

November 2017

Burundi's constitutional amendment: what do we know so far?

For the past five years, since [the 2012 new year's address](#) by President Nkurunziza, the future of Burundi's constitution has been a controversial issue. On 15 November 2017, a commission in charge of drafting a constitutional amendment bill will conclude its activities. What do we know so far about the constitutional change? The short answer is: very little. Nevertheless, some insights and questions arise when looking at (i) the process and time-line of the constitutional amendment, (ii) some legal procedural challenges and (iii) the officially communicated or informally leaked substantive points. Structured along these lines, the purpose of this Brief is to present a state of the art. The purpose is not to judge the desirability of a constitutional amendment which [for the government is a matter of national sovereignty](#) and which [some opposition groups have referred to as a declaration of war and a red line](#) that should not be crossed.

Introduction

Since independence, Burundi has faced [several violent disruptions of its constitutional order, periods of constitutional void and replacements \(rather than revisions\) of the constitution](#). It has almost no experience with orderly, non-conflictual constitutional amendments. Amidst a major political, institutional and security crisis, the [multi-party Constitution of 13 March 1992](#) was the subject of some highly controversial revisions in 1994, shortly after the assassination of the first [democratically elected President Melchior Ndadaye](#) and other dignitaries during a seemingly failed coup attempt on 21 October 1993. In July 1996, former President Pierre Buyoya - defeated at the 1993 elections - [returned to power by force](#). Faced with an ongoing and violent political stalemate and a regional embargo, he launched a negotiations process that gave rise to a new interim and post-transition constitutional blueprint for Burundi, laid down in the [Arusha Peace and Reconciliation Agreement of 28 August 2000 \(APRA\)](#). The [Transitional Constitution of 28 October 2001](#) was amended, without much contestation, on [21 November 2003](#), essentially to adapt the country's interim constitutional arrangement to the [peace agreement](#) that was signed five days earlier between the transitional government established on the basis of the APRA and the rebel movement CNDD-FDD (Conseil National pour la Défense de la Démocratie – Forces de Défense de la Démocratie) of Pierre Nkurunziza, the current dominant party. On 18 March 2005, a new [post-transition Constitution](#) was promulgated, adopted by referendum and largely based on the constitutional

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blueprint laid down in the internationally mediated APRA. A [first attempt](#) at amending the 2005 Constitution failed early 2014, as a result of the strict qualified majority requirements laid down in the Constitution and, more importantly, of the opposition (both outside and within CNDD-FDD) against President Nkurunziza’s ambition to run for a third term in office. In the end, he was able to do so without a constitutional amendment but on the basis of a highly disputed constitutional court interpretation of a somewhat ambiguously worded constitutional two term limit. The [court ruling of 4 May 2015](#) came at the height of [popular demonstrations](#) against Nkurunziza’s third term and shortly before a failed coup d’Etat on 13 May 2015.



#Ikiyago @pnkurunziza: "Si le peuple du #Burundi décide de changer la Constitution selon ses vœux, je suivrai leur décision comme tel"



Vertalen uit het Frans
00:01 - 30 dec. 2016

Although Nkurunziza [on 6 May 2015 stated](#), in line with the constitutional court ruling, that he was running for a *final* term, the current constitutional amendment process is widely believed to be inspired, amongst other things, by his ambition to rule beyond 2020. In December 2016, he [declared that he might decide to run for office in 2020](#) if the people asked him to do so, a statement he has neither publicly repeated nor corrected since then.

At a cabinet meeting on 24 October 2017, an event [widely covered by international news media](#), the government analyzed a list of potential constitutional amendments. In a [press statement](#) after the meeting, government spokesperson Philippe Nzobonariba gave some indications of the substantive amendments studied by the cabinet and announced that the government gave its approval for a

constitutional bill to be drafted, after “enriching or changing” some of the proposed amendments (“*le Conseil des Ministres a donné son accord pour qu’un projet de Constitution amendé soit élaboré après avoir enrichi ou amendé certaines propositions*”). Before briefly analyzing some of the substantive points raised in the press release, this Brief first looks at some aspects related to political process and legal procedure.

A lengthy preparatory process increasingly shrouded in secrecy

The process paving the ground for an amendment of the Constitution is characterized by at least two remarkably features. First, while the process was initially alleged to be largely inclusive, transparent and popular demand-driven, it has in reality been increasingly shrouded in secrecy. Second, it takes remarkably long, which might signal some internal disagreement at the very top of the CNDD-FDD.

(1) In September 2015, one month after taking the oath for his third (or second directly elected) term, President Nkurunziza established a National Commission for Inter-Burundian Dialogue (CNDI). The CNDI, composed of 15 members, was charged with organizing a country-wide dialogue through meetings, hearings and seminars with participants debating a broad range of social, political, economic, security and peace related issues, including an evaluation of the APRA and the Constitution ([Articles 8 and 9 of the Decree of 23 September 2015](#)). The CNDI was the government’s response to the internationally supported and funded [Burundi Dialogue launched by the East African Community](#) (EAC) in July 2015 under the mediation of

Ugandan President Museveni, assisted (from March 2016 onwards) by the former Tanzanian President Mkapa as facilitator. For the government, it was (and remains) essential that the debate around the political crisis, including around Burundi's constitutional future, takes place domestically and does not lead to [an "Arusha II"-process firmly rejected by CNDD-FDD](#). CNDI hearings were organized all over the country, with local administrators, opinion leaders and ordinary people actively participating. Quite remarkably, many of them voiced almost identical opinions and demands about sometimes highly technical legal issues (like the constitutional status of the APRA), which lends support to the critique that the hearings were – at least on certain issues - carefully government orchestrated rather than a popular demand-driven bottom-up process. In August 2016, the CNDI published

a three-page [press release outlining some of the interim findings](#), including on the constitutional amendment reportedly desired by the Burundian people. These were that (i) most participants opposed presidential term limits; (ii) most participants wished that the Constitution prevails over the APRA (which contains an unambiguous two term limit); (iii) participants no longer wished to have former heads of State as non-elected senators-for-life; (iv) participants wished that the judiciary stands on an equal footing with the legislature and the executive branch and that errors contained in the Constitution and the Arusha Agreement be corrected. In May 2017, the CNDI handed its 86-page report to the President (in accordance with article 23 of the Decree

of 23 September 2015). A short [one-page press release](#) noted that the main proposal ("*la proposition majeure*") emerging from the national dialogue was the need to amend the Constitution and adapt it to the current realities. In particular, the CNDI press release noted that most of the Burundians shared the view that presidential term limits should be removed, even though a non-negligible part ("*une autre partie non négligeable*") thought that term limits were a democratic guarantee. Six months later, the CNDI report has still not been made public (neither publicly nor informally). Nor was it discussed in parliament. This stands in remarkable contrast with the alleged inclusive and transparent nature of the national dialogue when it was launched. In summary, the people of Burundi have so far not been allowed to read the outcome of the CNDI consultations, i.e. their own views and suggestions. Some usually well-informed sources told me that the CNDI did not even write its own final report, a claim that is obviously hard to verify. (Similarly, rumour had it that the constitutional court ruling of 4 May 2015 was not written at the court, but 'elsewhere'.) In summary, what was launched as a participatory dialogue to publicly discuss a broad range of issues gradually became – and became widely perceived as - an increasingly opaque process that focused primarily on the need to revise the constitution.

Around the time when he received the CNDI report, President Nkurunziza [appointed the 15 members](#) of the Commission that he had established through a [decree of 15 March 2017](#), in charge of drafting the constitutional amendment bill. This Constitutional Commission, a follow-up body to the CNDI and directly affiliated to the President's office (art. 1), is charged, as a first step, with analyzing the articles that require amendments and making



President Nkurunziza receives the CNDI report (May 2017).

a proposal to the government on that basis (art. 4, para. 1). Upon agreement within the government, the commission is then next charged with drafting a bill (art. 4, para. 2). The report that was studied at the Council of Ministers on 24 October 2017 is the result of the first stage of the Commission's activities. Again, the activities of the Constitutional Commission have been shrouded in secrecy. Some members informally leaked some ideas and draft proposals, probably as a way of checking what might be acceptable for Burundi's international partners. But, to my knowledge, no written document on the Commission's activities circulated outside the inner circle. At no point was parliament or the extra-parliamentary opposition – let alone the political opposition in exile – informed about or involved in the activities of the Constitutional Commission. Again, there are speculations that the real preparatory process is – at least in part – taking place elsewhere.

(2) Seen from the perspective of an incumbent president whose successful strategy, ever since the failed coup d'Etat of May 2015, has been based on the creation of a series of '*fait accompli*', the process likely to lead towards a constitutional amendment is taking remarkably long. The CNDI was established in September 2015, initially for a (renewable) period of six months. Its mandate was [renewed in June 2016](#) for six months and, [in January 2017](#), for another four months. The mandate of the Constitutional Commission, also established for six months, was [extended by two months in September 2017](#), ending on 15 November 2017, more than two years after the CNDI was set up... unless an additional last minute extension is decided. After the Commission's activities will have come to end and a constitutional amendment bill will have been drafted, more time will be needed for the next stages, first at the level of the government and, next, either in parliament or for a referendum (see below). In summary, when it comes to the constitutional amendment, creating a new '*fait accompli*' takes an unusually long time. Why is it taking so long? Assuming that the timing is in the hands of a rational actor', what are the costs and benefits of waiting before creating the next '*fait accompli*'? Seen from that angle, there seems to be no cost, as the next elections are due in 2020 only and none of the potential constitutional amendments are very urgent. There might be a benefit, namely in keeping up appearances that the EAC-led mediation does not "*find itself before a fait accompli*", a fear [expressed by Facilitator Mkapa in May 2017](#), and thus in showing some openness for political dialogue as requested by Burundi's main donors. Perhaps more importantly, however, rather than being due to the costs or benefits of waiting before creating the *fait accompli*, the slow progress of the process might well be due to the *uncertainty of the gains* associated with a constitutional amendment. Is the incumbent fully confident that his inner circle supports his continued rule (for which a constitutional amendment is needed, unless he opts for a Kabila-style *de facto* extension)? Or did/does he need more time to manage (and reduce) that uncertainty, rather than running the risk of rushing through a constitutional reform that may backfire if too hastily imposed upon inner circle dissidents? As a detailed [eyewitness account by his former spokesperson](#) shows, the last minute nature of Nkurunziza's announcement to run for an additional term in 2015 was primarily due to strong internal resistance by so-called '*frondeurs*'. Might history repeat itself with the existence of a new group of '*frondeurs 2.0*', even though this group would need to operate in a much more closed political environment

¹ In her autobiography "The power of hope", First Lady Denise Bucumi [suggested that the timing of such a decision is rather in the hands of God](#).

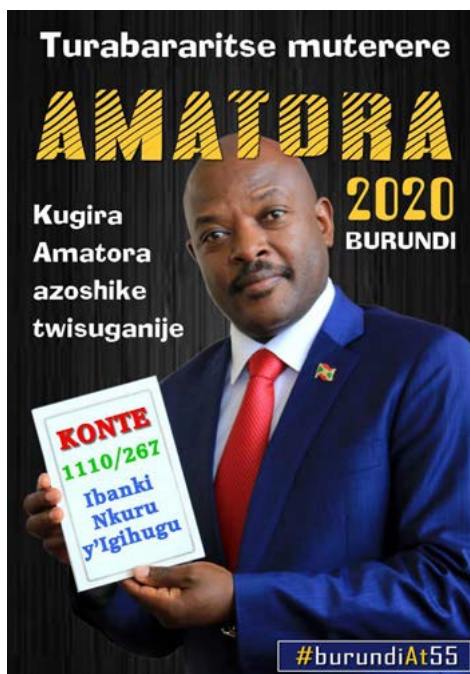
compared to the context prevailing in 2013-2014? Inevitably, this is no more than a speculative hypothesis that requires further research, taking into consideration the recurrent allegations that CNDD-FDD generals from the western ‘*plaine de l’Imbo*’ region reject a fourth (and fifth) term of Nkurunziza.

Procedural matters yet to arise

In November 2013, President Nkurunziza introduced a constitutional amendment bill - [initially presented as a new constitution](#), rather than as a constitutional amendment - to parliament, which was rejected in March 2014. Will he opt for the same procedure? An alternative option might be to submit the amendment to a popular referendum, in accordance with article 298 of the Constitution. While [some media announced](#) that a referendum is likely to be held in February 2018, the press release published after the cabinet meeting of 24 October 2017 does not indicate any choice yet. Two procedural aspects are briefly touched upon here. First, the implications of the choice between a parliamentary and a popular vote are enormous. Secondly, a legal case could be made that, even in case of a referendum, parliament will need to adopt a law in order to allow for the revised Constitution to be promulgated.

(a) Despite its political dominance, CNDD-FDD has no total control over a parliamentary procedure. While in the Senate the party of Nkurunziza has the required two-thirds majority, it does not have the four-fifths majority required in the National Assembly (article 300 of the Constitution). The constitutional amendment bill might therefore become the subject of debates, amendments and juicy deals between the CNDD-FDD and other members of parliament, possibly also between recalcitrant CNDD-FDD MPs who officially must follow party instructions but who can informally try and disturb the process. In December 2013, speaker of parliament Pie Ntavyohanyuma – at that time an undisclosed ‘*frondeur*’ who voted in favour of the bill but was in reality opposed to Nkurunziza’s third term – [spared no effort to try and slow down \(obstruct?\) the legislative process](#). Might history repeat itself under current speaker Pascal Nyabenda, former governor of western Bubanza province (which belongs to the ‘*plaine de l’Imbo*’ region referred to above)?

A politically safer option therefore – at least at first sight - seems to be the referendum. The 2005 Constitution does not contain any majority requirements for a referendum (neither in terms of turn-out nor for approval). Looking back at Burundi’s constitution-making process, this was probably not just an accidental omission. In 2004, the group of G10 predominantly Tutsi parties (who in the end campaigned against the 2005 Constitution) had [proposed a provision requiring a four-fifths majority for any constitutional amendment by referendum](#). That proposal made perfect sense from a consociational power-sharing (and Tutsi minority protection) perspective. (As [documented elsewhere](#), Burundi’s 2005 Constitution is probably the most consociational on the African continent.) But it was not included in the Constitution. The [Electoral Code of 3 June 2014](#) requires an ordinary majority (“more than half of the votes cast”, art. 203). Seen from that angle, the referendum is the preferable option for the government, also to avoid amendments and other requests by the Batwa and other MPs who would need to vote in favour (as happened in 2014). However, the referendum comes with important financial and logistical challenges. A referendum must be organized by the National Electoral Commission (CENI), not only



President Nkurunziza promoting financial electoral self-reliance in 2020.

in Burundi but also enabling participation by Burundians living abroad (art. 204-217 of the Electoral Code). Voter lists would need to be updated. Local branches of the CENI would need to be established (or their current interim ‘*structure légère*’ would need to be reactivated). In the absence of sufficiently detailed arrangements in the Electoral Code, CENI would first need to adopt rules on how to organize the referendum. On the financial side², might the current [campaign around “electoral self-reliance in 2020”](#) also be put to use to fund the referendum? Potentially further complicating the organization of a referendum is the fact that the mandate of the current CENI comes to an end soon. The [decree of 12 March 2012](#) stipulates that CENI members are appointed for a non-renewable mandate of five years (art. 19), with the possibility of extending the mandate for an additional six months (art. 23). The [decree of 11 September 2012](#) amended article 23, allowing for an extension of up to twelve months “in case of necessity” (art. 1). The current CENI was appointed by [decree of 5 December 2012](#), which means that its mandate comes to an end on 5 December 2017³, but could possibly be extended – “in case of necessity” – by another 12 months. CENI chairperson Pierre-Claver Ndayicariye recently insisted that he is by no means interested in an extension of his mandate. A new CENI must be appointed by presidential decree, after approval by a three-quarter majority in both the National Assembly and the Senate (art. 90 of the Constitution). In the Senate, the CNDD-FDD has the required majority. Since the 2015 elections, the [National Assembly counts 121 MPs, with 86 seats taken up by CNDD-FDD](#). A three quarter majority in the National Assembly requires the approval by 91 MPs. In other words, the appointment of a new CENI in charge of organizing a referendum is likely to bring the constitutional amendment issue – at least indirectly – to the table of parliament.

(b) Without going into detail here, there is an additional, strictly technical legal reason why, notwithstanding article 7 of the Constitution⁴, the adoption of a constitutional amendment bill by referendum might arguably require an endorsement in parliament as well. In short, the argument goes as follows. For a constitutional amendment to enter into force, it must be promulgated by the President. Promulgation requires a law. The result of a referendum is verified and officially proclaimed by the constitutional court (art. 228 of the Constitution). However, a ruling of the constitutional court proclaiming the result of a referendum is not a law and cannot be promulgated by the President. The case could therefore be made, in particular when keeping in mind the consociational nature of Burundi’s Constitution, that a legislative act must in any case be adopted in parliament and that this must be done in accordance with article 300 of the Constitution, i.e. with a four-fifths majority in the National Assembly and a two-thirds majority in the Senate.

² In an [informal note he addressed to the President](#) on 1 October 2012, the former Minister of the Interior and current Ombudsman, Edouard Nduwimana, suggested not to use the option of a constitutional amendment by referendum because of its financial implications.

³ Two of the five CENI members fled Burundi at the height of the third term crisis. They were replaced by [Decree of 13 June 2015](#), but the mandate of the two substitutes also comes to an end on 5 December 2017 (article 21 of the [Decree of 13 March 2012](#)).

⁴ “La souveraineté nationale appartient au peuple qui l’exerce, soit directement par la voie du référendum, soit indirectement par ses représentants”.

Substantive changes

In the [press release of 24 October 2017](#), government spokesperson Nzobonariba did not announce any final substantive decision on the constitutional amendment by the government. He selected and disclosed certain proposals put forward by the Constitutional Commission and merely announced that the government – after “enriching and amending” some of the proposals - agreed that a constitutional bill be drafted. The press release could have remained silent on the substantive proposals, but it did not. Did the government disclose some of the proposals before adopting any, in order to provoke some international reactions to those suggestions? In addition, journalists reportedly received further inside information that was not covered in the official press release. Several media presented the recent developments as if the constitutional amendment has already been finalized, thus paradoxically contributing to the progressive realization of the ‘*fait accompli*’ most of them tend to criticize.

From the official press release, we learn that the Commission proposes “a semi-presidential and semi-parliamentary regime” with a directly elected President with own prerogatives and a prime minister head of government who is politically responsible before parliament. The direct election of the President marks continuity rather than change. The words “with own prerogatives” (“*avec des prérogatives propres*”) may refer to a proposed amendment that was already included in [the 2013 constitutional amendment bill](#). Under the current Constitution, the Senate must approve the appointment of provincial governors, ambassadors, constitutional court and supreme court judges, the ombudsman, CENI members and other important office-holders (article 187, paragraph 9). The [2013 bill](#) proposed deleting paragraph 9. Will that proposal be reintroduced in order to make all of these appointments truly “own prerogatives” of the President? Time will tell. On another note, the most striking difference between the press release and the informal leaks reported by media relates to the controversial presidential term limit issue. While the official government communication remains silent on the term limit, [national](#) and [international media reports suggest](#) that the presidential term limit (currently laid down in article 96) will not be removed but altered, imposing a maximum of two consecutive seven-year terms. Assuming that the new constitution’s final provisions will specify that the incumbent is entitled to run for this newly defined presidency in 2020, this would mean that Pierre Nkurunziza might rule until 2034, like his Rwandan colleague Paul Kagame who introduced a constitutional reform [without much international protest](#) let alone aid sanctions, which makes it difficult for Burundi’s donors to protest without applying double standards. The office of the prime minister marks an innovation compared to the current Constitution, but a return to the Constitution of 13 March 1992 (and to the 2013 bill, although it remains to be seen whether the same modalities will be tabled). Nothing is mentioned about the ethnic affiliation of the prime minister. The Commission proposes replacing the current two vice-presidencies by one vice-president who must be another ethnic group and political party than the president. While this apparently respects the consociational nature of the Constitution, important questions relate to the real powers of the vice-president (reduced to a largely ceremonial function in the 2013 bill) and to the risk of [ongoing nyakurisation of the political party landscape](#) (i.e. the orchestrated splitting of political parties through the

creation of a pro-government wing, a problem which the constitutional reform is unlikely to address). Other changes regarding the executive branch are announced in the press release, without further details. This may include a minimum of 35% women ministers (rather than the current 30%), as put forward in the 2013 bill.

Regarding the legislature, the Commission proposes an absolute majority replacing the current qualified (two-thirds) majority requirement for the adoption of all legislation, except for organic laws and other “important matters” for which a three-fifths majority is suggested (which may imply that constitutional amendments, in future, no longer require the current four-fifths majority). If indeed an absolute majority is introduced, the *de facto* veto power of the Tutsi MPs – in theory allowing them to collectively oppose and block a draft law, which to my knowledge has never happened in practice since 2005 – disappears, even if their guaranteed 40% representation in the national assembly is maintained. What was initially conceived as ethnic power-sharing may thus get reduced to mere seat-sharing.⁵ As [others have also argued](#), this reform therefore runs against the consociational spirit of the APRA based Constitution. Quite remarkably, the press release does not refer to the future of former heads of state as senators-for-life, an issue brought up before and by the CNDI (see above).

Regarding the judiciary, the Commission report proposes the use of “ethnic and gender equilibria” (“*le respect des équilibres ethniques et du genre*”) as it is done for the legislature and the executive branch. If the term “*équilibres*” here means “quota”, this implies, first of all, that ethnic quota for parliament and government will (temporarily?⁶) be maintained, which is also what media reported. Secondly, it means that quota may be introduced in the judiciary where they currently do not exist. The 2013 bill proposed a 60-40% Hutu-Tutsi and a minimum 35% women quota system, without specifying at which levels those quota would apply. Seen from this angle, it might be argued that the new Constitution would become more consociational than the current version and the APRA (which insists on the need to balance the judiciary, without however imposing quota).

Regarding the local level administration, the Commission report suggests attributing more weight to the communal administrator vis-à-vis the communal council (in line with the 2013 bill).

As becomes clear on the basis of this short overview, a lot of grey areas remain. Nothing is mentioned, for instance, about possible constitutional reforms pertaining to the security sector. Neither is anything mentioned about dual citizenship and its potential impact on the eligibility for certain positions. Finally, one important cross-cutting issue to be raised here (but disregarded in the press release and, apparently, also by the Commission)

⁵ This is all the more true when taking into consideration another institutional arrangement. The Burundian system was designed in such a way as to promote national unity *within* political parties. The downside is that the ethnic quota (60/40%) requirement for the national assembly can perfectly be implemented in a *de facto* single party system, as long as that party gives a sufficient number of seats to MPs who belong to the non-dominant ethnic group. Like Hutu members of the single party Uprona (under President Buyoya, before the 1992 Constitution), Tutsi members of CNDD-FDD are therefore sometimes pejoratively referred to as *imperekeza* (“*les suiveurs*”, suggesting a merely cosmetic role). In addition, it is worth recalling that the Electoral Code sanctions party defectors who risk losing their seat in case they do not vote according to party instructions (article 112).

⁶ One of the informally leaked ideas was to have all ethnic quota removed before the end of the first post-2020 legislature.

Selected additional reading materials published by the same author

- [Vandeginste, S. \(2017\). *Exit Arusha? Pathways from Power-Sharing in Burundi. A manuscript outline.* University of Antwerp: IOB Working paper 2017.01.](#)
- [Vandeginste, S. \(2016\). *Legal loopholes and the domestic and international politics of executive term limits: insights from Burundi.* *Africa Spectrum*, 51\(2\), 39-63.](#)
- [Vandeginste S. \(2015\). *Burundi's electoral crisis: back to power-sharing politics as usual?* *African Affairs*, 114\(457\), 624-636.](#)
- [Vandeginste S. \(2015\). *Droit et pouvoir au Burundi: un commentaire sur l'arrêt du 4 mai 2015 de la Cour Constitutionnelle dans l'affaire RCCB 303.* In F. Reyntjens et al. \(eds\), *L'Afrique des Grands Lacs. Annuaire 2014-2015.* Antwerp: UPA, 39-62.](#)
- [Vandeginste, S. \(2010\). *Stones Left Unturned. Law and Transitional Justice in Burundi.* Antwerp: Intersentia](#)

is the 'eternity clause' that imposes substantive restrictions on the constitutional amendment. Article 299 of the Constitution stipulates that no revision is permitted when it infringes upon national unity, the cohesion of the Burundian people, the secular nature of the State, reconciliation, democracy and territorial integrity. As explained [elsewhere](#), the kirundi version of article 299 even includes an explicit reference to the *ingingo ngenderwako* (fundamental principles) of the APRA. Two questions arise, which we are not able to address in detail here. First, what is the constitutional legal meaning of the values (cohesion, democracy, etc.) put forward by this eternity clause? It is worth noting that, when introducing the notions of national unity and reconciliation, the second preambular paragraph of the Constitution refers to the APRA⁷. Secondly, at what time during the constitutional amendment procedure can or should article 299 be brought up? In accordance with article 95 of the Constitution, the President must see to it that the Constitution is respected, which obviously also applies to the eternity clause contained in article 299. Furthermore, article 188 stipulates that if there is any doubt or dispute around the admissibility of a bill that is tabled in parliament, the President of the Republic, the speaker of the National Assembly or the president of the Senate takes the matter to the constitutional court for a decision. This as well may be an occasion to apply article 299. It would go beyond the scope of this Brief to analyze to what extent and at which other moments during the process, the Constitutional Court might be charged with verifying and ensuring respect for article 299.

Conclusion

It would be premature to try and draw final conclusions on the ongoing constitutional amendment process set in motion by President Nkurunziza. In this Brief, we have tried to present a state of the art and raise some questions and comments that come to mind when looking at the political process, the legal procedure and some substantive aspects. The main purpose of this Brief is to encourage a widespread and well-informed public debate at a crucial time for the design of Burundi's institutional future, a matter too important to be left to the conjunctural hands of a few insider actors. As [other scholars](#) have argued, participatory constitution making is emerging as a new international best practice and there is no reason why Burundians would not want to be part of that trend.

⁷ According to the constitutional court ruling of 4 May 2015, the APRA is the bedrock ("le socle") of the Constitution. This logically means that the APRA inspires the definition of those two notions contained in article 299.