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BURUNDI: HUMAN RIGHTS PRIORITIES FOR NEW GOVERNMENT

Following the election of the ruling National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD) party's candidate as president in May 2020, the sudden death of the outgoing president Pierre Nkurunziza in June, the investiture of President Evariste Ndayishimiye and the appointment of a new government, Burundi is in a moment of transition. President Nkurunziza's third term in office from 2015 to 2020, and the period immediately preceding it, was characterized by a rapid deterioration of respect for human rights. Many Burundians hoped that the change in leadership, if not of ruling party, could present an opportunity to improve the country's human rights situation.

The signals so far are mixed. At his inauguration on 18 June 2020, President Evariste Ndayishimiye declared his intention "to build Burundi on solid foundations, namely: good governance, respect and protection of human rights." He, however, went on to dismiss some human rights defenders as acting as "puppets [...] of the colonists," while also recognizing dialogue as an important part of Burundian tradition.¹ Burundi's 2018 Constitution affirms that rights and obligations contained in international human rights treaties ratified by Burundi are an "integral part of the Constitution."²

Likewise, the appointment of officials under United States (US) and European Union (EU) sanctions to the key positions of prime minister and minister of interior, public security and community development has dampened the hopes of many. However, regardless of who is in the office, the new leadership has an opportunity to set a new direction for the country. Amnesty International encourages the new government to seize this opportunity to improve Burundi's human rights situation.

Amnesty International recommends that the Government of Burundi addresses 10 main areas as a matter of priority. These recommendations include both immediate actions that the new government can take to end ongoing violations and patterns of violations, as well as longer-term reforms they could initiate to effect meaningful change.

1. END IMPUNITY FOR HUMAN RIGHTS VIOLATIONS

The past five years have been marked by an increase in serious human rights violations, including extrajudicial executions, enforced disappearances, arbitrary arrests and detention, torture and cruel, inhuman and degrading treatment, carried out primarily by the police, National Intelligence Service (SNR) and Imbonerakure. To turn the page on this period, the new government should prioritize ending impunity for the perpetrators of such violations. In October 2019, four Imbonerakure members were convicted in Muyinga for killing a National Congress for Freedom (CNL) member. Delivering justice in such cases should become the rule, rather than remaining the exception.

In his inauguration speech, President Ndayishimiye said that "all those who commit crimes, whether government members or other dignitaries, must be brought before the competent jurisdictions. All crimes must be punished to avoid falling into the same mistakes as in the past." He also promised reform of the justice sector. Amnesty International encourages the new government to ensure prompt, impartial, independent and effective investigations are conducted into human rights violations and abuses. Members of the security forces suspected of responsibility for such violations, and any officials who ordered or condoned such crimes, should be suspended pending investigations and where there is sufficient admissible evidence, those suspected of criminal responsibility should be prosecuted in fair trials.

2. DEMOBILISE THE IMBONERAKURE

¹ Speech of President Evariste Ndayishimiye at his investiture, 18 June 2020, <https://www.presidence.gov.bi/2020/06/19/discours-de-son-excellence-general-major-evariste-ndayishimiye-a-loccasion-de-son-investiture/>

² Constitution of the Republic of Burundi (2018), article 19

The Imbonerakure is the youth wing of the ruling party, the CNDD-FDD. The *jeunesse*, or youth, play a variety of roles, some of which are traditional political activities. However, the vast majority of Burundian refugees interviewed by Amnesty International during research in 2016, 2017 and 2019 said that they fled due to insecurity caused by the Imbonerakure.

Their behaviour is problematic in two main ways. For over ten years, Imbonerakure groups have been used to intimidate and attack members of opposition political parties.³ Over the past five or six years this role has escalated. They are responsible for widespread intimidation and attacks on opponents and perceived opponents, threatening and inflicting violence on people who refuse to join the ruling party. A former Imbonerakure leader told Amnesty International that he was instructed by a local CNDD-FDD leader to do anything necessary to convince residents to vote for the ruling party in the 2020 elections – “even to use force or kill someone” – and that the official would protect him.⁴

Members of the Imbonerakure have also been brought in to act on behalf of the state, contributing to already blurred lines between state and party institutions. Since 2014, the Imbonerakure have been part of mixed security committees at the local level.⁵ Going beyond an advisory role, they frequently work on behalf of and alongside the police and SNR in carrying out often arbitrary arrests and other human rights violations and abuses.

It is not appropriate for a political group to play an active role in security matters, reinforcing or even replacing the traditional security services. The Imbonerakure should have no further involvement in security-related matters. The ruling party should also promptly end the Imbonerakure’s widespread use of violence, harassment and intimidation against their real and suspected opponents. Anyone arming the Imbonerakure or ordering activities that amount to human rights violations and abuses should also be held to account.

3. REVEAL THE FATE OF VICTIMS OF ENFORCED DISAPPEARANCES

The increase of enforced disappearances since 2015 has been a particularly chilling trend. Families of people who have disappeared are denied the truth about their loved ones’ fate and the chance to properly mourn. Marie-Claudette Kwizera, a human rights defender working with Ligue Iteka, was abducted in Bujumbura in December 2015. According to information received by the UN Commission of Inquiry on Burundi, she was killed a few days later, having first been taken to the SNR offices.⁶ Witnesses reported seeing journalist Jean Bigirimana being arrested by SNR members in Bugarama, Muramvya province, on 22 July 2016.⁷ Despite investigations by his employer Iwacu Press Group, which the police and the National Independent Human Rights Commission (CNIDH) later joined, he has never been found. The new government must end the practice of enforced disappearances immediately, fully investigate and, where possible, prosecute perpetrators of ongoing cases and allow families the dignity of knowing the truth about the fate of their loved ones. It should also ratify and implement the International Convention for the Protection of All Persons from Enforced Disappearance, having signed the Convention in 2007. Failure to do all these steps will undermine attempts to rebuild trust with the families of victims and their wider communities.

4. RELEASE PRISONERS OF CONSCIENCE

The crackdown on outspoken civil society and media included the arrests and convictions of several human rights defenders and journalists. Germain Rukuki, a former employee of the anti-torture organization Action by Christians for the Abolition of Torture (ACAT-Burundi), was arrested in July 2017. On 26 April 2018, the anniversary of the start of the 2015 protests, he was convicted on charges including threatening state security and sentenced to 32 years in prison.⁸ Similarly, Nestor Nibitanga

³ Human Rights Watch, “*You Will Not Have Peace While You Are Living*” *The Escalation of Political Violence in Burundi*, May 2012, https://www.hrw.org/sites/default/files/reports/burundio512ForUpload_1.pdf

⁴ Amnesty International interview, December 2019

⁵ Amnesty International, *Burundi: Locked Down. A Shrinking of Political Space*, July 2014, <https://www.amnesty.org/download/Documents/4000/afr160022014en.pdf>

⁶ UN Commission of Inquiry on Burundi, Rapport final détaillé de la Commission d’enquête sur le Burundi, 13 September 2019, https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColBurundi/ReportHRC42/A_HRC_42_CRP2_EN.pdf para 98,99

⁷ Iwacu, “Flou autour d’une arrestation”, 29 July 2016, <https://www.iwacu-burundi.org/flou-autour-dune-arrestation/>

⁸ Amnesty International, “Burundi: 32-year sentence for defending human rights an insult to justice”, 27 April 2018, <https://www.amnesty.org/en/latest/news/2018/04/burundi-32-year-sentence-for-defending-human-rights-an-insult-to-justice/>

was convicted in August 2018 for “threatening state security” and sentenced to five years in prison, after he was found guilty of compiling reports for the Association for the Protection of Human Rights and Detained Persons (APRODH) after the government had closed the organization – an accusation that he refutes.⁹ In October 2019, Agnès Ndirubusa, Christine Kamikazi, Egide Harerimana and TERENCE MPOZENZI were arrested along with their driver Adolphe Masabarakiza on their way to report on clashes between the security forces and an armed group in Bubanza province for the Iwacu media house where they work. Adolphe Masabarakiza was acquitted but the four journalists were sentenced to two and a half years in prison and each fined one million Burundian francs (approximately 525 USD) for an “impossible attempt to threaten internal state security”.¹⁰

Amnesty International considers all six human rights defenders and journalists to be prisoners of conscience, convicted and sentenced solely on account of their peaceful exercise of their human rights. They should be immediately and unconditionally released. Releasing them would send a clear signal that the new government values robust reporting and debate on matters of national importance.

5. PRIORITIZE PROGRESS ON WOMEN’S RIGHTS

Five of out 16 members of the new government are women, upholding the 30% requirement laid out in Burundi’s constitution. This is a similar proportion to the outgoing government. Amnesty International encourages the new government to go beyond representation to ensure that strengthening promotion and respect for women’s rights is a priority for their government.

Discriminatory measures have been imposed on women and girls in recent years. In May 2019, the local administrator of Musongati commune, Rutana province, imposed a 7PM curfew on women, who were not allowed to enter markets or bars after that time unless they were accompanied by their husbands.¹¹

The UN Commission of Inquiry on Burundi has documented numerous cases of sexual violence, primarily against women, but also against girls and men. They found that most of the attacks were committed by state actors or by the Imbonerakure, with their direct or tacit consent. Rape, and in particular gang rape, was used to intimidate or punish victims for their perceived political views or those of their husbands or other male family members.¹²

6. CREATE A SAFE ENVIRONMENT FOR REFUGEE RETURNS

President Ndayishimiye used his inauguration speech on 18 June to call on Burundians who want to come back home to return and stated that all Burundians at home or abroad had the right to speak “without fear or constraint”.

While refugee returns have been organized from Tanzania since 2017, at the same time Burundians have continued to leave the country at a steady rate. From January to mid-March 2020 when border restrictions were imposed due to the COVID-19 pandemic, 3,242 Burundians sought refuge in neighbouring countries.¹³ Refugees in Tanzania have repeatedly come under pressure from both the Tanzanian and Burundian authorities to repatriate.¹⁴ For returns to be truly voluntary, in line with international law, refugees should not feel compelled to return because of the withdrawal of basic services or on account of intimidating messages from government officials.

⁹ Iwacu, “Cinq ans de prison ferme pour Nestor Nibitanga”, 20 August 2018, <https://www.iwacu-burundi.org/cinq-ans-de-prison-ferme-pour-nestor-nibitanga/>

¹⁰ Amnesty International, “Burundi: Upholding journalists’ conviction further undermines media freedom”, 5 June 2020, <https://www.amnesty.org/en/latest/news/2020/06/burundi-upholding-journalists-conviction-further-undermines-media-freedom/>

¹¹ Iwacu, « Musongati: Un couvre-feu au féminin, sur la sellette », 21 May 2019, <https://www.iwacu-burundi.org/musongati-un-couvre-feu-au-feminin-sur-la-sellette/>

¹² UN Commission of Inquiry on Burundi, Rapport final détaillé de la Commission d’enquête sur le Burundi, 13 September 2019, https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColBurundi/ReportHRC42/A_HRC_42_CRP2_EN.pdf

¹³ UNHCR, Burundi Situation: Population Dashboard, 31 May 2020, <https://data2.unhcr.org/en/documents/details/77155>

¹⁴ See, for example, Associated Press, “Burundian refugees in Tanzania face new pressure to go home”, 7 July 2020, <https://apnews.com/b62092c39f4bbe8f6424ae368dfa8229>; UNHCR, “Refugee returns to Burundi must be voluntary and not under pressure”, 28 October 2019, <https://www.unhcr.org/afr/news/press/2019/10/5db6ffed4/refugee-returns-burundi-must-voluntary-under-pressure.html>

Refugees returning to Burundi have faced difficulties reintegrating and receiving sufficient support. Others have been accused of supporting the opposition and have been threatened or physically attacked by the Imbonerakure.¹⁵ The new government should ensure that returning refugees do not face reprisals and that they are able to access necessary services.

The continuation of serious human rights violations has created a well-documented climate of fear in the country. While the situation may mostly appear calm, this is, as the UN Commission of Inquiry on Burundi has described it, a “‘calm’ based on terror”.¹⁶ In order to create a conducive environment for refugees to feel safe to return home, the new government must demonstrate that it is tackling the issues that pushed people into exile in the first place.

The continued targeting of civil society is another deterrent to returns. In February 2020, the Supreme Court held a hearing in the trial of twelve human rights defenders and journalists accused of “insurrection” who, due to their role in opposing President Nkurunziza’s third term, were accused of involvement in the failed coup attempt of May 2015. None of the accused, all in exile, were present.¹⁷

7. PROMOTE EFFECTIVE DIALOGUE

President Ndayishimiye emphasized in his inauguration speech the importance of dialogue in Burundian tradition and encouraged all Burundians to exercise their right to freedom of expression. Referring to political parties, he asked that “if they are not speaking the same language as the elected government, what other government do they claim?” As noted above, he also accused some human rights defenders of working on behalf of the “colonists”. If the new government is serious about “build[ing] Burundi on solid foundations, namely: good governance, respect and protection of human rights,” then they must send a clear and unambiguous message through their words and actions that the right to freedom of expression, in particular, and human rights more broadly will be fully and effectively respected, protected, promoted and fulfilled in Burundi, and that all acts of intimidation, repression and violence against those who disagree with the ruling party will not be tolerated.

8. WORK TOWARDS TRUTH AND JUSTICE

Burundi’s Truth and Reconciliation Commission (TRC) was established in 2014 after years of consultation, to cover the period 1962 to 2008. The TRC began collecting testimonies in 2016 and its mandate was changed in 2018 to extend back to 1885. While the establishment of a special tribunal figured prominently in the negotiations around Burundi’s transitional justice mechanisms, it was not included in the final TRC law and no judicial mechanism has yet been established to bring to justice those responsible for crimes under international law and other serious violations of international human rights law.

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

Amnesty International urges the new government to guard against all political manipulation of the TRC as it jeopardizes the Commission’s mission. We also encourage the new government to reconsider establishing a judicial mechanism, such as the Special Tribunal, which could contribute to ending impunity for past atrocities.

9. GUARANTEE THE RIGHT TO HEALTH

President Ndayishimiye’s announcement of new measures to tackle COVID-19 on 30 June marked a welcome change in direction in the government’s response to the pandemic. While the government had previously been accused of not

¹⁵ International Refugee Rights Initiative, ““They don’t even understand why we fled”: New IRRI report highlights the difficulties of reintegration in Burundi”, 26 February 2019, <http://refugee-rights.org/they-dont-even-understand-why-we-fled-new-irri-report-highlights-the-difficulties-of-reintegration-in-burundi/>

¹⁶ OHCHR, “Burundi: the UN Commission of Inquiry raises red flags at the serious human rights violations committed in the pre-electoral climate”, 4 September 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24941&LangID=E>

¹⁷ Observatoire for the Protection of Human Rights Defenders, OMCT/FIDH, « Burundi: Harcèlement judiciaire à l’encontre de douze défenseurs des droits humains en exil », 6 February 2020, <https://www.omct.org/fr/human-rights-defenders/urgent-interventions/burundi/2020/02/d25688/>

responding seriously enough to the threat, President Ndayishimiye declared that the disease was “Burundi’s worst enemy” and announced an increase in mass testing.¹⁸ On 20 July, the International Monetary Fund (IMF) announced the approval of at least 7.63 million USD in debt service relief to Burundi over the next three months, with the possibility of further relief extending into 2022. The IMF said that this debt relief was expected to “free up public resources to help address the pandemic” and that “[t]he authorities are committed to using the additional resources to address the COVID pandemic in a transparent manner.”¹⁹

The new government must also take care not to stigmatize people with COVID-19. In his 30 June message to the nation, President Ndayishimiye stated that those who displayed symptoms but refused to be tested “will be considered a sorcerer and treated as severely as one would be.”²⁰ Considering that people accused of practicing witchcraft have been targeted by mob violence, Amnesty International calls on President Ndayishimiye to urgently make clear that he would not condone such acts.

The government should ensure that adequate measures – including through the timely dissemination of accurate information – are taken to protect the population from avoidable exposure to COVID-19 and keep any measures they introduce to respond to the pandemic under constant review. In responding to this public health crisis, the government must ensure that all measures introduced to address the pandemic respect human rights, are provided by law, and are necessary, and proportionate.²¹

In addition to ensuring that all persons have access to adequate health care, the government should also make sure it is enabling rather than hindering efforts by people in Burundi to promote public health. In late March 2020, the government spokesperson said that institutions taking proactive protective measures to respond to the pandemic, (such as closing schools) would face sanctions on the grounds that these actions are “getting ahead of the government” and aim to “manipulate or disorientate public opinion.”²² This statement risks deterring the population from taking proactive measures to protect people’s health.

In a country where more than 1.7 million people require humanitarian assistance out of a population of approximately 11 million, and where the health situation is described as precarious,²³ restrictions on international non-governmental organizations, including those providing health care, such as the requirement to share sensitive personal data on staff,²⁴ create unnecessary obstacles to the provision of much-needed humanitarian assistance. The requirement to pay contributions towards the organization of the 2020 elections and towards CNDD-FDD activities added to the financial strain on the population. The government should ensure that all persons’ right to health is respected, protected and fulfilled.

10. RESTART INTERNATIONAL ENGAGEMENT

In his investiture speech, President Ndayishimiye spoke of the need to improve Burundi’s image abroad on the basis of mutual respect, complementarity and strengthened understanding, while also warning “certain countries and organizations”

¹⁸ DW, Burundi: Coronavirus prompts timid steps for a break with the past, 8 July 2020, <https://www.dw.com/en/burundi-coronavirus-prompts-timid-steps-for-a-break-with-the-past/a-54089400>

¹⁹ International Monetary Fund, “IMF Executive Board Approves US\$7.6 Million Debt Relief to the Republic of Burundi Under the Catastrophe Containment and Relief Trust,” 20 July 2020, <https://www.imf.org/en/News/Articles/2020/07/20/pr20265-burundi-imf-executive-board-approves-us-7-6m-debt-relief-under-cprt?cid=em-COM-123-41860>

²⁰ Agence France Presse/France 24, “Burundi changes tack as president declares COVID-19 ‘biggest enemy’”, 1 July 2020, <https://www.france24.com/en/20200701-burundi-changes-tack-as-president-declares-covid-19-biggest-enemy>

²¹ Amnesty International, Responses to COVID-19 and States’ Human Rights Obligations: Preliminary Observations, 16 March 2020, <https://www.amnesty.org/en/documents/pol30/1967/2020/en/>

²² Statement of government spokesperson Prosper Ntahorwamiye, 25 March 2020, <https://www.presidence.gov.bi/wp-content/uploads/2020/03/Coronavirus-communiqu%C3%A9.pdf>

²³ World Health Organization, Country Cooperation Strategy at a glance (Burundi), May 2015, https://apps.who.int/iris/bitstream/handle/10665/137042/ccsbrief_bdi_en.pdf;jsessionid=6742CA4A1C1DC2A68716E732C14F7346?sequence=1

²⁴ Amnesty International, “Burundi: Drop demand on international NGOs to disclose ethnic identity of employees,” 27 February 2020, <https://www.amnesty.org/en/latest/news/2020/02/burundi-drop-demand-on-international-ngos-to-disclose-ethnic-identity-of-employees/>

that try to impose “demands that go against Burundians’ ancestral culture”.²⁵ Relations between Burundi and many partner countries have been strained since the start of the crisis in 2015. In 2016, the European Union suspended direct financial assistance to the Burundian government.

Having initially cooperated with a fact-finding mission from the African Commission on Human and Peoples’ Rights in 2015 and the UN Independent Investigation on Burundi in 2016, the former government then moved to cut off almost all international engagement on human rights issues, including closing the UN human rights office in the country. The African Union has maintained a team of human rights monitors in Burundi, however. In 2016, the government also withdrew from the Rome Statute. In 2018, the three members of the Commission on Inquiry on Burundi mandated by the Human Rights Council were declared persona non grata. In April 2018, a team of experts mandated by the UN Human Rights Council was expelled, although sending the team was a proposal put forward by the African Group after consultation with Burundi.

An important component of the mandate of the UN Commission of Inquiry on Burundi and similar mechanisms, in addition to their documenting and reporting role, is to dialogue with the government to provide support and advice in order to improve the human rights situation in the country and to combat impunity. Amnesty International urges the new government to guarantee effective protection of human rights and reengage with international and regional human rights mechanisms. More broadly, reviving international engagement and cooperation should reopen important avenues of financial and technical support in working towards the progressive realization of social and economic rights in Burundi.

²⁵ Speech of President Evariste Ndayishimiye at his investiture, 18 June 2020, <https://www.presidence.gov.bi/2020/06/19/discours-de-son-excellence-general-major-evariste-ndayishimiye-a-loccasion-de-son-investiture/>