



**Country/entity** Burundi

**Region** Africa (excl MENA)

**Agreement name** Constitution de transition du 28 octobre 2001

**Date** 28 Oct 2001

**Agreement status** Multiparty signed/agreed

**Interim arrangement** Yes

**Agreement/conflict level** Intrastate/intrastate conflict

### **Burundian Civil War (1993-2005)**

The conflict had an ethnic base between Hutu and Tutsi populations, and is one of a set of regionally connected conflicts also addressed in the Great Lakes process. Since independence in 1972, the Burundian political landscape has been polarised and marked by ethnic-based tensions, political assassinations and large-scale violence. For the following two decades, three Tutsi military regimes associated with the Union for National Progress (UPRONA) ruled the country. During these military dictatorships, numerous waves of mass violence resulted from the attempts of various opposition rebels groups to destabilise the three regimes, and the regimes' use of violence to repress these attempts. Despite a wave of hope in the early 1990's, Burundi entered a decade-long civil war in 1993 following the assassination of Burundi's first democratically elected president, Melchior Ndadaye, from the ethnically-Hutu Front for Democracy in Burundi (FRODEBU) by Tutsi opposition in the military. In 1998 the Arusha Peace Talks commenced and in August 2000, international pressure resulted in the signing of the Arusha Peace and Reconciliation Agreement for Burundi. However, the National Council for the Defense of Democracy (CNDD) did not sign. Additionally, and Party for the Liberation of Hutu People (Palipehutu) did not participate in negotiations. These outsiders continued sporadic violence until 2008. In 2015, a new wave of political violence is taking place after President Nkurunziza, from the CNDD-FDD which has been in power since 2005, won a contested third-mandate.

Close

Burundian Civil War (1993-2005)

**Stage** Framework/substantive - comprehensive

**Conflict nature** Government

**Peace process** Burundi: Arusha and related peace process

**Parties** Passed by Burundi's legislative body and signed into law by:  
Pierre Buyoya - President of Burundi

**Third parties**

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**Description**

This agreement is a transitional constitution that abrogated the 1998 transitional Constitution. It addresses the following points in its 16 titles: (1) General Dispositions; (2) State and Citizen Sovereignty; (3) Human Rights, Individual and Citizen Obligation; (4) Political Parties System; (5) Executive Power, (6) Legislative Power; (7) On Executive and Legislative Relations; (8) On Judiciary Power; (9) On Defence and Security Forces; (10) On Territorial Collectivities; (11) On elections during the transition; (12) National Councils; (13) National and International Commissions; (15) On International Treaties and Agreements; (16) On Revision of the Transitional Constitution; (17) Transitional and Final Dispositions.

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**Agreement document**

[BI\\_011021\\_Constitution de Transition-tr.pdf \(opens in new tab\)](#) | [Download PDF](#)

**Agreement document (original language)**

[BI\\_011028\\_Constitution\\_de\\_transition.pdf \(opens in new tab\)](#)

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**Groups**

## **Children/youth**

Groups→Children/youth→Substantive

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, Article 15:

The rights and duties proclaimed and guaranteed by the Charter of National Unity, the Universal Declaration of Human Rights, international treaties relating to human rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Rights of the Child form an integral part of the present Transitional Constitution. These basic rights are not the subject of any restriction or dispensation, except in certain justifiable circumstances, acceptable under international law and for which provision has been made in the present Transitional Constitution.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 38:

The family is the natural basic unit of society. Marriage is its legitimate support. The family and marriage are placed under the special protection of the state. The freedom to marry is guaranteed, as well as the right to choose one's partner. Marriage may only be concluded with the free and full consent of the future spouses. Parents have the natural right and duty to educate and raise their children. They are supported in this task by the State and regional and local authorities. Every child has the right to special measures of protection, due to his or her status as a minor, from his or her family, society and the state.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 39:

Every child has the right to individual measures to ensure or improve the care that is necessary to his or her well-being, health and physical safety, and to be protected against abuse, acts of violence or exploitation.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 40:

No child may be used directly or indirectly in an armed conflict. The protection of children is ensured in periods of armed conflict.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 41:

No child may be detained except as a last resort, in which case the duration of the detention will be the shortest possible. Every child who is detained must be separated from other detainees over the age of 16 and must benefit from a treatment and conditions of detention appropriate to his or her age.

## **Disabled persons**

Groups→Disabled persons→Anti-discrimination

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

**Elderly/age**            No specific mention.

**Migrant workers**    No specific mention.

**Racial/ethnic/  
national group**

Groups→Racial/ethnic/national group→Rhetorical

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

3° Reconcile and Unify Burundians and lay the foundation for a democratic and unified Burundi, thanks to, among other things, the promotion of a wide programme of education to peace, democracy, ethnic, regional and religious tolerance;

Groups→Racial/ethnic/national group→Anti-discrimination

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, Article 15:

The rights and duties proclaimed and guaranteed by...the International Convention on the Elimination of all Forms of Racial Discrimination... These basic rights are not the subject of any restriction or dispensation, except in certain justifiable circumstances, acceptable under international law and for which provision has been made in the present Transitional Constitution.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

Groups→Racial/ethnic/national group→Substantive

Page 9, TITLE IV: POLITICAL PARTIES, Article 67

The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Page 9, TITLE IV: POLITICAL PARTIES, Article 70:

Political parties, in their organisation and functioning, must follow democratic principles. They must be open to all Burundians and their national character must also be reflected at leadership level. They must not advocate violence or hatred based, among other things, on membership of an ethnic group, regional origin or religion.

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 97:

...The new president of the Republic emanates from the same ethnic and the same political family of his predecessor. He is elected in period not exceeding thirty days from the day observing the vacancy. The new president of the Republic terminates the mandate of his predecessor...

Page 20-21, TITLE VI: LEGISLATIVE POWER, 2. The Transitional National Assembly, Article 134:

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The Rules of Procedure of the Transitional National Assembly are those of the National Assembly elected in 1993 until duly amended

**Religious groups**

Groups→Religious groups→Rhetorical

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

3° Reconcile and Unify Burundians and lay the foundation for a democratic and unified Burundi, thanks to, among other things, the promotion of a wide programme of education to peace, democracy, ethnic, regional and religious tolerance;

Page 15, TITLE V: EXECUTIVE POWER, 3. The Transitional Government of National Unity, Article 105:

The Transitional Government of National Unity determines and conducts the policy of the nation within the framework of the decisions taken by consensus in the Council of Ministers...It also takes into account the need to maintain ethnic, regional, religious, political and gender balance in its decisions and appointments.

Groups→Religious groups→Anti-discrimination

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

Groups→Religious groups→Substantive

Page 9, TITLE IV: POLITICAL PARTIES, Article 70:

Political parties, in their organisation and functioning, must follow democratic principles. They must be open to all Burundians and their national character must also be reflected at leadership level. They must not advocate violence or hatred based, among other things, on membership of an ethnic group, regional origin or religion.

Page 39, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 2. National Commission for Truth and Reconciliation, Article 231:

The members of the Commission are appointed by the President of the Republic, in consultation with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate. The members of the Commission are chosen for their probity, their integrity and their capacity to transcend divisions of any nature. They come notably from associations of civil society, political parties, religious denominations and women's organisations.

**Indigenous people**

No specific mention.

## Other groups

Groups→Other groups→Rhetorical

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

3° Reconcile and Unify Burundians and lay the foundation for a democratic and unified Burundi, thanks to, among other things, the promotion of a wide programme of education to peace, democracy, ethnic, regional and religious tolerance;

Groups→Other groups→Substantive

Page 9, TITLE IV: POLITICAL PARTIES, Article 67

The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Page 9-10, TITLE IV: POLITICAL PARTIES, Article 70:

Political parties, in their organisation and functioning, must follow democratic principles. They must be open to all Burundians and their national character must also be reflected at leadership level. They must not advocate violence or hatred based, among other things, on membership of an ethnic group, regional origin or religion.

Page 15, TITLE V: EXECUTIVE POWER, 3. The Transitional Government of National Unity, Article 105:

The Transitional Government of National Unity determines and conducts the policy of the nation within the framework of the decisions taken by consensus in the Council of Ministers.

It shall take its decisions and operate generally in accordance with the spirit of the principle of a Government of national unity. It makes decisions by consensus. It makes or proposes appointments in the civil service and diplomatic posts in the same spirit. It also takes into account the need to maintain ethnic, regional, religious, political and gender balance in its decisions and appointments.

Page 22, TITLE VI: LEGISLATIVE POWER, 3. The Transitional Senate, Article 141:

The Transitional Senate is appointed by the President of the Republic, the Vice-President of the Republic, and the Bureau of the Transitional National Assembly ensuring to respect political, ethnical, and regional equilibrium.

It is composed of:

1° The former Heads of the State;

2° Three persons originating from the Twa ethnicity;

3° At least two delegates from each province originating from different ethnic group co-opted from the Transitional National Assembly and from outside of it.

In any case, the number of senators, ethnically and politically equal, cannot be higher than 54.

Page 32, TITLE IX: DEFENCE AND SECURITY FORCES, Article 194:

The defence and security forces must reflect the determination of Burundians, as individuals and as a nation, to live equally, in peace and harmony, and to be free from

**Refugees/displaced persons** Groups→Refugees/displaced persons→Substantive  
Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:  
[...]

4° Ensure the repatriation of Burundians living outside the national territory as well as the resettlement, reintegration and rehabilitation of the victims [sinistrés];

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 234:

The National Commission for the Rehabilitation of Victims [Sinistrés] is tasked with preparing and organising the repatriation of refugees as well as the reinstallation and reinsertion of victims. It must ensure the equity, transparency and common sense of all its decisions.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 235:

Members of the Commission are emanating from participating parties and other sectors of national life.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 236:

The members of the Commission shall be appointed by the President of the Republic in consultation with the Vice-President of the Republic. They are chosen for their morals, integrity and competence.

The President and Vice-President of the Commission shall be elected by the members of the Commission. They cannot belong to the same ethnic group or to the same political family.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 237:

The Commission benefits from administrative and financial autonomy.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 238:

The Commission has the most extensive powers to deal with land and other rights issues in the rehabilitation of victims [sinistrés], returnees and exiles.

The Commission's decisions are guided by the need to reconcile the objectives of respect of the law, equity, reconciliation and social peace.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 239:

The Commission shall send an annual report on its activities to the President of the Republic, the Transitional Government of National Unity, the Transitional National Assembly and the Transitional Senate.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 240:

An organic law determines the missions, competences, organisation and functioning of the National Rehabilitation Commission of Victims [sinistrés].

**Social class**

Groups→Social class→Anti-discrimination

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

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**Gender**

**Women, girls and gender**

Page 2, Title I: General Dispositions, Article 4:

The transitional period is dedicated to the achievement of the following objectives:

...

3° Reconcile and unify Burundians, and lay the foundations of a democratic and unified Burundi, thanks to, inter alia, the promotion of a vast education programme on peace, democracy, and ethnic, regional, religious gender tolerance and other equality status issues.

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, Article 15:

The rights and duties proclaimed and guaranteed by the Charter of National Unity, the Universal Declaration of Human Rights, international treaties relating to human rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Rights of the Child form an integral part of the present Transitional Constitution. These basic rights are not the subject of any restriction or dispensation, except in certain justifiable circumstances, acceptable under international law and for which provision has been made in the present Transitional Constitution.

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 21:

Every woman and man has the right to life, to security of the person and to physical integrity.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

Page 7, Title IV: On Political Parties System, Art 71:

It is forbidden to political parties to identify itself in form, action or any other manner, on the basis of ethnicity, region, religion, sect or gender.

Page 7, Title V: On Executive Power, Art 77:

Men and women called to lead the transition must, at any time, demonstrate integrity, determination, patriotism, and competence, and have the best interests of all Burundians at heart, without any discrimination.

Page 15, TITLE V: EXECUTIVE POWER, 3. The Transitional Government of National Unity, Article 105:

The Transitional Government of National Unity determines and conducts the policy of the nation within the framework of the decisions taken by consensus in the Council of Ministers.

It shall take its decisions and operate generally in accordance with the spirit of the principle of a Government of national unity. It makes decisions by consensus. He makes or proposes appointments in the civil service and diplomatic posts in the same spirit. It also takes into account the need to maintain ethnic, regional, religious, political and gender balance in its decisions and appointments.

Page 28, TITLE VIII: JUDICIAL POWER, Article 166:

The procedures of recruitment and appointment in the judicial sector submit to the

**Men and boys**

Gender→Men and boys→Gender neutral wording

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 21:

Every woman and man has the right to life, to security of the person and to physical integrity.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

Page 10, Title V: EXECUTIVE POWER, Article 77:

The executive power is exercised by a President of the Republic, a Vice-President of the Republic and a Transitional Government of National Unity.

Men and Women who are called upon to lead the transition, must, at any time, show integrity, determination, patriotism and competence, and be deeply committed to the interest of all Burundians, without any discrimination.

They must solemnly take an oath prior entering their functions.

**LGBTI**

No specific mention.

## Family

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Rights of the Individual, Article 29:

No one may be subjected to arbitrary interference with their private life, family, domicile or correspondence, nor to attacks on their honour and reputation. Residential searches or visits may not be ordered except within the forms and conditions provided by law. Secrecy of correspondence and communication is guaranteed with respect to the forms and conditions determined by law.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Rights of the Individual, Article 38:

The family is the natural basic unit of society. Marriage is its legitimate support. The family and marriage are placed under the special protection of the state. The freedom to marry is guaranteed, as well as the right to choose one's partner. Marriage may only be concluded with the free and full consent of the future spouses. Parents have the natural right and duty to educate and raise their children. They are supported in this task by the State and regional and local authorities. Every child has the right to special measures of protection, due to his or her status as a minor, from his or her family, society and the state.

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:  
Duties of the Individual and of the Citizen, Article 53:

Every citizen has duties toward family and society, toward the state and other public authorities.

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:  
Duties of the Individual and of the Citizen, Article 56:

Every Burundian has the duty to preserve the harmonious development of the family and work towards the cohesion and respect of that family, to respect at all times his parents, and to support and assist them in case of need.

Page 18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

[...]

2) The status of the persons and of the assets:

[...]

- matrimonial regimes, inheritance and gifts;

**State definition**

**Nature of state  
(general)**

[Summary, Page 3-4: The title II of the agreement provides in its entirety for the state and the sovereignty of the people. See the specific provisions in the categories below]

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2: Duties of the Individual and of the Citizen, Article 62:

Every Burundian has the duty to defend the national independence and the integrity of the territory. Every citizen has the sacred duty of watching and participating in the defence of the country. Every Burundian and every foreigner who lives in the territory of the Republic, has the duty not to compromise the security of the state.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 81:

When entering in function, the President of the Republic solemnly takes the following oath, received by the Constitutional Court before the Transitional National Assembly: "Before the Burundian People, sole holder of the national sovereignty, I, (enounce the name), President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the national unity and the cohesion of the Burundian People, [and] social peace and justice. I engage myself to fight any ideology and practice of genocide and of exclusion, to promote and to defend the individual and collective rights and freedoms of the person and of the citizen, and to safeguard the integrity and the independence of the Republic of Burundi."

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 82:

The President of the Republic, Head of the State, incarnates the national unity, sees to the respect for the Charter of National Unity and the Transitional Constitution and assures by his arbitration the continuity of the State and the regular functioning of the powers.

He is the guarantor of the national independence, of the integrity of the territory and of the respect for the international treaties and agreements.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 92:

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the performance of his international commitments are threatened in a serious and immediate manner and when the regular functioning of the authorities is interrupted, the President of the Republic may declare by statutory order a state of exception and take all the measures demanded by the circumstances, after official consultations with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate, the Transitional Government of National Unity and the National Security Council.

The President of the Republic informs the nation of this step by message.

These measures must be inspired by the desire to ensure that the constitutional authorities have, within the shortest possible time, the means of accomplishing their task.

The Constitutional Court is consulted on these measures. The Transitional Parliament may not be dissolved during the exercise of exceptional powers.

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 94:

The President of the Republic is only penally responsible for the acts accomplished in the exercise of his functions in case of high treason.

There is high treason when, in violation of the Charter of National Unity, the Arusha Peace and Reconciliation Agreement for Burundi, the Transitional Constitution or of the law, the President of the Republic deliberately commits an act contrary to the superior interests of the nation which gravely compromises the national unity, social peace, social justice, the development of the country, or gravely infringes the human rights, the

**State configuration** Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 5:  
Burundi is a unified, independent and sovereign, secular and democratic Republic. The status and re-establishment of the monarchy can only be decided by means of a referendum.

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 6:  
The principle of the Republic of Burundi is “Government of the people, by the people and for the people”. Its political system must be in accordance with the basic values of Burundian society, which are national unity, social peace, democracy, social justice, development, national independence and sovereignty.

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 7:  
National sovereignty belongs to the people who exercise it, either through their representatives or directly by means of a referendum. Neither section of the people nor any individual can accord themselves the right to exercise it.

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 9:  
Burundi is subdivided into provinces, communes, and any other subdivisions specified by the law. An organic law defines their organisation and functioning. It can modify the limits and the number of them.  
The national territory of Burundi is inalienable and indivisible subjected to the provisions of Title XIV of the present transitional Constitution.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 33:  
Every person has the right to freedom of thought, conscience, religion and worship, while respecting the public order and the law. The exercise of worship and the expression of beliefs are carried out with respect to the principle of the secular nature of the state.

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 52:  
No one may abuse the rights recognised by the Transitional Constitution or by law in order to compromise the national unity, the independence of Burundi, or the secularity of the state or to violate in any other way the present Transitional Constitution.

Page 9, TITLE IV: POLITICAL PARTIES, Article 67  
The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.  
To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.  
Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.  
No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Page 9, TITLE IV: POLITICAL PARTIES, Article 68:  
A political party which militates peacefully in favour of the restoration of the monarchy might be approved.

**Self determination** No specific mention.

**Referendum**

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

2° Ensure the adoption, by referendum, of a post-transitional Constitution complying with the constitutional principles stated in the Arusha Agreement for Peace and Reconciliation in Burundi;

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 5:

Burundi is a unified, independent and sovereign, secular and democratic Republic. The status and re-establishment of the monarchy can only be decided by means of a referendum.

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 7:

National sovereignty belongs to the people who exercise it, either through their representatives or directly by means of a referendum. Neither section of the people nor any individual can accord themselves the right to exercise it.

Page 20, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 131:

The two chambers of the Transitional Parliament meet in Congress to:

[...]

5. Adopt the draft of the post-transition Constitution to be submitted to the referendum;

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 253:

Any cession, any exchange, any adjunction of territory is only valid with the consent of the Burundian People called to pronounce itself by referendum.

<b>State symbols</b>	Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 6: The principle of the Republic of Burundi is "Government of the people, by the people and for the people".
	Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 10: The capital of Burundi is established at Bujumbura. It might be transferred to any other place in the Republic by law.
	Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 11: The flag of Burundi is tricolour: green, white and red. It has the form of a rectangle divided by a saltire [sautoir], having in its centre a white disc stamped with three six-pointed red stars that form a fictive equilateral triangle inscribed within a fictive circle having the same centre as the disc and whose base is parallel to the length of the flag. The law specifies the dimensions and the other details of the flag.
	Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 12: The motto of Burundi is "Unity, Work, Progress" [Unité, Travail, Progrès]. The emblem of the Republic of Burundi is a shield stamped with the head of the lion as well as with three lances, all of it surrounded by the national motto. The national anthem is "Burundi Bwacu." The seal of the Republic is determined by the law.
	Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 13: The national language is Kirundi. The official languages are Kirundi and all other languages determined by the law. All the legislative texts must have their original version in Kirundi.
	Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 91: The President of the Republic confers the national orders and the decorations of the Republic.
	Page 18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126: The following are of the domain of the law: [...] 3) The political, administrative and judicial organisation: [...] • general organisation of the national orders, of the decorations and of the honorific titles;
<b>Independence/ secession</b>	Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 253: Any cession, any exchange, any adjunction of territory is only valid with the consent of the Burundian People called to pronounce itself by referendum.
<b>Accession/ unification</b>	No specific mention.
<b>Border delimitation</b>	No specific mention.
<b>Cross-border provision</b>	No specific mention.

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**Political institutions (new or reformed)**

Governance→Political institutions (new or reformed)→Temporary new institutions  
[Summary: As a transitional constitution, this agreement in its entirety provides for institutional structures from the establishment of the Government of Transition until the post-transitional Constitution comes into force.]

Page 2, TITLE I: GENERAL PROVISIONS, Article 3:

The transitional institutions are entrusted with applying the Arusha Agreement for Peace and Reconciliation in Burundi, with a view to ending the Burundian conflict by establishing a legal, just and democratic state, capable of reassuring and promoting all the elements of the nation and thus releasing their creative energy in order to make them dynamic agents committed to consolidating the nation and promoting the economic, social and cultural development of the country.

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

7° Implement measures and undertake reforms related to the judiciary, administration and the Defence and Security Forces in accordance with the Arusha Agreement for Peace and Reconciliation in Burundi;

[...]

9° Adopt laws on political parties, local authorities, the press and any other areas required by the Arusha Agreement for Peace and Reconciliation in Burundi and to respond to the needs of the transitional institutions;

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 97:

In the case of absence or temporary impediment of the President of the Republic, the Vice-President assures the administration of current affairs.

In case of resignation, death, or incapacity of the Republic of president, the new transitional president is elected by the transitional National Assembly and the Transitional Senate convened by a resolution approved by two-thirds of the members. While waiting for the election of the new president, the president of the Transitional National Assembly, assisted by the vice-president of the Republic, acts as the president of the Republic. If the latter is in turn impeded to exercise his functions, the interim is assured by the government.

The vacancy is declared by the Constitutional Court referred to [the matter] by the Transitional Government of National Unity represented by the Vice-President of the Republic. The interim authority may not form a new Government.

The new president of the Republic emanates from the same ethnic and the same political family of his predecessor. He is elected in period not exceeding thirty days from the day observing the vacancy. The new president of the Republic terminates the mandate of his predecessor.

The Vice-President of the Republic continues to assure his functions.

[Summary - Pages 17- 25: The TITLE VI of the transitional constitution provides in its entirety for legislative power. It entails: 1. The provisions common to the national assembly and to the senate; 2. The Transitional National Assembly; 3. The Transitional Senate, 4. The Procedure to adopt law].

[Summary - Pages 25-27: The TITLE VII of the transitional constitution provides in its entirety for the relations between executive and judicial power.]

Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 198:

The correction of the disequilibrium within the Corps of Defence and of Security is dealt with progressively in a spirit of reconciliation and trust in order to secure all Burundians. The correction of imbalances is achieved during the transitional period by the

## Elections

Page 2, TITLE I: GENERAL PROVISIONS, Article 3:

The transitional institutions are entrusted with applying the Arusha Agreement for Peace and Reconciliation in Burundi, with a view to ending the Burundian conflict by establishing a legal, just and democratic state, capable of reassuring and promoting all the elements of the nation and thus releasing their creative energy in order to make them dynamic agents committed to consolidating the nation and promoting the economic, social and cultural development of the country.

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

8° Adopt an electoral law, establish an independent electoral commission and ensure the holding of the first elections at local and national level;

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 8:

Suffrage is universal, equal and secret. It can be direct or indirect under conditions provided for by the electoral act. Voters, under conditions determined by the electoral act, are all Burundians who have turned eighteen and enjoy civil and political rights.

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:

Duties of the Individual and of the Citizen, Article 61:

Every Burundian entrusted with a public function or elected to a political function has the duty to fulfil it with conscience, integrity, devotion and loyalty to the general interest.

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 97:

In the case of absence or temporary impediment of the President of the Republic, the Vice-President assures the administration of current affairs.

In case of resignation, death, or incapacity of the Republic of president, the new transitional president is elected by the transitional National Assembly and the Transitional Senate convened by a resolution approved by two-thirds of the members. While waiting for the election of the new president, the president of the Transitional National Assembly, assisted by the vice-president of the Republic, acts as the president of the Republic. If the latter is in turn impeded to exercise his functions, the interim is assured by the government.

The vacancy is declared by the Constitutional Court referred to [the matter] by the Transitional Government of National Unity represented by the Vice-President of the Republic. The interim authority may not form a new Government.

The new president of the Republic emanates from the same ethnic and the same political family of his predecessor. He is elected in period not exceeding thirty days from the day observing the vacancy. The new president of the Republic terminates the mandate of his predecessor.

The Vice-President of the Republic continues to assure his functions.

Page 14, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 98:

Anyone who has served as President of the Republic during the transitional period is ineligible for the first presidential elections.

Page 14, TITLE V: EXECUTIVE POWER, 2. The Vice-President of the Republic, Article 102:

In the case of resignation, death or of any other cause of definitive cessation of his function, a new Vice-President of the Republic, originating from the same ethnicity and of the same political party as their predecessor, is elected, within a period not exceeding thirty days counting from the establishment of the vacancy, by resolution approved by two-thirds of the members of the Transitional National Assembly and the Transitional Senate setting in joint session. The new Vice-President terminates the mandate of its predecessor.

**Electoral  
commission**

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

8° Adopt an electoral law, establish an independent electoral commission and ensure the holding of the first elections at local and national level;

Page 23, TITLE VI: LEGISLATIVE POWER, 3. The Transitional Senate, Article 147:

The Transitional Senate is provided with the following competences:

[...]

9. Approving the appointments only to the following functions:

[...]

l. Members of the Independent National Electoral Commission.

TITLE IV: POLITICAL PARTIES

Article 65

Multipartyism is recognised in the Republic of Burundi.

Article 66

The political party is a non-profit organisation, with a civil personality, gathering citizens around a societal democratic project founded on national unity, with a separate political programme, with precise objectives, seeking public good and ensuring the development of all citizens.

Political parties may form coalitions during elections, in accordance with the provisions of the electoral law.

Political parties and coalitions of political parties must promote the free expression of suffrage and participate in political life by peaceful means.

Article 67

The political parties may freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and Defence of democracy; the Defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Article 68

A political party which militates peacefully in favour of the restoration of the monarchy may be approved.

Article 69

Political parties commit themselves in writing to fight against any political ideology and any act aimed at encouraging violence, hatred or negative discrimination.

Article 70

Political parties, in their organisation and functioning, must follow democratic principles. They must be open to all Burundians and their national character must also be reflected at leadership level. They must not advocate violence or hatred based, among other things, on membership of an ethnic group, regional origin or religion.

Article 71

It is forbidden for political parties to identify themselves in form, in action or in any other manner, specifically to an ethnic group, to a region, to a religion, to a faction or to a gender.

Article 72

Members of the armed forces, of the police corps as well as the magistrates, while active, are not authorised to belong to political parties.

Article 73

The law guarantees the non-interference of the public powers in the internal functioning of the political parties, except for that of the restrictions necessary to prevent ethnic, political, regional, religious or gender hatred and to maintain the public order.

Article 74

The external financing of the political parties is prohibited, except in case of exceptional derogation established by the law.

## **Civil society**

Page 20, TITLE VI: LEGISLATIVE POWER, 2. The Transitional National Assembly, Article 133:

Subject to the co-optation of the members of the Transitional National Assembly in favour of the Transitional Senate in accordance with the provisions of Article 141, the Transitional National Assembly shall be composed as follows:

[...]

3. The 28 members representing civil society in the National Assembly in office;

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 208:

The National Council for National Unity and Reconciliation is a consultative organ given the charge of notably:

[...]

- following regularly the evolution of the Burundian society from the point of view of the issue of the national unity and of reconciliation;
- producing periodically a report on the status of the national unity and of the reconciliation and bring it to the cognisance of the nation;

[...]

Page 36, TITLE XII: NATIONAL COUNCILS, 2. OF THE NATIONAL OBSERVATORY FOR THE PREVENTION AND THE ERADICATION OF GENOCIDE, OF WAR CRIMES AND OF CRIMES AGAINST HUMANITY, Article 213:

The National Observatory for the prevention and the eradication of genocide, of war crimes and of crimes against humanity is a consultative organ given the charge of notably:

following regularly the evolution of the Burundian society from the point of view of the issue of genocide, of war crimes and of other crimes against humanity;

[...]

- contributing to the implementation of a vast program of sensitisation and education to peace, to unity and to national reconciliation.

Page 39, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 2. National Commission for Truth and Reconciliation, Article 231:

The members of the Commission are appointed by the President of the Republic, in consultation with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate. The members of the Commission are chosen for their probity, their integrity and their capacity to transcend divisions of any nature. They come notably from associations of civil society, political parties, religious denominations and women's organisations.

## **Traditional/ religious leaders**

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 208:

The National Council for National Unity and Reconciliation is a consultative organ given the charge of notably:

[...]

- conceiving and initiating the necessary actions in view of rehabilitating the institution of Ubushyamba, to make of it an instrument of peace and of social cohesion;

**Public  
administration**

Page 2, TITLE I: GENERAL PROVISIONS, Article 3:

The transitional institutions are entrusted with applying the Arusha Agreement for Peace and Reconciliation in Burundi, with a view to ending the Burundian conflict by establishing a legal, just and democratic state, capable of reassuring and promoting all the elements of the nation and thus releasing their creative energy in order to make them dynamic agents committed to consolidating the nation and promoting the economic, social and cultural development of the country.

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

7° Implement measures and undertake reforms related to the judiciary, administration and the Defence and Security Forces in accordance with the Arusha Agreement for Peace and Reconciliation in Burundi;

[...]

9° Adopt laws on political parties, local authorities, the press and any other areas required by the Arusha Agreement for Peace and Reconciliation in Burundi and to respond to the needs of the transitional institutions;

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:

Duties of the Individual and of the Citizen, Article 61:

Every Burundian entrusted with a public function or elected to a political function has the duty to fulfil it with conscience, integrity, devotion and loyalty to the general interest.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 87:

The President of the Republic appoints the superior civil and military offices.

An organic law determines the categories of offices specified in the preceding paragraph.

The appointments to the high civil, military and judicial functions as specified in Article 147-9 of this Transitional Constitution only become effective if they are approved by the Transitional Senate.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 88:

The President of the Republic shall be obliged to consult the Transitional Government of National Unity for appointments of Chiefs of Defence and Security Forces, Governors of Provinces, Commune [Municipality] Administrators, and members of the Constitutional Courts.

Page 16, TITLE V: EXECUTIVE POWER, 5. Public Administration, Article 114:

Public administration must be depoliticised to ensure its stability. A law distinguishes political functions and technical functions.

Holders of the first category may change with the regimes while the technical executives must have a guarantee of continuity.

The administration must be qualified, performing and responsible. It favours the general interest and the correction of imbalances of all kinds.

Page 18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

[...]

3) The political, administrative and judicial organisation:

- general organisation of the administration;
- territorial organisation, creation and modification of the administrative circumscriptions as well as the electoral divisions;

[...]

• general principles of the public function:

**Constitution**

Governance→Constitution→Constitutional reform/making

[Summary: This agreement is a transitional constitution that addresses the following points in its 16 titles: (1) General Dispositions; (2) State and Citizen Sovereignty; (3) Human Rights, Individual and Citizen Obligation; (4) Political Parties System; (5) Executive Power, (6) Legislative Power; (7) On Executive and Legislative Relations; (8) On Judiciary Power; (9) On Defence and Security Forces; (10) On Territorial Collectivities; (11) On elections during the transition; (12) National Councils; (13) National and International Commissions; (14) On International Treaties and Agreements; (15) On Revision of the Transitional Constitution; (16) Transitional and Final Dispositions.]

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**Power sharing**

## Political power sharing

Power sharing→Political power sharing→Executive coalition  
State level

Page 10, TITLE V: EXECUTIVE POWER, Article 77:

The executive power is exercised by a President of the Republic, a Vice-President of the Republic and a Transitional Government of National Unity.

Men and Women who are called upon to lead the transition, must, at any time, show integrity, determination, patriotism and competence, and be deeply committed to the interest of all Burundians, without any discrimination.

They must solemnly take an oath prior entering their functions.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 83:

The President of the Republic exercises the regulatory power and assures the execution of the laws. He exercises his powers by decrees countersigned, the case arising, by the Vice-President and the concerned Minister. The countersignature does not intervene for the acts of the President of the Republic deriving from Articles 86, 90, 92, 156, and 254 of this Transitional Constitution. However, the President of the Republic shall be obliged to consult the Vice-President beforehand.

The President of the Republic may delegate his powers to the Vice-President, except for those enumerated in the preceding paragraph.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 84:

The President of the Republic and the Vice-President, after consultation with leaders of political parties, appoints the members of the Transitional Government of National Unity. They terminate their function.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 86:

The President of the Republic, head of the State, is the Commander-in-Chief of the Defence and of Security Forces. He declares war, may send troops to overseas missions and signs the armistice after consultation with the Vice-President, with the Transitional Government of National Unity, with the Bureaus of the Transitional National Assembly and of the Transitional Senate and with the National Council of Security.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 88:

The President of the Republic shall be obliged to consult the Transitional Government of National Unity for appointments of Chiefs of Defence and Security Forces, Governors of Provinces, Commune [Municipality] Administrators, and members of the Constitutional Courts.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 92:

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the performance of his international commitments are threatened in a serious and immediate manner and when the regular functioning of the authorities is interrupted, the President of the Republic may declare by statutory order a state of exception and take all the measures demanded by the circumstances, after official consultations with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate, the Transitional Government of National Unity and the National Security Council.

The President of the Republic informs the nation of this step by message.

These measures must be inspired by the desire to ensure that the constitutional authorities have, within the shortest possible time, the means of accomplishing their task.

The Constitutional Court is consulted on these measures. The Transitional Parliament may not be dissolved during the exercise of exceptional powers.

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 97:

<b>Territorial power sharing</b>	No specific mention.
<b>Economic power sharing</b>	No specific mention.
<b>Military power sharing</b>	<p>Power sharing→Military power sharing→Merger of forces</p> <p>Page 10, TITLE IV: POLITICAL PARTIES, Article 76: Any accredited political party or political movement shall take part in the transitional arrangements, including those relating to the integration of the defence and security forces, considering the political configuration of each party, if it is participating and respects the commitments set out in the Agreement, in particular those relating to a peaceful transition.</p> <p>Any party or political party that signs or agrees to sign an undertaking by which it confirms its intention to take part in the transitional arrangements and to work for peace, national reconciliation and democracy, is a participating party.</p> <p>Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 198: The correction of the disequilibrium within the Corps of Defence and of Security is dealt with progressively in a spirit of reconciliation and trust in order to secure all Burundians. The correction of imbalances is achieved during the transitional period by the integration, within the defence and security corps, of combattants of political parties and movements from the signing of the global and permanent ceasefire by all the belligerents, and by the recruitment of other Burundian citizens.</p> <p>Power sharing→Military power sharing→Proportionality</p> <p>Page 23, TITLE VI: LEGISLATIVE POWER, 3. The Transitional Senate, Article 147: The Transitional Senate is provided with the following competences: [...]</p> <p>4. Controlling the application of the constitutional provisions by demanding the representativeness and the equilibrium in the composition of all elements of the civil service, the defence and security forces;</p> <p>Page 32, TITLE IX: DEFENCE AND SECURITY FORCES, Article 194: The defence and security forces must reflect the determination of Burundians, as individuals and as a nation, to live equally, in peace and harmony, and to be free from fear.</p> <p>The State has a duty to put in place a proactive defence and security policy that reinforces the unity and cohesion of the Burundian people, in particular by ensuring the necessary ethnic and regional balances.</p> <p>Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 197: The Corps of Defence and of Security are open without discrimination to all Burundian citizens who desire to be a part of them. Their organisation is based on volunteering and on professionalism. During a period to be determined by the Senate, the Corps of Defence and of Security may not include more than 50% of the members belonging to a particular ethnic group, taking into account the necessity to assure the ethnic equilibrium and to prevent the acts of genocide and the coups d'Etat.</p>



**Human rights/RoL  
general**

[Summary, Pages 4-9: The title III of the agreement provides in its entirety for human rights, duties of the individual and of the citizen. See the specific provisions in the categories below]

Page 9, TITLE IV: POLITICAL PARTIES, Article 67

The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 81:

When entering in function, the President of the Republic solemnly takes the following oath, received by the Constitutional Court before the Transitional National Assembly: "Before the Burundian People, sole holder of the national sovereignty, I, (enounce the name), President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the national unity and the cohesion of the Burundian People, [and] social peace and justice. I engage myself to fight any ideology and practice of genocide and of exclusion, to promote and to defend the individual and collective rights and freedoms of the person and of the citizen, and to safeguard the integrity and the independence of the Republic of Burundi."

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 94:

The President of the Republic is only penally responsible for the acts accomplished in the exercise of his functions in case of high treason.

There is high treason when, in violation of the Charter of National Unity, the Arusha Peace and Reconciliation Agreement for Burundi, the Transitional Constitution or of the law, the President of the Republic deliberately commits an act contrary to the superior interests of the nation which gravely compromises the national unity, social peace, social justice, the development of the country, or gravely infringes the human rights, the territorial integrity, the national independence and the national sovereignty.

The crime of high treason belongs to the competence of the High Court of Justice.

The crimes which may constitute crimes of high treason likely to be reproached to the President of the Republic and applicable sentence are defined by law.

The President of the Republic may only be impeached by the Transitional National Assembly and the Transitional Senate meeting in Congress and deciding by secret vote, by a majority of two-thirds of their members. The investigation may only be conducted by a team of at least three magistrates of the General Office of Prosecutors of the Republic presided over by the General Prosecutor of the Republic.

Page 14, TITLE V: EXECUTIVE POWER, 2. The Vice-President of the Republic, Article 100:

At the moment of entering into functions, the Vice-Presidents solemnly takes the following oath, received by the Constitutional Court, before the Transitional National Assembly:

Before the Burundian people, sole holder of the national sovereignty, I (enounce the

Article 15:

The rights and duties proclaimed and guaranteed by the Charter of National Unity, the Universal Declaration of Human Rights, international treaties relating to human rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Rights of the Child form an integral part of the present Transitional Constitution. These basic rights are not the subject of any restriction or dispensation, except in certain justifiable circumstances, acceptable under international law and for which provision has been made in the present Transitional Constitution.

## **Treaty incorporation**

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, Article 15:

The rights and duties proclaimed and guaranteed by the Charter of National Unity, the Universal Declaration of Human Rights, international treaties relating to human rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Rights of the Child form an integral part of the present Transitional Constitution. These basic rights are not the subject of any restriction or dispensation, except in certain justifiable circumstances, acceptable under international law and for which provision has been made in the present Transitional Constitution.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 82:

The President of the Republic, Head of the State, incarnates the national unity, sees to the respect for the Charter of National Unity and the Transitional Constitution and assures by his arbitration the continuity of the State and the regular functioning of the powers.

He is the guarantor of the national independence, of the integrity of the territory and of the respect for the international treaties and agreements.

Page 15, TITLE V: EXECUTIVE POWER, 3. The Transitional Government of National Unity, Article 106:

The Transitional Government of National Unity deliberates obligatorily on the general policy of the State, the bills of international treaties and agreements, the bills of laws, the bills of presidential decrees, the orders [arrêts] of a Vice-President and the ordinances of the Ministers having a character of general regulation.

Page 32, TITLE IX: DEFENCE AND SECURITY FORCES, Article 195:

The Defence and of Security Forces are designed and organised in accordance with the transitional Constitution. Their members must to act in conformity with the Transitional Constitution and the laws, regulations, as well as with the international conventions and agreements of which Burundi is a part.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 246:

The President of the Republic has the high direction of international negotiations. He signs and ratifies international treaties and agreements.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 247:

The treaties of peace and the treaties of commerce, the treaties relating to international organisation, the treaties which engage the finances of the state, those that modify the provisions of legislative nature as well as those relating to the state of persons, may be ratified only by virtue of a law.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 248:

The Republic of Burundi may create with other States international organisations of common administration and coordination and of free cooperation. It may conclude agreements of association or of community with other States.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 249:

The treaties take effect only after having been regularly ratified and under reserve of their application by the other party in the case of bilateral treaties[,] and the realisation of the conditions for the entry into force specified by them for the multilateral treaties.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 250:

Agreements for the installation of foreign military bases on the national territory as well

## **Civil and political rights**

Human rights and equality→Civil and political rights→Life

Page 4, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 21:

Every woman and man has the right to life, to security of the person and to physical integrity.

Human rights and equality→Civil and political rights→Torture

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 28:

No one may be subjected to torture, brutality or cruel, inhuman or degrading treatment.

Human rights and equality→Civil and political rights→Equality

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 6:

The principle of the Republic of Burundi is “Government of the people, by the people and for the people”. Its political system must be in accordance with the basic values of Burundian society, which are national unity, social peace, democracy, social justice, development, national independence and sovereignty.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 23:

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 46:

Every person with equal competence has the right to equal pay for equal work without any discrimination.

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:

Duties of the Individual and of the Citizen, Article 57:

Every individual has the duty to respect and value his fellow without discrimination, and to maintain relations which enable the promoting, safeguarding and reinforcing of respect and tolerance.

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:

Duties of the Individual and of the Citizen, Article 60:

All citizens are expected to fulfil their civic obligations and defend the country. Every person has the duty to work for the common good and to fulfil his professional obligations. Everyone bears public responsibilities equally. No one may be discharged from such except as may be established by law. The state may proclaim that all citizens bear jointly the responsibilities that result from national and natural disasters.

Page 9, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2,

Article 63:

Every individual has the duty to contribute to the safeguard of peace, of democracy and of social justice.

Page 9, TITLE IV: POLITICAL PARTIES, Article 69:

Political parties commit themselves in writing to fight against any political ideology and any act aimed at encouraging violence, hatred or negative discrimination.

Page 13, 1. The President of the Republic, Article 94:

There is high treason when, in violation of the Charter of National Unity, the Arusha Peace and Reconciliation Agreement for Burundi, the Transitional Constitution or of the law, the President of the Republic deliberately commits an act contrary to the superior interests of the nation which gravely compromises the national unity, social peace, social justice, the development of the country, or gravely infringes the human rights, the territorial integrity, the national independence and the national sovereignty.

Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 197:

The Corps of Defence and of Security are open without discrimination to all Burundian citizens who desire to be a part of them. Their organisation is based on volunteering and

## **Socio-economic rights**

Human rights and equality→Socio-economic rights→Property

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 36:

Every person has the right to property. No one may be deprived of their property except for reasons of public utility, in cases and in the manner established by law and in return for a just and previous compensation or in execution of a judicial decision, given with the force of a judged matter.

Page 18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

[...]

2) The status of the persons and of the assets:

[...]

- regime of the property, of the real rights and of the civil and commercial obligations;

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 238:

The Commission has the most extensive powers to deal with land and other rights issues in the rehabilitation of victims [sinistrés], returnees and exiles.

The Commission's decisions are guided by the need to reconcile the objectives of respect of the law, equity, reconciliation and social peace.

Human rights and equality→Socio-economic rights→Work

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 45:

The state recognises the right for all citizens to work and shall strive to create conditions which enable the enjoyment of this right. It recognises the right for every person to enjoy just and appropriate labour conditions and guarantees to the worker just compensation for services or production.

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 46:

Every person with equal competence has the right to equal pay for equal work without any discrimination.

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 47:

The right to establish and to join trade unions, as well as the right to strike, are recognised. The law can regulate the exercise of these rights and prohibit certain categories of persons from going on strike.

Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

[...]

9°. The legislation of work, of social security, of the trade-union right, including the conditions for the exercise of the right to strike.

Human rights and equality→Socio-economic rights→Health

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 39:

Every child has the right to individual measures to ensure or improve the care that is necessary to his or her well-being, health and physical safety, and to be protected against abuse, acts of violence or exploitation.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

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**Rights related issues**

## Citizenship

Rights related issues→Citizenship→Citizen, general

Page 9, TITLE IV: POLITICAL PARTIES, Article 66:

The political party is a non-profit organisation, with a civil personality, gathering citizens around a societal democratic project founded on national unity, with a separate political programme, with precise objectives, seeking public good and ensuring the development of all citizens.

Political parties may form coalitions during elections, in accordance with the provisions of the electoral law.

Political parties and coalitions of political parties must promote the free expression of suffrage and participate in political life by peaceful means.

Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 198:

The correction of the disequilibrium within the Corps of Defence and of Security is dealt with progressively in a spirit of reconciliation and trust in order to secure all Burundians.

The correction of imbalances is achieved during the transitional period by the integration, within the defence and security corps, of combattants of political parties and movements from the signing of the global and permanent ceasefire by all the belligerents, and by the recruitment of other Burundian citizens.

Rights related issues→Citizenship→Citizens, specific rights

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 8:

Suffrage is universal, equal and secret. It can be direct or indirect under conditions provided for by the electoral act. Voters, under conditions determined by the electoral act, are all Burundians who have turned eighteen and enjoy civil and political rights.

[Summary, Page 4-9: The title III of the agreement provides in its entirety for human rights, duties of the individual and of the citizen. See the specific provisions in the other relevant categories].

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 81:

When entering in function, the President of the Republic solemnly takes the following oath, received by the Constitutional Court before the Transitional National Assembly: "Before the Burundian People, sole holder of the national sovereignty, I, (enounce the name), President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the national unity and the cohesion of the Burundian People, [and] social peace and justice. I engage myself to fight any ideology and practice of genocide and of exclusion, to promote and to defend the individual and collective rights and freedoms of the person and of the citizen, and to safeguard the integrity and the independence of the Republic of Burundi."

Page 14, TITLE V: EXECUTIVE POWER, 2. The Vice-President of the Republic, Article 100:

At the moment of entering into functions, the Vice-Presidents solemnly takes the following oath, received by the Constitutional Court, before the Transitional National Assembly:

Before the Burundian people, sole holder of the national sovereignty, I (enounce the name), Vice-President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the unity and the national cohesion of the Burundian people, social peace and justice. I engage myself to fighting any ideology and practice of genocide and of exclusion, to promoting and defending the individual and collective rights and freedoms of the person and of the citizen, and to safeguarding the integrity and the independence of the Republic of Burundi.

## Democracy

Page 2, TITLE I: GENERAL PROVISIONS, Article 3:

The transitional institutions are entrusted with applying the Arusha Agreement for Peace and Reconciliation in Burundi, with a view to ending the Burundian conflict by establishing a legal, just and democratic state, capable of reassuring and promoting all the elements of the nation and thus releasing their creative energy in order to make them dynamic agents committed to consolidating the nation and promoting the economic, social and cultural development of the country.

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

3° Reconcile and Unify Burundians and lay the foundation for a democratic and unified Burundi, thanks to, among other things, the promotion of a wide programme of education to peace, democracy, ethnic, regional and religious tolerance;

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 5:

Burundi is a unified, independent and sovereign, secular and democratic Republic. The status and re-establishment of the monarchy can only be decided by means of a referendum.

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 6:

The principle of the Republic of Burundi is “Government of the people, by the people and for the people”. Its political system must be in accordance with the basic values of Burundian society, which are national unity, social peace, democracy, social justice, development, national independence and sovereignty.

Page 9, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:

Duties of the Individual and of the Citizen, Article 63:

Every individual has the duty to contribute to the safeguard of peace, of democracy and of social justice.

Page 9, TITLE IV: POLITICAL PARTIES, Article 66:

The political party is a non-profit organisation, with a civil personality, gathering citizens around a societal democratic project founded on national unity, with a separate political programme, with precise objectives, seeking public good and ensuring the development of all citizens.

Political parties may form coalitions during elections, in accordance with the provisions of the electoral law.

Political parties and coalitions of political parties must promote the free expression of suffrage and participate in political life by peaceful means.

Page 9, TITLE IV: POLITICAL PARTIES, Article 67

The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

**Detention  
procedures**

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Rights of the Individual, Article 24:

No one may be indicted, arrested or detained except in cases determined by the law, promulgated before the acts of which one has been accused. The right to defence is guaranteed before all the courts. None may be separated without their consent from the judge assigned to them by law.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Rights of the Individual, Article 41:

No child may be detained except as a last resort, in which case the duration of the detention will be the shortest possible. Every child who is detained must be separated from other detainees over the age of 16 and must benefit from a treatment and conditions of detention appropriate to his or her age.

## **Media and communication**

Rights related issues→Media and communication→Governance of media

Page 35, TITLE XII: NATIONAL COUNCILS, Article 207:

With a view to ensuring a wide participation of citizens in the management of public affairs, the state is putting in place the following national councils:

[...]

- The National Council of Communication.

The Transitional Government of National Unity guarantees to these councils the means needed for them to function.

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 208:

The National Council for National Unity and Reconciliation is a consultative organ given the charge of notably:

[...]

- following regularly the evolution of the Burundian society from the point of view of the issue of the national unity and of reconciliation;
- producing periodically a report on the status of the national unity and of the reconciliation and bring it to the cognisance of the nation;

[...]

Page 38, TITLE XII: NATIONAL COUNCILS, 5. OF THE NATIONAL COUNCIL OF COMMUNICATION, Article 223:

The National Council of Communication sees to the freedom of audio-visual and written communication within the respect for the law, for public order and for morality.

The National Council of Communication has, to this effect, a power of decision notably in [the] matter of the respect for and the promotion of the freedom of the press and the equitable access of the diverse political, social, economical and cultural opinions to the public media.

The Council of Communication plays equally a consultative role vis-a-vis the Government in [the] matter of communication.

Page 38, TITLE XII: NATIONAL COUNCILS, 5. OF THE NATIONAL COUNCIL OF COMMUNICATION, Article 224:

The National Council of Communication is composed of members chosen in the sector of communication and in the diverse sectors of users of the media, on the base of the interest that they bear for social communication, for the freedom of the press, of expression and of opinion.

Page 38, TITLE XII: NATIONAL COUNCILS, 5. OF THE NATIONAL COUNCIL OF COMMUNICATION, Article 225:

The members of the National Council of Communication are appointed by the President of the Republic in concert with the Vice-President of the Republic.

Page 38, TITLE XII: NATIONAL COUNCILS, 5. OF THE NATIONAL COUNCIL OF COMMUNICATION, Article 226:

The National Council of Communication produces an annual report that it submits to the President of the Republic, to the Transitional Government of National, to the Transitional National Assembly and to the Transitional Senate.

Page 38, TITLE XII: NATIONAL COUNCILS, 5. OF THE NATIONAL COUNCIL OF COMMUNICATION, Article 227:

An organic law determines the missions, the composition, organisation and functioning of the National Council of Communication.

Rights related issues→Media and communication→Media roles

Page 2, Title I: General Dispositions, Article 4:

**Mobility/access**      No specific mention.

**Protection  
measures**

Rights related issues→Protection measures→Protection of civilians  
Page 5, 1. Rights of the Individual

Article 30

All Burundians have the right to move and establish themselves freely on their national territory as well as to leave it and re-enter it. The exercise of this right may be limited by law only for reasons of public order or the security of the state, in order to guard against collective dangers or to protect persons in danger

Page 7, 1. Rights of the Individual

Article 48

Each person has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which that person is the author.

Article 50

Any restriction of a basic right must be founded on a legal basis; it must be justified by general interest or by the necessity to protect a basic right of other people; it must be proportionate to the object in view.

Rights related issues→Protection measures→Protection of groups

Page 5, 1. Rights of the Individual

Article 23

All women and all men are equal in dignity, rights and duties. No one may be discriminated against, notably because of origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions, a physical or mental handicap, or for being a carrier of HIV/AIDS. All citizens are equal before the law, which ensures them equal protection.

Page 6, 1. Rights of the Individual

Article 39

Every child has the right to individual measures to ensure or improve the care that is necessary to his or her well-being, health and physical safety, and to be protected against abuse, acts of violence or exploitation

Article 40

No child may be used directly or indirectly in an armed conflict. The protection of children is ensured in periods of armed conflict.

Page 7, 1. Rights of the Individual

Article 49

Every foreigner in the territory of the Republic enjoys the protection granted to persons and property

by virtue of the present Transitional Constitution and of the law. A foreigner prosecuted for the crime

**Other**                      No specific mention.

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**Rights institutions**

**NHRI**                      No specific mention.

**Regional or  
international  
human rights  
institutions**                      No specific mention.

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**Criminal justice and emergency law**

Justice sector reform→Criminal justice and emergency law→Reform to specific laws

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 25:

Every person accused of an unlawful act is presumed innocent until guilt has been legally established in the course of a public process, during which all the guarantees necessary to one's defence have been assured.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 92:

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the performance of his international commitments are threatened in a serious and immediate manner and when the regular functioning of the authorities is interrupted, the President of the Republic may declare by statutory order a state of exception and take all the measures demanded by the circumstances, after official consultations with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate, the Transitional Government of National Unity and the National Security Council.

The President of the Republic informs the nation of this step by message.

These measures must be inspired by the desire to ensure that the constitutional authorities have, within the shortest possible time, the means of accomplishing their task.

The Constitutional Court is consulted on these measures. The Transitional Parliament may not be dissolved during the exercise of exceptional powers.

Page 17, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 119:

Parliamentarians and senators may not be prosecuted, searched, arrested, detained or judged for opinions or votes issued during session.

Except in the case of flagrante delicto, the Deputies and the Senators may not, during the duration of the sessions, be prosecuted except with the authorisation of the Bureau of the Transitional National Assembly or of the Bureau of the Transitional Senate.

The Deputies and the Senators may not, out of session, be arrested except with the authorisation of the Bureau of the Transitional National Assembly for the Deputies or the Bureau of the Transitional Senate for the Senators, except in the case of flagrante delicto, of prosecutions already authorised or of definitive condemnation.

Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 127:

The matters other than those of the domain of the law have a regulatory character.

Justice sector reform→Criminal justice and emergency law→Criminal Justice System reform

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 26:

No one may be convicted for actions or omissions which, at the time when they were committed, did not constitute an infraction. In the same way, no greater punishment than that applicable at the time when the infraction was committed, may be imposed.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 31:

No citizen may be forced into exile.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 32:

The right of asylum is recognised under conditions defined by the law. Extradition is authorised only within the limits specified by law. No Burundian may be extradited abroad except if he has been prosecuted by an international criminal jurisdiction for

**State of emergency provisions**

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 92:

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the performance of his international commitments are threatened in a serious and immediate manner and when the regular functioning of the authorities is interrupted, the President of the Republic may declare by statutory order a state of exception and take all the measures demanded by the circumstances, after official consultations with the Vice-President of the Republic, the committees of the Transitional National Assembly and of the Transitional Senate, the Transitional Government of National Unity and the National Security Council.

The President of the Republic informs the nation of this step by message.

These measures must be inspired by the desire to ensure that the constitutional authorities have, within the shortest possible time, the means of accomplishing their task.

The Constitutional Court is consulted on these measures. The Transitional Parliament may not be dissolved during the exercise of exceptional powers.

## Judiciary and courts

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

7° Implement measures and undertake reforms related to the judiciary, administration and the Defence and Security Forces in accordance with the Arusha Agreement for Peace and Reconciliation in Burundi;

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 51:

The judicial power, guardian of rights and freedoms, guarantees the respect for these rights within the conditions specified by the law.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 81:

[Summary] The President must undertake an oath in front of the Constitutional Court.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 87:

The President of the Republic appoints the superior civil and military offices.

An organic law determines the categories of offices specified in the preceding paragraph.

The appointments to the high civil, military and judicial functions as specified in Article 147-9 of this Transitional Constitution only become effective if they are approved by the Transitional Senate.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 88:

The President of the Republic shall be obliged to consult the Transitional Government of National Unity for appointments of Chiefs of Defence and Security Forces, Governors of Provinces, Commune [Municipality] Administrators, and members of the Constitutional Courts.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 90:

The President of the Republic has the right of pardon which he exercises after consultation with the Vice-President of the Republic and after receiving the opinion of the Superior Council of Magistracy.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 92:

...

The Constitutional Court is consulted on these measures [issuing a state of emergency].

The Transitional Parliament may not be dissolved during the exercise of exceptional powers.

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 94:

[Summary] The investigation of the President for High Treason may only be conducted by a team of at least three magistrates of the General Office of Prosecutors of the Republic presided over by the General Prosecutor of the Republic.

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 97:

...

The vacancy [of the presidency] is declared by the Constitutional Court referred to [the matter] by the Transitional Government of National Unity represented by the Vice-President of the Republic. The interim authority may not form a new Government. ...

Page 14, TITLE V: EXECUTIVE POWER, 2. The Vice-President of the Republic, Article 100:

At the moment of entering into functions, the Vice-Presidents solemnly takes the following oath, received by the Constitutional Court...

Page 18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national

**Prisons and detention**

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 41:

No child may be detained except as a last resort, in which case the duration of the detention will be the shortest possible. Every child who is detained must be separated from other detainees over the age of 16 and must benefit from a treatment and conditions of detention appropriate to his or her age.

Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

... 3) The political, administrative and judicial organisation:

... • penitentiary regime;

**Traditional Laws**

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 208:

The National Council for National Unity and Reconciliation is a consultative organ given the charge of notably:

[...]

- conceiving and initiating the necessary actions in view of rehabilitating the institution of Ubushingantahe, to make of it an instrument of peace and of social cohesion;

[...]

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**Development or socio-economic reconstruction**

Socio-economic reconstruction→Development or socio-economic reconstruction→Socio-economic development

Page 2, TITLE I: GENERAL PROVISIONS, Article 3:

The transitional institutions are entrusted with applying the Arusha Agreement for Peace and Reconciliation in Burundi, with a view to ending the Burundian conflict by establishing a legal, just and democratic state, capable of reassuring and promoting all the elements of the nation and thus releasing their creative energy in order to make them dynamic agents committed to consolidating the nation and promoting the economic, social and cultural development of the country.

Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 6:

The principle of the Republic of Burundi is “Government of the people, by the people and for the people”. Its political system must be in accordance with the basic values of Burundian society, which are national unity, social peace, democracy, social justice, development, national independence and sovereignty.

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1. Rights of the Individual, Article 43:

The state is obliged to promote the development of the country, in particular rural development.

Page 9, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2: Duties of the Individual and of the Citizen, Article 64:

Every Burundian has the duty to work towards the construction and prosperity of the country.

Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

[...]

8°. The objectives of the economical and social action of the State;

Page 32, TITLE IX: DEFENCE AND SECURITY FORCES, Article 193:

The Defence and Security Forces are constituted of:

[...]

3. The national intelligence service, which is a body designed, organised and trained to seek, centralise and exploit any information likely to contribute to the protection of the State, its institutions and its international relations, and Prosperity of its economy.

Page 34, TITLE XII: TERRITORIAL COLLECTIVITIES, Article 204:

The State shall ensure the harmonious and balanced development of all municipalities in the country on the basis of national solidarity.

Page 35, TITLE XII: NATIONAL COUNCILS, Article 207:

With a view to ensuring a wide participation of citizens in the management of public affairs, the state is putting in place the following national councils:

[...]

- The Economic and Social Council;

[...]

The Transitional Government of National Unity guarantees to these councils the means needed for them to function.

Page 37, TITLE XII: NATIONAL COUNCILS, 4. OF THE ECONOMICAL AND SOCIAL COUNCIL, Article 219:

The Economical and Social Council is a consultative organ having competence in all the

**National economic plan** No specific mention.

**Natural resources** No specific mention.

**International funds** No specific mention.

**Business** Page 18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:  
The following are of the domain of the law:  
[...]  
2) The status of the persons and of the assets:  
[...]  
• regime of the property, of the real rights and of the civil and commercial obligations;

Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:  
The following are of the domain of the law:  
[...]  
6°. The nationalisation and denationalisation of enterprises and the transfer of property of enterprises from the public sector to the private sector;

**Taxation** Socio-economic reconstruction→Taxation→Reform of taxation  
Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:  
The following are of the domain of the law:  
[...]  
5°. The financial and patrimonial issues:  
• regime for the emission of the currency;  
• budget of the State;  
• definition of the tax base and of the rate of the taxes and the assessments [taxes];  
• alienation and administration of the domain of the State;  
6°. The nationalisation and denationalisation of enterprises and the transfer of property of enterprises from the public sector to the private sector;

**Banks** Socio-economic reconstruction→Banks→Central bank  
Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:  
The following are of the domain of the law:  
[...]  
5°. The financial and patrimonial issues:  
• regime for the emission of the currency;

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## **Land, property and environment**

**Land reform/rights** Land, property and environment→Land reform/rights→Property return and restitution  
Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 238:  
The Commission has the most extensive powers to deal with land and other rights issues in the rehabilitation of victims [sinistrés], returnees and exiles.  
The Commission's decisions are guided by the need to reconcile the objectives of respect of the law, equity, reconciliation and social peace.

**Pastoralist/  
nomadism rights** No specific mention.

**Cultural heritage** Land, property and environment→Cultural heritage→Intangible  
Page 3, TITLE II: THE STATE AND THE SOVEREIGNTY OF THE PEOPLE, Article 13:  
The national language is Kirundi. The official languages are Kirundi and all other languages determined by the law. All the legislative texts must have their original version in Kirundi.  
Land, property and environment→Cultural heritage→Promotion  
Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2: Duties of the Individual and of the Citizen, Article 58:  
Every Burundian must look, in relations with society, to the defence and reinforcement of Burundian cultural values and contribute to the establishment of a morally healthy society.

**Environment** Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2: Duties of the Individual and of the Citizen, Article 60:  
All citizens are expected to fulfil their civic obligations and defend the country. Every person has the duty to work for the common good and to fulfil his professional obligations. Everyone bears public responsibilities equally. No one may be discharged from such except as may be established by law. The state may proclaim that all citizens bear jointly the responsibilities that result from national and natural disasters.  
  
Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:  
The following are of the domain of the law:  
[...]  
4°. The protection of the environment and the conservation of the natural resources;  
  
Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 250:  
Agreements for the installation of foreign military bases on the national territory as well as those permitting the storage of toxic wastes and other materials which may cause serious damage to the environment are prohibited.

**Water or riparian  
rights or access** No specific mention.



## **Security Guarantees**

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Article 27:

No one may be subjected to security measures except in such cases and forms specified by the law, especially for reasons of public order or the security of the state.

Page 5, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Rights of the Individual, Article 30:

All Burundians have the right to move and establish themselves freely on their national territory as well as to leave it and re-enter it. The exercise of this right may be limited by law only for reasons of public order or the security of the state, in order to guard against collective dangers or to protect persons in danger.

Page 6, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.  
Rights of the Individual, Article 39:

Every child has the right to individual measures to ensure or improve the care that is necessary to his or her well-being, health and physical safety, and to be protected against abuse, acts of violence or exploitation.

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:  
Duties of the Individual and of the Citizen, Article 62:

Every Burundian has the duty to defend the national independence and the integrity of the territory. Every citizen has the sacred duty of watching and participating in the defence of the country. Every Burundian and every foreigner who lives in the territory of the Republic, has the duty not to compromise the security of the state.

Page 9, TITLE IV: POLITICAL PARTIES, Article 67

The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Page 9, TITLE IV: POLITICAL PARTIES, Article 69:

Political parties commit themselves in writing to fight against any political ideology and any act aimed at encouraging violence, hatred or negative discrimination.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 86:

The President of the Republic, head of the State, is the Commander-in-Chief of the Defence and of Security Forces. He declares war, may send troops to overseas missions and signs the armistice after consultation with the Vice-President, with the Transitional Government of National Unity, with the Bureaus of the Transitional National Assembly and of the Transitional Senate and with the National Council of Security.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 92:

When the institutions of the Republic, the independence of the nation, the integrity of the territory or the performance of his international commitments are threatened in a serious and immediate manner and when the regular functioning of the authorities is

## Ceasefire

Security sector→Ceasefire→General commitments

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

1° Manage security and seek primarily for a ceasefire;

[...]

5° Implement measures and arrangements related to the restoration of peace, the cessation of hostilities and the establishment of a professional and loyal army in Burundi;

[...]

7° Implement measures and undertake reforms related to the judiciary, administration and the Defence and Security Forces in accordance with the Arusha Agreement for Peace and Reconciliation in Burundi;

8° Adopt an electoral law, establish an independent electoral commission and ensure the holding of the first elections at local and national level;

9° Adopt laws on political parties, local authorities, the press and any other areas required by the Arusha Agreement for Peace and Reconciliation in Burundi and to respond to the needs of the transitional institutions;

Page 32-33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 196:

The following principles guide the design, organisation and use of defence and security forces:

[...]

(6) the defence and security forces and their members may not, in the exercise of their functions,

- prejudice the interests of a political party which, under the terms of the Transitional Constitution, is legal;
- express political preferences;
- favour the interests of a political party in a partisan manner;
- being a member of a political party or political association;
- participate in political activities or events.

Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 198:

The correction of the disequilibrium within the Corps of Defence and of Security is dealt with progressively in a spirit of reconciliation and trust in order to secure all Burundians. The correction of imbalances is achieved during the transitional period by the integration, within the defence and security corps, of combattants of political parties and movements from the signing of the global and permanent ceasefire by all the belligerents, and by the recruitment of other Burundian citizens.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 251:

During the transition period, the Transitional Government of National Unity will call upon an international peacekeeping force within the framework of the Arusha Agreement for Peace and Reconciliation in Burundi and with the prior agreement of The Transitional National Assembly and the Transitional Senate.

The implementation of the above paragraph is conditional upon the signature of a ceasefire.

## Police

Page 10, TITLE IV: POLITICAL PARTIES, Article 72:

Members of the armed forces, of the police corps as well as the magistrates, while active, are not authorised to belong to political parties.

Page 15, TITLE V: EXECUTIVE POWER, 3. The Transitional Government of National Unity, Article 104:

The President of the Republic and the Vice-President of the Republic shall ensure that the Minister given the charge of the Force of National Defence is not of the same ethnicity as the Minister responsible for the National Police.

Page 27, TITLE VIII: JUDICIAL POWER, Article 164:

Justice is rendered by the courts and tribunals in all the territory of the Republic in the name of the Burundian People.

The role and the attributions of the Public Ministry are fulfilled by the Prosecuting Magistrates. However, the judges of the [Ordinary] Tribunals of Residence and the officers of the police may fulfil vis-a-vis these tribunals the duties of the Public Ministry under the surveillance of the Prosecutor of the Republic.

An organic law establishes the organisation and the judicial competences.

Page 29, TITLE VIII: JUDICIAL POWER, 2. OF THE SUPREME COURT, Article 176:

The Supreme Court is the highest ordinary jurisdiction of the Republic. It is guarantor of the good application of the law by the courts and tribunals. It includes:

- (1) a chamber of cassation that hears appeals against last-instance decisions handed down by the courts other than those referred to in the first paragraph of Article 177;
- (2) an administrative chamber which reviews appeals against decisions handed down by administrative courts and on other appeals provided for in the laws;
- (3) a judicial chamber which deals with offenses committed by the political office holders that may be tried by the Supreme Court in the first and last resort.

[Summary Pages 32-33. The TITLE IX of the agreement provides in its entirety for defence and security forces, which are constituted by the national defence, the national police and the national intelligence service. The National Police of Burundi is a body designed, organised and trained for the maintenance of security and order within the country. See the specific provisions in the armed forces category.]

## Armed forces

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

5° Implement measures and arrangements related to the restoration of peace, the cessation of hostilities and the establishment of a professional and loyal army in Burundi;

[...]

7° Implement measures and undertake reforms related to the judiciary, administration and the Defence and Security Forces in accordance with the Arusha Agreement for Peace and Reconciliation in Burundi;

Page 10, TITLE IV: POLITICAL PARTIES, Article 72:

Members of the armed forces, of the police corps as well as the magistrates, while active, are not authorised to belong to political parties.

Page 10, TITLE IV: POLITICAL PARTIES, Article 76:

Any accredited political party or political movement shall take part in the transitional arrangements, including those relating to the integration of the defence and security forces, considering the political configuration of each party, if it is participating and respects the commitments set out in the Agreement, in particular those relating to a peaceful transition.

Any party or political party that signs or agrees to sign an undertaking by which it confirms its intention to take part in the transitional arrangements and to work for peace, national reconciliation and democracy, is a participating party.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 86:

The President of the Republic, head of the State, is the Commander-in-Chief of the Defence and of Security Forces. He declares war, may send troops to overseas missions and signs the armistice after consultation with the Vice-President, with the Transitional Government of National Unity, with the Bureaus of the Transitional National Assembly and of the Transitional Senate and with the National Council of Security.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 87:

The President of the Republic appoints the superior civil and military offices.

An organic law determines the categories of offices specified in the preceding paragraph. The appointments to the high civil, military and judicial functions as specified in Article 147-9 of this Transitional Constitution only become effective if they are approved by the Transitional Senate.

Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 88:

The President of the Republic shall be obliged to consult the Transitional Government of National Unity for appointments of Chiefs of Defence and Security Forces, Governors of Provinces, Commune [Municipality] Administrators, and members of the Constitutional Courts.

Page 15, TITLE V: EXECUTIVE POWER, 3. The Transitional Government of National Unity, Article 104:

The President of the Republic and the Vice-President of the Republic shall ensure that the Minister given the charge of the Force of National Defence is not of the same ethnicity as the Minister responsible for the National Police.

Page 16, TITLE V: EXECUTIVE POWER, 4. The Governor of Province, Article 113: The

Governor of the province is appointed by the President of the Republic, after consultation with the Vice-President and after confirmation with the Transitional Consultation. He must be a civilian, native or from [ressortissant] the territorial entity

<b>DDR</b>	No specific mention.
<b>Intelligence services</b>	[Summary Pages 32-33. The TITLE IX of the agreement provides in its entirety for defence and security forces, which are constituted by the national defence, the national police and the national intelligence service. The national intelligence service is a body designed, organised and trained to seek, centralise and exploit any information likely to contribute to the protection of the State, its institutions and its international relations, and Prosperity of its economy. See the specific provisions in the armed forces category.]
<b>Parastatal/rebel and opposition group forces</b>	<p>Page 33, TITLE IX: DEFENCE AND SECURITY FORCES, Article 198:</p> <p>The correction of the disequilibrium within the Corps of Defence and of Security is dealt with progressively in a spirit of reconciliation and trust in order to secure all Burundians. The correction of imbalances is achieved during the transitional period by the integration, within the defence and security corps, of combattants of political parties and movements from the signing of the global and permanent ceasefire by all the belligerents, and by the recruitment of other Burundian citizens.</p>
<b>Withdrawal of foreign forces</b>	No specific mention.
<b>Corruption</b>	<p>Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2: Duties of the Individual and of the Citizen, Article 59:</p> <p>Public property is sacred and inviolable. Every person has the duty to respect it scrupulously and protect it. Every Burundian has the duty to defend the inheritance of the nation. Every act of sabotage, vandalism, corruption, embezzlement or waste, or any other act that may cause damage to public property, is punishable within the conditions specified by the law.</p> <p>Page 17-18, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 121:</p> <p>An organic law establishes the regime of indemnities and advantages of the Deputies and the Senators as well as the regime of the incompatibilities. It equally specifies their specific regime of social security.</p> <p>At the moment of entering into [their] functions and at the end of them, the members of the Bureau of the Transitional National Assembly and of the Transitional Senate are required to make on their honour a written declaration of their assets and patrimony addressed to the competent jurisdiction.</p> <p>The Transitional National Assembly and Transitional Senate enjoy each administration and financial management autonomy.</p> <p>Page 19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 130:</p> <p>A Court of Accounts is created and organised by law, it will be given the charge of examining and certifying the accounts of all the public services.</p> <p>The Court of Accounts presents to the Transitional National Assembly a report on the regularity of the general account of the State and confirms whether the funds have been used in accordance with the established procedures and with the budget approved by the Transitional National Assembly.</p>

**Crime/organised crime** No specific mention.

**Drugs** No specific mention.

**Terrorism** No specific mention.

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## **Transitional justice**

**Transitional justice general** Page 2, Title I: General Dispositions, Article 4:  
The period of transitional regime is dedicated to achieving the following aims:  
[...]  
6° Ensure the adoption of agreed measures to deal with the consequences of crimes committed in the past and to avoid any repetition of genocide, exclusion and impunity;

**Amnesty/pardon** Transitional justice→Amnesty/pardon→Power to amnesty  
Page 12, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 90:  
The President of the Republic has the right of pardon which he exercises after consultation with the Vice-President of the Republic and after receiving the opinion of the Superior Council of Magistracy.

Page 18-19, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 126:

The following are of the domain of the law:

[...]

3) The political, administrative and judicial organisation:

[...]

- amnesty.

Page 31, TITLE VIII: JUDICIAL POWER, 4. The High Court of Justice, Article 189:

[...]

The decisions of the High Court of Justice are not susceptible to any appeal, except by pardon or revision.

## Courts

Transitional justice→Courts→International courts

Page 7, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 1.

Rights of the Individual, Article 49:

Every foreigner in the territory of the Republic enjoys the protection granted to persons and property by virtue of the present Transitional Constitution and of the law. A foreigner prosecuted for the crime of genocide, a crime against humanity of a war crime, may be extradited to an international criminal court.

Page 39, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 1. The International Commission of Judicial Inquiry, Article 228:

The Transitional Government of National Unity is required to request the United Nations to set up an International Commission of Judicial Inquiry assigned to inquire into the acts of genocide, war crimes and other crimes against humanity, committed in Burundi from independence to the date of the signing of the Agreement, and to report on this to the Security Council of the UN. The tasks of the International Commission of Judicial Inquiry are the following:

- To investigate and establish the facts covering the period from independence to the date of the signing of the Agreement;
- To describe these facts;
- To establish who was responsible for them;
- To submit this report to the Security Council of the United Nations.

The government requests the Security Council of the United Nations to establish an international criminal tribunal assigned to judge and punish the guilty, in the event of the report establishing the existence of acts of genocide, war crimes and other crimes against humanity.

## Mechanism

Page 28, TITLE VIII: JUDICIAL POWER, 1. OF THE SUPREME JUDICIAL COUNCIL, Article 172:

The Supreme Council of Magistracy assists the President of the Republic and the Government in: the elaboration of the policy on [the] matter of justice; the following of the situation of the country in the judicial domain and in that of human rights; the elaboration of the strategies in [the] matter of the fight against impunity.

Page 35, TITLE XII: NATIONAL COUNCILS, Article 207:

With a view to ensuring a wide participation of citizens in the management of public affairs, the state is putting in place the following national councils:

- The National Council for National Unity and Reconciliation;
- The National Observatory for the Prevention and Eradication of Genocide, War Crimes and Crimes against Humanity;

[...]

The Transitional Government of National Unity guarantees to these councils the means needed for them to function.

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 208:

The National Council for National Unity and Reconciliation is a consultative organ given the charge of notably:

- conducting reflections and giving advice on all essential issues related to unity, to peace and to national reconciliation, in particular those relating to the prioritising missions of the institutions;
- following regularly the evolution of the Burundian society from the point of view of the issue of the national unity and of reconciliation;
- producing periodically a report on the status of the national unity and of the reconciliation and bring it to the cognisance of the nation;
- emitting proposals in view of the improvement of the situation of the national unity and of the reconciliation in the country;
- conceiving and initiating the necessary actions in view of rehabilitating the institution of Ubushyamba, to make of it an instrument of peace and of social cohesion;
- emitting opinions and proposals on other matters of interest to the nation.

The National Council for National Unity and Reconciliation is consulted by the President of the Republic, the Transitional Government of National Unity, the Transitional National Assembly and the Transitional Senate.

On its own initiative, it may equally emit opinions and render them public.

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 209:

The National Council for National Unity and Reconciliation is composed of notable persons recognised for their moral integrity and the interest they bear for the life of the nation and more particularly to its unity. The members of the National Council for National Unity and Reconciliation are appointed by the President of the Republic in concert with the Vice-President of the Republic.

Page 35, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 210:

The members of the National Council for National Unity and Reconciliation must take an oath to defend the national unity and to promote reconciliation.



Page 36, TITLE XII: NATIONAL COUNCILS, 1. THE NATIONAL COUNCIL FOR NATIONAL UNITY AND RECONCILIATION, Article 211:

The National Council for National Unity and Reconciliation produces an annual report that it submits to the President of the Republic, to the Transitional Government of

**Prisoner release**      No specific mention.

**Vetting**                No specific mention.

## Victims

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

4° Ensure the repatriation of Burundians living outside the national territory as well as the resettlement, reintegration and rehabilitation of the victims [sinistrés];

Page 36, TITLE XII: NATIONAL COUNCILS, 2. OF THE NATIONAL OBSERVATORY FOR THE PREVENTION AND THE ERADICATION OF GENOCIDE, OF WAR CRIMES AND OF CRIMES AGAINST HUMANITY, Article 213:

The National Observatory for the prevention and the eradication of genocide, of war crimes and of crimes against humanity is a consultative organ given the charge of notably:

following regularly the evolution of the Burundian society from the point of view of the issue of genocide, of war crimes and of other crimes against humanity;

[...]

- proposing policies and measures for the rehabilitation of the victims of genocide, of war crimes and of other crimes against humanity;

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 234:

The National Commission for the Rehabilitation of Victims [Sinistrés] is tasked with preparing and organising the repatriation of refugees as well as the reinstallation and reinsertion of victims. It must ensure the equity, transparency and common sense of all its decisions.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 235:

Members of the Commission are emanating from participating parties and other sectors of national life.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 236:

The members of the Commission shall be appointed by the President of the Republic in consultation with the Vice-President of the Republic. They are chosen for their morals, integrity and competence.

The President and Vice-President of the Commission shall be elected by the members of the Commission. They cannot belong to the same ethnic group or to the same political family.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 237:

The Commission benefits from administrative and financial autonomy.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 238:

The Commission has the most extensive powers to deal with land and other rights issues in the rehabilitation of victims [sinistrés], returnees and exiles.

The Commission's decisions are guided by the need to reconcile the objectives of respect of the law, equity, reconciliation and social peace.

Page 40, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 3. The National Commission for the Rehabilitation of Victims [Sinistrés], Article 239:

The Commission shall send an annual report on its activities to the President of the Republic, the Transitional Government of National Unity, the Transitional National Assembly and the Transitional Senate.

**Missing persons**      No specific mention.

**Reparations**      No specific mention.

## Reconciliation

Page 2, Title I: General Dispositions, Article 4:

The period of transitional regime is dedicated to achieving the following aims:

[...]

3° Reconcile and Unify Burundians and lay the foundation for a democratic and unified Burundi, thanks to, among other things, the promotion of a wide programme of education to peace, democracy, ethnic, regional and religious tolerance;

Page 8, TITLE III: HUMAN RIGHTS, DUTIES OF THE INDIVIDUAL AND OF THE CITIZEN, 2:

Duties of the Individual and of the Citizen, Article 54:

Every Burundian has the duty to preserve and reinforce national unity in accordance with the Charter of National Unity.

Page 9, TITLE IV: POLITICAL PARTIES, Article 67:

The political parties might freely constitute themselves and are registered in accordance with the present Transitional Constitution and the law.

To be registered, they are required in particular to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: respect, defence and consolidation of national unity; the protection and promotion of the fundamental human rights; the promotion of a State based on respect and defence of democracy; the defence of territorial integrity and national sovereignty; the proscription of intolerance, genocide ideology, ethnic prejudice, regional prejudice, xenophobia and the use of violence in all its forms.

Political parties are required to comply with the Charter of National Unity and the principles set out above in the course of their operation.

No political party can be recognised if it is created and organised on the basis of ethnic or regional exclusion.

Page 11, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 81:

When entering in function, the President of the Republic solemnly takes the following oath, received by the Constitutional Court before the Transitional National Assembly:

“Before the Burundian People, sole holder of the national sovereignty, I, (enounce the name), President of the Republic of Burundi, swear fidelity to the Charter of the National Unity, to the Constitution of the Republic of Burundi and to the law and engage myself to dedicate all my forces to the defence of the superior interests of the nation, to assure the national unity and the cohesion of the Burundian People, [and] social peace and justice. I engage myself to fight any ideology and practice of genocide and of exclusion, to promote and to defend the individual and collective rights and freedoms of the person and of the citizen, and to safeguard the integrity and the independence of the Republic of Burundi.”

Page 13, TITLE V: EXECUTIVE POWER, 1. The President of the Republic, Article 94:

The President of the Republic is only penally responsible for the acts accomplished in the exercise of his functions in case of high treason.

There is high treason when, in violation of the Charter of National Unity, the Arusha Peace and Reconciliation Agreement for Burundi, the Transitional Constitution or of the law, the President of the Republic deliberately commits an act contrary to the superior interests of the nation which gravely compromises the national unity, social peace, social justice, the development of the country, or gravely infringes the human rights, the territorial integrity, the national independence and the national sovereignty.

The crime of high treason belongs to the competence of the High Court of Justice.

The crimes which may constitute crimes of high treason likely to be reproached to the President of the Republic and applicable sentence are defined by law.

The President of the Republic may only be impeached by the Transitional National Assembly and the Transitional Senate meeting in Congress and deciding by secret vote, by a majority of two thirds of their members. The investigation may only be conducted

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## Implementation

**UN signatory** No specific mention.

**Other international signatory** No specific mention.

**Referendum for agreement** No specific mention.

**International mission/force/similar**

Page 39, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 1. The International Commission of Judicial Inquiry, Article 228:

The Transitional Government of National Unity is required to request the United Nations to set up an International Commission of Judicial Inquiry assigned to inquire into the acts of genocide, war crimes and other crimes against humanity, committed in Burundi from independence to the date of the signing of the Agreement, and to report on this to the Security Council of the UN. The tasks of the International Commission of Judicial Inquiry are the following:

- To investigate and establish the facts covering the period from independence to the date of the signing of the Agreement;
- To describe these facts;
- To establish who was responsible for them;
- To submit this report to the Security Council of the United Nations.

The government requests the Security Council of the United Nations to establish an international criminal tribunal assigned to judge and punish the guilty, in the event of the report establishing the existence of acts of genocide, war crimes and other crimes against humanity.

Page 42, TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS, Article 251:

During the transition period, the Transitional Government of National Unity will call upon an international peacekeeping force within the framework of the Arusha Agreement for Peace and Reconciliation in Burundi and with the prior agreement of The Transitional National Assembly and the Transitional Senate.

The implementation of the above paragraph is conditional upon the signature of a ceasefire.

## **Enforcement mechanism**

Page 20, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 131:

The two chambers of the Transitional Parliament meet in Congress to:

[...]

4. Evaluate the implementation of the Arusha Agreement for Peace and Reconciliation in Burundi;

Page 20, TITLE VI: LEGISLATIVE POWER, 1. The provisions common to the national assembly and to the senate, Article 132:

The Transitional Parliament in joint session organises every six-month a session to evaluate the implementation of the agreement, based on reports from the Government and the Commission for the Implementation of the Agreement.

The Government, the National Councils and the Commissions provided for in Title XIII shall participate as of right in this Congress. They can ask the floor and answer the questions put to them.

Members of the Transitional National Assembly co-opted for the Transitional Senate are not replaced.

Page 23, TITLE VI: LEGISLATIVE POWER, 3. The Transitional Senate, Article 147:

The Transitional Senate is provided with the following competences:

[...]

6. Ensuring the respect of the implementation of the Arusha Agreement for Peace and Reconciliation in Burundi;

Page 30, TITLE VIII: JUDICIAL POWER, 3. The Constitutional Court, Article 183:

The Constitutional Court is competent to:

[...]

6. Verify whether the post-transition Constitution adopted by the Transitional National Assembly is in conformity with the Arusha Agreement for Peace and Reconciliation in Burundi.

[...]

Page 40-41, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 4. The Monitoring Commission for Implementation of the Agreement, Article 241:

The Monitoring Commission for Implementation of the Agreement must carry out the following functions:

(a) ensure the monitoring, the control, the supervision, the coordination and the effective implementation of all the provisions of the Agreement;

(b) see that the timetable for implementation is respected;

(c) that the Agreement is correctly interpreted;

(d) reconcile different points of view;

(e) arbitrate and resolve all disagreement that can arise between the signatories;

(f) direct and coordinate the activities of all the commissions and sub-commissions created in application of the different protocols intended to implement the Agreement;

(g) help and support the government in the diplomatic mobilisation of financial, material, technical and human resources needed to implement the Agreement;

(h) decide on the admission of other participating parties, in accordance with article 76, paragraph 2;

(i) ensure that measures relating to the prevention, repression and eradication of acts of genocide, war crimes and other crimes against humanity are carried out.

Page 41, TITLE XIII: NATIONAL AND INTERNATIONAL COMMISSIONS, 4. The Monitoring Commission for Implementation of the Agreement, Article 242:

The Monitoring Commission for Implementation of the Agreement may communicate to the Transitional Government of National Unity any information relating to governmental

**Related cases**      No specific mention.

**Source**              <https://www.uantwerpen.be/>

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