

- A balanced system for punishing antisocial acts committed during public meetings or demonstrations.

However, an analysis of Law n°1/28 of December 05, 2013, on public meetings and demonstrations on the public highway reveals significant shortcomings in these various aspects.

III. KEY FINDINGS

- A problematic definition of the notion of public order, which means that administrative powers to restrict freedom of assembly and demonstration are virtually unlimited.
- Excessively long registration deadlines, which adversely affect the political relevance of demonstrations.
- Imprecision in the procedure for declaring the desire to demonstrate (e.g.: imprecision in the notion of “competent authority” to receive the declaration).
- Significant grey areas (notably as regards the legal effect of the administration’s silence on the declaration of intent to demonstrate),

In addition, the powers that be must bear in mind that there are major dividends to be had from opening civic space and strengthening democracy and the rule of law in general. It’s no secret that the political stability that comes with a democratically functioning state and respect for rights and freedoms creates conditions conducive to the internal and external investment that poor states like Burundi crucially need. In addition, cooperation with Burundi’s traditional technical and financial partners depends on the human rights situation and the state of democracy. Cooperation agreements between the European Union and African, Caribbean, and Pacific countries are just one example.

II. REFERENCE

A study of international and regional instruments on freedom of assembly reveals the key elements that characterize legislation creating the conditions for optimal exercise of these freedoms:

- A genuine declaration system, with no cumbersome procedures that could turn it into a de facto authorization system;
- An appropriate mechanism for supervising public meetings/demonstrations, based on the principles of negotiated management of public space;

Public meetings and demonstrations on the public highway: For a legal framework that respects Burundi international commitments and its constitution.

I. INTRODUCTION

A state is not democratic when its citizens do not enjoy the freedom to assemble in the public space and, where necessary, to express themselves through demonstrations. It is thus to promote an open and democratic society that the constitution of June 07, 2018, provides as follows, respectively in articles 31 and 32: “freedom of expression is guaranteed. The State respects freedom of religion, thought, conscience and opinion” and “freedom of assembly and association is guaranteed, as is the right to found associations or organizations in accordance with the law.”

If the “need to safeguard and perpetuate a pluralist democratic order and the rule of law[Preamble of the Constitution, para 8]” is not to be an empty slogan, it is urgent to rethink the legal arsenal and refine the tools for its implementation. What’s more, it’s in no-one’s interest to maintain the status quo. Firstly, it is obvious that every Burundian and every person living in Burundi has an interest in seeing their rights and freedoms respected, whatever their political affiliation.



- Imprecise organization of legal recourse against negative administrative decisions concerning public meetings/demonstrations on public thoroughfares (imprecise notion of “emergency procedure”)
- Enormous powers granted to undefined individuals (administration “delegates”)
- Unreasonable criminal and civil liability for organizers of meetings/demonstrations and leaders of initiating organizations.

IV. RECOMMANDATIONS

1. To the Burundian authorities:

A. To the Parliament:

- Review the 2013 law on public meetings and demonstrations on the public highway to consider the grievances identified above.

B. To the Government:

- Continuously train administrative managers and agents as well as law enforcement officers on the content and means of implementing the law on public meetings/demonstrations on public thoroughfares.

- Continuously train the forces of law and order in human rights and the negotiated management of public space.

C. To the Public Prosecutor’s Office:

- Initiate proceedings against state agents and political activists who have exercised various forms of violence against citizens exercising their democratic freedoms, including those of assembling and demonstrating on public thoroughfares, particularly from April 2015.

2. To the Independent National Human Rights Commission « CNIDH »

To carry out its missions fully and unreservedly, and in particular:

- To provide the Government and Parliament, in an advisory capacity, with opinions, recommendations and proposals on all issues relating to the promotion and protection of human rights.
- To contribute to the harmonization of national legislation with international and regional human rights instruments.

3. To civil society organizations :

- Continue to advocate with Burundian and international players for the reopening of civic space in Burundi, by revising the law on public meetings and demonstrations on the public highway.

- Exercise relevant jurisdictional and/or quasi-jurisdictional recourses in Burundi (e.g.: Constitutional Court) and abroad (e.g.: African Commission on Human and Peoples’ Rights, Court of Justice of the East African Community) to have the liberticidal nature of certain laws formally noted and to request their revision, accordingly.
- Continue to educate Burundians about rights and freedoms, notably through the media, with a view to contributing to the awakening/training/consolidation of a culture of active and demanding citizenship.

4. To Burundi technical and financial partners

- Use their positive influence on the Burundian government, both through political dialogue and through technical and budgetary support mechanisms, to encourage it to open up civic space.

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