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Situation of human rights in Burundi

Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo*

Summary

The Human Rights Council, in paragraph 9 of its resolution 51/28 on the situation of human rights in Burundi, requested the Special Rapporteur on the situation of human rights in Burundi to present to the Council, at its fifty-third session, an oral update on the situation of human rights in Burundi, and also to submit to the Council, at its fifty-fourth session, and to the General Assembly, at its seventy-eighth session, a comprehensive report.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



I. Introduction

A. Context

1. The Human Rights Council, in paragraph 9 of its resolution 51/28 on the situation of human rights in Burundi, requested Special Rapporteur on the situation of human rights in Burundi to present to the Council, at its fifty-third session, an oral update on the situation of human rights in Burundi, and also to submit to the Council, at its fifty-fourth session, and to the General Assembly, at its seventy-eighth session, a comprehensive report.
2. Although this report covers the period from August 2022 to July 2023, the Special Rapporteur lists and analyses some issues of concern that predate the reporting period and continue to have an impact on the situation of human rights in Burundi.
3. Pursuant to paragraph 23 of Human Rights Council resolution 48/16, the Special Rapporteur has enjoyed the fullest cooperation of the Office of the United Nations High Commissioner for Human Rights. The Office has provided him with a secretariat with specialized skills and the administrative, technical and logistical assistance required to fulfill his mandate.
4. Burundi, a predominantly agricultural country, is a landlocked East African State in the Great Lakes region.
5. The Special Rapporteur notes that the country's population was estimated at around 12 million in 2021,¹ of whom 50.6 per cent were women and 41.5 per cent persons under the age of 15. Burundi is one of the countries with the highest population density, with 442 inhabitants per km², according to population projections for 2020.

B. New developments

6. The East African Court of Justice Appellate Division handed down a decision on 25 November 2021, made public in late 2022, on the question of former President Pierre Nkurunziza's third term in office. It claimed that the Constitutional Court of Burundi had violated the Constitution of Burundi, the Arusha Peace and Reconciliation Agreement for Burundi, signed in 2000, and the Treaty for the Establishment of the East African Community.²
7. On 29 September 2022, the Chair of the African Commission on Human and Peoples' Rights sent a request to the Burundian State for interim measures to be taken following the

¹ Food and Agriculture Organization of the United Nations, European Union and Centre de coopération internationale en recherche agronomique pour le développement, *Profil des systèmes alimentaires – Burundi. Activer la transformation durable et inclusive de nos systèmes alimentaires*, Rome, Brussels and Montpellier, France, 2022, p. 9.

² East African Court of Justice, *East African Civil Society Organizations' Forum v. Attorney General of the Republic of Burundi et al.*, appeal No. 1 of 2020, 25 November 2021. The Court's decision stresses that: (a) the decision of the Constitutional Court in case No. RCCB 303 of 5 May 2015 violated the letter and spirit of the Arusha Agreement, particularly article 7 (3) of Protocol II; (b) the decision of the Constitutional Court of Burundi also violates articles 5 (3) (f), 6 (d)), 7 (2) and 8 (1) (a) and (c) and (5) of the Treaty for the Establishment of the East African Community; (c) the decision of the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) to nominate the incumbent President for the 2015 election violated the Arusha Agreement and was illegal; and (d) any declaration, decree or decision of the Independent National Electoral Commission in connection with the organization or supervision of the election in which the incumbent President was a candidate was incompatible with the Arusha Agreement and the Constitution, and illegal. The East African Court of Justice thus ordered to quash and annul the decision of the Constitutional Court of Burundi of 5 May 2015.

admission of communication 765/21 in the case against Burundi involving Marguerite Barankitse and 11 other exiled human rights defenders.³

8. On 22 October 2022, the Ministry of the Interior, Community Development and Public Security of Burundi announced the reopening of the country's borders with its neighbours, including Rwanda, a measure that is conducive to the movement of people and goods.

9. On 25 October 2022, the European Union lifted sanctions against three prominent Burundian figures, including Prime Minister Gervais Ndirakobuca,⁴ former Deputy Director General of Police Godefroid Bizimana⁵ and former General Léonard Ngendakumana.⁶

10. On 30 November 2022, the Peacebuilding Commission held a meeting on Burundi, with the aim of concluding the engagement of Burundi with the Peacebuilding Fund and marking its transition to a more flexible engagement.⁷

³ An individual communication against Burundi was submitted on 2 August 2021 by the East and Horn of Africa Human Rights Defenders Project (DefendDefenders), the World Organisation Against Torture, the Institute for Human Rights and Development in Africa and the Pan-African Lawyers Union, on behalf of 12 Burundian human rights defenders. This communication includes the following allegations. First, the legal proceedings against the plaintiffs (RPS 100) were initiated by the public prosecutor's office in the absence of the defendants and heard by an incompetent judge, following a procedure that violated the fundamental rights protected by the African Charter on Human and Peoples' Rights, including the right to a fair trial, the presumption of innocence and the public nature of hearings and pronouncements of judgments, and the right to defence – facts that constitute a violation of article 7 of the Charter. Secondly, all the victims are representatives or members of non-profit organizations working in the fields of human rights, good governance and the fight against impunity. Some also work for the media and defend freedom of the press as well as providing the public with information. All act in groups, in association with their members or colleagues in a service. The persecution of the victims because of their human rights activities constitutes a violation of the freedom of association protected under article 10 (1) of the Charter. Thirdly, the prosecution and conviction of the 12 human rights defenders on account of their political opinions and the expression of those opinions through active involvement in Burundian associations and media constitute, under the case law of the African Commission on Human and Peoples' Rights, a total restriction on freedom of expression resulting in a violation of article 9 (2) of the Charter. Fourthly, movable and immovable property belonging to the persons named in these cases was seized and others sold before the case was decided or the parties were served notice of the decision. These decisions by the Supreme Court of Burundi concerning the victims' properties constitute a violation of article 14 of the Charter. Fifthly, the defendants were not given access to the case file in order to become acquainted with the evidence against them. The handling of this case has been marked by acts of intimidation, and duly appointed lawyers have been denied access to any documents in the file. Sixthly, as a result of all these violations, the Burundian State has not complied with its obligation to respect, protect, guarantee and promote the rights and freedoms contained in the Charter. Furthermore, it has denied the victims their enjoyment of the rights and freedoms protected by the Charter, insofar as it has excluded them from equal protection of the law before the courts in particular, which are facts constituting a violation of articles 1, 2 and 3 of the Charter.

⁴ Mr. Ndirakobuca was considered responsible for obstructing the search for a political solution in Burundi, by giving instructions that led to the disproportionate use of force, acts of violence, acts of repression and violations of international human rights law against demonstrators who took to the streets from 26 April 2015, following the announcement of President Nkurunziza's candidacy in the presidential election, particularly on April 26, 27 and 28 in the Nyakabiga and Musaga districts of Bujumbura.

⁵ Mr. Bizimana was considered responsible for undermining democracy by making operational decisions that led to the disproportionate use of force and acts of violent repression during the peaceful protests that began on 26 April 2015, following the announcement of President Nkurunziza's candidacy in the presidential election.

⁶ Mr. Ngendakumana was considered responsible for having obstructed the search for a political solution in Burundi by participating in the attempted coup of 13 May 2015, aimed at overthrowing the Government of Burundi, and responsible for acts of violence – grenade attacks – committed in Burundi, and incitement to violence.

⁷ See https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/chairs_summary_pbc_burundi_30_nov_2022._final.pdf.

11. The United Nations Sustainable Development Cooperation Framework between the Government of Burundi and the United Nations system covering the period 2023–2027 was signed on 3 December 2022.

12. The African Commission on Human and Peoples' Rights, in its decision on communication 636/16 concerning the case of the Institute for Human Rights and Development in Africa and other complainants against Burundi, at its seventy-third ordinary session, held from October 20 to 9 November 2022, called on Burundi to conduct a thorough investigation through independent judicial bodies into the facts presented,⁸ to make a public apology to all victims, including those who had not submitted a communication, and to grant reparation to the victims.

13. On 8 December 2022, the Supreme Court of Burundi overturned the 5-year prison sentence handed down by the Ngozi Court of Appeal to the lawyer Tony Germain Nkina and his client Apollinaire Hitimana.⁹ They were released on 27 December 2022.

14. Since January 2023, Burundi has held the presidency of the East African Community for a period of one year.

15. From 2 to 4 February 2023, the European Union Special Representative for Human Rights, Eamon Gilmore, visited Burundi at the invitation of the President of Burundi. The visit provided an opportunity to review progress and challenges related to human rights in Burundi.

16. Burundi took part in the fourth cycle of the universal periodic review on 4 May 2023. The Working Group on the Universal Periodic Review adopted the recommendations made to Burundi on 10 May 2023. At the time of finalizing this report, the country's position on the recommendations received was still outstanding.

17. On 6 May 2023, Burundi hosted the eleventh high-level meeting of the Regional Oversight Mechanism of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region. The hosting of this meeting by Burundi, which was attended by the Secretary-General of the United Nations, illustrates the country's significant involvement in regional diplomatic efforts and its determination to change the image of isolation on the international stage that has prevailed in recent years.

18. On 26 June 2023, the European Union and Burundi held a political dialogue in accordance with article 8 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part (Cotonou Agreement). This dialogue covered, among other things, the state of human rights and the cooperation of Burundi with its regional and international partners.

19. On 19 July 2023, the Executive Board of the International Monetary Fund approved a 38-month \$271 million arrangement under the Extended Credit Facility for Burundi. This allocation will enable Burundi to meet its protracted balance of payments needs, reduce its debt vulnerability and cope with the effects of recent domestic and external shocks. The arrangement provides for 200.2 million special drawing rights (around \$271 million), with an immediate disbursement of 46.2 million special drawing rights (around \$62.6 million). It will cushion the adjustment of Burundi and support the reform programme aimed at improving the country's economic and social situation, including reducing debt vulnerabilities, recalibrating the exchange rate and monetary policies to restore external

⁸ The complainants were demonstrators opposing the third candidacy of President Pierre Nkurunziza who reported having been physically attacked with live ammunition, bladed weapons and blunt objects; in addition, these attacks caused irreversible injuries, including permanent disabilities for six of them. Moreover, the attacks on these people were carried out by law enforcement officers.

⁹ Tony Germain Nkina was arrested on 13 October 2020 in Kayanza Province, northern Burundi, while visiting his client, Apollinaire Hitimana, in the commune of Kabarore, in connection with a land dispute. Accused of collaborating with the armed group Résistance pour un État de droit au Burundi, Mr. Nkina was sentenced on 15 June 2021 to 5 years in prison for "collaborating with the rebels who attacked Burundi" by the Kayanza court. The prosecution's only evidence related to his work as a human rights defender with the Association for the Protection of Human Rights and Detained Persons.

viability and strengthening inclusive economic growth and governance. Burundi had not received this type of allocation since 2016.¹⁰

C. Cooperation

20. The Special Rapporteur has sent correspondence to the Permanent Mission of the Republic of Burundi to the United Nations Office and other international organizations in Geneva, in accordance with paragraph 10 of Human Rights Council resolution 51/28, calling on the Government of Burundi to cooperate fully with him, in particular to allow him unhindered access to the country, to provide him with all the information necessary for the proper fulfilment of his mandate and to promote exchanges and synergies based on cooperation with the National Independent Human Rights Commission, in line with the public commitments made by the current administration to promote human rights and renew dialogue with the international community.

21. The Special Rapporteur notes that visit requests have gone unanswered, despite the fact that Burundi has issued a standing invitation since 6 June 2013 to special procedures mandate holders.

22. There have been no recent visits to Burundi by special procedures mandate holders, nor are any visits planned despite requests from several of them.¹¹

23. On 3 July 2023, at the 138th session of the Human Rights Committee, the delegation of Burundi indicated that it would not take part in the examination of its periodic report in the presence of certain human rights activists wanted by the Burundian justice system. The Committee regretted that the delegation had decided to withdraw rather than present the State's position on improvements, challenges and important issues. It explained that, by doing so, the Government of Burundi had deprived itself of the opportunity to exchange views with the Committee and provide further information on the issues raised.¹² The Special Rapporteur encourages Burundi to implement the concluding observations made by the Committee following its review.¹³

24. The Special Rapporteur visited Belgium from 15 to 25 May 2023. He thanks Belgium for giving him access to its territory.

II. Institutions

A. Executive bodies

25. The executive is headed by the President of the Republic, Head of State, and a Prime Minister, Head of Government. A distinctive feature of the government structure of Burundi relates to the pre-eminence of the National Intelligence Service, which is governed by Organic Act No. 1/17 of 11 July 2019 on the missions, organization and functioning of the Service. Article 3 of this law states that the Service is placed under the authority of the President of the Republic; consequently, it reports to and receives instructions from the President. Article 21 provides that the Administrator General, Deputy Administrator General and Chief of Staff are appointed by the President of the Republic and have the rank and privileges of a minister. This provision gives the President considerable power, which encroaches on the mandate of the other institutions of the country; as a result, the legal provisions and the political context make it impossible for the judicial system to exercise the same control over the National Intelligence Service as it does over traditional police forces.

¹⁰ See <http://www.imf.org/fr/News/Articles/2023/07/17/pr23266-burundi-imf-executive-board-approves-a-38-month-arrangement-under-the-ecf-for-burundi>.

¹¹ See <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&lang=en>.

¹² See <https://www.ohchr.org/en/press-releases/2023/07/un-human-rights-committee-regrets-burundis-withdrawal-public-dialogue>.

¹³ CCPR/C/BDI/CO/3.

26. The National Intelligence Service has a wide range of powers, enabling it to be involved in all areas of national life.¹⁴ Article 11 of Act No. 1/17 states that, in performing its duties, the Service is to act with complete discretion and political neutrality. However, it is obliged to observe the rules of transparency required in the handling of criminal case files. Article 12 also states that, in conducting its missions, the Service must endeavour to comply with the standards provided for by the Constitution in terms of human rights and fundamental freedoms. While, at first glance, this article states that the National Intelligence Service takes human rights into account, the Special Rapporteur is concerned that this law only emphasizes that this entity “endeavours” to comply with the standards set by the Constitution as regards human rights and fundamental freedoms. Like all State institutions, the National Intelligence Service is required to comply with the human rights obligations of Burundi.

27. The Special Rapporteur is concerned about the lack of strict supervision of the National Intelligence Service to ensure the rule of law and respect for human rights, in particular with regard to lawfulness, conditions of detention and compliance with international and regional legal instruments duly ratified by Burundi.

28. The Special Rapporteur notes that, on a recurring basis since the 2015 crisis, human rights defenders, media professionals and political opponents have been arbitrarily arrested and detained by the National Intelligence Service without respect for the legal time limits for detention or the right of defence, on the grounds of offences against national security, undermining the integrity of the national territory, rebellion or undermining the proper functioning of public finances. These are vaguely defined offences that leave considerable room for interpretation, very often without justification, and involve activities that do not constitute a threat to the State or the population, and for which the defendants, in several cases, were conducting lawful political and social activities. Several cases can be cited, including those of Christophe Sahabo, former Director General of Kira Hospital, arrested in March 2022,¹⁵ the journalist Floriane Irangabiye, arrested on 30 August 2022, and Christopher Nduwayo, National Secretary and member of the political office of the Congrès national pour la liberté.

B. Judicial system

29. The Special Rapporteur reiterates the observations made in his previous report.¹⁶ He points out that two challenges undermine the delivery of quality services to persons subject to trial, namely independence of the judiciary and corruption.¹⁷ According to the common country assessment in 2022, the major challenges at the root of poor performance include insufficient human resources and tools, the lack or dilapidated state of infrastructure, interference of the executive, corruption and mistrust of the justice system.¹⁸

30. The fight against corruption in judicial circles remains an area of concern. The Special Rapporteur welcomes the dismissal of judges in August 2022¹⁹ However, it notes that no substantial measures were adopted during the period under review to put an end to political interference and release political prisoners.

¹⁴ See article 17 of Organic Law No. 1/17 of 11 July 2019 on the missions, organization and functioning of the National Intelligence Service.

¹⁵ Christophe Sahabo spent more than 30 days in detention before being brought before a judge and transferred to Mpimba prison. On 29 September 2022, he was transferred to Ruyigi prison, around 160 km from Bujumbura, where his case was registered. His family and lawyers claimed that he had been pressured and forced to resign from his position at Kira Hospital because of allegations of fraud, money-laundering and falsification of documents, which he denied. One of his lawyers stated that a recent financial audit, commissioned by the interim administrators of Kira Hospital, had not revealed any wrongdoing on the part of Christophe Sahabo.

¹⁶ A/HRC/51/44.

¹⁷ United Nations, Burundi: Common Country Assessment 2022, p. 38.

¹⁸ Ibid.

¹⁹ See <https://www.presidence.gov.bi/2022/08/11/decret-no-100-099-du-10-aout-2022-portant-revocation-de-certains-magistrats/>.

31. The Special Rapporteur believes that it is essential for the judicial system to conduct a critical analysis of its functioning and role. This is all the more necessary in the context of calming the social climate and implementing the decision of the East African Court of Justice on Pierre Nkurunziza's third presidential term, which was at the root of the 2015 crisis.

32. In any case, according to the Special Rapporteur, impunity is caused and sustained by the judicial system. To date, no authorities close to the regime implicated in crimes against humanity committed since 2015 and before have been held to account for their acts. Some measures, more symbolic than genuinely aimed at systemic change, have had a limited impact on the fight against impunity. The arrest on 21 April 2023 of General Alain-Guillaume Bunyoni, former Prime Minister from 2020 to 2022 and Minister of Public Security from 2015 to 2020, who coordinated police action during the demonstrations and violent repression that followed the 2015 elections, is a case in point. He is being prosecuted for "undermining the internal security of the State" and "undermining the proper functioning of the national economy", and for "conflict of interest", "illegal possession of weapons" and "contempt of the Head of State". His trusted helper, Désiré Uwamahoro, was arrested on 18 April 2023. While these arrests appear at first sight to be a sign of the fight against impunity, the Special Rapporteur notes that they are to some extent indicative of internal struggles within the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (National Council for the Defence of Democracy-Forces for the Defence of Democracy) (CNDD-FDD) for control of power.

C. Other institutions

1. Ombudsman

33. This institution is governed by Act No. 1/04 of 24 January 2013 amending Act No. 1/03 of 25 January 2010 on the organization and functioning of the Ombudsman. Article 6 of Act No. 1/04 states that the Ombudsman's duties include:

(a) Examining complaints and conducting investigations into mismanagement and human rights violations committed by civil servants, the judiciary, local authorities, public establishments and any body entrusted with a public service mission;

(b) Making recommendations on this subject to the competent authorities;

(c) Conducting, at the request of the President of the Republic, special rapprochement and reconciliation missions on general issues concerning relations with political and social forces;

(d) Conducting, at the request of the President of the Republic, special missions relating to issues of reconciliation and peace at regional or international level.

34. It follows from these provisions that the Ombudsman is responsible for promoting and protecting human rights.

35. The Special Rapporteur notes that, as the Ombudsman is part of the institutional framework of Burundi, it would seem advisable to develop and strengthen its activities in order to address human rights issues from a different perspective.

36. The Special Rapporteur urges this institution to continue to deal with cases of rights violations and thus contribute to greater respect for rights.

2. National Independent Human Rights Commission

37. Granted category A status by the Global Alliance of National Human Rights Institutions in June 2021, the National Independent Human Rights Commission conducts its activities and produces annual reports. Over the last three years, it has received 1,167 requests.²⁰

²⁰ That is to say 304 in 2020, 435 in 2021 and 428 in 2022. See National Independent Human Rights Commission, *Rapport annuel édition 2020*, April 2021, p. 11; *Rapport annuel d'activités : exercice 2021*, February 2022, p. 6; and *Rapport annuel d'activités : exercice 2022*, February 2023, p. 12.

38. The Special Rapporteur notes that, unlike the current team, the very first team of the National Independent Human Rights Commission appeared to take a critical and constructive approach towards the Government and the judiciary.²¹ In a number of cases, through media appearances and advocacy work, the Commission had questioned the Government and its components about allegations of human rights violations and abuses, most of which were politically motivated and for which the responsibility of agents of the National Intelligence Service, the National Police and the Imbonerakure had been established.

39. While the reports of the National Independent Human Rights Commission are a source of information on the human rights situation, it has to be said that they gloss over politically sensitive issues, such as cases of misappropriation of funds, enforced disappearances and arbitrary arrests, and cases of torture inflicted by National Intelligence Service agents on political opponents, media professionals or members of civil society organizations. In this way, the Commission selectively monitors cases of human rights violations and ignores those with a political connotation.

40. Furthermore, the Special Rapporteur notes the predominance of advocacy work in the reports of the National Independent Human Rights Commission and concludes that it does not have sufficient room for maneuver to engage in protection activities. The 2022 report makes no mention of emblematic cases that have been denounced by human rights organizations and have mobilized national and international actors, such as those of Floriane Irangabiye, Christophe Sahabo or Tony Germain Nkina.

41. In addition, while an examination of its reports and public statements may suggest a return to normality in the country, it has to be said that the National Independent Human Rights Commission repeats the official line. By way of illustration, during the interactive dialogue on Burundi held on 6 July 2023 as part of the fifty-third session of the Human Rights Council, the Commission stated that, “during the period 2022–2023, the political situation was satisfactory, [and] political parties functioned normally. However, the internal problems [of the Congrès national pour la liberté] require follow-up so that a solution can be found as soon as possible”.

42. The Special Rapporteur notes that the process of renewing the current team of the National Independent Human Rights Commission has been tough and fraught with clashes between the candidates. Signs of this appeared in an undated note from the Commission’s Chair, Sixte Vigny Nimuraba, addressed to the President of the National Assembly, Gélase Daniel Ndirirababwami, disclosed in December 2022. The Special Rapporteur points out that this note, while intended to prevent the appointment of two commissioners to head the Commission, may be interpreted as an indication of allegiance to the authorities of Burundi and self-promotion on the part of the Commission Chair.

43. Furthermore, the Special Rapporteur notes that Presidential Decree No. 100/122 of 3 April 2023 appointing certain members of the National Independent Human Rights Commission did not take into account the composition of the Executive Office approved on 9 January 2023 by the National Assembly.²² Consolante Habimana indeed received 96 votes to Anésie Mfatiyimana’s 1 for the position of secretary. This measure makes it possible to discern the executive’s interference in the appointment of Commission members.

3. Truth and Reconciliation Commission

44. The Special Rapporteur stresses that the population’s confidence in institutions, including the Truth and Reconciliation Commission, is a prerequisite for lasting reconciliation.

45. The Special Rapporteur notes that a section of the population is questioning the credibility of the Chair of the Truth and Reconciliation Commission. By way of illustration, a press release was issued by 19 Burundian civil society organizations on 28 June 2023 during the Commission’s visit to Belgium, in which the signatories questioned the legitimacy of

²¹ See <https://www.iwacu-burundi.org/assassinats-cibls-colre-de-la-commission-nationale-indpendante-des-droits-de-lhomme/>.

²² See <https://www.iwacu-burundi.org/nominations-a-la-cnidh-une-gifle-pour-lassemblee-nationale/>.

Pierre Claver Ndayicariye given his membership of CNDD-FDD. They also object to the Commission's characterization of the events of 1972 as genocide, which is contrary to the spirit of the Arusha Agreement.

46. The Special Rapporteur stresses that, to effectively combat impunity and promote reconciliation, the national strategy for transitional justice must finally be effective. He also stresses that inviting refugees to return to the country without having developed a national reconciliation process and, consequently, an inclusive land reconciliation policy, constitutes a risk factor and could harm peaceful coexistence.

III. Human rights concerns

A. Civil and political rights

1. Right to life and to physical and mental integrity

47. Since October 2021, there has been a relative decline in violations of the right to life. However, several civil society organizations have documented violations during the period under review.

48. The "Ndondeza" campaign against enforced disappearances in Burundi, led by the Forum pour la conscience et le développement, has gathered information and testimonies on several cases of enforced disappearances and other serious crimes, including assassinations, committed since January 2020 by the Imbonerakure, police officers and agents of the National Intelligence Service.

49. The Special Rapporteur was also able to observe a decline in physical assaults committed by law enforcement officers and their back-up forces. However, he did not observe any instances of questions raised concerning the liability of officers known to practise torture or other cruel, inhuman or degrading treatment.

50. The African Commission on Human and Peoples' Rights, in a decision issued at its seventy-third session, recognized that the Burundian State had failed during the 2015 crisis to meet its international obligations to protect the right to physical integrity of Burundian citizens.²³

51. Despite an apparent lull, cases of torture, extrajudicial executions and enforced disappearances continue to be documented on a daily basis. Although the perpetrators are rarely identified, these violations are mainly attributed to the police, the National Intelligence Service, the Military Intelligence Service and the Imbonerakure. For example, Action by Christians for the Abolition of Torture in Burundi (ACAT-Burundi) has documented several cases of violations of the right to life, enforced disappearances, arbitrary arrests and detentions, and gender-based sexual violence.²⁴ As regards extrajudicial executions, corpses continue to be found in communes other than those in which the persons lived and are promptly buried by the authorities to prevent their identification and investigations.

2. Human rights in the administration of justice

52. The Special Rapporteur notes that, according to the Ministry of Justice, 54.2 per cent of inmates in prisons and detention centres are remand prisoners. Authorities detained several suspects without formal charges. According to the General Directorate of Prisons, the average length of pretrial detention was around 1 year, but some people were held for almost 5 years.²⁵

²³ See paragraph 12 above and the related footnote.

²⁴ See <https://sostortureburundi.org/>.

²⁵ However, article 110 of the Code of Criminal Procedure provides that "accused persons may be remanded in custody only if there is sufficient evidence of guilt and the acts of which they are accused appear to constitute an offence punishable by law with a penalty of imprisonment for at least 1 year. In addition, pretrial detention may only be ordered or maintained if it is the sole means of satisfying at least one of the following conditions: (1) to preserve evidence and substantive leads or to prevent either pressure on witnesses or victims or collusion between accused persons, co-perpetrators

In some cases, the length of pretrial detention had been equal to or greater than the sentence incurred for the alleged crime.

53. In December 2022, the total prison population was 12,119 (including 6,596 remand prisoners and 5,523 convicts) for a capacity of 4,150 places, representing an occupancy rate of 292 per cent. All prisons are experiencing overcrowding, as shown by the latest statistics shared by ACAT-Burundi.²⁶

54. The Special Rapporteur has repeatedly received information about malnutrition among prisoners. Cassava flour, the main source of food in prisons, is often in short supply.

55. It should be recalled that, in addition to this lack of quantity, the quality of food for prisoners is poor. Each prisoner is entitled to 350 grams of beans and 350 grams of flour, or one cup. Unfortunately, the ration provided does not cover two meals a day. The Special Rapporteur notes that, according to multiple sources, detainees sometimes spend an average of up to three days without being provided with food.²⁷ Prisoners have to obtain food for themselves. Practices such as using plastic as cooking fuel have become widespread, despite their harmful nature.²⁸

56. In any case, prison overcrowding can be reduced in a number of ways. For example, people in pretrial detention can be brought to trial as quickly as possible. It may also involve reviewing the conditions of deprivation of liberty and applying the principle that liberty is the principle, and detention the exception. Lastly, there is a need to train judges.

57. Many people who have served their sentences remain in prison or are not considered “fit for release” and are therefore arbitrarily detained. For this reason, the Special Rapporteur reiterates that, once a person has served his or her sentence, or has been granted a remission or pardon, he or she must be released immediately. He is concerned by reports that hundreds of members of the Mouvement pour la solidarité et la démocratie and the Congrès national pour la liberté have been acquitted by the public prosecutor’s office, have served their sentences or have been granted a presidential pardon, but remain in detention.

3. Right to participate in public life

58. The Burundian political scene is characterized by a de facto monopoly, with absolute control of power and institutions by CNDD-FDD. It is made up, on the one hand, of Burundians who support the party’s ideals and, on the other, of people considered or treated as “enemies”, consisting of political parties, civil society organizations or media professionals with dissenting opinions.

59. Under the pretext of preserving national sovereignty, the CNDD-FDD strategy is to weaken and disrupt those who hold opposing views in order to consolidate its influence and domination at the political, economic and social levels.

60. The Special Rapporteur noted a crackdown on the Congrès national pour la liberté, the main opposition party, which was suspended on 8 June 2023 after the Minister of the Interior demanded a party meeting with a group of eight rebel officials, who had been ousted from the party’s political bureau. This demand had been preceded by a letter from the Minister of the Interior, dated 17 May 2023, invalidating the conclusions of the ordinary and special party congresses held in May 2023. The Special Rapporteur has received reports of reprisals against party members. For example, on 13 August 2022, two members of the Congrès national pour la liberté were arrested and then roughed up by Imbonerakure in the

or accomplices; (2) to preserve public order from the current disturbance caused by the offence; (3) to stop the offence or prevent its recurrence; (4) to ensure that the accused person remains at the courts’ disposal. The decision to keep people in pretrial detention must be duly substantiated”.

²⁶ See <https://www.fiacat.org/attachments/article/3156/Rapport%20alternatif%20OSC%20pour%20l%27examen%20du%20Burundi%20par%20le%20CCPR%20avec%20l%27appui%20de%20la%20FIACAT,%20l%27OMCT%20et%20du%20CCPR.pdf>.

²⁷ Ibid., para. 71.

²⁸ Ensemble pour le soutien des défenseurs des droits humains en danger, “*La cuisson dans les prisons burundaises : un réel danger pour la santé de la population environnante et pour l’environnement*” (Cooking in Burundian prisons: a real danger for the health of the surrounding population and for the environment), June 2023.

commune of Kinondo. In Bujumbura Province, 23 cases of arbitrary arrest were recorded in June 2023.

61. The Special Rapporteur is concerned by the arrest by the National Intelligence Service, on 16 June 2023 in Bujumbura, of Christopher Nduwayo, National Secretary for Treasury and Projects of the Congrès national pour la liberté, who was transferred to Rumonge prison on 28 June 2023.

62. The Special Rapporteur notes that the extreme dominance of CNDD-FDD may raise concerns in the lead-up to the elections in 2025.

4. Freedom of expression, opinion and association

63. According to information received by the Special Rapporteur, over a hundred Burundian journalists are still in exile. The Special Rapporteur is concerned by reports that a culture of fear has been established, resulting in self-censorship and reprisals against political dissidents, media professionals and civil society organizations.

64. Violations and infringements of journalists' right to freedom of expression are generally committed by members of CNDD-FDD, the Imbonerakure or the National Intelligence Service in order to prevent the dissemination of information deemed sensitive by the authorities. Most journalists working in the country have exercised self-censorship or refused to cover subjects deemed sensitive.²⁹

65. The Special Rapporteur is concerned by the case of the journalist Floriane Irangabiye, of Radio Igicaniro broadcasting from Rwanda, who was arrested on 30 August 2022 while on a private visit to Burundi. She was sentenced to 10 years' imprisonment for "undermining the internal security of the national territory", on the basis of article 611 of the Criminal Code, without the elements of the offence being established by the public prosecutor. Her sentence was upheld on appeal on 2 May 2023, the day before World Press Freedom Day. However, the court confirmed that her first interrogation by the National Intelligence Service had violated article 10 of the Code of Criminal Procedure, since it had taken place without the presence of a lawyer and without her being informed of her right to remain silent. The Special Rapporteur is concerned by reports that Floriane Irangabiye's health is deteriorating.³⁰ He is calling for her transfer to a prison that gives her access to health care specialists on a regular basis.

66. The Special Rapporteur is also concerned about hate speech and its dissemination on social networks, notably in WhatsApp groups. Under the pretext of teaching the country's history, the communications company Bimenye Burundi Communication Center³¹ disseminates teachings that propagate hate speech against the Tutsi community. These teachings are essentially based on events that took place in 1972. The Special Rapporteur notes that several warnings have been issued by various actors on the Burundian public scene.³² Although this information is broadcast in Kirundi, several actors have called on the company to exercise restraint and are concerned about the repercussions of these teachings on the Tutsi community, which could exacerbate tensions and be a potential source of escalating violence.

67. On 14 March 2022, police officers interrupted a press conference jointly organized by the Observatoire de lutte contre la corruption et les malversations économiques and Parole et actions pour le réveil des consciences et l'évolution des mentalités, to denounce the government decision to ban auto rickshaws, motorcycles and bicycles in most of Bujumbura,

²⁹ See https://www.state.gov/wp-content/uploads/2023/02/415610_BURUNDI-2022-HUMAN-RIGHTS-REPORT.pdf, p. 22.

³⁰ See <https://www.iwacu-burundi.org/la-journaliste-floriane-emprisonnee-a-muyinga-est-tres-malade-la-cnidh-interpellee/>.

³¹ This company has been registered since 2020 under the following numbers: RCN 28190/20 and NIF 4001567439.

³² See <https://sostortureburundi.org/2022/12/03/le-gouvernement-du-burundi-doit-dissoudre-lentreprise-bimenye-burundi-communication-center-bbcc-impliquee-dans-la-propagation-des-d/>. See also <http://www.youtube.com/watch?v=RS9qSajoQhg>.

and to request a stay of execution of this decision. The heads of these two organizations were detained for less than an hour before being released without charge.³³

68. On 14 February 2023, five human rights defenders were arrested by the National Intelligence Service: Sonia Ndikumasabo, Marie Emerusabe, Audace Havyirimana and Sylvana Inamahoro, at Bujumbura airport, and Prosper Runyange, in Ngozi before being transferred to Bujumbura the following day. These persons, members of the Association des femmes juristes du Burundi and the Association pour la paix et la promotion des droits de l'homme, organizations that are actively involved in advocacy for the rights of marginalized groups, have been charged with rebellion and undermining the internal security of the State and the proper functioning of public finances. They were eventually released. At the time of finalizing this report, their passports and bank assets had still not been returned.

B. Economic, social and cultural rights

1. Right to an adequate standard of living

69. In a press release issued on 7 June 2023, the Bank of the Republic of Burundi decided to withdraw all 5,000 and 10,000 Burundi franc denominations dated 4 July 2018. This measure, which also heralded the introduction of new 5,000 and 10,000 Burundi franc banknotes, set 17 June 2023 as the date for the entry into force of this decision, i.e. within a period of 10 days. The maximum amount that users could deposit with banking institutions was set at 10 million Burundian francs (around \$3,500) for individuals and 30 million Burundian francs (around \$10,500) for legal entities.³⁴

70. The Special Rapporteur is concerned by this measure, which affects the entire Burundian population. Indeed, a large proportion of the population is said to have lost its savings following the decision to withdraw all denominations of 5,000 and 10,000 Burundian francs, as the share of people in Burundi with bank accounts is 20 per cent.³⁵ The 10-day period for informing the population of the measure taken by the authorities and allowing them to make payments to various financial institutions was not sufficient. The fact that the State did not allow sufficient time for making deposits and set a random amount was not likely to build public confidence in the State. Endless queues were seen outside financial institutions, bringing economic and social activities to a standstill.

71. The Special Rapporteur notes that numerous queues continue to be observed at service stations and that transport flows are disrupted by recurring fuel shortages. The supplying of certain outlets with fuel to the detriment of official outlets creates inequalities in access to fuel.³⁶ This situation has led to a rise in the price of basic necessities. The effects on demand for oil and gas products linked to the conflict in Ukraine seem to have been felt most acutely in Burundi owing to pre-existing vulnerabilities, including the decline in foreign currency reserves, the fall in supply following the embargo on Russian crude and the slow pace of adjustment in world consumption.³⁷ The combination of these factors led to a record inflation rate of 26 per cent in December 2022,³⁸ a situation exacerbated by the recent emergence of

³³ See <https://www.hrw.org/world-report/2023/country-chapters/burundi>. See also <https://www.iwacu-burundi.org/olucome-parcem-la-police-suspend-leur-conference-de-presse/>.

³⁴ See www.brb.bi/sites/default/files/Communiqu%C3%A9%20changement%20billets%2010%20milles%20et%205%20milles%20scann%C3%A9_0.pdf.

³⁵ See <https://twitter.com/iwacuinfo/status/1670126272003948545>.

³⁶ See <https://www.iwacu-burundi.org/penurie-du-carburant-olucome-hausse-le-ton-contre-le-monopole-et-la-mauvaise-gestion-des-devises/>.

³⁷ The International Monetary Fund considers that inflationary pressures were perceptible long before the crisis in Ukraine, although the latter has accelerated the rise in prices of basic foodstuffs. See <http://www.imf.org/fr/News/Articles/2023/07/17/pr23266-burundi-imf-executive-board-approves-a-38-month-arrangement-under-the-ecf-for-burundi>.

³⁸ Office for the Coordination of Humanitarian Affairs, Needs and humanitarian response plan – Burundi, March 2023, p. 11.

internal shocks specific to Burundi, notably Rift Valley fever and African swine fever. The numerous fuel shortages have resulted in higher transport and food prices.³⁹

72. The main consequence is that the most vulnerable sections of the population are further impoverished and unable to cover their basic needs.

2. Right to health

73. The Special Rapporteur reiterates that the observations made in his previous report remain valid. He also notes a decrease in the State budget set aside for health for the 2022/23 financial year. Thus, the amount allocated to health, which is 228.7 billion Burundian francs (around \$80 million), represents 9.6 per cent of the national budget, compared with 13.4 per cent for the 2021/22 financial year.⁴⁰

74. Further efforts are needed to reach the international target of 15 per cent of the State budget envisaged in the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases.

75. The Special Rapporteur notes that, although some progress has been made in the health sector, challenges remain in achieving the Sustainable Development Goals, particularly with respect to infrastructure, the latest equipment and technologies, and human resources, whether in terms of numbers (less than 1 doctor and 1 midwife per 10,000 inhabitants), skills (specialist doctors) or competitiveness.⁴¹

76. Back in 2021, the World Health Organization reported that several of the health indicators were still low despite major efforts by the Government and its development partners.⁴²

3. Right to education

77. The Special Rapporteur notes that 1.9 million school-age children are still out of school, including 932,350 at the preschool level, 624,123 at the basic level and 430,959 at the post-basic level. Several factors explain this situation, including high levels of poverty, the impact of natural disasters, limited educational provision in terms of both infrastructure and number of teachers, and an unfavourable learning environment (including a shortage of teaching materials, water and electricity).

78. Natural disasters have led to the destruction of classrooms or their use as shelters by disaster victims, the destruction of teaching materials and the risk of school dropout. In view of the structural challenges and problems of integration faced by the families of returnees and internally displaced persons, the Special Rapporteur stresses the need to pay greater attention to the children of these populations.

79. As regards budget allocation, the Special Rapporteur notes a decrease for the 2022/23 financial year: 14.8 per cent of the total budget, compared with 20.6 per cent for the 2021/22 financial year.⁴³ This underscores the need for continued efforts to achieve Sustainable Development Goal 4 and the accompanying Education 2030 Framework for Action. This framework for action establishes benchmark funding criteria, according to which Governments are to allocate at least 4 to 6 per cent of their gross domestic product and 15 to 20 per cent of the total budget to education, emphasizing that domestic resources are the most important mechanism for financing the education sector.⁴⁴

4. Right to food

80. The cumulative effects of fuel shortages, the crisis in Ukraine, the decrease in foreign currency reserves and climate change have exacerbated food insecurity in Burundi during the

³⁹ See <https://www.iwacu-burundi.org/inflation-au-burundi-les-prix-des-denrees-alimentaires-peinent-a-chuter-malgre-lexoneration/>.

⁴⁰ United Nations Children's Fund (UNICEF) Burundi, Health: Budget analysis 2022–2023, p. 1.

⁴¹ Ibid.

⁴² World Health Organization Representative Office in Burundi, Annual report 2021, p. 7.

⁴³ UNICEF Burundi, Education: Budget analysis 2022–2023, p. 1.

⁴⁴ Ibid.

reporting period, with over 1.4 million people in a food crisis situation, according to the latest Integrated Food Security Phase Classification (IPC) report. The Special Rapporteur notes that 51,000 cases of emergency (IPC phase 4, “Emergency”) were reported over the June–September and October–December 2022 periods, while 3.4 million people were in situations of food stress (IPC phase 2, “Stressed”). The prevalence of acute malnutrition among women of childbearing age was estimated at 2.7 per cent nationally, down from 2020. The Special Rapporteur notes that land gives an important sense of identity and is a means of survival for most of the Burundian population. The absence of an inclusive and coherent land tenure system that takes account of the demographic challenges and cyclical crises that Burundi has experienced is likely to exacerbate tensions in several provinces, including Makamba, Ngozi, Gitega and Cankuzo. In the last few months of the period under review, a number of initiatives by government actors have led to land expropriations or to situations that could lead to the seizing of customary land by local communities, which in many cases are poor and lack the means for intensive farming. This is the case in Makamba Province, where the Governor decided in a decree dated 30 May 2023 that all uncultivated land on 30 September 2023 would be seized for public use.

81. In all cases, national agricultural production continues to fall well short of meeting food requirements. According to estimates, gross production would cover only 68 per cent of the needs of the Burundian population during a five-month period in the first half of 2023. The difference had to be made up by supplying the market at a time when inflation (32.6 per cent) and food inflation (49.1 per cent year on year) were drastically eroding household purchasing power, which was already extremely low given the limited opportunities for generating income.

82. The rate of chronic malnutrition among children under 5 in Burundi is one of the highest in the world, holding steady at around 55 per cent for more than a decade. The efforts made by the various stakeholders in terms of food systems have not given high enough priority to child nutrition. There is a need to focus on nutrient-dense crops and livestock farming. In addition, existing nutritional interventions through health systems and community promotion of nutritional practices have proved insufficient on their own, as nutritious foods are either unavailable or unaffordable for most families. Programmes need to be multifaceted and include nutritional advice, cash and nutritious food to make a difference for malnourished children.

C. Specific groups

1. Situation of refugees and internally displaced persons

83. According to the Office of the United Nations High Commissioner for Refugees, as of 31 May 2023, some 261,092 Burundian refugees were spread across four countries in the Great Lakes region, including the United Republic of Tanzania, Rwanda, the Democratic Republic of the Congo and Uganda.⁴⁵ These figures did not include the 16,000 Burundian refugees and asylum-seekers in Kenya, 8,700 in Mozambique, 10,800 in Malawi, 9,900 in South Africa and 8,100 in Zambia, who were supported under national programmes.⁴⁶ According to the Office, a further 42,200 Burundian refugees who have lived for decades in the United Republic of Tanzania no longer receive assistance and are not included in these figures.⁴⁷

84. More than 119,000 refugees have returned to the country since 2020.⁴⁸ According to the Ministry responsible for repatriation, the Burundian authorities’ target for 2023 is to repatriate at least 70,000 people from the countries of the East African Community,

⁴⁵ See <https://data.unhcr.org/en/situations/burundi>.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ See <http://www.aa.com.tr/fr/afrique/le-burundi-compte-rapatrier-70-000-r%C3%A9fugi%C3%A9s-en-2023/2752835>.

especially the United Republic of Tanzania, Uganda, the Democratic Republic of the Congo and Rwanda.⁴⁹

85. A delegation from the Government of Burundi visited Burundian refugee camps in Rwanda, the United Republic of Tanzania and Uganda in December 2022 and January 2023. Following these visits, a coalition of refugee representatives from the Great Lakes Region sent a letter to the President of Burundi on 29 April 2023, in which it called for guarantees of a peaceful return and for reconciliation based on the achievements of the Arusha Agreement, the setting up of an administrative structure responsible for the reception and resettlement of returnees and displaced persons, the opening up of civic space, and the improvement of living conditions for the population and refugees.

86. It seems necessary to offer better guarantees of safety and social reintegration to potential returnees who have not yet made a commitment to return.

87. The Special Rapporteur notes the poor clarity of the measures and the absence of a clear methodology for the resettlement of returnees, particularly those born in exile or who left Burundi many years ago, and of measures to help returnees recover the property and bank accounts they had before going into exile. The same applies to compensation and indemnification for goods left behind before their departure.⁵⁰ The lack of harmonized principles for managing the land problems of returnees could be detrimental to peaceful cohabitation between the different segments of society.

2. Situation of women

88. The Special Rapporteur recalls the observations made in his previous report. He notes that, in 2020, Burundi was ranked thirty-second out of 153 countries by the Global Gender Gap Report.⁵¹

89. The Special Rapporteur notes that around 70 per cent of survivors of human trafficking are also survivors of gender-based violence. The provinces bordering the United Republic of Tanzania, internally displaced persons sites and towns around Bujumbura are the areas most affected by this phenomenon of trafficking and exploitation of women, girls and boys.⁵² He also highlights the lack of facilities to provide basic services for the comprehensive management of cases of gender-based violence, particularly in terms of equipment (post-rape kits, dignity kits) and human resources, which means that emergency assistance services cannot be provided. Robust measures must be implemented to strengthen the identification and monitoring of incidents of gender-based violence throughout the country. The Special Rapporteur encourages and urges the partners and friends of Burundi to provide technical and financial support for the national programme for women's economic empowerment.

90. The Special Rapporteur deplores the fact that women's right to inherit land remains a taboo issue, despite the fact that the majority of Burundian farmers are women.⁵³ He also notes that the Housing, Land and Property Working Group has targeted 89,654 people in need of assistance, of whom 47,563 (53 per cent) are women.⁵⁴ Women are not always included in decision-making spheres, from access to the means of production, particularly land, to access to economic resources. Women's access to land depends on their marital status (single, married or widowed). The lack of uniformity between inheritance practices and court rulings – with some courts referring to (general) national, regional and international legal instruments, while others relying on a variety of unwritten local practices for their rulings – is regrettable. These practices leave the door open to discrimination and injustice,

⁴⁹ Ibid.

⁵⁰ Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, chap. 1 (on the rehabilitation and resettlement of refugees and disaster victims).

⁵¹ See https://www.3wforum.org/docs/WEF_GGGR_2020.pdf.

⁵² Office for the Coordination of Humanitarian Affairs, Needs and humanitarian response plan – Burundi, March 2023, p. 39.

⁵³ See <https://eujournal.org/index.php/esj/article/view/13058>.

⁵⁴ Office for the Coordination of Humanitarian Affairs, Needs and humanitarian response plan – Burundi, March 2023, p. 82.

undermining the principle of equal access for men and women to family property enshrined in the Constitution of Burundi.

3. Situation of children

91. The Special Rapporteur recalls the progress made by Burundi on basic social services (free healthcare for children under 5 and mothers giving birth, free primary education, etc.). In addition, the Standardized Monitoring and Assessment of Relief and Transition nutritional survey conducted in 2022 revealed a reduction in global acute malnutrition, from 6.1 per cent in 2020 to 4.8 per cent in 2022.

92. As regards vaccination coverage, preliminary results show a decrease for the third dose of the combined diphtheria/tetanus/pertussis vaccine (DTP3), with 86.2 per cent in 2022 compared with 87.7 per cent in 2021. Compared with 2021, there has been a decline in vaccination coverage for all antigens, which means an increase in the number of zero-dose and under-vaccinated children. In 2022, no antigen reached 90 per cent coverage, which is the target set.⁵⁵

93. The number of underperforming districts (DTP3 coverage below 80 per cent) has increased: 20 out of 49 in 2022 compared with 16 out of 48 in 2021. The United Nations Children's Fund has noted the need for efforts to improve children's health, as 61 per cent of children aged 6 to 59 months suffer from anemia, and as many as 84 per cent in the 6–8 month age group.⁵⁶ Lastly, the Special Rapporteur refers to paragraph 75 of his previous report.

4. Humanitarian situation

94. The humanitarian situation has improved somewhat, with the number of people in need falling from 2.3 million in 2021 to 1.8 million in 2022. Vulnerable groups continue to need help; in this respect, it seems that it is the right time to make up for the shortfall in funding for the humanitarian response, which stands at \$138.5 million in 2023.⁵⁷ The occurrence of natural disasters, the ongoing need for food assistance, the gradual return of Burundian refugees from neighboring countries and the impact of the Russian-Ukrainian crisis have not made it possible to significantly reduce humanitarian needs.

95. According to the International Organization for Migration Displacement Tracking Matrix, natural disasters are the main cause of internal displacement in the country, accounting for over 80 per cent of all displacements. In 2022, 75,300 newly displaced people were registered, which is a 42 per cent increase over the previous year. Most of the newly displaced people were living with host families (95 per cent), while 5 per cent were living in reception sites. These populations are faced with recurring climate risks and various other factors that increase their vulnerability, such as deteriorating living conditions, loss of livelihoods and increased food insecurity. The needs of internally displaced populations include access to safe, decent shelter and basic non-food items. The Special Rapporteur deplores the fact that the crisis in Burundi is one of the world's top 10 neglected crises.⁵⁸

IV. Conclusion and recommendations

96. **The Special Rapporteur stresses that, despite positive and reassuring official statements, Burundi is evolving against the background of a shrinking civic space and making use of institutions and the law for one's own ends, which undermine citizens' confidence and constitute limiting factors for a return to lasting peace. He also notes that, despite the return of Burundi to the international stage and the lifting of economic and individual sanctions by several of its bilateral and multilateral partners, the human**

⁵⁵ World Health Organization Representative Office in Burundi, Annual report 2022, p. 22.

⁵⁶ UNICEF Burundi, Health: Budget analysis 2022–2023, p. 1.

⁵⁷ United Nations, Office for the Coordination of Humanitarian Affairs, Burundi: Humanitarian response plan 2023 – Overview of funding of 27 June 2023.

⁵⁸ See <https://www.nrc.no/globalassets/pdf/reports/neglected-2022/the-worlds-most-neglected-displacement-crises-2022.pdf>.

rights situation has not improved. Human rights violations and abuses persist in a climate of impunity, compounded by serious restrictions on civic space and the lack of independence of the judiciary. The Special Rapporteur reiterates his serious concerns about the political stalemate, compounded by the domination and control of livelihoods by members of CNDD-FDD. He remains concerned by the increasingly precarious socioeconomic situation in Burundi, compounded by fuel shortages, inflation in the price of basic necessities and the absence of a coherent land policy that takes account of the cyclical crises that have marked the country. He notes the urgent need to examine the root causes of the crises the country has experienced in order to better define ways of living together in compliance with the Arusha Peace and Reconciliation Agreement for Burundi. Inter-Burundian dialogue seems to be the best option for laying the foundations for a peaceful Burundian society that respects human rights.

97. The Special Rapporteur reiterates the recommendations from his previous report, and makes the following recommendations.

98. The Special Rapporteur recommends that the Burundian authorities:

- (a) Refocus the activities of the National Intelligence Service on the traditional missions of such a service;
- (b) Ensure that political parties, civil society organizations and the media can engage in legitimate activities in complete freedom and security, in an environment of political tolerance, including by punishing any incitement to hatred and calls for violence;
- (c) Take all measures to ensure the independence and impartiality of the National Independent Human Rights Commission;
- (d) Take measures to combat prison overcrowding;
- (e) Take urgent measures to improve conditions of detention in places of deprivation of liberty;
- (f) Bring to trial as soon as possible all persons in pretrial detention;
- (g) Increase the budget for outlying health facilities, and strengthen community health facilities in the most vulnerable areas, and monitoring components;
- (h) Implement the recommendations of the Special Rapporteur on truth, justice and reparation and guarantees of non-recurrence in the area of transitional justice;⁵⁹
- (i) Respect the spirit of the Arusha Agreement;
- (j) Ensure that the judicial system does not encroach on the remit of the Truth and Reconciliation Commission;
- (k) Ensure an inclusive inter-Burundian dialogue and define a road map for lasting peace;
- (l) Hold perpetrators of human rights violations and abuses criminally accountable, including by conducting full and impartial investigations, bringing them before the courts and openly trying them;
- (m) Maintain a constructive relationship with all international and regional human rights mechanisms.

99. The Special Rapporteur recommends that the international community:

- (a) Define human rights protection guarantees, jointly with Burundi, in the various cooperation frameworks;

⁵⁹ A/HRC/30/42/Add.1 ; see also A/HRC/48/60/Add.2, annex, chap. II.

(b) Encourage accountability measures for the victims of the 2015 crisis, and define an incentive-based, gradual and progressive approach, with clear human rights-based milestones, for a return to peace and real protection of human rights in Burundi;

(c) Urge the Government of Burundi to create a climate conducive to the full exercise by all political parties, civil society actors and Burundian media professionals of their activities, and encourage them and the Government to engage in constructive dialogue;

(d) Step up its support to the Government of Burundi in building the capacity of the judicial system;

(e) Set up crisis prevention mechanisms, including for the 2025 elections, and guarantee the exercise of individual rights and freedoms for all Burundian citizens;

(f) Provide technical and financial support to Burundi in implementing the recommendations of the national consultations on education held in Bujumbura from 14 to 16 June 2022;

(g) Support the financing of the humanitarian response plan for Burundi;

(h) Provide financial and technical support for media professionals and civil society organizations, including those in exile.

100. The Special Rapporteur recommends that civil society organizations continue to monitor the human rights situation and develop a crisis prevention mechanism in preparation for the 2025 elections.

101. The Special Rapporteur recommends that media professionals maintain their focus and communicate regularly on Burundi in order to mobilize key actors.

102. The Special Rapporteur recommends that the Global Alliance of National Human Rights Institutions reassess the A status of the National Independent Human Rights Commission in order to encourage it to comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).
