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Human rights situations that require the Council's attention

Report of the Commission of Inquiry on Burundi^{*}, ^{}**

Summary

Serious human rights violations have continued to be committed in Burundi since May 2018, in a general climate of impunity. Some of these violations constitute international crimes. Members of the youth league of the ruling party, the Imbonerakure, are the main perpetrators. Officers of the National Intelligence Service and the police, along with local administrative officials, are also frequently identified as perpetrators of such violations.

Burundi has been experiencing a political and economic crisis for more than four years. The human rights violations are essentially political in nature, and the suppression of civil liberties is intensifying in the run-up to the 2020 presidential and legislative elections. In accordance with the principles of early warning and prevention, the Commission has identified several risk factors in the current environment. The evolving situation must be monitored with the greatest vigilance.

* It was agreed that the present report would be issued after the usual date of issue owing to circumstances beyond the submitter's control.

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



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I. Introduction

A. Mandate

1. The Commission of Inquiry on Burundi was created by Human Rights Council resolution 33/24, adopted on 30 September 2016, to conduct a thorough investigation into human rights violations and abuses committed in Burundi since April 2015, to determine whether any of them may constitute international crimes, to identify their alleged perpetrators and to formulate recommendations for ensuring that such perpetrators are held accountable for their acts. This mandate was extended for two additional one-year periods, by resolution 36/19, adopted on 29 September 2017, and by resolution 39/14, adopted on 28 September 2018.

2. The membership of the Commission remains unchanged: Doudou Diène (Senegal), who has chaired the body since 1 February 2018; Lucy Asuagbor (Cameroon), a member since 5 March 2018; and Françoise Hampson (United Kingdom of Great Britain and Northern Ireland), appointed on 22 November 2016.

3. The Commission has looked into violations and abuses committed since May 2018,¹ paying special attention to those related to the 2020 electoral process.² Using objective indicators defined at the international level,³ it has sought to determine whether there are any risk factors pointing to a possible deterioration in the human rights situation. These efforts are in keeping with the principles of early warning and prevention⁴ and have provided valuable information on the current situation and potential developments.

4. In 2019, the Commission presented two oral briefings to the Human Rights Council. The present report summarizes the final conclusions of its investigations, which will be detailed in a separate document.⁵

B. Cooperation by Burundi with the Commission

5. As in the past, when it extended the Commission's mandate, the Human Rights Council urged the Government of Burundi to cooperate fully with the Commission, to authorize it to conduct visits to the country and to provide it with all the information necessary to fulfil its mandate.⁶ In that spirit of cooperation, the Commission wrote to the Burundian authorities seeking to arrange a meeting in Geneva, transmitting requests for specific information and providing a non-exhaustive list of human rights indicators to enable the Government to assess, in an objective manner, the impact of its policies and practices to protect and promote human rights. All of these communications have gone unanswered.

6. The Burundian authorities have continued to reject the Commission's work wholly and systematically, deeming it politically biased, but have offered no evidence to substantiate their accusations. They also tried, without success, to prevent the Commission's report from being presented to the General Assembly in October 2018, despite an explicit request to that effect by the Human Rights Council.⁷ The hostility of the Burundian authorities continued, with the Commission's members being declared *personae*

¹ In order to highlight developments since the previous report (A/HRC/39/63), which covered the period 2017–2018.

² Presidential and legislative elections are scheduled for 20 May 2020, and elections to the Senate for 20 July 2020.

³ Framework of Analysis for Atrocity Crimes (A/70/741-S/2016/71).

⁴ See, for example, A/HRC/30/20.

⁵ Document A/HRC/42/CRP.2, available on the Commission's website.

⁶ Human Rights Council resolution 33/24 of 30 September 2016, para. 24; and Human Rights Council resolution 36/19 of 29 September 2017, para. 5.

⁷ Human Rights Council resolution 36/19 of 29 September 2017, para. 4.

non gratae in the territory of Burundi,⁸ subjected to threats and personal abuse, and threatened with prosecution for “defamation” and “attempted destabilization” of the country.

C. Methodology

7. The Commission undertook visits to the Democratic Republic of the Congo, Rwanda, the United Republic of Tanzania, Belgium, France, the United Kingdom and Ethiopia. It met with representatives of the African Union, the European Union and various States, and conducted over 300 interviews with victims, witnesses and other sources living in Burundi or in third countries, in person or remotely, to add to the more than 1,000 testimonies already collected. If the Commission’s mandate is renewed, it hopes to visit all affected States in the region.

8. The Commission continued to apply the same methodology and the same standard of evidence, “reasonable grounds to believe”, which are fully consistent with internationally accepted guidance and practice for this type of inquiry.⁹

D. Applicable law

9. The applicable law is international human rights law and international criminal law.¹⁰ Burundi remains a party to the same conventions as before, having not yet ratified the treaties to which it indicated its readiness to become a party during the third universal periodic review of the country, in January 2018.

10. The withdrawal of Burundi from the Rome Statute of the International Criminal Court, which took effect on 27 October 2017, does not discharge the country from the obligations arising therefrom while it was a party to the treaty¹¹ or from its obligations under customary international law concerning international crimes. The Commission has referred to the definitions of crimes set forth in the Rome Statute, which are reflected in the Criminal Code of Burundi.

E. Developments within international and regional bodies

11. Burundi has stressed many times its willingness to cooperate with international human rights mechanisms, other than the Commission. However, the Government demanded the closure of the Burundi office of the Office of the United Nations High Commissioner for Human Rights, which took effect on 28 February 2019. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was unable to visit Burundi in 2018, as it had announced, even though States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment have a legal obligation to receive delegations from the Subcommittee and grant them access to places of detention. Moreover, Burundi has not submitted to the treaty bodies some of its periodic reports on the implementation of human rights instruments, notably the report in relation to the International Convention on the Elimination of All Forms of Racial Discrimination, which has been due since November 1998.

⁸ Letter dated 12 September 2018 from the Minister for Foreign Affairs of Burundi, made public but not received by the Commission.

⁹ See Office of the United Nations High Commissioner for Human Rights, *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice*, document HR/PUB/14/7.

¹⁰ A/HRC/36/54 and Corr.1, paras. 9–11. See also A/HRC/36/CRP.1, paras. 37–50 (document available on the Commission’s website).

¹¹ International Criminal Court, *Rome Statute of the International Criminal Court* (17 July 1998), art. 127.

12. Despite the standing invitation granted by Burundi to special procedures mandate holders, no special rapporteur or working group has been able to visit the country since December 2014, and no visit is scheduled for the coming months, although the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Enforced or Involuntary Disappearances have requested visits. Since February 2016, Burundi has ceased to cooperate with the special procedures mandate holders on alleged cases of human rights violations.

13. Pursuant to its resolution 2303 (2016), the Security Council has continued to review the situation in Burundi regularly, on 21 November 2018, 19 February 2019 and 14 June 2019.¹² The Special Envoy of the Secretary-General for Burundi, Michel Kafando, and representatives of States members of the African Union have reiterated their concerns about the current political situation and the impasse reached in the inclusive inter-Burundi dialogue, particularly in the light of the forthcoming elections, and about the human rights situation and socioeconomic conditions.¹³

14. The most recent round of inter-Burundi talks, which took place in October 2018 in Arusha, Tanzania, under the leadership of the Facilitator, Benjamin Mkapa, was boycotted by the Government of Burundi. The Facilitator completed his work on 1 February 2019 with the presentation of his final report to the Summit of Heads of State of the East African Community, without having achieved any tangible results. The East African Community has not yet taken any steps to relaunch the dialogue.

15. On 13 November 2018, the African Commission on Human and Peoples' Rights adopted a resolution on the human rights situation in Burundi,¹⁴ in which it expressed its concern about the lack of adequate and independent inquiries into reported cases of human rights violations and the non-implementation of the recommendations it had made in 2015. In the resolution, it urges Burundi to cooperate with the African Union, the United Nations and the East African Community in the search for a peaceful and human rights responsive solution to the crisis situation in Burundi.

16. According to the Office of the United Nations High Commissioner for Refugees, there were 344,931 Burundian refugees in neighbouring countries as at 30 June 2019, and 3,603 new arrivals had been registered between 1 January and 30 June 2019.¹⁵ The humanitarian crisis affecting the Burundian refugees is the world's most underfinanced emergency. Thus, in 2018, the Office received only 33 per cent of the annual budget sought and, at the end of June 2019, only 18 per cent of the requested annual funds had been received. The Office is not recommending the return of refugees to Burundi but has been helping those who choose to go back on a voluntary basis since September 2017. Between January and June 2019, 14,104 persons returned to the country.¹⁶

17. In 2019, according to the figures agreed by the Office for the Coordination of Humanitarian Affairs and the Government of Burundi, 1.77 million persons are in need of humanitarian assistance and 1.7 million are suffering from food insecurity.¹⁷ There remain 116,000 internally displaced persons, the majority of whom are economically vulnerable women heads of household. As at 4 July 2019, 30 per cent of the budget needed to cover humanitarian needs in 2019, estimated at US\$ 106.3 million, had been received.

¹² The meeting initially scheduled for 28 May 2019 was cancelled at the last minute and postponed to 14 June 2019, in the absence of Mr. Kafando.

¹³ See S/PV.8408, S/PV.8465 and S/PV.8550.

¹⁴ African Commission on Human and Peoples' Rights, Resolution on the Human Rights Situation in the Republic of Burundi, document ACHPR/Res. 412 (LXII) 2018.

¹⁵ This figure does not necessarily include all new arrivals as, in some countries, it has become virtually impossible for Burundians to obtain refugee status.

¹⁶ UNHCR, Regional overview of the Burundian refugee population, 30 June 2019. Available at <https://data2.unhcr.org/en/documents/download/70281> (in English only).

¹⁷ Office for the Coordination of Humanitarian Affairs, Burundi Situation Report, updated on 4 July 2019. Available at <https://reports.unocha.org/en/country/burundi>.

18. The targeted sanctions imposed on certain Burundian nationals by the European Union and Switzerland were extended until October 2019. The sanctions imposed by the United States of America were kept in place in the case of 11 Burundian nationals.

19. The investigation opened on 25 October 2017 by the Prosecutor of the International Criminal Court into crimes against humanity committed in Burundi between 26 April 2015 and 26 October 2017 is continuing.

II. Human rights situation

A. Main trends

20. The main human rights violations continue to have a political dimension and concern the right to life, security and liberty, the right not to be subjected to torture or ill-treatment, cases of sexual violence and breaches of civil liberties. They occurred in the wake of the constitutional referendum in May 2018 or are taking place against the backdrop of preparations for the 2020 elections. For the most part, the victims continue to be opponents – actual or alleged – of the Government or the ruling party (the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD)), first and foremost members of the new political opposition party led by Agathon Rwasa, the Congrès national pour la liberté, which was registered in February 2019. Others targeted are Burundian nationals who, having sought refuge abroad, have returned to the country since the beginning of 2017 under the assistance programme for repatriation, as well as young men who have come back to Burundi following a stay or a trip abroad, who are accused of belonging to or supporting armed opposition groups. Human rights defenders remain targets, as is demonstrated by the upholding on appeal, on 17 July 2019, of the 32-year prison sentence imposed on Germain Rukuki.

21. Imbonerakure, officers of the National Intelligence Service and the police and administrative officials in the municipalities (*communes*), districts (*zones*) and hill districts (*collines*) have been identified as perpetrators of the violations documented. The majority of cases have taken place in rural areas controlled by the Imbonerakure, who seek to keep the population in check and compel their allegiance to CNDD-FDD. These efforts target the entire population, particularly at the grass-roots level. According to the testimonies gathered, members of the defence forces do not seem to have been involved to a significant extent in the main violations documented since May 2018, even though isolated incidents have been reported.

22. The fact that these violations are committed chiefly by Imbonerakure in rural areas, coupled with victims' fear or their general reluctance to bring complaints owing to a lack of confidence in the judicial system, makes it more complicated to corroborate the many allegations of violations received.

B. Responsibility

1. Responsibility of the Burundian State

23. As in the past, the Commission has found that the Burundian State may be held responsible for the acts identified in the present report, which constitute human rights violations.¹⁸

24. The actions of agents of the State, particularly officers of the National Intelligence Service and the police, but also of the administrative authorities that represent the State in the provinces, municipalities, districts and hill districts, are directly attributable to the Burundian State, in conformity with its obligation to respect human rights and ensure that its agents refrain from violating them.

¹⁸ See A/HRC/36/54 and Corr.1, and A/HRC/39/63.

25. The Imbonerakure often act alone or sometimes in the presence of representatives of the police, the National Intelligence Service or local authorities. They enjoy considerable latitude in carrying out their activities, conferred on them by the Burundian authorities, which, however, have the means to control them, as well as almost total impunity. Imbonerakure are still regularly – indeed, almost routinely – used to supplement or replace the security forces, particularly in rural areas, at the request or with the consent of members, including senior officials, of the National Intelligence Service, the police, the Office of the President and local authorities. Some have military material and equipment reserved in principle for the defence and security forces, such as items of military uniform and boots, which attests to their central role within the formal and informal security structures of the Burundian State. When the conduct of the Imbonerakure is acknowledged and adopted by agents of the State,¹⁹ when they act on the instructions of such agents²⁰ or when they act in “complete dependence” on or under the “effective control” of such agents,²¹ the Burundian State is directly responsible for their actions.

26. In the rare cases in which Imbonerakure reportedly acted outside these scenarios, the general impunity they enjoy following their acts also means that the responsibility of the Burundian State is engaged, in conformity with its obligation to protect human rights. Indeed, the State must, when it is aware or should have been aware of violations or abuses committed by third parties, undertake effective investigations and prosecutions, which has not generally been the case.

2. Responsibility of armed groups and opposition political parties

27. Because the Commission has not had access to victims and the Government has repeatedly refused to hand over evidence, the Commission has been unable to corroborate the information it has received on the involvement of armed groups in human rights violations.

C. Violations of civil and political rights²²

1. Right to life

(a) *Introductory remark*

28. Violations of the right to life are increasingly difficult to document because bodies are regularly found in public places, often bearing signs of violent death, without the circumstances of the deaths being elucidated. The Commission has received no information concerning steps taken by the authorities to identify the victims, investigate the causes and circumstances of their deaths or find those responsible. Such failings by the Burundian authorities make it ever more complex to distinguish between disappearances and executions. Many people disappear without there being any witnesses, and their fate remains unknown except in cases where a body is found in the days that follow. Indeed, most families see no purpose in filing a complaint or fear reprisals if they seek information from the authorities about the fate of their missing relatives.

(b) *Summary execution*

29. Summary executions have been committed mainly by members of the National Intelligence Service and by Imbonerakure acting alone. Some victims are beaten to death, while others are executed with firearms or knives.

¹⁹ *Yearbook of the International Law Commission*, 2001, vol. II, part two (United Nations publication, sales No.: F.04.V.17 (part II)), International Law Commission, articles on responsibility of States for internationally wrongful acts, art. 11, p. 26.

²⁰ *Ibid.*, International Law Commission, articles on responsibility of States for internationally wrongful acts, art. 8, p. 26.

²¹ A/HRC/39/63, paras. 20–27.

²² For more details of such violations, see document A/HRC/42/CRP.2.

30. In certain cases, the bodies are found on the public highway or in watercourses, but sometimes the perpetrators take pains to hide them.

31. Acting in place of the authorities, Imbonerakure have killed persons accused of ordinary crimes, including theft and witchcraft, thus arrogating to themselves the right to dispense justice.

(c) *Enforced and other disappearances*

32. The Commission has pursued its inquiries into alleged cases of enforced disappearance in which information or corroboration was lacking and there were thus only reasonable grounds to fear that an enforced disappearance had taken place.²³ In the light of the new information gathered, the Commission confirms there are reasonable grounds to believe that Marie-Claudette Kwizera, treasurer of the Ligue Iteka, missing since 10 December 2015, and Oscar Ntasano, a businessman, member of CNDD-FDD and former senator and deputy, missing since 20 April 2017, have indeed been victims of enforced disappearance. The Commission has also received information indicating that they have been executed.

33. Numerous disappearances have been reported. The victims, who sometimes had no political affiliations, disappeared after refusing to join CNDD-FDD or the Imbonerakure. Some were members of opposition political parties or had recently returned from exile. Often, they were last seen being taken away by Imbonerakure. The families generally chose to flee and only rarely carried out searches for their missing relatives. In the light of the current situation in Burundi, which is conducive to enforced disappearance, and given the numerous previous cases, the profile of the victims and the circumstances of the disappearances, which resemble the *modus operandi* documented in the earlier cases, while the Commission cannot conclude that these are enforced disappearances within the meaning of international law, nor can it exclude the possibility. It remains deeply concerned about the frequency of such disappearances.

2. Right to liberty and security of person

34. Arbitrary arrest and detention on political grounds have continued. Since the establishment of the Congrès national pour la liberté in February 2019, its members have been the main targets of arbitrary arrest and detention in connection with their legitimate political activities; they are generally accused of organizing or taking part in “illegal meetings” of small groups on private premises, which, however, are not offences under national law. The members of other opposition parties have also been targeted and often even accused of supporting armed opposition groups. Sometimes, when those persons could not be located, their family members were arrested in their place. Other persons were arrested and detained following the May 2018 constitutional referendum on suspicion of having campaigned for a “No” vote. Minor schoolgirls were held for around 10 days and prosecuted for “insult to the Head of State” when it was discovered that photographs of the President in school textbooks had been defaced.

35. Arbitrary arrests have been carried out by officers of the police and the National Intelligence Service, but also by Imbonerakure and local administrative officials, who acted either jointly with the police or independently of them, later handing over those arrested to the police.

36. These arrests were arbitrary, since, in the vast majority of cases, they were conducted without any legal basis, on grounds that are sufficiently vague in national law as to be abused or in breach of established judicial procedure. Moreover, these arrests often involved the use of excessive force. They were also illegal when carried out by Imbonerakure or local administrative authorities, which are not authorized by law to make arrests other than in cases of *flagrante delicto*.

37. The detentions were arbitrary and often illegal owing to the vague and abusive nature of the charges brought, the absence of the elements of the offences alleged and the

²³ A/HRC/36/CRP.1, para. 319.

failure to respect procedural guarantees and time limits prescribed by law. Prisoners who have served their sentences or who have received presidential pardons have continued to be held arbitrarily, mainly those convicted on political grounds.

3. Torture and other cruel, inhuman or degrading treatment

38. Torture and ill-treatment persist throughout the country. Particularly serious cases of torture have concerned young men accused of collaborating with opposition armed groups, spying (often because they have spent time in exile or living abroad) or campaigning actively for a “No” vote in the constitutional referendum. Such acts have generally been committed by officers of the National Intelligence Service and the police during arbitrary arrests or detentions.

39. At the time of the May 2018 constitutional referendum, numerous men and women of all ages were subjected to torture or ill-treatment by Imbonerakure, often acting alone but sometimes with police officers or local administrative officials. These persons were suspected of not having voted “Yes” or had refused to join CNDD-FDD or the Imbonerakure. Members of the Congrès national pour la liberté and recently returned refugees were also targeted.

40. Some victims were kicked or beaten with sticks or batons on different parts of their bodies, while others were wounded with sharp objects. In several cases, the torture took the form of sexual violence, including rape, accompanied by threats, among them death threats, intimidation and verbal abuse, sometimes of an ethnically charged nature.

41. Overcrowding, lack of food and insufficient access to drinking water, sanitation and health care have persisted in prisons and in the police and National Intelligence Service cells. These conditions continue to constitute cruel, inhuman or degrading treatment.

4. Sexual violence

42. Numerous cases of sexual violence have been documented; the majority of victims were women and girls. Such violence most often took the form of gang rape, the perpetrators being for the most part Imbonerakure and, in one case, military personnel. Some of these rapes were committed at night in victims’ homes, in front of their children and other members of their families, and generally involved other violations of physical integrity as well as, sometimes, the abduction or execution of the family member considered to be the head of household. Other women were raped while travelling in the course of their daily activities or attempting to flee the country. In many cases, the victim was told that she or her family members would be killed if she resisted, called for help or reported the rape. The victims, some of whom had recently returned to Burundi, were targeted on account of their affiliation – real or perceived – or that of a family member with the opposition or with a rebel movement, their refusal to join CNDD-FDD or the Imbonerakure, non-payment of contributions or a “No” vote in the May 2018 constitutional referendum. These acts, committed for a specific purpose such as intimidation or punishment because of the victim’s supposed political views, constitute acts of torture.

43. The majority of the rape cases occurred in rural areas. Most of the victims recognized their attackers as local Imbonerakure who had intimidated them or their relatives on one or more occasions in the past. However, none of the victims reported her attackers.

44. Sexual violence in the form of violence applied to the genital area or forced nudity has continued to be committed by officers of the National Intelligence Service against men held in the Service’s cells, under its responsibility, over periods ranging from a few weeks to several years.

45. The physical and psychological consequences of sexual violence are manifold and, while several victims received basic medical care in the aftermath – often thanks to the intervention of neighbours or relatives – few women and no men have received appropriate treatment. The stigmatization of women and girls who are victims of sexual violence has a negative impact on their enjoyment of the other rights already affected by the persistence in Burundi of multiple forms of discrimination against women.

46. The Commission has also documented cases of sexual violence, mainly gang rape and sometimes involving genital mutilation, committed in 2015 and 2016, which confirm its earlier findings. The trauma caused by such violence, and the fear of stigmatization, had prevented the victims from coming forward before now.

5. Civil liberties

(a) *Freedom of expression and information*

47. The Government controls the dissemination of media outputs in the country through the National Communication Council, supposedly the independent media regulation body, which is in reality a tool for censorship. Many national and international news media have had sanctions imposed on them; recent examples include the radio station Voice of America, which was suspended indefinitely, BBC radio, which had its licence withdrawn, and Radio France Internationale, which received a warning. They are charged with having broadcast criticism of the Government or reports that contradicted official statements. Independent media are regularly accused of seeking to tarnish the country's image and cause breaches of the peace.

48. The new law regulating the press, promulgated in September 2018, has contributed directly to the reduction of democratic space in the run-up to the elections. Among other requirements, it imposes an obligation on journalists to “publish only information that is balanced ... the source, reliability and accuracy of which have been established and carefully verified”.²⁴

49. The Government treats any discourse not in line with official propaganda as an attempt to destabilize the country or an attack on national sovereignty. By contrast, discourse, songs and political statements inciting intolerance and violence against any political formation other than CNDD-FDD are tolerated by the authorities. Statistics from international organizations deemed unfavourable have also been condemned by the authorities.

(b) *Freedom of association and assembly*

50. The degree of control exercised by the Government over the composition and activities of national and foreign non-governmental organizations (NGOs) has increased still further. All foreign NGOs have had to temporarily suspend their activities, from 1 October 2018, and reapply for approval. They have been required to pay one third of their annual budgets into the central bank of Burundi and to transmit to the authorities lists of their employees, indicating their ethnicity. The Government is now seeking to play a role in the recruitment of national employees of these foreign NGOs. National NGOs are strictly controlled, both their public statements and their projects and activities. For example, the suspension of the organization Parole et action pour le réveil des consciences et l'évolution des mentalités (PARCEM) for presenting a report critical of socioeconomic conditions, based on data from the World Bank, was confirmed by the Ministry of the Interior on 3 June 2019.

51. Efforts to force people, men for the most part, to join CNDD-FDD or the Imbonerakure have continued, notably the use of harassment, death threats, ill-treatment and even arbitrary detention. Such measures violate the freedom not to associate, which is the corollary of freedom of association.

52. Members of opposition parties have also been targeted, with a view to inducing them to cease their political activities. Furthermore, all activities of opposition parties are tightly controlled and restricted, particularly those of the Congrès national pour la liberté. Meetings of small groups of members of this party have been blocked and the participants arrested.

²⁴ Burundi, Act No. 1/19 of 14 September 2018 amending Act No. 1/15 of 9 May 2015 on the regulation of the press in Burundi, art. 52.

(c) Freedom of movement

53. There remain obstacles to freedom of movement. Barriers, usually operated by Imbonerakure, have been put up on roads in order to control the movement of the population. To be able to travel, Burundians had to regularly show a receipt confirming that they had paid the contribution for the 2020 elections or pay a varying amount, the final recipient of which remains unknown. Movement has been more strictly controlled in border areas and, in many cases, checkpoints have been the scene of acts of violence or intimidation.

54. In places, the local administrative authorities have imposed restrictions on movement after 6 or 7 p.m. applying solely to women and girls, for the stated purpose of stemming “unwanted pregnancies” and “debauchery”.

(d) Freedom of religion

55. The Government has stepped up its control over the churches. With its allies, it has also issued warnings to religious leaders, including the Catholic bishops, in order to discourage any criticism or discourse of “a political nature”, and has called on the faithful to monitor them. Moreover, people have been forced to take part in the constitutional referendum or to join CNDD-FDD, even if doing so ran counter to their religious convictions.

D. Violations of economic and social rights**1. Right to an adequate standard of living**

56. Burundi is one of the world’s poorest countries, with 74.7 per cent of its population living in poverty.²⁵ The country is ranked 185th out of 189 on the Human Development Index, life expectancy at birth is only 57.9 years and gross national income per capita (at purchasing power parity) is US\$ 702 per year.²⁶ The country, which was in recession in 2015 and 2016, has been recovering since 2017, albeit unsteadily, as the political crisis has limited its access to international aid, on which it is heavily dependent, and led to a trade deficit, a shortage of foreign exchange and a rise in the cost of living. The people are also forced, without any legal grounds, to make regular contributions of various sorts, including to finance the construction of local offices of the ruling party, CNDD-FDD. The main contributions associated with the 2020 elections were partly compulsory, but on 30 June 2019, the President announced that they had been abolished and would in future be made only on a “voluntary” basis. The various contributions were collected by Imbonerakure, who did not shy away from resorting to violence and threats. According to evidence provided by witnesses, people who were unable to pay were often subjected to ill-treatment or deprived of access to public services (or both).

57. Many refugees who returned to Burundi under the assistance programme for repatriation have had the food kits and the money they were given taken from them by Imbonerakure and local administrative authorities. The perpetrators’ remarks, reported by the victims, indicated that their food and money were taken in what amounted to retaliation for having fled the country after 2015 and for not having participated in its development or contributed to the elections. These people then found themselves destitute, and some were forced to flee again.

2. Right to work

58. Hiring in the public and semi-public sectors, including in education, health, the judiciary and government-owned companies, is discriminatory; it depends on the job candidate’s political affiliation rather than his or her experience or qualifications.

²⁵ World Bank, *The World Bank in Burundi*. Available at www.worldbank.org/en/country/burundi.

²⁶ United Nations Development Programme, *Human Development Indices and Indicators: 2018 Statistical Update*, p. 25.

Employees who are not members of CNDD-FDD are at risk of losing their jobs. The politicization of access to employment is increasing and has spread to foreign NGOs.

3. Right to education

59. In several schools, students who had not made the contribution for the 2020 elections, which was compulsory for every student of voting age, were not allowed to attend class. The situation was such that, on 8 February 2019, the Minister of Education had to prohibit the practice. In addition, some students have been unable to go to school or have been harassed and threatened by teachers or other students who are members of CNDD-FDD – although schools are theoretically settings free of political activity – on account of their affiliation with another party. The high school girls accused of defacing a photograph of the President were also forced out of school indefinitely. The quality of instruction is suffering as qualified teachers leave and their places are taken by substitutes chosen for their political loyalties. It is common for students to drop out of school, including because of pregnancy or owing to the socioeconomic situation. The average length of schooling is only three years.²⁷

4. Forced labour

60. Community service initially consisted of street cleaning and other minor maintenance work in the interest of the community. This mandatory service has now taken on political overtones. The people have been forced, on pain of financial penalty, to build local offices for CNDD-FDD, an obligation that constitutes forced labour, which is prohibited by the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), and the ILO Abolition of Forced Labour Convention, 1957 (No. 105), both ratified by Burundi in 1963.

61. The aim of other forms of community service is to contribute to local development by building public facilities such as stadiums, roads, schools and health centres. Since 2015, the Committee of Experts on the Application of Conventions and Recommendations of ILO has been examining the compatibility of this work with international law, which states that compulsory service as a method of mobilizing and using labour for purposes of economic development is a form of forced labour.²⁸

III. International crimes

A. Constituent elements and types of crimes

62. The Commission still has reasonable grounds to believe that crimes against humanity, as defined in the Rome Statute, have been committed in Burundi. These crimes include murder, imprisonment or other severe forms of deprivation of physical liberty, torture, rape and other forms of sexual violence of comparable gravity, and political persecution.²⁹

63. The Commission has documented a large number of violent incidents that have taken place in several provinces. Different people with similar modus operandi and a shared objective – to eliminate any real or perceived political opposition that could undermine the grip on power of the Government and CNDD-FDD – have been responsible for these incidents. They can therefore be described as “systematic attacks” deliberately targeting civilians. The people are regularly reminded by representatives of the Government, local administrative authorities and CNDD-FDD that their objective is to remain in power. The alleged perpetrators of these international crimes are necessarily informed of this objective, which means that they must understand the backdrop against which they act.

²⁷ Ibid.

²⁸ ILO Abolition of Forced Labour Convention, 1957 (No. 105), art. 1 (b).

²⁹ A/HRC/36/CRP.1, paras. 682–691.

B. Individual responsibility

64. The Commission has continued drawing up its list of alleged perpetrators of crimes against humanity, distinguishing between direct responsibility and command responsibility, whether civilian or military. This list is kept confidential to protect sources and respect the right to the presumption of innocence of the alleged perpetrators, but the Commission reserves the right to disclose it.

IV. Risk factors

A. Overview

65. In accordance with the principles of prevention and early warning promoted by the United Nations, the Commission decided that it was important to determine whether there were any particular risk factors linked to the 2020 elections that could have an impact on the human rights situation. To that end, it used the Framework of Analysis for Atrocity Crimes developed by the Office on Genocide Prevention and the Responsibility to Protect.³⁰ Risk factors are conditions that create an environment conducive to the commission of atrocity crimes or point to their possible occurrence. Some are structural, whereas others are related to dynamic circumstances. The objective indicators included in the Framework are different manifestations of each risk factor and therefore assist in determining the degree to which an individual risk factor is present. Observing the situation and warning of the existence of risk factors – without determining the likelihood of atrocity crimes occurring – are necessary steps, as the warning can itself help ward off or mitigate the risks of a deterioration of the human rights situation. The Commission has sought to identify the indicators that would help it determine what risk factors are present in Burundi.

B. Significant developments

1. Failure to resolve the 2015 political crisis

66. The crisis of 2015, which was primarily political, continues to affect Burundi society. The inclusive inter-Burundi dialogue is at an impasse, as the Government of Burundi has rejected the process and the need for it. The people are continuing to fall further into poverty, and the many refugees from Burundi are still without real prospects. The Burundian authorities refuse to engage in dialogue to resolve this profound political crisis and view any attempt by the international community to resolve it or to address human rights violations and international crimes as violations of national sovereignty and attempts to destabilize the country. Impunity prevails, and victims remain without access to remedies.

2. 2020 elections

67. The existence of democratic space is a key indicator for the holding of fair, free and credible elections. Democratic space in Burundi has shrunk steadily since 2015, as national human rights mechanisms are neither independent nor effective. The Government is increasing its control over NGOs, and with the National Communication Council practising censorship, freedom of the press has become a fiction.

68. There is no real multiparty system in Burundi. Most parties have been infiltrated and divided so that only the wings loyal to the Government have official approval. The political arena has been cordoned off by CNDD-FDD. The hopes raised by the approval of the Congrès national pour la liberté in February 2019 were quickly dashed. Its members are harassed or even persecuted, and the party's activities are restricted, controlled or banned, highlighting the political intolerance prevailing in Burundi. This situation suggests that the

³⁰ A/70/741-S/2016/71.

ruling party, which could feel threatened by the popularity of the Congrès national pour la liberté, could be experiencing a crisis of confidence. The history of Burundi shows that CNDD-FDD turns to violent strategies when it faces organized opposition, particularly in elections. In addition, the ruling party and State institutions are becoming increasingly difficult to tell apart.

69. There have also been excesses in the exercise of power by the Head of State. The Head of State has extensive powers under the Constitution, but he does not hesitate to make decisions that are not his prerogative, such as the appointment of the executive officers of the National Communication Council. In addition, he continues to rely on shadowy informal structures, such as the “committee of generals”.³¹ He also uses the National Security Council, which he chairs, to govern directly.³² For example, although the Council has no decision-making authority, it decided to suspend the activities of foreign NGOs in October 2018. Having the National Intelligence Service report directly to the Office of the President is another significant example of his concentration of power in his hands. The ease with which the President bypasses institutions reveals their weakness.

70. The theme of the divine origin of the President’s power is increasingly common in official speeches delivered by the President and his wife. A slide into religiosity is also apparent in some of the Head of State’s decisions, in particular his plan to reform society and help it recover its “true values”. His frequent references to the Burundian monarchy and the decision to place the royal motto “God, King, Country” back on public monuments are leading to speculation by analysts and some Burundians about a possible restoration of the monarchy for his benefit.

71. The culture of secrecy typical of CNDD-FDD makes it impossible to know the status of the process for the nomination of the party’s candidate for the presidential elections, raising the question of whether the delay is linked to possible strife in the party, as in 2015.

72. A new electoral code entered into force on 20 May 2019. Independent candidates are subject to limitations on running in parliamentary elections and must obtain better results than candidates who are members of political parties.

73. The Independent National Electoral Commission, whose seven members are associates of CNDD-FDD or its allied parties, is not independent of the executive authorities or the ruling party.

3. Misuse of history

74. The issue of ethnicity is one of considerable historical import in Burundi. Ethnicity, whether a colonial fabrication or a traditional social reality, often made use of, remains one of the determinants of the identity of most Burundians. Since independence, numerous human rights violations with an ethnic dimension have caused many Burundians to distrust and resent the other group and generated a body of differing memories. The Head of State delivers lecture after lecture at meetings in which he teaches the “true” history of Burundi. The mandate of the new Truth and Reconciliation Commission, which is not independent, is to “rewrite the history of Burundi” and investigate the crimes and violations that have been committed since 1885.

75. The current approaches raise concerns that the imposition of a biased official version of the country’s history could sharpen the grievances of the past, with troubling consequences. The lack of genuine and appropriate reconciliation and transitional justice processes, as provided for in the Arusha Peace and Reconciliation Agreement for Burundi, helps maintain these rifts, which some may seek to exploit for political ends.

³¹ A/HRC/39/CRP.1, para. 733 (document available on the Commission’s website).

³² The National Security Council is an advisory body established under article 275 of the Constitution to assist the President and the Government with policy development and monitoring in respect of security and with the formulation of defence, security and policing strategies in the event of a crisis.

4. Security questions

76. A number of armed rebel groups in neighbouring countries have stated that they might resort to force to resolve the situation in Burundi. They could be encouraged to do so by the unlikelihood of a resolution to the crisis. Some refugees may also join armed groups, especially since there are Imbonerakure in some camps, a circumstance that causes them to feel insecure. The ability of armed groups to conduct large-scale operations in Burundi remains unknown. At the same time, Burundi regularly accuses Rwanda of seeking to destabilize it and of forcibly detaining Burundian refugees.

77. In Burundi, the situation of the army, a stabilizing influence since the Arusha Agreement, has become fluid. It has long enjoyed privileged economic and social standing. The attempted coup d'état in May 2015 exposed the existence of dissent in the army, which is now partly under surveillance. There have been purges in the form of arrests and physical eliminations. Compliance with the requirement for ethnic balance set out in the Constitution seems to be a thing of the past. There is also fatigue and a degree of mistrust in the army, particularly because of the threat to lucrative peace-mission deployments

78. The National Intelligence Service, which answers directly to the Office of the President, is no longer an official part of the defence and security forces and is therefore no longer subject to parliamentary oversight or ethnic quotas. This reorganization of the security apparatus is troubling.

79. The Joint Human Security Committees, in place at all levels since 2014 and with extremely vague mandates, are controlled by local administrative authorities loyal to the ruling party and by Imbonerakure. Imbonerakure have supplanted the police in all security issues and politicized those issues. They are conducting more and more night rounds in the hills and mass sports training sessions, often with a paramilitary dimension, which worries and intimidates part of the population. Members of the security and defence forces have been targeted in incidents that have taken place since early 2019, although the persons responsible have not been identified.

C. Risk indicators

80. This brief review of the most significant developments makes it possible to identify indicators that are themselves linked to eight common risk factors identified in the Framework of Analysis for Atrocity Crimes.

81. Insecurity creates an environment that is conducive to atrocity crimes (risk factor 1). The existence of such an environment is suggested by the following indicators: many Burundians, both in the country and abroad, are living through a humanitarian emergency (risk factor 1 (c)); the transfer of power of 2015 triggered a major political crisis that has not yet been resolved (risk factor 1 (d)); there is a risk of political instability caused by probable power struggles within CNDD-FDD and by the existence of armed opposition movements (risk factor 1 (e)); political tension is being generated by an autocratic regime that engages in severe political repression of all its opponents, real or perceived (risk factor 1 (f)); there is economic instability caused by scarcity of resources (risk factor 1 (g)), a severe crisis in the national economy (risk factor 1 (h)) and the acute poverty of the population (risk factor 1 (i)).

82. Risk factor 2 is related to a history of serious human rights violations that, because they have not been prevented or punished, create a risk of further violations. The presence of this risk factor is revealed by the following indicators: past or present serious human rights violations (risk factor 2 (a)); acts of genocide, crimes against humanity and war crimes that have marked the country's recent history (risk factor 2 (b)); a policy or practice of impunity for or tolerance of serious human rights violations (risk factor 2 (c)); the refusal or reluctance of the Government of Burundi to use all possible means to put an end to serious human rights violations (risk factor 2 (d)); the continuation of support by the Burundian authorities for groups accused of involvement in violations and the failure to condemn their actions (risk factor 2 (e)); the Government's refusal to acknowledge serious human rights violations or its biased accounts thereof (risk factor 2 (f)); the absence of

genuine reconciliation or transitional justice processes and the politicization of the work of the new Truth and Reconciliation Commission (risk factor 2 (g)); widespread mistrust of State institutions, particularly the security forces and the judicial system, as a result of impunity (risk factor 2 (h)).

83. Risk factor 3, the weakness of State structures, which negatively affects the capacity of a State to prevent, halt or prosecute atrocity crimes, is also present. National institutions, particularly judicial, law enforcement and human rights institutions, lack sufficient resources and adequate representation (risk factor 3 (b)); the justice system is neither independent nor impartial (risk factor 3 (c));³³ civilian control of the security forces (by Parliament) is not effective (risk factor 3 (d)); there are high levels of corruption or poor governance (risk factor 3 (e));³⁴ the internal oversight and accountability mechanisms whereby victims can seek recourse for their claims are inadequate or ineffective, and the external mechanisms are virtually non-existent or almost inaccessible to victims (risk factor 3 (f)).

84. Risk factor 4 is the existence of reasons, aims or drivers that justify the use of violence against particular groups. From an early warning perspective, it is important to be able to identify motivations or drivers that could encourage groups to resort to widespread violence in an attempt to achieve their goals. This factor is shown to be present by: politically motivated acts that, as regularly noted by members of the Government and CNDD-FDD, are aimed at the consolidation of power (risk factor 4 (a)); economic interests linked to the preservation of power, as power is the key to control over the distribution of resources (risk factor 4 (b)); real or perceived threats to the interests or objectives of the Government, including any form of disloyalty to the CNDD-FDD cause (risk factor 4 (e)); real or perceived membership of or support for armed opposition groups (risk factor 4 (f)); the ideology of CNDD-FDD, characterized by a view of the party as the embodiment of truth and thus belief in the supremacy of this political identity (risk factor 4 (g)); the politicization of past grievances, tensions or cases of impunity (risk factor 4 (h)); social trauma caused by past incidents of violence that, not adequately addressed, have aroused feelings of loss, displacement, injustice and a possible desire for revenge (risk factor 4 (i)).

85. Risk factor 5 refers to the capacity of potential perpetrators to commit atrocity crimes. This factor must be assessed in conjunction with other factors, such as those related to intent and motivation. In Burundi, this factor is gauged by: the availability of personnel and of arms and ammunition or of financial resources, public or private, for their procurement (risk factor 5 (a)); the capacity to transport and deploy personnel and to transport and distribute arms and ammunition (risk factor 5 (b)); the capacity to encourage or recruit large numbers of supporters – Imbonerakure, for example – from populations or groups and the availability of the means to mobilize them (risk factor 5 (c)); a strong culture of obedience to authority and group conformity, a culture by which CNDD-FDD and the Imbonerakure are characterized (risk factor 5 (d)); the presence of or links with other armed forces or with non-State armed groups (risk factor 5 (e)).

86. Mitigating factors are the internal and external elements that can contribute to preventing an escalation of violence, ending it or lessening its impact. The absence of such factors (risk factor 6) in Burundi is significant, as demonstrated by: the lack of a strong, organized and representative national civil society and of a free, diverse and independent national media (risk factor 6 (b)); the lack of access to international media (risk factor 6 (c)); the limited presence of the United Nations, international NGOs or other international or regional actors in the country with access to the people (risk factor 6 (d)); the lack of exposure to, openness towards or establishment of political or economic relations with other States (risk factor 6 (f)); the limited or even non-existent cooperation with international and regional human rights mechanisms (risk factor 6 (g)); the Government's unwillingness to engage in genuine dialogue to resolve the 2015 crisis, make concessions or receive support from the international community (risk factor 6 (h)); the lack of a warning mechanism, as the National Observatory for the Prevention and Eradication of Genocide,

³³ A/HRC/39/CRP.1, paras. 462–579.

³⁴ *Ibid.*, paras. 179–215.

War Crimes and Other Crimes against Humanity does not serve as an independent mechanism of that sort (risk factor 6 (k)).

87. Risk factor 7 refers to enabling circumstances or preparatory actions, whether sudden or gradual, that provide an environment conducive to the commission of atrocity crimes or suggest that they may occur. The main indicators of this risk in Burundi are: the interference with vital State institutions, or measures that result in changes to their composition or balance of power, as is the case with the introduction of ethnic quotas (risk factor 7 (b)); the strengthening of the security apparatus or its reorganization or mobilization (risk factor 7 (c)); the expulsion or refusal to allow the presence of NGOs, international organizations, media or other relevant actors, or the imposition of severe restrictions on their services and movements (risk factor 7 (g)); the increase in the number of violations of the right to life, physical integrity, liberty or security of any person considered a political opponent since the onset of the 2015 crisis (risk factor 7 (h)); the increase in the number of serious acts of violence against women and children, or the creation of conditions that facilitate acts of sexual violence against them, including as a tool of terror (risk factor 7 (i)); the increased politicization of identity, past events or motivations for violence (risk factor 7 (m)); the increase in inflammatory rhetoric, propaganda campaigns or incitement to hatred targeting anyone considered a political opponent since the onset of the 2015 political crisis (risk factor 7 (n)).

88. Triggering factors (risk factor 8) are also present, as evidenced by the following indicators: measures taken by the international community are perceived by the Burundian authorities as threats to State sovereignty (risk factor 8 (c)); there was an abrupt or irregular transfer of power in 2015 (risk factor 8 (d)); attacks on the life, physical integrity, liberty or security of leaders, prominent individuals or members of opposition groups have been committed (risk factor 8 (e)); there is hate propaganda targeting political opponents (risk factor 8 (g)); presidential, parliamentary and local elections are scheduled for 2020 (risk factor 8 (h)); the commemoration, along ethnic lines, of past crimes or of traumatic or historical incidents could exacerbate tensions between groups (risk factor 8 (k)); acts related to the process for determining accountability for past atrocities could be perceived as unfair (risk factor 8 (l)).

89. The eight common risk factors identified in the Framework of Analysis for Atrocity Crimes are clearly present in Burundi, and there is a significant number of indicators for each of them.³⁵ Although the presence of those risk factors does not make it possible to draw conclusions about the likelihood of atrocity crimes or when and in what way any such crimes will be committed, it gives the international community an objective basis for understanding the reality of the situation in Burundi and the possible risks facing the country. The identification of several risk factors means that developments in Burundi must be monitored very closely.

V. Conclusions and recommendations

90. **In the light of its investigations, the Commission concludes that serious human rights violations – including crimes against humanity – have continued to take place since May 2018, in particular violations of the right to life, arbitrary arrest and detention, torture and other forms of ill-treatment, sexual violence, and violations of economic and social rights, all in a general climate of impunity. Violations of civil liberties are also on the rise.**

91. **The Commission remains the only independent and objective mechanism that investigates, documents and informs the international community about human rights violations and abuses in Burundi.**

³⁵ The Commission is of the view that the risks gauged by other indicators are only partially present. Those indicators have thus not been mentioned in this report, but they have been examined in document A/HRC/42/CRP.2.

92. The crisis has been ongoing for more than four years, with no real prospects for a resolution. The daily living conditions of Burundians, in the country or not, are becoming worse and worse.

93. The 2020 elections pose a major risk. To ensure that they are peaceful, fair, free, transparent and credible, the Commission makes the following recommendations to the Burundian authorities:

(a) Give effect to all the Commission's previous recommendations, which are more well-founded and relevant than ever, including those concerning priority measures to end human rights violations and international crimes, combat impunity and improve the human rights situation in the country and the medium- and longer-term recommendations on reforms to the legal framework and the judicial system;³⁶

(b) Conduct prompt, independent and effective investigations into the cases of violations documented by the Commission since 2015 with a view to creating a climate of trust and political tolerance conducive to inclusive participation in the electoral process;

(c) Re-engage constructively and cooperatively with all international and regional human rights mechanisms and the Office of the United Nations High Commissioner for Human Rights, enabling them to carry out their human rights monitoring mandates fully and freely;

(d) Ensure that national human rights mechanisms are institutionally and financially independent and build the capacity of their members;

(e) Take the measures necessary to ensure that foreign and domestic NGOs can be freely established and organized and that they can operate freely, including by amending the laws regulating them;

(f) Take the measures necessary to ensure freedom of information in the country and the right of local and international media to operate in accordance with international standards, including by amending the laws on the press and the National Communication Council;

(g) Guarantee the effective enjoyment of civil liberties, including the freedoms of opinion, expression, access to information, association, assembly and religion, not least by ending all forced recruitment to the ruling party and its youth league;

(h) Follow the Guidelines on Access to Information and Elections in Africa and the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights;

(i) Ensure that all political parties can engage in legitimate activities in complete freedom and security, in an environment of political tolerance, including by punishing any incitement to hatred and calls for violence against other political parties and their members;

(j) Ensure, in practice, the right to participate in the conduct of public affairs without discrimination, in particular by amending the Electoral Code;

(k) Ensure, in practice, the institutional independence of the Independent National Electoral Commission, including by amending the decree governing it to make certain that its composition is inclusive and balanced, and strengthen the capacity of its members at the municipal and provincial levels;

(l) Provide access to independent international and regional election observers and ensure that they and national observers from civil society or political parties enjoy freedom of movement and action before, during and after the elections;

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

(m) Follow the Guidelines for African Union Electoral Observation and Monitoring Missions;

(n) Allow political opponents to return from exile to participate in the 2020 elections and guarantee their freedom and security, including by revoking warrants for the arrest of those who have not used or advocated violence;

(o) Immediately release all political prisoners arrested and detained in connection with the exercise of their democratic rights;

(p) Make the training provided to law enforcement agencies more robust to avoid ill-treatment and ensure the peaceful control of crowds;

(q) Follow the Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa and the related training manual, both developed by the African Commission on Human and Peoples' Rights;

(r) End the impunity of the Imbonerakure by exercising control over them so as to ensure that the functions of the security forces or the judiciary are not usurped and put an end to their repressive activities and shows of force in the hills;

(s) End all illegal contributions.

94. The Commission recommends that, whether they participate in the elections or not, all political parties in Burundi refrain from violence and incitement to hatred or violence, particularly against the backdrop of the 2020 elections.

95. The Commission recommends that opposition rebel groups refrain from violence and incitement to hatred or violence.

96. For the international community, including the African Union and the United Nations system, the Commission has the following recommendations:

(a) Renew the mandate of the Commission for an additional year;

(b) Continue to monitor developments in the human rights situation in Burundi in the context of the 2020 elections and, in accordance with the principles of prevention and early warning, carry out regular risk assessments to enable the development and use of appropriate response strategies in the event of deterioration;

(c) Make every effort to ensure that an inclusive inter-Burundi dialogue is held to resolve the political crisis;

(d) Support capacity-building for international, regional and national election observers;

(e) Send regional or international observers only if their freedom of action is guaranteed in practice;

(f) Ensure that all humanitarian aid reaches the population;

(g) Respond to the appeal made by the Office of the United Nations High Commissioner for Refugees for funds for Burundi refugees;

(h) Ensure that returnees are monitored in a sustained and more regular and transparent manner.

97. In particular, the Commission recommends that the United Nations system, in accordance with the initiative Human Rights Up Front, take stronger measures to promote human rights, under the mandates of the relevant agencies and programmes, and to collect and publish objective and reliable data on the situation in Burundi.

98. In view of the risk factors that have been identified, the Commission recommends that the States members of the Security Council keep Burundi on the Council's programme of work and that the Council invite the Commission to report to it on its conclusions.

Annexes

Annexe I

Carte du Burundi



Map No. 3753 Rev. 9 UNITED NATIONS
February 2016

Department of Field Support
Geospatial Information Section (formerly Cartographic Section)

Annexe II

Correspondances avec le Gouvernement du Burundi

1. Lettre du Président de la Commission d'enquête, adressée à Son Excellence Monsieur Rénovat Tabu, Ambassadeur extraordinaire et plénipotentiaire du Burundi à Genève, en date du 26 février 2019



United Nations Nations Unies

COMMISSION D'ENQUÊTE SUR LE BURUNDI

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Le 26 février 2019

REFERENCE: 2019/COI/BRD/Lettre/03

Excellence,

J'ai l'honneur de vous informer que, conformément à la résolution 39/14 du Conseil des droits de l'homme des Nations Unies, une présentation par la Commission d'Enquête sur le Burundi au Conseil des Droits de l'Homme est prévue pour le 12 mars prochain.

La Commission d'enquête Indépendante, dans le respect du principe de dialogue de son mandat, sollicite dans ce contexte, une rencontre avec vous, pour prendre note des informations pertinentes sur la situation des droits de l'homme au Burundi.

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

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

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

2. Note verbale envoyée à la Mission permanente du Burundi le 11 mars 2019

NATIONS UNIES
DROITS DE L'HOMME
HAUT-COMMISSARIAT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
COMMISSION OF INQUIRY ON BURUNDI • COMMISSION D'ENQUETE SUR LE BURUNDI
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REFERENCE: 2019/COI/BRD/NV/09

La Commission d'enquête sur le Burundi présente ses compliments à la Mission permanente de la République du Burundi auprès de l'Office des Nations Unies et des autres organisations internationales à Genève et la prie de trouver ci-joint, la présentation orale qu'elle lira le 12 mars 2019 devant le Conseil des droits de l'homme.

La Commission d'enquête sur le Burundi saisit cette occasion pour renouveler à la Mission permanente de la République du Burundi auprès de l'Office des Nations Unies et des autres organisations internationales à Genève les assurances de sa haute considération.



Genève, le 11 mars 2019

Mission permanente de la République du Burundi
auprès de l'Office des Nations Unies
et des autres organisations internationales à Genève
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Fax: +41 22 732 77 34
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3. Lettre du Président de la Commission d'enquête adressée à Son Excellence Monsieur Rénovat Tabu, Ambassadeur extraordinaire et plénipotentiaire du Burundi à Genève, en date du 2 avril 2019



United Nations Nations Unies

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Le 2 avril 2019

REFERENCE: 2019/COI/BRD/Lettre/10

Excellence,

J'ai l'honneur de vous informer que, conformément au mandat qui lui a été donné par le Conseil des droits de l'homme des Nations Unies par la résolution 39/14, la Commission d'enquête sur la situation des droits de l'homme au Burundi souhaite toujours établir un dialogue direct avec les autorités burundaises au sujet de ses enquêtes, la lutte contre l'impunité et l'amélioration immédiate de la situation des droits de l'homme dans le pays.

En conséquence, j'attire votre attention sur certaines questions qui nous paraissent importantes sur les violations et atteintes aux droits de l'homme commises au Burundi depuis avril 2015 et sur la situation actuelle des droits de l'homme dans le pays (voir annexe 1). Nous croyons que le gouvernement burundais a tout intérêt à y répondre afin de s'assurer que notre Commission puisse recueillir de manière directe et objective sa position ainsi que les informations à sa disposition concernant les atteintes aux droits de l'homme, notamment contre des agents de l'État. Un tel partage d'information nous permettrait d'inclure d'avantage d'informations à ce sujet dans notre rapport final.

Comme mentionné lors de notre présentation orale au Conseil des droits de l'homme le 12 mars 2019, nous incluons également une liste d'indicateurs des droits de l'homme, qui nous semblent les plus pertinents concernant la situation des droits de l'homme globale dans le pays. (voir annexe 2). Ces indicateurs, à la fois quantitatifs et qualitatifs, sont des outils opérationnels importants qui permettent aux autorités d'un pays d'évaluer de manière objective leurs politiques visant à protéger et réaliser progressivement les droits de l'homme et donner une première mesure du respect de ceux-ci au niveau du pays.

Son Excellence
Monsieur Rénovat Tabu
Ambassadeur extraordinaire et plénipotentiaire
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COMMISSION D'ENQUÊTE SUR LE BURUNDI

PAGE 2

Comme dans mes correspondances précédentes, je vous réitère la disponibilité de la Commission pour un dialogue permanent et ouvert avec les autorités burundaises. À ce propos, je souhaiterais avoir l'honneur de vous rencontrer, avec les autres membres de la Commission, lors de notre prochain séjour à Genève au mois de juillet 2019.

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

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

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



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Annexe 1 - Questions sur la situation des droits de l'homme au Burundi

Pouvez-vous nous transmettre toutes les informations et données à votre disposition concernant :

- les incidents sécuritaires et les exactions commises sur le territoire du Burundi et des pays voisins dans lesquels l'implication des groupes armés d'opposition burundais est présumée ;
- les enquêtes et poursuites judiciaires dans les cas d'atteintes aux droits de l'homme et celles contre des membres présumés de ces groupes armés burundais d'opposition ;
- le nombre et l'état des enquêtes ouvertes dans les cas de violation des droits de l'homme, notamment ceux identifiés par notre commission ainsi que ceux des poursuites judiciaires contre les principaux auteurs présumés de telles violations ;
- les mesures prises pour enquêter sur les allégations de disparitions forcées, y compris afin de rechercher, localiser et libérer les personnes disparues et, en cas de décès, d'exhumer, identifier les personnes disparues et restituer leurs restes ;
- les mesures prises pour garantir que les collectes des contributions pour les élections de 2020 soient faites sur une base légale et réellement volontaire et sans recourir à des actes d'intimidation ou de coercition.
- les organisations non-gouvernementales étrangères qui n'ont pas été ré-accréditées à ce jour en vertu de la loi no. 1/01 du 23 janvier 2017, ainsi que les raisons pour lesquelles l'accréditation a été refusée ;
- les mesures prises pour garantir l'indépendance objective des institutions nationales des droits de l'homme, notamment leur indépendance structurelle et financière, ainsi que les moyens et les méthodes de travail qui leur permettent de travailler de manière indépendante ;
- les mesures prises pour garantir les libertés fondamentales, notamment la liberté d'expression, d'information, d'association et de réunion pacifique, ainsi que l'existence d'un pluralisme politique, qui sont essentiels à l'organisation d'élections qui soient réellement démocratiques, libres et crédibles ;
- Les mesures prises afin de garantir la protection des burundais qui ont décidé volontairement de rentrer au Burundi après avoir pris refuge à l'étranger, notamment contre les possibles exactions commises à leur rencontre par les autorités locales et les Imbonerakure, et les mesures pour faciliter leur réintégration dans leurs communautés d'origine.



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Annexe 2 - Liste non exhaustive d'indicateurs des droits de l'homme

Ces indicateurs sont extraits de la publication « Indicateurs des droits de l'homme, Guide pour mesurer et mettre en œuvre, publiée par le Haut-Commissariat aux droits de l'homme, HR/PUB/12/5, tels que mis à jour par le HCDC et qui seront publiés prochainement. La liste des indicateurs n'est pas exhaustive, mais limitée à ceux considérés comme particulièrement pertinents pour une évaluation objective par les autorités burundaises de leurs politiques en matière de promotion et le respect des droits de l'homme au Burundi depuis 2015 (« période considérée » à laquelle il est fait référence dans les indicateurs). Cependant, de tels indicateurs ne doivent pas être vus « comme se substituant aux évaluations judiciaires, qualitatives et plus approfondies qui continueront à constituer la clé de voûte du contrôle du respect des droits de l'homme ».

1) Indicateurs concernant le droit à la liberté et à la sûreté de la personne**a) Indicateurs structurels**

- Existence d'institutions nationales des droits de l'homme qui soient conformes aux principes de Paris.

b) Indicateurs de processus :

- Proportion des plaintes concernant le droit à la liberté et à la sûreté de la personne reçues, instruites et réglées par l'institution nationale des droits de l'homme, le médiateur ou d'autres mécanismes et proportion de ces plaintes auxquelles le gouvernement a effectivement répondu.
- Proportion de personnes arrêtées/détenues bénéficiant d'un accès à un avocat ou d'une aide juridictionnelle.
- Nombre de cas où la détention avant jugement ou en attente de jugement a dépassé la durée fixée par la loi pendant la période considérée.
- Proportion des responsables de l'application des lois ayant fait l'objet d'une enquête officielle pour un abus ou un crime physique ou non physique, y compris une arrestation ou une détention arbitraire.
- Proportion des enquêtes officielles menées à l'encontre de responsables de l'application des lois qui ont débouché sur des mesures disciplinaires ou des poursuites judiciaires pendant la période considérée.
- Proportion de policiers et des autres responsables de l'application des lois en uniforme portant des badges d'identité visibles (indiquant par exemple leur nom ou matricule).
- Nombre de personnes arrêtées, jugées, condamnées ou purgeant une peine pour crime violent pour 100.000 personnes pendant la période considérée.
- Proportion des victimes de violence au cours des 12 derniers mois qui ont rapporté leur victimisation aux autorités compétentes ou à un autre mécanisme de résolution des conflits reconnu officiellement.

c) Indicateurs de résultats :

- Nombre de détentions pour 100.000 personnes auxquelles il a été procédé sur décision de justice ou par suite d'une mesure prise par les autorités exécutives.
- Cas signalés de détention arbitraire, y compris après jugement, pendant la période considérée.
- Proportion des détenus à titre provisoire au sein de la population carcérale.



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- Proportion des arrestations et de détentions déclarées illégales par les tribunaux nationaux.
- Proportion des victimes remises en liberté et ayant bénéficié d'une indemnisation à la suite d'une détention déclarée illégale par l'autorité judiciaire.
- Proportion de la population qui ne se sent pas en sécurité (par exemple, en marchant seule après la tombée de la nuit ou seule chez elle la nuit).
- Incidence et prédominance des abus ou crimes physiques et non physiques, y compris commis par des responsables de l'application des lois dans l'exercice de leurs fonctions, pour 100.000 personnes, pendant la période considérée.
- Proportion de la population qui a subi de la violence physique, psychologique ou sexuelle au cours des 12 derniers mois.
- Nombre de cas vérifiés de meurtres, enlèvements, disparitions forcées, détentions arbitraires et torture de journalistes, personnel associé aux médias, syndicalistes et défenseurs des droits de l'homme au cours des 12 derniers mois.

2) Indicateurs concernant le droit à ne pas être soumis à la torture ou à des peines et des traitements inhumains, cruels ou dégradants

a) Indicateurs structurels

- Date d'entrée en vigueur et champ d'application de la procédure officielle régissant l'inspection des cellules de police, centres de détention et prisons par des institutions d'inspections indépendantes.
- Existence d'institutions nationales des droits de l'homme qui soient conformes aux principes de Paris.

b) Indicateurs de processus

- Proportion des plaintes concernant le droit à ne pas être torturé reçues, instruites et réglées par l'institution nationale des droits de l'homme, le médiateur ou d'autres mécanismes et proportion de ces plaintes auxquelles le gouvernement a effectivement répondu.
- Proportion des personnes détenues ou emprisonnées dans des établissements inspectés par un organisme indépendant pendant la période considérée.
- Proportion du personnel carcéral et des responsables de l'application des lois ayant officiellement fait l'objet d'une enquête pour abus ou crime physique ou non physique, commis sur des personnes détenues ou emprisonnées (notamment pour des actes de torture ou une utilisation disproportionnée de la force) pendant la période considérée.
- Proportion des enquêtes officielles menées auprès de membres du personnel carcéral et des responsables de l'application des lois qui ont débouché sur une mesure disciplinaire ou des poursuites.
- Taux effectif d'occupation des prisons par rapport à leur capacité, établi conformément aux instruments des Nations Unies concernant les conditions de détention.
- Proportion des personnes détenues et emprisonnées dans des locaux satisfaisant aux critères prévus par la loi (notamment en ce qui concerne l'eau potable, le volume d'air, la superficie minimale, le chauffage).
- Nombre de surveillants et membres du personnel carcéral par détenu.
- Proportion des centres de détention et de prisons dont les installations permettent de séparer les personnes détenues ou emprisonnées (selon le sexe, l'âge, l'accusation, la condamnation, l'affaire pénale, la santé mentale, etc).
- *Voir aussi les indicateurs concernant les violences contre les femmes.*



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c) Indicateurs de résultat

- Incidence et prédominance des décès, lésions et des maladies transmissibles et non transmissibles (VIH/sida, paludisme et tuberculose par exemple) survenus pendant la détention.
- Proportion des personnes détenues, mises au secret ou placées en régime cellulaire prolongé.
- Proportion des personnes détenues ou emprisonnées dont l'indice de masse corporelle (IMC) est inférieur à 18,5.
- Proportion de la population qui a subi de la violence physique, psychologique ou sexuelle au cours des 12 derniers mois.
- Cas signalés de torture, de peines ou traitements cruels, inhumains ou dégradants perpétrés par un agent de l'État ou par toute personne agissant sous son autorité ou avec la complicité, la tolérance ou le consentement de cet agent, sans aucun procès en bonne et due forme pendant la période considérée.
- Proportion des victimes de torture, de peines ou traitements cruels, inhumains ou dégradants qui ont bénéficié d'une indemnisation et d'une réhabilitation pendant la période considérée.

3) Indicateurs concernant les violences contre les femmes**a) Indicateurs structurels**

- Nombre d'ONG enregistrées ou actives et d'emplois à plein temps équivalents (pour 100.000 personnes) s'occupant de la protection des femmes contre les violences.
- Date d'entrée en vigueur et champ d'application de la législation protégeant l'égalité entre les genres et la possibilité pour les femmes de mettre fin à des relations marquées par la violence (par exemple droit égal à l'héritage, possession d'actifs, divorce).
- Date d'entrée en vigueur et champ d'application de la législation définissant le viol en référant à l'absence de consentement et non à l'usage de la force.
- Période et champ d'application de la politique contre la violence communautaire et les abus commis par les forces de l'ordre.

b) Indicateurs de processus

- Proportion des plaintes concernant toutes les formes de violence à l'égard des femmes reçues, instruites et réglées par l'institution nationale des droits l'homme, le médiateur ou d'autres mécanismes et proportion de ces plaintes auxquelles le gouvernement a effectivement répondu.
- Proportion des dépenses du secteur social public consacrées à des campagnes nationales de sensibilisation à toutes les formes de violences à l'égard des femmes et à des programmes de prévention nationaux intégrés dans les programmes scolaires.
- Nombre d'auteurs de violence contre les femmes arrêtés, jugés condamnés et purgeant leurs peines (par type de peine).
- Proportion de femmes qui ont signalé des formes de violence domestique à des responsables de l'application des lois ou qui ont engagé une action en justice.
- Proportion des hommes et des femmes qui pensent que les abus ou les violences contre les femmes sont acceptables ou tolérables.
- Proportion de crimes à caractère sexuel signalés à la police (enquête auprès de la population).



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- Proportion des responsables de l'application des lois ayant fait l'objet d'une enquête officielle pour des cas de violence contre les femmes qui ont débouché sur des sanctions disciplinaires ou des poursuites.
- Proportion de professionnels de la santé formés à la prise en charge et au soutien des victimes de violences sexuelles ou d'autres violences.
- Proportion des victimes de violences sexuelles ou d'autres violences qui ont eu accès aux services médicaux, psychologiques et juridiques appropriés.
- Proportion des cas signalés de violence sexuelles ou d'autres violences au titre desquels les victimes (ou des tiers concernés) ont engagé une action en justice.
- Proportion des dépenses consacrées à l'aide de secours et d'urgence destinée au bien-être des femmes et des enfants.

c) Indicateurs de résultat

- Proportion des femmes ou des hommes qui déclarent ne pas se sentir en sécurité dans des lieux publics ou qui limitent leurs activités pour des raisons de sécurité ou en raison d'un harcèlement.
- Proportion des femmes qui ont été victimes de violences physiques, d'un viol ou d'une agression sexuelle au cours de l'année.
- Cas signalés de décès, de viol (ou tentative de viol) et d'autres incidents de violence contre les femmes qui se sont produits dans des situations d'urgence, de conflit ou d'après conflit.
- Taux de meurtre de femmes.
- Taux de suicide par sexe.

4) Indicateurs concernant le droit à la vie

a) Indicateurs structurels

- Existence d'institutions nationales des droits de l'homme qui soient conformes aux principes de Paris.
- Date d'entrée en vigueur et champ d'application d'un système de coroners (médecins légistes) et d'un système de certification de la cause du décès.
- Date d'entrée en vigueur et champ d'application de la procédure officielle régissant l'inspection des cellules de prison, centres de détention et prisons par de organismes d'inspection indépendants.

b) Indicateurs de processus

- Proportion des responsables de l'application des lois et du personnel pénitentiaire formés aux règles de conduite relatives à l'utilisation proportionnée de la force, l'arrestation, la détention, l'enquête et le traitement des personnes en détention.
- Proportion des responsables de l'application des lois qui ont fait l'objet d'une enquête officielle pour des abus ou crime physique ou non physique ayant entraîné la mort ou menacé la vie pendant la période considérée.
- Proportion des enquêtes officielles menées auprès de responsables de l'application des lois qui ont débouché sur des mesures disciplinaires ou des poursuites pendant la période considérée.
- Ratio des personnes présentées officiellement aux autorités responsables de l'application des lois (c'est-à-dire soupçonnées, arrêtés ou ayant reçu un avertissement) en raison de privations arbitraires de la vie ou d'homicides présumés (intentionnels et non intentionnels) par rapport au nombre de cas signalés.



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- Proportion des personnes présentées officiellement aux autorités responsables de l'application des lois en raison de privations arbitraires de la vie ou d'homicides présumés (intentionnels et non intentionnels) qui ont été condamnées.
- Proportion des auteurs identifiés de cas signalés de privation arbitraire de la vie, poursuivis, arrêtés, jugés, condamné ou qui accomplissent leur peine pendant la période considérée.
- Proportion des communications transmises par le Groupe de travail des Nations Unies sur les disparitions forcées ou involontaires auxquelles le gouvernement a effectivement répondu pendant la période considérée.
- Proportion des cas où la détention avant jugement a dépassé la durée fixée par la loi.
- Ratio des personnes présentées officiellement aux autorités responsables de l'application des lois en raison de disparitions ou d'enlèvements présumés par rapport au nombre de cas signalés.
- Proportion des personnes présentées officiellement aux autorités responsables de l'application des lois en raison de disparitions ou d'enlèvements présumés qui ont été condamnées.

c) Indicateurs de résultat

- Taux d'homicides (intentionnels et non intentionnels) pour 100.000 personnes.
- Nombre de décès en détention pour 1.000 personnes détenues ou emprisonnées par cause de décès (par exemple, maladie, suicide, homicide).
- Cas signalés de privation arbitraire de la vie et de menaces de mort.
- Cas signalés de disparition (par exemple, tels que signalés au Groupe de travail sur les disparitions forcées ou involontaires).
- Proportion des cas de disparitions élucidés, selon la situation de la personne à la date d'élucidation (en liberté, en détention ou décédée).

5) Indicateurs concernant le droit à prendre part à la direction des affaires publiques

a) Indicateurs structurels

- Existence d'institutions nationales des droits de l'homme qui soient conformes aux principes de Paris.
- Nombre d'ONG enregistrées ou actives et d'emplois à plein temps équivalents (pour 100.000 personnes) s'occupant de la promotion et de la protection du droit à prendre part à la direction des affaires publiques.

b) Indicateurs de processus

- Proportion de la population en âge de voter inscrite sur les listes électorales.
- Irrégularités signalées (intimidation, corruption ou ingérence arbitraire) lors des inscriptions sur les listes électorales, de leur mise à jour et de leur révision.
- Nombre de plaintes par poste élu qui ont été enregistrées et traitées dans le cadre du processus électoral par les autorités nationales et infranationales compétentes.
- Part des dépenses publiques consacrées aux élections nationales et infranationales qui a été affectée à des programmes d'éducation des électeurs et à des campagnes d'inscriptions sur les listes électorales.
- Nombre de partis politiques enregistrés ou reconnus au niveau national.
- Proportion de la population en âge de voter qui n'est membre d'aucun parti politique.



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c) **Indicateurs de résultat**

- Taux moyen de participation aux élections nationales et locales, par sexe et par groupe cible.
- Proportion des votes blancs et nuls lors des élections nationales et infranationales.
- Cas signalés de refus d'accès à un service ou à un poste public pour des raisons de discrimination.
- Proportion de personnes qui ont eu au moins un contact avec un agent public et qui a payé un pot-de-vin à un agent public ou à qui un agent public a demandé de payer un pot-de-vin au cours des 12 mois précédents.
- Proportion de la population qui est satisfaite de son expérience la plus récente avec les services publics.

6) **Indicateurs concernant le droit à la non-discrimination et à l'égalité**a) **Indicateurs structurels**

- Nombre d'ONG enregistrées ou actives et d'emplois à plein temps équivalents (pour 100.000 personnes) s'occupant de la promotion et de la protection du droit à la non-discrimination.

b) **Indicateurs de processus**

- Proportion des établissements d'enseignement proposant à tous les niveaux une éducation aux droits de l'homme et prônant la compréhension entre les groupes de population (par exemple, les groupes ethniques).

c) **Indicateurs de résultat**

- Cas signalés de meurtre, détention arbitraire, disparition et torture subis par des groupes de population risquant généralement d'être victimes d'un traitement discriminatoire.
- Proportion des postes importants (par exemple de direction) occupés dans les secteurs publics et privés par les groupes cibles.
- Nombre signalé de victimes de discrimination directe et indirecte et de crimes motivés par la haine et proportion des victimes (ou de parents) qui ont bénéficié d'une indemnisation et d'une réhabilitation pendant la période considérée.
- Proportion de la population qui a rapporté s'être sentie personnellement discriminée ou harcelée au cours des 12 derniers mois sur la base d'un des motifs de discrimination interdit par le droit international des droits de l'homme.

7) **Indicateurs concernant le droit à la liberté d'opinion et d'expression**a) **Indicateurs structurels**

- Date d'entrée en vigueur et champ d'application des textes législatifs internes interdisant les appels à la haine nationale, raciale, religieuse ou sexiste constituant une incitation à la discrimination, à l'hostilité et à la violence.
- Date de création d'un mécanisme de contrôle indépendant (par exemple un commissaire à l'information).
- Nombre d'ONG enregistrées ou actives et d'emplois à plein temps équivalents (pour 100.000 personnes) participant à la promotion et de la protection du droit à la liberté d'expression.

b) **Indicateurs de processus**



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- Proportion des plaintes concernant le droit à la liberté d'expression reçues, instruites et réglées par l'institution nationale des droits de l'homme, le médiateur et d'autres mécanismes et proportion des plaintes auxquelles le gouvernement a effectivement répondu.
- Nombre de journaux, magazines, stations de radio, émission de télévision, sites internet par propriétaire (public ou privé) et chiffres d'audience.
- Nombre de journaux, articles, sites internet et autres émission de médias interdits ou censurés par les autorités réglementaires.
- Proportion de plaintes déposées par des journalistes ou tout autre professionnel des médias instruites, réglées et approuvées par les tribunaux et d'autres mécanismes compétents.
- Nombre des médias de groupes ethniques, religieux ou de minorités linguistiques reconnus par l'Etat ou bénéficiant d'une aide publique.
- Proportion des demandes d'autorisation de manifester acceptées par les autorités administratives.
- Proportion des poursuites judiciaires ou quasi judiciaires, engagées en raison d'appels à la haine nationale, raciale, religieuse ou sexiste, ayant entraîné l'ouverture d'une enquête et débouché sur une condamnation.

c) Indicateurs de résultat

- Nombre de journalistes ou d'autres professionnels des médias ayant signalé des sanctions ou des pressions du pouvoir politique ou de leurs entreprises en raison de la publication d'informations.
- Cas signalés de non divulgation de documents, archives et données administratives ou de données d'entreprises sur un sujet d'intérêt général (par exemple, dossiers judiciaires, exportations d'armes, données environnementales, demandeurs d'asile).
- Cas signalés d'assassinat, de disparition, de détention et de torture de journalistes, de défenseurs des droits de l'homme ou de toute autre personne qui exerçait son droit à la liberté d'expression, perpétrés par un agent de l'État ou par toute autre personne agissant sous son autorité ou avec la complicité, la tolérance ou le consentement de cet agent, sans procès en bonne et due forme.

8) Indicateurs concernant le droit à la liberté d'association et de réunion pacifique

a) Indicateurs structurels

- Date d'établissement et champ d'application des mécanismes nationaux de contrôle indépendants afin de protéger et promouvoir le droit à la liberté d'association et de réunion pacifique.
- Nombre d'individus, d'associations - enregistrées ou non - et d'entités légales impliqués dans la protection et promotion du droit à la liberté d'association et de réunion pacifique.

b) Indicateurs de processus

- Nombre de manifestations et réunions tenues au cours de la période considérée, et proportion de celles auxquelles ont assisté des observateurs extérieurs tels que des défenseurs des droits de l'homme ou des journalistes, et proportion de celles pour lesquelles une autorisation préalable était requise.
- Proportion des officiers de police entraînés au maintien de l'ordre public selon les standards des droits de l'homme en la matière.



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- Nombre d'agents de l'État impliqués dans le maintien de l'ordre lors de manifestations qui ont fait l'objet d'une enquête officielle pour des violations de droits de l'homme, des crimes ou des abus contre les manifestants, et proportion de ceux qui ont fait l'objet de sanctions, de mesures disciplinaires, de poursuites pénales ou ont été condamnés.
- Proportion des actions judiciaires contre des associations pour des cas présumés de diffamation ou calomnie, qui ont été instruites et ont résulté en des amendes ou d'autres sanctions.

c) Indicateurs de résultat

- Nombre de manifestations ou de réunions interdites ou restreintes au cours de la période considérée et les raisons de ces décisions.
- Nombre d'arrestations de manifestants, par charge retenue.
- Proportion de la population affiliée à au moins une association.
- Cas rapportés de censure ou d'interférence de l'État dans l'accès aux informations en ligne.
- Proportion des associations qui rapportent leur satisfaction quant à leur capacité à opérer, par secteur.
- Nombre d'associations - enregistrées ou non - et d'emplois à plein temps équivalents (pour 100.000 personnes).
- Nombre /proportion (par secteur) d'associations fermées, dissoutes ou suspendues.
- Cas rapportés d'interférence par l'État dans les objectifs, règles, adhésion, communications, financement ou opérations des associations, par secteur.

9) Indicateurs concernant le droit à un procès équitable

a) Indicateurs structurels

- Nombre d'ONG enregistrées ou actives et d'emplois à plein temps équivalents (pour 100.000 personnes) s'occupant de la promotion et de la protection du droit à un procès équitable.
- Période et champ d'application de la politique nationale relative aux services judiciaires, notamment au renforcement des moyens des tribunaux pour lutter contre l'extorsion, les pots de vin ou la corruption.
- Période et champ d'application de la politique nationale relative à la mise à disposition d'une aide juridictionnelle en faveur des groupes spécifiques de la population.
- Age légal de la responsabilité pénale.

b) Indicateurs de processus

- Proportion des crimes (par exemple, viol, agression physique, violence domestique) signalés à la police (enquête de victimisation).
- Proportion des victimes de crimes dont les cas sont transmis à la justice par la police qui confirment l'accusation ou qui comparaissent devant le tribunal ou les procureurs.
- Part des dépenses publiques consacrée aux tribunaux et au ministère public.
- Salaire moyen des personnes exerçant des fonctions judiciaires exprimé en pourcentage des salaires minimaux réglementés.
- Cas signalés d'assassinat, de voies de fait, de menaces ou de licenciement abusif à l'encontre des personnes occupant de fonctions judiciaires.
- Proportion des accusés qui ont eu accès aux services appropriés, à un avocat ou à une aide juridictionnelle, pour assurer leur défense.
- Proportion des affaires en cours et durée moyenne des procès au pénal.

4. Note verbale envoyée à la Mission permanente du Burundi le 18 Juin 2019

NATIONS UNIES
DROITS DE L'HOMME
HAUT-COMMISSARIAT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
COMMISSION OF INQUIRY ON BURUNDI • COMMISSION D'ENQUETE SUR LE BURUNDI
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REFERENCE: 2019/COI/BRD/NV/28

La Commission d'enquête sur le Burundi présente ses compliments à la Mission permanente de la République du Burundi auprès de l'Office des Nations Unies et des autres organisations internationales à Genève et souhaite l'informer que ses trois Commissaires : M. Doudou Diène (Président), Mme Françoise Hampson et Mme. Lucy Asuagbor (membres) seront à Genève pour leur présentation orale à la quarante et unième session du Conseil des droits de l'homme qui aura lieu le 2 Juillet 2019.

La Commission saisit cette opportunité pour solliciter une rencontre avec son Excellence Monsieur Rénovat Tabu, Représentant permanent du Burundi auprès de l'Office des Nations Unies à Genève pour discuter des questions relatives aux travaux de la Commission. La Commission propose une rencontre le lundi 1 juillet 2019 à 10:00. Toute communication à cet égard, notamment pour convenir d'un lieu de rencontre qui soit mutuellement acceptable peut être adressée à notre secrétariat : Mme Françoise Kenfack, assistante administrative, courriel: fkenfack@ohchr.org.

La Commission saisit également cette occasion pour renouveler à la Mission permanente de la République du Burundi auprès de l'Office des Nations Unies et des autres organisations internationales à Genève les assurances de sa haute considération.



Genève, le 18 Juin 2019

Mission permanente de la République du Burundi
auprès de l'Office des Nations Unies
et des autres organisations internationales à Genève
Rue de Lausanne 44
1201 Genève
Email : mission.burundi217@gmail.com

5. Note verbale envoyée à la Mission permanente du Burundi le 1^{er} juillet 2019

NATIONS UNIES
DROITS DE L'HOMME
HAUT-COMMISSARIAT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: 2019/COI/BRD/NV/31

La Commission d'enquête sur le Burundi présente ses compliments à la Mission permanente de la République du Burundi auprès de l'Office des Nations Unies et des autres organisations internationales à Genève et la prie de trouver ci-joint, la présentation orale qu'elle lira le 2 Juillet 2019 devant le Conseil des droits de l'homme.

La Commission d'enquête sur le Burundi saisit cette occasion pour renouveler à la Mission permanente de la République du Burundi auprès de l'Office des Nations Unies et des autres organisations internationales à Genève les assurances de sa haute considération.



Genève, le 1^{er} juillet 2019

Mission permanente de la République du Burundi
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et des autres organisations internationales à Genève
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Annexe III

Recommandations antérieures faites par la Commission

1. Recommandations faites en 2018

Version française

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

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

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

- a) De réviser la loi organique du 8 mars 2018 portant révision de la loi no 01/03 du 24 janvier 2013 portant missions, composition, organisation et fonctionnement du Conseil national de la communication afin de garantir l'indépendance de ce dernier ;
- b) De ratifier la Convention internationale pour la protection de toutes les personnes contre les disparitions forcées ;
- c) De réviser les dispositions du Code de procédure pénale pour les mettre en conformité avec les normes internationales, en particulier les dispositions relatives aux

délais de garde à vue et de contrôle de la détention, aux perquisitions de nuit et sans mandat, à la procédure de « flagrance », à l'infraction d'« atteinte à la sûreté intérieure de l'État », et à celles accordant une impunité de jure aux magistrats et aux officiers de police judiciaire ;

d) De mettre fin aux détentions arbitraires et d'améliorer les conditions de détention :

- En appliquant les Lignes directrices sur les conditions d'arrestation, de garde à vue et de détention provisoire en Afrique de la Commission africaine des droits de l'homme et des peuples;
- En garantissant le contrôle de la légalité des détentions et leur conformité avec les droits de l'homme.

(e) Faute d'un système judiciaire indépendant et performant, de coopérer pleinement avec la Cour pénale internationale dans l'enquête qu'elle a ouverte le 25 octobre 2017;

(f) D'engager une réforme en profondeur du système judiciaire afin de garantir son indépendance, son impartialité et son effectivité, notamment:

- i) En appliquant les Directives et les Principes sur le droit à un procès équitable et à l'assistance judiciaire en Afrique de la Commission africaine des droits de l'homme et des peuples;
- ii) En publiant les conclusions des états généraux de la justice de 2013 et en réunissant les acteurs du secteur et les partenaires internationaux pour discuter des mesures de suivi;
- iii) En augmentant le budget du secteur de la justice et en garantissant son autonomie de gestion;
- iv) En revalorisant la rémunération des magistrats des juridictions ordinaires ainsi que les moyens et l'équipement à leur disposition;
- v) En informatisant les greffes;
- vi) En revoyant la composition du Conseil supérieur de la magistrature afin que ses membres soient en majorité désignés par leurs pairs;
- vii) En revoyant les procédures de nomination, d'affectation, de notation et d'avancement des magistrats afin qu'elles ne dépendent pas du pouvoir exécutif;
- viii) En veillant au respect strict du principe d'inamovibilité des magistrats du siège;
- ix) En protégeant et en garantissant l'indépendance du système judiciaire en interdisant toute ingérence dans le fonctionnement de la justice par des autorités gouvernementales, des membres du parti au pouvoir ou par des membres des corps de défense et de sécurité, et en prenant des sanctions contre ceux qui influencent, ou cherchent à influencer, le fonctionnement de la justice;
- x) En développant des programmes d'aide juridictionnelle pour les plus vulnérables;
- xi) En renforçant les mécanismes de protection de victimes et de témoins, ainsi que leur efficacité, pour restaurer la confiance de la population et pour encourager les témoins à s'exprimer sans crainte pour leur sécurité.

(g) De mettre en place, en consultation avec les bénéficiaires, un programme de réparations des victimes des violations des droits de l'homme qui comprenne des réparations matérielles, symboliques, individuelles et collectives, et qui ne soit pas dépendant de la condamnation des auteurs;

(h) D'établir le fond étatique pour les victimes de torture prévu par la loi et en conformité avec l'Observation générale no 4 de la Commission africaine des droits de l'homme et des peuples sur la Charte africaine des droits de l'homme et des peuples, concernant le droit à réparation des victimes de torture et autres peines ou traitements cruels, inhumains ou dégradants (art. 5);

(i) D'établir un fond pour l'indemnisation des victimes de détention arbitraire et illégale;

(j) De réformer le secteur de la sécurité:

- i) En s'assurant que des éléments extérieurs n'accomplissent pas des activités de défense ou de sécurité;
- ii) En délimitant clairement les rôles des différents corps de défense et de sécurité, en particulier du SNR;
- iii) En suspendant les membres des corps de défense et de sécurité suspectés d'être impliqués dans des violations des droits de l'homme jusqu'au terme des enquêtes et des procédures judiciaires;
- iv) En établissant des procédures strictes et transparentes de sélection qui intègrent des mécanismes de vérification des antécédents;
- v) En renforçant le contrôle civil et démocratique des corps de défense et de sécurité, en particulier du SNR.

(k) De s'acquitter de ses obligations internationales de respecter, de protéger et de garantir les droits économiques et sociaux:

- i) En élaborant et en mettant en œuvre les budgets de l'État de manière à utiliser au maximum les ressources disponibles pour assurer le respect des droits de l'homme à la population appauvrie par la crise politique, en particulier des droits à l'alimentation, à l'eau et à la santé, et pour développer des indicateurs désagrégés, y compris par genre, pour mieux informer ses politiques;
- ii) En entreprenant, en consultation avec les populations travaillant dans le secteur agricole, notamment les femmes, des réformes visant une meilleure protection des droits des femmes et une meilleure utilisation des terres pour l'agriculture, et en développant des perspectives de travail en dehors du secteur agricole;
- iii) En utilisant une approche fondée sur les droits de l'homme pour régler les conflits fonciers dont ceux touchant les personnes ayant fui le Burundi avant et après 2015;
- iv) En mettant fin à toute considération politique dans les processus de recrutement au sein de l'administration publique, des sociétés publiques et des sociétés mixtes.

102. La Commission recommande aux partis politiques et aux groupes armés d'opposition de s'abstenir de toute attaque sur le territoire burundais et de tout discours appelant à la violence, et de s'engager dans la recherche d'une solution durable à la crise politique.

103. La Commission recommande à l'Union africaine de donner une place importante, dans sa recherche d'une solution durable à la crise au Burundi, au respect des droits de l'homme et au rejet de l'impunité, tels que prévus par son Acte constitutif.

104. La Commission recommande aux partenaires techniques et financiers du Burundi:

a) De suspendre ou de maintenir la suspension de toute aide budgétaire directe au Gouvernement en l'absence de priorisation des ressources internes en faveur des objectifs de développement durable et des droits économiques et sociaux de la population, et de mesures effectives contre la corruption;

b) De cibler les dons et les financements attribués au Gouvernement sur des projets en faveur des besoins de la population et de s'assurer que ceux-ci sont gérés efficacement et de manière transparente;

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

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

Version anglaise

106. The Commission recommends that the Government of Burundi take the following measures as a matter of priority:

a) Put an immediate end to the gross human rights violations being committed by agents of the State and Imbonerakure;

b) With the support of the international community, establish ad hoc mechanisms with a mandate to investigate human rights violations and to prosecute perpetrators of international crimes that are not being investigated by the International Criminal Court;

c) With the support of the international community, establish an independent body with a mandate to investigate the cases of disappearance reported since April 2015, locate potential mass graves, and exhume and identify the remains;

d) Take measures to ensure that victims of torture and women survivors of sexual violence have access to appropriate care, including free access to all sexual and reproductive health services and to psychological support;

e) Implement the Guidelines on Combating Sexual Violence and its Consequences in Africa adopted by the African Commission on Human and Peoples' Rights;

f) Control price increases, in particular by reviewing duty and tax increases that are undermining the population's right to an adequate standard of living and by abolishing contributions that disproportionately affect the poorest sectors;

g) Cooperate with international human rights mechanisms, in particular by:

- (i) Resuming the practice of allowing special procedures mandate holders to conduct missions to Burundi;
- (ii) Implementing the recommendations of the universal periodic review, treaty bodies and special procedures, including by establishing a national mechanism for reporting and follow-up.

h) Authorize the Office of the United Nations High Commissioner for Human Rights to resume all its activities in Burundi without hindrance;

i) Sign and implement the memorandum of understanding with the African Union and permit the full deployment of the 100 human rights observers provided for therein.

107. For the medium and longer terms, the Commission also recommends that the Government of Burundi:

a) Amend the Organization Act of 8 March 2018 amending Act No. 01/03 of 24 January 2013 on the mandate, composition, organization and functioning of the National Communication Council with a view to ensuring the latter's independence;

b) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance;

c) Amend the Code of Criminal Procedure to align its provisions with international standards, in particular the provisions on time limits for police custody and on oversight of detention, night-time and warrantless searches, the *flagrante delicto* procedure and the offence of “undermining the internal security of the State”, and provisions that grant de jure impunity to judges and to officers of the criminal investigation police (*police judiciaire*);

d) Put an end to arbitrary detention and improve conditions of detention by:

- (i) Implementing the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa adopted by the African Commission on Human and Peoples’ Rights;
- (ii) Ensuring that detention is subject to oversight measures for assessing its legality and compatibility with human rights.

e) In the absence of an independent and efficient judicial system, cooperate fully with the International Criminal Court in the investigation opened on 25 October 2017;

f) Undertake an in-depth reform of the judicial system to ensure its independence, impartiality and effectiveness, including by:

- (i) Implementing the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa adopted by the African Commission on Human and Peoples’ Rights;
- (ii) Publishing the conclusions of the national forum on the justice system held in 2013 and convening a meeting of justice-sector stakeholders and international partners to discuss follow-up action;
- (iii) Increasing the budget for the justice sector and ensuring that it is managed autonomously;
- (iv) Raising the pay levels of judges in the ordinary courts and increasing the resources and facilities available to them;
- (v) Computerizing court registries;
- (vi) Reviewing the composition of the Judicial Service Commission to ensure that the majority of its members are appointed by their peers;
- (vii) Reviewing procedures for the appointment, assignment, evaluation and promotion of judges to ensure that such procedures are not dependent on the executive branch;
- (viii) Ensuring strict observance of the principle that judges should have security of tenure;
- (ix) Protecting and safeguarding the independence of the judiciary by prohibiting any interference in the administration of justice by government authorities, members of the ruling party or members of the defence and security forces, and imposing penalties on anyone who influences or seeks to influence the administration of justice;
- (x) Developing legal aid programmes for persons belonging to the most vulnerable groups;
- (xi) Strengthening victim and witness protection mechanisms and improving their effectiveness in order to restore public trust and encourage witnesses to come forward without fear for their safety.

g) In consultation with the beneficiaries, establish a reparations programme for victims of human rights violations, ensuring that material, symbolic, individual and collective reparations are made available regardless of whether or not the perpetrators are convicted;

h) Establish the State fund for victims of torture provided for by law, in conformity with general comment No. 4 on the African Charter on Human and Peoples’

Rights, adopted by the African Commission on Human and Peoples' Rights, concerning the right to redress for victims of torture and other cruel, inhuman or degrading punishment or treatment (art. 5);

- i) Establish a compensation fund for victims of arbitrary and unlawful detention;
- j) Reform the security sector by:
 - (i) Ensuring that outsiders are not involved in defence or security activities;
 - (ii) Clearly defining the roles of the various defence and security forces, in particular the National Intelligence Service;
 - (iii) Suspending members of the defence and security forces who are suspected of involvement in human rights violations until the relevant investigations and judicial proceedings have concluded;
 - (iv) Establishing rigorous and transparent selection procedures that include vetting mechanisms;
 - (v) Strengthening democratic civilian control over the defence and security forces, in particular the National Intelligence Service.
- (k) Meet its international obligations to respect, protect and fulfil economic and social rights by:
 - (i) Developing and implementing State budgets in such a way as to maximize the use of available resources to ensure that the human rights of the sectors impoverished by the political crisis are respected, in particular the rights to food, water and health care, and to develop indicators disaggregated by factors such as gender in order to better inform its policies;
 - (ii) In consultation with population groups working in the agricultural sector, including women, undertaking reforms with the aim of better protecting women's rights and making better use of land for agriculture, and developing employment opportunities outside the agricultural sector;
 - (iii) Taking a rights-based approach to the settlement of land conflicts, including those involving persons who fled Burundi either before or after 2015;
 - (iv) Ending the inclusion of any political considerations in hiring processes for the civil service, State enterprises and public-private enterprises.

108. The Commission recommends that political parties and armed opposition groups refrain from engaging in any attacks on Burundian territory and from any speech calling for violence, and that they join the effort to find a lasting solution to the political crisis.

109. The Commission recommends that the African Union, in its efforts to find a lasting solution to the crisis in Burundi, give priority to respect for human rights and the rejection of impunity, as provided for in its Constitutive Act.

110. The Commission recommends that the technical and financial partners of Burundi:

- a) Suspend, or maintain the suspension of, any direct budget support to the Government until such time as priority is given to the allocation of domestic resources for the fulfilment of the Sustainable Development Goals and the economic and social rights of the population, and effective measures are taken against corruption;
- b) Ensure that grants and financing provided to the Government are earmarked for projects to meet the population's needs, and ensure that such funding is managed effectively and transparently;
- c) Regularly evaluate the impact of financial sanctions on the people of Burundi.

111. The Commission recommends that the guarantors of the Arusha Agreement, in their capacity as committed proponents of a lasting peace in Burundi, continue to seek a durable solution to the political and human rights crisis that will preserve and safeguard the achievements of the Arusha Agreement.

2. Recommandations faites en 2017

Version française

1. Aux autorités burundaises

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

113. D'enquêter sur ces violations et s'assurer que les auteurs présumés soient jugés dans les meilleurs délais, dans des procédures crédibles, indépendantes et équitables, et que les victimes obtiennent une juste réparation. Dans le cas où les auteurs présumés sont des agents de l'État, les suspendre jusqu'au terme de l'enquête et de la procédure judiciaire;

114. De prendre des mesures concrètes pour une amélioration rapide de la situation des droits de l'homme, notamment en:

- Annulant les mandats d'arrêt contre des dirigeants de médias, d'organisations de la société civile et de partis politiques qui n'ont pas utilisé ou prôné la violence, et permettant leur retour en toute sécurité au Burundi;
- Levant la suspension et la radiation des médias et organisations de la société civile, leur permettant de reprendre leurs activités en toute indépendance, et revoyant les lois adoptées en 2017 sur les organisations non-gouvernementales burundaises et internationales;
- Libérant immédiatement tous les prisonniers politiques;
- S'assurant que toute personne arrêtée soit détenue dans un lieu de détention officiel et que des observateurs nationaux et internationaux soient autorisés à leur rendre visite;
- Veillant à ce que les officiers de police judiciaire ne soient pas habilités à mener des perquisitions sans mandat et de nuit comme envisagé dans les projets d'amendement du Code pénal et du Code de procédure pénale;
- S'assurant que des individus qui n'y sont pas légalement habilités, en particulier des Imbonerakure, ne conduisent pas des activités de maintien de l'ordre ou n'y prennent part, y compris dans des lieux de détention, et qu'ils ne portent pas des uniformes militaires ou de police ou ne soient pas en possession d'armes;
- Poursuivant les auteurs de discours haineux ou appelant à la violence;
- Mettant fin aux menaces, intimidations et actes d'extorsion par des agents de l'État et des Imbonerakure;
- Permettant aux victimes de violences sexuelles et de torture d'avoir accès à des services médicaux et psychosociaux.

115. D'engager une réforme en profondeur du système judiciaire, notamment en:

- Publiant les conclusions des états généraux de la justice qui se sont tenus en 2013 à Gitega;
- Revoyant la composition du Conseil national de la magistrature afin que ses membres soient en majorité désignés par leurs pairs;
- Revoyant les procédures de nomination, d'affectation, de notation et d'avancement des magistrats afin qu'elles ne dépendent pas du pouvoir exécutif;
- Veillant au respect strict du principe d'inamovibilité des magistrats du siège;

- Protégeant et garantissant l'indépendance du système judiciaire en interdisant toute ingérence dans le fonctionnement de la justice par des autorités gouvernementales, des membres du parti au pouvoir ou des membres des corps de défense et de sécurité, et en prenant des sanctions contre ceux qui influencent, ou cherchent à influencer, le fonctionnement de la justice;
- Développant des programmes d'aide juridictionnelle pour les plus vulnérables;
- Renforçant les mécanismes de protection de victimes et de témoins, ainsi que leur efficacité, pour restaurer la confiance de la population et encourager les témoins à s'exprimer sans crainte pour leur sécurité.

116. De s'assurer que les membres des corps de défense et de sécurité respectent les droits de l'homme en toutes circonstances et servent les intérêts de la population dans son ensemble et pas uniquement ceux du parti au pouvoir, notamment en:

- Renforçant le contrôle civil des corps de défense et de sécurité et l'indépendance des organes chargés de ce contrôle créés par la Constitution, en particulier le Parlement, la Commission nationale indépendante des droits de l'homme et l'Ombudsman;
- Remédiant à la carence constitutionnelle de contrôle civil du SNR;
- Prenant des mesures pour vérifier les antécédents, notamment en matière de droits de l'homme, des agents des corps de défense et de sécurité et intégrant ces mesures à une refonte des procédures de recrutement et d'avancement de ces agents.

117. De revenir sur sa décision de se retirer du Statut de Rome et coopérer pleinement avec la CPI dans la procédure d'examen préliminaire en cours et, si une enquête est ouverte, poursuivre cette coopération et assurer la protection des victimes et témoins;

118. D'autoriser le HCDH à reprendre ses activités de documentation des violations des droits de l'homme au Burundi, suspendues depuis octobre 2016;

119. De signer et mettre en œuvre le mémorandum d'entente avec l'Union africaine et permettre le déploiement complet des 100 observateurs des droits de l'homme et des 100 experts militaires, décidé en 2016;

120. De coopérer avec les mécanismes des droits de l'homme des Nations Unies en accueillant à nouveau des missions des procédures spéciales et en mettant en œuvre les recommandations récentes des organes de traité ;

121. De s'engager activement dans la voie d'une résolution durable de la crise politique, notamment dans le cadre d'initiatives de dialogue engagées au niveau international.

2. Aux partis politiques et groupes armés d'opposition

122. De mettre immédiatement un terme aux atteintes aux droits de l'homme et aux actes de violence commis par leurs membres;

123. De s'abstenir de tout discours appelant à la violence et s'engager dans la recherche d'une solution durable à la crise politique au Burundi.

3. Au Conseil des droits de l'homme

124. De prolonger le mandat de la Commission pour une durée d'un an aux fins d'approfondir et de poursuivre ses enquêtes en raison de la persistance des violations graves des droits de l'homme et des atteintes à ceux-ci et en l'absence d'autres mécanismes spécifiques en mesure de mener des enquêtes indépendantes et approfondies sur la situation des droits de l'homme au Burundi;

125. De demander au Haut-Commissaire des Nations Unies aux droits de l'homme de faire un rapport sur l'évolution de sa coopération avec le Gouvernement du Burundi aux prochaines sessions du Conseil.

4. À la Cour pénale internationale

126. D'ouvrir dans les plus brefs délais une enquête sur les crimes commis au Burundi au vu des conclusions contenues dans le présent rapport et d'autres informations à sa disposition.

5. Au Conseil de sécurité des Nations Unies

127. De prendre dûment compte des présentes conclusions de la Commission et de la persistance de violations graves des droits de l'homme dans toute discussion sur le Burundi et, dans ce contexte, veiller à la mise en œuvre effective de la résolution 2303 (2016);

128. De saisir la CPI de tout crime de droit international qui serait commis au Burundi après le 27 octobre 2017;

129. De prendre des sanctions individuelles contre les principaux auteurs présumés de violations graves des droits de l'homme et de crimes de droit international au Burundi.

6. Au Secrétaire-général des Nations Unies

130. De veiller à ce que le respect des droits de l'homme et la restauration de l'État de droit soient parmi les priorités de son Envoyé spécial sur le Burundi;

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

7. Aux États membres des Nations Unies

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

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

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

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

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

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

8. À l'Union africain

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

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

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

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

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

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

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

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

Version anglaise

1. The Burundian authorities should:

144. Put an immediate end to the gross human rights violations being committed by agents of the State and Imbonerakure over which the State exercises control;

145. Investigate these violations, ensure that the alleged perpetrators are prosecuted promptly in accordance with credible, independent and fair procedures, and that the victims obtain just reparation, and, where the alleged perpetrators are agents of the State, suspend them from their duties pending the completion of the investigation and the judicial proceedings;

146. Take practical measures to bring about a rapid improvement of the human rights situation, in particular by:

- Withdrawing the warrants for the arrest of heads of media outlets, civil society organizations and political parties who have neither used nor advocated violence, and permitting their safe return to Burundi;
- Lifting the suspension and reversing the revocation of the licences of media and civil society organizations, permitting them to resume their activities with complete independence and reviewing the laws adopted in 2017 concerning non-profit organizations and foreign non-governmental organizations;
- Immediately releasing all political prisoners;
- Ensuring that every person arrested is detained in an official place of detention and that national and international observers are allowed to visit them;
- Ensure that criminal investigation officers (officiers de police judiciaire) are not authorized to conduct searches without a warrant, including at night, as envisaged in the draft amendments to the Criminal Code and the Code of Criminal Procedure;
- Ensuring that individuals lacking legal authorization, particularly the Imbonerakure, do not perform or participate in law enforcement activities, including in places of detention, and do not wear military or police uniforms or possess weapons;
- Prosecuting individuals who incite hatred or violence;
- Putting an end to threats, intimidation and acts of extortion by State officials and the Imbonerakure;
- Giving victims of sexual violence and torture access to medical and psychosocial services.

147. Undertake a thorough reform of the judiciary, in particular by:

- Publishing the conclusions of the General Convention on the Judiciary (États généraux de la justice) held in Gitega in 2013;

- Reviewing the composition of the Superior Council of Magistrates (Conseil supérieur de la magistrature) so that the majority of its members are designated by their peers;
- Reviewing the nomination, posting, evaluation and promotion procedures of magistrates so that they do not depend of the executive;
- Ensuring the respect of the principle of security of tenure for judges;
- Protecting and guaranteeing the independence of the judiciary by prohibiting all interference in their functions by governmental authorities, members of the ruling party or security and defence forces, and imposing sanctions on those who influence, or seek to influence, the functioning of the judiciary;
- Developing legal aid programmes for the most vulnerable;
- Reinforcing the protection mechanisms for victims and witnesses, as well as their efficiency, in order to restore people's confidence in the system and to encourage witnesses to testify without fear for their security.

148. Ensure that members of the defence and security forces respect human rights in all circumstances and serve the interests of the population as a whole, not solely those of the ruling party, in particular by:

- Reinforcing civilian control over the military and the independence of the competent organs created by the Constitution to supervise this control, in particular the Parliament, the National Human Rights Commission and the Ombudsman;
- Implementing civilian control over the National Intelligence Service (Service national de renseignement) in line with the Constitution;
- Conducting background checks, in particular on human rights, on defense and security forces and incorporating these measures into reforms of the recruitment and career progression of these agents.

149. Reconsider their decision to withdraw from the Rome Statute, cooperate fully with the International Criminal Court in the ongoing preliminary examination and, if an investigation is initiated, continue that cooperation, inter alia by ensuring the protection of victims and witnesses;

150. Authorize the Office of the United Nations High Commissioner for Human Rights to resume its documentation of human rights violations in Burundi, which has been suspended since October 2016;

151. Sign and implement the memorandum of understanding with the African Union and permit the full deployment of 100 human rights observers and 100 military experts that was decided upon in 2016;

152. Cooperate with United Nations human rights mechanisms by once again receiving special procedures missions and implementing the recent recommendations of treaty bodies;

153. Actively seek a lasting solution to the political crisis, inter alia through international initiatives to promote dialogue.

2. Political parties and armed opposition groups should:

154. Put an immediate end to human rights abuses and acts of violence committed by their members;

155. Refrain from any incitement of violence and participate in the quest for a lasting solution to the political crisis in Burundi.

3 The Human Rights Council should:

156. Extend the Commission's mandate for a period of one year to enable it to conduct further and more thorough investigations in view of the persistence of gross human rights

violations and abuses and the absence of other specific mechanisms capable of undertaking independent and thorough investigations into the human rights situation in Burundi;

157. Request the Office of the United Nations High Commissioner for Human Rights to report, at the forthcoming sessions of the Council, on the development of its cooperation with the Burundian Government.

4. The International Criminal Court should:

158. Initiate, as soon as possible, an investigation into the crimes committed in Burundi in light of the conclusions contained in the present report and other information at its disposal.

5. The United Nations Security Council should:

159. Take due account of the Commission's conclusions, as well as persistence of gross violations of human rights, in any discussion on Burundi and, in this context, ensure the effective implementation of resolution 2303 (2016);

160. Refer to the International Criminal Court any international crime that might be committed in Burundi after 27 October 2017;

161. Impose individual sanctions against the principal alleged perpetrators of gross human rights violations and international crimes in Burundi.

6. The Secretary-General of the United Nations should:

162. Ensure that respect for human rights and restoration of the rule of law are among the priorities of his Special Envoy for Burundi;

163. Ensure that no alleged perpetrator of human rights violations or international crimes in Burundi is recruited for United Nations peacekeeping missions.

7. The States Members of the United Nations should:

164. Grant prima facie refugee status to Burundian asylum seekers and ensure strict respect for the principle of non-refoulement and refugee protection;

165. Prosecute, in accordance with the principle of universal jurisdiction, alleged perpetrators of international crimes committed in Burundi who are found to be in their territory;

166. Maintain, in the absence of any improvement in the human rights situation in Burundi, the individual sanctions and the suspension of direct aid to the Government;

167. Provide technical assistance inter alia in respect to autopsies, exhumations and identification of bodies, to enable the Burundian to conduct credible and independent investigations;

168. Support the establishment of specialized medical and psychosocial services, especially for victims of torture and sexual violence;

169. Support Burundian authorities in any judicial and security sector reform endeavors that they might wish to undertake in order to improve the human rights situation.

8. The African Union should:

170. Retake the lead in seeking a lasting solution to the crisis in Burundi based on respect for human rights and rejection of impunity, as provided for in its Constitutive Act, and play an active role in that process;

171. Ensure that no agent of the Burundian State who is accused of human rights violations or international crimes is recruited for African Union peacekeeping missions;

172. Ensure that the full complement of African Union human rights observers and military experts is deployed rapidly in Burundi;

173. Consider, in the event that the current situation in Burundi persists, the application of Article 4 (h) of the Constitutive Act of the African Union, under which it is authorized to intervene in a member State in certain circumstances, particularly in the event of crimes against humanity.

9. The East African Community should:

174. Ensure that a rapid improvement of the human rights situation is a priority in its mediation efforts.

10. The guarantors of the 2000 Arusha Agreement, in their capacity as committed proponents of a lasting peace in Burundi, should:

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

Annexe IV

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

Version française

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

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

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

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

e) Maintien d'une aide à des groupes accusés de participer à des violations graves du droit international des droits de l'homme et du droit international humanitaire, notamment des atrocités criminelles, ou non-condamnation de leurs actes;

f) Justification de violations graves du droit international des droits de l'homme et du droit international humanitaire ou d'atrocités criminelles, rapports partiels les concernant ou refus de les reconnaître;

g) Absence de processus de réconciliation ou de justice transitionnelle après un conflit, ou politisation de ce processus;

h) Méfiance généralisée envers les institutions de l'État ou entre différents groupes en raison de l'impunité.

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

a) Cadre juridique national n'offrant pas une protection suffisante et efficace, notamment par la ratification et l'incorporation dans le droit interne des instruments relatifs au droit international des droits de l'homme et au droit international humanitaire;

b) Manque de ressources au sein des institutions nationales, en particulier les institutions judiciaires et celles chargées de l'application des lois et de la protection des droits de l'homme, et manque de représentation adéquate ou de formation;

c) Absence de justice indépendante et impartiale;

d) Absence de contrôle civil efficace des forces de sécurité;

e) Niveaux élevés de corruption ou mauvaise gouvernance;

f) Absence ou insuffisance de mécanismes externes ou internes de contrôle et de responsabilité, notamment que les victimes peuvent saisir pour demander réparation;

g) Manque de sensibilisation et de formation des forces militaires, des forces irrégulières, des groupes armés non étatiques et des autres acteurs concernés au droit international des droits de l'homme et au droit international humanitaire;

h) Manque de capacité de vérifier que les moyens et méthodes de guerre sont conformes aux normes du droit international humanitaire;

i) Manque de moyens pour la réforme ou le renforcement des institutions, notamment par une aide régionale ou internationale;

j) Ressources insuffisantes pour mettre en oeuvre des mesures globales de protection des populations.

Facteur de risque 4. Motivations ou incitations

a) Motivations politiques, en particulier celles visant l'acquisition ou la consolidation du pouvoir;

b) Intérêts économiques, notamment ceux fondés sur la préservation et le bien-être des élites ou de groupes d'identité, ou sur le contrôle de la répartition des ressources;

c) Intérêts stratégiques ou militaires, notamment ceux fondés sur la protection ou la saisie de territoires et de ressources;

d) Autres intérêts, notamment ceux visant à rendre une zone homogène dans son identité;

e) Menaces réelles ou perçues comme telles de groupes, populations ou personnes protégés contre les intérêts ou les objectifs des auteurs d'actes criminels, notamment l'impression de déloyauté envers une cause;

f) Appartenance ou adhésion réelle ou perçue comme telle de groupes, populations ou personnes protégés à des groupes d'opposition armés;

g) Idéologies fondées sur la suprématie d'une certaine identité ou sur des versions extrémistes de l'identité;

- h) Politisation de griefs, de tensions ou de cas d'impunité issus du passé;
- i) Traumatisme social provoqué par des situations de violence passées auxquelles il n'a pas été donné de suite satisfaisante et qui ont engendré des sentiments de perte, de déplacement et d'injustice et un désir possible de revanche.

Facteur de risque 5. Capacité de commettre des atrocités criminelles

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

Facteur de risque 6. Absence de facteurs atténuants

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

j) Manque de soutien des États voisins pour ce qui est de protéger les populations à risque en quête de refuge : fermeture des frontières, rapatriement forcé ou restrictions en matière d'aide;

k) Absence de mécanisme d'alerte rapide permettant de prévenir des atrocités criminelles.

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

a) Suspension d'institutions vitales de l'État ou ingérence dans ces institutions, ou mesures provoquant des modifications de leur composition ou l'équilibre des pouvoirs, en particulier s'il en résulte l'exclusion ou une sous-représentation de groupes protégés;

b) Renforcement de l'appareil de sécurité, réorganisation ou mobilisation de celui-ci contre des groupes, populations ou personnes protégés;

c) Acquisition de grandes quantités d'armes et de munitions ou d'autres objets pouvant être utilisés pour causer des dommages;

d) Création de milices ou de groupes paramilitaires, ou intensification de l'appui à de tels milices ou groupes;

e) Imposition d'un contrôle strict sur l'utilisation des moyens de communication ou interdiction d'y avoir accès;

f) Expulsion ou refus d'autoriser la présence d'organisations non gouvernementales, d'organisations internationales, de médias ou d'autres acteurs pertinents ou imposition de lourdes restrictions à leurs services et déplacements;

g) Augmentation du nombre de violations du droit à la vie, de l'intégrité physique, de la liberté ou de la sécurité de membres de groupes, populations ou personnes protégés, ou adoption récente de mesures ou de lois qui leur portent atteinte ou constituent une discrimination délibérée envers eux;

h) Augmentation du nombre d'actes de violence graves contre les femmes et les enfants ou création de conditions facilitant la commission d'agressions sexuelles contre eux, notamment comme instrument de terreur;

i) Imposition de conditions de vie délétères ou déportation, appréhension, regroupement, ségrégation, évacuation, déplacement ou transfert forcés de groupes, populations ou individus protégés vers des camps, des zones rurales, des ghettos ou d'autres lieux désignés;

j) Destruction ou pillage de biens ou d'installations essentiels à des groupes, populations ou personnes protégés, ou de biens liés à l'identité culturelle et religieuse;

k) Marquage de personnes ou de leurs biens au motif de leur appartenance à un groupe;

l) Politisation accrue de l'identité, d'événements du passé ou de motifs de se livrer à la violence;

m) Augmentation du nombre de déclarations provocatrices, de campagnes de propagande ou d'incitations à la haine visant des groupes, populations ou personnes protégés.

Facteur de risque 8. Facteurs déclencheurs

a) Déploiement soudain de forces de sécurité ou déclenchement d'hostilités armées;

b) Débordement de conflits armés ou graves tensions dans les pays voisins;

c) Mesures prises par la communauté internationale, perçues par un État comme menaçant sa souveraineté;

- d) Changements de régime, transferts de pouvoir ou modifications du pouvoir politique des groupes, survenant soudainement ou irrégulièrement;
- e) Atteintes à la vie, à l'intégrité physique, à la liberté ou à la sécurité de dirigeants, de personnalités éminentes ou de membres de groupes opposés; autres actes de violence graves, notamment attentats terroristes ;
- f) Manifestations religieuses ou actes réels ou perçus comme tels d'intolérance religieuse ou d'irrespect, notamment en dehors des frontières nationales ;
- g) Actes d'incitation ou propagande haineuse visant des groupes ou des personnes particulières;
- h) Recensement, élections, activités essentielles liées à ces processus ou mesures qui les déstabilisent
- i) Changements soudains affectant l'économie ou la population active, résultant notamment de crises financières, de catastrophes naturelles ou d'épidémies;
- j) Découverte de ressources naturelles ou lancement de projets d'exploitation ayant de graves incidences sur les moyens de subsistance et la viabilité de groupes ou de populations civiles;
- k) Commémoration de crimes du passé ou d'épisodes traumatiques ou historiques pouvant exacerber les tensions entre groupes, notamment la glorification d'auteurs d'atrocités.
- l) Actes liés aux processus d'établissement des responsabilités, en particulier s'ils sont perçus comme injustes

Version anglaise

Risk factor 1. Situations of armed conflict or other forms of instability

- a) International or non-international armed conflict;
- b) Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighboring countries, threats of external interventions or acts of terrorism;
- c) Humanitarian crisis or emergency, including those caused by natural disasters or epidemics;
- d) Political instability caused by abrupt or irregular regime change or transfer of power;
- e) Political instability caused by disputes over power or growing nationalist, armed or radical opposition movements;
- f) Political tension caused by autocratic regimes or severe political repression;
- g) Economic instability caused by scarcity of resources or disputes over their use or exploitation;
- h) Economic instability caused by severe crisis in the national economy;
- i) Economic instability caused by acute poverty, mass unemployment or deep horizontal inequalities;
- j) Social instability caused by resistance to, or mass protests against, State authority or policies;
- k) Social instability caused by exclusion or tensions based on identity issues, their perception or extremist forms.

Risk factor 2. Record of serious violations of international human rights and humanitarian law

- a) Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations or individuals;
- b) Past acts of genocide, crimes against humanity, war crimes or their incitement;
- c) Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement;
- d) Inaction, reluctance or refusal to use all possible means to stop planned, predictable or ongoing serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement;
- e) Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions;
- f) Justification, biased accounts or denial of serious violations of international human rights and humanitarian law or atrocity crimes;
- g) Politicization or absence of reconciliation or transitional justice processes following conflict;
- h) Widespread

Risk factor 3. Weakness of State structures

- a) National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties;
- b) National institutions, particularly judicial, law enforcement and human rights institutions that lack sufficient resources, adequate representation or training;
- c) Lack of an independent and impartial judiciary;
- d) Lack of effective civilian control of security forces;
- e) High levels of corruption or poor governance;
- f) Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims;
- g) Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors;
- h) Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards;
- i) Lack of resources for reform or institution-building, including through regional or international support;
- j) Insufficient resources to implement overall measures aimed at protecting populations.

Risk factor 4. Motives or incentives

- a) Political motives, particularly those aimed at the attainment or consolidation of power;
- b) Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources;
- c) Strategic or military interests, including those based on protection or seizure of territory and resources;

- d) Other interests, including those aimed at rendering an area homogeneous in its identity;
- e) Real or perceived threats posed by protected groups, populations or individuals against interests or objectives of perpetrators, including perceptions of disloyalty to a cause;
- f) Real or perceived membership of or support for armed opposition groups by protected groups, populations or individuals;
- g) Ideologies based on the supremacy of a certain identity or on extremist versions of identity;
- h) Politicization of past grievances, tensions or impunity;
- i) Social trauma caused by past incidents of violence not adequately addressed and that produced feelings of loss, displacement, injustice and a possible desire for revenge.

Risk factor 5. Capacity to commit atrocity crimes

- a) Availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement;
- b) Capacity to transport and deploy personnel and to transport and distribute arms and ammunition;
- c) Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them;
- d) Strong culture of obedience to authority and group conformity;
- e) Presence of or links with other armed forces or with non-State armed groups;
- f) Presence of commercial actors or companies that can serve as enablers by providing goods, services, or other forms of practical or technical support that help to sustain perpetrators;
- g) Financial, political or other support of influential or wealthy national actors;
- h) Armed, financial, logistic, training or other support of external actors, including States, international or regional organizations, private companies, or others.

Risk factor 6. Absence of mitigating factors

- a) Limited or lack of empowerment processes, resources, allies or other elements that could contribute to the ability of protected groups, populations or individuals to protect themselves;
- b) Lack of a strong, organized and representative national civil society and of a free, diverse and independent national media;
- c) Lack of interest and focus of international civil society actors or of access to international media;
- d) Lack of, or limited presence of, the United Nations, international non-governmental organizations or other international or regional actors in the country and with access to populations;
- e) Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations;
- f) Lack of exposure, openness or establishment of political or economic relations with other States or organizations;
- g) Limited cooperation of the State with international and regional human rights mechanisms;
- h) Lack of incentives or willingness of parties to a conflict to engage in dialogue, make concessions and receive support from the international community;

i) Lack of interest, reluctance or failure of States Members of the United Nations or members of international or regional organizations to support a State to exercise its responsibility to protect populations from atrocity crimes, or to take action when the State manifestly fails that responsibility;

j) Lack of support by neighbouring States to protect populations at risk and in need of refuge, including by closure of borders, forced repatriation or aid restriction;

k) Lack of an early warning mechanism relevant to the prevention of atrocity crimes.

Risk factor 7. Enabling circumstances or preparatory action

a) Imposition of emergency laws or extraordinary security measures that erode fundamental rights;

b) Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups;

c) Strengthening of the security apparatus, its reorganization or mobilization against protected groups, populations or individuals;

d) Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm;

e) Creation of, or increased support to, militia or paramilitary groups;

f) Imposition of strict control on the use of communication channels, or banning access to them;

g) Expulsion or refusal to allow the presence of non-governmental organizations, international organizations, media or other relevant actors, or imposition of severe restrictions on their services and movements;

h) Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them;

i) Increased serious acts of violence against women and children, or creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror;

j) Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation or forced displacement or transfer of protected groups, populations or individuals to camps, rural areas, ghettos or other assigned locations;

k) Destruction or plundering of essential goods or installations for protected groups, populations or individuals, or of property related to cultural and religious identity;

l) Marking of people or their property based on affiliation to a group;

m) Increased politicization of identity, past events or motives to engage in violence;

n) Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations or individuals.

Risk factor 8. Triggering factors

a) Sudden deployment of security forces or commencement of armed hostilities;

b) Spillover of armed conflicts or serious tensions in neighbouring countries;

c) Measures taken by the international community perceived as threatening to a State's sovereignty;

d) Abrupt or irregular regime changes, transfers of power, or changes in political power of groups;

- e) Attacks against the life, physical integrity, liberty or security of leaders, prominent individuals or members of opposing groups; other serious acts of violence, such as terrorist attacks;
 - f) Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders;
 - g) Acts of incitement or hate propaganda targeting particular groups or individuals;
 - h) Census, elections, pivotal activities related to those processes, or measures that destabilize them;
 - i) Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters or epidemics;
 - j) Discovery of natural resources or launching of exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations;
 - k) Commemoration events of past crimes or of traumatic or historical episodes that can exacerbate tensions between groups, including the glorification of perpetrators of atrocities;
 - l) Acts related to accountability processes, particularly when perceived as unfair.
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