



Comparative study and findings on the impact of criminal, security and other exceptional laws and policies in select Francophone and Lusophone countries

Burundi

Janelle Mangwanda, Theoneste Manirambona, Jean-Claude Barakamfitye and Josiane Nshimirimana

AUGUST 2025



UNIVERSITY of the
WESTERN CAPE

© Dullah Omar Institute, 2025

This publication was made possible with the financial assistance of the Open Society Foundations. The content of this document is the sole responsibility of the Dullah Omar Institute and can under no circumstances be regarded as reflecting the position of the Open Society Foundations. Copyright in this publication is vested with the Dullah Omar Institute, University of Western Cape. No part of this publication may be reproduced in whole or in part without the express permission, in writing, of the Dullah Omar Institute.

Dullah Omar Institute
University of the Western Cape
Private Bag X17
Bellville 7535
South Africa

www.dullahomarinate.org.za

The Dullah Omar Institute, formerly the Community Law Centre, at the University of the Western Cape ('the Institute'), established in 1990, works to realise the democratic values and human rights enshrined in South Africa's Constitution. It is founded on the belief that our constitutional order must promote good governance, socio-economic development and the protection of the rights of vulnerable and disadvantaged groups.

Given the need for regional integration to encourage development in Africa, the Institute also seeks to advance human rights and democracy in this broader context. Based on high quality research, the Institute engages in policy development, advocacy and educational initiatives, focusing on areas critical to the realisation of human rights and democracy in South Africa and Africa in general.



Acronyms and abbreviations

ACHPR	African Charter on Human and Peoples' Rights
APRODH	Association for the Protection of Human Rights and Detained Persons
Bangkok Rules	United Nations Rules for the Treatment of Women Prisoners and Non-custodial measures for women offenders
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CNIDH	Commission National Independante des Droits de l'Homme (National Independent Human Rights Commission of Burundi)
CNDD-FDD	National Council for the Defense of Democracy – Forces for the Defense of Democracy
CNL	National Congress of Liberty
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
EACJ	East African Court of Justice
EAJ	East African Community
GANHRI	Global Alliance of National Human Rights Institutions
HSSREC	Humanities and Social Sciences Research Ethics Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGO	Non-governmental Organisations
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
SCA	Sub-Committee on Accreditation
UPR	Universal Periodic Review
UNCAT	United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
WHO	World Health Organisation



Contents

Executive Summary	6
1. Introduction	8
1.1 Methodology	8
1.2 Report Outline	9
2. Historical and political context	10
2.1 Post-colonial context	11
2.2 Devolution of powers at sub-national level	11
3. Constitutional and legislative reforms relating to criminal justice (2000-2024)	13
3.1 Constitutional reforms	13
3.2 State of Emergency	14
3.3 Legislative reforms	15
4. Legal framework: Informal and Formal systems	17
4.1 Informal law enforcement	17
4.2 Informal courts	18
4.3 Formal law enforcement	19
4.4 Formal courts	19
4.5 Sanctions	20
4.6 Bail	21
5. Overview of select criminal, security and exceptional laws	22
5.1 Criminal Laws	22
5.1.1 Public order	22
5.1.2 Homosexuality	23
5.1.3 Gender based violence	23
5.1.4 Superstitious acts	24
5.1.5 Duels	24
5.1.6 Abandonment of family	25
5.1.7 Prostitution	25
5.2 Security Laws	26
5.2.1 Defamation	26
5.2.2 Assemblies and public demonstrations	27
5.2.3 Press and Media Law	28
5.2.4 Cybercrime Law	29

5.3	Exceptional Laws	30
5.3.1	Regulation of mass sports and anti-jogging law	30
5.3.2	Concubinage	30
5.3.3	Adultery	31
5.3.4	Children incarcerated with their mothers: Penitentiary Regime Law	31
5.3.5	Burundi government response to coronavirus (COVID-19) pandemic	33
5.3.6	Prohibition of rental contracts between landlords and unemployed persons in the Commune of Mutimbuzi, Province of Bujumbura	33
5.3.7	Commune administrator limiting hours of circulation for single women	34
5.3.8	Prohibition of informal transport operations in Bujumbura	35
5.3.9	Prohibition of straying domestic animals and livestock	35
5.3.10	Prohibition of street trading in Bujumbura	36
6.	Regional and International human rights instruments	37
7.	Oversight and Monitoring Bodies	39
7.1	Burundi National Independent Human Rights Commission	39
7.2	The Ombudsman	40
7.3	Police oversight	40
8.	Recommendations and Conclusion	42
8.1	Law Reform	42
8.1.1	Ratification of international treaties	42
8.1.2	Reform of national laws	42
8.2	Policy Reform	43
9.	Bibliography	45



Executive Summary

Burundi is a former German and Belgian colony situated in the African Great Lakes Region. The country faced a civil war between 1993 and 2005 as a result of ethnic, political and electoral crises. The Penal Code which is a relic of colonial times, remains in use and has in some cases, been further strengthened by the post-colonial government. Since independence from Belgium in 1962, new legislation has also been enacted, some of which, are unproblematic, others which pose practical issues when applied by law enforcement officials. The accompanying sanctions are often harsh or unaffordable, resulting in avoidable, if not unjust, detention.

Burundi as a representative of francophone Africa offers a compelling lens through which to examine the complex legacy of colonial legal systems, on-going struggles for democratic governance, and the tension between formal and informal law enforcement. Despite its relatively small size, Burundi reflects broader regional challenges, including the persistence of colonial-era laws, politicised legal reforms, and the use of criminal, security and exceptional laws to suppress dissent and control civil society. As is the case in many francophone African countries, the promise of constitutional rights in Burundi is often undermined by repressive enforcement practices and vague legal provisions, especially around freedom of expression, assembly, and due process.

Key observations from this report indicate that Burundi's post-independence history was marked by ethnic conflict and political instability which continues to shape its legal landscape. Major reforms have occurred over the last 25 years including the 2000 Arusha Peace Agreement, and the 2005 and 2018 Constitution. Despite these changes, several legal reforms remain politicised and often reinforce executive power. Burundi is party to key regional and international human rights treaties; however, domestic implementation of international obligations remains limited. Criminal, security, and exceptional laws in Burundi are frequently vague and selectively enforced, allowing authorities to suppress dissent and restrict fundamental freedoms. These laws, particularly those related to public order, defamation, and terrorism, are often applied in discriminatory or punitive ways, especially against political opponents, journalists, and civil society. It is also the case that local authorities also issue exceptional decrees that criminalise ordinary behaviours despite limited legal authority to do so, thus contributing to legal uncertainty and human rights violations. Oversight mechanisms exist, including the National Independent Human Rights Commission and the Ombudsman office but face increasing restrictions due to limited resources and issues of transparency. Access for civil society and international bodies to monitor places of detention has been curtailed, weakening accountability and enabling abuse.

This report draws attention to certain criminal, security and exceptional laws that exist in Burundi that are considered to be discriminatory, exclusionary and exceptional. These laws are often incompatible with human rights principles such as freedom of assembly, freedom of expression and other norms entrenched in UN treaties and the African Charter on Human and Peoples' Rights. Some laws including those relating to defamation and assemblies are vague in scope, leaving room for unfettered discretion by law enforcement officials, while other laws are evidently as the result of sentimental or political motivations of certain local government administrators. The report's objective is to bring to the surface seldom heard of, deliberately ignored and/or purposefully obscured voices and perspectives with the purpose to draw attention to problematic issues within the Burundian legal framework as well as practice. Emphasis is placed on targeted groups and the impact these laws and their application have on vulnerable groups including women, youth, children, human rights defenders, political opponents and civil society activists. The report provides an overview and reflection on the situation in

Burundi and forms part of a three-country comparative study that also includes Côte d'Ivoire and Mozambique. These three countries were selected as they are from slightly different legal traditions stemming from previous colonial powers and this enriches the comparative analysis and offers context specific lessons to learn. The report focuses on the time period between 2000 to 2025 as all three countries have undergone significant constitutional and legislative reform during this period.

The study took place in Bujumbura, Burundi and employed a qualitative research methodology comprising a series of focus group discussions and semi-structured interviews with 50-60 stakeholders. Participants included local and national government officials, academics, civil society representatives, legal professionals, public space workers and other affected individuals. Stakeholders provided written consent to participate in the study and were guaranteed anonymity. This report was drafted based on an extensive literature review and insights gathered during the data collection process. To ensure accuracy of information, the findings were subsequently validated at a workshop held in Bujumbura, Burundi in May 2025.

The Dullah Omar Institute expresses its sincere gratitude to our partner, *Burundi Bridges for Justice*, for coordinating the focus group discussions and semi-structured interviews in Bujumbura, Burundi.

We also wish to acknowledge the generous support of the Open Society Foundations for making this research report possible.

1.

Introduction

The Republic of Burundi is located in the African Great Lakes region. A former German colony in the early 20th century and later a Belgian colony from 1916 to 1962, Burundi gained independence on 1 July 1962.¹ The post-independence era was initially marked by a constitutional monarchy (1962–1966), which was overthrown in a coup d'état that established a one-party system and military dictatorship.² The country held its first democratic elections on 1 June 1993, but the elected president, Melchior Ndadaye, was assassinated just three months later, triggering a protracted civil war driven by ethnic divisions between Hutu and Tutsi groups.³ The conflict formally ended in 2000 with the signing of the Arusha Peace and Reconciliation Agreement.⁴ Burundi is a low-income economy, with 80% of the population employed in the agricultural sector.⁵ The country faces significant challenges, including a weak economy and rapid population growth. In 2024, the Gross Domestic Product (GDP) of Burundi was US \$6,75 billion dollars, with a real GDP growth estimated at 3.5%, making it one of the poorest countries in the world.⁶ The country continues to grapple with high inflation and limited foreign reserves, which constrain potential growth.

While Belgian colonial rule officially ended in 1962, Burundi's independence did not immediately translate into full political and legal autonomy. Many colonial-era laws remain embedded within Burundi statutes and continue to be enforced in arbitrary and discriminatory ways. Moreover, in the post-colonial period, the Burundi government has enacted new laws which are applied in exceptional ways, disproportionately affecting the poor and marginalised. These laws often result in harsh, unaffordable, and unjust sanctions, including detention. While these laws may not always be inherently problematic, their application in practice frequently results in overreach and rights violations.

This report highlights the impact of select criminal, security, and other exceptional laws in Burundi that are unfair, discriminatory, exclusionary, and generally incompatible with human rights principles such as freedom of assembly, freedom of expression, and other norms entrenched in UN treaties and the African Charter on Human and Peoples' Rights. The objective of this study is to amplify voices and perspectives that are rarely heard, deliberately ignored, or purposefully obscured, with the aim of drawing attention to problematic issues within Burundi's legal framework and its enforcement. Given the complexity and breadth of laws contained within Burundi statutes, a selection was made on a range of old and more recent laws deemed most relevant to emerging global issues and trends.

1.1 Methodology

A qualitative research methodology was employed for this study. The project received ethics clearance from the Humanities and Social Sciences Research Ethics Committee (HSSREC) at the University of the Western Cape, South Africa. A comprehensive literature review was conducted using online sources, journal articles, academic theses, news articles, reports, legislation, and conference papers.

1 J Nkurunziza, *The Origin and Persistence of State Fragility in Burundi* (Routledge, 2022), 101–40, <https://doi.org/10.4324/9781003297697-4>.

2 J Nkurunziza, *Timing and Sequencing of Post-Conflict Reconstruction and Peacebuilding in Burundi* (Political Economy Research Institute, 2015), <https://peri.umass.edu/wp-content/uploads/joomla/images/publication/WP406.pdf>.

3 Nkurunziza, *The Origin and Persistence of State Fragility in Burundi*, 11.

4 "Arusha Peace and Reconciliation Agreement for Burundi," 2000, https://peaceaccords.nd.edu/wp-content/accords/Arusha_Peace_Accord_2000.pdf.

5 "Burundi Overview: Development News," *The World Bank*, 2025, <https://www.worldbank.org/en/country/burundi/overview#2>.

6 *World Bank*, "Burundi Overview: Development News."

Data collection took place in August 2024 in Bujumbura, Burundi, involving key stakeholders. Five focus group discussions were held with five to ten participants each, and ten individual semi-structured interviews were also undertaken. Participants included representatives from the Ministry of Justice, the National Independent Human Rights Commission, the National Assembly, the Ombudsman's Office, academia, civil society organisations, national and municipal police, and individuals working in public spaces. The focus group discussions enabled a broad range of perspectives from affected groups and civil society representatives, while the semi-structured interviews were conducted with experts and high-ranking officials. The initial draft of the report was developed and presented for validation during a stakeholder workshop in May 2025. Feedback and recommendations stemming from the validation workshop were integrated into the final version of the report.

1.2 Report Outline

The report is divided into the following sections:

- Section Two offers a historical and political overview of Burundi, discussing the legacy of its former colonial power and highlighting some colonial statutes that remain in place. It also briefly addresses changes in the country's political context, including the devolution of powers at the sub-national level.
- Section Three focuses on constitutional and legislative reforms of the past 25 years, including the legal requirements for declaring a State of Emergency.
- Section Four examines Burundi's legal framework, reflecting also on law enforcement and the judiciary at national and sub-national levels.
- Section Five provides an overview of select criminal, security, and exceptional laws that are applied in unusual, discriminatory, and/or punitive ways, and their impact on specific groups.
- Section Six discusses international and regional human rights instruments.
- Section Seven focuses on oversight and monitoring bodies, and
- Section Eight presents recommendations for reform in policy, law and practice and also concludes the report.

2. Historical and political context

The Kingdom of Burundi was established in the 16th century by Ntare Rushatsi, the first King of Burundi, and was later consolidated by Ntare Rugamba between 1756 and 1850.⁷ The pre-colonial political system was an absolute monarchy led by the Baganwa aristocracy.⁸ During this period, the legal system was primarily governed by customary law. In the absence of a formal prison system, responses to crime were largely managed through community-based mechanisms. In the post-colonial era, Burundi inherited foundational principles of criminal law from the colonial legal system, including *nullum crimen, nulla poena sine lege* (no crime, no punishment without law), *dubio pro reo* (benefit of the doubt), and the presumption of innocence.

Between 1890 and 1916, the country was under German rule and formed part of German East Africa, a territory that also included Rwanda and mainland Tanzania.⁹ From 1916 to 1962, it was a Belgian colony, a legacy which significantly shaped Burundi's political, legal, economic, and social landscape. The imposition of administrative reforms and the institutionalisation of ethnic divisions laid the groundwork for post-independence political instability.¹⁰ In 1931, identity cards specifying ethnicity were introduced which deepened ethnic polarisation in the country. Colonial authorities also interfered with traditional leadership structures, and favoured Tutsis who were perceived as more 'intellectual', while marginalising Hutus, who were viewed as 'backward peasants'.¹¹

While some colonial-era laws have been amended to reflect the current political context, several legal provisions from that period remain in force. The legal basis for the continued enforceability of these colonial laws is found in the law governing the application of legislative acts and regulations issued by the colonial authority. The law states that "*Insofar as they are not contrary to the Constitution of Burundi, legislative acts issued by the tutelary authority before the date of Burundi's independence will remain in force until their express repeal or their total or partial replacement by a law of Burundi.*"¹²

This means that laws passed during the colonial era remain legally valid in Burundi even after independence, unless they are explicitly repealed, revised, or found to be in conflict with the Constitution. This highlights the troubling persistence of colonial legal frameworks long after independence, many of which are poorly suited to local realities and fall short of contemporary human rights standards.

7 E McClintock and T Nahimana, *Sub-Saharan Africa: Cultural Geography II – Peacemaking in Burundi: The Institution of the Bashingantahe*, College of DuPage Digital Press, August 31, 2022, <https://cod.pressbooks.pub/easternworlddailyreadingsgeography/chapter/sub-saharan-africa-cultural-geography-ii/>.

8 The Baganwa are believed to be descendants of princes in Burundi monarchy.

9 Q Holbert, "German East Africa after the First World War | History Today," *History Today*, January 1, 2018, <https://www.historytoday.com/history-matters/german-east-africa-after-first-world-war>.

10 Nkurunziza, *The Origin and Persistence of State Fragility in Burundi*.

11 Nkurunziza, *The Origin and Persistence of State Fragility in Burundi*.

12 Constitution of the Republic of Burundi 2018 (2018). https://www.constituteproject.org/constitution/Burundi_2018; Republique Du Burundi - Loi Du 29 Juin 1962 Relative à l'application Des Actes Législatifs et Réglementaires Emanant de l'autorité Coloniale (1962). https://amategeko.gov.bi/wp-content/uploads/2019/12/BOB_No6-1962.pdf.

2.1 Post-colonial context

The first democratic elections in Burundi were held in June 1993, resulting in the election of Melchior Ndadaye as the country's first Hutu president. His presidency lasted only three months before he was assassinated, an event that triggered a protracted civil war and led to the deaths of thousands.¹³ The conflict formally ended with the signing of the Arusha Peace and Reconciliation Agreement in 2000.¹⁴

In 2005, presidential elections were held, and Pierre Nkurunziza, a former rebel leader of the National Council for the Defence of Democracy–Forces for the Defence of Democracy (CNDD–FDD) became the second President of the Republic of Burundi. After completing two terms, Nkurunziza's controversial bid for a third term in 2015 sparked widespread unrest and violence.¹⁵ In 2020, Pierre Nkurunziza renounced his candidacy for the presidential elections, reportedly in exchange for guarantees of impunity and the honorary title of "Supreme Guide of Patriotism." General Évariste Ndayishimiye was subsequently nominated as the CNDD–FDD party candidate and won the May 2020 election with a two-thirds majority.¹⁶

The ruling party has been widely characterised as undemocratic, with numerous reports highlighting a rapid decline in political and civic space, particularly for opposition parties.¹⁷ Documented abuses include extra-judicial killings, arbitrary arrests, torture, threats of retaliatory violence, and various forms of repression primarily targeting political opponents and members of the National Congress for Liberty (CNL). These acts are reportedly carried out by the Imbonerakure, the youth wing of the ruling party, as well as unidentified armed individuals.¹⁸

2.2 Devolution of powers at sub-national level

In Burundi, the devolution of powers at sub-national level is framed within the broader context of decentralisation, as outlined in the Constitution and relevant legal frameworks such as the Communal Law.¹⁹ Burundi is a unitary state that was previously divided into 18 provinces, which were further subdivided into 114 districts and 119 communes.²⁰ However, in July 2023, the Burundian government implemented a major territorial reform, reducing the number of provinces from 18 to 5 and the number of communes from 119 to 42.²¹ This reform was presented as a measure aimed at enhancing the efficiency of public administration and improving the delivery of public services.

The commune is the smallest decentralised administrative unit in Burundi, tasked with managing local interests and providing public services to the population within its jurisdiction, including zones, hills, and districts, over which the communal administration exercises tutelary authority.²² Following the most recent amendment to the Communal Law, communes are now empowered to draft and implement local development plans by defining strategic actions aimed at poverty reduction and employment creation.²³

13 A Guichaoua, "Burundi: A Country in Search of Its History," Université Paris 1 Panthéon Sorbonne | Institut d'études du développement de la Sorbonne, 2022, 24, https://recherche-afriquesdesgrandslacs.panthéonsorbonne.fr/sites/default/files/2022-07/20220705%20-%20History_of_Burundi%20English.pdf.

14 "Arusha Peace and Reconciliation Agreement for Burundi."

15 Nkurunziza, *The Origin and Persistence of State Fragility in Burundi*.

16 Guichaoua, "Burundi: A Country in Search of Its History."

17 2023: *Country Reports on Human Rights Practices: Burundi* (US Department of State, 2023), <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/burundi/>.

18 2023: *Country Reports on Human Rights Practices: Burundi*, 32; "Burundi: Freedom in the World 2024 Country Report," Freedom House, accessed July 4, 2024, <https://freedomhouse.org/country/burundi/freedom-world/2024>.

19 République Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale., Loi organique No1/18 (2024). <https://www.ceniburundi.bi/loi-organique-n-1-18-du-07-juin-2024-portant-reorganisation-de-ladministration-communale>.

20 République Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale.; Constitution of the Republic of Burundi 2018, art. 263.

21 République Du Burundi: Loi Organique Du 16 Mars 2023 Portant Détermination et Délimitation Des Provinces, Des Communes, Des Zones, Des Collines et/Ou Quartiers de La République Burundi, No.1/05 (2023). <https://www.ceniburundi.bi/wp-content/uploads/2024/06/LOI-n°5-du-16-mars-2023DETERMINATION-ET-DELIMITATION-DES-PROVINCES-COMMUNES-ZONES-ET-QUARTIERS.pdf>.

22 République Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale., art. 6.

23 République Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale., art. 6.

In addition to these functions, communes are responsible for the planning, execution, and monitoring of activities in at least eleven key areas, including:²⁴

- Territorial administration and community development;
- Communal planning and finances,
- Territorial structuring, urban planning and housing;
- Education, sports, social and cultural issues;
- Public health;
- Water, energy and quarries;
- Environment, agriculture, livestock and land management;
- Tracks, communication and telecommunication routes;
- Administrative, socio-cultural and tourist infrastructures;
- Human rights, social protection and gender inclusion; and
- Entrepreneurship, trade and industry.

While the law does not explicitly list criminal justice and security as functions of the commune, the same law grants the commune administrator policing powers, including the responsibility to enforce laws and regulations within their jurisdiction to maintain public order and safety. Furthermore, the commune administrator may take any measures deemed necessary to achieve this.²⁵ The Communal Law also recognises the province as a first-level decentralised administrative division of the State. In contrast to the commune, the province does not have a legal personality. Instead, executive authority at the provincial level is vested in the governor, who coordinates the administration's services and exercises first-level supervisory powers over the acts of commune administrators.²⁶

²⁴ Republique Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale., art. 8.

²⁵ Republique Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale., art. 41.

²⁶ Republique Du Burundi: Loi Organique No1/18 Du 07 Juin 2024 Portant Reorganisation de l'administration Communale., art. 89; Constitution of the Republic of Burundi 2018, art. 143.

3. Constitutional and legislative reforms relating to criminal justice (2000–2024)

Between 2000 and 2024, there have been several key constitutional and legislative reforms relating to criminal justice in Burundi. Throughout this period, reforms have focused on restructuring the justice system, promoting accountability, and aligning national laws with international human rights standards.

3.1 Constitutional reforms

The 2000 signing of the Arusha Peace and Reconciliation Agreement significantly restructured the country's legal system and laid the foundation for the adoption of the 2005 Constitution.²⁷ The Arusha Agreement specifically addressed criminal justice issues, including the fight against impunity, the prevention and punishment of genocide, war crimes, crimes against humanity, and the reform of the judiciary to ensure impartial and independent justice.²⁸ In October 2001, the Transitional Constitution was promulgated to govern the functioning of State institutions for a 36-month period leading up to the adoption of a Post-Transition Constitution.²⁹ The transitional legal framework set out clear objectives for the interim regime including the adoption of measures to address the consequences of past atrocities and to prevent the recurrence of genocide, exclusion, and impunity.³⁰

An Interim Post-Transition Constitution was promulgated in October 2004 and adopted by the Transitional National Assembly and Senate.³¹ Unlike its predecessor, it did not assign specific objectives to the transitional regime. However, it articulated four core constitutional principles aimed at fostering economic development, equality, and social justice. These principles included:

- The establishment and implementation of a democratic system of governance;
- The inclusion of minority political parties in the broader governance framework;
- The protection and inclusion of ethnic and religious minority groups in national governance structures;
- The restructuring of national security and justice systems to ensure the security of all Burundians, including ethnic minorities.

The Interim Post-Transition Constitution remained in force for less than a year before it was replaced by the 2005 Constitution which was adopted by referendum and retained the fundamental principles, objectives, and rights relating to criminal justice as entrenched in the Interim Constitution.³²

27 JC Barakamfitiye and J Ncamatwi, *The Burundi Legal System and Research* (NYU Law GlobalLex, 2024), <https://www.nyulawglobal.org/globalex/burundi1.html>.

28 "Arusha Peace and Reconciliation Agreement for Burundi," art. Protocol I, Article 6, and Protocol II, Article 9.

29 Constitution of Transition of the Republic of Burundi, Pub. L. No. Law N°1/017 of October 28, 2001 (2001). <https://www.peaceagreements.org/masterdocument/1425>.

30 Constitution of Transition of the Republic of Burundi, art. 4, 6, 7.

31 Interim Post-Transition Constitution of Burundi (2004). <https://www.uaipit.com/en/documents-record/?/3979/post-transition-interim-constitution-of-the-republic-of-burundi>.

32 Interim Post-Transition Constitution of Burundi, art. 12.

In 2018, three important constitutional reforms were promulgated. The first was the creation of a Prime Ministerial post. Secondly, the extension of the presidential term from five to seven years (with a limit of one consecutive term). Thirdly, the reduction of the legislative threshold for adopting laws from a two-thirds majority to an absolute majority.³³ In terms of criminal justice, the 2018 Constitution maintained the core principles and rights of the 2005 Constitution while introducing the requirement for representation in the composition of the judiciary to promote regional, ethnic, and gender balances.³⁴ Notably, while the 2005 Constitution explicitly listed certain human rights treaties ratified by Burundi, the 2018 Constitution omitted these references.³⁵ It can be assumed that the omission aimed to streamline the text, with the intention of implicitly incorporating all ratified human rights treaties. However, a significant concern arises from the removal of a provision which stated that fundamental rights enshrined in human rights treaties were “not subject to any restriction or derogation, except in certain circumstances justifiable by the public interest or the protection of a fundamental right.” The absence of this safeguard may imply that restrictions or derogations (previously limited to exceptional cases) are now more broadly permissible, potentially weakening the protection of fundamental rights.³⁶

3.2 State of Emergency

The Burundi Constitution provides for the limitation of certain rights under a State of Emergency. This may be declared when the nation, its independence, territorial integrity, or the fulfilment of its international obligations is under serious and imminent threat.³⁷ The President may proclaim a State of Emergency by decree-law following consultation with the cabinet, Parliament, the National Security Council and Constitutional Court.³⁸ Upon declaring a State of Emergency, the President is required to address the nation through a formal message. Any accompanying measures must be guided by the objective of enabling constitutional public authorities to carry out their duties as swiftly and effectively as possible. Importantly, during the exercise of these exceptional powers, parliament may not be dissolved.³⁹

There exist several concerns with the constitutional provisions governing the declaration of a State of Emergency in Burundi:

- **Lack of clarity on what constitutes a “serious and imminent threat”:** The Constitution does not define the threshold or criteria for such a threat. While it can be inferred that the Constitutional Court has the authority to assess whether this condition is met, the absence of precise legal definitions leaves room for subjective interpretation.
- **Unspecified duration of the State of Emergency:** The Constitution declares that emergency powers should be exercised for “the shortest possible time,” but it does not provide a concrete maximum duration. This lack of temporal clarity may lead to indefinite or prolonged States of Emergency without adequate oversight. By way of comparison, the South African Constitution provides for an initial maximum duration of 21 days unless extended by the National Assembly.⁴⁰
- **Unclear scope of rights subject to derogation:** The Constitution does not specify which rights may be restricted or suspended during a State of Emergency. Instead, it permits the President to take “any measures necessary in the circumstances,” creating a potentially broad and vague mandate that risks enabling the unjustified or disproportionate limitation of fundamental rights.

33 “Burundi: Un projet de révision en profondeur de la Constitution adopté,” *Afrique, Radio France International (RFI)*, October 26, 2017, <https://www.rfi.fr/fr/afrique/20171026-burundi-projet-revision-profondeur-constitution-adopte-mandat>.

34 Constitution of the Republic of Burundi 2018, art. 213.

35 Constitution of the Republic of Burundi 2018, art. 18.

36 Constitution of the Republic of Burundi 2018, art. 19.

37 Constitution of the Republic of Burundi 2018, art. 116.

38 Constitution of the Republic of Burundi 2018, art. 116.

39 Constitution of the Republic of Burundi 2018, art. 116.

40 Constitution of the Republic of South Africa, Pub. L. No. (Act 108 of 1996), <https://www.justice.gov.za/constitution/SACConstitution-web-eng.pdf>.

3.3 Legislative reforms

Legal instruments such as the Penal Code, the Criminal Procedure Code, and the Anti-Corruption Court Law provide the foundation for criminal justice in Burundi.⁴¹ However, administrative actions taken by authorities often appear disconnected from these legal frameworks, highlighting a significant gap in judicial procedure. Politically influenced decisions has the potential to override legal considerations, leading to one-sided assessments and undermining the rule of law.

The 2009 revision of the Penal Code in Burundi marked a significant step in aligning the country's criminal justice framework with international human rights standards.⁴² The following key reforms were made:

- **Abolition of the death penalty:** This landmark decision demonstrated a strong commitment to human rights and was replaced by an "incompressible life sentence," meaning a life sentence without the possibility of reduction or parole.⁴³ While the Penal Code abolished the death penalty, the Military Penal Code still provides for it for soldiers who refuse to obey when ordered to march against the enemy, or for any other service ordered by his leader in the presence of an enemy or an armed band.⁴⁴ This raises questions of legal consistency and respect for human rights, as it creates a disparity between civilians and military personnel, which can lead to violations of international human rights standards.
- **Raising the age of criminal responsibility:** The age of criminal responsibility was increased from 13 to 15 years.⁴⁵ In addition, the Penal Code introduced educational and rehabilitative measures for minors, reflecting a shift from punitive to reformatory juvenile justice.⁴⁶
- **Criminal liability of legal entities:** Unlike the 1981 Penal Code, which allowed prosecution only of natural persons, the revised 2009 Penal Code extended criminal liability to juristic persons. Entities and their responsible managers can now be prosecuted for criminal acts.⁴⁷
- **Introduction of alternatives to imprisonment:** The revised Penal Code allows judges to impose non-custodial sentences such as community service, recognising the limitations of incarceration and emphasising rehabilitation and re-education over punitive measures.⁴⁸
- **New complementary penalties:** This includes socio-judicial follow-up⁴⁹ and the public presentation of convicted persons aimed at reinforcing accountability and facilitating reintegration into society.⁵⁰
- International crimes including genocide, war crimes and crimes against humanity have been included in the Penal Code in accordance with the Rome Statute of International Criminal Court.⁵¹
- The criminalisation of torture in line with Article 4 of UNCAT.⁵²
- The criminalisation of sexual violence.⁵³
- The criminalisation of denial of justice which refers to a failure by judicial authorities to perform their duties such as refusing to adjudicate a case, allowing excessive delays, refusing remedy, or misapplying the law in bad faith.⁵⁴

41 Republique Du Burundi Loi N°1/36 Sur La Cour Anti-Corruption [Law No 1/36 on the Anti-Corruption Court], Pub. L. No. Loi n°1/36(2006). <https://faolex.fao.org/docs/pdf/bur202701.pdf>; Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale., Pub. L. No. Loi No. 1/10(2013). <https://www.wipo.int/wipolex/en/legislation/details/13441>; Republique Du Burundi - Penal Code 2009, Loi No. 1/05 of 2009(2009). <https://resourceequity.org/record/2863-burundi-penal-code/>.

42 Republique Du Burundi - Loi N°1 / 05 Du 22 Avril 2009 Portant Revision Du Code Penal, Pub. L. No. Loi N°1 / 05(2009). <https://www.wipo.int/wipolex/en/legislation/details/13386>.

43 No provision clearly says that death penalty was abolished. However, this is implicit since it was not included in the list of applicable penalties.

44 Republique Du Burundi - Code Penal Militaire, Pub. L. No. No 12/80(1980). https://amategeko.gov.bi/laws_and_other_acts/portant-code-penal-militaire/.

45 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, art. 28.

46 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, art. 30,103,104.

47 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, arts. 21-24.

48 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, 4.

49 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, arts. 78-81.

50 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, art. 92.

51 Republique Du Burundi - Penal Code 2009, Loi No. 1/05 of 2009(2009). <https://resourceequity.org/record/2863-burundi-penal-code/>.

52 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, art. 205.

53 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, arts. 555-568.

54 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, art. 392.

The revision of the Penal Code in 2009 was driven by several key factors. Firstly, it responded to significant political, economic, and social changes at national and international levels. Secondly, it reflected the incorporation of various judicial instruments and international treaties into the national legal framework between 1981 and 2009. Thirdly, it aligned the Penal Code with evolving criminal law standards and principles developed over the preceding 25 years.⁵⁵ In addition, the political transition from a single-party dictatorship to a democratic regime based on universal suffrage fostered greater political freedoms and laid the groundwork for a culture of human rights, particularly in relation to the protection of women and children. This transition also acknowledged the potential rise in economic crimes, largely attributed to widespread poverty and the socio-economic impact of Burundi's twelve-year civil war.⁵⁶

Similarly, the Criminal Procedure Code was revised in 2013 to align with the changes introduced in the 2009 Penal Code, particularly in relation to newly defined offences.⁵⁷ Among the key additions were provisions on the rights of the defence⁵⁸ and the introduction of mandatory legal assistance for juvenile offenders, reflecting a growing commitment to due process and child protection.⁵⁹ Both the Penal Code and the Criminal Procedure Code were subsequently reviewed in 2017 and 2018, respectively. While these revisions retained the core features of the earlier versions, they were adopted in a new political context, following Burundi's withdrawal from the Rome Statute of the International Criminal Court which has raised concerns regarding the government's broader commitment to international justice, human rights and accountability mechanisms.⁶⁰

55 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, 1,2.

56 Republique Du Burundi - Loi N°1/ 05 Du 22 Avril 2009 Portant Revision Du Code Penal, 1.

57 Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale.

58 Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale., art. 73,74.

59 Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale., art. 222,223,224.

60 "Burundi and the ICC - Victims Lose out as Burundi Leaves ICC," *Coalition for the International Criminal Court*, 2017, <https://www.coalitionfortheicc.org/latest/resources/burundi-and-icc>.

4.

Legal framework: Informal and Formal systems

Burundi's legal framework is grounded in the 2018 Constitution and is supported by a range of legislation regulating the country's social, political, and economic spheres.⁶¹ The Constitution defines the separation of powers between the executive, legislative, and judicial branches.⁶² The President, elected for a seven-year term, holds broad executive authority. Legislative power is vested in a bicameral Parliament comprising the National Assembly and the Senate, responsible for drafting and enacting laws.⁶³ The judiciary is, in principle, an independent body tasked with upholding constitutional principles and enforcing the rule of law. Judicial appointments are made by presidential decree, following a proposal from the Minister of Justice, with the opinion of the Superior Council of the Magistrature.⁶⁴

The system operates as a dual legal structure comprising both written (formal) law and customary (informal) law. This duality is also reflected in law enforcement, where informal practices often operate alongside, or contrary to formal legal institutions, at times leading to conflict or overlap. In some instances, the informal system may supersede or significantly influence formal processes. The key distinction between the two lies in their structure as the formal system is governed by codified laws and follows established procedural rules, while the informal system tends to be arbitrary, community-based, and lacks standardised legal procedures.

4.1 Informal law enforcement

Administrative officers often misuse their power and informal law enforcement groups increasingly usurp public authority. These groups impose order and sanctions outside legal frameworks, leading to alarming measures such as disproportionate fines, confiscation of property, extortion, and the closure of business premises. One of the most prominent actors in these abuses is the Imbonerakure, the youth wing of the ruling National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD) party. Although they have no official authority to arrest individuals, members of the Imbonerakure frequently operate as de facto security agents.⁶⁵ They are widely reported to perpetrate unlawful sanctions and abuses such as extortion, kidnapping, illegal taxation, smuggling, and murder.⁶⁶ Additionally, they are known for routinely harassing, threatening, or physically assaulting individuals, often targeting political opponents or perceived dissenters.⁶⁷ This situation reflects a system of justice that frequently exceeds legal boundaries and is heavily influenced by political affiliations. Such practices severely compromise the protection of citizens' rights and erode public trust in formal judicial institutions. In response to these concerns, the 2016 Universal Periodic Review (UPR) of Burundi recommended the disarmament and demobilisation of the Imbonerakure, the prosecution of its members involved in unlawful acts, and comprehensive reforms of the police and security forces.⁶⁸

61 Constitution of the Republic of Burundi 2018, art. 48.

62 Constitution of the Republic of Burundi 2018, arts. 93, 152, 201.

63 Constitution of the Republic of Burundi 2018, art. 97.

64 Constitution of the Republic of Burundi 2018, art. 219.

65 *Report on the Independent Investigation on Burundi Carried out Pursuant to Human Rights Council Resolution S-24/1**, A/HRC/33/37 (United Nations Human Rights Council, 2016), https://digitallibrary.un.org/record/1315401/files/A_HRC_33_37-EN.pdf.

66 2023: *Country Reports on Human Rights Practices: Burundi*.

67 2023: *Country Reports on Human Rights Practices: Burundi*; *Global Organised Crime Index: Burundi* (Global Initiative Against Transnational Organized Crime, 2023), <https://ocindex.net/country/burundi>.

68 *Report on the Independent Investigation on Burundi Carried out Pursuant to Human Rights Council Resolution S-24/1**.

Moreover, informal abuses within law enforcement remain a serious concern, particularly in cases where local authorities, such as provincial governors exercise arbitrary power by detaining individuals without due process. These actions often bypass the formal justice system, raising serious concerns about adherence to the rule of law and the protection of human rights in the country. The lack of judicial independence further undermines the impartiality of criminal proceedings, compromising judges' ability to apply the law free from political or external interference. The informal system is further characterised by corruption at all levels, including local public entities where administrative authorities and politicians exploit their power for personal gain.⁶⁹

4.2 Informal courts

Burundi's legal system has evolved from a deeply rooted informal structure in which the monarch held absolute authority over the lives and property of the population.⁷⁰ The system was centred on customary law, with the King himself serving as the apex of the justice system and the *Bashingantahe* as the lower jurisdictional body.⁷¹ The *Bashingantahe* are the traditional authority structure by which Burundian society sought to resolve local conflicts and disputes in the pre-colonial era.⁷² Elements of this traditional system persist, and it is not uncommon for public authorities to disregard written forms of the administrative processes in favour of unwritten or verbal orders. A notable example occurred in March 2022, when the then Minister of the Interior and Public Security verbally banned the operation of bicycles, motorcycles, and tricycles within Bujumbura.⁷³ This verbal directive exemplified the persistence of informal governance practices, where public officials act *ultra vires*, issuing and enforcing measures without legal or constitutional basis. Such practices contribute to the normalisation of informal law and often reflect deeper systemic issues, including widespread corruption at various levels of government, particularly within local public institutions.⁷⁴

At the local level, non-state providers of justice such as the *Bashingantahe* Councils continue to play a significant role in resolving community disputes, particularly those involving land, small debts, and family-related issues.⁷⁵ Although the influence of this traditional authority has diminished in recent years, they were historically regarded as members of an elite class and respected custodians of moral integrity and social cohesion.⁷⁶ While their decisions do not carry formal legal authority, they remain active in mediating conflicts and promoting reconciliation and restorative justice. Many Burundians continue to turn to the *Bashingantahe* due to their perceived legitimacy, accessibility, and trustworthiness, qualities often lacking in central state institutions, especially among judicial police.⁷⁷ According to the Arusha Peace and Reconciliation Agreement, the *Bashingantahe* are recognised by the population as holding a form of legal authority at the local level, despite ambiguities surrounding their formal functions and jurisdiction.⁷⁸ The Burundian government's relegation of the *Bashingantahe* to non-state actor status is widely viewed as politically motivated. Nevertheless, formal courts reportedly still engage with them, particularly in land-related disputes, where they may be called upon as expert witnesses or tasked with mediating cases referred by the judiciary.⁷⁹

69 Ndayisaba, "Analyse Du Phénomène de Corruption Au Burundi à Travers l'accès Aux Services Publics. Cas de La Commune Kabarore (2005-2020)," 55.

70 P Ndayishimiye, "De La Royauté Sacrée de Droit Divin à La Monarchie Constitutionnelle Parlementaire (+/- 1750 à 1962): Vers La Fin de La Monarchie Burundaise." (Université de Pau et des Pays de l'Adour, 2022), 47, <https://theses.hal.science/tel-04324907>.

71 Ndayishimiye, "De La Royauté Sacrée de Droit Divin à La Monarchie Constitutionnelle Parlementaire (+/- 1750 à 1962): Vers La Fin de La Monarchie Burundaise.," 47.

72 D Kwizera, "The Role of the Institution of Bashingantahe in Nurturing Good Governance and Socio-Economic Development in Burundi," *International Journal for Innovation Education and Research* 5, no. 5 (2017): 155.

73 "Burundi: Les Taxis-Motos et Tuk-Tuk Interdits Dans Bujumbura à Partir Du 11 Mars," Radio France Internationale, February 26, 2022, <https://www.rfi.fr/fr/afrique/20220226-burundi-les-taxis-motos-et-tuk-tuk-interdits-dans-bujumbura-%C3%A0-partir-du-11-mars>.

74 D Ndayisaba, "Analyse Du Phénomène de Corruption Au Burundi à Travers l'accès Aux Services Publics. Cas de La Commune Kabarore (2005-2020)" (Université de Burundi, 2020), <https://repository.ub.edu/bi/items/1bb63ab8-b784-4cb8-8e48-d978f7f08ad2>.

75 E Scheye, *Local Justice and Security Development in Burundi: Workplace Associations as a Pathway Ahead* (Netherlands Institute of International Relations 'Clingendael,' 2011), https://www.clingendael.org/sites/default/files/pdfs/20111000_burundi_scheye.pdf.

76 Scheye, *Local Justice and Security Development in Burundi: Workplace Associations as a Pathway Ahead*, 16.

77 Scheye, *Local Justice and Security Development in Burundi: Workplace Associations as a Pathway Ahead*, 16.

78 Scheye, *Local Justice and Security Development in Burundi: Workplace Associations as a Pathway Ahead*, 17.

79 Scheye, *Local Justice and Security Development in Burundi: Workplace Associations as a Pathway Ahead*, 17.

4.3 Formal law enforcement

Burundi's formal law enforcement structure is composed of three main institutions, firstly, the National Police which operates under the authority of the Ministry of the Interior, Community Development, and Public Security. The National Police is primarily responsible for enforcing the law, maintaining public order, and ensuring internal security. Secondly, the Armed Forces which is under the jurisdiction of the Ministry of Defence and is tasked with national defence and the protection of the country's territorial integrity. Thirdly, the National Intelligence Service, which reports directly to the President, and holds powers of arrest and detention. Its mandate includes internal and external intelligence gathering, with a significant role in matters related to state security.⁸⁰

Corruption and extortion are persistent problems within Burundi's law enforcement and justice sectors. Officials, including those responsible for maintaining public order and administering justice, are frequently reported to solicit bribes or exert undue pressure on citizens in exchange for services or legal leniency.⁸¹ Such practices severely compromise the integrity of the judicial system and undermine the protection of citizens' rights. This environment of corruption fosters widespread distrust in State institutions and weakens the fair and impartial application of the law. According to the 2024 Freedom House report, corruption remains rampant across Burundi, and even when wrongdoing is exposed by civil society organisations or independent media, perpetrators often benefit from a culture of impunity, rarely facing accountability or legal consequences.⁸²

4.4 Formal courts

Burundi's formal judicial system consists of both ordinary and specialised courts.⁸³ The ordinary courts are organised in a hierarchical, pyramidal structure. At the base are the Magistrate courts, followed by the High courts and Courts of appeal, which handle both civil and criminal matters. At the apex is the Supreme Court, the highest judicial authority for non-constitutional cases.⁸⁴

In addition, specialised courts address specific areas of law, including military courts, commercial courts, labour courts, the Administrative Court, the Anti-Corruption Court, and the Court on Land and other Properties.⁸⁵ Each court is tasked with adjudicating disputes within its specialised jurisdiction. Burundi also has a Constitutional Court with exclusive competence over constitutional matters.⁸⁶ The Constitution also provides for the High Court of Justice which is a special tribunal composed of both the Constitutional Court and the Supreme Court.⁸⁷

This court is competent to try the President of the Republic in cases of high treason, as well as the president of the National Assembly, the President of the Senate, the Vice-President of the Republic and the Prime Minister for offences committed during their terms in office.⁸⁸

80 V Prusa, *Burundi: An Overview of Corruption and Anti-Corruption Efforts* (U4 Anti-Corruption Resource Center & Transparency International, 2024), 13, <https://www.u4.no/publications/burundi-an-overview-of-corruption-and-anti-corruption-efforts.pdf>.

81 Prusa, *Burundi: An Overview of Corruption and Anti-Corruption Efforts*, 13.

82 *Burundi: Freedom in the World 2024 Country Report* (Freedom House, 2024), <https://freedomhouse.org/country/burundi/freedom-world/2024>.

83 République Du Burundi - Loi Organique N° 1/21 Du 03 Août 2019 Modifiant La Loi N° 1/07 Du 25 Février 2005 Régissant La Cour Suprême, Pub. L. No. Loi n° 1/21 (2019), <http://courconstitutionnelle.gov.bi/wp-content/uploads/2023/09/RCCB372.pdf>; République Du Burundi - La Loi Organique N° 1/26 Du 26 Décembre 2023 Modifiant La Loi N° 1/08 Du 17 Mars 2005 Portant Organisation et Compétence Des Tribunaux, Pub. L. No. Loi N° 1/26 (2023), <https://assemblee.bi/wp-content/uploads/2024/01/n%C2%B026-du-26-decembre-2023.pdf>; Constitution of the Republic of Burundi 2018.

84 JC Barakamfitiye and J Ncamatwi, "The Burundi Legal System and Research," *GlobalLex*, 2024, <https://www.nyulawglobal.org/globallex/burundi1.html#burundian-legal-system>.

85 JC Barakamfitiye and J Ncamatwi, *The Burundi Legal System and Research* (NYU Law GlobalLex, 2024), <https://www.nyulawglobal.org/globallex/burundi1.html>.

86 Barakamfitiye and Ncamatwi, *The Burundi Legal System and Research*.

87 Constitution of the Republic of Burundi 2018, art. 239.

88 Constitution of the Republic of Burundi 2018, art. 240.

In addition to ordinary courts, Burundi's judicial system includes prosecution offices, which are structured hierarchically across three levels, mirroring the organisation of the judiciary.⁸⁹ At the first level is the Republic Prosecutor's Office, which corresponds to the High Courts. At the second level is the General Public Prosecutor's Office, which parallels the Courts of Appeal. At the highest level, the General Public Prosecutor's Office of the Republic operates alongside the Supreme Court, overseeing national prosecutorial functions and legal oversight.⁹⁰

Furthermore, in 2021, the Burundian Parliament enacted a law reinstating the Council of Notables of the Hill, a community-based body functioning at the subnational level for resolving minor conflicts and promoting mediation. This council serves a conciliatory role, handling disputes that fall within the jurisdiction of magistrate courts.⁹¹

4.5 Sanctions

Sanctions in criminal matters at the national level in Burundi may include imprisonment, monetary fines, and community service.⁹² At the sub-national level, local authorities are permitted to impose administrative fines in accordance with applicable laws. However, the independence of the judiciary and the effectiveness of sanctions have been widely criticised, particularly due to persistent issues of political interference and systemic corruption.⁹³

A significant concern in the enforcement of criminal law is the lack of adherence to the presumption of innocence. Public prosecutors in Burundi are frequently reported to operate under a presumption of guilt, undermining the right to a fair trial.⁹⁴ Moreover, judges tend to favour custodial sentences over alternatives such as provisional release, fines, or community-based sanctions.⁹⁵ This punitive approach has contributed significantly to prison overcrowding, with some facilities reportedly operating at over 600% of their intended capacity.⁹⁶

Additionally, the overlap and inconsistencies among various laws (particularly the Penal Code, the Law on Gender-Based Violence, and the Anti-Corruption Law) create confusion in legal interpretation and application.⁹⁷ These instruments often contain varying definitions and sanctions for similar offences, resulting in ambiguity and inconsistency in judicial outcomes. This challenge is further compounded by a lack of adequate training for judicial actors on the specific provisions and nuances of each law. In particular, limited understanding of the socio-cultural dimensions related to gender-based violence can hinder the appropriate application of relevant legal protections. These factors contribute to inconsistent judicial decisions, undermining the coherence, predictability, and fairness of the justice system.

89 Barakamfitiye and Ncamatwi, *The Burundi Legal System and Research*.

90 Barakamfitiye and Ncamatwi, *The Burundi Legal System and Research*.

91 Republique Du Burundi - Loi N° 1/03 Du 23 Janvier 2021 Complétant Les Dispositions Du Code de Procédure Civile Relatives à La Réintégration Du Conseil Des Notables Des Collines., Pub. L. No. Loi n° 1/03 (2021). <https://presidence.gov.bi/2021/02/02/loi-no-1-03-du-23-janvier-2021-portant-complement-des-dispositions-du-code-de-procedure-civile-relative-a-la-reinstitution-du-conseil-des-notables-de-la-colline/>.

92 Republique Du Burundi - Penal Code 2009, Loi No. 1/05 of 2009, art. 44.

93 A Niyonkuru, *The Independence of the Judiciary Vis-a-Vis the Executive* (2022), 5, <https://www.hamann-legal.de/upload/7Aime-Parfait.pdf>.

94 *Perspectives on Preventive Detention in Burundi: Putting Standards into Practice - Analyses of Interviews on Stakeholder Perceptions* (Avocats Sans Frontières, 2015), https://www.asf.be/wp-content/uploads/2015/04/ASF_BUR_RegardsCrois--sD--tentionPr--ventive_201503_EN.pdf.

95 *Perspectives on Preventive Detention in Burundi: Putting Standards into Practice - Analyses of Interviews on Stakeholder Perceptions*, 5, 6.

96 *Rapport Annuel de La CNIDH - Edition 2024* (Commission Nationale Independante des Droits de L'homme (CNIDH), 2025), 43, <https://cnidh.bi/publicationsview.php?article=959>.

97 Republique Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013 (2016). <https://presidence.gov.bi/2016/09/22/loi-n1013-du-22-septembre-2016-portant-prevention-protection-des-victimes-et-repression-des-violences-basees-sur-le-genre/>; Republique Du Burundi Loi N°1/36 Sur La Cour Anti-Corruption [Law No 1/36 on the Anti-Corruption Court]; Republique Du Burundi - Penal Code 2009, Loi No. 1/05 of 2009.

Monetary fines are imposed as an administrative measure applied to petty offences including misdemeanours and contraventions punishable by imprisonment of less than one year.⁹⁸ It involves the payment of a monetary sum into the public treasury, on condition that the amount cannot exceed the statutory fine prescribed for the offence. This mechanism has both advantages and limitations. One key merit is that, unlike imprisonment, the transactional fine does not significantly disrupt the personal, familial, or professional life of the accused. By avoiding custodial sentences, it helps prevent the presumption of guilt from leading to unnecessary incarceration, which in turn contributes to reducing prison overcrowding and alleviating the burden on the court system. Furthermore, the plea-bargaining aspect of the transactional fine promotes procedural efficiency and allows for quicker resolution of minor cases. However, to ensure equity and fairness, it is crucial that judicial police officers individualise the fine. This means considering the offender's socio-economic status, including their material circumstances, income, family responsibilities, profession, age, and health. Failure to adjust fines in this manner could disproportionately impact the poor, transforming an otherwise progressive alternative into a punitive burden for those least able to pay. Therefore, reform efforts should focus on ensuring proportionality and accessibility to safeguard both justice and social equity.

4.6 Bail

Conditional release on bail is an alternative to pre-trial detention under Burundi criminal law.⁹⁹ It is a judicial measure aimed at minimising unnecessary detention while preserving the objectives of the judicial process. The decision to grant conditional release is made by the Judge assessing the need for detention after first hearing from the victim or their legal representative, unless exceptional circumstances prevent their appearance.¹⁰⁰ Conditional release is granted provided that it can ensure the accused's appearance at trial, prevent interference with the investigation, and maintain public order.¹⁰¹ It is initiated at the request of the accused, especially in cases where detention has already been authorised or extended.¹⁰² If the court deems it appropriate, the judge may order the release of the accused on bail, subject to the deposit of a monetary sum with the court clerk as a form of security.¹⁰³ The amount of bail is generally determined by the judge based on the accused's financial means and the gravity of the offence in question. This approach seeks to balance the rights of the accused with the interests of justice and public safety.

Certain categories of individuals are excluded from eligibility for bail under Burundi criminal law.¹⁰⁴ Bail is not permitted for persons charged with offences punishable by more than twenty years of imprisonment; individuals who have not returned illicitly obtained sums of money or property, or their equivalent in value; and persons charged for sexual violence.¹⁰⁵ Bail is a conditional measure and failure by the accused to comply with the conditions attached to the release order (such as appearing in court or refraining from interfering with the investigation) may result in its revocation.¹⁰⁶

98 Republique Du Burundi Loi N° 1/09 Du 11 Mai 2018 Portant Modification Du Code de Procédure Pénale., Pub. L. No. Loi n° 1/09 (2018). https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=110600&cs=IRWZ6KYEbJEJIM2dQ0r5VTovGxp20T308BlwiGoxz0F021cGrE18fMPZDdG86paR6oM86VSdHz-LExASmvgKRew.

99 Republique Du Burundi - Loi n°1/09 du 11 mai 2018 Code de Procedure Penale, Pub. L. No. Loi No.1/09(2018). <https://www.droit-afrique.com/uploads/Burundi-Code-2018-procedure-penale.pdf>.

100 Republique Du Burundi Loi N° 1/09 Du 11 Mai 2018 Portant Modification Du Code de Procédure Pénale., art. 158.

101 Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale., art. 119(b).

102 Republique Du Burundi Loi N° 1/09 Du 11 Mai 2018 Portant Modification Du Code de Procédure Pénale., art. 154, para 2.

103 Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale., art. 116.

104 Republique Du Burundi - Loi n°1/09 du 11 mai 2018 Code de Procedure Penale, art. 161.

105 Republique Du Burundi - Loi n°1/09 du 11 mai 2018 Code de Procedure Penale, art. 161.

106 Republique Du Burundi - Loi No. 1/10 Du 3 Avril 2013 Portant Revision Du Code de Procedure Penale., art. 119(4).

5. Overview of select criminal, security and exceptional laws

Burundi's legal framework is composed of a combination of colonial-era statutes and more recent policies and legislation, many of which are widely regarded as discriminatory, exclusionary, and inconsistent with international human rights standards. While some laws may appear legally sound or neutral in their wording, the manner in which they are interpreted and applied has often proven to be problematic. In practice, these laws have had a disproportionately negative impact on specific groups, particularly vulnerable and marginalised communities, including women, children, youth, the poor, political opponents, human rights defenders, and civil society activists.

The following section analyses select laws from the Penal Code and other legislation, with the objective of understanding relevance, application and impact on affected groups. Due to the complexity and volume of existing laws, only laws relevant to contemporary trends have been selected.

5.1 Criminal Laws

Burundi's Penal Code contains provisions criminalising behaviour and personal status. These laws often target vulnerable groups and are used to punish poverty, dissent, or identity, rather than address actual threats to public safety. The continued enforcement of such laws undermines efforts to modernise the justice system and promote fairness, equality, and human dignity.

5.1.1 Public order

The Burundi Penal Code criminalises acts, behaviours, and omissions deemed to undermine public order.¹⁰⁷ This concept remains vague and undefined within the law, allowing provisions related to "public order" to be broadly and arbitrarily applied, predominantly targeting political opponents, human rights defenders, and other perceived dissenters to the established regime.¹⁰⁸ Provisions relating to offences such as "undermining the internal security of the state", "undermining the territorial integrity of the state" and "undermining the good functioning of the national economy" are notably broad and frequently misinterpreted and carry heavy sanctions including imprisonment of five to ten years and a fine of FBu 1,000,000 to FBu 3,000,000 (US \$338 - US \$1,012).¹⁰⁹ These charges are regularly invoked to justify the arrest, detention, and prosecution of individuals who criticise or challenge the government, including journalists and civil society activists.¹¹⁰ This was the case in 2020 of four Burundian journalists sentenced to two and a half years imprisonment for reporting on violent clashes between the Burundi Defence Forces and members of the Red-Tabara rebel group in the north of the country.¹¹¹

¹⁰⁷ Republique Du Burundi Code Penal 2017, Pub. L. No. Loi n°1/27(2017), <https://www.droit-afrique.com/uploads/Burundi-Code-2017-penal.pdf>.

¹⁰⁸ "At a Critical Juncture for Burundi, the Special Rapporteur's Mandate Remains Vital - Burundi," *Relief Web*, August 29, 2024, <https://reliefweb.int/report/burundi/critical-juncture-burundi-special-rapporteurs-mandate-remains-vital>.

¹⁰⁹ Republique Du Burundi Code Penal 2017, art. 611.

¹¹⁰ "Burundi: UN Expert Calls for Protection of Civic Space - Burundi | ReliefWeb," *Relief Web*, October 25, 2023, <https://reliefweb.int/report/burundi/burundi-un-expert-calls-protection-civic-space>.

¹¹¹ "Burundi: UN Experts Denounce Jail Terms given to Journalists before Elections | OHCHR," *Human Rights Watch*, February 20, 2020, <https://www.ohchr.org/en/press-releases/2020/02/burundi-un-experts-denounce-jail-terms-given-journalists-elections>.

Since the political crisis of 2015, Burundian youth have been targeted and arbitrarily arrested in large numbers on charges such as “undermining internal security” and “participation in an insurrection.”¹¹² Although these offences are not formally designated as unpardonable under the Penal Code, in practice, obtaining a presidential pardon for detainees convicted of such crimes is exceptionally difficult.¹¹³ Notably, most general pardon decrees issued by the President explicitly exclude persons convicted of offences against the internal and external security of the State from eligibility, with only a few exceptions.¹¹⁴

5.1.2 Homosexuality

In April 2009, the Burundi government amended the Penal Code to explicitly criminalise homosexuality, framing it as an act contrary to Burundian cultural values.¹¹⁵ Under this law, individuals found guilty of engaging in consensual same-sex relations face penalties ranging from three months to two years of imprisonment, and a fine between FBu 50,000 and FBu 100,000 (US\$ 16 – US\$ 33).¹¹⁶ This decision has been widely condemned by human rights organisations, including Amnesty International, which has described it as a clear violation of Burundi’s international and regional human rights obligations, particularly under the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights.¹¹⁷ According to the 2023 US Department of State Country Report, it is often the case in Burundi that members of the LGBTQI community face harassment, discrimination and detention.¹¹⁸ The report indicates that members of the community are threatened, physically assaulted, and arrested by local officials and private individuals, often with the backing of security forces.¹¹⁹ Additionally, it is reported that some government agents condone acts of violence perpetrated against LGBTQI+ individuals and many individuals from the LGBTQI+ community avoid reporting incidents to authorities or the media due to stigma, a need to protect their identities, and concerns about being criminally prosecuted for consensual same-sex relationships.¹²⁰

5.1.3 Gender based violence

The adoption in 2016 of the Gender-Based Violence Law marked a significant legislative step in addressing violence against women and other vulnerable groups in Burundi.¹²¹ The enactment of the law occurred within a post-conflict context, characterised by the lingering presence of gender-based sexual violence linked to the period of rebel integration and broader instability. The law was thus introduced as part of a broader effort to safeguard women’s rights. However, it requires critical reforms to fully align with international human rights standards. Moreover, there are major inconsistencies between definitions and sanctions provided in the Penal Code and the Gender-Based Violence law.¹²²

112 “Burundi Charges Protesters with Rebellion | Human Rights News | Al Jazeera,” *Al Jazeera*, April 19, 2015, <https://www.aljazeera.com/news/2015/4/19/burundi-charges-protesters-with-rebellion>; L. Berckmoes, “Young Protesters’ Ambivalence about Violence in the 2015 Crisis in Burundi: Local Legacies of Conflict and Generational Change,” *Taylor and Francis* 11, no. 3 (2023): 302–16.

113 *Republique Du Burundi Code Penal* 2017, art. 138.

114 “Burundi: Journalist Floriane Irangabiye Freed Following Presidential Pardon – IFJ,” *International Federation of Journalists*, n.d., accessed June 24, 2025, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/burundi-journalist-floriane-irangabiye-freed-following-presidential-pardon>; Décret N°100/003 Du 31 Janvier 2018 Portant Mesures de Grâce – Présidence de La République Du Burundi, Pub. L. No. Décret N°100/003 (2018), <https://presidence.gov.bi/2018/02/01/decret-n100002-du-31-janvier-2018-portant-mesures-de-grace/>.

115 *Republique Du Burundi - Penal Code* 2009, Loi No. 1/05 of 2009, art. 567.

116 *Republique Du Burundi - Penal Code* 2009, Loi No. 1/05 of 2009, art. 567.

117 “Amnesty International Public Statement: Burundi: New legislation abolishes death penalty; bans homosexuality,” April 24, 2009, <https://www.amnesty.org/es/wp-content/uploads/2021/07/afr160042009en.pdf>.

118 2023: *Country Reports on Human Rights Practices: Burundi*.

119 2023: *Country Reports on Human Rights Practices: Burundi*.

120 2023: *Country Reports on Human Rights Practices: Burundi*.

121 *Republique Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre*, Loi N°1/013.

122 *Burundi: Amend Gender-Based Violence Law* (Amnesty International, 2023), 5, <https://www.amnesty.org/en/documents/afr16/7366/2023/en/>.

For instance, while the former places an emphasis on the use of force or other coercive means when defining rape,¹²³ the latter places emphasis on the absence of consent.¹²⁴ This lack of clarity complicates the determination of the elements that constitute an offence, as well as the severity of the penalties to be imposed, resulting in inconsistencies in judicial decisions. Clearer definitions and guidelines would prevent confusion and ensure consistent application of the law within the criminal justice system.

5.1.4 Superstitious acts

While the Burundi Penal Code does not explicitly criminalise superstition as a belief or concept, it does include provisions addressing superstitious acts that result in real or perceived physical harm to individuals.¹²⁵ The definition of superstition in this context is unclear and the Penal Code is silent on what constitutes a superstitious act. However, sanctions include imprisonment of one month to two years and a fine of FBu 50,000 to FBu 100,000 (US \$16 – US \$33).¹²⁶ In cases where the act has caused illness or personal incapacity for work, or if it has resulted in the loss of the use of an organ or serious mutilation, perpetrators are punished with imprisonment of between two to 20 years and a fine of FBu 100,000 to FBu 500,000 (US \$33 – US \$167).¹²⁷

These provisions aim to deter harmful traditional or superstitious practises resulting in bodily harm, while attempting to balance cultural practices with the protection of individual rights and physical integrity. However, the lack of clarity on what constitutes superstition and the application of this law must be closely monitored to prevent misuse or arbitrary enforcement, particularly in rural communities where traditional beliefs are prevalent.

5.1.5 Duels

One of the persistent challenges within Burundi's Penal Code is the continued presence of colonial-era provisions, some of which have since been decriminalised in Belgium but remain in force in Burundi. A notable example is the criminalisation of duels, a practice that has largely disappeared from modern society and is no longer recognised as a distinct category of offence in contemporary legal systems. Belgium decriminalised duelling in 2005 as part of broader Penal Code reforms.¹²⁸ In contrast, Burundi's Penal Code still contains detailed provisions criminalising various aspects of duelling. For instance, provocation to a duel is punishable by a fine of FBu 10,000 to FBu 30,000 (US \$3 – US \$10).¹²⁹ An individual who, through insult, incites another to provoke a duel is liable to a fine of FBu 10,000 to FBu 50,000 (US \$3 – US \$17).¹³⁰ Any person who engages in a duel may face imprisonment of six months to three years, and/or a fine of FBu 10,000 to FBu 50,000 (US \$3 – US \$17).¹³¹ If a duel results in death, the penalty increases to one to ten years of imprisonment and a fine ranging from FBu 50,000 to FBu 200,000 (US \$17 – US \$68).¹³²

This outdated provision highlights the urgent need for a Penal Code reform to ensure that Burundi's criminal laws reflect contemporary realities and societal norms. Retaining obsolete offences such as duelling not only clutters the legal framework but also undermines its credibility and efficiency.

¹²³ Republique Du Burundi Code Penal 2017, art. 577.

¹²⁴ Republique Du Burundi – Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013, art. 2.

¹²⁵ Republique Du Burundi Code Penal 2017, art. 231.

¹²⁶ Republique Du Burundi Code Penal 2017, art. 231.

¹²⁷ Republique Du Burundi Code Penal 2017, art. 231.

¹²⁸ J Hoegaerts, "L'Homme Du Monde Est Oblige de Se Battre". Parliamentary Discourses and Practices of Duelling, Belgium, 1830-1900," *Tijdschrift Voor Geschiedenis* 124, no. (2)(2011): 190–205.

¹²⁹ Republique Du Burundi Code Penal 2017, art. 240.

¹³⁰ Republique Du Burundi Code Penal 2017, art. 241.

¹³¹ Republique Du Burundi Code Penal 2017, art. 242.

¹³² Republique Du Burundi Code Penal 2017, art. 243.

5.1.6 Abandonment of family

The cultural and traditional context in Burundi places a strong emphasis on family cohesion and responsibility. Reflecting this, the Penal Code retains provisions that criminalise certain forms of family abandonment and neglect. Specifically, a parent who abandons their children without serious justification, or who fails to fulfil all or part of their moral or material obligations, is subject to a penalty of two months' imprisonment and/or a fine ranging from FBu 20,000 to FBu 50,000 (US \$7 – US \$17).¹³³ In addition, the law targets spousal abandonment. A husband who, without valid reason, voluntarily abandons his spouse for more than two months and refuses to provide maintenance and support, as required by legal and marital obligations, is liable to the same penalties.¹³⁴ The law also provides for harsher moral scrutiny in cases where a husband abandons his wife for more than two months while knowingly aware of her pregnancy, again without serious justification.¹³⁵ While men and women are both susceptible to this offence, the prevailing patriarchal attitudes within Burundian society can influence how family abandonment cases are handled, potentially leading to disproportionate consequences for women.

5.1.7 Prostitution

The Burundi Penal Code does not explicitly criminalise prostitution itself. However, it treats prostitution-related conduct as an offence against public morals, particularly through provisions criminalising the incitement to debauchery and prostitution.¹³⁶ According to the Penal Code, any person who offends morality by inciting, facilitating, or encouraging acts of debauchery, corruption, or prostitution (for the purpose of satisfying the passions of others) involving individuals aged or apparently aged over 21 years, is subject to imprisonment of one to five years and a fine of FBu 50,000 to FBu 200,000 (US \$17 – US \$68).¹³⁷ If the individual involved is aged or apparently aged under 21 years, the penalty increases significantly, ranging from five to ten years of imprisonment, reflecting the State's intention to afford heightened protection to younger persons.¹³⁸

While the act of engaging in prostitution is not directly penalised, the criminalisation of related activities (such as facilitation or incitement) effectively places individuals involved in sex work, particularly women at risk of indirect criminalisation, social stigma, and abuse. This legal framework raises concerns about the rights, protection, and agency of sex workers, especially in the absence of clear legal definitions and safeguards. It is commonly known that sex workers are harassed by the police and are frequently arrested and detained not only for the act, but also suspicion of prostitution.¹³⁹ In many cases, it is reported that violence and rape are perpetrated by law enforcement officials on sex workers.¹⁴⁰ The harsh and discriminatory targeting of sex workers is not in line with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) which emphasises women's rights to dignity, equal protection before the law, security of the person, non-discrimination and all other fundamental freedoms.¹⁴¹

¹³³ Republique Du Burundi Code Penal 2017, art. 556(1).

¹³⁴ Republique Du Burundi Code Penal 2017, art. 556(2).

¹³⁵ Republique Du Burundi Code Penal 2017, art. 556(3).

¹³⁶ Republique Du Burundi Code Penal 2017, art. 561.

¹³⁷ Republique Du Burundi Code Penal 2017, art. 562.

¹³⁸ Republique Du Burundi Code Penal 2017, art. 562.

¹³⁹ Muntingh and Petersen, "Punished for Being Poor: Evidence and Arguments for the Decriminalisation and Declassification of Petty Offences," Dullah Omar Institute, 2015, 27.

¹⁴⁰ Muntingh and Petersen, "Punished for Being Poor: Evidence and Arguments for the Decriminalisation and Declassification of Petty Offences," 27.

¹⁴¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003). <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>.

5.2 Security Laws

In Burundi, security laws are frequently used to restrict fundamental freedoms, particularly the freedom of expression and the right to peaceful assembly. These laws are often broadly worded and applied in ways that criminalise criticism of the government, stifle dissent, and discourage public opinion. As a result, journalists, human rights defenders, civil society activists and political opponents are especially vulnerable to prosecution under the guise of maintaining national security, leading to a shrinking civic space and weakening of democratic governance.

5.2.1 Defamation

While Burundi's Constitution guarantees freedom of expression, the Penal Code imposes criminal sanctions for defamation, particularly when such allegations are directed at the President or senior government officials.¹⁴² The definition of defamation in the Burundian context is expansive, encompassing not only verbal or written statements but also drawings, posters, photographs, or other forms of expression deemed to pose a threat to national security or to promote ethnic hatred.¹⁴³ Rather than protecting individuals from genuine reputational harm, in practice, this provision appears to serve as a mechanism to shield administrative authorities from public scrutiny. The law is broadly applied to suppress dissent, affecting citizens, political opponents, journalists, and civil society activists, many of whom refrain from expressing critical views of the government.¹⁴⁴

Insults against the Head of State attract a punishment of six months to five years imprisonment and a fine of between FBu 10 000 to FBu 50 000 (US \$3 – US \$17).¹⁴⁵ When committed by a member of the press (journalist, news anchor or blogger etc.), the Press Law imposes a punishment of between FBu 2,000,000 to FBu 6,000,000 (US \$674 – US \$2020).¹⁴⁶ There are several documented instances of individuals detained or prosecuted for defamation, including the arrest of 11 teenagers accused of defacing a photograph of former President Pierre Nkurunziza, as well as individuals detained for participating in WhatsApp groups allegedly involved in defaming the President or insulting public institutions.¹⁴⁷ These cases illustrate a broader trend of using defamation laws to silence dissent and intimidate individuals exercising their right to freedom of expression, particularly when such expression is critical of government authorities.

A key concern is that truthful reporting or commentary does not exempt individuals from liability. This is contrary to the African Union Declaration on the Principles of Freedom and Expression in Africa which states that no one should be liable for true statements.¹⁴⁸ There is an urgent need for the review of this provision to align to best regional and international practice.

¹⁴² Constitution of the Republic of Burundi 2018, art. 31; Republique Du Burundi Code Penal 2017, art. 267.

¹⁴³ Republique Du Burundi Code Penal 2017, art. 625.

¹⁴⁴ P Tlakula, *Decriminalisation of Laws Limiting Freedom of Expression in Africa: Burundi Country Report* (Center for Human Rights, 2014), https://www.chr.up.ac.za/images/researchunits/dgdr/documents/resources/burundi_country_report.pdf.

¹⁴⁵ Republique Du Burundi Code Penal 2017, Pub. L. No. Loi n°1/27(2017), <https://www.droit-afrique.com/uploads/Burundi-Code-2017-penal.pdf>.

¹⁴⁶ Burundi Press Law No. 1/11 of 4 June 2013, art. 19.

¹⁴⁷ "Teens Arrested for Defacing Burundi President Photo | Human Rights News | Al Jazeera," *Al Jazeera*, June 4, 2016, <https://www.aljazeera.com/news/2016/6/4/teens-arrested-for-defacing-burundi-president-photo>; "Burundi Detains WhatsApp Group for Defamation | News24," accessed June 24, 2025, <https://www.news24.com/burundi-detains-whatsapp-group-for-defamation-20160825>.

¹⁴⁸ "Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019," African Commission on Human and Peoples' Rights, 2019, art. 12, <https://achpr.au.int/en/node/902>.

5.2.2 Assemblies and public demonstrations

The Constitution of Burundi guarantees the freedom of peaceful assembly and association, and affirms the principle of equality before the law.¹⁴⁹ However, in practice, the enforcement of laws governing public demonstrations is often selective and politically motivated. It appears that authorities frequently grant permits and protection to demonstrations organised by members of the ruling party, while restricting or outright prohibiting gatherings held by opposition groups, civil society actors, or individuals critical of the government.¹⁵⁰ This discriminatory enforcement undermines the constitutional right to freedom of expression and assembly, and reinforces a political climate that stifles dissent.¹⁵¹ According to the 2024 Freedom House report, Burundi scored 0 out of 4 as far as freedom of assembly is concerned and it was noted that the harshest restrictions on assembly were effectively loosened after the 2020 elections.¹⁵²

In 2013, Burundi enacted a law regulating public demonstrations and meetings in public spaces which imposed restrictive conditions on the exercise of the right to assembly, contributing to a shrinking civic space.¹⁵³ One of the primary concerns of this law is the ambiguity surrounding the definition of an “assembly,” which is vaguely framed, allowing for broad interpretation and arbitrary enforcement. Under the law, all public demonstrations must be preceded by a prior declaration submitted at least four days in advance to the relevant administrative authority (Mayor or Governor), who then has 48 hours to authorise or deny the planned event.¹⁵⁴ This prior declaration requirement effectively prohibits spontaneous demonstrations, despite the fact that international human rights standards, including those outlined by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, recommend that spontaneous gatherings should be permitted, especially in response to unforeseen events.¹⁵⁵ The law explicitly prohibits counter-demonstrations with punishment including a fine of between FBu 100,000 to FBu 500,000 (US \$34 – US \$169).¹⁵⁶ It also grants broad discretionary powers to administrative authorities to defer or prohibit an assembly if the maintenance of public order “absolutely” demands it.¹⁵⁷ However, the law fails to define what constitutes an “absolute” necessity, leaving the decision to the unfettered discretion of administrative officials, thereby increasing the risk of arbitrary denial of assembly rights, particularly for government critics and opposition groups.¹⁵⁸

Even when public assemblies are permitted, they are subject to strict time constraints as gatherings are prohibited from commencing before 6:00 a.m. or continuing beyond 6:00 p.m.¹⁵⁹ Additionally, the law places full legal liability on the organiser of the gathering for any infractions or breaches that occur during the demonstration, regardless of whether they are directly responsible.¹⁶⁰ While the government justifies the continued use of this law on the grounds of protecting national security and the right to privacy, in reality, this is rarely the motivation for their use. Rather, this law is reportedly used to stifle public debate and legitimate criticism on issues of national interest such as corruption, lack of respect for the rule of law and poor service delivery.¹⁶¹

149 Constitution of the Republic of Burundi 2018, art. 13,32.

150 *US Department of State 2023 Country Reports on Human Rights Practices: Burundi* (US Department of State, 2023), 25, <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/burundi/>.

151 Audace Gatavu, *Freedom of Assembly in Burundi*, <https://www.icnl.org/post/assessment-and-monitoring/freedom-of-in-burundi>

152 *Burundi: Freedom in the World 2024 Country Report* (Freedom House, 2024), <https://freedomhouse.org/country/burundi/freedom-world/2024>.

153 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28(2013).

154 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28, art. 4.

155 A Gatavu, *Freedom of Assembly in Burundi* (International Center For Not-For-Profit-Law, 2015), <https://www.icnl.org/post/assessment-and-monitoring/freedom-of-assembly-in-burundi>.

156 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28, art. 18(2).

157 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28, art. 10.

158 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28, art. 5.

159 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28, art. 10.

160 Republic of Burundi: Law N°1/28 Regulating Demonstrations on Public Space and Public Meetings in Burundi, Law No.1/28, art. 13.

161 Gatavu, *Freedom of Assembly in Burundi*, 5.

The April 2015 demonstrations provide a critical example of the weaknesses and restrictive nature of Burundi's legal framework governing public assemblies.¹⁶² In response to the announcement that President Pierre Nkurunziza would seek a controversial third term in office, thousands of youth took to the streets of Bujumbura in demonstrations largely organised by civil society organisations.¹⁶³ Although the protests initially began peacefully, it was quickly reclassified as an "insurrection", enabling the use of broad and repressive measures under national security and public order laws, allowing authorities to crack down on demonstrators.¹⁶⁴ It was reported that hundreds of youth were subjected to arbitrary arrest, beatings, torture, and inhumane detention conditions during the protest.¹⁶⁵ The impact of this heavy-handed response to the youth discourages participation in civic or political activism and harbours a culture of fear, apathy and hesitance in expressing dissent or organising around rights-based issues.

5.2.3 Press and Media Law

The Press and Media Law in Burundi plays a central role in shaping the landscape of freedom of expression and access to information, particularly as it pertains to media outlets and journalists.¹⁶⁶ However, in reality, the law has had the opposite effect of its stated purpose, contributing to an increasing climate of mistrust between the government and the media sector. Journalists frequently face threats, harassment intimidation and arbitrary detention, leading to the erosion of press freedom and the silencing of critical voices.¹⁶⁷ The provisions of the law have been widely criticised for their vague language, lack of due process safeguards, and disproportionate sanctions, all of which contribute to a hostile environment for independent journalism.¹⁶⁸ According to the law, media professionals found violating journalistic ethics face penalties including fines between FBu 1,000,000 to FBu 1,500,000 (Us \$338 – US \$505).¹⁶⁹ The punitive nature of the law serves not only to suppress dissent but also to discourage investigative reporting, particularly on sensitive topics such as corruption, governance, and human rights violations.

In response to growing concerns, the law was challenged before the East African Court of Justice (EACJ), the judicial arm of the East African Community (EAC).¹⁷⁰ The Court ruled that specific provisions of the Press Law violated the EAC Treaty, particularly those that imposed impermissible restrictions on journalists and infringed upon freedom of the press and expression.¹⁷¹ The Court emphasised that such restrictions were inconsistent with Articles 6(d) and 7(2) of the EAC Treaty, which underscore the importance of good governance, rule of law, and respect for fundamental rights and freedoms.¹⁷² In response to both domestic and international pressure, the law was amended in 2015, 2018, and most recently in July 2024.¹⁷³ However, despite these amendments, key concerns persist, particularly regarding the independence of the media regulatory authority, the continued imposition of penalties for ethical breaches, and the potential criminalisation of journalistic activity.

¹⁶² "Burundi: Police Clash with Anti-Nkurunziza Protesters amid Third Day of Unrest," *The Guardian*, April 29, 2015, <https://www.theguardian.com/world/2015/apr/29/burundi-anti-nkurunziza-protests-third-day>.

¹⁶³ *The Guardian*, "Burundi: Police Clash with Anti-Nkurunziza Protesters amid Third Day of Unrest."

¹⁶⁴ "Hundreds Arrested" in Burundi amid Political Unrest," *Al Jazeera* (Burundi), May 1, 2015, <https://www.aljazeera.com/news/2015/5/1/hundreds-arrested-in-burundi-amid-political-unrest>.

¹⁶⁵ "Hundreds Arrested" in Burundi amid Political Unrest," *Al Jazeera* (Burundi), May 1, 2015, <https://www.aljazeera.com/news/2015/5/1/hundreds-arrested-in-burundi-amid-political-unrest>.

¹⁶⁶ *Republique Du Burundi - Loi No 1/11 Du 4 Juin 2013 Portant Modification de La Loi No 1/025 Du 27 Novembre 2003 Regissant La Presse Au Burundi*, Pub. L. No. Loi No 1/11(2013), https://assemblee.bi/wp-content/uploads/2024/01/N%C2%B01_11_4-juin_2013.pdf.

¹⁶⁷ AJ Bizimana and O Kane, "How Burundi's Independent Press Lost Its Freedom," *The Conversation*, July 23, 2020, <https://theconversation.com/how-burundis-independent-press-lost-its-freedom-143062>.

¹⁶⁸ PC Niyonkuru, "Burundi Takes Steps to Decriminalize Journalism," *Voice of America*, February 16, 2024, <https://www.voanews.com/a/burundi-takes-steps-to-decriminalize-journalism/7490544.html>.

¹⁶⁹ Niyonkuru, "Burundi Takes Steps to Decriminalize Journalism."

¹⁷⁰ *Burundian Journalist Union v The Attorney General of the Republic of Burundi*, No 7 of 2013 (East African Court of Justice First Instance Division at Arusha May 15, 2015), <https://www.eacj.org/wp-content/uploads/2015/05/Reference-No.7-of-2013-Final-15th-May-2c-2015-Very-Final.pdf>.

¹⁷¹ *Burundian Journalist Union v The Attorney General of the Republic of Burundi*, para. 123.

¹⁷² *Burundian Journalist Union v The Attorney General of the Republic of Burundi*, para. 123.

¹⁷³ *Republique Du Burundi - Loi No.1/21 Du 12 Juillet 2024 Portant Modification de La Loi No 1/19 Du 14 Septembre 2018 Portant Modification de La Loi No 1/15 Du 9 Mai 2015 Regissant La Presse Au Burundi*, Pub. L. No. Loi No.1/21(2024), <https://assemblee.bi/wp-content/uploads/2024/08/N%C2%B021%20du%2012%20juillet%202024.pdf>.

The Press Law, in its current form, continues to pose serious challenges to both Burundi's constitutional guarantees and its international legal obligations. Notably, the law is inconsistent with the International Covenant on Civil and Political Rights (ICCPR),¹⁷⁴ and the Declaration of Principles on Freedom of Expression in Africa, which emphasise the right to seek, receive, and impart information without fear of reprisals.¹⁷⁵ Between 2020 and 2024, several human rights defenders, journalists, and representatives of civil society organisations have been arbitrarily detained under charges such as “undermining national security” or “inciting ethnic hatred.”¹⁷⁶ These charges are frequently used to criminalise dissent and suppress critical voices, particularly those engaging in advocacy for transparency, accountability, and human rights. The arbitrary arrest and conviction of four journalists working for IWACU (one of the few remaining independent media houses) in October 2019 illustrates the limitations of freedom of expression and press media in Burundi.¹⁷⁷ They were arrested while en-route to investigate reports of clashes between security forces and an armed group in the Bubanza province. Despite having notified the authorities in advance about their planned visit to the area, they were arrested for complicity in undermining state security.¹⁷⁸ This case and several other incidents reflecting the growing criminalisation of activism and freedom of expression pose serious challenges to the advancement of human rights in Burundi.

5.2.4 Cybercrime Law

Burundi has adopted a cybercrime law which focuses on the prevention and repression of cyber-criminality.¹⁷⁹ The introduction of this legislation comes amid a rise in cybercrime cases across the country including illegal access, system interference, computer fraud and forgery.¹⁸⁰ However, human rights organisations, including Amnesty International, have raised serious concerns about certain provisions that may be used to restrict access to information and suppress fundamental freedoms.¹⁸¹ One major concern is the creation of a centralised “unique gateway” for internet access, which could potentially enable extensive government surveillance and restrict users’ ability to freely access online content. This raises significant implications for the rights to privacy, freedom of expression, and access to information.¹⁸²

The law also places responsibility on network operators to warn users about activities that could threaten public order and security, yet fails to clearly define these concepts.¹⁸³ This lack of clarity opens the door to potential self-censorship or arbitrary disconnection of users under vague or subjective interpretations. Additionally, the legislation’s ambiguous definition of “illegal online activity” has raised alarm, particularly regarding its potential use against marginalised communities such as sex workers, sexual minorities, and organisations advocating for human rights.¹⁸⁴ Such vague provisions create opportunities for abuse and could be used to target journalists, civil society activists, and political opponents. While addressing cybersecurity threats is necessary, it is crucial that digital regulation efforts are carefully balanced with the protection of human rights and fundamental freedoms.

¹⁷⁴ International Covenant on Civil and Political Rights, Pub. L. No. Resolution 2200A (XXI) (1976).

¹⁷⁵ “Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019.”

¹⁷⁶ *Burundi: Rhetoric versus Reality: Repression of Civil Society Continues under President Ndayishimiye’s Government* (Amnesty International, 2024), <https://www.amnesty.org/en/documents/afr16/8292/2024/en/>.

¹⁷⁷ “Burundi: Jailing of Iwacu Journalists a Sad Day for Press Freedom - Amnesty International,” *Amnesty International*, January 30, 2020, <https://www.amnesty.org/en/latest/news/2020/01/burundi-jailing-of-iwacu-journalists-a-sad-day-for-press-freedom/>.

¹⁷⁸ Amnesty Int., “Burundi: Jailing of Iwacu Journalists a Sad Day for Press Freedom - Amnesty International.”

¹⁷⁹ République Du Burundi - Loi No. 1/10 Du 16 Mars 2022 Portant Prevention et Repression de La Cybercriminalite Au Burundi, Pub. L. No. Loi No.1/10 (2022), <https://www.droit-afrique.com/uploads/Burundi-Loi-2022-10-prevention-repression-cybercriminalite.pdf>.

¹⁸⁰ “Cybercrime Law in Burundi: A Fragile Shield against Digital Threats? - ABP - Burundi News Agency,” *Burundi News Agency ABP*, March 5, 2025, <https://en.abpinfo.bi/cybercrime-law-in-burundi-a-fragile-shield-against-digital-threats/>.

¹⁸¹ *Burundi: New Administration’s Broken Promises to Improve Human Rights - Submission to the 43rd Session of the UPR Working Group* (Amnesty International, 2023), <https://www.amnesty.org/es/wp-content/uploads/2023/05/AFR1660922022ENGLISH.pdf>.

¹⁸² *Burundi: New Administration’s Broken Promises to Improve Human Rights - Submission to the 43rd Session of the UPR Working Group*, 3.

¹⁸³ *Burundi: New Administration’s Broken Promises to Improve Human Rights - Submission to the 43rd Session of the UPR Working Group*, 3.

¹⁸⁴ *Burundi: New Administration’s Broken Promises to Improve Human Rights - Submission to the 43rd Session of the UPR Working Group*, 3.

5.3 Exceptional Laws

In Burundi, exceptional laws and measures are enacted or applied outside standard legal procedures, including through verbal decrees or decisions made by administrators acting on personal sentiment and political motivations rather than legal authority. These actions often lack transparency, leading to arbitrary enforcement and inconsistent application. Such practices undermine the rule of law and disproportionately affect vulnerable populations, particularly when the measures restrict fundamental freedoms or are applied in a discriminatory or selective manner.

5.3.1 Regulation of mass sports and anti-jogging law

In March 2014, the Mayor of Bujumbura issued a decree aimed at regulating mass sports activities within the city, which in practice resulted in a ban on public jogging.¹⁸⁵ This measure was introduced in the lead-up to the 2015 general elections, amid rising political tensions.¹⁸⁶ Authorities alleged that certain opposition political parties were using mass sports gatherings as a cover for mobilising political support, inciting subversion, and encouraging popular unrest.¹⁸⁷ The ban included a prohibition on organising or engaging in sports activities on Saturdays during the hours designated for mandatory community development work.¹⁸⁸ Any sports association, even if approved by the Ministry of the Interior, was required to seek prior authorisation from the municipal administration before conducting mass sports in the city.¹⁸⁹ This regulation raised serious concerns regarding the freedom of assembly, freedom of expression, and freedom of movement, particularly given its political context and selective enforcement.¹⁹⁰ The decree exemplified how extraordinary, localised legal measures, often enacted without legislative oversight, can be used to curtail civic space and suppress political activity under the guise of maintaining public order. Additionally, it highlights how certain actions or behaviours, such as jogging, which are not inherently criminal, can be criminalised by authorities in situations they perceive as threatening. This sets a troubling precedent, allowing those in power to exercise unchecked discretion in shaping laws to serve their own interests.

5.3.2 Concubinage

Burundi's Penal Code and the recently adopted Gender-Based Violence Law both include provisions that criminalise concubinage or "*unions libre*" which is defined as a man and woman living together as husband and wife without being formally married.¹⁹¹ This practice is perceived by the government as contrary to morality and a sin hindering national development.¹⁹² The legal prohibition on concubinage is rooted in the tension between traditional polygamous customs and the Christian monogamous values officially embraced by the Burundian government.

Despite this law, concubinage remains widespread, particularly in rural areas, often resulting in informal marital arrangements where women are treated as secondary spouses. In recent years, Burundi authorities have intensified crackdowns on concubinage. Notably, in May 2024, an anti-concubinage campaign launched in Ngozi Province resulted in the eviction of over 900 women and 3,600 children, rendering them homeless, thus exacerbating cycles of poverty and marginalisation.¹⁹³

¹⁸⁵ Gatavu, *Freedom of Assembly in Burundi*.

¹⁸⁶ A Wilson, "The Perils of Jogging in Burundi," *Daily Maverick* (Bujumbura, Burundi), March 25, 2014, <https://www.dailymaverick.co.za/article/2014-03-25-the-perils-of-jogging-in-burundi/>.

¹⁸⁷ "Burundi: Where Jogging Is a Crime," BBC News, June 15, 2014, <https://www.bbc.com/news/magazine-27818254>.

¹⁸⁸ Gatavu, *Freedom of Assembly in Burundi*.

¹⁸⁹ J Ikoreza, "Mairie de Bujumbura: Réglementation Du Sport," *Burundi Forum*, March 20, 2014, <https://burundi-forum.org/114/mairie-de-bujumbura-reglementation-du-sport/>.

¹⁹⁰ Gatavu, *Freedom of Assembly in Burundi*, 5.

¹⁹¹ République Du Burundi Code Penal 2017, art. 554; République Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013.

¹⁹² "Burundi: At a Critical Juncture for Burundi, the Special Rapporteur's Mandate Remains Vital," Amnesty International, August 29, 2024, <https://www.amnesty.org/en/documents/afr16/8468/2024/en/>.

¹⁹³ Burundi: Amend Gender-Based Violence Law, 9.

The penalty for those found guilty under this law is imprisonment of one to three months and/or a fine ranging from FBu 100,000 to FBu 200,000 (US \$34 – US \$68).¹⁹⁴ Due to the patriarchal culture of Burundi's society, despite both partners being theoretically liable, the discriminatory enforcement of this law negatively impacts women and children who often face the social and economic brunt of stigma and homelessness. Moreover, the criminalisation of consensual adult relationships raises questions about personal autonomy, privacy, and family life, guaranteed under the Burundian Constitution, the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Right.¹⁹⁵ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has also expressed concerns regarding the absence of statutory frameworks ensuring the economic equality of women and men upon the dissolution of *unions libres*.¹⁹⁶

5.3.3 Adultery

Closely linked to the criminalisation of concubinage in Burundi is the offence of adultery, locally referred to as '*kurenga ibigo*' which is defined as engaging in sexual relations with someone other than one's lawful spouse.¹⁹⁷ The penalty for adultery includes imprisonment between one month to one year and a fine between FBu 100,000 to FBu 200,000 (US \$34 – US \$68). This penalty is quadrupled if the act of adultery is committed in the marital home.¹⁹⁸ This illustrates the moralistic stance on fidelity and its punitive approach to violations of perceived family norms. It is often the case that this law disproportionately affects women, who are often more likely to be stigmatised, prosecuted, and economically harmed due to enforcement.

The two laws (concubinage and adultery) are inconsistent with international conventions such as the ICCPR and CEDAW provisions relating to marriage and family relations, which Burundi ratified in 1990 and 1992, respectively.¹⁹⁹ The UN Human Rights Committee has affirmed that criminalising consensual sexual relations between adults in private constitutes an arbitrary and unjustifiable violation of the right to privacy and violates the principle of equality before the law.²⁰⁰

5.3.4 Children incarcerated with their mothers: Penitentiary Regime Law

The enforcement of criminal laws in Burundi has significant and often harmful implications for pregnant women and infants, particularly in cases involving detention. Despite legal safeguards, inconsistencies in the application of the law continue to expose vulnerable populations, including new-borns and their mothers to inhumane and unlawful treatment.²⁰¹ The 2018 amendment to the Criminal Procedure Code introduced important protections including the prohibition of police custody for pregnant women beyond six months gestation; and women breastfeeding infants under six months, except in cases of minor offences and with prior authorisation from the Public Prosecutor.²⁰² Despite these safeguards, there is a persistent gap between law and practice. Participants at the focus group discussions noted that it remains commonplace for pregnant women and breastfeeding mothers with infants under six months to be detained for minor offences, and often without the legally required prosecutorial authorisation.

194 Republique Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013, art. 42.

195 Constitution of the Republic of Burundi 2018, art. 28; International Covenant on Civil and Political Rights, art. 17; African Charter on Human and Peoples Rights, Pub. L. No. OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

196 *Burundi: Amend Gender-Based Violence Law*, 10.

197 Republique Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013, art. 2(y).

198 Republique Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013, art. 41.

199 International Covenant on Civil and Political Rights | OHCHR (1966). <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>; Convention on the Elimination of All Forms of Discrimination against Women (1979). <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>.

200 Human Rights Committee, *Toonen v. Australia*, Communication No. 488/1992, Views of 31 March 1994, UN Doc. CCPR/C/50/D/488/1992 (1994) (March 31, 1994). / <https://www.equalrightstrust.org/ertdocumentbank/Toonen%20v.%20Australia.pdf>.

201 Republique Du Burundi: Loi N° 1/09 Du 11 Mai 2018 Portant Modification Du Code de Procédure Pénale., Pub. L. No. Loi n° 1/09 (2018). https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=110600&cs=1RWZ6KYEBjEJIM2dQ0r5VTovGxp20T308BlwiGoxz0FQ21cGrE18fMPZDdG86paR6oM86VSdHz-LExASmvgKRew.

202 Republique Du Burundi Loi N° 1/09 Du 11 Mai 2018 Portant Modification Du Code de Procédure Pénale., art. 32.

A notable example occurred in April 2025, when a young mother in Gitega Province was unlawfully arrested and detained under inhumane conditions inside a makeshift cell alongside her three-month-old infant.²⁰³ The arrest was triggered not by her own offence, but because her husband had escaped police custody after involvement in a motorcycle accident that injured a local resident.²⁰⁴ This incident sparked public outrage and shed light on the weaknesses in Burundi's criminal justice system; and the use of arbitrary detention as collective punishment.

The treatment and protection of pregnant women and children living with their incarcerated mothers in Burundi is governed by the Law on the Penitentiary Regime.²⁰⁵ While the law acknowledges certain rights and safeguards, implementation gaps and dire prison conditions undermine the rights of women with significant consequences for the mother and child.

The Penitentiary Law provides that in cases where women are incarcerated with their children, they should be informed of their rights and duties linked to parental authority and the facilities granted to them due to their particular condition.²⁰⁶ The law also provides that the child may be separated from his/her incarcerated mother at three years.²⁰⁷ In addition, it is provided that social services of the penitentiary establishment should ensure that the child's best interest is fully respected, especially in matters of nutrition and healthcare.²⁰⁸ These provisions reflect an intention to comply with international norms outlined in the Convention on the Rights of the Child and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).²⁰⁹

Despite existing legal provisions safeguarding the rights of pregnant women and children incarcerated in Burundi, implementation remains significantly deficient, as demonstrated by findings from a 2022 study on conditions at Mpimba Central Prison in Bujumbura.²¹⁰ The study notes that 31.1% (or 10 out of 32) infants living with their incarcerated mothers were not registered at birth, and therefore did not have access to a birth certificate and could not enjoy other civil rights.²¹¹ Moreover, the report reveals that pregnant and lactating women, as well as their infants, do not receive adequate nutrition including essential foods such as milk, porridge, fruits, or meat. Instead, the study found that they are subjected to 350 grams of maize, cassava flour and cooked beans.²¹² Additionally, the study also noted that due to limited budgets in penitentiary administration, children incarcerated with their mothers lacked access to toys, learning materials, and recreational spaces.²¹³ This reality calls into question both the adequacy of legal provisions and the political will of the prison administration in addressing the conditions faced by mothers and their children in detention. It also raises broader concerns about the practice of incarcerating children alongside their mothers. Proponents for mothers incarcerated with their children argue that it promotes bonding during critical stages of early development and helps minimise the trauma of separation. However, critics point to the developmental risks involved and emphasise that detention facilities often present unsuitable and hostile environments for children.²¹⁴

203 "Bugendana: Woman Illegally Detained in a Container with Her 3-Month-Old Baby - SOS Médias Burundi," accessed May 29, 2025, <https://www.sosmediasburundi.org/en/2025/04/28/bugendana-woman-illegally-detained-in-a-container-with-her-3-month-old-baby/?tztc=1>.

204 "Bugendana: Woman Illegally Detained in a Container with Her 3-Month-Old Baby - SOS Médias Burundi."

205 République Du Burundi: Loi No. 1/24 Du 14 Décembre 2017 Portant Revision Du Regime Penitentiaire, Pub. L. No. Loi No 1/24 (2017). <https://assemblee.bi/wp-content/uploads/2024/01/N%C2%B024-du-14-decembre-2017.pdf>.

206 République Du Burundi: Loi No. 1/24 Du 14 Décembre 2017 Portant Revision Du Regime Penitentiaire, art. 47.

207 République Du Burundi: Loi No. 1/24 Du 14 Décembre 2017 Portant Revision Du Regime Penitentiaire, art. 48.

208 République Du Burundi: Loi No. 1/24 Du 14 Décembre 2017 Portant Revision Du Regime Penitentiaire, art. 48.

209 Convention on the Rights of the Child, Pub. L. No. Resolution 44/25(1989); *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)* (United Nations Office on Drugs and Crime, 2011), https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

210 I Sindayigaya and A Nyabenda, "Infants Residing with Their Mothers at Mpimba Prison, Burundi - Do They Have Rights to Be Protected?," *Applied Mathematical Sciences* 16(2022): 555-63.

211 Sindayigaya and Nyabenda, "Infants Residing with Their Mothers at Mpimba Prison, Burundi - Do They Have Rights to Be Protected?," 558.

212 Sindayigaya and Nyabenda, "Infants Residing with Their Mothers at Mpimba Prison, Burundi - Do They Have Rights to Be Protected?," 558.

213 Sindayigaya and Nyabenda, "Infants Residing with Their Mothers at Mpimba Prison, Burundi - Do They Have Rights to Be Protected?," 560.

214 N Mazoue, "Children Incarcerated with Their Mothers: A Critique of the Current Age-Based Approach to the Separation of Children from Their Mothers." (Masters Degree Thesis, University of Kwa-Zulu Natal, 2012), 20, <https://researchspace.ukzn.ac.za/server/api/core/bitstreams/8f15af99-88fe-4eb6-adcd-273cb9fff298/content>.

Ultimately, the best-interests of the child should be protected as per international human rights standards and State reporting to the African Committee of Experts on the Rights and Welfare of the Child should be more detailed and specific regarding the situation of children living in places of detention. This would support the systematic collection of accurate data over time.²¹⁵

5.3.5 Burundi government response to coronavirus (COVID-19) pandemic

The Burundi government's response to the COVID-19 pandemic included several preventive measures, such as establishing quarantine sites, conducting screening tests, and closing borders to curb the spread of the virus.²¹⁶ As noted earlier in this report, although the Constitution provides for the limitation of certain rights under a State of Emergency, the government did not invoke it, nor did it implement a lockdown or curfew, unlike many of its neighbouring countries.²¹⁷ Instead, the government is widely reported to have downplayed the severity of the pandemic, with officials, including President Nkurunziza, frequently invoking religious rhetoric such as "Burundi is an exception because it is a country that has put God first."²¹⁸ The government also failed to provide the public with fact-based information, particularly regarding the death toll, which remained largely undisclosed.²¹⁹

In the run-up to the May 2020 presidential elections, the Burundian government accused the World Health Organisation (WHO) of unacceptable interference in its handling of the virus and subsequently expelled the WHO representative and other key experts. This move raised serious concerns about the government's commitment to protecting public health.²²⁰ The government refrained from imposing stricter containment measures, which may have been influenced by the political context, particularly the upcoming elections, rather than an assessment of whether such actions were absolutely necessary as prescribed by the Constitution. This brings into question the selective application of policies and laws (in this case, public health measures) based on political expediency. However, it is worth noting that, in retrospect, citizens in many countries criticised their governments for overly restrictive responses during the pandemic, suggesting that in Burundi's case, the absence of such measures may have unintentionally been both politically and socially strategic.

5.3.6 Prohibition of rental contracts between landlords and unemployed persons in the Commune of Mutimbuzi, Province of Bujumbura

In June 2024, the Governor of Bujumbura province issued a decree prohibiting landlords from leasing homes to unemployed individuals who cannot legally prove their employment.²²¹ According to the governor, the measure aimed to reduce conflicts between landlords and tenants and prevent rental tax related issues.²²² However, the measure sparked public controversy, particularly because Governors do not have legislative authority to issue formal decrees. Instead, their authority is limited to administrative orders, decisions, and circulars within their delegated powers from the central government.²²³

215 L Muntingh, "Article 30: 'Children of Imprisoned Mothers' of the African Charter on the Rights and Welfare of the Child (African Children's Charter)," in *Commentary on the African Charter on the Rights and Welfare of the Child* (Pretoria (PULP), 2024).

216 COVID-19 Measures in Member States (Common Market for Eastern and Southern Africa, 2020), 2, <https://www.tralac.org/documents/resources/covid-19/regional/3986-covid-19-measures-in-place-in-comesa-member-states-16th-edition-31-july-2020/file.html>.

217 Constitution of the Republic of Burundi 2018, art. 116.

218 "Burundi: Any COVID-19 Cover-Up Will Put Lives at Risk | Human Rights Watch," *Human Rights Watch*, March 31, 2020, <https://www.hrw.org/news/2020/03/31/burundi-any-covid-19-cover-will-put-lives-risk>.

219 "Burundi: Fear, Repression in Covid-19 Response | Human Rights Watch," *Human Rights Watch*, June 24, 2020, <https://www.hrw.org/news/2020/06/24/burundi-fear-repression-covid-19-response>.

220 L Mudge, *A Perfect Storm Is Brewing in Burundi* | *Human Rights Watch*, May 14, 2020, <https://www.hrw.org/news/2020/05/14/perfect-storm-brewing-burundi>.

221 M Kampala, "Mutimbuzi: Interdiction de Location Des Maisons Aux sans-Emploi," *IWACU - Le Voix Du Burundi*, June 6, 2024, <https://www.iwacu-burundi.org/mutimbuzi-interdiction-de-location-des-maisons-aux-sans-emploi/>.

222 Kampala, "Mutimbuzi: Interdiction de Location Des Maisons Aux sans-Emploi."

223 Constitution of the Republic of Burundi 2018, art. 143.

Residents of the Mutimbuzi commune argued that this decree violates the constitutional right of all Burundian citizens to reside anywhere within the national territory.²²⁴ Requiring proof of employment effectively discriminatorily excludes poor and unemployed individuals from accessing housing and effectively forces them into homelessness.

States have a duty to prevent and eradicate homelessness by ensuring access to safe, affordable, and adequate housing.²²⁵ Homelessness, in itself, represents a profound violation of human dignity and constitutes a serious breach of the right to adequate housing, along with other fundamental human rights.²²⁶ People experiencing homelessness and living in poverty are particularly vulnerable to human rights violations. It is well documented that poor and marginalised groups, such as homeless persons, find themselves at the mercy of law enforcement officials who enforce a combination of formal penalties (fines, confiscation of goods, arrest and detention) and informal penalties (the solicitation of bribes, extortions, etc.).²²⁷ Therefore, the decree issued by the governor of Bujumbura prohibiting rental contracts between landlords and unemployed individuals exposed citizens to the risk of homelessness and its related consequences.

5.3.7 Commune administrator limiting hours of circulation for single women

In May 2019 the administrator of the Ngozi commune citing moral reasons and concerns over adultery and public drunkenness, decreed a curfew measure that no woman should be found without her husband in a bar, pub or at the market after 7 p.m.²²⁸ The administrator noted that young women generally keep married men out late in bars, creating tensions in families.²²⁹ The measure undermines constitutionally guaranteed rights against gender discrimination and the freedom of movement as it targets women only, reinforcing patriarchal stereotypes and treating women as dependents of men.²³⁰ Moreover, the measure reflects a problematic use of administrative authority in Burundi, as commune administrators do not have the authority to restrict constitutional rights without a national legal framework or a declared State of Emergency. In addition, the measure is redundant given that acts such as public drunkenness, adultery, or disturbance of public order are already addressed in the Penal Code and do not require separate administrative curfews.²³¹

A participant of the focus group discussions provided similar anecdotal evidence regarding a measure taken by another commune administrator who expelled a woman from the Butihinda commune after gathering complaints from local women that she was destroying homes by seducing their husbands.²³² The administrator forcefully removed her from the commune, however, a few hours later, another measure was decreed by the governor's office, cancelling the administrator's decision due to the lack of due process rendering it both illegal and arbitrary.²³³

224 Constitution of the Republic of Burundi 2018, art. 33.

225 Human Rights Council, *Breaking the Cycle: Ending the Criminalization of Homelessness and Poverty Study by the Special Rapporteur on Extreme Poverty and Human Rights and the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context*, A/HRC/56/61/Add.3 (United Nations General Assembly, 2024), 3, <https://digitallibrary.un.org/record/4052883?ln=en&v=pdf>.

226 Human Rights Council, *Breaking the Cycle: Ending the Criminalization of Homelessness and Poverty Study by the Special Rapporteur on Extreme Poverty and Human Rights and the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context*, 3.

227 K Petersen and J Mangwanda, *Dullah Omar Institute Submission to the Special Rapporteur on the Right to Adequate Housing and the Special Rapporteur on Extreme Poverty and Human Rights* (Dullah Omar Institute, 2023), 6, <https://dullahomarinate.org.za/acjr/dullah-omar-institute-submission-to-the-special-rapporteur-15-september-2023.pdf>.

228 R Ndabashinze and F Manirakiza, "Ruhororo 'Couvre-Feu' Pour Les Femmes: La Population Apprécie Mais.," *IWACU - Le Voix Du Burundi*, November 17, 2020, <https://www.iwacu-burundi.org/ruhororo-couvre-feu-pour-les-femmes-la-population-apprecie-mais/>.

229 Ndabashinze and Manirakiza, "Ruhororo 'Couvre-Feu' Pour Les Femmes: La Population Apprécie Mais."

230 Constitution of the Republic of Burundi 2018, arts. 22, 25.

231 République Du Burundi Code Penal 2017, arts. 381, 514, 549.

232 *The Flavor of Controversy: Seductive Siren "Kirungu" Banned from Community for Allegedly Stealing Multiple Husbands*, (Burundi), April 6, 2023, <https://en.irisnews.org/burundi-kirungo-flavor-of-controversy/>.

233 *The Flavor of Controversy: Seductive Siren "Kirungu" Banned from Community for Allegedly Stealing Multiple Husbands*.

These two incidents illustrate two broader issues. The first is the abuse of power by local administrative authorities, whose roles are ordinarily limited to implementation and co-ordination. The second is the tendency to impose morality-based controls, disproportionately targeting women. While community protection and public order are legitimate State interests, such measures must be non-discriminatory, clearly defined by law, and respect constitutional rights and due process.

5.3.8 Prohibition of informal transport operations in Bujumbura

In March 2022 the Minister of the Interior, Community Development, and Public Security issued a decree regulating the circulation of informal modes of transport including tricycles (tuk-tuks), motorcycles, and bicycles within Bujumbura.²³⁴ The Minister extended the already existing decree made by the Mayor of Bujumbura in 2016 on account that these informal transport operations create insecurity in Bujumbura and to curb road traffic accidents.²³⁵ The decision raised significant legal and human rights concerns, particularly regarding the right to freedom of movement and non-discrimination.²³⁶

In a city where public transport services remain fragmented and unevenly distributed, over 600,000 people depend daily on these informal and semi-formal modes of transport.²³⁷ By confining their circulation to specific areas, the regulation effectively limited the mobility of a substantial portion of the city's population, undermining their freedom of movement and access to economic opportunities. The restriction primarily affected the working poor, many of whom rely on motorcycles, bicycles, and Tuk-tuks as both a means of transport and a source of livelihood.²³⁸

A critical concern surrounding the 2022 measure was the exclusion of affected stakeholders from the policy-making process. It is often the case that those working in public spaces are not engaged in policy and law-making processes.²³⁹ According to the President of the Association of Motorcyclists of Burundi, no meaningful consultation was conducted with key actors, including informal transport operators, before the implementation of the circulation restrictions.²⁴⁰ This lack of participatory dialogue and exclusion of those who work daily in public spaces violates principles of inclusive governance and procedural justice, and it undermines public trust in sub-national policy-making.²⁴¹ The situation is further aggravated by abusive enforcement practices. Previous research reveals that informal transport operators are often subjected to fines and, in many cases, harassment by law enforcement officials. Some are arrested and detained for operating 'unregistered' or 'unlicensed' vehicles or for driving in restricted areas of the city. On occasion, their motorbikes are seized and auctioned by the State, effectively depriving them of their livelihood and exacerbating poverty.²⁴²

5.3.9 Prohibition of straying domestic animals and livestock

In 2021, the Burundi government enacted a law regarding the permanent stabling and the prohibition of straying domestic and farm animals.²⁴³ For generations, free-range grazing has been a core practice in rural Burundi, reducing the need for costly feed and shelter. The shift to mandatory confinement is intended to establish the authorised breeding methods and the conditions required for properly conducting breeding in permanent stabling of all domestic animals.²⁴⁴

234 F Iranzi, *Bujumbura: The Government Bans Motorcycle, Tricycle, and Bicycles in the Major Part of the City*, (Bujumbura, Burundi), March 21, 2022, <https://regionweek.substack.com/p/bujumbura-the-government-bans-motorcycle>.

235 "Burundi: Après Les Violences, Les Taxis-Motos Interdits à Bujumbura," *Tv5 Monde*, February 16, 2016, <https://information.tv5monde.com/afrique/burundi-apres-les-violences-les-taxis-motos-interdits-bujumbura-24377>.

236 Constitution of the Republic of Burundi 2018, art. 33.

237 Iranzi, *Bujumbura: The Government Bans Motorcycle, Tricycle, and Bicycles in the Major Part of the City*.

238 Iranzi, *Bujumbura: The Government Bans Motorcycle, Tricycle, and Bicycles in the Major Part of the City*.

239 J Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa* (Dullah Omar Institute, 2024), <https://dullahomarinstitute.org.za/acjr/fact-sheet-29-sub-national-governance-and-the-plight-of-women-working-in-public-spaces-in-south-africa.pdf/view>.

240 Iranzi, *Bujumbura: The Government Bans Motorcycle, Tricycle, and Bicycles in the Major Part of the City*.

241 K Petersen, "Public Spaces & Informal Work: Principles and Approaches to Law & Policy-Making," Dullah Omar Institute, August 2023, file:///C:/Users/Admin/Downloads/ACJR%20Factsheet%2026%20(1).pdf.

242 Petersen, "Public Spaces & Informal Work: Principles and Approaches to Law & Policy-Making."

243 République Du Burundi - Loi No.1/21 Du 4 Octobre 2018 Portant Stabulation Permanente et l'interdiction de La Divagation Des Animaux Domestiques et de La Bassecour Au Burundi, Pub. L. No. No.1/21(2018). <https://bi.chm-cbd.net/fr/implementation/legislation/loi-1-21-stabul-permanen-interdi-divagation-anim-domestiques>.

244 République Du Burundi - Loi No.1/21 Du 4 Octobre 2018 Portant Stabulation Permanente et l'interdiction de La Divagation Des Animaux Domestiques et de La Bassecour Au Burundi, art. 1.

However, this law has had discriminatory consequences for rural farmers and breeders, particularly those from low-income and disadvantaged communities whose livelihoods depend on traditional grazing practices. The strict application of this law has resulted in disproportionate penalties and sanctions including animal confiscation, and in some cases, two-month imprisonment and fines between FBu 50,000 to FBu 100,000 (US \$17 – US \$34).²⁴⁵

These punitive measures ignore the structural barriers that prevent compliance and instead criminalise poverty and traditional farming systems. In addition, impacted groups including rural farmers and breeders, are also confronted with increased feeding costs, lack of infrastructure, and the loss of traditional practices. The ban on straying animals coincided with restrictions on informal modes of transport in Bujumbura, particularly impacting Tuk-tuk and bicycle drivers, which are key actors in milk delivery. As a result, the combined effect of the livestock confinement law and the transport restrictions led to a reduced milk supply, especially in urban areas like Bujumbura.²⁴⁶

5.3.10 Prohibition of street trading in Bujumbura

In 2022, the Mayor of Bujumbura issued a ban on street trading which raised several legal, social, and gender-related concerns, especially since street trading is formally recognised by Burundi's Code of Commerce.²⁴⁷ The decision disproportionately impacts women who generally rely on informal street vending to support themselves and their families.²⁴⁸ Street traders prefer locations where many people gather, often near bus stops, because customers easily purchase goods and items before taking public transportation, thereby achieving significant sales in a short time. Women traders typically lack access to formal employment, earn a minimal amount of money from their trade, forcing them to live from hand-to-mouth while also taking care of accommodation, education, food and other family-related expenses.²⁴⁹

Research has shown that another major concern of women traders working in public spaces is the failure by local government to provide adequate services and infrastructure conducive for trade.²⁵⁰ It is often the case in many African cities that market stalls are generally not equipped with appropriate shelters for overnight storage, resulting in women traders daily transporting their products to and from their workplace. This may result in the decreased quality of food items and fresh produce, especially in hot climates.²⁵¹ The absence of proper drainage, ablution facilities, waste removal, dumping sites, as well as street lighting have adverse consequences for the health and safety of women traders.²⁵² Moreover, the enforcement of laws at local government level is often harsh and abusive. Women traders are targeted because they are less likely to physically challenge law enforcement officials, further contributing to their vulnerability and victimisation.²⁵³ They also face a constant threat of harassment, discrimination, and are more likely to be solicited for sexual favours from law enforcement officials who tend to apply other laws, such as sex-related offences when arresting women traders working late at night.²⁵⁴

245 Republique Du Burundi - Loi No.1/21 Du 4 Octobre 2018 Portant Stabulation Permanante et l'interdiction de La Divagation Des Animaux Domestiques et de La Bassecour Au Burundi, art. 33.

246 Iranzi, *Bujumbura: The Government Bans Motorcycle, Tricycle, and Bicycles in the Major Part of the City*.

247 "Street Vendors given 4 Days to Leave the Streets," *Burundi Times* (Bujumbura, Burundi), March 25, 2022, <https://www.burunditimes.com/street-vendors-given-4-days-to-leave-the-streets/>.

248 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*.

249 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*.

250 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*, 3.

251 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*, 3.

252 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*, 3.

253 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*, 3.

254 Mangwanda, *Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa*, 3.

6. Regional and International human rights instruments

Burundi is signatory to several regional and international treaties. However, the country's stance on international human rights and humanitarian law has repeatedly been questioned and condemned due to human rights violations including extrajudicial killings, enforced disappearances, arbitrary arrests and detention, acts of torture and ill-treatment, violence (including sexual and gender-based violence) and persecution.²⁵⁵

In 1993, Burundi ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and in 2013 ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).²⁵⁶ Since OPCAT ratification, the government is yet to designate a National Preventive Mechanism (NPM). This is due to a combination of reasons including the lack of political will and limited resource mobilisation impeding the establishment of functional and effective structures to prevent torture and monitor human rights violations in designated places of detention.²⁵⁷

In 2024, the United Nations Human Rights Council adopted a resolution extending the mandate of the UN Special Rapporteur on the situation of human rights in Burundi.²⁵⁸ The Council expressed concern over the country's persistent and troubling human rights record, nearly a decade after the onset of the 2015 political and human rights crisis.²⁵⁹ The country report presented to the Council offers a bleak assessment, noting the absence of meaningful systemic reforms by the Burundian government to address long-standing human rights challenges.²⁶⁰ The report underscores a shrinking civic space, on-going repression of political opponents, journalists, and human rights defenders, and documents widespread impunity for perpetrators of violations. It also highlights a deteriorating security situation, marked by a rise in forced disappearances and arbitrary arrests.²⁶¹ The Human Rights Council urged the Burundian government to engage in inclusive dialogue with all stakeholders, to ease political tensions, and implement comprehensive reforms to restore a secure, democratic, and rights-respecting environment in the country.²⁶²

²⁵⁵ US Department of State 2023 Country Reports on Human Rights Practices: Burundi, 1.

²⁵⁶ "Burundi|APT," accessed June 25, 2025, <https://www.apt.ch/knowledge-hub/opcat/burundi>.

²⁵⁷ "Burundi|APT."

²⁵⁸ "Resolution Adopted by the Human Rights Council on 10 October 2024," United Nations General Assembly, October 11, 2024, <https://docs.un.org/en/A/HRC/RES/57/22>.

²⁵⁹ "Resolution Adopted by the Human Rights Council on 10 October 2024," para. 1.

²⁶⁰ "Resolution Adopted by the Human Rights Council on 10 October 2024," para. 2.

²⁶¹ "Resolution Adopted by the Human Rights Council on 10 October 2024," para. 2.

²⁶² "Resolution Adopted by the Human Rights Council on 10 October 2024," para. 9.

Burundi has ratified several international human rights instruments including the following:²⁶³

TABLE 1: INTERNATIONAL HUMAN RIGHTS TREATIES RATIFIED BY BURUNDI

NO	TREATY DESCRIPTION	TREATY NAME	DATE OF RATIFICATION/ ACCESSION
1	International Covenant on Civil and Political Rights	ICCPR	09 May 1990
2	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	CAT	18 February 1993
3	Optional Protocol of the Convention against Torture	OPCAT	18 October 2013
4	Convention on the Elimination of All Forms of Discrimination against Women	CEDAW	08 January 1992
5	International Convention on the Elimination of All Forms of Racial Discrimination	CERD	27 October 1977
6	International Covenant on Economic, Social and Cultural Rights	ICESCR	09 May 1990
7	Convention on the Rights of the Child	CRC	19 October 1990
8	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	CRC-OP-AC	24 June 2008
9	Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	CRC-OP-SC	06 November 2007
10	Convention on the Rights of Persons with Disabilities	CRPD	22 May 2014
11	The African Charter on Human and Peoples' Rights	ACHPR	28 July 1989
12	The Convention Governing the Specific Aspects of Refugee Problems in Africa	CGSARPA	Signed 10 September 1969, ratified 31 October 1975
13	The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights		Signed 9 June 1998, ratified 2 April 2003

263 "UN Treaty Body Database," *United Nations Human Rights Treaty Bodies*, n.d., accessed June 25, 2025, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en.

7.

Oversight and Monitoring Bodies

Oversight and monitoring bodies play a vital role in curbing human rights violations by providing independent monitoring, accountability, and transparency.²⁶⁴ These institutions, whether governmental, quasi-governmental, or non-governmental, are tasked with investigating alleged abuses, ensuring that laws and policies are consistent with international human rights standards, and holding perpetrators accountable.²⁶⁵ When functioning effectively and free from political interference, these bodies serve as impartial guardians of human rights, particularly in politically sensitive or repressive contexts. Their presence is essential for ensuring that violations do not go unaddressed and that victims have avenues for redress. However, the effectiveness and independence of oversight mechanisms, such as national human rights institutions, the ombudsman office, and civil society organisations have been consistently undermined in Burundi, especially during periods of political instability.

7.1 Burundi National Independent Human Rights Commission

Established in 2011, the National Independent Human Rights Commission of Burundi (Commission Nationale Indépendante des Droits de l'Homme – CNIDH) is mandated to monitor the human rights situation across the country.²⁶⁶ Its core responsibilities include receiving complaints of human rights violations, conducting regular visits to all places of detention, and making recommendations aimed at improving the treatment and conditions of persons deprived of liberty.²⁶⁷

In November 2012 the CNIDH was accredited A-status by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions indicating its adherence to the Paris Principles, which are international standards for national human rights institutions.²⁶⁸ However, from 2015, the independence of the Commission eroded following a period of political and human rights crisis, leading to its downgrade to B-status in November 2017.²⁶⁹ At its 45th session in March 2025, the Sub-Committee was satisfied that the information provided by the CNIDH demonstrates compliance with the Paris Principles and recommended its upgrade to A-status.²⁷⁰

Despite this upgrade, the CNIDH continues to face criticism regarding its practical effectiveness, particularly in its responses to human rights violations and its perceived lack of independence. Participants at the focus group discussions noted that both domestic and international actors have expressed concern that the Commission often refrains from addressing politically sensitive issues and fails to speak out robustly against state-linked abuses. Critics also cite the CNIDH's limited public communications except for its annual reports. Some government officials have accused the CNIDH of promoting 'Western standards', a narrative used to undermine its legitimacy and portray its work as being influenced by foreign agendas.²⁷¹ Participants involved in the focus group discussions and interviews also raised concerns regarding the appointment process of Commissioners. It was also observed that the absence of political will to implement the CNIDH's recommendations significantly hinders its ability to fulfil its mandate effectively.

264 "Responsibilities of NHRIs: Monitoring and Reporting on the Human Rights Situation," GANHRI, 2025, <https://ganhri.org/monitoring-and-reporting-nhris/>.

265 *Oversight Institutions*/UNESCO, 2025, <https://www.unesco.org/en/right-access-information/oversight-bodies>.

266 "Commission Nationale Indépendante Des Droits de l'Homme Du Burundi | Vision et Mission," accessed April 14, 2025, <https://www.cnidh.bi/pages.php?page=2>.

267 "Commission Nationale Indépendante Des Droits de l'Homme Du Burundi | Vision et Mission."

268 *Report and Recommendations of the Sub-Committee on Accreditation* (International Coordinating Committee of National Institutions for the promotion and protection of human rights, 2012), https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Report_November_2012_%28English%29.pdf.

269 *Report and Recommendations of the Sub-Committee on Accreditation* (Global Alliance of National Human Rights Institutions, 2017), https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_Report_November_2017_-_ENG.pdf.

270 *Report and Recommendations of the 45th Session of the Sub-Committee on Accreditation* (Global Alliance of National Human Rights Institutions (GANHRI), 2025), <https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/13-may-sca-45-session-2025-report-en.pdf>.

271 "Burundi: CNIDH Maintains Its A-Status," SOS Medias Burundi (Burundi), March 27, 2025, <https://www.sosmediasburundi.org/en/2025/03/27/burundi-cnidh-maintains-its-a-status/>.

7.2 The Ombudsman

The Ombudsman of Burundi is a constitutionally recognised institution tasked with promoting administrative justice and protecting citizens' rights.²⁷² Its mandate includes receiving and investigating complaints of mismanagement, abuse of power, and violations of rights by civil servants and members of the judiciary, and making recommendations to relevant authorities.²⁷³ In addition to handling individual grievances, the Ombudsman also mediates between the administration and citizens, as well as between ministries and public institutions, and acts as an observer of public administration practices.²⁷⁴

In its 2024 annual report presented to the National Assembly, the Ombudsman office reported on the completion of 427 cases out of 457 cases received, a completion rate of 93%.²⁷⁵ However, independent observers have pointed out areas of overlap and redundancy between the mandates of the Ombudsman and the CNIDH, particularly in relation to the promotion of human rights.

7.3 Police oversight

Burundi's National Police operates under the authority of the Minister of Public Security.²⁷⁶ To ensure accountability within the police, the Inspector General of Public Security was established in February 2009 with the mandate to provide independent oversight, control, and investigation of complaints against police officers.²⁷⁷ The body is also tasked with the documentation of abuses and ensuring that law enforcement personnel comply with professional and legal standards.²⁷⁸ Challenges exist in the fulfilment of its mandate due to limited human and financial resources as well as a lack of operational independence, rendering it ineffective in investigating and sanctioning misconduct by the police.²⁷⁹ This contributes to a culture of impunity and undermines public trust in law enforcement institutions.

Participants of the focus group discussions noted that in the past, civil society organisations played a significant role in the independent oversight of police conduct and human rights violations in Burundi. Organisations such as the Association for the Protection of Human Rights and Detained Persons (APRODH), Ligue Iteka, Ntabariza, and international NGOs like International Bridges to Justice and Avocats Sans Frontières were actively engaged in monitoring, documenting, and reporting on abuses committed by law enforcement and other state actors. However, the situation drastically changed following the 2015 political crisis, leading to the ban of several human rights organisations in Burundi. Many continue to operate from exile and only a few independent organisations are still operational in Burundi.²⁸⁰

272 Constitution of the Republic of Burundi 2018, art. 243.

273 République Du Burundi - Loi No.3 Du 25 Janvier 2010 Portant Organisation et Fonctionnement de l'Ombudsman, Pub. L. No. Loi No.3(2010). https://assemblee.bi/wp-content/uploads/2024/01/loi_n1-03_du_25_janvier_2010.pdf.

274 République Du Burundi - Loi No.3 Du 25 Janvier 2010 Portant Organisation et Fonctionnement de l'Ombudsman, art. 6.

275 "Rapport 2024 de l'Ombudsman Burundais: Bilan et Perspectives d'Avenir - Assemblée Nationale Du Burundi," accessed June 26, 2025, <https://assemblee.bi/2025/02/18/rapport-2024-de-lombudsman-burundais-bilan-et-perspectives-davenir/>.

276 W Nindorera, *Security Sector Reform in Burundi: Issues and Challenges for Improving Civilian Protection*, Working Paper (Centre d'Alerte et de Prevention des Conflits, 2007), 19.

277 *Security Sector Reform Monitor: Burundi*(Center for International Governance Innovation, 2010), https://www.cigionline.org/static/documents/ssrm_burundi_v3_0.pdf.

278 *Security Sector Reform Monitor: Burundi*, 4.

279 *Security Sector Reform Monitor: Burundi*, 4.

280 E Geddie, "The EU Must Champion Civic Space in Burundi Ahead of next Year's Elections - European Institutions Office," October 19, 2024, <https://www.amnesty.eu/news/the-eu-must-champion-civic-space-in-burundi-ahead-of-next-years-elections/>.

7.4 Prison oversight

The Burundi Law on Penitentiary Regime organises prison oversight into three categories.²⁸¹ The first level of oversight is carried out by the Prison Administration, serving as the primary internal monitoring mechanism. In principle, this body is responsible for supervising prison operations, ensuring humane treatment of detainees, and enforcing regulatory compliance within penitentiary facilities.²⁸² However, its independence and integrity is often called into question due to the politicisation of the judicial system. The second level of oversight involves external oversight by State institutions notably, the office of the public prosecutor which is required to carry out regular inspections to ensure compliance with the provisions of the Criminal Code of Procedure.²⁸³ However, this is not always the case due to a lack of resources and conflicts of commitment.²⁸⁴

The third level of oversight includes external oversight by international organisations, NGOs, and civil society organisations that are legally permitted to visit detention centres, assess conditions, and make recommendations to competent authorities.²⁸⁵ In recent years, access to detention centres has been increasingly restricted, and those still permitted access have to obtain explicit authorisation from the Director General of Penitentiary Affairs.²⁸⁶ This requirement creates an additional bureaucratic and political barrier, undermining the spontaneity of prison visits.

Prison conditions in Burundi are dire due to inadequate sanitary conditions, food shortages, and gross overcrowding. It is widely reported that Burundi prisons are poorly managed and understaffed.²⁸⁷ The prison population as at April 2025 was 10 777 despite an overall capacity of 4294, representing an occupation rate of 251%.²⁸⁸ This level of severe overcrowding is due to a combination of factors including slow judicial processes, limited access to legal representation and excessive use of pre-trial detention which is currently at 45%.²⁸⁹ As a result, inmates are forced to live in inhumane conditions which not only violate basic human rights but also contributes to heightened health risks and violence within the prison system. Addressing prison overcrowding in Burundi requires comprehensive reforms, including an improvement in the efficiency of the justice system and exploring options for alternative sentencing.²⁹⁰ The simple fact is also that prison capacity has not kept pace with national population growth.

281 Republique Du Burundi - Loi N°1/24 Du 14 Décembre 2017 Portant Révision Du Régime Pénitentiaire, Pub. L. No. Loi n°1/24 (2017). <https://assemblee.bi/wp-content/uploads/2024/01/N%C2%B024-du-14-decembre-2017.pdf>.

282 Republique Du Burundi - Loi N°1/24 Du 14 Décembre 2017 Portant Révision Du Régime Pénitentiaire, art. 21.

283 Republique Du Burundi - Loi N°1/24 Du 14 Décembre 2017 Portant Révision Du Régime Pénitentiaire, art. 22.

284 Republique Du Burundi - Loi N°1/24 Du 14 Décembre 2017 Portant Révision Du Régime Pénitentiaire, art. 23.

285 Republique Du Burundi - Loi N°1/24 Du 14 Décembre 2017 Portant Révision Du Régime Pénitentiaire, art. 24(1).

286 Republique Du Burundi - Loi N°1/24 Du 14 Décembre 2017 Portant Révision Du Régime Pénitentiaire, art. 24(2).

287 *Global Organised Crime Index: Burundi*.

288 "Burundi Data," *World Prison Brief*, April 4, 2025, <https://www.prisonstudies.org/country/burundi>.

289 *World Prison Brief*, "Burundi Data."

290 *Annual Report on the Human Rights Situation - Burundi, Edition 2023* (Action by Christians for the Abolition of Torture (Acat-Burundi), 2023), <https://www.acatburundi.org/wp-content/uploads/2024/03/ACAT-Burundi-annual-report-on-the-human-rights-situation-2023-edition.pdf>.

8. Recommendations and Conclusion

The following recommendations are made to address the current challenges in Burundi's criminal justice system, with respect to law and policy reform.

8.1 Law Reform

8.1.1 Ratification of international treaties

To strengthen its criminal justice and human rights protection framework, Burundi is encouraged to ratify the following key international and regional instruments:

- The 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, to address gaps in nationality law and protect individuals at risk of statelessness;²⁹¹
- The International Convention for the Protection of All Persons from Enforced Disappearance, to reinforce safeguards against enforced disappearance and ensure the rights of victims and their families;²⁹²
- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), to advance the rights and protection of women and girls in line with regional human rights standards.²⁹³
- In addition, Burundi should consider depositing the Declaration of Acceptance of the jurisdiction of the African Court on Human and Peoples' Rights, in accordance with Article 34(6) of the Protocol to the African Charter, thereby enabling individuals and NGOs direct access to the Court for the protection of fundamental rights.²⁹⁴

8.1.2 Reform of national laws

To ensure greater compliance with international human rights standards and to improve the effectiveness, fairness, and inclusiveness of the criminal justice system, a reform of the Penal Code and other legislation is required. Key laws to reform include:

- **Law on the National Independent Human Rights Commission (CNIDH):** Amend the current law to bring it into full compliance with the Paris Principles, particularly to strengthen the independence, mandate, and operational autonomy of the CNIDH.²⁹⁵
- **Penal Code and Law on Gender-Based Violence Law:** Revise and harmonise these legal texts to ensure consistency in the definition and punishment of offences.²⁹⁶

291 "Convention Relating to the Status of Stateless Persons," United Nations High Commissioner for Refugees, 1954, https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf; "Convention on the Reduction of Statelessness," United Nations High Commissioner for Refugees, 1961, https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf.

292 "International Convention for the Protection of All Persons from Enforced Disappearance|OHCHR," December 20, 2016, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>.

293 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003).

294 "Declarations - African Court on Human and Peoples' Rights," African Court on Human and Peoples' Rights, 2025, <https://www.african-court.org/wpa/c/declarations/>.

295 République Du Burundi - Loi N° 1/04 Portant La Creation de La Commission Nationale Independante Des Droits de L'homme., Pub. L. No. Loi N° 1/04 (2011), <https://droit-afrique.com/upload/doc/burundi/Burundi-Loi-2011-04-Commission-Droits-Homme.pdf>.

296 République Du Burundi Code Penal 2017; République Du Burundi - Loi N°1/013 Du 22 Septembre 2016 Portant Prévention, Protection Des Victimes et Répression Des Violences Basées Sur Le Genre, Loi N°1/013.

- **Penal Code reform should also decriminalise opinion-related offences**, such as defamation, in line with international standards on freedom of expression,²⁹⁷ and provide clear and precise definitions for broadly interpreted offences such as “undermining internal security,” to avoid arbitrary application and abuse.
- **Legal Framework on Public Assemblies and Demonstrations:** Amend relevant laws and regulations to better align with international standards on freedom of peaceful assembly, ensuring that any restrictions are necessary, proportionate, and non-discriminatory.
- **Law on the Penitentiary Regime:** Revise the law to strengthen protections for pregnant women and infants detained with their mothers, including access to healthcare, nutrition, and child-friendly facilities.²⁹⁸
- **Law on Permanent Stabling of Livestock:** Review and revise the law to better reflect the realities of smallholder rural farmers, and ensure that associated policies are inclusive and do not disproportionately harm vulnerable populations dependent on traditional grazing practices.²⁹⁹
- **Decree No. 100/071/90 of 14 May 1990 (Statute of the Prison Affairs General Directorate):** Amend this decree to elevate the prison oversight unit to departmental level, and provide it with a clear, independent oversight mandate. This should include powers to inspect, report, and recommend reforms to improve conditions and protect the rights of detainees.³⁰⁰
- **A greater emphasis is required on the legislative mandates and limitations of sub-national administrative authorities**, such as mayors and governors, particularly in relation to the issuance of decrees, verbal directives, and actions enforced within districts, municipalities, and communes.

8.2 Policy Reform

To enhance the protection of human rights, strengthen the rule of law, and improve governance, the following policy reforms are recommended:

- **Strengthen Judicial Independence:** The independence of the judiciary is essential to ensuring equitable access to justice. Currently, the appointment of judicial officers is governed by presidential decree, issued upon the proposal of the Minister of Justice and following the opinion of the Superior Council of the Magistrature.
- **Regulate the use of verbal measures:** Government authorities should refrain from issuing verbal directives in sectors that directly affect the fundamental freedoms and livelihoods of citizens, such as transport and agriculture. Legal certainty and transparency must be upheld through written, consultative, and legally grounded decision-making.
- **Establish a National Preventive Mechanism (NPM):** In line with its obligations under OPCAT, Burundi should urgently establish an NPM.
- **Promote the inclusion of marginalised groups in decision-making processes:** Inclusion in the policy and law-making process provides impacted groups with the opportunity to provide meaningful input on policies concerning their livelihoods.
- **Combat corruption and promote inclusion:** The Government should adopt and implement clear policies against corruption and extortion, particularly in the justice sector.

²⁹⁷ Republique Du Burundi Code Penal 2017, art. 393.

²⁹⁸ Republique Du Burundi: Loi No. 1/24 Du 14 Decembre 2017 Portant Revision Du Regime Penitentiaire.

²⁹⁹ Republique Du Burundi - Loi No.1/21 Du 4 Octobre 2018 Portant Stabulation Permanante et l'interdiction de La Divagation Des Animaux Domestiques et de La Bassecour Au Burundi.

³⁰⁰ Republique Du Burundi - Decret No 100/76 Du 7 Avril 2016 Portant Nomination de Certains Membres Du Conseil d'administration de La Direction Generale Des Affaires Penitentiaires, Pub. L. No. Decret No 100/76(2016). <http://www.presidence.gov.bi/wp-content/uploads/2017/04/decret-076-2016.pdf>.

- **Rationalise prison oversight structures:** Oversight of detention facilities should not be fragmented across multiple under-resourced institutions. Instead, one or a few co-ordinated bodies with clear mandates are to ensure effective prison monitoring and protection of detainees' rights. Civil society organisations should be allowed to operate freely and independently, including those engaged in police and prison oversight. The process for obtaining authorisation to conduct monitoring activities should be streamlined, transparent, and free of political interference.

Burundi has experienced notable legislative and constitutional advancements over the past 25 years. However, significant obstacles persist in effectively implementing legal reforms and protecting human rights. The legal system remains shaped by colonial relics and years of political instability, leading to a parallel operation of formal justice structures alongside informal and customary mechanisms. This duality often results in inconsistent legal outcomes and compromises the fairness and impartiality of the justice system.

This report has highlighted the impact of select criminal, security, and other exceptional laws in Burundi that are unfair, discriminatory, exclusionary, and generally incompatible with human rights principles such as freedom of assembly, freedom of expression, and other norms enshrined in UN treaties and the African Charter on Human and Peoples' Rights. The objective was to amplify voices and perspectives that are rarely heard, deliberately ignored, or purposefully obscured, with the aim of drawing attention to problematic issues within Burundi's legal framework and its enforcement. It is evident that the application of criminal, security, and exceptional laws in Burundi continues to disproportionately impact vulnerable and marginalised groups, including women, children, political opponents, human rights defenders, journalists and civil society activists.

Oversight bodies, such as the CNIDH and the Office of the Ombudsman, play a critical role in monitoring human rights violations and investigating complaints of abuse in Burundi. However, their effectiveness is often constrained by limited financial and human resources, as well as a perceived lack of independence, which undermines public confidence in their ability to act impartially and effectively. The government must demonstrate its commitment to human rights by fully cooperating with independent oversight bodies, implementing their recommendations, and ensuring that perpetrators of human rights violations are held accountable.

For meaningful reform to take place, efforts should focus on reforming the Penal Code and other existing legislation. Outdated colonial-era laws that no longer reflect the current political and social realities must be repealed. Equal attention should be given to addressing and amending more recent laws that restrict freedoms of movement, privacy, and expression. Decriminalising laws that disproportionately target individuals based on status, poverty or activism is essential for establishing a more consistent and human rights-oriented justice system.

9.

Bibliography

Al Jazeera. "‘Hundreds Arrested’ in Burundi amid Political Unrest." May 1, 2015. <https://www.aljazeera.com/news/2015/5/1/hundreds-arrested-in-burundi-amid-political-unrest>.

Al Jazeera. "Teens Arrested for Defacing Burundi President Photo | Human Rights News | Al Jazeera." June 4, 2016. <https://www.aljazeera.com/news/2016/6/4/teens-arrested-for-defacing-burundi-president-photo>.

Amnesty International. "Burundi: At a Critical Juncture for Burundi, the Special Rapporteur’s Mandate Remains Vital," August 29, 2024. <https://www.amnesty.org/en/documents/afr16/8468/2024/en/>.

"Amnesty International Public Statement: Burundi: New Legislation Abolishes Death Penalty; Bans Homosexuality," April 24, 2009. <https://www.amnesty.org/es/wp-content/uploads/2021/07/afr160042009en.pdf>.

"Annual Report on the Human Rights Situation - Burundi, Edition 2023." Action by Christians for the Abolition of Torture (Acat-Burundi), 2023. <https://www.acatburundi.org/wp-content/uploads/2024/03/ACAT-Burundi-annual-report-on-the-human-rights-situation-2023-edition.pdf>.

"Arusha Peace and Reconciliation Agreement for Burundi," 2000. https://peaceaccords.nd.edu/wp-content/accords/Arusha_Peace_Accord____.pdf.

Barakamfitiye, JC, and J Ncamatwi. "The Burundi Legal System and Research." NYU Law GlobalLex, 2024. <https://www.nyulawglobal.org/globallex/burundi1.html>.

BBC News. "Burundi: Where Jogging Is a Crime," June 15, 2014. <https://www.bbc.com/news/magazine-27818254>.

Bizimana, AJ, and O Kane. "How Burundi’s Independent Press Lost Its Freedom." The Conversation, July 23, 2020. <https://theconversation.com/how-burundis-independent-press-lost-its-freedom-143062>.

"Bugendana: Woman Illegally Detained in a Container with Her 3-Month-Old Baby - SOS Médias Burundi." Accessed May 29, 2025. <https://www.sosmediasburundi.org/en/2025/04/28/bugendana-woman-illegally-detained-in-a-container-with-her-3-month-old-baby/?tztc=1>.

"Burundi | APT." Accessed June 25, 2025. <https://www.apr.ch/knowledge-hub/opcat/burundi>.

"Burundi: Amend Gender-Based Violence Law." Amnesty International, 2023. <https://www.amnesty.org/en/documents/afr16/7366/2023/en/>.

"Burundi Detains WhatsApp Group for Defamation | News24." Accessed June 24, 2025. <https://www.news24.com/burundi-detains-whatsapp-group-for-defamation-20160825>.

"Burundi: Freedom in the World 2024 Country Report." Freedom House, 2024. <https://freedomhouse.org/country/burundi/freedom-world/2024>.

"Burundi: Freedom in the World 2024 Country Report." Freedom House, 2024. <https://freedomhouse.org/country/burundi/freedom-world/2024>.

Burundi Press Law No. 1/11 of 4 June 2013 (2013).

"Burundi: Rhetoric versus Reality: Repression of Civil Society Continues under President Ndayishimiye’s Government." Amnesty International, August 21, 2024. <https://www.amnesty.org/en/documents/afr16/8292/2024/en/>.

Burundi Times. "Street Vendors given 4 Days to Leave the Streets." March 25, 2022. <https://www.burunditimes.com/street-vendors-given-4-days-to-leave-the-streets/>.

Burundian Journalist Union v The Attorney General of the Republic of Burundi, No. No 7 of 2013 (East African Court of Justice First Instance Division at Arusha May 15, 2015).

"Codes et Lois Du Burundi – Tome 1." Centre d'Études et de Documentations Juridiques (CEDJ), 2010. <https://www.africabib.org/rec.php?RID=397737815>.

"Codes et Lois Du Burundi – Tome 2." Centre d'Études et de Documentations Juridiques (CEDJ), 2010. <https://www.africabib.org/rec.php?RID=397737815>.

"Commission Nationale Independante Des Droits de L'homme Du Burundi | Vision et Mission." Accessed April 14, 2025. <https://www.cnidh.bi/pages.php?page=2>.

Constitution of the Republic of Burundi 2018 (2018). https://www.constituteproject.org/constitution/Burundi_2018.

Constitution of Transition of the Republic of Burundi, Pub. L. No. Law N°1/017 of October 28, 2001(2001). <https://www.peaceagreements.org/masterdocument/1425>.

Convention on the Elimination of All Forms of Discrimination against Women (1979). <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>.

"Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019." African Commission on Human and Peoples' Rights, 2019. <https://achpr.au.int/en/node/902>.

Décret N°100/003 du 31 janvier 2018 portant mesures de grâce – Présidence de la République du Burundi, Pub. L. No. Décret N°100/003 (2018). <https://presidence.gov.bi/2018/02/01/decret-n100002-du-31-janvier-2018-portant-mesures-de-grace/>.

Freedom House. "Burundi: Freedom in the World 2024 Country Report." Accessed July 4, 2024. <https://freedomhouse.org/country/burundi/freedom-world/2024>.

Gatavu, A. "Freedom of Assembly in Burundi." International Center For Not-For-Profit-Law, 2015. <https://www.icnl.org/post/assessment-and-monitoring/freedom-of-assembly-in-burundi>.

"Global Organised Crime Index: Burundi." Global Initiative Against Transnational Organized Crime, 2023. <https://ocindex.net/country/burundi>.

Guichaoua, A. "Burundi: A Country in Search of Its History." Université Paris 1 Pantheon Sorbonne | Institut d'études du developpment de la Sorbonne, 2022. https://recherche-afrique-des-grands-lacs.pantheonsorbonne.fr/sites/default/files/2022-07/20220705%20%E2%80%94%20History_of_Burundi%20English.pdf.

Hoegaerts, J. "'L'Homme Du Monde Est Oblige de Se Battre'. Parliamentary Discourses and Practices of Duelling, Belgium, 1830-1900." *Tijdschrift Voor Geschiedenis* 124, no. (2)(2011): 190-205.

Human Rights Committee, Toonen v. Australia, Communication No. 488/1992, Views of 31 March 1994, UN Doc. CCPR/C/50/D/488/1992 (1994) (March 31, 1994).

Human Rights Watch. "Burundi: UN Experts Denounce Jail Terms given to Journalists before Elections | OHCHR." February 20, 2020. <https://www.ohchr.org/en/press-releases/2020/02/burundi-un-experts-denounce-jail-terms-given-journalists-elections>.

Ikoraneza, J. "Mairie de Bujumbura: Réglementation Du Sport." *Burundi Forum*, March 20, 2014. <https://burundi-forum.org/114/mairie-de-bujumbura-reglementation-du-sport/>.

Interim Post-Transition Constitution of Burundi (2004). <https://www.uaipit.com/en/documents-record/?3979/post-transition-interim-constitution-of-the-republic-of-burundi>.

International Covenant on Civil and Political Rights | OHCHR (1966). <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

International Federation of Journalists. "Burundi: Journalist Floriane Irangabiye Freed Following Presidential Pardon – IFJ." Accessed June 24, 2025. <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/burundi-journalist-floriane-irangabiye-freed-following-presidential-pardon>.

Iranzi, F. "Bujumbura: The Government Bans Motorcycle, Tricycle, and Bicycles in the Major Part of the City," March 21, 2022. <https://regionweek.substack.com/p/bujumbura-the-government-bans-motorcycle>.

Kampala, M. "Mutimbuzi: Interdiction de Location Des Maisons Aux sans-Emploi." IWACU – Le Voix Du Burundi, June 6, 2024. <https://www.iwacu-burundi.org/mutimbuzi-interdiction-de-location-des-maisons-aux-sans-emploi/>.

Mangwanda, J. "Fact Sheet 29: Sub-National Governance and the Plight of Women Working in Public Spaces in South Africa." Dullah Omar Institute, 2024. <https://dullahomarinstitute.org.za/acjr/fact-sheet-29-sub-national-governance-and-the-plight-of-women-working-in-public-spaces-in-south-africa.pdf/view>.

McClintock, E, and T Nahimana. "Sub-Saharan Africa: Cultural Geography II – Peacemaking in Burundi: The Institution of the Bashingantahe," August 31, 2022. <https://cod.pressbooks.pub/easternworlddailyreadingsgeography/chapter/sub-saharan-africa-cultural-geography-ii/>.

Ndabashinze, R, and F Manirakiza. "Ruhororo 'Couvre-Feu' Pour Les Femmes: La Population Apprécie Mais." IWACU – Le Voix Du Burundi, November 17, 2020. <https://www.iwacu-burundi.org/ruhororo-couvre-feu-pour-les-femmes-la-population-apprecie-mais/>.

Ndayisaba, D. "Analyse Du Phénomène de Corruption Au Burundi à Travers l'accès Aux Services Publics. Cas de La Commune Kabarore (2005-2020)." Université de Burundi, 2020. <https://repository.ub.edu.bi/items/1bb63ab8-b784-4cb8-8e48-d978f7f08ad2>.

Ndayishimiye, P. "De La Royauté Sacrée de Droit Divin à La Monarchie Constitutionnelle Parlementaire (+/- 1750 à 1962): Vers La Fin de La Monarchie Burundaise." Université de Pau et des Pays de l'Adour, 2022. <https://theses.hal.science/tel-04324907>.

Nindorera, W. "Security Sector Reform in Burundi: Issues and Challenges for Improving Civilian Protection." Working Paper. Centre d'Alerte et de Prévention des Conflits, 2007.

Niyonkuru, A. "The Independence of the Judiciary Vis-a-Vis the Executive," 2022. <https://www.hamann-legal.de/upload/7Aime-Parfait.pdf>.

Niyonkuru, PC. "Burundi Takes Steps to Decriminalize Journalism." *Voice of America*, February 16, 2024. <https://www.voanews.com/a/burundi-takes-steps-to-decriminalize-journalism/7490544.html>.

Nkurunziza, J. "The Origin and Persistence of State Fragility in Burundi." Routledge, September 27, 2022. <https://doi.org/10.4324/9781003297697-4>.

"Timing and Sequencing of Post-Conflict Reconstruction and Peacebuilding in Burundi." Political Economy Research Institute, 2015. <https://peri.umass.edu/wp-content/uploads/joomla/images/publication/WP406.pdf>.

Organization of African Unity. African Charter on Human and Peoples Rights, Pub. L. No. OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

"Perspectives on Preventive Detention in Burundi: Putting Standards into Practice – Analyses of Interviews on Stakeholder Perceptions." Avocats Sans Frontières, 2015. https://www.asf.be/wp-content/uploads/2015/04/ASF_BUR_RegardsCrois-sD-tentionPr-ventive_201503_EN.pdf.

Petersen, K. "Public Spaces & Informal Work: Principles and Approaches to Law & Policy-Making." Dullah Omar Institute, August 2023. [file:///C:/Users/Admin/Downloads/ACJR%20Factsheet%2026%20\(1\).pdf](file:///C:/Users/Admin/Downloads/ACJR%20Factsheet%2026%20(1).pdf).

Radio France International (RFI). "Burundi: un projet de révision en profondeur de la Constitution adopté," October 26, 2017. <https://www.rfi.fr/fr/afrique/20171026-burundi-projet-revision-profondeur-constitution-adopte-mandat>.

Radio France Internationale. "Burundi: Les Taxis-Motos et Tuk-Tuk Interdits Dans Bujumbura à Partir Du 11 Mars," February 26, 2022. <https://www.rfi.fr/fr/afrique/20220226-burundi-les-taxis-motos-et-tuk-tuk-interdits-dans-bujumbura-%C3%A0-partir-du-11-mars>.

"Rapport Annuel de La CNIDH - Edition 2024." Commission Nationale Indépendante des Droits de L'homme (CNIDH), 2025. <https://cnidh.bi/publicationsview.php?article=959>.

Relief Web. "At a Critical Juncture for Burundi, the Special Rapporteur's Mandate Remains Vital - Burundi." August 29, 2024. <https://reliefweb.int/report/burundi/critical-juncture-burundi-special-rapporteurs-mandate-remains-vital>.

Relief Web. "Burundi: UN Expert Calls for Protection of Civic Space - Burundi | ReliefWeb." October 25, 2023. <https://reliefweb.int/report/burundi/burundi-un-expert-calls-protection-civic-space>.

"Report on the Independent Investigation on Burundi Carried out Pursuant to Human Rights Council Resolution S-24/1*." United Nations Human Rights Council, October 25, 2016. https://digitallibrary.un.org/record/1315401/files/A_HRC_33_37-EN.pdf.

Republic of Burundi: Law n°1/28 regulating demonstrations on public space and public meetings in Burundi, Law No 1/28 § (2013).

Republique de Burundi - Loi n° 1/03 du 23 janvier 2021 complétant les dispositions du Code de procédure civile relatives à la réintégration du conseil des notables des collines., Pub. L. No. Loi n° 1/03 (2021). <https://presidence.gov.bi/2021/02/02/loi-no-1-03-du-23-janvier-2021-portant-complement-des-dispositions-du-code-de-procedure-civile-relative-a-la-reinstitution-du-conseil-des-notables-de-la-colline/>.

Republique de Burundi - Loi N°1/013 du 22 Septembre 2016 portant prévention, protection des victimes et répression des violences basées sur le genre, Loi N°1/013 § (2016). <https://presidence.gov.bi/2016/09/22/loi-n1013-du-22-septembre-2016-portant-prevention-protection-des-victimes-et-repression-des-violences-basees-sur-le-genre/>.

Republique de Burundi - Penal Code 2009, Loi No. 1/05 of 2009 § (2009). <https://resourceequity.org/record/2863-burundi-penal-code/>.

Republique de Burundi Code Penal 2017, Pub. L. No. Loi n°1/27 (2017). <https://www.droit-afrique.com/uploads/Burundi-Code-2017-penal.pdf>.

Republique de la Burundi - La loi organique n° 1/26 du 26 décembre 2023 modifiant la loi n° 1/08 du 17 mars 2005 portant organisation et compétence des tribunaux, Pub. L. No. Loi N° 1/26 (2023). <https://assemblee.bi/wp-content/uploads/2024/01/n%C2%B026-du-26-decembre-2023.pdf>.

Republique de la Burundi - Loi organique n° 1/21 du 03 août 2019 modifiant la loi n° 1/07 du 25 février 2005 régissant la Cour suprême, Pub. L. No. Loi n° 1/21(2019). <http://courconstitutionnelle.gov.bi/wp-content/uploads/2023/09/RCCB372.pdf>.

Republique du Burundi - Loi du 29 juin 1962 relative à l'application des actes législatifs et réglementaires émanant de l'autorité coloniale (1962). https://amategekko.gov.bi/wp-content/uploads/2019/12/BOB_No6-1962.pdf.

Republique du Burundi - Loi N°1 / 05 du 22 Avril 2009 Portant Revision du Code Penal, Pub. L. No. Loi N°1 / 05 (2009). <https://www.wipo.int/wipolex/en/legislation/details/13386>.

Republique du Burundi – Loi No. 1/10 du 3 Avril 2013 Portant Revision du Code de Procedure Penale., Pub. L. No. Loi No. 1/10(2013). <https://www.wipo.int/wipolex/en/legislation/details/13441>.

Republique du Burundi – Loi No 1/11 du 4 Juin 2013 portant modification de la Loi No 1/025 du 27 Novembre 2003 regissant la presse au Burundi, Pub. L. No. Loi No 1/11(2013). https://assemblee.bi/wp-content/uploads/2024/01/N%C2%B01_11_4-juin_2013.pdf.

Republique du Burundi – Loi No.1/21 du 12 Juillet 2024 portant modification de la Loi No 1/19 du 14 Septembre 2018 portant modification de la loi No 1/15 du 9 Mai 2015 regissant la presse au Burundi, Pub. L. No. Loi No.1/21(2024). <https://assemblee.bi/wp-content/uploads/2024/08/N%C2%B021%20du%2012%20juillet%202024.pdf>.

Republique du Burundi Loi n° 1/09 du 11 mai 2018 portant modification du Code de Procédure Pénale., Pub. L. No. Loi n° 1/09 (2018). https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=110600&cs=1RWZ6KYEbjEJIM2dQ0r5VTovGxp20T308BlwiGoxz0FQ21cGrE18fMPZDdG86paR6oM86VSdHz-LExASmvgKRew.

Republique du Burundi: Loi n° 1/09 du 11 mai 2018 portant modification du Code de Procédure Pénale., Pub. L. No. Loi n° 1/09 (2018). https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=110600&cs=1RWZ6KYEbjEJIM2dQ0r5VTovGxp20T308BlwiGoxz0FQ21cGrE18fMPZDdG86paR6oM86VSdHz-LExASmvgKRew.

Republique du Burundi Loi n° 1/36 sur la Cour anti-corruption [Law No 1/36 on the Anti-Corruption Court], Pub. L. No. Loi n° 1/36 (2006). <https://faolex.fao.org/docs/pdf/bur202701.pdf>.

Republique du Burundi: Loi No. 1/24 du 14 Decembre 2017 portant revision du regime penitentiaire, Pub. L. No. Loi No 1/24 (2017). <https://assemblee.bi/wp-content/uploads/2024/01/N%C2%B024-du-14-decembre-2017.pdf>.

Republique du Burundi Loi No.1/21 du 4 Octobre 2018 portant stabulation permanente et l'interdiction de la divagation des animaux domestiques et de la bassecour au Burundi, Pub. L. No. No.1/21(2018). <https://bi.chm-cbd.net/sites/bi/files/2019-10/Loi-stabu-perman-interdic-divag-anim-domest.pdf>.

Republique du Burundi: Loi Organique du 16 Mars 2023 portant determination et delimitation des provinces, des communes, des zones, des collines et/ou quartiers de la Republique Burundi, No.1/05 § (2023). <https://www.ceniburundi.bi/wp-content/uploads/2024/06/LOI-n%C2%B05-du-16-mars-2023DETERMINATION-ET-DELIMITATION-DES-PROVINCES-COMMUNES-ZONES-ET-QUARTIERS.pdf>.

Republique du Burundi: Loi organique No1/18 du 07 Juin 2024 portant reorganisation de l'administration communale., Loi organique No1/18 § (2024). <https://www.ceniburundi.bi/loi-organique-n-1-18-du-07-juin-2024-portant-reorganisation-de-ladministration-communale>.

"Resolution Adopted by the Human Rights Council on 10 October 2024." United Nations General Assembly, October 11, 2024. <https://docs.un.org/en/A/HRC/RES/57/22>.

"Resolution Adopted by the Human Rights Council on 27 September 2019. Situation of Human Rights in Burundi." United Nations General Assembly, September 27, 2019. <https://documents.un.org/doc/undoc/gen/g19/299/84/pdf/g1929984.pdf?token=ApXPLQgs1ONKeMwtzk&fe=true>.

Scheye, E. "Local Justice and Security Development in Burundi: Workplace Associations as a Pathway Ahead." Netherlands Institute of International Relations 'Clingendael,' 2011. https://www.clingendael.org/sites/default/files/pdfs/20111000_burundi_scheye.pdf.

"Security Sector Reform Monitor: Burundi." Center for International Governance Innovation, August 2010. https://www.cigionline.org/static/documents/ssrm_burundi_v3_0.pdf.

Sindayigaya, I, and A Nyabenda. "Infants Residing with Their Mothers at Mpimba Prison, Burundi – Do They Have Rights to Be Protected?" *Applied Mathematical Sciences* 16(2022): 555–63.

The Guardian. "Burundi: Police Clash with Anti-Nkurunziza Protesters amid Third Day of Unrest." April 29, 2015. <https://www.theguardian.com/world/2015/apr/29/burundi-anti-nkurunziza-protests-third-day>.

Tlakula, P. "Decriminalisation of Laws Limiting Freedom of Expression in Africa: Burundi Country Report." Center for Human Rights, 2014. https://www.chr.up.ac.za/images/researchunits/dgdr/documents/resources/burundi_country_report.pdf.

Tv5 Monde. "Burundi: Après Les Violences, Les Taxis-Motos Interdits à Bujumbura." February 16, 2016. <https://information.tv5monde.com/afrique/burundi-apres-les-violences-les-taxis-motos-interdits-bujumbura-24377>.

UN General Assembly. Convention on the Rights of the Child, Pub. L. No. Resolution 44/25 (1989).

International Covenant on Civil and Political Rights, Pub. L. No. Resolution 2200A (XXI) (1976).

United Nations Human Rights Treaty Bodies. "UN Treaty Body Database." Accessed June 25, 2025. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?Lang=en.

"United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)." United Nations Office on Drugs and Crime, March 16, 2011. https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

US Department of State, "2022 Country Reports on Human Rights Practices: Burundi." 2022. <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/burundi>.

US Department of State, "2023: Country Reports on Human Rights Practices: Burundi." 2023. <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/burundi/>.