Article

FREEDOM OF ASSEMBLY IN BURUNDI: ASSESSMENT OF PEACEFUL PROTESTS APRIL-JUNE 2015

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I. INTRODUCTION

Every citizen is entitled to enjoy the human rights and civil freedoms set forth in numerous human rights instruments and protected by national and international mechanisms.

The state has three core obligations regarding human rights: namely, the obligation to respect, to protect, and to fulfill them.

Citizens may claim their rights as they see fit while fulfilling their duties towards the state to ensure that society functions properly. Citizen engagement can take various forms, including voting for local political representatives, taking part in public debates, joining associations, and initiating other forms of civil action.

Civil society organizations (CSOs) help provide citizens with the space to engage with public authorities and participate in public life. The basic role of civil society is to serve as a watchdog and advocate for the preservation of civil space. Every democracy needs a well-functioning and authoritative state, but when a country is emerging from decades of dictatorship, it usually also needs to find ways to check, monitor, and restrain the power of political leaders and state officials. In supporting the transition from dictatorship to democracy, civil society plays a key role in promoting citizens' political participation.

In Burundi, civil society has had extensive experience engaging with state authorities on issues of public interest. Especially during the 2015 general elections, civil society was at the frontline as it challenged the president's aim to run for a controversial third term of office.

This report assesses the scope of public freedoms in Burundi during the pre-election period in 2015. The report focuses on the right to freedom of assembly and its manifestation in the peaceful protests that took place from late April through June 2015. The report also looks at

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freedoms of association and expression in Burundi and the ways in which they were violated in the government's response to the pre-election protests.

Work on the report has been conducted in a highly repressive environment. In compiling information, the authors have relied largely on reports issued by domestic and international CSOs and news organizations. The personal experiences of the authors as witnesses to the events also informed their analysis.

The peaceful demonstrations did not happen in a vacuum. They brought to public attention a range of important underlying issues. Many observers believe that Burundian civil society has proved its ability to engage effectively with public authorities and citizens on critical issues and to ensure sound outcomes.

II. POLITICAL BACKGROUND OF THE PROTESTS

1. Debate Over the Third Term of President Pierre Nkurunziza

A debate over constitutional term limits for the office of the president is taking place today in many countries in Africa. In mid-October 2014, African citizens started an historic movement called "Tournons la page" ("Turn the Page"), which voiced concerns over adherence to democratic principles in countries such as Togo and Gabon, where most people have been led by a single family during their lifetimes. The movement contends that twelve families presently in power in Africa were in the same position during the 1990s.[2]

This reprehensible practice contradicts democratic principles and weakens African institutions. U.S. president Barack Obama openly voiced his concern when he addressed the Ghanaian parliament in 2009. "Africa does not need strongmen, it needs strong institutions," Obama asserted.[3]

The effort of President Pierre Nkurunziza to remain in power in Burundi was the main reason behind the nationwide protests that erupted in spring 2015.[4] The constitution of Burundi limits the president to serving two terms, but a debate over a third term for President Nkurunziza was first raised as early as 2012. At that time, Nkurunziza's intention to run for a third term of office was not evident to many people.[5] If journalists asked him about his position on the issue, he did not respond clearly but said merely that it was a decision to be made by the ruling party,

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[2] Tournons la page was initiated by 100 African and European CSOs and high-profile scholars and artists, including Achille Mbembe, Edgar Morin, Valentin-Yves Mudimbe, Eva Joly, Bertrand Badie, Olivier de Schutter, Pierre Rosanvallon, Abderrahmane Sissako, Monique Chemillier-Gendreau, Smockey, and Noam Chomsky. In their statement the founders of Tournons la page assert that "twelve families in power in Africa today were in the same position in 1990. Eight-seven percent of Gabonese and 79 percent of Togolese have known no more than one family in the position of head of state."

[3] The White House, "Remarks by the President to the Ghanian Parliament," July 11, 2009. https://www.whitehouse.gov/the-press-office/remarks-president-ghanaian-parliament

[4] Arusha Agreement for Peace and Reconciliation in Burundi, Protocol I, Article 4(b). https://www.issafrica.org/cdburundipeaceagreements/No%201%20arusha.pdf

[5] In 2012, leading civil rights activist Pacifique Nininahazwe began to engage public authorities on the illegality of President Nkurunziza's third term of office. In as early as 2013, a Facebook account entitled "Non au 3ème mandat du Président Pierre Nkurunziza" ("No to a Third Term for President Pierre Nkurunziza") was created for the purpose of engaging the community on the issue of the third term. In a very few months the issue become a matter of frequent discussion among key political stakeholders.

the Conseil National pour la Défense de la Démocratie–Front de Défense de la Démocratie (National Council for the Defense of Democracy–Front for Defense of Democracy, or CNDD–FDD). However, Nkurunziza often added that if the party wanted him to run again as a candidate for president, he would respect its choice.

In 2013 the issue of a third term for Nkurunziza was raised with more force as the government undertook a process to revise the constitution. In October the Council of Ministers of Burundi adopted a bill of constitutional amendments. The most alarming amendment extended the president's term of office from two to four terms. Many observers saw this amendment as an attempt to establish some kind of monarchy, which was especially unpalatable to Burundians because they had fought against such a development in the last civil war.[6] In general, many stakeholders, including opposition parties, CSOs, the Catholic Church, and leading political analysts, regarded the amendment process as an attempt to produce a new constitution rather than amend the existing one.

Yet Burundi's current constitution is the foundation of lasting peace and democracy in the country. It is based on the Arusha Peace and Reconciliation Agreement for Burundi, which was signed in 2000 after lengthy negotiations and almost a decade of civil war. The conflict began with the assassination of Melchior Ndadaye, the first democratically elected Hutu President, in 1993. After massive massacres of the Tutsi minority and retaliatory killings of Hutu by the then Tutsi-dominated army, a rebel movement, the CNDD, was formed in 1994. The CNDD's military wing, the FDD, fought the government in a violent conflict that killed hundreds of thousands of people. International mediators eventually sought to help Burundians find a solution to their crisis. Peace talks were initiated by several groups, including the Catholic Community of Sant'Egidio. In 1998 negotiations were launched under the auspices of President Julius Nyerere of Tanzania, which continued under President Nelson Mandela of South Africa after Nyerere's death.

On August 28, 2000, the Government of the Republic of Burundi, as the principal party, voluntarily agreed to the Arusha Peace and Reconciliation Agreement for Burundi. Other parties to the Arusha Peace Agreement included the National Assembly and seventeen Burundian political parties. The Arusha Peace Agreement was sponsored and guaranteed by several international institutions, including the African Union, the United Nations (UN), and the European Union (EU), as well as the presidents of Kenya, Rwanda, Tanzania, and Uganda, which are now all partner states in the East African Community (EAC).[7]

The parliament of Burundi incorporated the Arusha Peace Agreement into domestic legislation with Law No. 1/017 on December 1, 2000. In 2003 the government and the CNDD–FDD signed ceasefire agreements and committed themselves to refraining from any act or behavior contrary to the provisions of the agreement and to respect and implement its provisions, both in their letter and their spirit, so as to achieve reconciliation, lasting peace, security for all, a solid democracy, and the equitable sharing of Burundi's resources. In 2005 the core principles of the Arusha Peace Agreement concerning democracy, human rights, rule of law, peace, and reconciliation were incorporated into Burundi's new constitution.

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[6] Following the assassination of President Ndadaye on October 21, 1993, Burundi experienced a deadly civil war in which at least 300,000 persons died. The core causes of the civil war, which lasted for a decade, included ethnic exclusion and the effects of the military dictatorship.

[7] For more information on the East African Community, see http://www.eac.int/

Burundians strongly believed that the Arusha Peace Agreement offered the best foundation for rebuilding the country on the basis of constructive dialogue, with all stakeholders engaging regularly in frank and sincere discussion on important issues. This model of consensual democracy was designed to prevent the kind of misgovernment that in the past had led to discrimination, human rights abuses, and social injustice.

The Arusha Peace Agreement was clearly meant to have supra-constitutional and supra-legislative value. This point was set forth in an explanatory memorandum about the draft constitution that was published in a special issue of the official journal *Ubumwe* on November 10, 2004. Point 3 of the memorandum states that the constitution incorporates principles set forth in the Arusha Peace Agreement and that the latter shall always be respected and considered above the constitution.

The constitution itself, which was adopted on March 18, 2005, emphasizes the importance of Arusha Peace Agreement at the beginning of its preamble, which states: "We, the Burundian people ... [reaffirm] our faith in the ideal of peace, of reconciliation and of national unity in accordance with the Agreement of Arusha for Peace and Reconciliation in Burundi of August the 28th, 2000, and with the Agreements of Cease-Fire."

Thus the supremacy of the Arusha Peace Agreement in the hierarchy of legal documents of Burundi derives from the fact that the constitution mentions the agreement as its legal foundation. Clearly, a normative text can never refer to an inferior instrument as its legal foundation.

The unilateral effort of the government to revise the constitution of Burundi in 2013 was therefore opposed by many stakeholders, who feared that the revision would disrupt the progress Burundi had made in achieving peace and development since the Arusha Peace Agreement was signed. Many people saw the nonconsensual revision of the constitution as contrary to the philosophy of open dialogue and inclusive participation in public affairs.

In addition, many stakeholders viewed the amendment process as an effort to break established political and ethnic balance in the distribution of power.[8] The 2005 constitution provides for a quota of 60 percent Hutu and 40 percent Tutsi in the National Assembly and stipulates that laws can be passed only when voted on by at least two-thirds of the members of parliament (MPs), with at least two-thirds of MPs present voting in favor. The proposed reduction in the statutory majority required to pass laws would have undermined this ethnic balance.

Other proposed revisions to the constitution diminished the Senate's role in appointing candidates to high office in favor of the executive; stipulated that the prime minister must come from the same political-ethnic background as the president; reduced the statutory majority necessary for passing laws in the National Assembly; and suppressed the right of magistrates and prosecutors to form and join professional unions and to strike.

Thus the amendments to the constitution proposed by the Council of Ministers in 2013 were contrary to the Arusha Peace Agreement and the constitution itself, which states: "No procedure of revision may be retained if it infringes the national unity, the cohesion of the

[8] Burundi's population is estimated to be 85 percent Hutu, 14 percent Tutsis, and 1 percent Twa.

Burundian People, the secularity of the State, the reconciliation, the democracy or the integrity of the territory of the Republic."[9]

On March 21, 2014, the proposed amendments to the constitution failed to pass in the National Assembly because the required quorum for the vote was lacking. This failure prompted the ruling party to then argue that the 2005 constitution in fact allows President Nkurunziza to run for a third term.

2. Provisions for Term Limits in the Arusha Peace Agreement and the Constitution

Both the Arusha Peace Agreement and the constitution specifically address the president's term of office. Article 7 (3) of Protocol II of the Arusha Peace Agreement provides that the president of the Republic of Burundi "shall be elected for a term of five years, renewable only once. No one may serve more than two presidential terms." Article 96 of the Constitution of Burundi provides that "The President of the Republic is elected by universal direct suffrage for a mandate of five years renewable one time." In Article 302 of the constitution, the framers included a special section dealing with the first post-transitional period. This article states that "Exceptionally, the first President of the Republic of the post-transition period is elected by the [elected] National Assembly and the elected Senate meeting in Congress, with a majority of two-thirds of the members. If this majority is not obtained on the first two ballots, it immediately proceeds to other ballots until a candidate obtains the suffrage equal to two-thirds of the members of the Parliament. In the case of vacancy of the first President of the Republic of the post-transition period, his successor is elected according to the same modalities specified in the preceding paragraph. The President elected for the first post-transition period may not dissolve the Parliament."

Thus the debate regarding a third term in office for Nkurunziza was refocused to address the two main constitutional issues presented in Articles 96 and 302. Arguments in support of a third term stress the nature of Nkurunziza's previous terms, claiming that his first term resulted from universal indirect suffrage rather than universal direct suffrage and therefore should not be counted. In fact, at a celebration on the second anniversary of Nkurunziza's accession to his second term of office, the president of the ruling party, Pascal Nyabenda, said that the president was still serving his first term of office since he had been elected by a universal direct suffrage for the first time in 2010.[10] However, this argument does not have credence, since Article 8 of the constitution of Burundi describes the two types of suffrage as equal: "[Suffrage] may be direct or indirect under the conditions specified by the law."

Following the nomination of Nkurunziza as the ruling party's presidential candidate on April 25, 2015, CSOs and the opposition parties protested this move as a violation of the constitution and the Arusha Peace Agreement. In the ensuing legal dispute, fourteen senators lodged a case with the Constitutional Court seeking its interpretation of Articles 96 and 302 of

[9] Burundi's Constitution of 2005, Article 299. https://www.constituteproject.org/constitution/Burundi_2005.pdf

[10] The celebration was organized in Gatumba, and Nyabenda took advantage of the event indirectly to announce the candidacy of President Nkurunziza for a third term.

the constitution. The Constitutional Court delivered a ruling on May 4, 2015, that confirmed that Nkurunziza's candidacy for a third term of office as president was constitutional.[11]

However, an analysis of the Constitutional Court ruling reveals certain questionable statements. For example, the ruling contends that the use of term "exceptionally" in Article 302 reflects a certain fuzziness in the intention of the constitution's makers, which does not seem to be the case. The court's decision also contains many fundamental contradictions. In its reasoning the court recognizes in several places that the Arusha Peace Agreement is the true, compulsory, and indispensable source of the 2005 constitution; that the agreement constitutes the basis of the constitution; and that whoever violates the principles of the agreement cannot claim to respect the constitution. However, the ruling also recognizes the president's right to renew his mandate for a third term, in clear violation of the Arusha Peace Agreement, which states, "She/he [i.e., the president] shall be elected for a term of five years, renewable only once. No one may serve more than two presidential terms."[12]

Finally, in its ruling the court fails specifically to discuss election modalities and the president's term of office. It does not even refer to Articles 103 and 106 of the constitution, which define the president's term of office, the timing of presidential elections, and the oath the president takes upon assuming office. Moreover, the ruling inaccurately identifies judges who participated in the hearing on the case on May 4, 2015, including Sylvère Nimpagaritse, the vice president of the Constitutional Court, who had already fled the country citing threats to his life.[13]

In an effort to resolve the controversial issue of the president's third term of office, the EAC deliberated on the matter and concluded that "reading Article 302 together with Article 96 of the constitution and bearing in mind Article 20 (10) of Protocol II of the Arusha Peace Agreement, the clear intention of both the framers of the constitution and the protocol was that the first post-transitional election of the President be held by the National Assembly and the Senate. The word "exceptionally" in Article 302 is in reference to the mode of election.... Since the above elections were provided in the constitution, in absence of a clause excluding President Nkurunziza from running from 2005 to 2010, it is clear that Article 96 of the Constitution precludes him from another term notwithstanding that his first term was not by universal direct suffrage."[14]

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[11] Republic of Burundi. Constitutional Court. RCCB 303. http://lawyersofafrica.org/wp-content/uploads/2015/05/Judgment-of-Burundi-Constitutional-Court-ENGLISH-Translation.pdf . In his paper commenting on the constitutional court ruling, Dutch academic Stef Vandengiste concludes that the ruling did nothing to resolve either the legal or the political questions surrounding a possible third term of office. Stef Vandengiste, "Droit et pouvoir au Burundi: un commentaire sur l'arrêt du 4 mai 2015 de la Cour Constitutionnelle dans l'affaire RCCB 303," May 2015. http://www.ancl-radc.org.za/sites/default/files/images/RCCB303%20commentaire.pdf

[12] Arusha Peace Agreement for Peace and Reconciliation in Burundi, Protocol II, Chapter I, Article 7.

[13] In subsequent testimony, Sylvère Nimpagaritse said that constitutional judges were threatened to the extent that he was obliged to flee and his three colleagues "surrendered" and changed their position regarding the case. See *Iwacu*, "Journal d'un juge constitutionnel," September 14, 2015. http://www.iwacu-burundi.org/journal-dun-juge-constitutionnel/

[14] In the Thirteenth Emergency Summit of the East African Community on May 13, 2015, the summit directed the secretariat to convene a meeting of attorneys general and ministers of justice and constitutional affairs of EAC partner states to advise it on the issue pertaining to term limits within the laws of Burundi. This meeting was held in Arusha on May 15, 2015.

III. CIVIL SPACE IN BURUNDI BEFORE THE PROTESTS

At the same time that the debate over a third term for President Nkurunziza was playing out, civil space in Burundi was beginning to shrink. It is important to recall that the ruling party's attempts to amend the constitution began in the aftermath of the controversial 2010 elections. Since that time, opposition parties and rights groups had regularly been denied the right to assemble. For example, according to the 2014 human rights report of the U.S. Embassy in Burundi (quoting an Amnesty International report), the authorities regularly and arbitrarily denied groups authorization to hold meetings and demonstrations aimed at raising concerns about political developments or the state's accountability on human rights. The report states that between January and September 2014, the Office of High Commissioner for Human Rights (OHCHR) documented forty-two cases in which the government restricted the rights of peaceful assembly and association, with opposition political parties restricted in thirty-five instances, civil society in four, the Burundian Bar Association in two, and the journalists' union in one.[15]

A further sign of shrinking civil space in Burundi was the adoption of two new laws: an oppressive press law, which was signed by the president in June 2013; and a new law on assemblies and public demonstrations, adopted in December 2013. These two laws created an environment of increasingly restricted freedoms and provided the backdrop against which the 2013 amendments to the constitution were proposed.

1. New Laws on the Press and Assemblies and Public Demonstrations

In June 2013, the parliament approved Law No.1/11, amending Law No.1/025 of November 27, 2003, which regulates the press in Burundi. The new press law was widely criticized as regressive by several groups, including the UN, EU, Reporters Without Borders, and journalists' organizations.[16] It included a provision likely to exclude some journalists from working in the profession, as they were required to have special degrees in journalism. Moreover, the law specified certain areas of public life that the media were prohibited from covering, including issues related to national defense, public safety, state security, the local currency, personal privacy, pretrial investigations, libel, and disparagements of the head of state.

The press law also contained a requirement for journalists to disclose their sources of information, which is regarded by journalists' professional organizations as the worst possible infringement of the principle of a free press. In addition, the press law imposed huge fines on journalists and media employers if they were found to infringe the law. In the lead-up to the peaceful protests of 2015, some journalists were prosecuted for providing protected information when commenting on speeches made by the ruling party.

The press law was challenged in the Constitutional Court by the CSO Maison de la Presse (Press House).[17] The court ruled that some provisions were unconstitutional.[18] Another

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[15] United States Department of State, "Burundi 2014 Human Rights Report." http://photos.state.gov/libraries/burundi/323250/english/burundi-2014-hrr.pdf

[16] *See UN News Centre, "UN Chief 'Regrets' New Burundi Media Law Which May Curb Press Freedom," June 5, 2013. http://www.un.org/apps/news/story.asp?NewsID=45094#*

[17] Maison de la Presse's mission is to strengthen the capacity of the media, professional organizations of Burundi press; to meet the training needs; promote the flow of information and exchange between journalists and communication professionals, promote freedom of the press, professional solidarity, pluralism and media independence. http://www.maisondelapresse-burundi.org/presentation/

case against the law was filed with the East African Court of Justice (EACJ) by the Burundian Journalists Union, challenging provisions left untouched by the ruling of the Constitutional Court.[19] The EACJ ruled that provisions restricting the dissemination of information on such topics as the stability of the currency, diplomacy, and the reports of state commissions of inquiry, as well as the obligation for journalists to reveal sources of information, violated the principles of democracy, good governance, and the rule of law enshrined in Articles 6(d) and 7(2) of the treaty establishing the EAC.[20] The law has been amended by parliament to comply with these two judicial decisions.

The second new law, Law No. 1/28 on Demonstrations and Assemblies, was passed in December 2013 despite a global outcry.[21] This law provides that public demonstrations and assemblies are subject to prior declaration, including identification of members of the organizing office, the time and date of the demonstration, its purpose, any foreseeable involvement by others, and the intended itinerary of the procession or parade (Articles 4 and 7). In practice, the administration uses the requirement for prior declaration to demand prior authorization for planned events. Moreover, the law de facto bans any spontaneous assembly by making prior declaration compulsory for any form of assembly or meeting.

Other restrictive provisions of the law include allowing the administration to use its discretion to ban any peaceful assembly on vague grounds and making the organizers responsible for maintaining public order during peaceful assemblies, with the threat of criminal and administrative sanctions if they fail to do so.

2. Peaceful Protests Before April 2015

Despite the constraints imposed by the new laws on the press and assemblies and public demonstrations, before April 2015 Burundian CSOs had gained considerable experience mobilizing the population when human rights and public freedoms were threatened. An important instance was civil society's response to the arrest of veteran human rights defender Pierre Claver Mbonimpa in May 2014. CSOs mobilized hundreds of thousands of people in the "Vendredi vert" ("Green Friday") campaign, which called for Mbonimpa's release. Twenty Vendredi vert demonstrations were organized around the country from May to September 2014.

A similar effort took place in September 2014, after the assassination of three Italian nuns serving at the Parish Mario Guido Comforti in the Kamenge neighborhood of Bujumbura.[22] News of the nuns' deaths resulted in nationwide unrest, especially after journalists identified senior police and intelligence officers as having organized the killings. The private radio station African Public Radio (RPA) investigated the crime, and in an effort to silence the station's director, Bob Rugurika, the authorities jailed him on wrongful charges of complicity.

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[18] See Reporters Without Borders, "Constitutional Court Quashes Some Articles, But Not Enough," January 8, 2014. http://en.rsf.org/burundi-new-law-s-promulgation-sets-04-06-2013,44574.html

[19] For the judgment in this case, see East Africa Court of Justice, First Instance Division at Arusha, Reference n° 7 of 2013. http://eacj.org/wp-content/uploads/2015/05/Reference-No.7-of-2013-Final-15th-May-2c-2015-Very-Final1.pdf

[20] East Africa Court of Justice Burundi, Reference No. 7 of 2013.

[21] For the text of the law, see http://www.justice.gov.bi/IMG/pdf/LOI.pdf

[22] South World, "Burundi. Three Lives for Africa: Olga, Lucia, Bernadette." October 1, 2014. http://www.southworld.net/burundi-three-lives-for-africa-olga-lucia-bernadette/

The day after Rugurika was arrested, journalists and human rights activists organized the "Mardi vert" ("Green Tuesday") campaign, named for the color that Rugurika was wearing when he went to prison. The campaign organizers informed the mayor of Bujumbura that they planned to demonstrate in Rugurika's support, but the mayor rejected the demonstration, arguing that the demonstrators would be in contempt of court. The organizers decided to demonstrate anyway, despite the mayor's ban on the gathering, and several hundred people attended the demonstration in heavy rain.

When Rugurika was released on bail on February 19, 2015, a huge spontaneous demonstration by hundreds of thousands of people, mainly youths, took place and drew international attention. The demonstration was widely regarded as a measure of extreme public discontent.[23]

Many observers noted that from January to April 2015, the ruling party held several of its own demonstrations while routinely prohibiting meetings and demonstrations by civil society and the opposition and even arresting a number of people for illegally gathering. For example, the government organized a "Hundred-Day Demonstration for Peace" after an armed attack took place in the province of Cibitoke, northwest of Burundi, in late December 2014. In the attack, forty-seven people were killed by the army working in partnership with Imbonerakure, the youth group affiliated with the ruling party.[24] Events under the banner of the Hundred-Day Demonstration for Peace were supposed to take place on the last Saturday of every month, with the first rally organized in Bujumbura on March 1, 2015. With the president, senior government officials, and MPs participating,[25] these demonstrations in effect turned into rallies for the ruling party, the CNDD-FDD.

During the March 1, 2015, demonstration, the president and the mayor of Bujumbura made it clear that they believed that the attack in Cibitoke was sponsored by a nonprofit association. CSOs rejected these allegations and argued that the ruling party was merely politicking. Other politicians made similar hate speeches, and the head of the ruling party in the western province of Bubanza issued a document identifying the independent media and CSOs as enemies of the ruling party and the country.

3. Civil Society Initiative "Halte au troisième mandat"

In recent times Burundian CSOs have demonstrated their commitment to engaging peacefully with public authorities on critical issues, including good governance, human rights, democracy, peace building, transparency, accountability, and the rule of law. CSOs typically prioritize their areas of engagement according to key events happening on the ground. Starting in 2012, two of the most important issues for CSOs were the 2015 general elections and the amendment of the constitution.

In 2012 the UN mission in Burundi facilitated a meeting of political stakeholders, including the government, opposition parties, civil society, and the electoral commission, to

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[23] BBC News, "Burundians Celebrate as Journalist Bob Rugurika Freed." February 19, 2015. http://www.bbc.com/news/world-africa-31535621

[24] Human Rights Watch, "Burundi: Summary Executions by Army, Police." February 12, 2015. https://www.hrw.org/news/2015/02/12/burundi-summary-executions-army-police

[25] *Iwacu*, "Bujumbura: Petite grande manifestation 'pour la paix.'" March 1, 2015. http://www.iwacu-burundi.org/bujumbura-petite-grande-marche-manifestation-pour-la-paix/

develop a roadmap for the 2015 general elections.[26] Like the Arusha Peace Agreement, the roadmap emphasizes security and open dialogue. Principles 13 and 14 of the roadmap require the head of state to make public all proposed initiatives, motions, and bills, so that stakeholders can review them and engage in ongoing dialogue about them.

After the announcement of the plans to amend the constitution in 2013, CSOs undertook a collective advocacy effort called "Ne touchez pas au consensus d'Arusha"("Don't Break the Arusha Consensus"). This initiative aimed at monitoring and making constructive suggestions about the amendment process. The advocacy against the constitutional amendments brought together 519 CSOs, which developed strategies for closely watching the process and engaging public authorities every step of the way.[27] A sign of the success of this campaign was the government's failure to pass the amendments in the National Assembly because of the lack of the required quorum.[28]

When the president, backed by the ruling party, began to offer biased interpretations of existing provisions of the constitution after the failure to amend the constitution, CSOs again responded. Aware of the important role they can play in the electoral process, in January 2015 CSOs decided to advocate against these biased interpretations of the constitution, as they saw them as an indication that the president intended to run for the third term of office. Early in 2015, CSOs sent the president an open letter demanding that he step aside, because his continuation in office would constitute a breach of the constitution and the Arusha Peace Agreement. Then, on January 26, CSOs went a step further and launched the Halte au troisième mandat campaign.[29]

One of the core strategies of the campaign was to present accurate legal interpretations of the Arusha Peace Agreement and Articles 96 and 302 of the constitution. The campaign contended that if the president stayed in office beyond two terms, it would amount to a coup d'état and would violate the constitution of Burundi. The campaign urged the sponsors of the Arusha Peace Agreement, including neighboring countries, the EU, the African Union, and the United States, to voice their support for the agreement.

During the campaign CSOs were asked why they had already positioned themselves against a third term for the president before he had even announced his decision to run. CSOs asserted that it was a matter of fact that Nkurunziza wanted to run again, since in various venues, whenever asked whether he was planning a third term, he said that he would respect the party's

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[26] United Nations Office in Burundi, "'The Electoral Process in Burundi: Lessons and Prospects,' Bujumbura, 11-13 March 2013, Elements of the roadmap towards 2015." http://bnub.unmissions.org/Portals/bnub/3%20-%20ELL%20Workshop%20-%20Elements%20for%20a%20Roadmap-%20English.pdf

[27] Following this CSO advocacy effort, the speaker of the parliament called several stakeholders, including members of political parties, CSOs, faith-based organizations, religious groups, and parliament, to a hearing on December 19-20, 2013. The final communiqué of the meeting made it clear that the constitutional amendment should not undermine the letter and spirit of the Arusha Peace Agreement.

[28] Reuters UK, "Burundi's Ruling Party Fails in First Bid to Change Constitution," March 21, 2014. http://uk.reuters.com/article/2014/03/21/uk-burundi-politics-idUKBREA2K1MO20140321

[29] To galvanize public awareness, the organizers publicized moving teachings by Archbishop Evariste Ntamwana. While addressing 2,000 young people in Gitega, the archbishop made clear that seeking an illegal term is equal to a willingness to bring people back into slavery. Following the archbishop's teachings, hundreds of thousands of young people referred to the Halte au troisième mandat movement as "SINDUMUJA" ("I am not a slave").

choice. On February 6, 2015, the campaign leaders submitted a letter to the president arguing that he should not run for the third term, as he was already serving his second and last term of office and another candidacy by him would promote instability. In this letter, CSOs recalled a speech made by the venerated Pastor Myles Monroe, who had visited Burundi some days before his death. At the time Monroe stated that "Politicians think about elections, while the leaders are interested in the future.... Politicians have projects, while leaders have a vision.... Politicians run after power and strength, but leaders seek the development of citizens.... Politicians protect their seats, but leaders protect future generations.... Politicians are afraid of competition, but leaders share power.... Politicians jealously guard their place, but leaders prepare their successors."[30]

Again, at a press conference on February 26, 2015, 304 CSOs participating in the campaign issued a call to the president and the ruling party for the president to step aside after he completed his second term of office in August 2015.

As the campaign got under way, media coverage drew domestic and international public attention to the debate over the president's desire to seek a third term. A month after the launch of the campaign, dozens of shows and articles dealing with the controversy appeared in the media, and the campaign escalated as it called on the public to demonstrate after Nkurunziza declared his candidacy.[31]

4. Opposition Arusha Movement

Opposition figures also contributed to the effort to prevent a third term. In recent years, opposition parties have been largely unable to build a common strategy to challenge the ruling party. Several coalitions were created following the boycott of the general elections in 2010, and by March 2015, two months ahead the general elections, four unstable coalitions existed.[32] Starting in February 2015, several top members of the CNDD-FDD, including the spokespersons of the president and the party, defected and joined opposition parties and independent presidential candidates to form an initiative they called the Arusha Movement. The objective of the movement was to prevent Nkurunziza from running for an illegal third presidential term.

The Arusha Movement released a number of statements and organized a peaceful demonstration in the center of Bujumbura on April 17, 2015. About one thousand persons joined the rally, and more than one hundred protesters were arrested.[33]

A few days before Nkurunziza was nominated the presidential candidate of the CNDD-FDD, CSOs from Halte au troisième mandat and the Arusha Movement, along with other key political players, began to work together to prepare for a peaceful demonstration on April 26, 2015.

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[30] *Iwacu*, "Leader ou politicien?", November 5, 2014. http://www.iwacu-burundi.org/leader-ou-politicien/

[31] During a press conference of February 26, Halte au troisième mandat clearly stated that it was calling on people peacefully to protest the violation of the pillars on which Burundi institutions are built—namely, the Arusha Peace Agreement and the constitution. The announcement was a highlight of the news in the following days.

[32] These coalitions included the Coalition Renaissance National du Changement (RANAC), l'Alliance des Démocrates pour le Changement (ADC-IKIBIRI), Amizero y'Abarundi, and la Coalition des partis politiques pour une opposition participative (COPA).

[33] Al Jazeera English, "Burundi Police Class with Opposition Protestors," April 17, 2105. http://www.aljazeera.com/news/2015/04/burundi-police-clash-opposition-protesters-150417203444978.html

IV. CIVIL SPACE IN BURUNDI DURING THE PROTESTS

On April 26, the day after the president announced his decision to run for a third term, demonstrations broke out in Bujumbura and spread to several other parts of the country. Protesters gathered in several neighborhoods of Bujumbura, including Musaga, Kanyosha, Kinindo, Nyakabiga, Bwiza, Jabe, Buyenzi, Kamenge, Kinama, Ngagara, Cibitoke, Buterere, and Mutakura. Gatherings in each neighborhood ranged from one to three thousand people daily. The protests continued for several weeks, and participation was especially heavy from May 10 to 13, following statements by the National Security Council criticizing the protests. During this time, protesters wanted to demonstrate their opposition to the president's third term, since an emergency summit of East African heads of states to address the political unrest in Burundi was to convene in Dar es Salaam on May 13.

Two days before the protests began, on April 24, 2015, the minister of the interior had declared a blanket ban on all kinds of demonstrations. This ban was put into effect despite a directive issued in 2014 on the "negotiated management of public space," with guidelines for policing demonstrations. In place of the traditional policing approach, which "resulted in worst-case scenarios often becoming a reality" and was "based on military principles characterized by an indifferent approach to the demonstrators, reactive management in case of incidents (dispersing demonstrators), [and] a dominating attitude, with the ostentatious display of force against demonstrators seen as 'adversaries,'" the directive articulated a new approach based on the "acknowledgement of the right to demonstrate ... the need to communicate, and the discreet and gradual use of force and constraint (dispersion, arrests)." From the end of 2014 until mid-2015, the entire police force, some 16,200 individuals, received training on "the role, ethic, and responsibility of the police in the context of the electoral process," with support from the governments of the Netherlands and Belgium.[34] Despite these efforts to reform policing approaches, the April 24 ban on peaceful protests ended any effort to arrive at a negotiated agreement between the authorities and event organizers about managing public demonstrations.

Overall, the government's response to the protests severely violated citizens' rights to freedom of assembly, association, and expression, which are guaranteed by the constitution. A report by Amnesty International released in July 2015 concluded that the police response to the demonstrations in Burundi was marked by a pattern of serious violations, including the suppression of the right to life and the use of excessive and disproportionate police force against the protesters. This excessive force included lethal force, as the police shot at unarmed protesters as they tried to run away, used tear gas and live ammunition, and failed to exercise restraint, even when children were present.[35] Each of these violations is looked at in greater detail below.

1. Violations of Freedom of Assembly

a. Peaceful Protests Portrayed as "Insurrections"

In early 2015, when Nkurunziza began to hint at his intention to run in the 2015 presidential elections, CSOs warned that they would call for protests, because they viewed his

[34] Amnesty International, "Braving Bullets. Excessive Force in Policing Demonstrations in Burundi." http://www.amnestyusa.org/research/reports/braving-bullets-excessive-force-in-policing-demonstrations-in-burundi

[35] Amnesty International, "Braving Bullets. Excessive Force in Policing Demonstrations in Burundi."

candidacy as a violation of the presidential term limits defined by the constitution and the 2000 Arusha Peace Agreement.

At that time, government officials began to label any kind of demonstration an insurrection. On February 17, 2015, a media and communications adviser for the president, Willy Nyamitwe, stated that a civil society leader who was against the third mandate was "calling for demonstrations and insurrection." When Amnesty International asked Nyamitwe why the government had decided even before demonstrations had taken place that they constituted an insurrection, he said that the government's position was that the demonstrations would be insurrections because they would not be peaceful.[36]

However, according to the *Guidelines on Freedom of Peace Assemblies* issued by the Organization for Security and Cooperation in Europe (OSCE), an assembly should be deemed peaceful if its organizers have professed peaceful intentions, which should be presumed unless there is compelling and demonstrable evidence that those organizing or participating in a particular event intend to use, advocate, or incite imminent violence. Moreover, an assembly should be deemed peaceful if its organizers have professed peaceful intentions and the conduct of the assembly is non-violent, even when demonstrations include conduct that may annoy or give offense or temporarily hinder, impede, or obstruct the activities of third parties.[37]

In Burundi, CSOs' call for protests clearly showed their intention for the gatherings to be peaceful. The leaders of the Halte au troisième 24andate campaign emphasized in numerous public declarations that the protesters must remain peaceful, and if they encountered police resistance they should raise their hands, sit down, and sing the Burundi anthem. Various reports released by Human Rights Watch (HRW) affirm that the protests were peaceful except for some minor instances of violence by protesters, such as throwing stones at police when they were attacked.

In addition, a communiqué issued by a group of UN experts in Geneva on April 30, 2015, stressed that Burundi suffered a wave of killings, arbitrary arrests, intimidation, closures of media outlets, and targeting of human rights defenders in the context of peaceful protests against the ruling party's decision to nominate President Nkurunziza for a third term. That communiqué noted that in response to the peaceful protests, security forces cracked down violently on the protesters with live ammunition, grenades, and tear gas.[38]

It is important to stress that the right to peaceful assembly is protected by Article 32 of the Constitution of the Republic of Burundi, which states: "Freedom of assembly and association shall be guaranteed, as well as the right to form non-profit associations or organizations in conformity with the law."

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[36] Amnesty International, "Braving Bullets. Excessive Force in Policing Demonstrations in Burundi."

[37] Organization for Security and Cooperation in Europe (OSCE), Office for Democratic Institutions and Human Rights, *Guidelines on Freedom of Peaceful Assembly*, second edition, 2010, p. 33. http://www.osce.org/odihr/73405?download=true

[38] United Nations Office at Geneva, "Pre-Election Violence Endangers Burundi's Young Democracy, United Nations Rights Experts Warn," April 30, 2105. http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/32B3AC80146499BCC1257E37004E6967.

The constitution also incorporates international legal instruments ratified into domestic law through Article 19, which states: "The rights and duties proclaimed and guaranteed inter alia by the Universal Declaration of Human Rights, the International Covenants on Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi. These fundamental rights shall not be limited or derogated from, except in justifiable circumstances acceptable in international law and set forth in the Constitution."

Among these international instruments is the International Covenant on Civil and Political Rights (ICCPR), which articulates the right to freedom of peaceful assembly in the following terms (Article 21):

> The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

It is therefore clear that CSOs had a full right to call for peaceful protests and that a statement by a government official is insufficient legally to ban citizens' enjoyment of such a fundamental right. An assembly is peaceful if the intention of the organizers is peaceful and shall not be banned because of assumptions that violence is likely to break out.

The government also attempted to manipulate events in contending that the demonstrators were involved in plotting a coup. On May 13, 2015, a group of military officers attempted a coup and announced that President Nkurunziza had been dismissed. Following heavy fighting between their supporters and members of the army loyal to the president, the coup leaders announced on May 14 that their coup attempt had failed and they would surrender. Several officers allegedly involved in the coup attempt were arrested, and the whereabouts of their leader, Godefroid Niyombare, remain unknown.[39]

Following the failed coup, demonstrators resumed their protests in Bujumbura on May 18, 2015, defying government orders to stop and ignoring warnings that the demonstrators would be treated as supporters of the coup attempt. In a May 18 statement, the External Relations and International Cooperation Ministry said that "the demonstrators will be treated as accomplices of the coup plotters, as they are obstructing investigations into the putsch attempt and deliberately disturbing public order."[40] In his address to the nation after the failed coup attempt, President Nkurunziza stated, "It is obvious that these insurrections were prepared a long time ago, last year, and even before. Their goal was to overthrow national institutions that have been elected by the people."[41]

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[39] Amnesty International, "Braving Bullets—Excessive Force in Policing Demonstrations in Burundi."

[40] Ministry of Foreign Affairs and International Cooperation, Republic of Burundi, "Communique de Presse sur les menace a la paix au Burundi." http://www.burundi-gov.bi/IMG/pdf/communique_sur_les_menaces_a_la_paix.pdf See also http://www.hrw.org/news/2015/05/29/burundi-deadly-police-response-protests

[41] Presidency of the Republic of Burundi, "Message à la Nation par le Chef de l'Etat," May 20, 2015. http://presidence.gov.bi/spip.php?article5534

While CSOs were denied the right peacefully to assemble, certain demonstrations were protected and facilitated by the police, in particular those organized by public authorities under the label "peace support demonstrations."

This kind of management of assemblies by the government of Burundi violates the principle of non-discrimination, which states that the freedom of peaceful assembly is to be enjoyed equally by everyone. In regulating freedom of assembly, the authorities must not discriminate against any individual or group on any grounds.

The freedom to organize and participate in public assemblies must be guaranteed to individuals, groups, unregistered associations, legal entities, and corporate bodies; to members of minority ethnic, national, sexual, and religious groups; to nationals and non-nationals, to children, women, and men; to law-enforcement personnel; and to persons without full legal capacity, including persons with mental illnesses.[42]

The authorities' attitude that all demonstrations organized by CSOs were illegal and part of an insurrection belied their respect for national, regional, and international human rights obligations. Treating largely peaceful demonstrations and entire residential areas as part of an insurrection escalated rather than defused the protests, and prompted some demonstrators to resort to violence in response to the excessive use of force by the police.

b. Excessive Use of Force and Lethal Weapons

Jean Nepomucène Komezamahoro was a 15-year-old boy living in the Cibitoke neighborhood of Bujumbura when, on April 26, 2015, he was caught in a confrontation between police and demonstrators. As the police were shooting, the child fled to a nearby home but could not get inside because the gate was closed. The police shot him in the head and run away. The death certificate seen by Amnesty International stated that Jean Nepomusene died in a "shoot-out."

Pascal Hakizimana was injured in Mutakura, a northern neighborhood of Bujumbura, on the first day of the demonstrations on April 26. A policeman shot him in his abdomen and right arm. "The bullet came through my stomach; all my intestines were spilling out," he told the *IBTimes*. "How can a policeman shoot at someone? I'm scared of going back [he currently lives in hiding in Rwanda] because the policeman is still in the forces and he knows me. How are we going to return to our country? Even if we can eat six times a day here, we're never well. There needs to be justice."[43]

Jean-Bosco Nkurunziza, a secondary school student, was in a group of demonstrators protesting the candidacy of President Nkurunziza for a third term on May 7 in Gisozi, Mwaro Province, a rural area. He had just joined the crowd, which was loudly chanting slogans, when the police opened fire to disperse them. A bullet hit him and died on the spot.[44]

These three examples show how the police used excessive and disproportionate force, including lethal force, against protestors and even children. International standards give detailed

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[42] OSCE, *Guidelines on Freedom of Peaceful Assembly*, p. 16.

[43] Elsa Buchanan, "Burundi: Catholic Church Youth Group Helps Refugees 'Hunted Down' by Police." *International Business Times*, August 3, 2015. http://www.ibtimes.co.uk/burundi-catholic-church-youth-group-evacuates-refugees-hunted-down-by-police-1513838

[44] Amnesty International, "Braving Bullets. Excessive Force in Policing Demonstrations in Burundi."

guidance regarding the use of force to disperse both unlawful non-violent and unlawful violent assemblies. The UN's *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* provide that "in the dispersal of assemblies that are unlawful but *nonviolent*, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary." The *Basic Principles* also stipulate that "law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."[45]

To manage public assemblies in case of violence, the OSCE's *Guidelines on Freedom of Peaceful Assembly* suggest that governments develop a range of responses that allow for a differentiated and proportional use of force. These responses should include the development of non-lethal incapacitating weapons for use in appropriate situations. Law enforcement officers should also be provided with self-defense equipment, such as shields, helmets, fire-retardant clothing, bulletproof vests, and transport, to decrease their need to use weapons of any kind.[46]

Despite these standards, the police response to the protests repeatedly went well beyond acceptable limits. Although in some instances the protests became violent, in many cases police shot with live bullets into the mass of demonstrators, killing some people and injuring others. According to a May 26, 2015, HRW report, the police responded aggressively to protests, with repeated clashes in several suburbs of Bujumbura.[47] Witnesses told HRW that the police shot demonstrators indiscriminately—sometimes at point-blank range—in the head, neck, and chest, and medical personnel, witnesses, and a victim of a shooting said that some people were shot in the back as they fled. Medical staff in Bujumbura had treated more than a hundred people with serious injuries by August 2015.[48]

In a press briefing note in Burundi on August 14, 2015, the spokesperson for the UN High Commissioner for Human Rights, Ravina Shamdasani, said that the human rights situation in Burundi was deteriorating, with at least ninety-six people killed, mostly in the opposition, since the beginning of election-related violence in late April.[49]

This inappropriate, excessive, and unlawful use of force by law enforcement authorities is recognized by the OSCE as violating fundamental freedoms and protected rights, undermining

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[45] United Nations Office of the High Commissioner for Human Rights, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, provision 9. http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf

[46] OSCE, *Guidelines on Freedom of Peaceful Assembly*, p. 84.

[47] Human Rights Watch, "Police Abuses Exposed During Burundi Protests," YouTube video. https://www.youtube.com/watch?v=2_w0HUCeaQQ

[48] Human Rights Watch, "Burundi: Deadly Police Response to Protests."

[49] United Nation Office of the High Commissioner for Human Rights, "Press Briefing Note on Burundi and Iraq," August 14, 2015. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16320&LangID=E#sthash.yech8sUs.dpuf

police-community relationships, and causing widespread tension and unrest.[50] This is exactly what happened in Burundi after the police resorted to force as a means of silencing citizens' voices. A journalist told Amnesty International: "I witnessed an interesting example of how the police can create problems for itself. The police were trying to overtake demonstrators and every time, the demonstrators would push forward. After a while, the policeman in charge realized what was happening. He decided to let the police stay on the side and no longer try to overtake the demonstrators. The demonstration stopped by itself five minutes later and people just went back home."[51]

c. Targeted Killings After Protests

Selective killings during the night became another means of cracking down on the protests in Burundi. During the night after protests, Imbonerakure, the youth wing of the ruling party, supported by the police, targeted and attacked protestors' homes. In many cases these night attacks were reported in neighborhoods where protests had taken place. A report by HRW indicates that some of those killed or injured were taking part in protests while others were targeted in or near their homes after the protests.[52]

For example, on the evening of April 26, 2015, after the first day of the protests, a group of men in civilian clothes and spotted blue uniforms killed at least four people and injured several others on Ninth Avenue in the Mutakura area of Bujumbura. The next day, in the same neighborhood, a group of policemen entered the home of 32-year-old Fabrice Nahimana and shot him.[53]

Unlawful and deliberate killings ordered by government officials or carried out with their complicity or acquiescence amount to extrajudicial executions, which constitute crimes under international law and are prohibited at all times. Amnesty International documented several killings by police working for Support for the Protection of Institutions (API), a government agency.

In several venues and at certain times, national police operated as if it were wartime. The normal and legally admissible way of dealing with demonstrators is for the police to disperse them for the purpose of restoring order, using means such as tear gas, nightsticks, or shooting in the air. However, during the 2015 demonstrations in Burundi, policemen shot with live ammunitions into masses of demonstrators, utilizing the AK-47 machine guns normally reserved for wartime.

d. Arbitrary Arrests, Detention, and Torture

Starting on the first day of the protests, the police arrested hundreds of protesters as a way of silencing the voices of Bujumbura citizens. The arrested protestors were beaten and tortured, and some even disappeared. The May 29, 2015, HRW report states that a Burundian police spokesperson and Burundian human rights organizations confirmed that the police arrested hundreds of people after the beginning of protests in late April. They also beat detainees,

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[50] OSCE, *Guidelines on Freedom of Peaceful Assembly*, p. 83.

[51] Amnesty International, "Braving Bullets—Excessive Force in Policing Demonstrations in Burundi."

[52] Human Rights Watch, "Burundi: Deadly Police Response to Protests."

[53] Recounted in Amnesty International, "Braving Bullets—Excessive Force in Policing Demonstrations in Burundi."

witnesses and lawyers told HRW. The Imbonerakure were implicated in the beatings and threats.[54]

According to UNHRC spokesperson Shamdasani, at least 600 people were arrested and detained during the period of protests, although many of them have since been released. There were at least sixty cases of torture and many more cases of other ill treatment in police and National Intelligence Service (SNR) detention facilities. Many of the detainees have been in pretrial detention well beyond the time limits stipulated by law. Some detainees, particularly those in SNR custody, have said they have not been allowed to receive visits from their families and have not had access to legal counsel during their interrogations. The actual numbers of persons killed, detained, or tortured may be much higher.[55]

It is important to note that after the protests, a review of police figures was difficult to perform because of political tensions, which caused many rights organizations to close their doors.

2. Violations of Freedom of Association

Stated simply, the right to freedom of association is the right to form or join a group of like-minded people to pursue common interests. The group may be formal or informal, and there is no requirement that the association be registered for the right to freedom of association to apply.

The right to freedom of association ranges from the creation to the termination of an association and includes the right to form and to join an association, to operate freely and be protected from undue interference, to access funding and resources, and to take part in the conduct of public affairs.[56]

The government of Burundi has an obligation to take positive measures to establish and maintain an enabling environment for the exercise of this right. It is crucial that individuals exercising this right be able to operate freely without fearing that they will be subjected to threats, intimidation, or violence, including summary or arbitrary execution, enforced or involuntary disappearance, arbitrary arrest or detention, torture or cruel, inhuman, or degrading treatment or punishment, a media smear campaign, a travel ban, or arbitrary dismissal (especially in the case of trade unionists).[57]

However, since April 2015, most civil society leaders have been threatened with death, faced criminal prosecution, or have been physically assaulted. For their own security, many have fled to neighboring countries, where they work as best they can. This situation has dramatically affected the work of CSOs in Burundi. Human rights organizations and those focused on

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[54] Human Rights Watch, "Burundi: Deadly Police Response to Protests."

[55] United Nation Office of the High Commissioner for Human Rights, "Press Briefing Note on Burundi and Iraq."

[56] United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, "Report: Best Practices in Promoting Freedoms of Assembly and Association," June 20, 2012. (A/HRC/20/27). http://freeassembly.net/rapporteurreports/report-best-practices-in-promoting-freedoms-of-assembly-and-association-ahrc2027/

[57] United Nations Human Rights Council, "Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai," May 12, 2012. http://freeassembly.net/wp-content/uploads/2013/10/A-HRC-20-27_en-annual-report-May-2012.pdf

accountability have been most targeted by the government and its militia, Imbonerakure. The lack of credible information on the human rights situation in Burundi has been one of serious consequences of the crackdown on rights groups during the period covered by this report.

On April 27, 2015, one day after the outbreak of protests, police again arrested human rights defender Pierre Claver Mbonimpa, who had gone to give an interview at Maison de la Presse, a gathering place for local media. The police kicked and roughed up Mbonimpa, journalists at the scene told HRW. Mbonimpa, who is the president of the Burundi Association for the Protection of Human Rights and Detained Persons (APRODH) and among the few activists who remained in Burundi after the failed military coup d'état, has been an outspoken critic of abuses by the government, including during the protests.[58] On August 3, 2015, Mbonimpa was victim of a brutal attack and assassination attempt. He survived his injuries and has been transferred to a Belgium hospital for specialized care.

The UN Special Rapporteur on the Situation of Human Rights Defenders, Michel Forst, in a declaration endorsed by Maina Kiai, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, made this observation: "The attempted killing of such a highly respected activist as Mr. Mbonimpa sends a very chilling message to all members of civil society and also the entire population. During this period of turmoil and insecurity in the country, I am gravely concerned for the safety of all persons advocating for human rights in Burundi and call for an immediate end to violence."[59]

3. Violations of Freedom of Expression

Freedom of expression in Burundi began to face challenges in June 2013, when the government enacted the new Press Law. The law contains significant restrictions on the freedom of the press, which is a cornerstone of the principles of democracy, rule of law, accountability, transparency, and good governance.

In addition to these legal constraints, the media have been victims of various attacks, ranging from threats to journalists, criminal proceedings, and closures of radio stations to the literal destruction of facilities. On April 26, 2015, the government banned live reporting from demonstration sites by three popular radio stations (Radio publique africaine [RPA], Radio Isanganiro, and Radio Bonesha FM), suspended their broadcasts outside the capital, and cut their telephone landlines. The next afternoon, the government shut down all RPA broadcasts, including in the capital, and closed Maison de la Presse.[60] The main accusation against the media was that they were supporting and encouraging the "insurrection."

Shortly after the beginning of the protests, the government blocked mobile access to social media, including Facebook, WhatsApp, and Viber, contending that protesters were

[58] Human Rights Watch, "Burundi: Crackdown on Protesters," April 27, 2015. https://www.hrw.org/news/2015/04/27/burundi-crackdown-protesters

[59] United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, "Burundi: UN Expert Calls for Protection of All Rights Defenders After Attempted Killing of Top Activist," August 7, 2015. http://freeassembly.net/rapporteurpressnews/burundi-attempted-killing-activist/

[60] Human Rights Watch, "Burundi: Crackdown on Protesters."

coordinating the protests using the Internet.[61] Daniel Bekele, Africa director at HRW, said that the "government's restrictions on communications not only violate basic media freedom but deprive many Burundians of the right to information about events that affect them directly."[62]

On May 14, 2015, after the failed coup d'état, the police attacked independent media in Bujumbura and destroyed all of their facilities. The government accused them of having allowed coup plotters to disseminate the message that they had dismissed the president. By late 2015 these radio stations and televisions had yet to resume broadcasting. More than one hundred journalists live in exile and those who are still in Burundi are victims of daily police harassment.

V. CONCLUSION

The demonstrations that started in April 2015 and were brutally repressed by security forces were the cry of a desperate citizenry experiencing irresponsible leadership. Despite their brutal treatment, which ranged from arrests and beatings to the use of lethal force, the protesters proved to be highly motivated and disciplined. Apart some minor incidents, no looting or burning was reported.

The demonstrations were peaceful and successful because they addressed a genuine and objective cause and were the result of active mobilization by several key stakeholders, whose expression of national unity was their core strength. In particular, the Halte au troisième mandat campaign was successful for the following reasons:

- **The cause of the campaign was very clear.** CSOs organized the campaign on the basis of democratic principles laid down in core national instruments, such as the Arusha Peace Agreement and the constitution, and constructed a freedom-based narrative.
- **Key CSOs had extensive experience campaigning collectively.** Leading human rights defenders widely known for their endeavors to advance the cause of justice, good governance, human rights, democracy, and the rule of law joined the campaign and guaranteed public trust in the movement.
- **The campaign was launched in a state of widespread unrest.** Reasons for the unrest included ongoing human rights abuses, including the paramilitary training of youth in the Democratic Republic of the Congo in 2014, the imprisonment of senior human rights defenders Pierre Claver Mbonimpa in May 2014, the assassination of three Italian nuns in September 2014, and the imprisonment of Bob Rugurika in January 2015, as well as the defection of key members from the ruling CNDD-FDD party.
- **The public became aware of their right to freedom of assembly, including peaceful demonstrations.** This awareness was a key tool for engaging the authorities when human rights and public liberties were at stake. In exercising this freedom, the public also became aware that peaceful demonstrations are effective.

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[61] *International Business Times*, "Burundi Elections 2015: President Blocks Twitter, Facebook, WhatsApp, Tango Mobile Access in Protest Crackdown," April 29, 2015. http://www.ibtimes.com/burundi-elections-2015-president-blocks-twitter-facebook-whatsapp-tango-mobile-access-1901246

[62] Human Rights Watch, "Burundi: Crackdown on Protesters."

- **The media played a tremendous role in mobilizing citizens**. In particular, the media provided opportunities for organizers to engage publicly. Several shows were presented from a pluralistic perspective, and broadcast conversations convinced many people to join the cause of protesters, especially as the latter announced that their efforts would be peaceful and would aim at defending core national instruments, such as the Arusha Peace Agreement and the constitution. It is worth mentioning that Burundians access information mainly through independent media and form their opinions by following shows[63] and engaging in music.[64]
- **The police themselves fueled the movement through their brutality.** Their extreme violations of basic civil rights included illegal and arbitrary imprisonments and disappearances, politically motivated killings, and threats to human rights defenders. Other issues that mobilized demonstrators included increasing poverty and corruption in public services. When thousands of people demonstrated following the release from jail of Bob Rugurika on January 19, 2015, many observers noticed that in addition to their joy, people wanted to express that they were upset with the current state of injustice.[65]
- **Burundians from all backgrounds participated in the protests**. Over the years, conflict in Burundi had been presented as an ethnic conflict, but during the peaceful demonstrations protesters proved that this was not true. Despite hate speech coming from top government officials, who argued repeatedly that the demonstrations were organized only in neighborhoods populated by the minority Tutsi, people from all backgrounds—ethnic, religious, regional, and gender—participated in the gatherings. This fact challenged the government, since it could not find an effective strategy to stop people from mobilizing.

Defending democratic principles and values is regarded by many as the highest duty that a citizen can perform. Mobilizing for the supreme national interest has consistently been the primary calling of Burundi's human rights activists, and their dedication—and the dedication of the Burundian people—was clear to the world during the protests in spring 2015.

[63] Several shows were organized by independent media to engage different stakeholders on the issue of the third term. Key supporters of the third term, including members of the ruling party, the CNDD-FDD, and their allies (among them some government-sponsored CSOs) met often with the opposition, senior analysts and constitutionalists, and representatives of Halte au troisième mandat in very engaging debates about the third term. Each side took the opportunity to convince the public that their arguments were correct.

[64] Several groups, including Lion Story, Prophète Voice, Inkebuzo, and Mkombozi, released engaging music exposing injustice, poverty, human rights abuses, political struggle, and corruption. In the clip "Revolution," Lion Story argues that the time for revolution has come and exposes, among other things, police abuse of citizens.

[65] See BBC News, "Burundians Celebrate as Journalist Bob is Freed," February 19, 2015. http://www.bbc.com/news/world-africa-31535621