



Comparative study and findings on the impact of criminal, security and other exceptional laws and policies in select Francophone and Lusophone countries (Burundi, Côte d'Ivoire & Mozambique)

Executive Summary

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Introduction

Several countries across Africa gained independence in the early 1960s following decades of colonial rule. Despite independence, several colonial-era legal provisions remain embedded in Penal Codes across the continent. More recent laws have also been enacted, particularly in the areas of criminal justice which govern the daily lives of citizens. This research project has the objective to enhance understanding of the impact of criminal, security and exceptional policies and laws that are deemed discriminatory, exclusionary, and incompatible with international human rights standards in select Francophone and Lusophone African countries, notably, Burundi, Côte d'Ivoire, and Mozambique. These laws often contravene fundamental rights, such as freedom of assembly, freedom of expression, freedom of movement as enshrined in United Nations treaties and the African Charter on Human and Peoples' Rights.

The three countries were selected due to their diverse legal traditions, shaped by their distinct colonial histories with Belgium, France, and Portugal, respectively. This diversity provides a valuable foundation for comparative analysis and enables context-specific lessons to be drawn for cross-learning. While each country has implemented significant constitutional reforms since 2000, the alignment of national and sub-national legislation with democratic principles and international human rights standards remains an on-going process. The study highlights the impact of policies and laws on marginalised groups including women, youth, children, human rights defenders, political opponents, and civil society activists.

A qualitative research methodology was employed for this study. Ethics clearance was obtained in April 2024 from the Humanities and Social Sciences Research Ethics Committee (HSSREC) at the University of the Western Cape. A comprehensive literature review was developed using online sources, journal articles, academic theses, news articles, reports, legislation, and conference papers to provide a comprehensive overview of existing research in each country.

The data collection process took place between July and October 2024 in Abidjan, Bujumbura and Maputo. Under the contracted guidance of partners, *Action pour l'abolition de la torture-Côte d'Ivoire (ACAT-CI)*, *Burundi Bridges to Justice (BBJ)*, and *Research for Mozambique (REFORMAR)*, stakeholders were identified and invited to participate in the study based on their professional knowledge of the subject matter and lived experiences. In each country, five focus group discussions were held with five to ten participants each, and ten individual semi-structured interviews, resulting in some 50-60 participants in each country. The focus group discussions facilitated a broad range of perspectives from impacted groups and civil society representatives, while the semi-structured interviews were conducted with experts and high-ranking officials. Stakeholders included local and national government officials, academics, law enforcement officials, university students, civil society activists, psychologists, legal professionals, journalists, public space workers (including transport operators and street traders), and other affected individuals. The sampling was therefore purposeful, seeking individuals who have knowledge and insight on the issue. All participants provided written and verbal consent for the study and were guaranteed anonymity.

This report reflects a synthesis of the findings from the consultations and is supported by additional research. It was prepared and validated by stakeholders during workshops held in each country between May and June 2025 wherein subsequent inputs were incorporated.

This summary commences with overarching observations addressing broader contextual issues, including a political overview, as well as a review of constitutional and legislative reforms and the existing legal framework in the three countries. The subsequent section presents a descriptive summary of key findings of select criminal, security, and exceptional laws, particularly when these laws are implemented in unusual, discriminatory, or punitive ways, often to the detriment of vulnerable or marginalised groups. The following section offers a concise discussion of relevant international and regional instruments ratified by each country, as well as the role of oversight and monitoring bodies, highlighting the gaps and opportunities for accountability, legal harmonisation, and protection of rights within these jurisdictions.

Overview observations

Burundi, Côte d'Ivoire, and Mozambique have distinct historical and political trajectories shaped by their respective colonial legacies and post-independence developments. Nevertheless, they share common experiences of periods of instability, civil conflict, and on-going challenges related to governance, social cohesion, and the rule of law. **Côte d'Ivoire** was the first to gain independence from France in 1960, followed by **Burundi** from Belgium in 1962, and **Mozambique** from Portugal in 1975.

Since independence, **Burundi** has experienced a tumultuous political history. Between 1960 and 1993, the country transitioned from a monarchy to a republic, marked by military coups and recurring ethnic conflict. The first democratic elections were held in 1993, but the assassination of President Melchior Ndadaye triggered a prolonged ethnic civil war, which formally ended with the signing of the Arusha Peace and Reconciliation Agreement in 2000.¹ After independence in 1960, **Côte d'Ivoire** experienced three decades of political stability and strong economic growth, largely driven by exports of natural resources. However, declining global commodity prices in the late 1980s and 1990s prompted harsh economic reforms and social unrest.² The political introduction of the concept of *Ivoirité* questioned the nationality and belonging of certain ethnic groups, particularly in the north of the country, deepening national divisions and creating significant ethnic and political tensions. The country subsequently experienced two civil wars, both rooted in these identity-based conflicts and post-electoral violence. **Mozambique** gained independence in 1975 after a long liberation struggle against Portuguese colonial rule. However, in 1977 the country quickly descended into a devastating 15-year civil war between the ruling Frente de Libertação de Moçambique (FRELIMO) and the Resistência Nacional Moçambicana (RENAMO) opposition.³ Although the war formally ended with the Rome General Peace Accords, sporadic violence and political tensions have persisted, particularly surrounding elections and resource distribution.

Constitutional and legislative reforms

Between 2000 and 2024, **Burundi, Côte d'Ivoire, and Mozambique** undertook several key constitutional and legislative reforms in the area of criminal justice. These reforms have aimed at restructuring the justice system, promoting accountability, and aligning national legal frameworks with international human rights standards. However, significant concerns remain regarding the implementation and practical application of these legal commitments.

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

2 T Ogwang, *The Root Causes of the Conflict in Ivory Coast* (Africa Portal, 2011), 2, https://africaportal.org/wp-content/uploads/2023/05/Backgrounder_No._5-The_Root_Causes_of_the_Conflict_in_Ivory_Coast.pdf.

3 Abdul Dauto, *Estado, Democracia e Desenvolvimento em Moçambique* (Texto Editores, 1998).

In **Burundi**, four major constitutional reforms occurred between 2000 and 2024 shaping the country's current legal context. A Transitional Constitution was adopted in 2001 following peace-talks to curb ethnic violence.⁴ This was followed by an Interim Post-Transition Constitution in 2004 which had slight modifications focusing on constitutional principles aimed at fostering economic development, equality and social justice.⁵ A referendum a year later resulted in the adoption of the 2005 Constitution, which retained key fundamental principles.⁶ A reform in 2018 led to the current Constitution which includes provisions for a State of Emergency, allowing for the restriction of certain rights when the nation's independence, territorial integrity, or the fulfilment of international obligations is under imminent threat.⁷ Burundi's Penal Code has also been revised several times, with the most notable reform taking place in 2009, leading to the abolishment of the death penalty, introduction of criminal liability for legal entities, raising the age of criminal responsibility from 13 to 15 years, and criminalising torture and sexual violence.⁸ Despite these major reforms, the Penal Code still retains several colonial-era provisions, some which are irrelevant to modern Burundi realities, such as duelling, which was abolished in Belgium in 2005 but remains on the Burundian statutes.

In **Côte d'Ivoire**, significant constitutional and legal reforms occurred over the last 24 years. The country's first constitution, adopted in 1960 at independence, was heavily influenced by France's 1958 Constitution. Following a military coup in 1999, a new constitution was adopted in 2000, introducing the controversial principle of *Ivoirité*, an exclusionary concept of national identity emphasising ethnic indigeneity.⁹ The inclusion of this provision was widely viewed as a political tool used to disqualify political figures whose Ivorian identities were questioned, leading to xenophobic tensions across the country. The *Ivoirité* clause was later removed through the Linas-Marcoussis Accord.¹⁰ In response to the 2010–2011 post-electoral crisis, the current Constitution was adopted in 2016 as part of a broader effort toward national reconciliation, political stability, and institutional reform. The Constitution introduced several important legal and institutional changes relating to presidential eligibility, the role of traditional leaders, and the restructuring of the executive branch to create the role of a vice-president.¹¹ The Constitution also introduced emergency provisions related to a state of siege and state of emergency.¹² Similar to **Burundi's** constitutional framework, these provisions allow for the limitation of certain rights when the integrity of the state, the execution of international obligations, or the regular functioning of constitutional institutions is under serious and imminent threat.¹³ The Ivorian Penal Code remains deeply rooted in the French legal tradition, reflecting the enduring influence of the country's colonial history. However, several important reforms have taken place, notably in 2000 and 2019, leading to the abolition of the death penalty, the criminalisation of torture, terrorism, sexual and domestic violence, and international crimes including genocide, war crimes and crimes against humanity.¹⁴

In **Mozambique**, constitutional amendments have played a significant role in recent political and legal developments primarily aimed at decentralising State power and introducing a broad framework of fundamental rights including civil liberties, judicial guarantees and the recognition of legal pluralism.¹⁵ The amendments also address critical issues such as political dialogue, national

4 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>.

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

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

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

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

9 D Kone, "The Concept of Ivoirite: An Identity Based Concept and Its Impact on Socio-Political Life in Ivory Coast," *Akofena* 1, no. 002(2021): 217–28.

10 *The Linas-Marcoussis Agreement*(2003), <https://peaceaccords.nd.edu/accord/the-linas-marcoussis-agreement>.

11 Constitution de la République de la Côte d'Ivoire 2016(2016). <https://www.presidence.ci/constitution-de-2016/>.

12 Constitution de la République de la Côte d'Ivoire 2016(2016). <https://www.presidence.ci/constitution-de-2016/>.

13 Constitution de la République de la Côte d'Ivoire 2016, art. 73.

14 Republique de La Cote d'Ivoire - Code Penal 2019, Pub. L. No. Loi n°2019-574 du 26 juin 2019(2019). <https://www.droit-afrique.com/uploads/RCL-Code-2019-penal.pdf>.

15 Bernhard Weimer, "Constitutional Reforms and the Shifting Architecture of Decentralisation in Mozambique," *Journal of Southern African Studies*, 2021.

reconciliation, and social cohesion in the aftermath of internal conflict and political unrest. As part of its constitutional framework, Mozambique includes provisions for a State of Emergency, which can be declared in the event of a public calamity, and permits the suspension or limitation of certain rights and freedoms typically guaranteed to citizens.¹⁶ Significant reforms have also been made to the Mozambican Penal Code, which was completely revised in 2014 and subsequently amended in 2019. These changes mark a substantial shift toward a more restorative and rights-based penal framework. Key reforms include the decriminalisation of vagrancy and same-sex relations, and the introduction of alternative sentencing mechanisms, such as community service orders (CSOs), as alternatives to custodial sentences.¹⁷ These legal reforms reflect Mozambique's broader commitment to aligning its criminal justice system with international human rights norms and contemporary social realities.

Overall, all three countries have made significant legal reforms since gaining independence. However, there remains a pressing need for regular reviews of the Penal Codes to ensure that they reflect contemporary realities and align with international human rights standards. This includes addressing the broader imperative of decolonising legal frameworks to make them more responsive to local contexts and evolving societal needs.

Legal framework

The legal frameworks in **Burundi**, **Côte d'Ivoire**, and **Mozambique** are grounded in their Constitutions, Penal Codes, and a range of accompanying legislation regulating each country's social, political, economic, and judicial spheres. Across all three countries, there exists a dual legal structure composed of formal (written) law and informal (customary or unwritten) practices. This legal duality is not only reflected in the law itself, but also in its enforcement and judicial application, where informal systems often operate alongside, or in competition with, formal institutions, sometimes creating conflicts, overlaps, or parallel systems of justice.

Formal law enforcement is primarily the responsibility of national and local police forces, whose powers include warning, arrest, and detention as defined by legislation in each country. However, informal law enforcement mechanisms are also active, especially at the sub-national level, that operate outside the bounds of legal frameworks. These actors unlawfully impose social order and sanctions resulting in disproportionate fines, property confiscation, extortion, and in severe cases, human rights violations, including extrajudicial killings, enforced disappearances, and torture. In **Burundi**, this is exemplified by the *Imbonerakure*, a youth wing aligned with the ruling party, who allegedly perpetuate violence on the population, particularly on opponents of the government. Although they have no official authority to arrest individuals, members of the *Imbonerakure* frequently operate as *de facto* security agents.¹⁸ In **Côte d'Ivoire**, groups such as the *Gnambros* (informal transport union enforcers) and *Microbes* (youth gangs) have assumed unofficial policing roles in certain urban contexts, creating insecurity and violating rights of citizens.¹⁹ In **Mozambique**, similar informal enforcement actors include community vigilante groups that are implicated in the harassment of political opponents and the enforcement of discipline on the population during election periods.²⁰ In all three countries, informal actors operate beyond the boundaries of the law under the pretext of maintaining public order.

16 Article 160 "Constituição da República de Moçambique," File, REFORMAR - Research for Mozambique, accessed April 24, 2025, https://reformar.co.mz/documentos-diversos/constituicao-de-mocambique_port.pdf/view.

17 Article 89; Article 90; Article 102; Assembleia da República, "Lei n. 35/2014, de 31 de Dezembro," File, REFORMAR - Research for Mozambique, de Dezembro de 2014, <https://reformar.co.mz/documentos-diversos/lei-35-2014-aprova-o-codigo-penal-1.pdf/view>.

18 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.

19 "Phenomene Gnambro [PDF] Groupe d'experts Intergouvernemental Sur l'évolution Du Climat [Transport]," accessed May 23, 2025, <https://www.scribd.com/document/461961984/phenomene-Gnambro>; F Akindes, "Understanding Cote d'Ivoire's 'Microbes': Towards Safe and Inclusive Cities," in *Social Theories of Urban Violence in the Global South: Towards Safe and Inclusive Cities* (Routledge, 2018), https://www.researchgate.net/publication/329674757_Understanding_Cote_d'Ivoire's_Microbes_Towards_Safe_and_Inclusive_Cities.

20 Joseph Hanlon, *Mozambique: Mercenaries and Military Companies*, Mozambique News Reports & Clippings no. 496 (Open University, 2020), https://university.open.ac.uk/technology/mozambique/sites/www.open.ac.uk.technology.mozambique/files/files/Mozambique_496-26July2020_Mercenaries.pdf.

In terms of courts, Burundi, Côte d'Ivoire and Mozambique have formalised court systems as well as non-state justice providers that play a crucial role in resolving local disputes, particularly in areas where access to formal judicial systems is limited. In **Burundi**, the formal court system is comprised of three-tier courts including magistrate, high courts, and the supreme court which is the highest judicial authority for non-constitutional cases.²¹ The *Bashingantahe* which is a traditional council of elders, serve as respected community arbiters, especially in matters related to land disputes, small debts, and family issues.²² Their role, while not formally embedded in the national legal framework, remains culturally significant and widely accepted at the local level. Similarly, in **Côte d'Ivoire**, the formal court system is also divided into three-tiers including the courts of first instance, the courts of second instance and the Supreme Court.²³ The Ivorian government also recognises traditional kings and chiefs which act as guardians of social cohesion.²⁴ Despite not holding formal judicial authority, they are often called upon to mediate disputes, preserve community order, and reinforce customary norms, particularly in rural areas. In Mozambique, the formal court system includes provincial and district courts, high courts of appeal and the Supreme Court of Justice.²⁵ Informal court structures include community courts which mediate and resolve community-level conflicts and traditional authorities (*régulos*) who primarily handle land and family-related conflicts.²⁶ While the legal status of these actors remains uncoded or ambiguously defined, their authority is widely respected, especially in rural communities and some peri-urban areas where State presence is limited.

The co-existence of formal and informal systems contributes significantly to social stability and conflict resolution, but raises important questions about legal harmonisation, due process, and human rights protections, especially when decisions made outside formal courts lack oversight or avenues for appeal.

Key findings: Overview of select criminal, security and exceptional laws

In **Burundi**, **Côte d'Ivoire**, and **Mozambique**, criminal, security, and exceptional policies and laws continue to exist that are widely regarded as discriminatory, exclusionary, and inconsistent with international human rights standards. Although some of these laws may appear legally sound or neutral in their language, their interpretation and enforcement often raise serious concerns. In practice, these legal frameworks are frequently applied in ways that disproportionately impact vulnerable and marginalised groups including women, children, youth, the poor, political opponents, human rights defenders, civil society activists, and public space workers such as street vendors and informal transport operators. These groups often face arbitrary arrest, intimidation, criminal sanctions and detention under the guise of public order or national security. This pattern points to a broader issue of selective justice, where laws are not consistently applied for legitimate governance purposes, but are instead leveraged as instruments of political control, repression, or social exclusion. This undermines the rule of law and deepens societal inequalities, further marginalising those who are already at risk.

21 JC Barakamfitye and J Ncamatwi, "The Burundi Legal System and Research," *GlobaLex*, n.d., accessed June 30, 2025, <https://www.nyulawglobal.org/globalex/burundi1.html#burundian-legal-system>.

22 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.

23 A Yapi and M Ouattara, "Le Système Juridique De La Côte D'Ivoire - Globalex," *GlobaLex*, October 2022, https://www.nyulawglobal.org/globalex/cote-divoire1_fr.html.

24 A Kouassi, "After Gbagbo's Return, Traditional Leaders Speak on Reconciliation - JusticeInfo.Net," *Justice Info*, June 22, 2021, <https://www.justiceinfo.net/en/78981-after-gbagbo-return-traditional-leaders-speak-on-reconciliation.html>; Constitution de la République de la Côte d'Ivoire 2016, art. 175.

25 "Lei_Organica_AR.Pdf," n.d., accessed April 24, 2025, https://www.parlamento.mz/wp-content/uploads/2022/08/Lei_Organica_AR.pdf; Artigo 24 da REFORMAR - Res. Mozamb., "Constituição da República de Moçambique."

26 Concetta Lorizzo, *Non-State Forms of Conflict Resolution: Opportunities for Improving Criminal Justice a Case Study of Community Courts in Mozambique*, 2022, <http://hdl.handle.net/11427/36937>; Sara Araújo, "Ecologia de Justiças a Sul e a Norte. Cartografias Comparadas das Justiças Comunitárias em Maputo e Lisboa" (PhD thesis, Universidade de Coimbra, 2014).

Criminal laws

In **Burundi** and **Côte d'Ivoire**, the Penal Codes contain provisions criminalising acts and behaviours deemed to undermine public order.²⁷ However, the concept of public order remains vague and undefined within the law, allowing for broad interpretation and arbitrary enforcement. In **Côte d'Ivoire** and **Burundi**, these provisions are frequently used to target political opponents, human rights defenders, and individuals perceived as critical of the government, raising serious concerns about freedom of expression, assembly, and political participation. On the other hand, Gender-Based Violence (GBV) has gained increasing recognition within the legal frameworks of **Burundi**, **Côte d'Ivoire**, and **Mozambique**. This likely reflects growing global and regional concerns over domestic and sexual violence against women, and represents a positive development in the evolution of criminal law across the three countries. Legislative efforts to address GBV signal a shift toward acknowledging and responding to the specific vulnerabilities of women in both public and private spheres. However, despite these advances, certain cultural and religious norms continue to influence the framing and enforcement of gender-related laws, often to the detriment of women. For example, in **Burundi** and **Côte d'Ivoire**, adultery laws, although presented as protective, tend to disproportionately penalise women.²⁸ These laws reflect deep-rooted gender biases and societal expectations, reinforcing patriarchal norms under the guise of morality or family protection.

Prostitution remains a contentious legal and social issue in **Burundi** and **Côte d'Ivoire** and **Mozambique**. Although sex work itself is decriminalised in these countries, related activities such as facilitation, incitement, or promotion of prostitution remain criminalised under laws regulating public morals.²⁹ In practice, this creates a legal paradox, since sex work is not illegal per se, but law enforcement authorities often target sex workers under vague or overlapping provisions, such as public decency laws, leading to harassment, arbitrary detention, and stigmatisation. While homosexuality is criminalised in **Burundi**,³⁰ it is decriminalised in both **Côte d'Ivoire** and **Mozambique**. However, in **Côte d'Ivoire**, individuals engaged in same-sex relationships continue to face targeted enforcement under public indecency laws.³¹ These laws broadly define offences as acts that offend public morals or the sensibilities of those who witness them involuntarily, and which are likely to disturb public order. The vagueness of these provisions grants law enforcement wide discretion, often leading to the arbitrary targeting and harassment of LGBTQ+ individuals.

Unlike **Mozambique**, which has undertaken a comprehensive overhaul of its Penal Code, **Burundi** and **Côte d'Ivoire** continue to retain colonial-era laws, some of which have long been repealed by their former colonisers. For example, duelling (a practice largely obsolete in modern society) remains criminalised under **Burundi's** Penal Code, even though it was decriminalised in Belgium over two decades ago.³² Similarly, while Belgium and France have respectively repealed laws related to superstitious practices, charlatanism, sorcery, and magic, these provisions persist in the legal codes of **Burundi** and **Côte d'Ivoire**.³³ These laws are generally framed as measures to deter harmful traditional or superstitious practices that may result in bodily harm. However, their broad and undefined language, especially concerning what constitutes a "superstitious act" raises concerns particularly in rural communities, where traditional beliefs remain deeply rooted. While the intention may be to balance cultural respect with the protection of individual rights and physical integrity, the lack of legal clarity often results in legal uncertainty and potential abuse.

27 Republique Du Burundi - Penal Code 2009, Loi No. 1/05 of 2009; 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>.

28 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/>.

29 Republique de La Cote d'Ivoire - Code Penal 2019, art. 358; Republique Du Burundi - Penal Code 2009, Loi No. 1/05 of 2009, art. 561.

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

31 R Corey-Boulet, "Ivory Coast Officials Refuse to Explain Why Two Gay Men Were Jailed | Ivory Coast | The Guardian," The Guardian (Sassandra, Cote d'Ivoire), January 26, 2017, <https://www.theguardian.com/world/2017/jan/26/ivory-coast-officials-refuse-explain-gay-men-jailed-same-sex-relationships>.

32 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.

33 Republique Du Burundi Code Penal 2017, art. 231; Republique de La Cote d'Ivoire - Code Penal 2019, art. 237.

Security laws

The legal frameworks of **Burundi**, **Côte d'Ivoire**, and **Mozambique** all include security-related provisions covering offences such as defamation, assemblies and demonstrations, press and media law, and, more recently, cybercrime and anti-terrorism legislation, reflecting broader global concerns about terrorism and digital security. While these laws are often justified as necessary to ensure public safety and maintain public order, their vague and expansive language frequently opens the door to abuse and overreach.

Defamation laws in all three countries are ostensibly intended to protect individual reputations while balancing the right to freedom of expression, which is guaranteed by the constitutions of **Burundi**, **Côte d'Ivoire**, and **Mozambique**. However, in practice, these laws are often enforced not to protect against genuine reputational harm, but rather as tools to shield public officials and authorities from criticism. In each jurisdiction, defamation laws are broadly interpreted and applied to suppress dissent, silence political opposition, and target journalists, civil society activists and human rights defenders. In **Burundi**, **Côte d'Ivoire**, and **Mozambique**, defamation laws, particularly those concerning statements directed at the President or senior government officials, carry harsh penalties. Numerous arrests and prosecutions of journalists, political opponents and human rights defenders have been documented in all three countries. These legal provisions are frequently used to suppress dissent and intimidate individuals exercising their right to freedom of expression, especially when their speech is critical of those in power. Such practices are inconsistent with international and regional human rights standards, including the African Union's Declaration of Principles on Freedom of Expression and Access to Information, the African Charter on Human and Peoples' Rights, and the International Covenant on Civil and Political Rights (ICCPR).

Despite existing constitutional guarantees of freedom of peaceful assembly and association, **Burundi**, **Côte d'Ivoire**, and **Mozambique** maintain laws and regulations restricting and controlling public assemblies and demonstrations.³⁴ These legal provisions are framed as necessary to maintain public order, but are often applied selectively and politically, thus undermining democratic engagement and contributing to a shrinking civic space. In each jurisdiction, the key concerns include; the vague and ambiguous terminology used in the legislation, the requirement for prior notification or authorisation, the prohibition of counter-demonstrations, and strict regulations on the time, location, and duration of public gatherings. These restrictions often create legal and procedural hurdles for civil society activists, and opposition parties wishing to protest or mobilise supporters. In fragile political environments, such as **Burundi**, **Côte d'Ivoire**, and **Mozambique**, these restrictions become even more pronounced, particularly during electoral periods. Evidence shows that ruling parties frequently exploit these laws to obstruct opposition rallies and assemblies, thereby reinforcing political dominance and stifling dissent. The result is a climate of fear, apathy, and disengagement, where citizens become increasingly reluctant to exercise their rights to vote, protest or participate in political and social movements. This erodes public trust, discourages civic participation, and weakens the broader fabric of democratic governance.

Exceptional laws

Exceptional laws and measures are often applied outside standard legal procedures, taking the form of verbal decrees, executive orders, or decisions made by local administrators based on personal or political motivations rather than formal legal authority. These actions typically lack transparency, result in arbitrary enforcement, and are inconsistently applied, raising serious concerns about legality and accountability. Importantly, such measures often disproportionately affect vulnerable populations, especially when applied in a discriminatory or politicised manner.

³⁴ Constitution de La République de La Côte d'Ivoire 2016, art. 20; Constitution of the Republic of Burundi 2018, arts. 13, 32.

During the COVID-19 pandemic, **Mozambique**, **Côte d'Ivoire**, and **Burundi** adopted differing emergency responses, reflecting broader political considerations. In **Mozambique**, emergency laws were enacted to restrict movement and enforce lockdowns in the interest of public health.³⁵ However, the enforcement of these laws disproportionately affected low-income communities. Numerous reports documented mass arrests under the vaguely defined offence of “disobedience,” which was frequently applied to street vendors and informal workers unable to comply with lockdown restrictions due to economic hardship.³⁶ Although the offence of disobedience was later decriminalised due to public pressure, it illustrates how exceptional laws can be leveraged to criminalise social precarity rather than address issues.³⁷ In **Côte d'Ivoire**, the government declared a State of Emergency and implemented emergency laws ostensibly to curb the spread of the virus.³⁸ However, observers noted that these measures went beyond public health concerns. In particular, a ban on public demonstrations was introduced in the lead-up to the October 2020 elections, raising concerns that the pandemic was used as a pretext to restrict freedom of movement and suppress political dissent.³⁹ In contrast, **Burundi** did not declare a State of Emergency, despite constitutional provisions allowing for such a declaration.⁴⁰ The government adopted some preventive measures, but was widely reported to have downplayed the seriousness of the pandemic.⁴¹ Analysts suggest this approach may have been politically motivated, aiming to avoid disruptions ahead of the May 2020 elections.

Exceptional laws often take the form of decrees, ordinances, statements, or directives issued by local authorities in response to specific incidents. These measures frequently criminalise activities that are not ordinarily illegal, thereby expanding the scope of penal enforcement under the guise of maintaining order. These local directives often lack a legal basis, as local authorities do not possess legislative powers. Nonetheless, they are frequently implemented in response to political pressure, moralistic concerns, or public anxiety, resulting in rights violations and arbitrary enforcement.

For instance, in 2014 in **Burundi**, the Mayor of Bujumbura issued a decree regulating mass sports and jogging activities.⁴² Introduced in the context of rising political tensions ahead of the 2015 general elections, the measure ostensibly aimed to maintain public order, but in practice criminalised a common recreational activity. Authorities claimed that opposition parties were using sports gatherings to mobilise political support. However, the decree was widely seen as a means to suppress freedom of assembly and curtail opposition activity. In **Côte d'Ivoire**, although begging is formally decriminalised, in 2024, the Mayor of Abidjan issued a ban on street trading, begging, and the use of informal transportation methods, such as bicycles, within the city.⁴³ Similarly, in **Burundi**, informal transport services were banned in 2022 in the Bujumbura city centre.⁴⁴ These types of restrictions disproportionately affect the urban poor, effectively criminalising survival strategies without offering viable economic alternatives. Further examples in **Burundi** of local commune administrators issuing decrees *ultra vires* include the restriction of the movement of young women at night due to complaints from residents that

35 “Lei AR / Declaração Do Estado de Emergência / Início - Portal Do Governo de Moçambique,” accessed April 25, 2025, <https://www.portaldogoverno.gov.mz/por/Declaracao-do-Estado-de-Emergencia/Lei-AR>.

36 Articles 353 and 354 of “Lei-24-2019-Lei-de-Revisao-Do-Codigo-Penal.Pdf,” n.d., accessed April 24, 2025, <https://reformar.co.mz/documentos-diversos/lei-24-2019-lei-de-revisao-do-codigo-penal.pdf>.

37 REFORMAR, “Carta Aberta Sobre o Impacto Do Estado de Emergência No Sector de Justiça Criminal,” 2020, <https://reformar.co.mz/publicacoes/carta-aberta-impacto-estado-de-emergencia-1.pdf/view>.

38 Republique de La Côte d'Ivoire – Décret N°2020-351 Du 23 Mars 2020, Etat d'urgence, Pub. L. No. Décret n°2020-351(2020). <https://www.droit-afrique.com/uploads/RCI-Decret-2020-351-etat-urgence-sanitaire-pandemie.pdf>.

39 “CÔTE D'IVOIRE : Le Gouvernement Doit Lever l'interdiction de Manifester Avant l'élection Présidentielle,” Article 19, October 23, 2020, <https://www.article19.org/fr/resources/cote-divoire-the-government-must-lift-the-ban-on-protest/>.

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

41 “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>.

42 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>.

43 Presse Agence France, “Ivory Coast's Commercial Capital Bans Begging,” *Voice of Africa*, April 4, 2024, <https://www.voaffrica.com/a/ivory-coast-abidjan-commercial-capital-bans-begging-/7556622.html>.

44 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>.

husbands tend to stay out late at night in bars with young women, thus degrading family values; and the prohibition of rental contracts between landlords and unemployed individuals to prevent rental payment conflict.⁴⁵ Both restrictions discriminate and violate the rights of women and the poor, respectively. In **Mozambique**, electoral exceptionalism is a recurring phenomenon during election periods, when ordinary legal protections are informally suspended.⁴⁶ Reports regularly emerge of violence, arbitrary arrests, and harassment of opposition members. Although such practices are legally prohibited, they are often carried out with impunity, reflecting the logic that the suspension of constitutional rights is acceptable in moments of perceived political threat.

International and regional human rights instruments

Burundi, Côte d'Ivoire, and Mozambique have ratified a range of regional and international human rights instruments, including the Optional Protocol to the Convention Against Torture (OPCAT). Burundi ratified OPCAT in February 2013, **Mozambique** in July 2014, and **Côte d'Ivoire** more recently in March 2023. Of the three, only **Mozambique** has established a National Preventive Mechanism (NPM), as required by OPCAT.⁴⁷ **Burundi** and **Côte d'Ivoire** have yet to do so due to a combination of factors including the lack of political will, insufficient financial resources, and inadequate institutional capacity. In addition to OPCAT, all three States have ratified other core human rights treaties, including the United Nations Convention against Torture (UNCAT), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the African Charter on Human and Peoples' Rights (ACHPR).⁴⁸ While these ratifications signal a formal commitment to upholding human rights, there remains a significant gap between legal obligations and practical implementation in each country. In many cases, the lack of accountability mechanisms, weak institutional oversight, and selective enforcement of rights **protections** contribute to continued violations and impunity.

Oversight and monitoring bodies

Oversight and monitoring bodies play a critical role in curbing human rights violations by providing independent scrutiny, promoting accountability, and ensuring transparency in both government and law enforcement practices. Whether governmental or non-governmental, these institutions are tasked with investigating abuses, monitoring compliance with international human rights standards, and ensuring that perpetrators are held accountable. However, in **Burundi, Côte d'Ivoire, and Mozambique**, the effectiveness and independence of key oversight mechanisms such as national human rights commissions, ombudsman offices, prison and police oversight bodies, and monitoring by civil society organisations have been significantly undermined, and in some cases, severely restricted. In **Burundi**, the National Human Rights Commission (CNIDH) currently holds an A-status accreditation from the Global Alliance of National Human Rights Institutions indicating its adherence to the Paris Principles which are international standards for national human rights institutions.⁴⁹ However, critics 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.⁵⁰ The National Human Rights Council of Côte d'Ivoire faces severe funding challenges and the questionable appointment process

45 RNdabashinze and FManirakiza, "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/>; 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/>.

46 "Feridos e detidos em marcha de contestação em Moçambique - DW - 08/12/2023," *dw.com*, accessed April 27, 2025, <https://www.dw.com/pt-002/moçambique-três-feridos-e-13-detidos-em-marcha-de-contestação-de-resultados/a-67673049>.

47 Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Pub. L. No. A/RES/57/199(2006).

48 International Covenant on Civil and Political Rights, Pub. L. No. Resolution 2200A (XXI)(1976); African Charter on Human and Peoples Rights, Pub. L. No. OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58(1982); Convention on the Rights of the Child, Pub. L. No. Resolution 44/25(1989); African Charter on Human and Peoples Rights.

49 *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>.

50 "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/>.

of Commissioners remain a long-standing issue. In 2024 the UN Committee against Torture raised several concerns regarding the effectiveness of the Council. Firstly, the Committee noted that the Council lacks adequate financial and human resources, significantly limiting its capacity to carry out core functions, including monitoring detention facilities and investigating human rights violations. Secondly, the Committee also expressed concerns about allegations of political interference in the selection and appointment of its Commissioners.⁵¹ The National Human Rights Commission of Mozambique faces chronic underfunding, limited operational independence, and weak enforcement authority.⁵² This collectively constrains its ability to address systemic abuses, including arbitrary detention, excessive use of force by police, and inhumane prison conditions.

Prison oversight frameworks vary in structure and effectiveness across **Burundi**, **Côte d'Ivoire** and **Mozambique**, and, all three countries face significant challenges in ensuring adequate regulation and accountability within detention facilities. In **Côte d'Ivoire**, oversight is carried out by a range of actors, including the National Council for Human Rights, Members of Parliament, judicial authorities such as magistrates, and external organisations, including international bodies and non-governmental organisations.⁵³ Despite this multi-actor model, access to detention facilities by external organisations is often limited, significantly weakening the capacity to monitor detainee treatment or document abuses. The situation is compounded by severe overcrowding as the country's prison density reflects an occupancy rate of 297,1%, further straining oversight mechanisms and prison infrastructure.⁵⁴ In **Mozambique**, oversight is primarily conducted by the Serviço Nacional Penitenciário (SERNAP), the formal body tasked with ensuring compliance with legal and human rights standards in correctional institutions.⁵⁵ The occupancy rate of prisons in Mozambique is 247.9%.⁵⁶ **Burundi** prisons have an occupancy rate of 251% contributing to severely strained prison conditions.⁵⁷ The country's Law on Penitentiary Regimes establishes three layers of oversight with varying degrees of access; notably, internal oversight by the Prison Administration; external oversight by state institutions such as the Office of the Public Prosecutor; and independent oversight by international organisations, civil society, and non-governmental organisations.⁵⁸ In recent years, access for external monitors has become increasingly restricted, limiting transparency and the effectiveness of external checks.

Across all three countries, weak oversight frameworks and institutional limitations undermine accountability, enable impunity, and erode public trust in the justice system. Strengthening the mandate, independence, and operational capacity of oversight institutions is critical for promoting effective human rights protection and upholding the rule of law within the penitentiary system.

Oversight of police conduct remains a significant challenge in **Burundi**, **Côte d'Ivoire**, and **Mozambique**. In each country, internal police structures are primarily responsible for handling allegations of misconduct, raising serious concerns about the lack of transparency, independence, and effectiveness in ensuring police accountability. In **Mozambique**, the Internal Affairs Department is mandated to oversee police conduct.⁵⁹ However, it has been widely reported that investigations into police abuses are infrequent and, when they do occur, typically result in internal disciplinary measures rather than criminal accountability.

51 *Concluding Observations on the Initial Report of Côte d'Ivoire : Committee against Torture*, CAT/C/CIV/CO/1 (United Nations Committee against Torture, 2024).

52 Tina Lorizzo and Vanja Petrovic, *Developments in Addressing Torture in Mozambique*, n.d.

53 République de La Côte d'Ivoire – Decree No. 2023-239 Du 5 Avril 2023 Portant Réglementation Des Établissements Penitentiaires et Fixant Les Modalités d'exécution de La Detention Des Personnes., Pub. L. No. Decree No. 2023-239(2023). <https://bice.org/app/uploads/2024/01/decret-69-2023-239-du-05-avril-2023.pdf>.

54 "Cote d'Ivoire," *World Prison Brief*, May 2024, <https://www.prisonstudies.org/country/cote-divoire>.

55 "Pessoa, M, A Intervenção Da Sociedade Civil No Sistema Prisional Em Moçambique," *ResearchGate*, June 2020, <https://doi.org/10.46696/issn1983-2354.RAA.2020v13n34.226-257>.

56 "Mozambique," *World Prison Brief*, July 2024, <https://www.prisonstudies.org/country/mozambique>.

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

58 République 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>.

59 Article 4 of the "Lei n.1/2022, de 12 de Janeiro," File, REFORMAR – Research for Mozambique, accessed April 24, 2025, https://admin.reformar.co.mz/documentos-diversos/lei_1-2022_organica_ministerio_publico_estatuto_magistrados_ministerio_publico_revoga_lei_n_4-2017.pdf/view.

This contributes to a broader perception of impunity. In **Côte d'Ivoire**, there is currently no independent external civilian oversight body dedicated to monitoring police conduct. The General Inspectorate of Police Services is responsible for receiving complaints and investigating cases of police misconduct, abuse, and corruption.⁶⁰ However, because this body operates within the police accountability. A comparable structure exists in **Burundi** which is the Inspector General of Public Security, which serves as the main body tasked with promoting police accountability.⁶¹ Similar to the other two countries, this internal oversight model lacks public confidence. The absence of independent, well-resourced, and empowered civilian oversight mechanisms in all three countries undermines public trust and reinforces a culture of impunity within law enforcement agencies. To enhance police accountability and strengthen the rule of law, establishing independent civilian oversight bodies with investigative and enforcement powers remains an urgent priority.

Conclusion

Burundi, Côte d'Ivoire, and Mozambique emerge from distinct legal traditions shaped by their colonial histories. Despite gaining independence in the early 1960s, remnants of colonial legal frameworks persist, alongside newer laws developed in response to evolving social and political dynamics. Across all three countries, criminal, security, and exceptional policies and laws embedded within each legal system continues to raise significant human rights concerns.

The rule of law in **Burundi, Côte d'Ivoire, and Mozambique** faces significant challenges rooted in political interference, weak judicial independence, and limited accountability. In **Burundi**, the legal system is heavily influenced by the ruling elite. **Côte d'Ivoire** has made progress since its post-election crisis, but justice remains selective, and the judiciary is still vulnerable to political manipulation, especially during elections. In **Mozambique**, corruption and conflict (particularly in Cabo Delgado) undermines the justice system. Across all three countries, genuine rule of law remains constrained by entrenched political interests and fragile institutions.

This comparative report highlights the existence of problematic legal frameworks, including colonial-era relics and contemporary legislation as well as the challenges involved in the application and enforcement of these laws. In many cases (particularly at sub-national level), marginalised and vulnerable groups are severely impacted, further exacerbating inequality and injustice.

The report provides a set of actionable recommendations for policy, law, and institutional reform aimed at strengthening the criminal justice and human rights frameworks in each country.

These include:

- Ensuring that constitutional standards are reflected in enabling legislation;
- Removing colonial-era laws from the statutes;
- Ratifying and effectively implementing regional and international human rights instruments;
- Reforming national laws to enhance fairness, effectiveness, and inclusiveness in the criminal justice system by decriminalising offences dealing with poverty, status and activism targeting marginalised groups;
- Ensuring meaningful participation of impacted communities in policy-making and reform processes;
- Reforming police training and operations with an emphasis on democratic policing, human rights and community engagement;
- Establishing independent oversight and monitoring bodies in prisons and police which is essential for transparency and accountability;

60 Republique de La Cote d'Ivoire - Décret N° 2011-388 Du 16 Novembre 2011 Portant Organisation Du Ministère d'Etat, Ministère de l'Intérieur, Pub. L. No. Décret N° 2011-388(2011). https://dgp-interieur.ci/dgp/publication/b81b23df6e746f8bf9eaeed220374cb1f_document.pdf.

61 *Security Sector Reform Monitor: Burundi*, No. 4 (Center for International Governance Innovation, 2010), https://www.cigionline.org/static/documents/ssrm_burundi_v4_october_8.pdf.

- Reducing the over-reliance on the criminal justice system by promoting the use of alternative non-custodial measures;
- Ensuring that unusual circumstances do not result in practices that are not provided for in law.

This report is intended to serve as a strategic advocacy tool to engage and lobby national governments for the repeal and amendment of discriminatory and punitive legal provisions, especially those disproportionately affecting marginalised and vulnerable groups. Ultimately, the report calls on governments to fulfil their human rights obligations and to ensure that their legal systems uphold the dignity, freedoms, and well-being of all people without discrimination or exclusion.

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The full country reports are available on the Dullah Omar Institute website and can be found here: <https://dullahomarinstitute.org.za/>



↓ BURUNDI



↓ CÔTE D'IVOIRE



↓ MOZAMBIQUE