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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of
the High Commissioner and the Secretary-General**

Technical assistance and capacity-building

Human rights situation in Burundi

Report of the United Nations High Commissioner for Human Rights*

Summary

In this report, submitted pursuant to Human Rights Council resolution 30/27, the United Nations High Commissioner for Human Rights reviews the human rights situation in Burundi between 26 April 2015 and late April 2016. He also considers the response of the Government of Burundi to the violations and abuses committed during that period, as well as the cooperation between the national authorities and the Office of the United Nations High Commissioner for Human Rights in Burundi.

* This report was submitted after the deadline in order to include information on the most recent developments.



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I. Introduction

1. This report, submitted pursuant to Human Rights Council resolution 30/27, is based on the documentation of human rights violations done by the Office of the United Nations High Commissioner for Human Rights in Burundi (OHCHR-Burundi), established in January 2015 following the closure of the United Nations Office in Burundi. The information this report relies on was obtained by OHCHR-Burundi teams based in Bujumbura, Bujumbura Rural, Gitega, Makamba and Ngozi, through interviews with victims of and witnesses to human rights violations and abuses, and cross-checked with data collected from other human rights actors and, at times, the authorities.

II. Human rights situation

A. General trends

2. The political crisis that Burundi has been going through since April 2015 has had a considerable impact on the general human rights situation, which has continued to deteriorate. The main human rights violations and abuses documented by OHCHR-Burundi between April 2015 and late April 2016 were, from most common to least: arbitrary arrests and detentions, torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment), extrajudicial killings, enforced disappearances and sexual violence. Violations of civil liberties, creating a climate of intimidation and fear, were also observed. According to the information obtained by OHCHR-Burundi, the majority of these violations and abuses were committed by members of the defence and security forces, the Imbonerakure¹ and unidentified armed individuals or groups.

3. An analysis of the human rights violations and abuses documented since April 2015 shows five phases related to changes to the general situation.

4. The first phase began on 26 April 2015, when Pierre Nkurunziza was named as the candidate of the Conseil national pour la défense de la démocratie-Forces de défense de la démocratie (CNDD-FDD) for the presidency, and lasted until mid-May 2015. During that period, the Government refused to authorize demonstrations against Nkurunziza's bid for an additional term in office. Protests nonetheless took place in Bujumbura and were systematically repressed by the police, sometimes with the support of the Imbonerakure. In contrast, pro-CNDD-FDD demonstrations were authorized and supervised by law enforcement officers. Furthermore, in late April, the authorities ordered the closure of private radio stations and suspended social media and messaging services.

5. The attempted coup d'état of 13 May 2015 was a turning point. From then until the presidential elections of 24 July 2015, repression intensified, targeting members of the defence and security forces suspected of involvement in the coup, participants in demonstrations declared illegal and members of the opposition and civil society. Arbitrary arrests and detentions, cases of torture and inhuman and degrading treatment, as well as extrajudicial executions, accounted for the majority of the violations documented by

¹ The word "Imbonerakure" refers to the youth league of the ruling party, the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie. Since April 2015, OHCHR-Burundi has observed that some Imbonerakure members have acted as a militia, working in close collaboration with the security forces, and committed many serious human rights violations. This footnote is applicable to each reference to the term "Imbonerakure".

OHCHR-Burundi during this period.² They were the work of the Burundian National Police and the National Intelligence Service, according to information in the possession of OHCHR-Burundi. In addition, large-scale attacks by armed groups against Burundian troops occurred on 10 and 11 July 2015 in the provinces of Kayanza and Cibitoke.³

6. With Nkurunziza's victory in the presidential elections, a phase of intensifying violence began. Summary executions targeting authorities and government sympathizers, as well as members of the opposition and civil society, became more common. During this period, there was a clear increase in the number of arbitrary arrests and detentions, including of persons suspected of joining or belonging to rebel movements. OHCHR-Burundi continued to document cases of torture and inhuman or degrading treatment. The alleged perpetrators of these violations and abuses were apparently members of the police force and the National Intelligence Service, in addition to unidentified persons. OHCHR-Burundi also noted the increasing involvement of a unit responsible for the protection of institutions, one of the branches of the Burundian National Police, and, starting in October 2015, the riot squad, especially in arbitrary arrests and extrajudicial executions.⁴

7. November 2015 was characterized by an increase in the number of police operations in the parts of Bujumbura considered to be opposition neighbourhoods (Musaga, Mutakura, Jabe, Ngagara and Nyakabiga), following President Nkurunziza's ultimatum ordering people illegally possessing weapons to surrender them. This crackdown was accompanied by a new wave of arbitrary arrests, extrajudicial executions, torture and inhuman and degrading treatment. Members of the police, the National Intelligence Service and the riot squad were the main alleged perpetrators of these violations. In addition, in November 2015, there was an increase in the number of attacks — often with heavy weapons — and killings by individuals and unidentified armed groups targeting the authorities and members of the defence and security forces. This trend culminated on 11 December 2015, when four military positions in and around Bujumbura were attacked, leading to a wave of repression by the defence and security forces, supported by the Imbonerakure, especially in the neighbourhoods considered to be anti-establishment. December 2015 saw the emergence of cases of enforced disappearance and sexual violence, attributed to police personnel, members of the military and the Imbonerakure.

8. Since early 2016, OHCHR-Burundi has recorded a significant drop in the number of extrajudicial executions but has continued to document cases of enforced disappearance and arbitrary arrest and detention. OHCHR-Burundi has also noted a sharp rise in cases of torture and ill-treatment at the centres run by the National Intelligence Service, the military or police personnel in Bujumbura Mairie. After the creation of two armed groups — Forces républicaines du Burundi (FOREBU) in December 2015 and Résistance pour un État de droit (RED-TABARA) in January 2016 — grenade and other armed attacks became more common. The assassination on 22 March 2016 of Lieutenant-Colonel Darius Ikurakure, in command of the Bujumbura Nord Tactical Operations Centre and, according to several sources, responsible for numerous arrests and cases of torture, was reportedly followed by a drop in the number of arbitrary arrests in the area.

² The statistics on violations of the right to life provided in this report do not reflect all the victims in the ranks of the police and the Army as result of the lack of official data.

³ Responsibility for the Kayanza attack was claimed by General Léonard Ngendakumana, spokesperson of the Committee for the Restoration of National Harmony. In January 2015, an armed group coming from the Democratic Republic of the Congo had attacked the National Defence Forces in the north-west of the country, leading to the death of 95 assailants and the capture of 9 others.

⁴ The riot squad was established on 7 September 2015 as part of the Office of the Director-General of the Police to prevent and manage major incidents and serious acts of terrorism.

9. At times, the Independent National Human Rights Commission, an institution that has been awarded “A” status by the Global Alliance of National Human Rights Institutions, appears to play a role that brings it into conflict with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles)⁵ and undermines its independence. Since April 2015, the Commission has shown little willingness to cooperate with the National Network of Human Rights Observers, which had been set up jointly in May 2015 by the United Nations and the Government as part of the project of the United Nations Peacebuilding Fund. The Commission withdrew from the Network’s steering committee, for example. Lastly, in March 2016, and for more than a month and a half, the Commission kept on its premises, purportedly for their protection, six young women, including four minors, who had been arrested by the police and were accused of being from the opposition. OHCHR-Burundi and the United Nations Children’s Fund (UNICEF) called for and obtained the return of the minors to their families.

B. Right to life⁶

1. Extrajudicial executions⁷ and murders

10. Between 26 April 2015 and the end of April 2016, OHCHR-Burundi documented 348 cases of extrajudicial execution. The main alleged perpetrators of these violations are police officers, intelligence officers and, starting in October 2015, members of the riot squad. OHCHR-Burundi has also documented eight extrajudicial executions allegedly carried out by the Imbonerakure. The victims were for the most part civilians, mainly members of the opposition and civil society opposed to a third term in office for Nkurunziza. In addition, OHCHR-Burundi has documented 134 murders committed by armed men, mostly unidentified, whose main victims were police officers, the Imbonerakure, members of CNDD-FDD and, more recently, military personnel and civilian bystanders. Responsibility for at least five of these murders was claimed by FOREBU. Since 26 April 2015, more than 558 such attacks have been documented. OHCHR-Burundi also counted at least 49 people killed in attacks or clashes with the security forces but was unable to obtain information on the identity of the perpetrators.

11. The number of extrajudicial executions and murders documented by OHCHR-Burundi rose steadily between April and December 2015 and began to fall in January 2016. The largest increases were observed in April and May, in July and August, and from September to December 2015. The increase observed in April and May 2015 coincided with the violent repression of the first major demonstrations against a new term for President Nkurunziza. The second peak was linked to the intensification of repression after Nkurunziza’s re-election and to the targeted assassination of authorities and members of the opposition. The period from September to December 2015 coincided with police operations in the neighbourhoods of Musaga, Kamenge, Ngagara, Bwiza, Buyenzi, Cibitoke and Rohero in Bujumbura Mairie, after the President’s final demand for persons illegally possessing firearms to surrender them.

12. On 13 October 2015, for example, nine people, including three children, one woman and one staff member of the International Organization for Migration, were killed in

⁵ The Paris Principles are the principles governing the organization and operations of national human rights institutions.

⁶ The right to life is guaranteed in article 3 of the Universal Declaration of Human Rights, article 6 (1) of the International Covenant on Civil and Political Rights and article 24 of the Burundian Constitution.

⁷ See Economic and Social Council resolution 1989/65 of 24 May 1989 (Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions).

Ngagara, Bujumbura Mairie, by members of the unit responsible for the protection of institutions, according to testimonies collected by OHCHR-Burundi. The same sources stated that three police officers from this unit had previously been attacked — and two of them killed — by unidentified armed men. Having managed to escape, the third policeman allegedly called to his fellow officers for help. At that point, those officers reportedly killed nine people with a shot to the head and wounded two others.

13. In the wake of the attacks on four military camps in and around Bujumbura and the ensuing counter-attack, on 11 and 12 December 2015, the Government announced a total of 87 dead, including 4 police officers, 4 military personnel and 79 persons belonging to the armed group responsible for the attacks. However, according to information obtained by OHCHR-Burundi, that figure was likely to include civilians summarily executed, after the attacks, in the Bujumbura Mairie neighbourhoods of Nyakabiga, Musaga, Ngagara and Mutakura. According to numerous testimonies, the security forces entered houses, targeting mostly young men, who were killed with a shot to the head. Some non-governmental sources estimate that the incidents of 11 and 12 December 2015 caused between 150 and 200 casualties.

14. Although the number of extrajudicial executions carried out by the authorities fell after January 2016, the number of killings committed by unidentified gunmen, targeting authorities, members of Government and sometimes civilians, rose. On 5 February 2016, for instance, gunmen entered a house in Musaga, in Bujumbura Mairie, and fired on those inside, killing four, including a 12-year-old child, and injuring a fifth. According to local residents and some social media, the victims were Imbonerakure members holding a meeting.

15. In addition, after the failed coup of May 2015, the health personnel interviewed by OHCHR-Burundi in Bujumbura said that they had repeatedly been threatened by the defence and security forces and warned not to treat injured demonstrators. According to information obtained by OHCHR-Burundi, police officers tried to enter hospital wards in Bujumbura on several occasions. On 14 May 2015, for instance, police and army personnel, suspecting that putschists were being treated there, attacked Bumerec Hospital, in Bujumbura. Shots were fired around the hospital, and some rounds went through windows, endangering health-care workers and patients. The patients were forced to leave the hospital; those in a serious condition were transferred to other health-care facilities. Hospital equipment was destroyed. During the exchange of fire, one police officer loyal to the President was killed, and three putschist military personnel were taken away by the loyalist police and soldiers who had attacked the hospital.

2. Enforced disappearances

16. In many cases, the extrajudicial executions documented by OHCHR-Burundi were preceded by enforced disappearances, as the victims were abducted before being killed and discovered some time later. OHCHR-Burundi observed a common *modus operandi* in several cases, whereby the victims were found with their hands tied behind their back and often bore signs of ill-treatment. This *modus operandi* is, according to the witnesses interviewed, characteristic of the Burundian security forces.

17. OHCHR-Burundi documented 36 enforced disappearances between 26 April 2015 and the end of April 2016, while noting an increase in the number of cases in late 2015. Most of the victims were young men suspected of having participated in demonstrations or of belonging to a rebel movement or who were members of civil society and the opposition. In some cases, payment of a ransom was demanded by the police, intelligence officers or the Imbonerakure, although the victims were never found. A typical case of enforced disappearance is that of Marie-Claudette Kwizera, treasurer of the Burundian NGO Ligue Iteka, who, according to corroborating accounts, was arrested on 10 December 2015 by

members of the National Intelligence Service. Later, an intelligence agent assured her husband that he would find her if he was paid a certain amount of money. The money was handed over to the agent, but in late April 2016 Kwizera's fate remained unknown.

C. Right to liberty and security of person⁸

18. The human rights violations most commonly observed by OHCHR-Burundi since April 2015 are arbitrary arrests and detentions. Between April 2015 and the end of April 2016, OHCHR-Burundi documented 5,881 arrests and detentions (5,392 men, 351 minors and 138 women), of which at least 3,477 can be described as arbitrary.⁹ These arrests and detentions were predominantly carried out by police and intelligence officers, often assisted by the Imbonerakure. The main victims are members of the opposition and civil society who were against the President's additional term in office, persons having participated in demonstrations banned by the authorities, and journalists.

19. The number of arrests spiked twice in 2015. In June and July, the crackdown that followed the thwarted coup d'état of May 2015 led to the arrest of many members of the opposition and civil society as a result of the call by "Halte au troisième mandat", a coalition of opposition groups, to continue protesting. The second increase, the larger one, occurred in August and September 2015, after the presidential elections, as part of the heightened crackdown in Bujumbura's so-called opposition neighbourhoods, which was characterized by mass arrests by the police and military of people suspected of having joined or of belonging to a rebel movement. OHCHR-Burundi identified 828 arrests in September 2015 alone. A decrease to an average of 200 to 400 arrests a month was observed thereafter.

20. Since February 2016, however, with 33 arrests, the most since the beginning of the crisis, the number of women arrested has increased. Most of these women were apprehended in the neighbourhoods considered to be hostile to the Government, which have now been abandoned by men, many of whom are in custody or have fled. They were interrogated by police or intelligence officers who, according to reports, sometimes coerced them through verbal threats, intimidation and detention into denouncing opposition members in possession of illegal firearms. Other women arrested and detained reported being forced by the security forces to confess that they were opposition members.

21. On 10 and 11 July 2015, in the wake of an attack on the armed forces by an unidentified group in the provinces of Cibitoke and Kayanza, at least 220 people, including 53 children, were arrested by the Army and transferred to the prison in Rumonge. After a joint appeal by OHCHR-Burundi, UNICEF and other partners, all the children were released and returned to their families on 30 November 2015. Most of the adults arrested were still in custody on 30 April 2016.

⁸ The right to liberty and security of person is guaranteed in article 9 of the Universal Declaration of Human Rights, article 9 (1) of the International Covenant on Civil and Political Rights and article 24 of the Burundian Constitution. Arrests of journalists are addressed in the section on freedom of expression.

⁹ OHCHR-Burundi considered that the arrests or detentions were arbitrary or unlawful when those responsible for them were not authorized to make such arrests, when the evidence of guilt or the alleged facts did not constitute a crime under Burundian law, when the arrest and detention procedures were not followed or when people were confined to illegal places of detention (see document A/HRC/30/69 of the Human Rights Council of 4 August 2015 on the methods of work of the Working Group on Arbitrary Detention).

22. On 15 September 2015, 160 people, including 6 children, coming from the provinces of Gitega, Karuzi and Ngozi were arrested in the province of Gitega while aboard a bus travelling towards the United Republic of Tanzania. All were accused of participating in a rebel movement. The next day, OHCHR-Burundi visited the detainees, who stated that they had been travelling to the United Republic of Tanzania to seek work. On 17 September 2015, all were released.

23. On 18 January 2016, in Kamenge, Bujumbura Mairie, three girls aged 14 to 16 were arrested by police and military personnel and then transferred to a military post in Gatoke and to the National Intelligence Service. Police officers and military and intelligence personnel reportedly threatened them with death to make them confess that they were members of an armed group. They were also forced to state that they were adults. On 26 January, after a joint appeal by OHCHR-Burundi, UNICEF and the Independent National Human Rights Commission, the girls were released, as they could not be charged with anything.

D. Conditions of detention

24. Between April 2015 and the end of April 2016, OHCHR-Burundi made regular visits to the 11 prisons and police holding cells in Burundi and observed overcrowding resulting from the waves of arrests of protestors opposed to a new term for the President, members of the opposition and civil society, and persons suspected of joining rebel movements in Rwanda or the United Republic of Tanzania.

25. This overcrowding worsened conditions of detention that were already unsatisfactory as a result of deficient facilities and administration.¹⁰ OHCHR-Burundi found that in some cases detainees had not been fed for several days. It also found that in the holding cells at police stations and the National Intelligence Service, children and adults were rarely separated. In addition, in several cases, the age of minors was increased when they were registered, so that they could be regarded as adults during the investigation.¹¹

26. Furthermore, given the limited number of women police officers and prison guards, female prisoners are usually in contact only with men. In 2008, the Committee on the Elimination of Discrimination against Women had nonetheless urged Burundi to take the necessary measures to ensure that women in detention were systematically separated from men and supervised by gender-sensitive prison staff.¹²

¹⁰ In 2014, in their concluding observations, the Human Rights Committee and the Committee against Torture deplored the high levels of prison overcrowding; the failure to separate male prisoners from female prisoners, adults from minors and persons awaiting trial from those already sentenced; the shortage of beds and sleeping space; the poor sanitary conditions; the dilapidated state of the facilities; prisoners' unbalanced diet; and the lack of health care (CCPR/C/BDI/CO/2 and CAT/C/BDI/CO/2).

¹¹ In Burundian law, only minors 15 years of age or older can be held criminally responsible, so those less than 15 should not be apprehended.

¹² See CEDAW/C/BDI/CO/4, para. 26.

E. Torture and other forms of cruel, inhuman or degrading treatment¹³

27. Between April 2015 and the end of April 2016, OHCHR-Burundi documented a total of 651 cases of torture, committed mainly between April and July 2015, in October 2015 and between December 2015 and April 2016. These periods coincided with the intensification of the crackdown on government opponents and persons suspected of belonging to rebel movements.

28. According to information obtained by OHCHR-Burundi, these cases of torture are mostly perpetrated by police and intelligence officers during arrests or detentions in police stations or at National Intelligence Service facilities. The victims are members of the opposition and of civil society and persons suspected of having joined or belonging to a rebel movement. In the majority of cases, torture and ill-treatment were inflicted to punish the victim or obtain confessions and information. The methods used, according to information obtained by OHCHR-Burundi, include: tying people's hands and arms behind their back, delivering blows with iron bars, boots or rifle stocks, threats of execution, fingers in the eyes, tying weights to a person's testicles, burning people with acid or forcing them to look at the sun for half a day.

29. In one case, a man was arrested by the police on 25 June 2015 in the Mutakura neighbourhood of Bujumbura Mairie. He told OHCHR-Burundi that, to force him to admit he was one of the organizers of the demonstrations, police officers struck him with an iron bar and made him stand on nails; a 5-kilogram container of sand was attached to his testicles for three days. Another representative case is that of Esdras Ndikumana, the Radio France internationale (RFI) correspondent, who was arrested on 2 August 2015, while taking pictures of the scene of the assassination of General Adolphe Nshimirimana, and then brutally tortured by agents of the National Intelligence Service. Despite the announcement on 13 August 2015 of an investigation by the authorities, no action has been taken against the alleged perpetrators.

F. Sexual and gender-based violence¹⁴

30. According to a statement of 3 January 2016, the Ministry of Human Rights, Social Affairs and Gender had registered 10,000 cases of sexual violence against women in 2015, which it described as a "social phenomenon".¹⁵ Between April 2015 and the end of April 2016, OHCHR-Burundi documented 19 cases of sexual violence. Four incidents were documented in May and June 2015 during the demonstrations against the new term in office. Five other cases took place on 11 December 2015, after the attacks on the military camps in Bujumbura. The remaining cases reportedly occurred in December 2015, during search operations conducted by law enforcement officers in Bujumbura's opposition neighbourhoods. According to information obtained by OHCHR-Burundi, the alleged perpetrators were police officers, military personnel or Imbonerakure.

¹³ Torture and other cruel, inhuman or degrading treatment or punishment are prohibited by article 7 of the Universal Declaration of Human Rights, article 7 of the International Covenant on Civil and Political Rights, article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 25 of the Constitution of Burundi.

¹⁴ Gender-based violence is prohibited by article 1 of the Declaration on the Elimination of Violence against Women. Articles 553 to 562 of the Burundian Criminal Code also penalize all forms of violence against women, including sexual violence.

¹⁵ Statement taken by RFI on 3 January 2016.

31. One case of rape, followed by the killing of the victim, was attributed to armed men opposed to the Government. On 2 December 2015, five armed men, presented by the authorities as members of the opposition, reportedly abducted an Imbonerakure youth in Musaga, Bujumbura Mairie, and beat her severely, accusing her of reporting demonstrators to the National Intelligence Service, before raping and killing her.

32. These are the cases that OHCHR-Burundi has been able to verify. It is likely that the real number is higher.

G. Freedom of expression, association and assembly¹⁶

1. Freedom of expression

33. On 4 March 2015, the parliament adopted Act No. 1/15, the Press Act, repealing Act No. 1/11 of 4 June 2013, which had required journalists to disclose their sources in certain cases and restricted the ability of the media to publish information about national authorities, law enforcement agencies and economic and financial issues. The Burundian Union of Journalists considered Act No. 1/15 to be a step towards freedom of the press.¹⁷ This has not prevented the Government from imposing tight restrictions on freedom of expression.

34. On 27 April 2015, in the wake of the first clashes following the official announcement of Nkurunziza's candidacy, the authorities temporarily closed Radio publique africaine (RPA) and the Maison de la presse, which houses the studio of the Association burundaise des radiodiffuseurs and broadcasts the programmes produced jointly by different radio stations. The Government put forward security considerations as the reason for the decision. In addition, between 28 April and 13 May 2015, social media and messaging services were suspended.

35. On the day after the attempted coup of 13 May 2015, Radio télévision nationale du Burundi temporarily went off the air for technical reasons, after having been the scene of fighting between loyalist forces and putschists. The night before, the loyalists had attacked and pillaged several private radio stations, including RPA, which was shelled and then burned. RPA had later been reopened by the putschists.

36. After the attempted coup, the State Public Prosecutor conducted two inquiries: one into the destruction sustained by the media and the other into the private news radio stations that had broadcast the putschists' message (Radio Isanganiro, Bonesha FM, RPA and Radio-télé renaissance). The Maison de la presse was reopened on 5 May 2015, and the closure of the studio was lifted on 10 June 2015, but in late March 2016 journalists from the suspended media had still not regained the right to return to their place of work. On 19 February 2016, the Public Prosecutor authorized Rema, a radio station considered close to the Government, and Isanganiro, considered independent, to go back on the air. In late March 2016, however, international warrants were still out for the arrest of Radio Isanganiro's director and two of its journalists.

37. Scores of journalists have also been subject to intimidation, attacks on their physical integrity, and arbitrary arrest and detention at the hands of the police and the National Intelligence Service. The number of these violations and abuses increased especially

¹⁶ Freedom of expression, association and assembly are guaranteed in article 19 of the Universal Declaration of Human Rights, articles 21 and 22 of the International Covenant on Civil and Political Rights and article 31 of the Burundian Constitution.

¹⁷ Act No. 1/15 is a step forward on paper. It enshrines, in particular, journalists' rights to gain access to sources of information, investigate and comment freely on public affairs.

sharply after August 2015. To mention but a few examples, on 27 August, Jimmy Elvis Vyizigiro, a journalist for the Dutch NGO La Benevolencija and contributor to the programme *Les Observateurs* on France 24, was attacked at his home by four hooded men who, according to reports, searched his house for documents he had gathered for an article on the shortcomings of the electoral process. On 6 November, a journalist from Radio Isanganiro was arrested in Mukike, Bujumbura Rural, and released on 11 November without any charges having been brought against him. On 28 January 2016, a French journalist working for *Le Monde* and a photographer working for the same newspaper and Agence France-Presse were stopped by police in Niyakabiga, Bujumbura Mairie, and taken to the premises of the National Intelligence Service with 15 other civilians. They were released the next day without having been charged, but their equipment was taken.

38. These abuses have helped create an atmosphere of intimidation not conducive to the work of journalists. In late March 2016, according to the Burundian Union of Journalists, 83 Burundian journalists were in exile. In addition, there were international warrants out for the arrest of seven journalists, including the directors of three private media concerns still closed by order of the State Public Prosecutor, in connection with the failed coup d'état.¹⁸

2. Freedom of association

39. Freedom of association was also curtailed. NGOs, including 304 that, starting in January 2015, had joined the movement "Halte au troisième mandat", were seen by the Government as opposition groups. Many NGO members have been victims of intimidation, arbitrary arrest and detention, physical assault or extrajudicial execution and murder.

40. The most emblematic case is that of Pierre Claver Mbonimpa, president of the Association burundaise pour la protection des droits humains et des personnes détenues and a member of the coalition "Halte au troisième mandat". Already arrested in 2014 and released shortly thereafter under international pressure, he was the victim, on 3 August 2015, of an assassination attempt. Seriously wounded by gunfire, he has since taken refuge in Belgium. On 9 October 2015, his son-in-law Pascal Nshimirimana, also a member of the Association, was killed in the streets by unidentified persons in the Ngagara neighbourhood of Bujumbura. On 6 November 2015, one of Mbonimpa's sons, Welly Fleury Nzitonda, was shot and killed by a policeman after having shown his identity card during a check. As of late April 2016, none of these cases had been investigated.

41. In mid-September 2015, 25 leaders and members of civil society organizations were identified as persons responsible for an "insurrection" by the commission tasked by the State Public Prosecutor with investigating the abuses committed during the demonstrations against the new presidential mandate. In November and December 2015, therefore, the Prosecutor suspended the activities of 10 NGOs and asked retail banks to freeze the accounts of 13 organizations and five of their leaders, as well as that of a radio station. Only one organization (Parole et action pour le réveil des consciences et l'évolution des mentalités) has had its suspension lifted, on 25 March 2016, and, along with another NGO (Association des juristes catholiques du Burundi) has had its accounts unfrozen.

42. By the end of April 2016, at least 15 NGO leaders had left Burundi, and there were still international arrest warrants out for four members of civil society living in exile.

43. In addition, a new law on NGOs is being prepared that would, inter alia, regulate how they are financed by foreign parties. If it is adopted, the law would constitute a further

¹⁸ According to the National Communications Council, 19 radio stations, including 2 public ones, were operating in March 2016.

step backwards for freedom of association, as it would lead to interference by the State in the operations of NGOs.

3. Freedom of assembly

44. In Burundi, meetings, demonstrations and rallies are subject to a system of prior authorization, as provided for by Act No. 1/28 of 5 December 2013.¹⁹ Public order, which may be cited as grounds for the prohibition of a rally, is not limited to the security situation; it also covers the economic situation and the organization of the State. In addition, the definition of what constitutes undermining public order is vague, giving the authorities considerable discretion to limit freedom of assembly.²⁰ This justification has been used systematically since April 2015 to deny civil society and opposition political parties permission to demonstrate or hold a rally.

45. During the demonstrations against the new mandate of President Nkurunziza that took place between 26 April and 13 May 2015, between 18 May and 3 June 2015 and on 1 July 2015 in the outskirts of Bujumbura and other provinces, law enforcement services used excessive force against demonstrators. The police used live ammunition in addition to tear gas and water cannons. At least 39 civilians, including 2 minors, died of injuries caused by the police in the provinces of Bujumbura Mairie, Bujumbura Rural and Mwaro. Two police officers, two soldiers and one Imbonerakure member were also killed during the demonstrations.

H. Freedom of movement²¹

46. The deterioration of the security situation between April 2015 and late April 2016 had a direct impact on freedom of movement. At the height of the protests, the barricades erected both by the defence and security forces and by the protesters limited people's movements in several localities. In view of the ongoing insecurity and the risk of human rights violations and abuses, some people limited their movements. The most affected areas were what were considered to be the opposition neighbourhoods of Bujumbura, such as Cibitoke, Jabe, Niyakabiga, Musaga, Mutakura and Ngagara.

47. On several occasions between April 2015 and the end of April 2016, these neighbourhoods were surrounded and closed off by the defence and security forces, sometimes supported by the Imbonerakure, to enable them to conduct searches and make arrests. These operations intensified from September 2015, after the President had given the law enforcement services two months to restore order. During the operations, residents of the targeted neighbourhoods were unable to travel to work or go about their daily business. Cases of sick people unable to go to hospital were also reported. The situation worsened, particularly after the attacks of 11 December 2015. In the neighbourhood of Musaga, residents were unable to leave their homes between 11 and 13 December for fear of being targeted by the security forces.

48. Furthermore, since June 2015, OHCHR-Burundi has obtained evidence that there have been arrests of people travelling to or from neighbouring countries. These arrests, made mostly by the police, sometimes assisted by the Imbonerakure, in the provinces of Ruyigi, Cankuzo, Rutana, Muyinga, Kirundo, Ngozi, Kayanza and Makamba, have shown

¹⁹ An application for a rally or public demonstration must be made four working days before the event.

²⁰ The Human Rights Committee noted this issue in its concluding observations in 2014 (see CCPR/C/BDI/CO/2, para. 20).

²¹ Freedom of movement is guaranteed in articles 13 of the Universal Declaration of Human Rights, 12 of the International Covenant on Civil and Political Rights and 33 of the Burundian Constitution.

that the mere fact of travelling was enough for a person to be suspected of wanting to join or participate in a rebel movement. Most of the victims were released after a few days, for lack of evidence, and often taken back to their place of origin.

I. Right to a fair trial²²

49. In August 2013, the Government organized the first conference on the justice system, bringing together more than 300 representatives of the Government, the parliament, the judiciary and civil society. The participants recommended measures whose aim was to ensure greater independence for the judiciary, including the establishment of a high council of the judiciary, with a majority of its members being judges elected by their peers, and a chief justice of the Supreme Court elected by his/her peers rather than appointed by the President. The public report of the conference on the justice system has still not been published, although the Government had committed itself to adopting the recommendations it contained.

50. In October 2015, the Committee on Economic, Social and Cultural Rights expressed concern about the inadequate security of judges' tenure, a situation that could seriously undermine their independence.²³ The political crisis that Burundi has been undergoing since April 2015 has further aggravated malfunctions in the judicial system, not least because of interference by the executive branch in its work.

51. Most of the human rights violations documented by OHCHR-Burundi, including summary executions, enforced disappearances, torture and the alleged sexual violence committed by members of the defence and security forces or the Imbonerakure, have not led to prosecution. Hundreds of people arrested during the demonstrations, or following the fighting between the security forces and armed men, have remained in detention without trial. Some trials have been held, but in conditions that were incompatible with the right to a fair trial: a lack of lawyers, lawyers who have no access to their clients or the case files, witnesses for the defence who are not heard, intimidation of lawyers, etc.

52. For example, during the trial of the alleged perpetrators of the failed coup of 13 May 2015, which started in December 2015, OHCHR-Burundi noted that some defendants had no right to a lawyer of their choice and that some lawyers did not have timely access to the defendants' case files, which prevented them from mounting a proper defence.

III. Response from the Government

53. In the majority of cases, OHCHR-Burundi found that there are no investigations or prosecutions when the alleged perpetrators of human rights violations are members of the defence and security forces or the Imbonerakure. Although commissions of inquiry were set up in some cases, they did not reach credible conclusions.

²² Articles 18 of the International Covenant on Civil and Political Rights and 60 and 205 of the Burundian Constitution.

²³ See E/C.12/BDI/CO/1, para. 7. See also the concluding observations of December 2014 of the Committee against Torture, which expressed concern about the judiciary's lack of independence, including interference by the executive branch in the workings of the justice system and the transfer of judges who have gone against the wishes of the executive branch. The Committee was also concerned about shortcomings in the justice system, such as a shortage of resources, including a dearth of judges and a lack of basic training for them; delays in processing cases; and a failure to enforce some court decisions (CAT/C/BDI/CO/2, para. 13).

54. On 29 April 2015, for example, the State Public Prosecutor set up a commission of inquiry to shed light on the insurrection that began on 26 April 2015. The commission produced its report in August 2015. Its conclusions are limited to determining the persons and organizations responsible for the demonstrations against Nkurunziza's new term in office, without mentioning the offences committed by law enforcement services.

55. On 17 October 2015, the same prosecutor set up a commission to investigate the killing of nine persons in the Ngagara neighbourhood of Bujumbura, on 13 October 2015. The findings, published on 25 December 2015, were that the victims had been executed by a group of armed civilians, whereas most of the witnesses interviewed by OHCHR-Burundi blamed the members of a unit responsible for the protection of institutions.

56. On 17 December 2015, the prosecutor established a commission to investigate the allegations of extrajudicial killings by the security forces in the wake of the attacks on military camps of 11 December. On 10 January 2016, this commission's mandate was broadened to cover allegations concerning mass graves. The final report, published on 10 March 2016, concluded that all those killed on 11 December²⁴ had been assailants and that there were no mass graves. It stated that the authorities had reportedly buried the unidentified bodies in the cemeteries of Mpanda and Kanyosha, in Bujumbura Rural, and that the circumstances of the death of seven assailants apprehended by the police should be clarified. A file has been opened but the matter has not been followed up. The findings of these inquiries increase uncertainty about the independence and impartiality of the judicial system in Burundi.

57. On a more positive note, on 2 February 2016, the State Public Prosecutor suspended the international arrest warrants for 15 members of civil society, the opposition and the media. On 19 February 2016, two radio stations were reopened, and on 25 March 2016, the accounts of two organizations were unfrozen and the suspension of operations of one organization ended.

58. Furthermore, on 23 February 2016, following the visit of the Secretary-General of the United Nations to Burundi, the President issued a decree providing for a pardon for an unspecified number of detainees. However, this measure does not apply to detainees arrested in connection with the demonstrations against the President's new mandate, 47 of whom were released provisionally after their trial, held on 14 March 2016 in Muramvya. According to the authorities, by the end of April 2016, 1,370 pardoned prisoners had been released.

59. On 10 December 2014, after the adoption in May 2014 of Act No. 1/18, which established the Truth and Reconciliation Commission, responsible for "investigating the serious violations of human rights and international humanitarian law committed between 1 July 1962 and 4 December 2008", five religious and six political leaders were appointed to the Commission and instated. However, in contradiction with the programme of work, which envisaged a preparatory phase until September 2015, followed by an operational phase, the Commission did not officially launch this second phase until 4 March 2016. The postponement was caused by the electoral crisis and the delayed adoption of the Act on the Protection of Victims, Witnesses and Other Persons at Risk. This is because, under article 48 of the Act, field investigations and the deposition of witness statements before the Truth and Reconciliation Commission cannot take place until the Act is fully adopted; it was adopted by the National Assembly on 26 April 2016 and by the Senate on 29 April 2016.

²⁴ With the exception of a person with a mental disability who was reportedly killed by a stray bullet in Nyakabiga, Bujumbura Mairie.

60. On 27 April 2016, the Ministry of Justice set up a commission within the framework of its sectoral policy on prisons, which seeks to take a census of all the detainees in the country's 11 prisons, monitoring irregularities such as detention for periods longer than what is authorized by law and reclassifying case files by the offence committed.

IV. Action of the Office of the United Nations High Commissioner for Human Rights in Burundi

61. Cooperation between OHCHR-Burundi and the authorities has in particular enabled cases of arbitrary arrest and detention to be monitored. As a result, more than 2,000 people, including some 100 children, have been released.

62. OHCHR-Burundi has also taken several capacity-building initiatives for the benefit of the Independent National Human Rights Commission, the Truth and Reconciliation Commission, civil society organizations, the media, magistrates, local administrators and government officials.

63. Starting in April 2015, OHCHR-Burundi refocused its work on collecting information, monitoring human rights abuses and outreach. On 29 April 2015, a crisis group and toll-free hotlines in Kirundi, Kiswahili, French and English were set up. More than 804 statements on human rights violations, which OHCHR-Burundi has followed up, have been taken in this way.

64. Furthermore, a national network of human rights observers was put in place on 11 May 2015, as part of the project of the United Nations Peacebuilding Fund. The 59 observers deployed in all of the country's 18 provinces have produced reports on the human rights situation and monitored and addressed violations of human rights. However, in late 2015, fearing for their safety, the network's president and its national coordinator fled the country, which has had a negative impact on the network's effectiveness.

V. Conclusion and recommendations

65. The political and security situation in Burundi, which was already tense in 2014, grew considerably worse as from April 2015. Each phase of the political crisis that the country went through led to heightened tension. Fears of an increase in ethnically motivated human rights violations and abuses persist. Harassment of and threats against members of civil society, journalists, opposition party members and young demonstrators have contributed to a climate of fear that has paralysed society as a whole.

66. As early as April 2015, the United Nations High Commissioner for Human Rights expressed concern about a political and security context conducive to abuse and about the worsening socioeconomic situation, as well as about risks to the subregion. In November 2015 and March 2016, before the Security Council of the United Nations, he reiterated his fears of an escalation of violence.

67. On the basis of what he has observed, and in view of the improvement of the situation, the United Nations High Commissioner for Human Rights makes the recommendations below.

68. The Government of Burundi should:

(a) Put an immediate end to human rights violations and take measures to prevent human rights abuses, while complying with its obligations under the conventions to which Burundi is a party;

(b) Explore, with all concerned parties, all avenues for a way out of the crisis, including an immediate and sustained engagement in the dialogue that the facilitators appointed by the East African Community are attempting to initiate;

(c) Ensure that independent investigations, including by the mission of independent experts mandated by the Human Rights Council, are conducted into all cases of human rights abuses and initiate prompt prosecution of the perpetrators, in accordance with the international obligations of Burundi;

(d) Conduct an immediate review of the legality of detentions, release arbitrarily arrested people and ensure that everyone arrested in the context of the current crisis has the right to a fair trial;

(e) Continue making efforts to expand civil liberties by putting an immediate end to the suspensions of and other sanctions against NGOs defending human rights, the media and civil society in general and by facilitating their work;

(f) Give the Truth and Reconciliation Commission the means necessary to enable it to fulfil its mandate independently.

69. The international community should:

(a) Encourage the authorities and all other stakeholders to fully adhere to an inclusive dialogue that takes into account human rights and the need to identify the people and entities responsible for human rights violations, with a view to a peaceful and lasting resolution of the crisis;

(b) Provide the necessary financial, logistic, technical and human support to civil society and the media, as well as to credible national institutions and the international organizations responsible for the protection of human rights or involved in this area, with a view to building their capacity for action in the current context in Burundi.
