from CNDD-FDD[[312]](#footnote-312).

751. The unexpected death of the President cleared doubts and questions on his role and his influence on the new Government and the future, namely by the title of « Supreme Guide of Patriotism » which was reserved to him, and the potential conflicts that this would have created with the new President[[313]](#footnote-313). However, his death created a void at the head of the party CNDD-FDD, which may lead to new tensions within the party and namely between the members of the « circle of generals ».

752. The second risk factor relates to the existence of past serious human rights violations which were neither stopped nor punished; thus, creating a risk of new violations. This factor which is structural in nature is linked to the absence of political will and the weakness of institutions in the fight against impunity. At this stage, this factor remains unchanged despite the encouraging promises made by the new President Ndayishimiye to reconcile Burundians, to fight against impunity and to improve the human rights situation. Should these promises be implemented by concrete and tangible measures; most of these indicators would gradually disappear and this risk factor would then be decisively mitigated.

753. Since President Ndayishimiye’s ascent to power, a few Imbonerakure have been prosecuted and convicted for their implication in common law crimes which is a first encouraging sign[[314]](#footnote-314). However, in subsequent declarations, the President clarified that, in his opinion, the fight against impunity excludes human rights and crimes against humanity perpetrated in the context of the 2015 crisis. In pursuance of President Nkurunziza’s position, President Ndayishimiye continues to consider demonstrators, human rights defenders, journalists and CNDD-FDD’s *frondeurs* as rebels and putschists who must be punished. Conversely, he does not acknowledge the existence of violations and crimes committed since 2015 as documented by the Commission. In addition, he has just nominated in high political, administrative and security positions people who have been directly implicated in serious human rights violations, including international crimes. In so doing, the new President seems to condone impunity for previous violations and crimes. By rewarding the perpetrators with these nominations and promotions; he undermines any means of preventing such violations or crimes from happening in the future.

754. On the other hand, the Truth and Reconciliation Commission (CVR) seems to have partially considered the critics denouncing the lack of inclusivity in its work and its partial approach that largely ignores Tutsi victims. His President has recalled on several occasions that victims – and perpetrators - of the massacres were from all ethnicities. It remains to be seen how this will translate into facts.

755. At this stage, all indicators previously identified remain present namely: the existence of serious human rights violations, past and current (2 a); the existence of acts of genocide of crimes against humanity and of war crimes that have marked the recent history of Burundi (2 b); the existence of a policy or practice of impunity and tolerance towards serious human rights violations (2 c); the refusal or reluctance of the Burundian government to use all means possible to stop serious human rights violations (2 d); the sustained assistance of the Burundian authorities to groups accused of participating in violations and the absence of condemnations of their acts (2 e) ; the refusal of the government to recognize the existence of serious human rights violations or the practice of partially reporting on them (2 f)[[315]](#footnote-315);, the absence of a genuine process of reconciliation or transitional justice and the risk of using the work of the new truth and reconciliation commission[[316]](#footnote-316) (CVR) as a tool for political purposes (2 g); a widespread mistrust of the population towards state institutions particularly the security forces and the judicial system, or between different groups as a result of impunity (2 h).

756. The risk factor 3 linked to the weakness of State structures undermining the capacity of the State to prevent criminal atrocities or to stop and judge them remains unchanged. To date, no measure has been taken to reinforce the judicial institutions and those responsible for law enforcement and the protection of human rights which still lack resources and adequate representation (3 b) ; the justice system is neither independent nor impartial[[317]](#footnote-317) (3 c) ; the civic control of the security forces by the parliament is neither effective nor efficient(3 d) ; there is a high level of corruption and bad governance[[318]](#footnote-318)(3 e) ; internal control and accountability mechanisms to which the victims bring their complaints are inadequate and ineffective and the external mechanisms are quasi inexistent or present a difficult access to victims[[319]](#footnote-319)(3 f).

757. Risk factor 4 concerns the existence of reasons, objectives, or other motives for the use of violence against specific groups. In March 2020, the Commission had noted an ambiguous development of this factor since the will of CNDD-FDD to remain in power during the elections; including by using grievances and past cases of impunity for political purposes; had started to materialise, which is conducive to the surfacing of intentions and motives to resort to violence. This was also the case with CVR’s work of exhumation which was perceived to be a partisan and non-inclusive approach[[320]](#footnote-320).

758. Despite the political transition which thankfully was free of massive violence; this factor remains relevant since several indicators still exist: political motivations seeking the consolidation of the current regime (4 a) ; economic interest linked to the conservation of power since it is the key to control the distribution of resources as demonstrated by the Commission in its analysis of economic foundations of the State[[321]](#footnote-321) (4 b); the belonging or adherence, real or assumed, to armed opposition groups[[322]](#footnote-322) (4 f); the CNDD-FDD ideology characterized by its paradigm of “truth” and therefore the supremacy of this political identity over all others (4 g) ; the existence of social trauma triggered by passed situations of violence which remain unresolved and which generated feelings of loss, displacement and injustice as well as a potential desire for revenge (4 i).

759. It remains to be seen how the new authorities will treat political opponents at the end of the elections, if they will continue to perceive them as a threat to their interest or their objectives (4 e), but also if they will take measures to counter the use of past grievances, tensions, or cases of impunity for political gain (4 h).

760. Risk factor 5 refers to the capacity of potential perpetrators to commit criminal atrocities. This factor must be assessed in conjunction with other factors, namely those related to intention and motivation. In the case of Burundi, this factor is still assessed by indicators such as the availability of personnel, weapons and ammunitions or public or private financial means to acquire them (5 a); the capacity on one hand to transport and deploy personnel and on the other hand; to transport and distribute weapons and ammunitions (5 b); the capacity to encourage or recruit several partisans within the population or groups and the availability of means to mobilise them, for example the Imbonerakure (5 d) ; a solid culture of obedience to authority and conformity to group which exist within CNDD-FDD et des Imbonerakure (5 d) ; the presence of other armed forces or non-state armed groups, or the existence links with such forces or groups[[323]](#footnote-323) (5 e). The threatening pervasiveness of Imbonerakure in the public sphere namely in the *collines* and the rural zones, and the fact that they substitute themselves quasi systematically to defence and security forces, including in the framework of joint security committees, remains a central element of this risk factor. The Commission takes note of the emergence of some divergence within the government and CNDD-FDD party on the Imbonerakure’s role in the future especially with regard to security[[324]](#footnote-324). This issue could become a non-negligible point of contention; especially given that the new President would like to “improve the image of Imbonerakure”, which can only be done by putting an end to their quasi “unchecked power” and by systematically punishing their criminal acts which affect the Burundian population daily.

761. The absence of mitigating factors (risk factor 6) remains the most concerning. The concentration of power by CNDD-FDD at the end of the constitutional review and the 2020 elections is notable and even more important in the absence of a free press and an independent civil society, so essential for a democratic society. President Ndayishimiye’s statements on this subject during his inauguration speech are not reassuring since, according to him, some fundamental freedoms are not necessarily compatible with the “traditional Burundian culture”[[325]](#footnote-325). To date, the following indicators still exist: the absence of a solid national civil society, organised and representative, as well as free, diverse, and independent national media (6 b); the lack of access of international media (6 c); the absence of a warning mechanism since the national observatory for the prevention and eradication of genocide, war crimes and other crimes against humanity does not fulfil this role independently (6 k).

762. In March 2020, the Commission had noted two new indicators: the indifference or reticence of some UN member States to act even though Burundi does not fully assume its responsibility to protect its population against the risks of criminal atrocities (indicator 6°i)). This indicator remains present since several stakeholders of the international community seem ready to renew full cooperation with Burundi solely on the basis of the new President’ ambiguous promises to improve the situation, and of the multiple attempts by the new government to engage with various stakeholders of the international community. This policy change by the new authorities in Burundi, even if not yet implemented, is likely to have an impact in the short-term on the following indicators: Burundi’s lack of political and economic relations with other States (6 f); the limited presence of the United Nations, international NGOs or other international or regional actors in the country with access to the population, limited or even inexistent cooperation with the international and regional human rights mechanisms (6 g); the lack of interest of the government to engage in a real dialogue in order to resolve the 2015 crisis, to make concessions or to receive support from the international community (6 h).

763. The lack of support from some neighboring countries in protecting the Burundian population seeking refuge persists in that they refuse to accept and recognize new arrivals, restrict assistance, and place refugees in untenable situations that pushes them to sign up for the voluntary repatriation program (6 j). This indicator can potentially increase in the context of the ongoing political transition since calls for the return of refugees have multiplied and the pressure to do so has intensified for some of them.

764. Risk factor 7, referring to a climate and circumstances conducive to violence and human rights violations; including using identity and past events for political purposes or as motives to incite violence; has intensified in the 2020 electoral context. Inflammatory statements or incitement to hatred targeting political opponents have increased during the electoral process, some had ethnic undertones[[326]](#footnote-326). Violations of fundamental human rights of political opponents and acts of violence including sexual violence, against women and children, persist to date and there is still no concrete sign that the new authorities will take new measures to address this.

765. The indicators previously identified remain unchanged: the expulsion or refusal to allow the presence of NGOs, international organisations, media or other relevant stakeholders or the imposition of heavy restrictions to their work and movement (7°g); the increase of the number of violations of the right to life, physical integrity, freedom or security of political opponents, particularly those who were active in the electoral process (7°h); and the increase of the number of serious acts of violence against women and children, or the creation of conditions conducive to sexual aggressions against them, particularly to instill terror (7°i). At this stage, it is more accurate to talk about persistence rather than increase of violations.

766. Some indicators have particularly increased during the electoral context and it remains to be seen how they will evolve at the end of the political transition, namely the inflammatory statements, propaganda campaigns or incitement to hatred with a political and/or ethnic dimension targeting any person perceived as a political opponent to the ruling party which were circulating unrestricted on social media (7°m).

767. Conversely, indicators such as interference in the core State institutions or the modification of their composition or the balance of powers - which is the case for ethnic quotas (7°b) and the strengthening, restructuring or recruitment of the security apparatus (7°c), had been noted prior to the electoral process. There were no additional reforms, but the impact of previous changes is still felt, or, in some cases, is just starting to be felt.

768. Since the organisation of different elections in 2020 was one of the main indicators of risk factor 8 relative to triggering factors, this risk factor has significantly reduced. However, the new authorities in Burundi continue to view the measures adopted by the international community as threats to its State Sovereignty (8°c). Massive fraud allegations during the elections on 20 May 2020 can also weigh on the legitimacy of the new regime in the long term (8°d). It remains to be seen if the attacks on the life, physical integrity, freedom, and security of members of opposition groups perpetrated in the context of the electoral process will continue, reduce, or stop during the next months (8°e), as well as the hate propaganda against them (8°g).

769. At the end of the elections, the evolution of indicators linked to the ethnic-based commemoration of past crimes, traumatic or historic episodes that could exacerbate tensions between groups (8°k) and acts linked to the accountability process for past atrocities that could be perceived as unjust (8°l) remains uncertain. This will essentially depend on how the CVR carries out its mandate; if it maintains its partial approach or adopts a more impartial one.

C. Measures likely to mitigate the risk factors

770. To mitigate the risk factors in the short, medium, and long term, the new Burundian authorities can adopt measures, well within their area of responsibility, which are likely to have a significant impact.

771. The priority must be to guarantee the existence on the national scale of mitigating factors (risk factor 6), which would forestall or prevent the deterioration of the situation. The opening of the democratic space, which can be immediate and requires no resources, is a key decision which could demonstrate the will of the new Government to improve the situation. The resumption of full cooperation with the United Nations as a whole; including WHO and OHCHR, by re-opening its country office with a mandate to monitor the human rights situation and technical cooperation, would also be evidence of the Government’s will to resume its cooperation with the international human rights mechanisms. The immediate release – for example through presidential pardon – of arbitrarily detained human rights defenders and journalists would be another significant decision, as would be the release of all political prisoners, namely members of opposition parties arrested and arbitrarily detained during the 2020 presidential, legislative, communal and *collinaires* elections.

772. Guaranteeing the freedom of information and the freedom of journalists to do their work of information-gathering in all security and freedom and abiding by the recognised norm according to which national and international NGOs, including those that work on human rights, are allowed to carry out their activities with no interference or undue restrictions, are also measures that should be prioritized. This measure would require the revision of the laws applicable to the media, international NGOs, and national nonprofit organisations (*ASBL – Associations Sans But Lucratif*).

773. Should the Burundian authorities decide to guarantee the freedom and the security of political opponents, particularly those actively engaged in the electoral process as part of opposition political parties, the political tension would in turn be reduced (risk factors 1 and 8).

774. To that end, they must stop all violations carried out with complete impunity by the Imbonerakure, police and SNR agents and local administrative authorities, such as acts of violence, including sexual violence. They must also make decisions to end impunity for human rights violations and international crimes committed since 2015, as documented by the Commission, while guaranteeing that the main perpetrators, including those at the helm of the State authority and security forces, are prosecuted. “The same causes producing the same effects; it is imperative to have some measures ‘to avoid that victims are confronted once again to violations against their dignity’” [[327]](#footnote-327), such as to remove State agents who were compromised in the serious human rights violations process. These measures are rather administrative in nature, in that they are preventive and not repressive, such as dismissal and suspension, and they are applicable to agents in command posts with decision-making power within the army, the police and the judiciary but also in the Government itself. Cleaning up the administration and removing individuals holding public office who have engaged in serious violation is an important decision for the non-recurrence of criminal atrocities. Such a process must be undertaken in consultation with the civil society, taking into account technical competencies, objective qualifications, and the integrity of the stakeholders and the respect of the principle of non-discrimination and internal human rights standards[[328]](#footnote-328) (risk factors 2, 3 and 8).

775. Burundian authorities must restrain the ubiquitous Imbonerakure in the public sphere, especially in the *collines* and within the joint security committees and prevent them from supplanting law enforcement (risk factors 3 and 5).

776. They must sanction hate speech – which at times has an ethnic dimension – which has increased as elections approached and which was freely shared on social media platforms (risk factors 2,4,7 and 8).

777. Concerning the implementation of transitional justice in Burundi which quasi-exclusively rests on CVR, a more inclusive approach is required to enable a genuine and durable reconciliation. The exhumation work of the victims’ remains should try to cover all the different crises of mass violence that have marked the history of the country. The CVR should specifically work jointly on the four pillars of transitional justice, namely truth, justice, reparation and guarantees of non-recurrence. This requires a judicious combination of measures such as individual criminal prosecution, the establishment of reparation programs for the victims, seeking the truth, institutional reforms and the oversight of public agents and servants[[329]](#footnote-329). To date, many of these components of the transitional justice have been neglected and yet, only a holistic approach can truly dissipate the risks and attempts at politicizing past grievances and associated potential desire for revenge (risk factors 2, 4, 7 and 8).

778. Eliminating practices such as corruption, public funds embezzlement, bad governance and other practices that undermine its economy[[330]](#footnote-330), particularly at the helm of the State is indispensable, because they create personal interests for conservation of power. The Commission identified measures that can be immediately adopted and are likely to have a positive impact in that aspect[[331]](#footnote-331). Better economic governance is also required to regain trust from foreign investors, technical and financial partners and in time to bring the Burundian economy out of crisis (risk factors 1, 3, 4 and 8).

779. On the structural level, the new Burundian authorities must take steps to guarantee the judicial system’s independence and impartiality such as those recommended by the Commission in its previous report[[332]](#footnote-332). Without a fundamental reform of the Justice system, it would be difficult – even impossible – to fight against impunity and corruption (risk factors 2, 3 and 8).

780. All these measures will also create conducive conditions for the return of Burundian refugees, a truly voluntary return which can be done in decent, dignified, and safe conditions.

781. The persistence of these eight risk factors continue to provide an objective basis to assess the human rights situation in Burundi. Just as the vigilance of the international community helped limit the level of violence in the context of the electoral process, it is crucial that the human rights situation during this pivotal period of the first months of the new Government be followed with the utmost attention by the international community. The latter should seize this opportunity to request for tangible measures to realize the commitments and promises made by the new President of the Republic to improve the situation significantly and sustainably.

782. Similarly, the international community must seize this opportunity to ensure that President Ndayishimiye and his Government finally recognize the importance of fighting against impunity for human right violations and crimes committed since 2015 on Burundian soil. Indeed, it has an important role in that regard and each actor must ensure that its actions do not contribute in one way or another to the widespread impunity thus far enjoyed by the main perpetrators of violations and international crimes committed since 2015, but rather help in fighting against it[[333]](#footnote-333). Impunity also creates a risk of recurrence of such atrocities since their perpetrators remained in their positions or have been transferred to new posts in which they continue to exercise similar, or even, higher responsibilities as is the case in Burundi at the end of the 2020 elections.

1. \* Original in French available at <https://www.ohchr.org/FR/HRBodies/HRC/CoIBurundi/Pages/CoIBurundiReportHRC45.aspx> [↑](#footnote-ref-1)
2. The Commission's schedule did not permit it to conduct thorough inquiries on the possible human rights violations that could have been committed during the 24 August 2020 elections in the *collines*. [↑](#footnote-ref-2)
3. ZI-037, DI-088, TI-298. [↑](#footnote-ref-3)
4. <https://twitter.com/INYANKAMUGAYO1/status/1258651550320340993>, informal translation of "*Basaze, Iyo mihimbiri irasara, barabanza barindire imyaka amajana atanu, n’iyindi amajana atanu*" by the Commission. [↑](#footnote-ref-4)
5. TI-298. [↑](#footnote-ref-5)
6. *Uwuzorukarisha ruzomumwa* – Informally translated by the Commission. DI-088. [↑](#footnote-ref-6)
7. TI-252, TI-255, DI-060, DI-076, TI-297, TI-277. [↑](#footnote-ref-7)
8. ZI-038, TI-295, ZI-037. [↑](#footnote-ref-8)
9. ZI-038. [↑](#footnote-ref-9)
10. JI-131, JI-144, JI-157, JI-168, JI-152, DI-075, DI-085, DI-086, DI-088, HI-023. [↑](#footnote-ref-10)
11. ZI-037, TI-277. [↑](#footnote-ref-11)
12. JI-131, JI-160, JI-169, ZI-038. [↑](#footnote-ref-12)
13. JI-160. [↑](#footnote-ref-13)
14. JI-169. [↑](#footnote-ref-14)
15. JI-144, JI-168, JI-152, JI-157, DI-085, DI-086. [↑](#footnote-ref-15)
16. TI-255, TI-277, DI-075, DI-088. This part should be read together with the parts on cases of torture and ill-treatment, see paras. 194-200. [↑](#footnote-ref-16)
17. TI-253, TI-255, TI-277, DI-075, DI-088. [↑](#footnote-ref-17)
18. DI-075, DI-088. [↑](#footnote-ref-18)
19. DI-088. [↑](#footnote-ref-19)
20. <https://www.sosmediasburundi.org/2020/05/04/kirundo-bujumbura-au-moins-un-mort-et-17-blesses-dans-des-heurts-entre-militants-du-cndd-fdd-et-du-cnl/>, [↑](#footnote-ref-20)
21. DI-075. [↑](#footnote-ref-21)
22. <https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/180520.pdf> [↑](#footnote-ref-22)
23. TI-264, TI-300, DI-060, DI-078, DI-081, JI-134, TI-252, JI-147, JI-154, HI-033, HI-045. [↑](#footnote-ref-23)
24. JI-131, JI-153, DI-060, DI-086, DI-087. [↑](#footnote-ref-24)
25. TI-252, DI-077, DI-081. [↑](#footnote-ref-25)
26. TI-253, TI-255, ZI-038. [↑](#footnote-ref-26)
27. DI-060, DI-086, JI-134. [↑](#footnote-ref-27)
28. JI-131, TI-300, DI-077, DI-081. [↑](#footnote-ref-28)
29. TI-300. [↑](#footnote-ref-29)
30. JI-147. [↑](#footnote-ref-30)
31. <https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/180520.pdf>. [↑](#footnote-ref-31)
32. TI-264, JI-153, JI-168, DI-087.

 For cases of arbitrary arrest and detention, see paras. 169-180. [↑](#footnote-ref-32)
33. TI-264. [↑](#footnote-ref-33)
34. DI-087. [↑](#footnote-ref-34)
35. JI-160, JI-168. [↑](#footnote-ref-35)
36. Article 20 (2) of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-36)
37. <https://twitter.com/Cnddfddmwaro/status/1258299912724385792>, <https://twitter.com/Vabagor/status/1258375307326824451>, <https://twitter.com/LionelYves/status/1257928775804870656>, <https://twitter.com/GabbyBugaga/status/1258624007504527362>, https://twitter.com/mwamikz/status/1258612892393496578. [↑](#footnote-ref-37)
38. <https://twitter.com/RTNBurundi/status/1257564022804754432>, https://twitter.com/NsabimanaClest6/status/1258669992977072128. [↑](#footnote-ref-38)
39. Informally translated by the Commission according to an excerpt available on: <https://twitter.com/NsabimanaClest6/status/1258669992977072128>. [↑](#footnote-ref-39)
40. Informally translated by the Commission, which has a copy of the recording. [↑](#footnote-ref-40)
41. JI-142, JI-147, JI-169. [↑](#footnote-ref-41)
42. JI-147. [↑](#footnote-ref-42)
43. [https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/
2020/050520b.pdf](https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/050520b.pdf), <https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/180520.pdf>, <https://www.uantwerpen.be/images/uantwerpen/container49546/files/Burundi/elect/2020/070520.pdf>. [↑](#footnote-ref-43)
44. CI-092, see <https://www.rfi.fr/fr/afrique/20200507-pr%C3%A9sidentielle-burundi-brusque-mont%C3%A9e-tension-la-campagne-%C3%A9lectorale>, [↑](#footnote-ref-44)
45. TN: *abanyonyezi* term used by CNL members to refer to CNDD-FDD militants. [↑](#footnote-ref-45)
46. Informally translated by the Commission which has a copy of the audio recording. [↑](#footnote-ref-46)
47. <https://www.ceniburundi.bi/2020/06/09/arret-rccb-388-du-04-juin-2020les-resultats-definitifs-de-lelection-des-deputes/>. [↑](#footnote-ref-47)
48. <https://regionweek.com/burundi-constitutional-court-proclaims-final-results-of-presidential-and-legislative-elections/>. [↑](#footnote-ref-48)
49. See A/HRC/42/CRP.2, para. 537-538. Also see: <http://spcns-burundi.net/images/ORDONNANCE_CAHIER_DES_CHARGES_FR_ET_KIR20_06_2014_version_finale_A5.pdf>. [↑](#footnote-ref-49)
50. http://www.rtnb.bi/fr/art.php?idapi=4/0/52. [↑](#footnote-ref-50)
51. <http://spcns-burundi.net/index.php/89-cloture-des-ateliers-de-renforcement-des-capacites-des-responsables-des-comites-mixtes-de-securite-a-la-base-communes-et-collines-sur-l-alerte-precoce-et-reponse-rapide-en-matiere-de-securite-humaine-a-bururi>. [↑](#footnote-ref-51)
52. http://www.rtnb.bi/fr/art.php?idapi=4/0/52. [↑](#footnote-ref-52)
53. A/HRC/42/CRP.2, para. 463-464 and 538-539. [↑](#footnote-ref-53)
54. http://www.rtnb.bi/fr/art.php?idapi=3/5/70. [↑](#footnote-ref-54)
55. Letter No. 530/464/CAB/2020 of 3 March 2020, a copy of which is kept by the Commission. [↑](#footnote-ref-55)
56. Message No. 215/03.04/122/CRNORD/2020 of 29 April 2020, a copy of which is kept by the Commission. [↑](#footnote-ref-56)
57. The Commission has a copy of this document. [↑](#footnote-ref-57)
58. Informally translated by the Commission according to: <https://twitter.com/cnddfddkayanza/status/1299785667082412036?s=20>, <https://twitter.com/cnddfddkayanza/status/1299788278418362380?s=20>, https://twitter.com/cnddfddkayanza/status/1299793197326110721?s=20. [↑](#footnote-ref-58)
59. https://twitter.com/RTNBurundi/status/1299725537385086978?s=20. [↑](#footnote-ref-59)
60. https://twitter.com/RTNBurundi/status/1299687708827287556?s=20. [↑](#footnote-ref-60)
61. JI-143, ZI-037, CI-112. [↑](#footnote-ref-61)
62. ZI-037. [↑](#footnote-ref-62)
63. ZI-037, CI-095. [↑](#footnote-ref-63)
64. JI-132, JI-134. [↑](#footnote-ref-64)
65. DI-061, DI-087, DI-088, DI-093, DI-100, DI-109, JI-142, JI-164, JI-165, JI-169, TI-258, TI-264, TI-298, TI-300. [↑](#footnote-ref-65)
66. TI-295, TI-303, CI-126. Also see A/HRC/39/CRP.1, para. 637-646 and A/HRC/42/CRP.2, para.318-320. [↑](#footnote-ref-66)
67. TI-303. [↑](#footnote-ref-67)
68. According to RTNB information: <https://twitter.com/RTNBurundi/status/1191400602066137089>, <https://twitter.com/RTNBurundi/status/1191398834125070340>, <https://twitter.com/RTNBurundi/status/1197638420266401794>, <https://twitter.com/RTNBurundi/status/1197929954492780547>, <https://twitter.com/RTNBurundi/status/1197921301391904771>, <https://twitter.com/RTNBurundi/status/1198243417698033666>, <https://twitter.com/RTNBurundi/status/1199283606792933377>, <https://twitter.com/RTNBurundi/status/1205797639796731904>, <https://twitter.com/RTNBurundi/status/1212015450227400709>, <https://twitter.com/RTNBurundi/status/1215984640026120192>. [↑](#footnote-ref-68)
69. Maquet Jacques J, *Institutionnalisation féodale des relations de dépendance dans quatre cultures inter lacustres, Les relations de dépendance personnelle en Afrique noire,* in Cahiers d'études africaines, vol. 9, No.35, 1969. pp. 402-414; Cazenave-Piarrot Alain, *Les genres de vie traditionnels au Burundi,* in Cahiers d'outre-mer. No. 119 - 30th year, July-September 1977. pp. 291-312. [↑](#footnote-ref-69)
70. <https://twitter.com/RTNBurundi/status/1215667229443969024>; <https://twitter.com/RTNBurundi/status/1215622379256393728>, <https://twitter.com/RTNBurundi/status/1215929705033097216>. [↑](#footnote-ref-70)
71. TI-295. [↑](#footnote-ref-71)
72. https://www.sosmediasburundi.org/2020/03/07/des-provinces-rivalisent-pour-offrir-des-dons-au-candidat-du-cndd-fdd/. [↑](#footnote-ref-72)
73. A/HRC/42/CRP.2, para. 326-328. [↑](#footnote-ref-73)
74. CI-090, CI-125, CI-126, DI-064, DI-073, DI-095, DI-108, JI-169. [↑](#footnote-ref-74)
75. TI-258, TI-295, TI-301. [↑](#footnote-ref-75)
76. TI-301. [↑](#footnote-ref-76)
77. ZI-037. [↑](#footnote-ref-77)
78. <http://www.rtnb.bi/fr/art.php?idapi=4/2/54>. [↑](#footnote-ref-78)
79. <https://www.sosmediasburundi.org/2020/08/14/affaire-kayogoro-la-cour-dappel-de-makamba-a-prononce-des-peines-allant-jusqua-10-ans-de-prison/>, <https://www.lefigaro.fr/flash-actu/burundi-13-hommes-lies-au-pouvoir-condamnes-a-la-prison-20200815>, <https://www.voaafrique.com/a/la-police-burundaise-arr%C3%AAte-des-des-administrateurs-locaux-accus%C3%A9s-de-corruption/5508580.html>, <https://www.iwacu-burundi.org/karusi-les-rescapes-de-kayogoro-parlent/>, <https://www.iwacu-burundi.org/kayogoro-10-jeunes-presumes-imbonerakure-et-le-chef-de-zone-bigina-arretes/>, <https://www.sosmediasburundi.org/2020/07/18/makamba-les-administratifs-impliques-dans-le-banditisme/>. [↑](#footnote-ref-79)
80. According to the United Nations Strategy and Plan of Action on Hate Speech. [↑](#footnote-ref-80)
81. Article 20 (2) of the International Covenant on Civil and Political Rights. [↑](#footnote-ref-81)
82. Philippe Braud, *Violences politiques*, Éditions du Seuil, 2004, p. 96. [↑](#footnote-ref-82)
83. United States Holocaust Memorial Museum, *Hate speech and group-targeted violence – the Role of Speech in Violence Conflicts, report of the findings from the Speech, Power, Violence Seminar held in February 2009*, available at ushmm.org/genocide/spv. [↑](#footnote-ref-83)
84. Philippe Braud, op. cit., p. 138. [↑](#footnote-ref-84)
85. United States Holocaust Memorial Museum, *op. cit.*, p. 7. [↑](#footnote-ref-85)
86. Idem, p. 9. [↑](#footnote-ref-86)
87. Informally translated by the Commission. The Commission has a copy of this audio. [↑](#footnote-ref-87)
88. Informally translated by the Commission. The Commission has a copy of this audio. [↑](#footnote-ref-88)
89. Informally translated by the Commission. The Commission has a copy of this audio. [↑](#footnote-ref-89)
90. Informally translated by the Commission. The Commission has a copy of this audio. [↑](#footnote-ref-90)
91. Informally translated by the Commission. The Commission has a copy of this audio. [↑](#footnote-ref-91)
92. https://twitter.com/UrumuriN/status/1252898753541033986. [↑](#footnote-ref-92)
93. Informally translated by the Commission. The Commission has a copy of this audio. [↑](#footnote-ref-93)
94. Informally translated by the Commission following: https://twitter.com/IntumwaNews/status/1202704290567065602?s=20. [↑](#footnote-ref-94)
95. <https://www.sosmediasburundi.org/2019/07/09/bujumbura-une-employee-de-la-mairie-de-bujumbura-sous-les-verrous-pour-propos-discriminatoires/> [↑](#footnote-ref-95)
96. Article 266 of the Criminal Code, punishable by 6 months to 2 years imprisonment and a fine of 10 000 to 100 000 Burundian francs. [↑](#footnote-ref-96)
97. Article 393 of the Criminal Code. [↑](#footnote-ref-97)
98. Article 396 (2) of the Criminal Code. [↑](#footnote-ref-98)
99. <https://www.netpress.bi/spip.php?article8811> [↑](#footnote-ref-99)
100. CI-098, CI-140. Also see video clips of the hearing of 5 December 2019: https://twitter.com/IntumwaNews/status/1202704290567065602?s=20 (Informally translated by the Commission) [↑](#footnote-ref-100)
101. Article 129 of the revised Constitution and that of 2005. Article 129 of the 2005 Constitution specifies that political parties with more than twenty votes cast "shall be entitled to a percentage, rounded down to the total number of ministers at least equal to the number of positions they are occupying at the National Assembly" [↑](#footnote-ref-101)
102. Article 175 of the 2005 Constitution. [↑](#footnote-ref-102)
103. A/HRC/39/CRP.1, para. 67-93. [↑](#footnote-ref-103)
104. Article 97 of the Constitution. The mandate is renewable though "no one can serve more than two consecutive terms". [↑](#footnote-ref-104)
105. Article 130 of the 2018 Constitution provides that "Government activities shall be coordinated by a Prime Minister appointed by the President of the Republic after prior approval of his candidacy by the National Assembly and Senate voting separately and with an absolute majority of their members" [↑](#footnote-ref-105)
106. Article 133 of the 2018 Constitution. [↑](#footnote-ref-106)
107. Article 136 of the 2018 Constitution. [↑](#footnote-ref-107)
108. Articles 122 and 123 of the 2018 Constitution. [↑](#footnote-ref-108)
109. Article 124 of the 2018 Constitution. [↑](#footnote-ref-109)
110. Article 141 of the 2018 Constitution. [↑](#footnote-ref-110)
111. Article 117 of the 2018 Constitution. [↑](#footnote-ref-111)
112. The National Intelligence Service is mentioned under Part XI of the 2018 Constitution, which specifies in its article 268 that its missions, organisation and functioning shall be governed by an organic law. The defence and security forces are governed by articles 246 to 267, Part X of the 2018 Constitution. These forces are no longer limited to the National Police of Burundi and the National Defence Forces. The National Intelligence Service was included in the defence and security forces under the 2005 Constitution in its article 245. [↑](#footnote-ref-112)
113. Article 289 of the 2018 Constitution. [↑](#footnote-ref-113)
114. CI-047, CI-088, CI-100, CI-101, CI-119, CI-122, CI-139, CI-144, DI-020, DI-087, DI-115, JI-073, JI-121, JI-122, JI-125, JI-160, KI-004, KI-005, KI-070, MI-044, MI-046, MI-070, MI-082, QI-015, QI-035, QI-037, QI-045, QI-062, QI-074, QI-227, TI-028, TI-031, TI-047, TI-055, TI-080, TI-133. Information on other victims of these types of violence who did not survive their injuries or either disappeared or were executed is also included in these accounts. [↑](#footnote-ref-114)
115. S. Sivakumaran, *Lost in translation: UN responses to sexual violence against men and boys in situations of armed conflict*, International Review of the Red Cross, Volume 92, Number 877, March 2010. [↑](#footnote-ref-115)
116. S/RES/2467, (2019), para. 32. [↑](#footnote-ref-116)
117. A. Kapur and K. Muddell, *When no one calls it rape: addressing sexual violence against men and boys in transitional contexts*, International Center for Transitional Justice (2016) p 4. But also [https://www.chathamhouse.org/expert/comment/ignoring-male-victims-sexual-violence-conflict-short-sighted-and-wrong#](https://www.chathamhouse.org/expert/comment/ignoring-male-victims-sexual-violence-conflict-short-sighted-and-wrong). This is not a case of calling into question the achievements reached thanks to efforts invested over the last two decades which has enabled this important aspect of violence against women and girls being recognized and taken into consideration both by international law and humanitarian and development initiatives. Rather, it is a matter of recognizing that this type of violence also affects men and boys and that the response to this type of violence must necessarily involve its “gendered” specificities as well as their consequences. [↑](#footnote-ref-117)
118. On gender stereotypes and ideals of masculinity in Burundi : CARE, *Rapport d’évaluation du projet « Nous les jeunes »*, January 2018, p.13-15 (https://www.careevaluations.org/wp-content/uploads/Rapport-final-PLA-version-Franc%CC%A7aise-1.pdf) ; G. S. Friðriksdóttir, *Soldiering as an obstacle to manhood ?masculinities and ex-combatants in Burundi*. Critical Military Studies (2018). [↑](#footnote-ref-118)
119. I. Eliott, C. Kivlahan and Y. Rahhal, *Bridging the gap between the reality of male sexual violence and access to justice and accountability*, Journal of International Criminal Justice 18 (2020), p.490. ; A. Kapur and K. Muddell, (2016) ; UNHCR, *Travailler avec des hommes et les garçons survivants de violence sexuelle et sexiste dans les situations de déplacement forcé*, (2012). [↑](#footnote-ref-119)
120. KI-005. A. Kapur and K. Muddell, (2016), p. 12. [↑](#footnote-ref-120)
121. This tendency is a worldwide phenomenon that is not specific to Burundi. In 2002, 3 % of non-governmental organizations working on rape and other forms of political sexual violence in conflict situations also referred to sexual violence against men in their programs or narratives. A. Kapur and K. Muddell, (2016), p. 13. [↑](#footnote-ref-121)
122. CI-121, CI-139, CI-142, CI-144. [↑](#footnote-ref-122)
123. See: Amnesty International, *Burundi : briefing to the committee against torture*, 30 September 2006, index no.:AFR16/016/2006 (https://www.amnesty.org/fr/documents/AFR16/016/2006/fr/) and more recently: Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Burundi, 17 June 2016, A/HRC/32/30. A report by FIDH and Ligue Iteka, *Burundi : une répression aux dynamiques génocidaires*, November 2016, however, adopts a more gender neutral approach and analyses the modus operandi of sexual violence targeting women and that which targets men in the chapter devoted to sexual and gender-based violence (https://oenz.de/sites/default/files/fidh\_fr.pdf). [↑](#footnote-ref-123)
124. African Commission on Human and Peoples’ Rights, *General Comment No. 4 on the African Charter on Human and Peoples’ Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)* (2017), para. 59. [↑](#footnote-ref-124)
125. S. Sivakumaran, *Sexual violence against men in armed conflict*, The European Journal of International Law, (2007) vol. 18 n. 2, p. 260. [↑](#footnote-ref-125)
126. CI-047, MI-046. [↑](#footnote-ref-126)
127. CI-047, KI-005, MI-046, MI-070, TI-028, TI-031, TI-080, TI-133. [↑](#footnote-ref-127)
128. CI-100, CI-122. [↑](#footnote-ref-128)
129. DI-087, MI-044, QI-062, TI-047. [↑](#footnote-ref-129)
130. CI-101, DI-115, MI-082. [↑](#footnote-ref-130)
131. CI-100, DI-087, DI-115, JI-160, JI-168, KI-004, KI-005, KI-070, MI-044, QI-062. [↑](#footnote-ref-131)
132. CI-047, CI-101, QI-227, TI-028, TI-031, TI-080, TI-133. [↑](#footnote-ref-132)
133. CI-139. [↑](#footnote-ref-133)
134. KI-005, KI-070, TI-028, TI-031. [↑](#footnote-ref-134)
135. CI-047, CI-100, KI-005, TI-047, TI-133. [↑](#footnote-ref-135)
136. CI-101, JI-121, KI-004, MI-044, MI-046, MI-070. [↑](#footnote-ref-136)
137. JI-073, MI-044, MI-070, TI-028, TI-133. [↑](#footnote-ref-137)
138. JI-125, KI-018, TI-031. [↑](#footnote-ref-138)
139. CI-088, CI-101, DI-087, DI-115, JI-122, JI-125. [↑](#footnote-ref-139)
140. JI-121. Women have generally been more targeted for this reason. [↑](#footnote-ref-140)
141. KI-005, MI-044. [↑](#footnote-ref-141)
142. JI-121, MI-044, TI-028. [↑](#footnote-ref-142)
143. CI-144, KI-070, QI-062, TI-031. [↑](#footnote-ref-143)
144. CI-139, CI-144. [↑](#footnote-ref-144)
145. CI-139, JI-073, JI-121, MI-044, TI-031, TI-196. [↑](#footnote-ref-145)
146. JI-073. [↑](#footnote-ref-146)
147. CI-139, CI-144. [↑](#footnote-ref-147)
148. CI-047, JI-073, TI-047. [↑](#footnote-ref-148)
149. JI-073. [↑](#footnote-ref-149)
150. CI-047, DI-115, JI-073, JI-125, KI-004, MI-082, QI-062, TI-031. [↑](#footnote-ref-150)
151. CI-100, CI-121, CI-139, CI-142. Also see: A/HRC/33/37, *Report of the United Nations’ Independent Inquiry on Burundi* *(EINUB),* (2016), para. 53-54. Reports by human rights organisations also mention the use of this type of practice, in particular those cited above by FIDH and Ligue Iteka, see supra note. https://www.hrw.org/fr/news/2016/07/07/burundi-des-agents-du-service-national-de-renseignement-ont-torture-des-opposants. [↑](#footnote-ref-151)
152. CI-139, JI-125, TI-031. [↑](#footnote-ref-152)
153. CI-139. [↑](#footnote-ref-153)
154. JI-125. [↑](#footnote-ref-154)
155. JI-125. [↑](#footnote-ref-155)
156. QI-227, TI-047, TI-066, TI-133. [↑](#footnote-ref-156)
157. JI-121. [↑](#footnote-ref-157)
158. JI-125, MI-046, TI-080. [↑](#footnote-ref-158)
159. CI-122. [↑](#footnote-ref-159)
160. MI-044. [↑](#footnote-ref-160)
161. JI-125, KI-004, QI-037. [↑](#footnote-ref-161)
162. CI-122. [↑](#footnote-ref-162)
163. KI-018. [↑](#footnote-ref-163)
164. JI-125. [↑](#footnote-ref-164)
165. CI-122, TI-047. [↑](#footnote-ref-165)
166. CI-122. [↑](#footnote-ref-166)
167. R. Charli Carpenter, *Recognizing gender-based violence against civilian men and boys in conflict situations*, in Security Dialogue, vol. 37, no. 1 (2006), p. 95-96; S. Sivakumaran (2007), *op. cit.*, p. 263-264. [↑](#footnote-ref-167)
168. CI-100. [↑](#footnote-ref-168)
169. CI-096. [↑](#footnote-ref-169)
170. CI-101, KI-004. [↑](#footnote-ref-170)
171. KI-004. [↑](#footnote-ref-171)
172. CI-101. [↑](#footnote-ref-172)
173. KI-070. [↑](#footnote-ref-173)
174. Nudity here is understood as the nudity of a person’s genitals or that of their sexualized body parts (breasts, buttocks). CI-047, CI-101, CI-122, CI-139, DI-087, JI-073, JI-121, JI-122, JI-125, KI-018, MI-044, MI-082, TI-028. [↑](#footnote-ref-174)
175. CI-139, JI-125. [↑](#footnote-ref-175)
176. JI-121, KI-070. See also : S. Sivakumaran (2007), *op.cit*., p. 266. [↑](#footnote-ref-176)
177. TI-028. [↑](#footnote-ref-177)
178. JI-121. [↑](#footnote-ref-178)
179. MI-082, JI-121, JI 125. [↑](#footnote-ref-179)
180. MI-082. [↑](#footnote-ref-180)
181. CI-101, MI-046, JI-121, TI-066. [↑](#footnote-ref-181)
182. JI-121, JI-125. [↑](#footnote-ref-182)
183. JI-121.  [↑](#footnote-ref-183)
184. MI-070. [↑](#footnote-ref-184)
185. CI-070, CI-094, CI-096, CI-139, CI-144, KI-005, MI-030,TI-196. [↑](#footnote-ref-185)
186. CI-096, CI-144, MI-030. [↑](#footnote-ref-186)
187. CI-094, CI-139, MI-030, TI-196. [↑](#footnote-ref-187)
188. CI-070, CI-096, CI-139, CI-144, MI-030, TI-196. [↑](#footnote-ref-188)
189. CI-098, CI-135, CI-140. [↑](#footnote-ref-189)
190. CI-135. [↑](#footnote-ref-190)
191. CI-100, CI-101. [↑](#footnote-ref-191)
192. JI-168, TI-310. [↑](#footnote-ref-192)
193. CI-100, TI-310. [↑](#footnote-ref-193)
194. CI-101, JI-168. [↑](#footnote-ref-194)
195. CI-121, MI-082, QI-037, TI-133. [↑](#footnote-ref-195)
196. CI-047, DI-115, JI-073, JI-121, JI-125, KI-004, KI-018, QI-178, TI-133. [↑](#footnote-ref-196)
197. DI-115, JI-125, KI-004, KI-005, KI-018, TI-047. [↑](#footnote-ref-197)
198. KI-004. [↑](#footnote-ref-198)
199. MI-046, QI-227. [↑](#footnote-ref-199)
200. CI-119, KI-070. [↑](#footnote-ref-200)
201. KI-070. [↑](#footnote-ref-201)
202. CI-101, CI-117, JI-121, JI-122, JI-125, TI-047. [↑](#footnote-ref-202)
203. CI-125. [↑](#footnote-ref-203)
204. CI-047, CI-101, CI-119, KI-070. [↑](#footnote-ref-204)
205. CI-047. [↑](#footnote-ref-205)
206. CI-100, CI-101, CI-119, KI-070. [↑](#footnote-ref-206)
207. CI-101. [↑](#footnote-ref-207)
208. CI-119, KI-070. [↑](#footnote-ref-208)
209. CI-070. [↑](#footnote-ref-209)
210. CI-122. [↑](#footnote-ref-210)
211. On the importance of family in the Burundian society and the gender roles associated to it, also see para. 342-371 (women’s political participation). [↑](#footnote-ref-211)
212. Care Burundi, *Norms and practices impeding gender equality in Burundian society* (2017), p. 5 (http://careevaluations.org/wp-content/uploads/Norms-and-practices-impeding-Gender-Equality-in-Burundi.pdf). [↑](#footnote-ref-212)
213. MI-047. [↑](#footnote-ref-213)
214. JI-122. [↑](#footnote-ref-214)
215. CI-100, CI-101, CI-122. [↑](#footnote-ref-215)
216. Article 3(1) of the Convention on the Rights of the Child (CRC), and see Committee on the Rights of the Child, General Comment No.14. Also see Article 4 (1) of the African Charter on the Rights and Welfare of the Child. [↑](#footnote-ref-216)
217. DI-022, TI-215, TI-220, HI-058, QI-051, JI-169, XI-038. Also see, UNICEF's Press Release of 15 May 2018, available at <https://www.unicef.org/fr/communiqu%C3%A9s-de-presse/lunicef-condamne-le-meurtre-denfants-au-burundi>, USAID/BURUNDI GENDER ANALYSIS FINAL REPORT 2017, p.35, available at<https://banyanglobal.com/wp-content/uploads/2017/07/USAID-Burundi-Gender-Analysis-Final-Report-2017.pdf>. [↑](#footnote-ref-217)
218. DI-022. [↑](#footnote-ref-218)
219. Also see A/HRC/36/CRP.1, para. 245. [↑](#footnote-ref-219)
220. See <https://www.un.org/africarenewal/fr/derni%C3%A8re-heure/burundi-lavenir-des-enfants-est-compromis-par-lescalade-de-la-violence-selon-lunicef>, <https://www.voaafrique.com/a/burundi-3-enfants-tu%C3%A9s-et-8-bless%C3%A9s-dans-l-explosion-d-une-grenade/5542284.html>, <https://www.ouest-france.fr/terrorisme/burundi-un-enfant-tue-dans-une-serie-dattaques-la-grenade-4038192>. [↑](#footnote-ref-220)
221. See A/HRC/36/CRP.1, para 253. [↑](#footnote-ref-221)
222. See para. 170-171 on the notion arbitrary detention. [↑](#footnote-ref-222)
223. Article 37 (b) of the Convention on the Rights of the Child. [↑](#footnote-ref-223)
224. Committee on the Rights of the Child, General Comment No. 24. Also see the 1990 United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) of 1985. [↑](#footnote-ref-224)
225. CI-047, CI-070, TI-136, XI-040, MI-046. [↑](#footnote-ref-225)
226. HI-008, CI-047. [↑](#footnote-ref-226)
227. HI-008, CI-070, TI-076. Also see UNICEF, *Zones protégées : les centres de rééducation du Burundi protègent les enfants auparavant détenus en prison,* available at: <https://www.unicef.org/french/infobycountry/burundi_92030.html>. [↑](#footnote-ref-227)
228. TI-229, Also see A/HRC/42/CRP.2, para. 127, and Human Rights Watch, *Burundi: Évènements de 2019*, available at <https://www.hrw.org/fr/world-report/2020/country-chapters/336596>. [↑](#footnote-ref-228)
229. HI-024, CI-102 ; CI-093. Also see <https://www.sosmediasburundi.org/2020/03/13/la-ministre-de-la-justice-declare-etre-victime-de-mauvais-jugements-rendus-par-certains-tribunaux/> et <https://www.iwacu-burundi.org/tenant-son-bebe-aline-ndikumana-accusee-de-detention-illegale-darmes-a-comparu/>. [↑](#footnote-ref-229)
230. See Rules 9 to 25 of the Standard Minimum Rules for the Treatment of Prisoners: https://www.ohchr.org/FR/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx [↑](#footnote-ref-230)
231. Article 37 of the CRC and Articles 16 and 17 of the African Charter on the Rights and Welfare of the Child (1990), Rules 13 and 14 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), also see the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) of 1990 and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) of 1985. [↑](#footnote-ref-231)
232. Article 37 (a) of the CRC and Article 16 of the African Charter on the Rights and Welfare of the Child (1990). [↑](#footnote-ref-232)
233. CI-047, CI-070, MI-046, XI-040, TI-136. See above. 453 and ff. on sexual violence at the National Intelligence Service and A/HRC/42/CRP.2, para. 142 and A/HRC/39/CRP.1, para. 342. [↑](#footnote-ref-233)
234. HI-008. [↑](#footnote-ref-234)
235. HI-054, CI-027, CI-059, CI-079, MI-037, MI-085, XI-110, XI-111. [↑](#footnote-ref-235)
236. XI-110. [↑](#footnote-ref-236)
237. MI-018, KI-030, DI-089. [↑](#footnote-ref-237)
238. KI-030. [↑](#footnote-ref-238)
239. See para. 401. Also see A/HRC/36/CRP.1, para. 431-437, A/HRC/39/CRP.1, para. 357-360 and A/HRC/42/CRP.2, para. 161-164. [↑](#footnote-ref-239)
240. HI-008. [↑](#footnote-ref-240)
241. To this effect, the Committee notes General Comment No. 13 (1999) of the Committee on Economic, Social and Cultural Rights on the right to education, which specifically addresses the objectives of education under Article 13, paragraph 1 of the International Covenant on Economic, Social and Cultural Rights. The Committee also draws attention to the General guidelines regarding the form and content of periodic reports to be submitted by State parties under article 44, paragraph 1 b) of the Convention (CRC/C/58), para. 112 to 116. [↑](#footnote-ref-241)
242. See Committee on the Rights of the Child, General Comment No. 1. 1 to 3 on https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC\_Observation\_Generale\_1\_2001\_FR.pdf. [↑](#footnote-ref-242)
243. See final Report on the assessment of the 2016, 2017 and 2018 “Back to School” campaigns in Burundi, p.14, at https://www.unicef.org/evaldatabase/files/Burundi-Back\_to\_School-FinalReport.pdf. [↑](#footnote-ref-243)
244. A/HRC/39/CRP.1, para. 700-702. [↑](#footnote-ref-244)
245. A/HRC/42/CRP.2, para. 333-334. See final Report on the assessment of the 2016, 2017 and 2018 “Back to School” campaigns in Burundi, p.13, at https://www.unicef.org/evaldatabase/files/Burundi-Back\_to\_School-FinalReport.pdf. [↑](#footnote-ref-245)
246. See para. 300-302. [↑](#footnote-ref-246)
247. See A/HRC/39/CRP.1, para. 706. [↑](#footnote-ref-247)
248. TI-229, TI-076. Also see A/HRC/42/CRP.2, para. 127 and <https://www.hrw.org/fr/world-report/2020/country-chapters/336596>. [↑](#footnote-ref-248)
249. A/HRC/42/CRP.2, para. 332. [↑](#footnote-ref-249)
250. CI-070. <https://www.hrw.org/fr/news/2016/06/20/point-de-vue-des-eleves-emprisonnes-au-burundi-pour-des-gribouillages> ; https://www.iwacu-burundi.org/rumonge-une-annee-de-prison-ferme-pour-gribouillage/ [↑](#footnote-ref-250)
251. Ministry of Education, Technical and Vocational Training communication No. 620/CAB/DGEFPF/5176/2018 of 26 June 2018. [↑](#footnote-ref-251)
252. Ordinance n° 610/1224 of 21 July 2020 on the terms and conditions for reintegration, transfer and change of level for pupils of the primary and post primary level. [↑](#footnote-ref-252)
253. HI-068, TI-303, HI-048, HI-042. [↑](#footnote-ref-253)
254. HI-048. [↑](#footnote-ref-254)
255. HI-042. [↑](#footnote-ref-255)
256. Committee on the Rights of the Child, General Comment No. 1. [↑](#footnote-ref-256)
257. TI-302, QI-225, DI-050, TI-233, Also see A/HRC/39/CRP.1, para. 713-715. [↑](#footnote-ref-257)
258. A/HRC/42/CRP.2, para. 326-327 and 335. [↑](#footnote-ref-258)
259. A/HRC/39/CRP.1, para. 703-707. [↑](#footnote-ref-259)
260. DI-105, Also see A/HRC/42/CRP.2, para. 331. [↑](#footnote-ref-260)
261. HI-049, HI-048, HI-042. [↑](#footnote-ref-261)
262. HI-048. [↑](#footnote-ref-262)
263. HI-049, HI-042. [↑](#footnote-ref-263)
264. XI-025, YI-002, ZI-013, JI-042. [↑](#footnote-ref-264)
265. ZI-013. [↑](#footnote-ref-265)
266. A/HRC/42/CRP.2, para. 507-516. [↑](#footnote-ref-266)
267. Article 28 (1) (e) of the CRC. [↑](#footnote-ref-267)
268. Article 11 of the African Charter on the Rights and Welfare of the Child. [↑](#footnote-ref-268)
269. Article 19 of the CRC. [↑](#footnote-ref-269)
270. CNIDH, *Déclaration de la CNIDH sur le déroulement des élections de 2020*, available at <https://cnidh.bi/publicationsview.php?article=851>. [↑](#footnote-ref-270)
271. HI-049, HI-050, HI-047, HI-045, HI-024, HI-023, HI-046, HI-048, DI-075. Also see para. 300-302 and 330. [↑](#footnote-ref-271)
272. A/HRC/42/CRP.2, para. 293-294. [↑](#footnote-ref-272)
273. Art. 4 of organic law No. 1/11 of 20 May 2019, to amend law No.1/20 of 3 June 2014 on the Electoral Code. [↑](#footnote-ref-273)
274. A/HRC/42/CRP.2, para. 464. [↑](#footnote-ref-274)
275. DI-075. The Commission has a copy of the audio. Also see: <https://twitter.com/LX_Press/status/1261176389014781953>. [↑](#footnote-ref-275)
276. The Commission has copies of these videos which it informally translated. [↑](#footnote-ref-276)
277. <http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/fr/BDI.pdf>. [↑](#footnote-ref-277)
278. HI-051, HI-052, HI-053, HI-054, HI-055, HI-056, HI-059, HI-060, HI-061, HI-063, HI-065,
HI-066, HI-067, HI-068, HI-069, TI-223, JI-122, DI-022. [↑](#footnote-ref-278)
279. TI-307, CI-031, CI-005, CI-030, CI-036, JI-044, TI-101. Also see A/HRC/42/CRP.2, para. 322 and 323. [↑](#footnote-ref-279)
280. A/HRC/42/CRP.2; A/HRC/39/CRP.1; A/HRC/36/CRP.1. [↑](#footnote-ref-280)
281. Article 27 of the CRC and Article 11 of the International Covenant on Economic, Social and Cultural Rights. [↑](#footnote-ref-281)
282. HI-030, HI-051, HI-052, HI-056, HI-059, HI-060, HI-064, HI-065. [↑](#footnote-ref-282)
283. HI-051. [↑](#footnote-ref-283)
284. See para. 143, A/HRC/39/CRP.1, para. 654-855579-697 and A/HRC/42/CRP.2, para. 322. [↑](#footnote-ref-284)
285. <https://globalnutritionreport.org/resources/nutrition-profiles/africa/eastern-africa/burundi/>. [↑](#footnote-ref-285)
286. [Kathryn G Dewey](https://pubmed.ncbi.nlm.nih.gov/?term=Dewey+KG&cauthor_id=21929633), [Khadija Begum](https://pubmed.ncbi.nlm.nih.gov/?term=Begum+K&cauthor_id=21929633), *Long-term consequences of stunting in early life,* in Matern. Child Nutr, Oct. 2011, 7 (Suppl 3), pp. 5-18: <https://pubmed.ncbi.nlm.nih.gov/21929633/>. Also see <https://www.who.int/nutrition/topics/globaltargets_stunting_policybrief.pdf>. [↑](#footnote-ref-286)
287. HI-060. [↑](#footnote-ref-287)
288. HI-052, HI-056. [↑](#footnote-ref-288)
289. HI-052. [↑](#footnote-ref-289)
290. HI-065, HI-064, HI-030, HI-059. [↑](#footnote-ref-290)
291. HI-064. [↑](#footnote-ref-291)
292. HI-069, HI-063, JI-042. [↑](#footnote-ref-292)
293. HI-069. [↑](#footnote-ref-293)
294. HI-060, HI-061, HI-067, HI-069, HI-059, HI-055, TI-203  TI-211, TI-217, TI-219, TI-223, DI-068. [↑](#footnote-ref-294)
295. HI-069, HI-063, HI-061, HI-054, TI-223, DI-022. [↑](#footnote-ref-295)
296. HI-061. [↑](#footnote-ref-296)
297. TI-224. Also see <https://data2.unhcr.org/en/documents/download/67385#_ga=2.57811816.372176566.1594381627-1016772639.1572428742>. [↑](#footnote-ref-297)
298. HI-058, HI-059, HI-056, HI-065, HI-062, HI-063, HI-054, HI-061, HI-067, HI-051, JI-122. [↑](#footnote-ref-298)
299. HI-058. [↑](#footnote-ref-299)
300. HI-062, HI-067. [↑](#footnote-ref-300)
301. HI-067. [↑](#footnote-ref-301)
302. <https://www.cdc.gov/childrensmentalhealth/ptsd.html>. [↑](#footnote-ref-302)
303. <https://www.apa.org/pi/families/resources/children-trauma-update> [↑](#footnote-ref-303)
304. Michael D. De Bellis, Abigail Zisk, *The Biological Effects of Childhood Trauma*, [Child and Adolescent Psychiatric Clinics of North America](https://www.sciencedirect.com/science/journal/10564993), [Volume 23, Issue 2](https://www.sciencedirect.com/science/journal/10564993/23/2), April 2014, Pages 185-222. [↑](#footnote-ref-304)
305. <https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Posttraumatic-Stress-Disorder-PTSD-070.aspx>. [↑](#footnote-ref-305)
306. The Commission’s informal translation: <https://twitter.com/NtareHouse?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1291598082090708994%7Ctwgr%5E&ref_url=https%3A%2F%2Fwww.rfi.fr%2Ffr%2Fafrique%2F20200808-burundi-rC3A9ponse-ferme-prC3A9sident-ndashimiye-main-tendue-kagamC3A9>; <https://www.presidence.gov.bi/2020/08/06/le-president-ndayishimiye-appelle-les-refugies-burundais-a-regagner-le-bercail/>; [↑](#footnote-ref-306)
307. <https://www.afrik.com/rwanda-burundi-les-dessous-des-echanges-entre-les-services-des-renseignements-militaires>, <https://afrique.lalibre.be/53658/le-rwanda-et-le-burundi-veulent-retablir-la-securite-a-leur-frontiere-commune/>. [↑](#footnote-ref-307)
308. See para. 142-144. [↑](#footnote-ref-308)
309. See para. 647-653. [↑](#footnote-ref-309)
310. See para. 84. [↑](#footnote-ref-310)
311. See para. 96-97. [↑](#footnote-ref-311)
312. See para. 107. On August 25, 2020, Pascal Nyabenda was appointed as second vice governor of the *Banque de la République du Burundi*: <https://www.presidence.gov.bi/2020/08/25/decret-n100-046-du-25-aout-2020-portant-nomination-du-deuxieme-vice-gouverneur-de-la-banque-de-la-republique-du-burundibrb/>. [↑](#footnote-ref-312)
313. See supra, para. CXXX [↑](#footnote-ref-313)
314. See para. 574-577. [↑](#footnote-ref-314)
315. See para. 97 for all matters related to human rights violations, including those documented in previous reports. [↑](#footnote-ref-315)
316. See para. 123-132. [↑](#footnote-ref-316)
317. See A/HRC/39/CRP.1, para. 463-580. [↑](#footnote-ref-317)
318. Idem, para. 179-215. [↑](#footnote-ref-318)
319. See A/HRC/39/CRP.1, para. 462-579 [↑](#footnote-ref-319)
320. See para. 123-132. [↑](#footnote-ref-320)
321. See para. 654 and s.. [↑](#footnote-ref-321)
322. See para. 383-402 et 450-452. [↑](#footnote-ref-322)
323. Idem. [↑](#footnote-ref-323)
324. See para. 274-287. [↑](#footnote-ref-324)
325. See para. 97 [↑](#footnote-ref-325)
326. See para. 221-232 and 308-326. [↑](#footnote-ref-326)
327. Joinet principles on the « Question of the impunity of perpetrators of human rights violations (civil and political) », E/CN.4/Sub.2/1997/20/Rev.1, para. 43. [↑](#footnote-ref-327)
328. See principles 40 to 42 of the Joinet Principles on the « Question of the impunity of perpetrators of human rights violations (civil and political) », E/CN.4/Sub.2/1997/20/Rev.1:
« PRINCIPLE 40. ADMINISTRATIVE AND OTHER MEASURES RELATING TO STATE OFFICIALS IMPLICATED IN GROSS HUMAN RIGHTS VIOLATIONS- Such measures should be of a preventive, not punitive character; they may therefore be taken by administrative decision, provided that appropriate implementation procedures are provided for by law. When a process has begun to ensure the restoration of or transition to democracy and/or peace, such measures may be taken under an act of general application or a treaty clause, with the intention of avoiding any administrative obstacle or challenge to the process. These measures are invariably quite distinct from the punitive and judicial measures provided for in principles 18 et seq., which are to be applied by the courts to persons prosecuted and tried for human rights violations.
PRINCIPLE 41. IMPLEMENTATION OF ADMINISTRATIVE MEASURES- When a peace process has begun, the implementation of administrative measures should be preceded by a survey of positions of responsibility with influential decision-making powers and therefore an obligation of loyalty to the process. In that survey, priority consideration should be given to positions of responsibility in the army, the police, and the judiciary. In assessing the situation of serving officials, consideration will be given to: (a) Their human rights records, particularly during the period of repression; (b)Non-involvement in corruption; (c) Professional competence; (d) Willingness to promote the peace and/or democratization process, particularly with regard to the observance of constitutional guarantees and human rights. Decisions shall be taken by the head of Government or, under his responsibility, by the minister under whom the official works, after the official concerned has been informed of the complaints against him and has been given a due hearing or summons for this purpose. The official may appeal to the appropriate administrative court. However, in view of the special circumstances inherent in any transition process, the appeal may be heard in that case by an ad hoc commission with exclusive jurisdiction, provided that it meets the criteria of independence, impartiality and procedure laid down in principles 6 (a) and (b), 7 (a), 8 and 10.

 PRINCIPLE 42. NATURE OF MEASURES THAT CAN BE TAKEN AGAINST STATE OFFICIALS - Except where the official has been confirmed in his or her appointment, the official concerned may be: (a) Suspended from certain duties; (b) Suspended altogether pending his or her confirmation or appointment to another post; (c)Transferred; (d) Demoted; (e) Given early retirement; (f) Dismissed. In relation to the irremovability of judges, the decision shall be taken in the light of the relevant guarantees set out in principle 32».
See also principle 36 of the Updated Set of principles for the protection and promotion of human rights through action to combat impunity - Report of the independent expert to update the Set of principles to combat impunity, Diane Orentlicher- E/CN.4/2005/102/Add.1:
« PRINCIPLE 36. REFORM OF STATE INSTITUTIONS - States must take all necessary measures, including legislative and administrative reforms, to ensure that public institutions are organized in a manner that ensures respect for the rule of law and protection of human rights. At a minimum, States should undertake the following measures: (a) Public officials and employees who are personally responsible for gross violations of human rights, in particular those involved in military, security, police, intelligence, and judicial sectors, shall not continue to serve in State institutions. Their removal shall comply with the requirements of due process of law and the principle of non-discrimination. Persons formally charged with individual responsibility for serious crimes under international law shall be suspended from official duties during the criminal or disciplinary proceedings.

 See also the Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies S/2004/616, para. 52-53; and the Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/75/253, para. 44-47. [↑](#footnote-ref-328)
329. Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/HRC/21/46. [↑](#footnote-ref-329)
330. See para. 654 et s. [↑](#footnote-ref-330)
331. See para. 787 (m, n, o, p). [↑](#footnote-ref-331)
332. A/HRC/39/CRP.1, para. 832. [↑](#footnote-ref-332)
333. See combined reading of Article 30, Cessation and non-repetition : the State responsible for the internationally wrongful act is under an obligation: (a) to cease that act, if it is continuing; (b) to offer appropriate assurances and guarantees of non-repetition, if circumstances so require ; Article 33 (1):The obligations of the responsible State set out in this part may be owed to another State, to several States, or to the international community as a whole, depending in particular on the character and content of the international obligation and on the circumstances of the breach and article 41 (1) : States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40 [a serious breach by a State of an obligation arising under a peremptory norm of general international law], of draft articles of the International Law Commission on the responsibility of States for internationally wrongful acts adopted in 2001 (Resolution 56/83 of the General Assembly dated 12 December 2001). [↑](#footnote-ref-333)