A. Summary

Rwanda’s legal and institutional framework for elections is a product of its history, characterised by decades of manipulation, violence and divisions based on ethnicity. This history, which culminated in the 1994 genocide of the Tutsi, has inspired fear and diminished the incentives for free and active political expression among Rwandans. It has left in its wake a political culture of deference to authority that threatens the prospects of building a society where politicians and citizens alike can engage constructively on the basis of competing political ideas.

Over the past 18 years, Rwanda has made remarkable progress towards overcoming the burden of its history and building a society founded on the rule of law and good governance. At the heart of this progress is a resolve to ‘never again’ suffer another civil war or genocide. This is the primary organising basis of the country’s statecraft and politics. The salient features of this resolve are captured in the country’s 2003 Constitution, in a set of core commitments and principles that include pledges to fight the ideology of genocide in all its manifestations, eradicate divisionism, promote national unity and reconciliation, and protect and promote the enjoyment of fundamental human rights, including the rights to free speech, association and assembly. The Constitution also opens up the country for political pluralism through the principles of power-sharing, consensus, equality and non-discrimination.

The legal framework for the administration and management of elections derives from the Constitution and is designed to address unique domestic needs while seeking conformity with international standards and best practices. It comprises a continuously improving electoral code and a set of laws prohibiting discrimination, genocide ideology and defamation, while governing other aspects of elections such as political organising and the conduct of the media. These are buttressed by an effective national institutional infrastructure comprising a strong election management body (EMB) – the National
Electoral Commission – and a highly efficient system of national and local government administration. Ten political parties are registered and contest elections regularly under a set of governing laws. This framework remains saddled, however, with a range of fundamental legal and institutional challenges seen by observers as constraining legitimate political debate and freedom of expression. The challenges are manifested in a pre-election period and overall electoral environment often characterised by tension, suppression of critical opposition voices and media, and a general absence of plural, competitive political views.

The National Electoral Commission (NEC), which is the institution responsible for the administration of elections, is vastly improved since its establishment in 2000 and has instituted a wide range of electoral reforms. Opinion is, however, divided on its independence, capacity and ability to deliver free, fair and transparent elections.

On the one hand, the NEC has over the past years demonstrated a high level of organisational capacity in handling elections, evidenced in a number of ways:

- Its continuous self-renewal through regular revisions and updates of the laws governing its activities;
- Its respect for the overall electoral time table;
- The competence of its representatives across the country;
- The adequate numbers and distribution of polling stations and centres country-wide, giving voters easy access to, and allowing for efficient handling of, the voting exercise;
- The efficient deployment of electoral personnel and materials; and
- The efficient enforcement of electoral laws and procedures in a generally equal manner.

On the other hand, some see it as a body that is controlled by the executive and, therefore, constrained in terms of its ability to guarantee free, fair and transparent elections. This is manifested in a number of ways:

- The composition of its commissioners and officials at all levels, including polling agents, who comprise persons seen largely as affiliated or sympathetic to the ruling party;
- Cases of the NEC not investigating or sanctioning the Rwanda Patriotic Front (RPF) and local government agents who commit electoral offences;
- The NEC’s sanction powers, seen as excessive and sometimes applied in favour of the ruling party;
- The domination by RPF members of the colleges for the senatorial, mayoral and other elections under the indirect ballot system;
- The NEC’s locking out of election observers during certain key stages of the electoral process, such as the vote tabulation, transmission and consolidation, thus limiting transparency;
• The last-minute withdrawal of candidature by some electoral contestants, believed to arise from ‘pressure from above’; and
• Charges of NEC agents influencing voters to vote for some candidates.

There are also concerns over the lack of adequate procedural safeguards to guarantee and inspire confidence in the independence of these processes, and over the lack of formal inclusive mechanisms to review and agree on key electoral reforms, particularly following the conclusion of an electoral cycle.

Two major consequences of this lack of confidence in the independence of the NEC and in its ability to deliver free, fair and transparent elections are evident – the lack of interest among political candidates and parties in petitioning unsatisfactory electoral processes and outcomes through the NEC hierarchy or the courts, and the generally low appetite among these entities for exercising their right of oversight over key electoral processes such as vote counting, tabulation, transmission and consolidation.

A particular concern relates to the NEC’s delivery of civic and electoral education, a key ingredient in advancing electoral democracy – and an area identified by observers as requiring deepening. Designed perhaps to suit Rwanda’s unique circumstances, the NEC’s and indeed the overall national focus of civic and electoral education seems oriented more towards propagating the values of patriotism and service and getting citizens to exercise an electoral obligation, rather than advancing the greater goal and imperative of encouraging citizens to participate fully in the political life of their communities and country, and to commit to fundamental values and principles of democracy. There is no comprehensive legal framework for the participatory development and delivery of civic and electoral education in the country as yet, and the scope and content of civic education remains narrowly defined and controlled largely by the NEC, with civil society and other stakeholders participating only at the commission’s discretion. As a result, a comprehensive civil society programme for civic and electoral education has not evolved.

B. History and politics of elections
The electoral landscape in Rwanda today is the product of a history characterised by manipulation, violence and divisions based on ethnicity. These characteristics culminated in the Rwandan civil war of 1990–1993 and the 1994 Genocide in which close to 1 million Tutsis and moderate Hutus were killed.
Pre-independence Rwanda (Rwanda-Urundi)

Pre-colonial Rwanda was a strong monarchy headed by a king, the Mwami. Rwanda first became a German protectorate in 1884. Six years later, in 1890, it became part of German East Africa. In 1919, following the end of the First World War, Rwanda was administered by Belgium, under the mandate of the League of Nations. In 1946, with the end of the Second World War, it became a United Nations (UN) trust territory under Belgian administration. This period also marked the beginning of Rwanda’s transition towards modern-day government. Under the trusteeship, the Belgian colonial administration was required to implement a plan for political, social and economic reforms in the colony.

The mid-1950s saw increased demands for self-rule among the Tutsi ruling elite opposed to Belgian colonial rule. It also saw an emergence of a Hutu counter-elite opposed to the monarchy and demanding greater social and economic opportunities, as well as political rights. In 1959, the Tutsi elite formed a political party, the Union Nationale Rwandaise (UNAR) to claim Rwanda’s independence as a constitutional monarchy. In the same year, encouraged by the Belgian authorities, the Hutu counter-elite formed a rival political party, Parti de l’émancipation du peuple Hutu (Parmehutu). Two other political parties were founded around the same time – the Association for Social Promotion of the Masses (Association pour la Promotion Sociale des Masses, APROSOMA), a predominantly ethnic Hutu party, and the Rwandese Democratic Rally (Rassemblement Démocratique Rwandais, RADER), a more multi-ethnic party.

In November 1959, a spate of ethnically motivated violence erupted and spread across the whole country following the attack on Dominique Mbonyumutua, a popular Hutu leader and one of only ten Hutu vice-chiefs at the time. Following the violence, the Belgian administration imposed a state of emergency, placed the country under military occupation and introduced a wide range of political and administrative changes, mostly favouring the Hutu. In one profound change, it replaced all the Tutsi chiefs and vice-chiefs who had been killed or displaced during the violence and others who were relieved of their duties with Hutus. Most UNAR members were removed from local administration structures and replaced by APROSOMA, Parmehutu and RADER.


According to Lemarchand, R (1970) Rwanda and Burundi, London, Pall Mall Press, p. 172, then Belgian Proconsul, Colonel Logiest, made profound changes in the composition of Rwandan administrative personnel. Of the 45 chiefs in office, 23 were dead, or had fled during the violence, as well as 158 of the 489 vice-chiefs. Logiest set up a policy to systematically replace the chiefs and the vice chiefs who were missing, had fled or had been relieved of their duties with Hutus. In the end, the administration was split 50:50 between Hutus and Tutsis.

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supporters. In mid-1960, amid continuing violence, a commune-level elections were conducted for mayors and local councillors in which the Hutu parties, supported by the administration, received a massive electoral victory. Following the insurrection, Parmehutu made substantial changes to its political ideology, seeking independence under a constitutional republic where previously it had favoured a constitutional monarchy. At a party congress in May 1960, it added the suffix MDR (Mouvement Démocratique Républicain, or Democratic Republican Movement) to underline its break with the monarchy. UNAR and RADER protested against this racist position. In October of the same year, an interim council and government were installed based on the results of the June elections, with Grégoire Kayibanda as head. These elections had been met with protests from UNAR and RADER and were largely boycotted by supporters of the two parties.

At a meeting in the UN in October 1960, Mwami Kigeri protested against the establishment of institutions imposed by Belgium.293

On 28 January 1961, a meeting of mayors and district councillors, called with the tacit support of the Belgian administration, decided to abolish the monarchy and to establish a republic. It elected Dominic Mbonyumutua as the President of the Republic and Grégoire Kayibanda as Prime Minister. It also elected a legislative assembly and appointed a government and a Supreme Court.294 On 1 February 1961, the new legislative assembly adopted a Constitution.

These developments occurred in contravention of UN resolutions 1579, 1580 and 1605 of late 1960 and early 1961, passed to guide Rwanda’s transition to independence in the final years of the Belgian trusteeship. The resolutions had laid out clear transitional steps and urged the administration, among other things, to:

- Abolish the emergency regime;
- Grant amnesty to those charged with offences linked to political violence;
- Allow an expeditious return and rehabilitation of thousands of Tutsi refugees forced into exile by the violence to enable them to participate in democratic political activities;
- Facilitate a reconciliatory conference of political parties before holding legislative elections;
- Reinstate and allow the return of the Mwami and oversee a popular referendum to ascertain people’s wishes regarding him and his institution; and
- Oversee the formation of a caretaker government to conduct legitimate legislative elections leading to independence.295

Rwanda thus became a republic before gaining independence. At the UN, Belgium was the only state to implicitly recognise the legitimacy of what was widely regarded as a

294 Viret (2010), op. cit.
295 Article 76, legal.un.org/repertory/art76/english/rep_sup3_vol3-art76_e.pdf.
coup d’état by governmental bodies established by irregular and unlawful means. In a reverse move to show compliance with the resolutions, the Belgian administration suspended the government established on 28 January 1961 and implemented a few of the resolutions, among them those granting amnesty for political crimes. There was, however, no agreement on the establishment of a caretaker government.

On 25 September 1961 – amid a new wave of violence that saw 150 people killed, 3,000 homes burnt and more than 20,000 Tutsis displaced and forced into exile, and during which several members of the UNAR and APROSOMA parties were arrested – the UN supervised legislative assembly elections and a referendum on the monarchy. A total of 95.2% of all registered voters cast their ballots. Two ballot questions were framed on the retention of the monarchy:

Should the monarchy in Rwanda be preserved?
Should Kigeri V remain the King of Rwanda?

On both questions the vote was an overwhelming No by 80% of the voters. Both institutions were subsequently abolished. In the legislative elections, Parmehutu won the majority stake (77.6%), followed by UNAR (16.9%), APROSOMA (3.6%) and RADER (0.3%).

Early in October of the same year, the new legislative assembly proclaimed the establishment of a republican regime. Grégoire Kayibanda was elected President of the Republic of Rwanda. This transition, in the midst of violence, and in contravention of the transitional arrangements laid out in the UN resolutions, caused the UN to embark on a mission to reconcile the country and to oversee the realisation of the remaining resolutions prior to granting independence to Rwanda. It subsequently established a conciliation group and a UN Commission for Rwanda-Urundi to address these resolutions, among them:

- The reconciliation of political factions;
- The return and resettlement of Tutsi refugees;
- The restoration of human rights and fundamental freedoms; and
- The maintenance of law and order.

The commission also sought to oversee the withdrawal of Belgian forces, to settle the question of the Mwami of Rwanda and that of economic and social support to Rwanda upon attainment of independence.

In early June 1962, satisfied that these conditions had been broadly met, the UN adopted Resolution Number 1746, which would terminate the trusteeship agreement.

296 By voting against UN resolution 1605, Belgium implicitly supported the abolition of the monarchy. Belgium also affirmed that legislative elections would be held, as well as a referendum for or against the monarchy.
and pave the way for granting full independence to Rwanda. On 1 July 1962, the trusteeship agreement was terminated and Rwanda emerged as an independent and sovereign state, along with Burundi. On 18 September 1962, Rwanda and Burundi were admitted as members of the UN.

Rwanda’s transition to independence during the period 1959–1962 was thus a difficult introduction to electoral politics. While the democratic ideals of elections and majority rule were upheld, three salient features of the transition denied it legitimacy and credibility:

- First, the elections and the referendum occurred within a highly polarised and vitriolic environment characterised by ethnic hatred, violence and manipulation, as well as massive displacement and exile of large sections of a group of the population. The electoral environment did not, therefore, offer the conditions necessary for free expression, free association or free and fair elections.
- Second, all the political parties created at the time were founded on ethnic platforms to defend and advance ethnic rather than national political, social and economic interests.
- Third, the elections – indeed the entire transition project – were led by an arbiter (Belgium) with vested political interests who steered and manipulated them to suit its interests.

These features would have a huge impact on Rwanda’s electoral politics and democratic evolution in subsequent years, as will be illustrated in the subsequent sections of this chapter.

The First Republic (1962–1973)
Rwanda attained independence on 1 July 1962 as a constitutional republic with Grégoire Kayibanda as its President. However, as the new nation embarked on the path to self-government, the pattern of violence, political repression and electoral gerrymandering did not end. Disenfranchised and marginalised, the minority Tutsi community continued to mobilise politically and militarily under UNAR, mostly from Burundi and Uganda, where the majority of its members had taken refuge. From there, they continued to mount unsuccessful incursions into Rwanda: Parmehutu used these attacks as a pretext to consolidate internal unity and continue its persecution of the political opposition. Reinforced by the attacks, Parmehutu pursued and executed all leading legislators of UNAR and RADER, effectively putting an end to organised Tutsi politics in Rwanda for close to 30 years. It is estimated that between 1952 and 1967, more than 20,000 Tutsis were killed during the repression of UNAR. Some 200,000 other Tutsi...
sis fled into exile, while those who remained continued to be subjected to state-sponsored violence and institutionalised discrimination. The first pronouncements by Hutu leaders of possible genocide against the Tutsis began to emerge around this time.\footnote{For example, on 23 December 1963, during a Parmehutu rally, Andre Nkeramugaba, the prefect of Gokongoro called for the assassination of the Tutsi. In response, groups of Hutus armed with spears, clubs and machetes, killed nearly 8,000 Tutsi women and children (Reyntjens (1985), op. cit., p. 465). Violence spread to the surrounding areas of Rusomo and Bugesera and up to 14,000 may have fallen victim in total (Lemarchand (1970), op. cit., pp. 224–225). In another incident, Grégoire Kayibanda, during an 11 March 1964 speech to Rwandans in exile, announced that if the troops raised by the refugees were to take the capital, this would lead to the total and sudden end of the Tutsi race (Chretien (2003), op. cit., p. 268; Semelin J (2005) Purify and Destroy: The Political Uses of Massacre and Genocide, Hurst Publishers, p.69.}

With UNAR and RADER liquidated and their leaders killed, the focus turned to APROSOMA and its members: between 1964 and 1967, they too were gradually eased out of any political and administrative responsibility.\footnote{Mamdani (2002), op. cit., p. 13; Prunier (1995), op. cit., pp. 57–58.} These acts of suppression and persecution gradually killed off all forms of grassroots activism in the post-independence state, leaving in its wake a docile, dependent and unquestioning population totally beholden to the mercies of an authoritarian government. This unquestioning obedience would play a tragic and central role in the unfolding of the 1994 Genocide. Between 1962 and 1965, Parmehutu dominated the political landscape, winning all presidential, parliamentary and communal elections by an overwhelming majority.\footnote{Parmehutu received 97.5% of the votes in the communal elections held on 18 August 1963; won an unopposed 100% mandate in the October 1965 presidential and legislative elections, and was re-elected again by the same margin in the second presidential and legislative elections held on 28 September 1969.} During the period 1965–1969, it managed to consolidate itself as the sole legal party, staying in power until 1973. In 1968, it changed its name to become the National Party of Rwanda (Parti National du Rwanda, NPR). With the opposition vanquished, the party’s attention focused inwards, exposing considerable internal tensions previously concealed by the struggle against the Tutsis.

These tensions resulted largely from young school-leavers and graduates unable to find employment, and a critical northern Hutu political class feeling marginalised and sidelined in the affairs of government, which they saw as favouring the President’s southern and central political and social elites. Keen to open up new grievances against the government, this disaffected class blamed the lack of employment of the majority Hutu on the poor implementation of the regional and ethnic quota system,\footnote{The quota system was a state policy introduced to redress historical wrongs, not just between Tutsis and Hutus, but also between Hutus of the north and those of the southern and central provinces. A law introduced in 1985 captured the spirit of this system. In the school system, the selection into schools took into account the ethnic affiliation of the child. The Hutu received over 85% of the places, the Tutsi 10–15% and the Twa 1%. In employment, allocation of posts was first on a regional basis, 60% going to the northerners and 40% to the southerners. Within each region, allocation was divided between Hutu and Tutsi/Twa, the former receiving 90% and the latter 10%. The 10% was said to reflect the relative size of the Tutsi/Twa population in the country, although the 1956 population census had put this figure at 16%. The count in the 1978 census was down to slightly less than 10%.} particu-
larly within the country’s tertiary education system – then still dominated by the better-educated members of the Tutsi community.

The government responded to this agitation by establishing a new law seizing control of the education system and engineering a purge. This resulted in the removal of hundreds of Tutsis from colleges and universities and other places of employment. These developments not only re-ignited the ethnic tensions in the country, resulting in a new wave of Tutsi exiles, but also generated a new class divide, pitting the poor against the rich and the Hutu political classes of the north against those of the southern and central provinces.

The divide between the North and the South widened and on 5 July 1973, Major General Juvénal Habyarimana, a northerner, led the army in a bloodless coup, declaring himself the new President of Rwanda and launching the Second Republic.

The Second Republic was launched on a reconciliatory platform, allowing limited participation by Tutsis in political life and recognising their right to live as Rwandans. However, these rights remained largely in the sphere of civic and civil society life. From 1973 until the early 1990s, there was only one Tutsi minister in a 19-member Cabinet, one Tutsi ambassador, two Tutsi deputies in a 70-seat National Assembly and two Tutsis in the 16-person central committee of the country’s only political party.306 Tutsis were denied access to the organs of power, the army and the local state. Apart from one Tutsi prefect, there was almost no Tutsi representation in local government.307 Nonetheless, no major anti-Tutsi political violence was reported from Rwanda between 1973 and 1990. Life for Tutsis was almost normal, with a number of them engaged in business and enjoying good relations with the regime as long as they stayed out of politics.

Habyarimana brought stability to Rwanda and the country enjoyed progress on the economic and social front during the period 1974–1987. By 1987, Rwanda had the lowest debt, the lowest inflation rate and the highest rate of growth of gross national product in the region. The share of agriculture in the gross national product had gone down from 80% in 1962 to 48% in 1966; secondary activities had risen from 8% to 21% and services from 12% to 31%. Mortality rate was down; hygiene and medical care were improving, while the proportion of school-going children rose from 49.5% in 1978 to 61.8% in 1986. There were no political executions after 1982 and fewer political prisoners than in most countries.308

However, this progress came at a political price: Habyarimana outlawed all political parties, created his own National Revolutionary Movement for Development (Mouvement révolutionnaire national pour le développement, MRND) and declared Rwanda a

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307 Ibid.
one-party state. The country became a highly centralised developmental dictatorship under a Council for National Development instead of a real Parliament.

On 17 December 1978, the MRND organised a constitutional referendum, whose main features were a presidential republic, no presidential term limits and a single legal party. The population voted 90% in favour of all three. A week later, on 24 December 1978, presidential elections were organised and Juvenal Habyarimana was elected unopposed with 98.99% of the votes. He was re-elected unopposed again in 1983 with 99.97% of the votes.309 In the same year, he introduced legislative elections under the framework of the National Development Council. The legislators were exclusively Hutu males.310

The fortunes of the Habyarimana regime began to dwindle towards the end of the 1980s. As the country grew economically, a new social elite comprising teachers, nurses and local civil servants emerged, benefiting from the state’s reach into rural areas and from the proceeds of new development projects. This elite removed itself completely from the reality of the rural poor, neglecting social redistribution networks and causing sharp social polarisation in rural areas. Corruption became rampant, with most corporations turning into sites for private accumulation by politicians and businessmen.311

Meanwhile, power continued to be concentrated in the hands of the president’s northern Hutu elite, dominated by an inner core controlled by his wife and her relatives. The slump in the international price of coffee (then the bedrock of Rwanda’s economy) in the period 1985–1993, and the introduction, in 1991, of the World Bank structural adjustment programmes exerted further strain on Rwanda’s economy and Habyarimana’s regime.312 In June 1990, France, Rwanda’s major bilateral donor, made further aid to the country conditional on democratic reforms. Other voices, from local and international civil society, from the assembly of francophone states, and from the Vatican, joined the call. The following month, Habyarimana agreed to separate the party from the state and made pronouncements about a possible transition to a multi-party system of government. He subsequently established a national commission and gave it two years to propose a new democratic charter.

309 This near-total dominance by one political party or contestant in an election has generated a popular cliche in Rwanda’s latter-day electoral and developmental parlance – ‘Mirongo ijana kui ijana’ or ‘100% out of 100%’.


311 A 1975 presidential decree had given civil servants permission to do private business without restriction, including owning rented houses, purchasing rented vehicles and having interest in mixed economy or commercial enterprises.

312 According to Peter Urvin, income from coffee fell from a high of USD 144 million in 1985 to a meagre USD 30 million in 1993 Uvin P (1996) Development, Aid and Conflict: Reflections from the Case of Rwanda, UN University, pp. 9–11. The International Monetary Fund structural adjustment programme prescriptions increased the country’s fiscal deficit sharply from 12% in 1991 to 19% in 1993 and caused a devaluation of the Rwandan Franc by almost 65% between 1990 and 1992. Real GDP fell by 5.7% in 1989 and further by 2% and 8% in 1990 and 1993, respectively, raising the national debt and significantly lowering the per capita income, which dropped by nearly 40% between 1985 and 1989, from USD 330 to USD 200.
As these woes were taking their toll on the country, the Rwanda Patriotic Front (RPF), a political movement of Tutsi refugees abroad, was mobilising politically and militarily for a return to the country. In October 1990, its armed wing, the Rwandan Patriotic Army (RPA), invaded Rwanda from Uganda, adding momentum to the call for democratic reforms. The following month, Habyarimana declared his support for the establishment of a multi-party system and instructed the commission to complete the draft national political charter within the year. The charter, published in December 1990, endorsed the multi-party political arrangement, provided for the right of return of refugees to Rwanda and opened up the space for political pluralism and freedom of the media. In June 1991, a draft multi-party Constitution was approved and entered into force.

By July 1991, four opposition political parties had formed and established a coalition to dismantle Habyarimana’s MRND:

- Republican Democratic Movement (Mouvement Démocratique Républicain, MDR);
- Social Democratic Party (Parti Social Démocratique, PSD);
- Liberal Party (Parti Libéral, PL); and
- Christian Democratic Party (Parti Démocratique Chrétien, PDC).

The MDR was the old MDR-Parmehutu without the appellation Parmehutu, reflecting a new inclusive outlook under the leadership of Faustin Twagiramungu. All the other parties embraced this new look, shunning ethnic politics and drawing membership from both Hutu and Tutsi. In a further metamorphosis, the MRND adopted a new name – the National Republican Movement for Democracy and Development (Mouvement Républicain National pour la Démocratie et le Développement, MRNDD) – and agreed to separate itself from the state.

The period 1991–1993 thus witnessed intense multi-party political activity and the birth of a strong political opposition in the country. The first multi-party transitional government was set up in April 1992, based on an agreement signed by the parties in March, which included peace negotiations, the settlement of the refugee problem, and the organisation of elections.

The RPA was unsuccessful in its October 1990 offensive against the Rwandan army (Forces armées rwandaises, FAR), which was supported heavily by the French government. Subsequently, the RPA adopted a guerrilla strategy, mounting a series of incursions into Rwanda during the period 1991–1992, aimed both at buying time and forcing the MRND to the negotiating table. The incursions caused a hardening of positions among the local Hutu political elite and a surge in anti-Tutsi sentiment. The internal opposition that had united against Habyarimana began to re-organise and coalesce around a desire to ‘defend’ the country. There was a resurgence of ‘Hutu Power’ propaganda, with

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313 Notable for this affirmative position were the PSD and PL, which deliberately attracted members from both Hutu and Tutsi ethnic groups and those of mixed parentage.
tension rising between the extremist elements opposed to Habyarimana’s reconciliation efforts and the moderate forces that were keen to continue along the path of plural, inclusive democratic reforms already started. Within each political party, a hardliner faction known as ‘Power’ emerged, presenting its own candidates and rooting for an all-out war. These tensions resulted in widespread arrests, violence, massacres, political assassinations and displacements across the country, targeting Tutsis and moderate Hutus. The organisers and perpetrators were Hutu extremists and a growing body of militant youth from the ‘Power’ factions, fuelled by sections of the media. An estimated 2,000 persons are believed to have died in this climate of economic decline, violence, war and repression.

The first political contact with the RPF occurred in May 1992, launching a series of negotiations that became known as the Arusha Accords (also known as the Arusha Peace Agreement). The first of these was a ceasefire agreement signed in Arusha, Tanzania, in July 1992. Continued acts of violence in opposition to the negotiations, coupled with Habyarimana’s own public pronouncements against the negotiations, and an RPA offensive in March 1993, however, brought an end to the ceasefire agreement. Displeased with these developments, donor countries and the World Bank threatened the regime with an aid freeze, forcing Habyarimana to sign the last of the accords on 4 August 1993.

The Arusha Peace Agreement, comprising five protocols, touched on a range of transitional issues seeking an end to the civil war and making way for the establishment of a transitional government. These included:

- Respect for the rule of law;
- Establishment of a broad-based transitional government (Gouvernement de transition à base élargie, GTBE);
- Power-sharing until the general election;
- Repatriation and resettlement of refugees and displaced persons; and
- Integration of the FAR and the RPA.

However, the implementation of the Arusha Peace Agreement did not materialise, because of fears that it favoured the RPF. The agreement gave cabinet positions to members of all six political parties. The 21 cabinet positions created under the GTBE were divided as follows:

314 The MRND had *Interahamwe* (‘those who work together’), the CDR had *Impuzamugambi* (‘those who share the same goal’), the MDR had *Inkuba* (‘thunder’) and the PSD had *Abakombozi* (‘the liberators’) (Human Rights Watch (1999), *Leave None to Tell the Story: the Genocide in Rwanda*, p. 71).
316 According to the agreement, the general elections ending the GTBE were planned to take place no later than 22 months after the signature of the Accord.
• The MRNDD, the former ruling party, was given five, including the Defence portfolio.
• The RPF also received five positions, including the portfolio for the Interior and the office of Vice-Prime Minister.
• The MDR, the major opposition party, was given four positions, including the office of Prime Minister.
• The PSD and the PL each received three portfolios.
• The PDC received one.

The agreement also granted the RPF participation in the National Assembly and allowed it to constitute 40% of the national army.

In the months following the signing of the accords, attacks and assassinations escalated. They targeted mainly civilians and politicians opposed to Habyarimana and the Hutu Power movement, and were perpetrated by militias allied to both. The UN Assistance Mission for Rwanda (UNAMIR), the UN peacekeeping force dispatched to Rwanda to supervise the implementation of the accords, and already in the country by 1 November 1993, was unable to contain these attacks or disarm those responsible for them. Meanwhile, in line with the Arusha Accords, the first contingent of the RPF entered Kigali in December 1993 and embarked on a low-key recruitment and political mobilisation drive.\(^{318}\)

On 6 April 1994, a presidential aircraft carrying Habyarimana, the Burundian president Cyprien Ntaryamira and ten other passengers was shot down shortly before it was due to land in Kigali. What followed was an orgy of systematic and horrific massacres and assassinations targeting members of the Tutsi community and opponents of Hutu Power.

The violence lasted for about 100 days until mid-July when the RPA gained control of the entire country. The assassinations and massacres were organised and executed by the army and the police, the political parties and their affiliated militias or power branches, as well as the national and local administration. Initially inspired and organised by the state, the massacres eventually became a nation-wide social project performed in private and in public spaces (including stadiums and churches) by hundreds of thousands of ordinary citizens – even including judges, human rights activists, doctors, nurses, priests, friends and spouses of the victims. Short on troops and denied the official mandate to use force, the UNAMIR forces under the command of General Romeo Dallaire were completely helpless in stopping the massacres.

The number of victims remains unknown but the figure of 800,000 Tutsis and moderate Hutus has become almost official. It has been estimated that up to 75% of Tutsi civilians were massacred. Other forms of violence and crime perpetrated during this period included an estimated 250,000 acts of rape. Some 2 million civilians,

mainly Hutus, are believed to have fled into the Democratic Republic of Congo and Tanzania in the course of the genocide and the civil war.

On 27 May 1994, the UN Security Council recognised the systematic massacre of Tutsi civilians as genocide. In November 1994, the Security Council adopted Resolution 955 to establish a tribunal to try those with the greatest responsibility for the Rwandan genocide. In the same month, the International Criminal Tribunal for Rwanda was created with the mandate to investigate and prosecute persons within and outside of Rwanda for crimes committed between January 1994 and December 1994 within Rwanda. In February the following year, a decision was taken to base the tribunal in Arusha, Tanzania.319

The political situation between 1962 and 1973, and leading into 1994 when the Rwandan Genocide occurred, can thus be summarised as follows:

- 1962–1965: restricted democratic practice;
- 1965–1973: one-party state (MDR-Parmehtu);
- 1973–1975: military regime;
- 1975–1978: de facto one-party state (MRND);
- 1978–1991: one-party state (MRND); and

The Third Republic (1994 to date)
The post-Genocide period can be divided into the transitional period (1994–2003) and the post-transition period (2003 to date). After the RPA established control over the country and halted the Genocide in July 1994, a new transitional government was quickly established, guided by the spirit of the Arusha Accords and the June 1991 Constitution. Faustin Twagiramungu was appointed as Prime Minister, with Pasteur Bizimungu as President and General Paul Kagame as Vice-President and Minister of Defence – this was a new post established outside of the Arusha framework to ensure control of the government by the RPF.

The new government immediately embarked on the extraordinary task of reconciling and building a new nation. Its immediate priorities were:

- Managing the emergency situation, which included repatriating and resettling refugees;
- Rehabilitating and reconstructing the national infrastructure and economy destroyed during the Genocide; and
- Ensuring national security and transitional justice.

The government prohibited any official recognition of ethnicity as it sought ways to prosecute the over 100,000 people who had been incarcerated in the Rwandan prisons and

communal jails for complicity in the Genocide and related crimes. Politically, it entailed the crafting of a new political ideology built around national unity.

Eight political parties formed the first transitional government:
- RPF;
- MDR;
- PSD;
- PL;
- PDC;
- Union Démocratique du Peuple Rwandais (UDPR);
- Parti Démocratique islamique (PDI); and
- Parti Socialiste Rwandais (PSR).

The MRNDD and the CDR, the two parties that orchestrated the Genocide, were banned from taking part in the government of national unity. Shortly after the new government took office, a 70-member Transitional National Assembly comprising representatives from all the parties was formed. Political party activities were limited to the national level. In 1999, the transitional government organised its first post-Genocide local elections under the supervision of the Ministry of Local Government. In April 2000, Paul Kagame succeeded Pasteur Bizimungu as President of the Transitional National Government.

The National Electoral Commission (NEC) was established in 2000. In 2002, it prepared and supervised the first election of leaders at the district level. Both the 1999 and 2001 elections were a great test case, coming towards the end of the transitional government. On 26 May 2003, the NEC organised a national referendum to adopt a new Constitution. The Constitution, whose main features were a presidential republic, a bicameral Parliament and a ban on divisionism and genocide ideology, was passed by a 93.42% vote. In August 2003, Rwanda held its first democratic presidential elections, marking another watershed in the country’s electoral history.

In October 2003, the first multi-party parliamentary elections were held. RPF leader Paul Kagame won the presidential election, garnering 95% of all the votes cast. His party, the RPF, won the parliamentary elections with 74% of the votes, obtaining 40 out of the 53 seats under the direct vote system. The PSD won seven seats and the PL six. The turnout for the elections was 96.6%.

These elections were followed by the August 2008 second parliamentary elections, which were again won by the RPF and its coalition members, taking 42 out of the 53 directly elected seats, with the PSD and the PL winning seven and four seats, respectively.

In August 2010 the second presidential election since the adoption of the Constitution

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was held. Again RPF’s Paul Kagame won with an overwhelming majority of 93%. The RPF and its coalition partners also won the senatorial elections held in November 2011 and the local elections held in February 2012 by an overwhelming majority. The third parliamentary elections were planned for September 2013.

Despite a range of shortcomings, all these elections have been rated broadly as technically well organised, peaceful and well attended. What is striking about them, however, is that they have followed the same pattern of near-total voter turnout and total domination of one political party over the others that characterised elections in the pre-Genocide republics. While there is consensus that the post-Genocide regime has presided over a period of unprecedented social and economic revival and progress, many observers have drawn parallels between it and the past regimes in regard to electoral democracy, pointing to similar electoral gerrymandering. In their comprehensive report on the 2003 Rwanda presidential and parliamentary elections, the Norwegian Resource Bank for Democracy and Human Rights (NORDEM) attributes this phenomenon to pressure on the population to vote for the ruling party candidates, and to repression, harassment, intimidation and co-optation of opposition candidates, manifested in a number of ways:

- Arrests of opposition candidates and their supporters;
- Forced cancellation of pre-planned campaign meetings;
- Dissolution and denial of registration and meeting permits for opposition parties;
- Systematic presence of ruling party agents and armed security personnel in polling stations; and
- Smear campaigns against opposition parliamentary candidates.

The report goes further to say that the RPF used its financial, administrative and coercive apparatus to prepare people to vote for its candidates.

Similar accounts of pressure, repression and co-optation have been reported by other election observer missions in Rwanda in subsequent years. The European Parliament observer report of the 2008 parliamentary elections raises concerns of pressure on voters to participate in the elections and the systematic presence of RPF agents and armed security personnel at polling stations.

The Commonwealth Elections Observer Mission in its report of the 2010 Rwanda presidential election notes that the electoral environment was heavily influenced by

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322 Samset & Dalby (2003), op. cit.

323 Schroder (2008), op. cit., p. 4.
political developments in the period leading up to the elections. According to the report, the period preceding and following the 2010 elections was characterised by controversy, insecurity and tension across different parts of the country. Evident fractures within President Paul Kagame’s RPF party saw a number of its top leaders, now exiled, come out openly to criticise his style of leadership, accusing him of being ‘an absolute ruler’. In what was seen widely as an assassination attempt, one of these top leaders (a former close ally of the President) was attacked and almost killed inside his residence in South Africa. The government of Rwanda denied any involvement.

The final weeks of the presidential campaigns saw a journalist and a top leader of an opposition political party brutally murdered in controversial circumstances. There were several grenade attacks targeting the city of Kigali, which killed and injured a number of citizens and which the government blamed on dissident elements opposed to President Kagame’s rule. A number of newspapers and broadcasting stations were closed in the lead-up to the 2010 presidential election on charges of inciting public disorder. Leading opposition political parties and their supporters were intimidated, arrested and prevented from either registering their political parties or carrying out effective campaign operations. In the wake of these incidents, security was intensified country-wide, reinforcing a climate of fear that was not conducive to freedom of expression or free and fair elections.

Many observers reporting on elections and the human rights situation in Rwanda are united in their concern over an electoral environment often characterised by the following:

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326 General Kayumba Nyamwasa, Rwanda’s former military chief and a close ally of President Paul Kagame, was shot in his car at his home in suburban Johannesburg on 19 June 2010 while returning with his wife from shopping. The assassins allegedly tried to finish the job after Nyamwasa was hospitalised.
327 In April 2010, the Media High Council suspended two independent newspapers, Umuvugisi and Umuseso, for six months, effectively preventing them from covering the presidential election campaigns. Charges against them included slander, abuse and defamation targeting the President and segments of the political class, the police and the army. Umuvugisi continued to publish an online version, which was also subsequently blocked in Rwanda.
328 The main opposition parties affected were the Green Democratic Party, the Forces Démocratiques Unifiées (FDU-Inkingi) and the Social Party Imberakuri (PS-Imberakuri). The Green Party made several attempts to register, but it was unable to do so, because it failed to get the necessary documents signed by the relevant authorities. Its attempts to hold a party conference where the documents would be signed failed after unruly mobs chanting RPF slogans disrupted it. Lack of police clearance and denial of permission to meet by local authorities were the other reasons. It also failed to get the documents signed by the State Notary due to a lack of cooperation by the Minister of Justice and the Ministry of Local Government. FDU-Inkingi failed to get registration when its president, Ms Victoria Ingabire, was arrested and charged with a raft of crimes when she returned to the country to contest the presidency of Rwanda in the 2010 elections, after 16 years in exile. She was convicted two years later on charges of denying the Genocide and conspiring and planning to cause state insecurity. PS-Imberakuri failed to field a presidential candidate due to serious internal conflicts believed to have been fuelled by the RPF. Its leader, Mr Barnard Ntaganda, was ousted and arrested in April 2010 on charges of propagating genocide ideology, promoting ethnic division, attempted murder, terrorism and organising illegal meetings.
• A lack of critical opposition voices in the run-up to major national elections;
• Tensions, arrests and intimidation of opposition party leaders, their agents and the media;
• A continued inability of opposition political parties to register for and contest elections freely and fairly;
• A lack of media independence;
• Restrictions on the freedoms of expression and association; and
• The lack of adequate safeguards and transparency of the vote-counting and consolidation processes.

A major point of criticism in this regard relates to the way in which the Rwanda government has enforced the laws against genocide ideology, divisionism and defamation, seen by many observers as discouraging competitive political debate and resulting in the persecution and unlawful detention of those opposed to President Kagame’s government.\footnote{329} Globally, President Kagame has come under heavy criticism from opposition figures and human rights groups for suppressing dissenting political voices and smothering opposition politics. Recent assassinations and assassination attempts involving persons opposed to President Kagame’s rule and style of leadership have only served to entrench these criticisms.\footnote{330}

C. Legal framework for elections in post-genocide Rwanda

Rwanda’s political and electoral history has had a profound impact on the legal and institutional framework it has subsequently adopted to guide its electoral affairs. Reflecting its tragic history, Rwanda’s electoral system is designed to ensure inclusive government through power-sharing and representation of various socio-economic groups and genders. At the heart of this system is the resolve to ensure that Rwanda never again goes through another experience of civil war or genocide.

Constitutional framework

In its preamble, the new Constitution adopted in 2003 underlines Rwanda’s commitment to fight the ideology of genocide in all its manifestations, eradicate ‘ethnic,
regional and any other form of division’, and promote national unity and reconciliation. It affirms Rwanda’s resolve to build a nation governed by the rule of law, based on respect for human rights, political pluralism, equitable power sharing, tolerance and resolution of issues through dialogue. The Constitution grants the freedoms of press and information, association and the right to peaceful assembly. These key principles and provisions constitute the bedrock of Rwanda’s legal and institutional framework, which includes the framework for the management of national elections.

The principle of power-sharing is at the heart of Rwanda’s statecraft and electoral politics. The Constitution limits the ruling party to a maximum of 50% of Cabinet seats. The remainder is divided proportionately among other parties represented in the Chamber of Deputies, although members may also be appointed from outside Parliament. The Constitution provides that the Speaker of the Chamber of Deputies and the President of the Senate must be chosen from parties other than that of the President of the Republic. Resolutions and disagreements must be addressed through consensus.

Other than women, youth and persons with disabilities, all 53 seats of Parliament are filled at a national level through election by universal suffrage. The Constitution guarantees equality for all Rwandans, and between women and men. It grants a minimum of 30% of all posts in decision-making organs to women. In order to ensure adherence to this provision, the Constitution has ring-fenced this quota in key elective positions at the national and local level. Thus, out of the 80 seats in the lower chamber of Parliament, 24 are reserved for women, who hold their own elections to determine their representatives. Similarly, 30% or at least eight of the 26 seats in the Senate are reserved for women. Seats are also reserved for other vulnerable groups like the youth, persons with disabilities and historically marginalised groups. These provisions give these groups a double advantage during elections as they enable them to compete under direct suffrage, as well as through their own indirect elections. This explains Rwanda’s current high number of women in Parliament (lower chamber), which at 56.4% is the highest in any parliamentary democracy.

The Constitution provides for a ‘multi-party system of government’ and establishes the right of political organisations to operate freely. It also grants Rwandans the freedom to join political organisations of their choice and the right to participate in the govern-

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331 Articles 34, 35 and 36.
332 Article 116.
333 Article 58.
334 Article 9.
335 Based on the 2008 parliamentary elections, women occupy 45 of the 80 seats in Rwanda’s lower chamber. This is 56.3% of the total seats, giving Rwanda the highest number of women in any parliamentary democracy in the world according to the Inter-Parliamentary Union based on the information provided by national parliaments by 1 February 2013, www.ipu.org/wmn-e/classif.htm. Of the 26 seats in the Senate, women occupy ten or 38.5% of the total.
336 Article 52.
337 Article 53.
ance of the country, directly or through freely chosen representatives.\textsuperscript{338} Independent candidates may run for parliamentary and presidential elections.\textsuperscript{339}

The commitment to fight genocide ideology and division and to uphold national unity is the most overriding principle and constitutes perhaps the primary organising basis of Rwandan politics. There exist two different laws, one punishing the crime of genocide ideology and the other punishing the crime of discrimination and sectarianism.\textsuperscript{340} Genocide ideology is also addressed in the Penal Code.\textsuperscript{341} Further, the Constitution provides that a Member of Parliament, once elected, serves the interests of all Rwandans, not any particular area or constituency.\textsuperscript{342} It also prohibits political organising based on ethnicity, region, religion, sex or any other basis that may give rise to discrimination.

**Electoral laws**

The major recurring elections on a national level are:

- The election of the President of the Republic, held every seven years;
- The election of the Parliament of Rwanda; and
- The local and grassroots leaders’ elections, held every five years.

The President is elected through direct and secret popular vote. Where there is equality of votes for the first two candidates, a second round for only the two candidates is organised within a month. Parliamentary elections are both direct and indirect, as are local and grassroots elections. A number of domestic laws have been promulgated to guide electoral practice in the country.

**The Electoral Code**

The Electoral Code\textsuperscript{343} was enacted in 2010. It is the most comprehensive piece of legislation on elections. It is a revised version of the code first enacted to govern the 2003 elections and contains 210 articles covering general as well as specific electoral provisions and regulations spanning all phases of the electoral process. These include provisions and regulations on the following:

- Voter registration and eligibility;
- Electoral campaigns;
- Nomination of candidates;

\textsuperscript{338} Article 45.
\textsuperscript{339} Article 77.
\textsuperscript{340} Law No. 18/2008 of 23 July 2008 punishes the crime of genocide ideology. Article 2 of this law provides a definition of genocide ideology, while Article 3 offers examples of what the crime constitutes. However, there is no particular law currently criminalising division in Rwanda. The only law that appears to be a reference point for division is Law No. 47/2001 of 18 December 2001 on Prevention, Suppression and Punishment of the Crimes of Discrimination and Sectarianism. Article 1 of this law defines discrimination and sectarianism.
\textsuperscript{341} Law No. 01/2012/OL of 2 May 2012 Organic Law instituting the Penal Code, Articles 114–118.
\textsuperscript{342} Article 64.
- Polling operations;
- Vote counting, consolidation and results announcement;
- Petitions and resolution of electoral disputes;
- Provisions specific to the presidential election, the parliamentary elections (including both the Lower Chamber of Deputies and the Senate) and local elections; and
- The role of the National Electoral Commission in regard to the administration and management of the electoral process.

A 2013 revision has introduced new changes to the Electoral Code.\(^{344}\)

**Laws regulating elections for special interest groups**

There are different laws governing the election of youth, women, persons with disabilities and historically marginalised communities. The laws provide minimum qualifications for election to representative bodies at different levels and the attributions of different elective offices, among other things.\(^{345}\)

**Law establishing the National Electoral Commission**

The law establishing the National Electoral Commission\(^{346}\) (NEC) details the mandate, composition, functions, funding and other relevant information relating to the organisation and functioning of the electoral commission. A 2013 review has introduced further changes to this law.\(^{347}\)

**Law governing political organisations and politicians**

This law, passed in 2003,\(^{348}\) offers guidance on the following:
- The formation, organisation and functioning of political organisations and their consultative forum;
- Their rights, obligations and conduct;
- Their funding mechanisms;

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\(^{344}\) Law No. 37/2013 of 16 June 2013 modifying and complementing Law No. 27/2010 of 19 June 2010 relating to elections as modified and complemented to date.

\(^{345}\) The Constitution in Articles 9, 76 and 82 sets out the framework for the election of special interest groups, namely women, youth, persons with disabilities, historically marginalised groups and representatives of public and private universities. Articles 109–123 of the Electoral Code provide details and the modalities and eligibility requirements for electing such persons. Accordingly, in the Chamber of Deputies, a minimum of 24 seats are reserved for women, two for youth, and one for a representative of persons with disabilities. In the Senate, eight seats are reserved for women and two for representatives from public and private universities. Of the eight presidential appointees to the Senate, there is provision for one representative of historically marginalised communities.

\(^{346}\) Law No. 31/2005 of 24 December 2005 relating to the organisation and functioning of the National Electoral Commission.

\(^{347}\) Law No. 38/2013 of 16 June 2013 modifying and complementing Law No. 31/2005 of 24 December relating to the organisation and functioning of the National Electoral Commission as amended to date.

- The management of their assets;
- Coalitions between parties; and
- The relationships between political parties and the media.

A 2007 review introduced new changes to this law.\textsuperscript{349}

\textit{Laws regulating the media}

The media law\textsuperscript{350} is crucial in terms of regulating access to public media by political candidates during elections. The media law also establishes the Media High Council, which issues guidelines for election coverage by the media. A new media law has recently been passed, along with a new law governing the operations of the Media High Council.\textsuperscript{351}

\textit{Law governing the judiciary}

The law on the judiciary\textsuperscript{352} guides the organisation, functioning and powers of the judiciary in relation to dealing with electoral offences. It complements the electoral code.

\textit{Laws on discrimination, sectarianism and genocide ideology}

Although not explicitly linked to the electoral process, the laws against discrimination, sectarianism and genocide ideology\textsuperscript{353} are indispensable when analysing the political landscape of Rwanda.

\textit{Regulations and instructions issued by the NEC}

The NEC is empowered to issue instructions relating to elections at the beginning of every poll. NEC instructions are crucial in terms of complementing existing legal gaps unfilled by other electoral legislation. The instructions are reviewed during each election.

\textbf{Government structure}

\textit{The executive}

The executive power in Rwanda is vested in the President and the Cabinet. The President is the head of state and government, and is elected by universal suffrage through a direct and secret ballot for a seven-year term, which is renewable only once. The

\textsuperscript{350} Law No. 22/2009 of 12 August 2009.
\textsuperscript{351} Law No. 02/2013 of 8 February 2013 regulating the media, replacing Law No. 22/2009 of 12 August 2009; Law No. 3/2013 determining the organisation, responsibilities and functioning of the Media High Council, replacing Law No. 30/2009 of 16 September 2009.
President appoints the Cabinet from the political parties based on the distribution of their seats in the Chamber of Deputies, although s/he is also allowed by the Constitution to appoint other competent people who do not belong to any political party. The Rwandan presidency is, therefore, clearly a strong institution, with the current President also serving as the head of the ruling party, the RPF.

Parliament
The power to make laws is vested in a two-chamber Parliament that consists of a Chamber of Deputies and a Senate.

The Chamber of Deputies is composed of 80 members, 53 of whom are elected by direct ballot or universal suffrage for a five-year term through a system of proportional representation. Under this system, each political party must receive a minimum of 5% of the total popular vote to secure a seat in Parliament. The seats are allocated to the parties, coalitions and independent candidates by dividing the votes received by an electoral quotient, arrived at by dividing the total number of valid votes of each list that has obtained at least 5% of the votes cast by the number of seats to be contested. Of the remaining 27 seats, 24 are women who are elected indirectly by their representative organisations in the provinces; two are youth representatives elected indirectly by the National Youth Council; the remaining seat is a representative of the Federation of the Association of Persons with Disability, also elected indirectly.

The Senate is composed of 26 members, at least 30% of whom must be women. The members are appointed or elected for an eight-year term:
- Sector committees and district councils elect 12 members through secret ballot.
- Eight are nominated by the President and include a representative of the historically marginalised communities in Rwanda, such as the Twa.
- Four are nominated by the National Consultative Forum of Political Organisations (NCFP).
- The remaining two represent institutions of higher learning, one public and the other private.
- Former presidents may request to join the Senate.

The Senate has a strong mandate. In addition to amending and approving Bills, it can amend the Constitution and a range of laws linked to the management of elections:
- Organic laws;
- Laws on fundamental freedoms, rights and duties;
- Criminal laws; and
- Laws relating to the jurisdiction of courts and procedures in criminal cases, referenda, and international agreements and treaties.

Senators elect the Supreme Court’s president, vice-president and judges, as well as the prosecutor-general and his or her deputy. The Constitution gives senators the power to
summon political organisations that grossly violate the provisions relating to political organising and recommend them to the High Court for sanction.\textsuperscript{354}

\textbf{Local administration}

Compared to many African countries, Rwanda is a small, very well-organised country. With one dominant political party and a unitary government, it is relatively easy to rule efficiently. The Constitution divides the country into provinces, districts, cities, municipalities, towns, sectors, cells and villages through which government policies, instructions and services flow.

\textit{Provinces}

The five provinces (including the city of Kigali) act as intermediaries between the national government and constituent districts. The ‘Rwanda Decentralisation Strategic Framework’\textsuperscript{355} assigns to provinces the responsibility of coordinating governance issues, monitoring and evaluation in their jurisdictions. Each province is headed by a governor, appointed by the President and approved by the Senate.

\textit{Districts}

There are 30 districts responsible for coordinating public service delivery and economic development in 416 sectors, 9,165 cells and 14,840 villages. Districts are governed by a district council that consists of one elected representative (councillor) from each sector, as well as representatives of youth and women. The youth and women’s groups each make up at least one third of council members. The district council is headed by a team comprising a council chairperson, a vice-chairperson and a secretary, all elected through a collegiate system. The council operates independently from the district executive committee, which is headed by the mayor and two vice-mayors – one in charge of economic affairs, and the other, social affairs.

\textit{Sectors}

Sectors are governed by a development committee comprising one elected representative from each cell and led by a sector coordinator. Districts and sectors also have executive secretaries – civil servants appointed through a prime-ministerial decree.

\textit{Cells and villages}

Cells and villages are the smallest political units and provide a link between the people and the sectors. All resident adults above 18 years of age are members of their local cell assembly or council. From them, a ten-member cell executive committee is elected. The last elections for these local leaders were held in February 2011.

\textsuperscript{354} Article 55.

\textsuperscript{355} Republic of Rwanda (2007) \textit{Rwanda Decentralisation Strategic Framework: Towards a Sector-Wide Approach for Decentralisation Implementation}. 
Influence of the RPF on Rwandan politics

This decentralised administrative and leadership structure is perceived as heavily controlled by the RPF. So, too, are the various structures constituted within it to manage local elections. Leaders emerging from these structures are mostly members of the RPF or people sympathetic to it. While this may be understandable given the dominance of the ruling party across the country, opposition political parties, civil society representatives and other observers of electoral processes in Rwanda are concerned over this dominance and accuse the RPF of a range of electoral malfeasances that make it almost impossible to deliver free and fair electoral results in the country. A leader of an opposition political party interviewed for this report opined that during the 2011 senatorial elections, her party declined to present candidates for the elections because the electoral colleges were dominated by RPF members and could not, therefore, be trusted to vote for opposition candidates.

Similar views were expressed by other respondents, including a number of representatives from diplomatic missions in Kigali. According to a political officer and election observer from the US Embassy, more than 90% of the district electoral college for the 2011 senatorial elections was drawn from members of the RPF. The officer observed further that days before the elections, a number of contestants were instructed by the RPF to remove their names from the elections list and they did so 48 hours before the polls opened.

In its 2011 Annual Human Rights Report on Rwanda, the US Department of State observes that several successful candidates (including non-RPF candidates) were asked by the RPF to run for office and given assurances that they would win. The report adds further that some voting members indicated receiving a text message from the provincial RPF headquarters on the morning of the election instructing them to vote for particular RPF and non-RPF candidates.

These examples illustrate the immense powers and influence that the RPF holds over the electoral process and politics in Rwanda. Pre-eminent in the rebuilding of the Rwandan state following the civil war and the Genocide, the RPF, referred to fondly as ‘the family’, retains a monumental hold on Rwanda’s political and social life, even on business. It wields a robust, hugely complex and deeply rooted administrative, financial and political machinery that has been compared, in terms of organisation, financial muscle and political weight to parties such as the Chinese Central Committee, South Africa’s African National Congress and Ethiopia’s ruling party, the Ethiopian People’s Democratic Revolutionary Front. In a recent publication, the RPF was ranked as one of

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356 The electoral college is a group of electors who are selected to elect candidates for political positions such as mayors and senators; for example, the electoral college of the district executive committee that elects senators and mayors comprises members of the district council and council members from all sectors constituting the district.

357 Interview, 21 September 2012.

358 Interview, 27 September 2012.

the richest political parties in the world. Its political manoeuvring has resulted in a systematic co-optation and smothering of the opposition, which has rendered the latter completely irrelevant on the country’s political landscape. The only visible opposition is that operating from the Diaspora. Its ‘regime change’ agenda has, however, failed to resonate with the local and international public.

Legislation on political organisations
Political organisations are free to operate in Rwanda within a multi-party framework. Citizens are free to join political parties of their choice. Nonetheless, as noted by the Secretary-General of the PSD, ‘Political parties were reluctantly agreed to by Rwandans during the 2003 Constitution because of their bad legacy.’ This view, believed to have been advanced by the legal and constitutional commission established in 2000 to draft the initial text of the Constitution has, however, been disputed by some observers. Nevertheless, safeguards were included. The Constitution prohibits political organising on the basis of ‘race, ethnicity, tribe, clan, region, sex, religion or any other division which may give rise to discrimination’. It requires political parties to ‘constantly reflect the unity of the people of Rwanda and gender equality and complementarity, whether in the recruitment of members, putting in place organs of leadership, or in their operations and activities’. The Constitution further requires all registered political parties to join the NCFP as the space for exchanging ideas on ways to improve governance, promote national unity, as well as resolve conflicts arising within and between political organisations. The Constitution even anticipates violations of these provisions and empowers the Senate to summon and seek High Court sanctions against political parties that violate them.

These constitutional provisions constitute the basis of the law governing political organisations and politicians. The law offers general and specific principles and guidelines with regard to organising for political purposes. It underlines the constitutional freedoms to form and join a political party, but also the imperative to do so in a way that unites, does not discriminate and preserves Rwanda’s territorial integrity and security. To operate, political parties must register with the Ministry of Local Government. For a political party to be registered, it must secure at least 120 persons from the whole country, including at least five persons living in each province or in City of Kigali

361 Interview with the Hon. Damascene Ntawukurirayayo, Secretary-General of the PSD and Speaker of the Senate.
362 Remarks by Eugene Ntaganda, who reviewed this report and, was an expert for the 2000 commission. According to Ntaganda, this may have been a view pushed by the RPF apparatus to legitimise its appeal to the population (comments made on draft report submitted 7 October 2013).
363 Article 54.
364 Article 56.
365 Article 55.
as signatories to its statutes. An amendment of the law on political parties passed in 2007 now allows parties to organise at all levels of government.

Currently, Rwanda has ten legally registered political parties, which are all members of the NCFP:

- Rwandan Patriotic Front (RPF Inkotanyi) or Front Patriotique Rwandais (FPR);
- Democratic Union of the Rwandan People (Union Démocratique du Peuple Rwandais, UDPR);
- Liberal Party (Parti libéral, PL);
- Ideal Democratic Party (Parti démocratique idéal, PDI);
- Social Democratic Party (Parti social démocrate, PSD);
- Party for Progress and Concord (Parti du Progrès et de la Concorde, PPC);
- Christian Democratic Party (Parti Démocratique Chrétien, PDC);
- Rwandan Socialist Party (Parti Socialiste Rwandais, PSR);
- Solidarity and Progress Party (Parti de la solidarité et du progrès, PSP); and
- Social Party Imberakuri (Parti Social Imberakuri, PS-Imberakuri).

Considered against the background of the Genocide, a focus on re-uniting the Rwandan people is justified. However, the law on political parties may conflict with the provisions endorsing political pluralism in Rwanda’s Constitution. On the subject of power-sharing, there are concerns over the absence of solid legal safeguards to ensure that the current ruling party – the RPF – does not exceed the 50% quota. The Constitution is silent on the formula for calculating this quota where the ruling party is in coalition with opposition groups. It is not clear whether coalition members of the ruling party are considered as opposition parties sharing the remaining 50% quota. Further, it is silent on the number of non-party members who can be offered Cabinet seats vis-à-vis active political parties with seats in Parliament. This could create room for manipulation of the principle of power-sharing in favour of the ruling party.

There is also a strong view that the NCFP is dominated by allies of the ruling RPF, undermining plurality of political views and generating political parties that are complementary rather than in opposition to the ruling party. Currently, six out of the nine opposition parties are in coalition with the ruling party. Yet, they are considered as

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367 Ibid., Article 9.
369 Article 116 of the constitution states ‘members of Cabinet are selected from political organisations on the basis of their seats in the Chamber of Deputies without excluding the possibility of appointing to Cabinet other competent people who do not belong to any political organisations.’
370 More than half of the current Rwandan Cabinet of 29 ministers, including the Prime Minister, are known RPF members. In the 53-member Chamber of Deputies representation is as follows: 35 (66%) RPF, seven PSD, four PL, two PDI, one each for the other five parties. PS-Imberakuri is not represented, having fielded no candidates for the parliamentary elections.
independent political parties. This is unfair, according to the Secretary-General of the PSD, who also feels that under such an arrangement of shared power, parties other than the RPF have difficulties showcasing and mobilising political support and membership on the basis of their political agenda and contribution to national development.\(^\text{373}\)

Further, the requirement to operate in a way that ‘constantly reflects the unity of the people of Rwanda’\(^\text{374}\) makes it easy for opposition political parties to be constrained or banned for not acting in accordance with the law. This was the case with the Christian Democratic Party and the Islamic Democratic Party, which had to change their names to Centrist Democratic Party and Ideal Democratic Party, respectively, to be in line with the provision prohibiting political parties from having religious, ethnic, or other labels seen as discriminatory.\(^\text{375}\) Others such as the Green Party, PS-Imberakuri and United Democratic Forces (FDU-Inkingi) have also faced registration impediments due to technicalities linked to this and other related laws.

Other challenges are found in the regulations barring candidates from campaigning on party platforms. The electoral code prohibits the use of party emblems and manifests by candidates contesting senatorial and local elections, as well as elections for special interest groups.\(^\text{376}\) These, together with a host of other restrictions in the sections on campaign regulations\(^\text{377}\) are seen as severely constraining the freedom of speech guaranteed in Article 33 of the Constitution.

The commitment to fight genocide ideology and divisionism is, however, the one principle that has drawn the greatest concern among political organisations, civil society and human rights groups, legal professionals and international development partners. The group of laws that governs these commitments is at the heart of the debate around electoral democracy in Rwanda. While it is widely agreed that genuine instances of hate speech or conduct still occur in Rwanda, and that this group of laws is well intentioned and understandable in its proper context,\(^\text{378}\) there are widespread and legitimate concerns that as currently framed, these laws are not specific enough with respect to the principles of legality, intentionality and support for freedom of expression, in line with

\(^{373}\) Interview with the Hon. Damascene Ntawukuririyayo, Secretary-General of the PSD and Speaker of the Senate, 20 September 2012.

\(^{374}\) Article 56.

\(^{375}\) African Elections Database, africanelections.tripod.com/rw.html#2003_Presidential_Election.

\(^{376}\) Articles 30 and 152.

\(^{377}\) Articles, 29, 30, 149, 150, 152, 153.

\(^{378}\) A number of reports generated within Rwanda point towards the continued existence of genocide ideology within the country. Examples include: Rwanda Senate (2006) Genocide ideology and strategies for its eradication, pp. 18–19; Rwanda National Assembly (2007) ‘Rapport d’analyse sur le problème d’idéologie du génocide évoquée au sein des établissements scolaires, (unofficial French translation).
international law. They do not, therefore, offer sufficient legal basis or guidance to fairly prosecute hate speech or conduct. In a 2008 governance assessment undertaken jointly with the government of Rwanda, development partners working in the country identified four specific concerns with regard to this group of laws:

- It is doubtful that the laws were drafted clearly enough to allow a person to know whether their conduct would amount to a breach of the law violating the principle of legality.
- The laws do not include the requirement of intentionality (that the offender intended to cause harm).
- The penalties do not allow for sufficient judicial discretion to ensure that sentencing is proportionate to the circumstances of each case.
- The law may not strike the appropriate balance between prohibiting hate speech and supporting the freedom of expression.

Citing a range of examples in which these laws have lent themselves to misinterpretation and have in fact been used to criminalise expression and suppress legitimate political debate and opposition in Rwanda, the development partners and a number of other observers have called for an urgent revision of these laws to align them with international standards so that genuine incidents of hate conduct can be differentiated from legitimate freedom of expression.

In the lead-up to the 2010 presidential election, three prominent leaders of opposition parties were charged and later convicted under these laws in what was seen by many observers as an attempt by the state to clamp down on the opposition and critics of government. Victoire Ingabire, the leader of the exiled opposition party FDU-Inkingi, was arrested in April 2010. She was sentenced two years later to eight years imprisonment on charges of genocide denial and conspiracy, and planning to cause state insecurity. Bernard Ntaganda, leader of the PS-Imberakuri, was twice summoned...

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379 Article 19 of the International Covenant on Civil and Political Rights, to which Rwanda is a signatory, guarantees the right to freedom of opinion and expression. Freedom of expression may be restricted to preserve the rights or reputations of others, national security, public order, public health or public morals. Such restrictions must, however, be defined by law and must be necessary, meeting the requirement of proportionality, for example. Importantly, they must not take away the right itself. Article 20 prohibits propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to hostility, discrimination or violence. Any such prohibition must also comply with the same requirements prescribed for Article 19.


to the Rwandan Senate on similar accusations.\textsuperscript{382} On 24 June 2010, he was arrested and charged with endangering national security, divisionism and attempting to organise illegal demonstrations. On 11 February 2011, he was sentenced to four years in prison on these charges. Deogratias Mushayidi, leader of the Pact for Peoples’ Defence (\textit{Pacte de Défense du Peuple}, PPD), was arrested in Burundi on 3 March 2010 and extradited two days later to Rwanda. He was charged on 17 September 2010 with promoting genocide ideology, revisionism, divisionism, threatening state security, using false documents and collaborating with a terrorist group. He was sentenced to life imprisonment. On 24 February 2012 the Rwandan Supreme Court upheld his conviction and sentence.

Two journalists, Agnès Uwimana and Saidati Mukabibi, who worked for the Kinyarwanda-language newspaper \textit{Umurabyo} in Rwanda, were arrested in July 2010 on charges of publishing defamatory articles against the person of the President, endangering national security and inciting divisionism and denying the Genocide. They were sentenced to 17 and seven years, respectively, by the High Court. Their sentences were later commuted to four and three years, respectively.\textsuperscript{383}

The government has acknowledged its challenges in defining these laws, indicating since April 2010 its intention to review and update them.\textsuperscript{384} In November 2012, Rwanda’s Minister for Justice presented to Parliament an amended version of the 2008 genocide ideology law. The revised version contains improvements, in particular a narrower definition of the offence and a reduction in prison sentences. It suggests that only conduct should be punished, if it is manifested in public, unlike in the existing version, which punishes ideas and thoughts as well.\textsuperscript{385} Observers, however, say the revisions still do not go far enough in defining genocide ideology and removing vague language that could still be used to criminalise free speech.\textsuperscript{386} In recent high-profile cases linked to elections, where divisionism and genocide ideology were identified as charges, the accused persons were able to successfully contest aspects of these laws. Their victories were, however, always clawed back through other related charges and legislation.\textsuperscript{387} According to the media freedom organisation Article 19, other laws continue to pose challenges...
to free speech and free political expression.\textsuperscript{388} Defamation and slander remain criminal offences under the Penal Code,\textsuperscript{389} while the revised media law\textsuperscript{390} does not go far enough in guaranteeing media independence from government.

\section*{D. The National Electoral Commission}

\textbf{Mandate, functions and institutional framework}

Although the National Electoral Commission (NEC) was formally established in 2000, the idea of an independent electoral commission had been conceived as early as 1993 as part of the Arusha Peace Agreement.\textsuperscript{391} In 1999, the first post-genocide local elections were held. They were managed by a small department within the Ministry of Local Government. A 2000 law established the NEC for the first time.\textsuperscript{392} Over the years, the NEC has evolved in response to demands for a more independent commission that is able to organise freer and fairer elections.\textsuperscript{393} The current version of the commission’s legal framework is Law No. 31/2005 of 24 December 2005 establishing the National Electoral Commission,\textsuperscript{394} which was updated in June 2013.\textsuperscript{395}

The 2003 Constitution reaffirmed the commitment to have an independent electoral commission,\textsuperscript{396} stating in Article 180:

The National Electoral Commission is an independent commission responsible for the preparation and organisation of local, legislative and presidential elections and referenda or such other elections the responsibility for the organisation of which the law may vest in the Commission.

\textsuperscript{390} Law No. 02/2013 of 8 February 2013 regulating the media replacing Law No. 22/2009 of 12 August 2009.
\textsuperscript{392} See Law No. 39/2000 of 28 November 2000 setting up the NEC, Official Gazette, Special Issue, 29 November 2000.
\textsuperscript{393} Interview with Charles Munyaneza, Executive Secretary of NEC, 10 September 2012; Law No. 38/2013 of 16 June 2013 modifying and complementing Law No. 31/2005 of 24 December 2005 relating to the organisation and functioning of the NEC, as modified and complemented to date, Article 18.
\textsuperscript{395} Through Law No. 38/2013 of 16 June 2013 modifying and complementing Law No. 31/2005 of 24 December 2005 relating to the organisation and functioning of the NEC as modified and complemented to date.
\textsuperscript{396} See Article 180 of the Rwandan Constitution as amended to date.
Apart from mandating the President of the Republic to sign presidential orders appointing the commissioners or terminating their service, and requiring the commission to submit annual reports to Parliament, the Constitution leaves all other matters concerning the organisation and functioning of the NEC to be determined by law.\footnote{According to Article 113 of the Constitution, the President signs the presidential orders deliberated in the Council of Ministers concerning the appointment and removal of NEC commissioners.} Under the 2005 NEC Law and the Electoral Code,\footnote{Law No. 27/2010 of 19 June 2010 relating to elections.} the commission has full responsibility for all matters linked to the conduct of elections. While the law did not specifically mandate the NEC to propose electoral reforms, this mandate is now affirmed in its 2013 review.\footnote{Article 12 (sub-articles 3 and 18) of the NEC Law empowers the NEC commissioners to take decisions on electoral matters and to advise the government on ways in which the commission may perform better. This could be interpreted to include a role in proposing new electoral laws. The June 2013 review of the NEC law (Law No. 38/2013) affirms this mandate in Article 1 (sub-article 8).}

**Organisational structure and functioning**

The NEC is a national body with decentralised structures that enable it to implement its mandate as stipulated by law. It is composed of three organs:

- Council of Commissioners;
- Bureau of the Commissioners; and
- Executive Secretariat.\footnote{Article 6 of Law No. 31/2005 establishing the NEC.}

**Council of Commissioners**

The Council of Commissioners is the supreme organ in charge of ensuring the functioning of the NEC. It is made up of seven commissioners, including the president and the vice-president of the NEC. The Council of Commissioners is appointed through an order prepared by the Cabinet and signed by the President of Rwanda.\footnote{Article 113, 6 (i) of the Constitution of Rwanda.} It is not clear how the commissioners are identified and selected. There is a lacuna in this regard in the Constitution, the Electoral Code and the 2005 NEC Law. Interviews with a number of sources, however, point towards an informal consultative process that involves the Ministry of Local Government, the NCFP, the Office of the President, and the National Security Service.\footnote{Interviews with the Hon. Appoliniare Mushinzimana, Senator and Member of the Rwandan Senate Appointments Committee, interview, 15 September 2012; the Hon. Zephanir Kalimba, Senator, telephone interview, 15 June 2013; Mr Gisagara, legal advisor of the NEC, telephone interview, 19 June 2013.} From this consultation, an inclusive list of names is drawn up and presented to the Cabinet for vetting.\footnote{The political affiliation of the commissioners represents a key aspect and benchmark of the independence of any given EMB. The NEC’s official website makes reference to its members being drawn from ‘different’ political parties and from civil society, see ‘Structure’, National Electoral Commission, www.nec.gov.rw/details/?tx_ttnews[tt_news]=6&cHash=0f5ec824d1c539eab95af356101f5ca1, accessed 23 March 2013.} The Cabinet then presents a list of seven nominees, including the president and the vice-president, to the Senate for further scrutiny.
and approval.\textsuperscript{404} Two of the seven commissioners must be lawyers and, in line with Constitution, at least 30\% of members must be women. Once approved, the names of the nominees are sent back to the Cabinet. A presidential order is then prepared and signed by the President appointing them.\textsuperscript{405}

The Council of Commissioners is not a full-time organ. Once appointed, members continue with their ordinary duties. During elections, commissioners convene meetings whenever necessary. However, during non-electoral periods, the commissioners meet once every three months, or when necessary. During the election period, the commissioners are required to suspend their other duties one month before the elections in order to monitor activities until the announcement of the final results.\textsuperscript{406} They resume their normal non-commission duties at the end of that period.

Commissioners are not paid a salary but receive a fee during the election period and a sitting allowance determined by a presidential order during meetings outside of the election period. The commissioners serve a term of three years, renewable once.\textsuperscript{407} A June 2013 review\textsuperscript{408} of this law has now changed this to five years, renewable once. The quorum for the Council of Commissioners is at least two-thirds of its members.\textsuperscript{409} Meetings are summoned and chaired by the president, and by the vice-president in the absence of the former. In case both are absent, the commissioners elect from among themselves a temporary chairperson. Decisions of the Council of Commissioners are taken by consensus, or by a simple majority vote of two-thirds of the commissioners present. The commission can create its own internal regulations.\textsuperscript{410}

In order for a person to be a commissioner, he or she has to be:

- A Rwandan;
- A holder of at least a bachelor’s degree from a university or a state-recognised higher learning institution; and
- A person of integrity.

On assumption of office, the commissioners take an oath administered by the president of the Supreme Court. They can be removed from office by a presidential order.\textsuperscript{411} A member of the commission ceases to be a commissioner due to one of the following reasons, in addition to that of completing his or her term of office:\textsuperscript{412}

- Resignation from duty and notification in writing to the President of the Republic;

\begin{footnotesize}
\textsuperscript{404} Article 8 of the 2005 NEC Law.
\textsuperscript{405} Articles 88 and 113(5j) of the 2003 Constitution of Rwanda.
\textsuperscript{406} Article 10 of the 2005 NEC Law.
\textsuperscript{407} Ibid., Article 7.
\textsuperscript{408} Law No. 38/2013 of 16 June 2013 modifying and complementing Law No. 31/2005 of 24 December 2005 relating to the organisation and functioning of the NEC as modified and complemented to date.
\textsuperscript{409} Article 23 of the 2005 NEC Law.
\textsuperscript{410} Ibid., Article 30.
\textsuperscript{411} Ibid., Article 8.
\textsuperscript{412} Ibid., Article 31.
\end{footnotesize}
• Failure to discharge his/her duties for various reasons;\footnote{Including those articulated in Articles 32 and 33 of the 2005 NEC Law. These include abuse of office through behaviour seen as hindering the smooth running of the elections or standing for/holding other elective positions while still occupying the position of a commissioner.}
• Upon request by the President of the Republic;
• Upon request by at least a half of the members of the Senate;
• Upon death.

\textit{Bureau of Commissioners}

The Bureau of Commissioners is composed of the president, the vice-president and the executive secretary of the NEC. It is responsible for preparing:

• Urgent actions to be forwarded to the Council of Commissioners;
• Points to be discussed in the Council of Commissioners; and
• Forwarding to the Council of Commissioners the programme for electoral activities.

The president is responsible for:

• Representing the NEC before other institutions;
• Convening and directing the meetings of the Council of Commissioners;
• Convening and directing the meetings of the Bureau;
• Coordinating the activities of the NEC; and
• Performing other duties related to his/her responsibilities as may be assigned by the Council of Commissioners.

The vice-president is responsible for:

• Assisting the president of the NEC, replacing him/her in case of his/her absence, and
• Performing other duties related to his/her responsibilities as may be assigned by the Council of Commissioners.

Bureau members serve for a term of office similar to the commissioners and are replaced in the same way.

\textit{Executive Secretariat}

The Executive Secretariat is the technical office of the NEC, responsible for its day-to-day functioning. It is headed by the executive secretary, who is supported by directors in charge of finance, electoral operations, civic education and information and communication technology. It has supporting staff in accordance with the NEC organisational structure, who are deployed at national headquarters and at decentralised levels in the provinces, City of Kigali and at district headquarters. The national secretariat also
maintains a pool of experienced coordinators and volunteers, who manage elections at polling centres at cell and sector levels. The Executive Secretariat is specifically in charge of:

- Preparing the action plan of the NEC and its budget;
- Executing the decisions of the Council of Commissioners;
- Preparing draft instructions governing the electoral process;
- Preparing draft civic education on elections;
- Preparing the electoral list; and
- Performing other duties assigned by the Council of Commissioners.

During election periods, the NEC is mandated to establish branch offices at provincial, City of Kigali and district levels. The number of personnel is determined by the particularity of each level and the election. The mandate of the branches is to prepare electoral activities at their levels in accordance with the instructions of the NEC.

The executive secretary is appointed by an order of the Prime Minister on permanent service terms following approval by the Cabinet. Like the commissioners, s/he is sourced through a consultative process that involves the line ministry, the NCFP, and the office of the President. The executive secretary’s qualifications are the same as those of the commissioners. Other staff members of the secretariat are recruited and managed in accordance with the general statute on public servants and the approved NEC structure. To emphasise its independence, the Office of the Secretariat of the NEC is located in a separate building from the various institutions that oversee its operations and interact with it.

**Functions and powers**

In 2005, the law regulating the NEC was amended to address shortcomings observed by the NEC itself, the various missions accredited to Rwanda to observe elections, and other stakeholders such as Parliament and the political parties. The NEC is mandated to discharge the following duties:

- Prepare, conduct and supervise elections;
- Establish electoral constituencies;
- Establish commission branches in the provinces, City of Kigali, and in the districts;
- Appoint members of the Electoral College, give them instructions, receive their reports and supervise them during elections;
- Prepare and teach civic education on elections;
- Monitor, announce and publish in writing election results;

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414 The NEC currently manages up to 65,000 volunteers during universal suffrage elections, interview with the executive secretary of the NEC.
415 Article 26 of the 2005 NEC Law.
416 Interview with Charles Munyaneza, executive secretary of the NEC, 10 September 2012.
• Put in place strategies to ensure elections are free, fair and transparent;
• Accredit national and international election observers;
• Monitor whether candidates are enjoying equal access to public media during elections; and
• Participate in the elaboration of draft laws governing elections, which the NEC has to organise and conduct.

The Electoral Code gives the NEC the mandate to ensure respect for laws and regulations governing the electoral process. The NEC secretariat is charged with preparing the electoral roll and drafting the instructions governing the electoral process. The NEC is required to submit its Plan of Action, activity report and the decisions of its Council of Commissioners to the President, copying the President of the Senate, the Speaker of the Chamber of Deputies, the Prime Minister, the President of the Supreme Court and the minister in charge of Local Government. The Council of Commissioners has the following functions:

- Determining electoral policy;
- Approving the NEC action plan;
- Taking decisions on electoral matters;
- Analysing and approving:
  • NEC reports;
  • Electoral instructions;
  • Electoral education materials;
  • Electoral equipment and materials;
  • The electoral time table and the final electoral list of candidacies; and
  • The draft budget for the NEC so that it may be forwarded to competent authorities;
- Approving representatives of the NEC in its branches at province, City of Kigali and district levels during elections;
- Monitoring electoral campaigns and the electoral process;
- Announcing election results;
- Coordinating NEC activities; and
- Advising the government on how the NEC may perform better.

Voter registration

The Electoral Code charges the NEC with the responsibility of preparing and maintaining the voters’ register and managing the entire registration process. Accordingly, the NEC is mandated to:

Electoral Code, Article 5; see Law No. 27/2010 of 19 June 2010 relating to elections, Official Gazette, Special Issue, 19 June 2010.
Ibid., Article 19.
Ibid., Article 28.
Article 12 of the 2005 NEC Law.
Articles 7–23.
• Draft electoral instructions specifying the time for beginning and closing the voters’ register and the content of that register;
• Define the modalities for registration in the voters’ register;
• Monitor and regulate registration in the voters’ register;
• Update the voters’ register at least once per year. Where an election is held within two months of the previous one, the register used in the previous election is maintained;
• Determine eligibility for and monitor registration in the voters’ register;
• Receive and keep the voters’ register; and
• Issue and replace a voter’s card to registered voters.

A voters’ register is established in each village and in every embassy of the Republic of Rwanda. Bona fide Rwandan citizens (with Rwandan identity cards or passports or other document issued by a competent authority) of at least 18 years of age and not prohibited by the electoral law are allowed to register as voters. The Electoral Code identifies eight categories of persons considered ineligible to register as voters. They are:

• Persons deprived of the right to vote by a competent authority and who have not been rehabilitated or granted amnesty by the law;
• Persons convicted of murder and manslaughter;
• Persons definitively convicted of the crime of genocide against the Tutsis or crimes against humanity;
• Persons who plead guilty to the crime of genocide and crimes against humanity in the first degree;
• Persons convicted of the crime of defilement;
• Persons convicted of the crime of rape;
• Prisoners; and
• Refugees.

Registration is carried out by NEC-designated officials, whose mandate includes ensuring registration is done in accordance with the law, as well as maintaining the security of the registration materials. Upon completion, a provisionally approved register is displayed in public to enable registered voters to verify their details. This is done over a period of 30 days before polling day.

A list of persons removed from the voters’ roll for reasons of ineligibility is published before the release of the final register. Upon the final closure of the registration process, electoral coordinators at the provincial and City of Kigali level transmit a written statement on the registration process to the president of the NEC. The voters’ register is kept in the archives of the NEC, where it is available for consultation on request. Persons interested in lodging a complaint related to registration may do so in writing.

422 Article 11 of the Electoral Code.
to the branch of the NEC where the complaint arose before the publication of the final voters’ register. The branch of the NEC that receives the complaint must issue a decision within 48 hours, which may be appealed within 24 hours to the next level of the NEC if not satisfactory. All final decisions made by the NEC regarding registration and correction of the voters’ register may be appealed in court.

Any registered voter who wishes to transfer from the register of the village or the embassy where he or she was originally registered to another does so by presenting a written document issued by a competent NEC staff member from the original place of registration showing that he or she has been removed from the original voters’ register. He or she is then issued with a new voter’s card.

Approval of party candidates
The Council of Commissioners is mandated to monitor, analyse and approve political candidates in line with stipulated provisions in the Constitution, the Electoral Code and the code of conduct for politicians and political organisations.423 The law governing politicians and political organisations obliges politicians and political organisations to:424

- Avoid any speech, writing or action that may discriminate or divide;
- Educate the members of a political organisation or a politician to participate in political competition peacefully and with mutual respect and in tranquillity;
- Respect their opponents and avoid disparaging or defaming them;
- Tell the truth during political competition;
- Inform Rwandans of the fundamental principles and the political programme of the political organisation, with a view to building the nation;
- Avoid spoiling ballot papers, cheating in the polls and disturbing the elections or the counting of votes;
- Avoid unsound legal disputes or disparaging any election that was held in accordance with the law; and
- Use established legal procedures and abide by the final decision made by the authorised institution where election results are being challenged.

Before publication of the final list of candidates, a candidate who is disqualified by the NEC is informed in writing of the documents that are missing in his/her dossier and is granted time to complete it. This is done within five days after publication of the provisional list of candidates and before publication of the final list. The NEC approves and announces the final list of candidates at least seven days before commencement of election campaigns.425

423 Article 12 of the 2005 NEC Law.
424 Article 38 of the law governing politicians and political organisations.
Constituencies

The role of the NEC in establishing electoral boundaries is set out in the 2005 NEC Law and the 2013 update.\(^{426}\) Electoral constituencies in Rwanda vary according to the various elective positions.\(^{427}\)

For the presidency, the electoral boundary comprises the entire country and eligible Rwandans living in the Diaspora.\(^{428}\)

For members of the Chamber of Deputies in direct elections, it is also the entire country, with the same provision for Rwandans living in the Diaspora.\(^{429}\)

For women MPs, the 24 deputies are elected directly by an electoral college that consists of members of executive committees of the National Women’s Council at the national, provincial, district, sector, cell and village levels, as well as members of councils of districts and sectors within the respective electoral constituencies. A Presidential Order determines the electoral constituencies and the number of women deputies to be elected within each constituency in accordance with the administrative entities of the country.\(^{430}\)

Senators are elected through a combination of direct and indirect methods:

- Twelve senators are elected directly through secret ballot by an electoral college comprising members of sector committees and district councils who form an electoral constituency;
- Eight are nominated by the President and include a representative of the historically marginalised communities in Rwanda such as the Twa;
- Four are nominated by the NCFP; and
- Two represent institutions of higher learning, one public and the other private, elected by the academic and research staff of these institutions.\(^{431}\)

The elections of local administrative leaders at district and City of Kigali levels are by direct or indirect suffrage through secret ballot. The local administrative organs for which elections are held are councils, the bureaux of councils and the executive committees. The district council members comprise one representative (councillor) elected from each sector, and representatives of the youth and women who make up one-third of the council members. The district council is headed by a bureau comprising a chairperson, a vice-chairperson and a secretary, all elected directly by an electoral college.

The female members of the council (30% of all council members) are elected through indirect and secret ballot, as well as by members of the council bureau of sectors constituting the district, members of the executive committee of the National Women’s Council, heads of district and committee members.

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\(^{426}\) Article 5(2) of the 2005 NEC Law and Article 1(2) of Law No. 38/2013 of 16 June 2013.
\(^{428}\) Article 87.
\(^{429}\) Article 104.
\(^{430}\) Article 109.
\(^{431}\) Article 116.
Council at the district and sector level, and cell-level coordinators of the national council of women.

Working alongside the council is the district executive committee, headed by the mayor and two vice-mayors. Members of the district executive committee are elected by indirect and secret ballot, through an electoral college comprising members of the district and the sector councils constituting the district. Similarly, each sector is governed by a development committee comprising one elected representative from each cell and led by a sector coordinator. The cells and villages are the smallest political units providing the link between the people and the sectors. All resident adults (above the age of 18 years) are members of their local cell assembly or council. They elect a ten-member cell executive committee, which in turn elects two women and one youth to represent the village in the cell council.

Electoral calendar
The Bureau of Commissioners is charged with preparing and forwarding to the Council of Commissioners the programme for electoral activities. The Council of Commissioners have the mandate to analyse and approve the electoral time table. The time table outlines the range of activities related to the planning and conduct of elections, along with the dates and duration for undertaking them during an election year. Key activities include the following:

- Preparation and mobilisation of the electoral budget;
- Preparation and conduct of civic education;
- Preparation of electoral instructions;
- Upgrading the voters’ register;
- Recruitment and deployment of electoral staff;
- Procurement of electoral materials;
- Invitation and accreditation of electoral observers;
- Determination and publication of the list of candidates;
- Announcement of the dates for and the conduct of election campaigns, and
- The actual elections.

The polling date and the period for the election campaigns is determined by a Presidential Order. According to the June 2013 update of the law, the period for election campaigns is now at least 20 days, revised from 18 in the 2010 version of the Electoral Code.

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432 Article 14 of the 2005 NEC Law.
433 Ibid., Article 12.
435 Article 19 of the Electoral Code.
Appointing members of the Electoral College
An Electoral College is a group of people who have the right to vote.\textsuperscript{436} The Electoral College system is used in the election of senators, women deputies and representatives of the youth and persons with disabilities at the district level. The 2005 NEC Law empowers the Council of Commissioners to appoint members of the Electoral College, give them instructions, receive their reports and supervise them during elections.\textsuperscript{437} In all cases where an Electoral College is used, elections take place when a quorum of two-thirds is present. If the quorum is not attained, elections are postponed for a period not exceeding five days. If the quorum is not attained in the second instance, then those present proceed with the elections.

Civic and voter education
The NEC has a mandate to prepare and teach civic education, and to draft relevant voter education materials.\textsuperscript{438} The NEC’s civic and electoral education programme aims to teach citizens the importance of voting and encourage them to vote responsibly. The NEC targets the general population directly and through their representative groups, such as political parties, women, youth councils and trade unions.

Other institutions are also involved in delivering civic and electoral education. The law on political organisations mandates politicians and political organisations to educate citizens on politics based on democracy and elections.\textsuperscript{439} Other constitutional institutions such as the National Unity and Reconciliation Commission (NURC) and the National Human Rights Commission also offer civic and political education to Rwandans. The \textit{Itorero ry’Igihugu} (a form of national informal education) and \textit{Ingando} (national solidarity camps) initiatives are two specific civic education programmes run nationally under the NURC. The two initiatives aim to inculcate the values of integrity, patriotism, service and national unity and reconciliation as key ingredients of national development. \textit{Itorero ry’Igihugu} targets the general population and special groups such as returning exiles, while \textit{Ingando} targets school-going and school-leaving youth.

Management of electoral campaigns
The Electoral Code determines how electoral campaigns are carried out in Rwanda,\textsuperscript{440} based on provisions contained in the Constitution and other relevant laws. Citizens have the right to campaign freely.\textsuperscript{441} An amendment of the law on political parties passed in 2007 now allows parties to organise and campaign at all levels of government.

\textsuperscript{436} As defined in Article 2(9) of Law No. 37/2013 of 16 June 2013 modifying and complementing Law No. 27/2010 of 19 June 2010 relating to elections.
\textsuperscript{437} Article 5(3).
\textsuperscript{438} Articles 5(4) and 19(4) of the 2005 NEC Law.
\textsuperscript{439} Article 2 of the Electoral Code.
\textsuperscript{440} Ibid., Articles 28–30, 64–69 and 147–153.
\textsuperscript{441} Ibid., Articles 19 and 28.
Regulating access to the media: The NEC and the Media High Council

Articles 67 and 68 of the Electoral Code regulate the relationship between the NEC and the Media High Council (MHC). The MHC is required to ensure equal access to public media for all independent candidates, political organisations and coalitions in competition. The NEC is mandated to receive copies of all communication regarding requests for use of public media by political parties and candidates. A candidate who wishes to campaign using state media sends a written request to the directors of such media outlet at least three days before the commencement of the event, indicating the date and the time of the event. This time has now been changed to five days under the June 2013 update of the Electoral Code. The directors of the media outlet must reply in writing within 24 hours (changed to 48 hours in the updated law) before the commencement of the event.

Law No. 30/2009 set out the mission, organisation and functioning of the MHC and provides the legal framework for the role of, and access to, the media during elections. The MHC is mandated to:

- Monitor whether political organisations and coalitions of political organisations enjoy equal access to public media during electoral campaigns;
- Establish regulations governing programme content and coverage of electoral campaigns by public and private media; and
- Ensure that the public media organs give equal coverage to various election-related news.

The MHC issues instructions regarding the implementation modalities for these provisions.

The relationship between the NEC and the MHC is, however, set to change in light of recent policy and legislative changes with regard to media regulation and operations in Rwanda. On 30 March 2012, the Cabinet adopted a media policy document outlining major reforms in the sector. The key reforms relevant to the MHC’s relationship with the NEC included the following:

- The MHC would no longer be responsible for media regulation, but rather for media development and the promotion of media freedom.
- Print journalists would self-regulate under a mechanism to be determined.
- The government-run Rwanda Bureau for Information and Broadcasting (ORINFOR) would transform into the Rwanda Broadcasting Agency (RBA), to be regulated by its own board made up of civil society and private-sector individuals.

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442 Law No. 30/2009 of 16 September 2009 determining the mission, organisation and functioning of the Media High Council.
443 Ibid., Article 6 (12–14).
The Rwanda Utility Regulatory Authority (RURA) would have regulatory authority over electronic media (under the supervision of the RBA’s board of directors) for the allocation and use of the electromagnetic spectrum.

Content regulation would be devolved to a self-regulatory mechanism.

The Cabinet ordered that these reforms be enacted through new legislation and changes to existing media laws. On 30 June 2012, the Office of the Government Spokesperson replaced the Ministry of Information. On 1 July 2012, the Cabinet approved new draft legislation on access to information and on the RBA, as well as amendments to the media law, the MHC law, and the law governing RURA.

On 11 March 2013, Parliament adopted Law No. 02/2013 regulating the media, Law No. 03/2013 outlining the responsibilities, functioning and organisation of the Media High Council, and Law No. 04/2013 on access to information.

The role of the MHC under the new law is identified as helping to develop the capacity of Rwanda’s media to make it more vibrant and professional. The role of media regulation is transferred to a media practitioners’ self-regulatory body and to the national utilities regulator RURA. The day-to-day functioning of the media and the conduct of journalists is to be managed by a self-regulatory body, while the regulation of audio, audio-visual media and the internet is to be carried out by RURA.

The roles related to media monitoring during elections, which were previously performed by the MHC, have now been transferred to the NEC.

Sources: Law No. 37/2013 of 16 June 2013 modifying and complementing Law No. 27/2010 of 19 June 2010 relating to elections as modified and complemented to date; Law No. 03/2013 of 8 February 2013 outlining the responsibilities, functioning and organisation of the Media High Council, replacing Law No. 30 of 16 September 2009; Law No. 02/2013 of 11 March 2013 regulating the media, replacing Law No. 22/2009 of 12 August 2009; Law No. 38/2013 of 16 June 2013 modifying and complementing Law No. 31/2005 of 24 December 2005 relating to the organisation and functioning of the National Electoral Commission as modified and complemented to date.

All candidates have the right to equal access to state media.\(^\text{444}\) A candidate who wishes to campaign using state media must request it through a written notice, against acknowledgment of receipt, addressed to the NEC at least five days before the commencement of such a campaign. The candidate must indicate the date and time s/he intends to conduct the campaign, and if it is on state radio or television. The NEC, in turn, must reply within 48 hours of such notice after consultation with the management of the media outlet on which the candidate wishes to conduct his/her campaign. However, candidates are barred from campaigning on the basis of their political parties.\(^\text{445}\)

\(^{444}\) Ibid., Articles 68 and 69 (updated through Articles 20 and 21 of Law No. 37/2013 of 16 June 2013).

\(^{445}\) Article 125 of the Electoral Code.
Candidates are further barred from campaigning on the basis of race, ethnicity, region, religion and in other discriminatory or divisive ways; from abusing, defaming or slandering other candidates; and from using national insignia and party emblems, photos and write-ups. The Code also prohibits any form of corruption to influence voters and the use of state property during campaigns. Candidates who contravene these provisions are to be removed from the list of candidates, but have the right of appeal to a higher instance of the NEC or a competent court.

Recently, the June 2013 update of the Electoral Code has allowed candidates to use posters and other means during campaigns, stating that:

A candidate may, for his/her election campaign, use posters, banners, distribution of letters and circulars, public rallies and public debates, radio, television, print media, and any other means which is not contrary to the law.

The modalities for use are, however, to be determined by the NEC instructions.

**Voting and vote counting, consolidation and announcement**

The responsibilities of the NEC for vote counting are established by the Electoral Code. Responding to previous criticisms of the voting process, the June 2013 amendment now provides for voters to tick or cross with a pen against the candidate of their choice in elections where the ballot paper is used. Previously, only the use of an inked thumbprint was allowed.

In line with the provisions barring certain individuals from registering as voters, the code temporarily disqualifies the following categories of individuals from voting:

- Persons in preventive detention in accordance with the provisions of the Criminal Procedure Code;
- Persons in detention in the execution of a sentence;
- A person with, or who shows signs of, mental illness; or
- Any other person who disrupts public order at a polling site.

Counting begins immediately after voting ends, without the requirement of an hour’s interval between the closing of polls as was previously the case. The counting must be public and before all present.

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446 Ibid., Article 30.
447 Ibid., Article 152.
448 Ibid., Article 153.
449 Ibid., Article 165.
450 Law No. 37/2013 of 16 June 2013, Articles 9 and 20.
451 Article 15 of the Electoral Code.
452 Ibid., Article 11.
454 Ibid., Article 58.
The Electoral Code sets out an elaborate process for vote counting, declaration, consolidation, transmission and announcement of results. This involves:

- Public counting and announcing of all valid votes cast at the polling station, noting the invalid votes and all votes against the voters’ register;
- Signing of NEC-provided tally sheets by voting room assessors, polling agents and representatives of candidates present at the polling station;
- Public declaration of election results immediately upon completion of vote counting;
- Consolidation of all results after voting by members of the polling room committee;
- Preparation of a statement of conduct of elections by the coordinator of the polling room and other polling room members;
- Signing of the statement by the polling room committee, candidates or their representatives or representatives of lists of candidates;
- The coordinator of the polling room places in the ballot box of the polling room the statement on the conduct of elections, sealed in an envelope and stamped by him/her before the public, together with the valid and invalid ballot papers, and hands them over to the chairperson of the polling station, and
- The chairperson of the polling station, after collecting all the electoral results from each polling room, sends them to the district level through the sector electoral coordinator.

Representatives of candidates are entitled to follow up the entire vote counting process and to request that their observations and contestations be recorded in the statement. There is a three-tier process for vote consolidation from polling centre to district, and on to the national level, for which the NEC is responsible. Accordingly, the election coordinator at each level of consolidation of election results merges the results at the preceding level and communicates them to the public.

*Powers of the NEC to sanction misconduct*

The Electoral Code charges the NEC with the responsibility of monitoring and ensuring respect for laws and regulations governing electoral activities gives specific powers of sanction to the EMB. For example, the NEC is empowered to remove from the

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455 Ibid., Article 59.
456 A valid vote and an invalid vote are defined in Article 60 of the Electoral Code. Accordingly, a ballot paper is considered null and void if it bears signs other than those specified, does not clearly indicate the elected list or candidate, is returned in the ballot box without indicating any choice of candidate, has additions, or if it is not in compliance with the Electoral Code or NEC instructions. Such a ballot shall not be considered as a vote cast and shall not be considered in the calculation of the percentage of votes obtained by a candidate.
457 Ibid., Article 61.
458 Ibid., Article 5.
candidates’ list anyone who violates campaign laws.\textsuperscript{459} Such violations may include campaigning on the basis of a political organisation, using national or an organisation’s symbols or write-ups during such campaigns,\textsuperscript{460} or posting campaign materials in unauthorised places.\textsuperscript{461} They may also include candidates acting in contravention of the code of conduct for politicians and political organisations.\textsuperscript{462}

The procedure for sanction entails:

- An oral warning;
- A written warning where a candidate persists; and
- A nullification of candidature in writing within 12 hours of being officially informed of the violation, if the violation persists.

The same procedure is followed with candidates belonging to a political organisation or a coalition of political organisations. In such cases, the NEC summons the party or coalition concerned and advises it to remove the candidate in question. If the party or coalition fails to do so, the NEC delists the candidate by a notice to the political organisation or coalition concerned, the Senate, the NCFP and the Supreme Court. A candidate thus delisted can appeal the decision to a competent jurisdiction within 24 hours.

Article 55 of the Constitution gives power to senators to summon and recommend to the High Court for sanction political organisations that grossly violate the provisions relating to political organising. Such powers have been exercised before, for example, in the case of Bernard Ntaganda, leader of the Ideal Social Party, in 2010. A person who is removed from the list of candidates may appeal against the decision through the NEC hierarchy. If dissatisfied with the NEC decision, the person may appeal to a competent court of law.

\textit{Accreditation of election observers}

The Electoral Code mandates the NEC to give accreditation to domestic and foreign election observers upon request.\textsuperscript{463} The observers are required to abide by electoral laws and instructions issued by the NEC. The law allows observers unhindered access to all electoral activities for which they are accredited, including being present in the polling rooms. Responding to recent criticisms levelled against the NEC, the June 2013 review of the Electoral Code now codifies a range of additional rights for election observers.\textsuperscript{464} Accordingly, electoral observers and representatives of candidates are allowed the following rights:

\textsuperscript{459} Ibid., Articles 69 and 153.
\textsuperscript{460} Ibid., Articles 125 and 152.
\textsuperscript{461} Ibid., Article 151.
\textsuperscript{462} Articles 35–41 of the law governing political organisations and politicians constitute the code of conduct for politicians and political organisations. Article 38 in particular, provides the code of conduct during the election period.
\textsuperscript{463} Electoral Code, Article 205.
\textsuperscript{464} 2013 update of the Electoral Code, Article 30.
• To be informed about the electoral calendar;
• To be informed about how elections are organised and conducted;
• To be informed about where all electoral operations are done;
• To have access to all documents related to elections;
• To have free access to where all electoral operations are conducted, except the polling booth after the commencement of polling operations; and
• To be informed about election results within the period provided by law.

The updated Electoral Code also sets out the obligations of observers:465

• To avoid any activity that may disrupt the smooth electoral process;
• To be impartial in electoral activities;
• To comply with laws in force in general and laws related to elections in particular;
• To respect national culture;
• To avoid giving instructions to electoral officers;
• To operate in the area to which they have been accredited;
• To respect electoral officers at all levels;
• Not to publish elections results before the competent organ does so; and
• To produce a report based on evidence or facts observed during the elections and submit it to NEC within 60 days of the closure of polling.

Power to propose laws and regulations
The NEC’s powers to prepare electoral regulations are set out in the law establishing it.466 The instructions are meant to complement the electoral laws in guiding the electoral process. The power to draft the instructions is vested in the NEC’s Executive Secretariat. Once drafted, the instructions are analysed and approved by the Council of Commissioners.467 The powers to propose electoral laws remained dormant for some time until June 2013. These powers are now codified in an update of the 2005 NEC Law, which now empowers the NEC to participate in the elaboration of draft laws governing elections the commission organises and conducts.468 These are analysed and approved by the Council of Commissioners before they are submitted to Parliament for review and enactment.

Independence and integrity
Article 180 of the Constitution establishes the NEC as an independent commission responsible for the preparation and organisation of local, legislative and presidential elections and national referenda and other elections determined by law. The law requires

465 Ibid., Article 31.
466 2005 NEC Law, Article 19(3).
467 Ibid., Article 12(6).
468 Article 1(8) of Law No. 38/2013 of 16 June 2013 modifying and complementing Law No. 31/2005 of 24 December 2005 relating to the organisation and functioning of the NEC.
that the NEC and its commissioners are independent and conduct their activities with the highest integrity. A requirement for appointment as a commissioner is that the person be a man or woman of very high integrity.\textsuperscript{469} The oath of assumption of office requires the commissioners to be:

- Be loyal to their office;
- Serve selflessly without discrimination or favour; and
- Promote fundamental freedoms and rights.

Commissioners are barred from standing for any elective post during their tenure.\textsuperscript{470}

The 2005 NEC Law grants temporary immunity against detention to members of the NEC at national or branch level during the elections period.\textsuperscript{471} However, if accused of behaviour that may hinder the smooth running of the elections, such as revealing secrets, vote rigging, damaging electoral documents and materials, and other related offences, a commissioner is liable to prosecution in accordance with the electoral laws and the Criminal Procedure Code of Rwanda.

\textit{The NEC and the national Parliament}

The NEC is a creation of the Constitution and, as such, is subject to parliamentary control. It is mandated to propose draft electoral laws through the ministries of justice or local government, and instructions for approval by Parliament. The NEC is required to submit its Plan of Action, activity report, as well as decisions of its Council of Commissioners to the President of the Republic, with copies to the President of the Senate, the Speaker of the Chamber of Deputies, the Prime Minister, the President of the Supreme Court and the minister in charge of local government.\textsuperscript{472} The NEC may also recommend to Parliament further sanctions against politicians or political organisations that violate the provisions of the Electoral Code.

\section*{E. Funding of elections}

\textbf{The NEC budget}

The budget of the NEC comprises a recurrent budget and a special budget for elections.\textsuperscript{473} Both budgets are included in the national budget. The Council of Commissioners approves the annual budget before it goes to the Ministry of Finance and to Parliament for final approval. The 2005 NEC Law allows it to solicit additional funding from development partners.\textsuperscript{474}

\textsuperscript{469} 2005 NEC Law, Article 11.
\textsuperscript{470} Ibid., Article 32.
\textsuperscript{471} Ibid., Article 33.
\textsuperscript{472} Ibid., Article 28.
\textsuperscript{473} Ibid., Article 29.
\textsuperscript{474} Ibid.
The NEC has made tremendous efforts in seeking to end its dependence on donor funding. It plans to achieve 100% funding from domestic sources by 2013 and to phase out donor funding of national elections altogether. Indeed, the NEC has lived up to this plan.

In the 2008 parliamentary elections (15–18 September 2008), the NEC spent RWF 7.7 billion, of which the government contributed 63% (RWF 4.8 billion);\textsuperscript{475} the remaining 37% came from development partners and was managed under a joint basket fund.\textsuperscript{476} In 2010, up to 83% of the RWF 8.5 billion (USD 10 million) budget required for the presidential election came from the national budget.\textsuperscript{477} This amount stood at 89% in 2012.\textsuperscript{478} The budget for the September 2013 parliamentary elections was estimated at about RWF 5 billion (USD 8 million),\textsuperscript{479} with 96% of this money coming from the national budget.\textsuperscript{477} The remaining 4% was raised by NEC Printing Services and UNDP support. The Commonwealth Expert Team report notes that between 2008 and 2013, Rwanda managed to reduce its expenditure per voter by nearly 50%, from USD 2.9 to USD 1.4.\textsuperscript{481} On average, about 40% of this budget goes into recurrent expenditure, while the rest is spent on the actual conduct of the elections.\textsuperscript{482}

Among the strategies employed by the NEC to reduce costs and donor dependency include the use of volunteers, currently estimated at around 65,000 countrywide, and the re-use of materials procured from previous elections such as ballot boxes, stamp pads and printing papers. More recently, the NEC has procured its own state-of-the-art printer to print ballot papers, voters’ registers, as well as civic education and other materials used during elections. The printer is hired out to other government institutions during non-election periods to generate income for the NEC. Some key respondents expressed reservations, however, about an in-house printer, citing fears of possible fraud through overprinting of ballot papers and ballot stuffing in the absence of adequate independent oversight.

\textsuperscript{476} Ibid.
\textsuperscript{480} The Commonwealth (2013), op. cit.
\textsuperscript{481} Ibid., p. 7.
\textsuperscript{482} For example, the NEC 2008 budget was RWF 5,793,799,622, allocated as follows: RWF 3,608,235,105 (62.3%) to preparing and conducting the 2008 election of MPs and the Chamber of Deputies; RWF 1,044,921,316 (18%) to building the institutional capacity of the NEC; RWF 42,715,000 (0.7%) to promotion of relations and collaboration with other organs.
Auditing

By law, the commission is obliged to submit, by March of each year, an annual activities report, an action plan and a budget to the President of the Republic – with copies to the Parliament, the Supreme Court, all Cabinet members and the Ministry of Local Government. The reports are prepared by the relevant departments and offices of the NEC and pre-approved by the Council of Commissioners. Upon approval, the NEC’s budget is presented to the Ministry of Finance. The NEC’s internal auditor prepares quarterly and annual audit reports, which are submitted to the Council of Commissioners for review. In addition, the NEC is subject to an audit by the Auditor-General at his/her discretion, and upon request by Parliament and the executive. Every year, the Auditor-General must submit a complete report on the state financial statements for the previous year to each chamber of Parliament, prior to the commencement of the session devoted to the examination of the budget of the following year.

Financing of political parties

Rwandan political parties have three main sources of financing:

- Limited state support channelled through the NCFP to all registered parties in equal measure;
- Independent contributions from membership; and
- Income from party assets.

According to the law regulating political parties, any political party that obtains at least 5% of the valid votes is eligible for an equal share of financing from the government. The NCFP has a capacity-building grant available to parties every year. The grant, issued upon application, comes from the national budget and depends on the available budget for the year. Parties are required to submit yearly financial statements and inventories of assets to the Ministry of Local Government, the Ombudsman and the NCFP. Donations from public or quasi-public enterprises, foreigners and trading companies are not allowed. Any donation exceeding RWF 1 million has to be declared within 30 days. Except in the case of the RPF, membership contributions are paltry and irregular, and the small parties depend almost entirely on the funding made available by government through the NCFP.

The small parties have practically no assets. The RPF, on the other hand, draws on an extensive base of financing that includes:

- A fixed percentage of members’ income;
- Special contributions during election times;
- Ongoing fundraising activities involving public pledges;

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483 Article 180 of the Constitution; Article 4 of the 2005 NEC Law.
484 Article 183 of the Constitution; Law No. 05/98 of June 1998 establishing the Office of the Auditor-General of State Finances.
485 Article 184 of the Constitution.
• Sales of party paraphernalia; and
• Contributions from the Diaspora.

It also has a robust business and asset base built over many years. This formidable base affords the RPF an overwhelming financial and political advantage over its competitors, and a capacity to access, mobilise and recruit members in ways that the opposition political parties can never hope to match.

Representatives of various political parties interviewed for this study opined that the government should provide an operational budget to political parties since they are not allowed to receive funding from foreign sources. In their view, political parties in coalition with the ruling party should equally benefit from such funds. A concern was raised about the late reimbursement of funds to political parties that obtain the 5% vote threshold. The key concern, however, was in relation to the challenges faced by opposition political parties in mobilising funding from the public. While a 2007 amendment of the law on political organisations now allows these entities to organise at all levels of government, parties other than the RPF continue to be frustrated by local authorities in their efforts to mobilise and recruit membership based on issues important to them. A member of the opposition observed, 'If a priest can be jailed for merely expressing a different opinion on a government programme, how about a politician or anyone else on a matter in which the government has a strong interest?'

According to PSD and PS-Imberakuri, because of the history of Rwanda, a negative perception has been formed about opposition political parties, diminishing their value and making it difficult for them to recruit members and mobilise resources for their activities.

F. Management of electoral disputes

Electoral disputes can be taken to the Supreme Court, or directly to the NEC, depending on the type of election to which the complaint pertains.

Supreme Court

The Supreme Court is the highest appellate court in the country. Its jurisdiction includes receiving and hearing petitions related to referenda and presidential and legislative elections.

The Electoral Code lays out the mandate of the Supreme Court in regard to resolving disputes related to a presidential candidature. Any petition regarding presidential or

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486 This was in specific reference to a priest who was jailed for 18 months for criticising the government’s *Nyakatsi* and family-planning programmes. The *Nyakatsi* programme was a national campaign to phase out grass-thatched houses (known as *nyakatsi* in Kinyarwanda) across the whole country and re-roof them with iron sheets.

487 Interviews with the leaders of both parties, 20–21 September 2013.

488 Article 145 of the Constitution.

489 Article 85 of the Electoral Code.
parliamentary candidature must be lodged with the Supreme Court within 48 hours of the publication of the list of candidates. Upon receipt of the petition, the President of the Supreme Court must, within 24 hours, inform the president of the NEC and the Ministry of Local Government.490

Any petition related to presidential or legislative election results are to be lodged, in writing, with the President of the Supreme Court within 48 hours of the provisional outcome being announced by the NEC, with a copy to the President of the NEC.491 In both cases, the petition must indicate the identity of the complainant and the nature of the complaint.492 When the petition is declared admissible, the President of the Supreme Court must inform the president of the NEC within 24 hours after the receipt of the petition.493 The Supreme Court must, in turn, issue a ruling on the petition within five days of the filing.494 Within this time, the Supreme Court examines the petition and notifies the parties concerned of the date when the hearing of evidence will take place in the court registry. It also informs them of the period granted to them to make their submissions. If a cancellation of the results is not warranted, the Supreme Court declares the final results within another five days.495 However, if the flaws petitioned against have altered in a determining way the result of the elections, the Supreme Court nullifies the election and declares a fresh poll within 90 days of the first election.

**NEC**

The NEC is mandated to resolve electoral disputes at levels other than presidential and parliamentary elections within its hierarchy. Disputes may be related to the organisation of elections or contested electoral results.496

Disputes at the cell, village and sector level are to be lodged with the electoral supervisors at the concerned level immediately after the end of the elections. They are settled publicly in front of the population. Decisions taken at these levels may be appealed at higher levels of the NEC, depending on their hierarchy.

At the district or City of Kigali levels, electoral results may be contested in the first instance at the branch of the NEC where the elections occurred. Any person with a petition may submit it in writing to the branch within 48 hours from when it occurred, indicating the irregularities in the electoral process and providing substantive evidence of it. If the petitioner is not satisfied with the decision of the NEC officials at this level, s/he may appeal to the next level of the NEC in the province or the City of Kigali, and to the national level if necessary. The level of the NEC that receives the appeal is required to decide it within 48 hours of receipt.

490 Ibid., Article 75.
491 Ibid., Articles 71–73.
492 Ibid., Article 73.
494 Articles 77, 85 of the Electoral Code.
495 Ibid., Article 78.
496 Articles 164–169 of the Electoral Code.
A person who files a petition at the highest level of the NEC and is not satisfied with decisions taken, is entitled to file his or her case in a competent court within a period not exceeding 24 hours. The court in turn is obliged to render a decision on the petition within a period not exceeding 48 hours and before the day of the announcement of the final results. In the case of a petition related to the organisation of elections, the competent court must determine it and render a judgment before the day of the elections.

**Types of complaints**

Complaints on infringement of electoral laws and provisions during elections have been lodged with the NEC at national and local levels. The main infringements include:

- Intimidation and beating up of opposition party members, agents and supporters by local authorities and supporters of the RPF;
- Local authorities impeding opposition party campaigns and preventing citizens from attending their rallies;
- Confiscation and destruction of campaign materials belonging to opposition candidates;
- Warnings to supporters of opposition candidates that they risk being excluded from government programmes such as ‘one cow per family’; and
- Arrests of opposition party activists on charges of illegal campaigning (illegal political speeches, illegal distribution of leaflets and wearing of party T-shirts).

The NEC has addressed some of these complaints; however, there is a general concern that it has been reluctant or slow in responding to others, thus creating disincentives for opposition candidates and their representatives to lodge complaints on electoral misconduct. As a result, the appetite for court petitions has died down. Apart from the high-profile petitions lodged by opposition party leaders against their state sentences and imprisonment, there were no instances of electoral process disputes that were formally lodged with the High Court, a lower instance court, or the Supreme Court, by a politician or a political party or a coalition against a decision made by the NEC.

Respondents gave a number of reasons for opposition politicians, political parties and activists being disinclined to formally appeal the rulings of the NEC either through

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498 Some of the examples given included the NEC’s lack of action on allegations of influence peddling and fraud committed by the RPF during the 2011 senatorial elections and reports of intimidation of agents of opposition political parties during the 2010 presidential elections reported by the Commonwealth Observers (Commonwealth Secretariat (2010), op. cit., p. 17). Accordingly, PSD had recruited over 170 party agents to observe the polling in the district. After the agents had been trained and registered, a number of them reported being intimidated by RPF representatives and local authorities. In the end, the party had only 50 party agents to field in the area. The PSD representatives also reported the destruction of their campaign posters by supporters of the RPF to the NEC district coordinator, but no action was taken by the NEC.
its hierarchy or in the courts. These reasons included a fear of reprisal from the NEC or the state, and a belief, based on precedence, that neither institution would grant them a fair hearing. A number of respondents from civil society and opposition political parties associated the NEC and the Supreme Court with the executive and the RPF, and thus doubted their commitment to render fair and independent rulings on electoral matters. They observed that in all recent petitions brought by members of the opposition political parties to the Supreme Court, the judges had ruled in favour of the state, largely upholding the initial sentences.\footnote{499}

The lack of formal complaints has also been explained by the existence of informal forums for dispute settlement, such as the NCFP and the Office of the Ombudsman.\footnote{500} These institutions offer mediation services in internal as well as inter-party disputes. The NCFP may also address cases of political misconduct and, if necessary, bring them to the attention of other relevant authorities such as the Ministry of Local Government, the Office of the Ombudsman and the Senate Commission on Political Affairs for further action. Political party and civil society leaders, however, observed that these mechanisms were largely informal and did not offer any guarantees of action.\footnote{501}

Other concerns with potential to generate electoral disputes relate to the time limits allowed for submission and resolution of petitions in contested local, legislative and presidential elections. For local elections, the four days (less in village, cell and sector elections) provided to lodge and resolve a disputed election result is seen by respondents as insufficient. For legislative and presidential elections, the period of five days given between lodging and resolving a disputed electoral result by the Supreme Court was seen by respondents as too short to enable a proper judicial determination in elections of this magnitude.

G. A critical assessment of election management in Rwanda

Over the past 18 years, Rwanda has made remarkable progress in breaking away from its past and moving towards a path of greater electoral democracy. It has promulgated a

\footnote{499} The main recent petitions are those of Victoire Ingabire, Bernard Ntaganda and Deogratius Mushayidi. On 7 March 2012, Victoire Ingabire launched an appeal in the Supreme Court challenging the constitutionality of Rwanda’s genocide ideology and divisionism laws, charging that they are vague and used by the state to restrict freedom of expression. The Supreme Court dismissed the petition on 18 October 2012 on grounds of lack of merit. On 17 December 2012, she appealed her 30 October 2012 eight-year conviction on charges of genocide denial and conspiracy and planning to cause state insecurity. Her appeal was dogged by postponements, and confessions of duress and framed testimonies by prosecution witnesses. In December 2013, Rwanda’s Supreme Court upheld her conviction and increased her jail term from eight to 15 years. Similarly, the appeal of Deogratius Mushayidi’s life sentence handed down in September 2010 was dismissed by the Supreme Court in February 2012 after several hearings on the ground of lack of adequate mitigating evidence. Also dismissed was Bernard Ntaganda’s appeal of his four-year sentence handed down in February 2011 on charges of organising illegal meetings, inciting ethnic divisions and threatening state security. The appeal was dismissed in April 2012 on grounds of lack of merit.

\footnote{500} Commonwealth Secretariat (2010), op. cit., p. 17.

\footnote{501} Ibid.
wide range of relevant electoral laws and established the requisite institutions to implement them. However, the commitments and the principles underlined in the Constitution are also the bane of Rwanda’s electoral system. While progressive, the system remains saddled with fundamental legal and institutional challenges that still stand in the way of Rwanda’s move away from its burdening past towards a path of greater democracy and freer, fairer and more transparent elections.

Key among these are the challenges posed by the set of laws relating to divisionism, sectarianism, genocide ideology and defamation applied by Rwandan authorities to prosecute and deter speech and other conducts deemed as constituting hate or likely to divide or cause conflict among Rwandans.

Another major concern relates to the delivery of civic and electoral education. The NEC’s strategy for civic and electoral education is generally oriented more towards getting citizens to exercise an electoral obligation and propagating notions of patriotism and service, rather than advancing the greater ideal of encouraging citizens to participate fully in the political life of their communities and country, and to commit to fundamental values and principles of democracy.

**Institutional framework**

Rwanda’s NEC has strong powers in the management of the electoral process, which would put it in the category of ‘strong central referee commissions’, according to a comparative study of EMBs in West Africa. While it lacks the power to register political parties, distribute and monitor government-allocated funds to them and adopt the electoral calendar without the prior approval of the executive, it enjoys a wide range of other powers. It has the power to manage all the affairs in the preparation and conduct of elections, and to ensure respect for laws and regulations governing the electoral process. These include determining electoral boundaries, establishing the electoral list, approving the final list of candidates, overseeing electoral campaigns and the voting process, announcing the results of all elections, and invalidating and correcting them before their announcement and publication. The NEC is also mandated to sanction and disqualify individuals infringing on electoral laws and instructions, and to propose new ones to Parliament.

Political parties and other stakeholders see these powers as excessive. Of particular concern are the powers to approve and sanction candidates. While there is consensus that Rwandan elections are generally conducted peacefully and within the law, there is

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503 The polling day and the period of elections are determined by a presidential order, according to Article 64 of the Electoral Code.
deep concern over the NEC’s perceived excessiveness and selective application of sanctions. A number of instances where such excesses and selective sanctions were applied have been identified in the various election observer reports. They include instances where candidates were barred from contesting, delisted or pressurised to withdraw their candidacy on unclear grounds, or where the NEC failed to investigate or act on reported breaches of electoral law by politicians or their agents. These have already been identified in this report. Other concerns such as the NEC not consulting enough during the review and reform of electoral laws and instructions and not granting sufficient opportunity to ventilate other important electoral concerns have also been noted elsewhere in this report.

Management of elections
Since 2000, the NEC has organised and conducted the following elections:

- First local elections of 2001;
- First constitutional referendum and first presidential and parliamentary elections of 2003;
- Second local elections of 2006;
- Second parliamentary elections of 2008, held to elect members of the lower chamber of Parliament;
- Second presidential election of 2010;
- Second local leaders elections and second senatorial elections of 2011; and
- Parliamentary elections of 2013.

In addition, the NEC was involved in organising special elections, such as those of community mediators and Gacaca judges.

Voter registration and the right to run as a candidate
The voters’ register is now electronic and is updated annually before any election. It is possible to check one’s status online or using a mobile telephone; the register now also includes the voter’s photograph. According to the European Union (EU) Observer Mission, the voters’ register has become more inclusive. Cases of missing names on the register have reduced considerably. The NEC has also increased the number of polling stations and polling rooms to reduce the long queues during voting. Each polling room handles no more than 500 voters.

Further, the rights to register as a voter or run as an independent candidate have been broadened. Citizens convicted of genocide crimes from category three (crimes such as theft or destruction of property) and those who have committed minor offences

504 A system of community justice established in 2001 to try people involved in the Genocide.
may now vote. However, a number of important restrictions still exist regarding the right to vote or run as a candidate, including the denial of these rights to prisoners, persons in temporary confinement such as those in pre-trial detention or in hospitals, and persons with dual nationality.

**Relationship with political parties**

The NEC enjoys good working relations with the NCFP. This relationship is, nevertheless, informal and is without any structured mechanisms for engagement and feedback or any legal requirement to share reports. A number of political party representatives interviewed for this study were concerned that the NEC was not engaging them sufficiently as key stakeholders in the electoral process. In particular, they were concerned about the lack of adequate consultation in the drafting of electoral laws and instructions, terming the NEC’s powers in this regard as excessive. They were concerned that there was no formal mechanism for consultation and dialogue at the level of the NEC, the NCFP and civil society to resolve important electoral process matters such as those identified by the elections observers, and that the NEC did not involve them enough in the process of reviewing and reforming electoral laws and instructions. They observed that often the NEC prepared draft laws and instructions too late into the election calendar, thus allowing little or no time to debate them before they go to Parliament for review and approval.

In its report on the 2010 presidential election, the Rwandan Civil Society Election Observation Mission (CSEOM) recommended that a formal mechanism be established to bring together the NEC, political groups, civil society and other important stakeholders to debate key electoral concerns. This recommendation has not been acted upon to date, despite numerous promises by the NEC.

**Civic and voter education**

There is a need to broaden and deepen civic and political education among Rwandans, especially among young Rwandans, and to create room for other players both in determining the content of civic and voter education, and in planning and delivering it. ‘I would like to see my children free to think,’ remarked the Secretary-General of the PSD and President of the Senate. He observed further:

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506 Article 11 of the Electoral Code.
507 Mr Kabajema Anice, the executive secretary of the NCFP, interview, 19 September 2012.
508 The Hon. Damascene Ntwakurirayo, interview, op. cit.; Mme Christine Mukabunani, interview, op. cit.; Senator Apollinaire Mushinzimana, interview, 15 September 2012.
510 Eugene Rwibasira, former chairperson of the Rwanda Civil Society Platform and spokesperson of the CSEOM, interview, 24 September 2012.
511 The Hon. Damascene Ntwakurirayo, interview, op. cit.
Political parties remain too weak, waking up only at elections, and our media is too immature; yet the challenges facing Rwanda today require more open debate on many facets of our national development. There is need for more forums for debate in schools and universities and for universities to engage in more research and discussion of important social issues.\textsuperscript{512}

According to the LDGL, the government of Rwanda should introduce civic and political education in the school curriculum at all levels and promote the culture of debate.\textsuperscript{513} In their report on the 2010 presidential election, the Rwanda CSEOM notes:

Although voter education programmes took place across the country, citizens in rural areas in particular would benefit from more concerted efforts to ensure they are aware of the mechanics and meaning of elections.\textsuperscript{514}

The Commonwealth Observer Group, in their report on the same election, note the lack of familiarity among a large number of voters with the proper voting procedures\textsuperscript{515} and underline the importance of increased civic and voter education, targeting especially the elderly and the youth.\textsuperscript{516}

There was a concern that the NEC’s focus seemed geared more towards getting citizens to exercise an electoral obligation rather than empowering them to exercise an important constitutional and democratic right.\textsuperscript{517} While perhaps designed to suit Rwanda’s unique circumstances, the NEC’s and indeed the national approach to delivering civic and voter education ought to move beyond voter information and education and responsible citizenship to embrace civic education in its complete sense, encompassing such aspects as the meaning of democracy, citizenship and rights, democratic principles and procedures, and democratic institutions and laws, among other things. The aim should be to encourage citizens to participate fully in the political life of their communities and country, committed to the fundamental values and principles of democracy. In this regard, the annual national dialogue and the civil-society-led national dialogue forums are good examples of efforts to engage the public in wider conversations around important national issues. The success of such forums holds enormous potential for

\textsuperscript{512} Ibid.  
\textsuperscript{514} CSEOM (2010), op. cit., p. 19.  
\textsuperscript{515} Ibid., p. 23.  
\textsuperscript{516} Ibid., p. 32.  
\textsuperscript{517} Article 48 of the Electoral Code makes it obligatory to vote in Rwanda. In the draft electoral law currently with Parliament, this will no longer be the case.
opening up the society to discussions on other issues such as elections, democracy and the rule of law.

There is a need to broaden the planning and delivery of civic and voter education to involve other actors, such as civil society and political parties. Currently, content development, planning, and delivery of civic and voter education remains the preserve of the NEC. The NEC Law is silent on the role of other potential providers such as civil society and political parties. Currently, the NEC engages with these entities only at its discretion. In countries like Kenya, a more liberal legal provision allows for multiple actors to participate in preparing and delivering civic and voter education, including developing education materials.\(^5\)

Other challenges identified as hindering effective delivery of civic and voter education include the late publication of electoral laws and instructions, denying both the electorate and candidates sufficient time to familiarise themselves with them. For example, the Electoral Code came into force 38 days before the commencement of the presidential election campaigns, which began on 20 July 2010. This period was ‘too short for the citizens to know the contents of the law’.\(^5\) Similarly, the law governing the organisation and functioning of the National Women’s Council\(^5\) and the law on the organisation and functioning of the National Council for People with Disabilities\(^5\) were published in the *Official Gazette* on 11 February 2011, two days before the elections. While the NEC blamed these delays on Parliament’s slow pace in reviewing the draft laws, the latter blamed the NEC for submitting the draft laws to Parliament late.

### Management of electoral campaigns

The NEC has been accused of bias in favour of the ruling party, thus creating disincentives for opposition candidates and their representatives to approach it for redress. Among the accusations levelled against the NEC include non-action on allegations of influence peddling by the RPF and on reports of intimidation of agents of opposition political parties by RPF agents and local authorities. The NEC has also been accused of being excessive in the application of its sanction powers, in particular the power to bar candidates from contesting elections or to remove them from the list of candidates. Respondents felt that such powers should be vested in competent courts so that due process can be followed. This is also the view of other commentators on Rwanda’s electoral laws.\(^5\)

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\(^{51}\) Section 40 of the Kenya Elections Act, 2011, p. 34 states: ‘The Commission shall, in performing its duties under Article 88(4)(g) of the Constitution, establish mechanisms for the provision of continuous voter education and cause to be prepared a voter education curriculum.’

\(^{519}\) CSEOM (2010), op. cit., p. 7.

\(^{520}\) Law No. 02/2011 of 10 February 2011.

\(^{521}\) Law No. 03/2011 of 10 February 2011.

Other concerns include the short duration allowed for political campaigns and the conduct of public servants during campaign periods. The period of 18 days (now increased to 20 in the June 2013 review of the Electoral Code) allowed for campaigns is seen by political parties and other observers as too short to enable citizens to sufficiently know the candidates. During the senatorial elections, candidates are allowed as little as ten minutes to campaign and two minutes to present their manifestos before the Electoral College, as was the case during the 2011 senatorial elections.\textsuperscript{523}

Further, the Electoral Code remains silent on the conduct of public servants during campaigns. Many state officials have been known to actively participate in the preparation and conduct of political campaigns, dressed up in the colours of their political parties.\textsuperscript{524} This is attributed to the lack of clarity over what constitutes illegal campaigning, especially as a guide for local authorities in their handling of political campaigns. This lack of clarity has been a major cause of the unequal application of campaign regulations by political parties and the harassment meted out to opposition party politicians and their agents by local authorities. Some clarity has now been introduced, through changes to the Electoral Code,\textsuperscript{525} but this still does not go far enough, particularly in regard to the conduct of public servants during elections.

**Voting, vote counting, consolidation and announcement**

Over the past years, there has been a significant improvement in the NEC’s management of voting, vote counting, consolidation and results announcement. The consolidation documents are displayed where the elections have taken place. The president of the NEC carries out the consolidation of election results at the national level on the basis of the consolidated electoral documents at the district level. The Electoral Code provides for provisional results of the presidential election to be announced by the NEC within five days of the polls closing, and the final results within seven days after the declaration of provisional results.\textsuperscript{526} In theory, the voting and vote counting, consolidation and transmission processes remove any possibility of electoral fraud. The consolidation process is in principle accessible to observers and candidate representatives. The law, therefore, provides a sound basis for good practice.

In practice, however, there have been instances of irregularities and lack of transparency in these processes. In their report of the 2008 legislative elections, the EU observer group outlined a range of countrywide gross disorders in relation to the tabulation and consolidation of election results.\textsuperscript{527} These included:

\begin{itemize}
\item \textsuperscript{524} Civil Society Elections Observer Mission Report, Rwanda 2010 presidential elections, p. 18.
\item \textsuperscript{525} Articles 9, 10 and 20 of Law No. 37/2013 of 16 June 2013 modifying Articles 29, 30 and 67 of Law No. 27/2010 of 19 June 2010.
\item \textsuperscript{526} Article 70 of the Electoral Code.
\item \textsuperscript{527} European Union Election Observation Mission (2008), op. cit.
\end{itemize}
• Shifting the location for the organisation of indirect elections for the seats reserved for women representatives from the province to the district;
• Including sectors as additional consolidation points contrary to NEC procedures;
• Failure to follow consolidation procedures in relation to securing and sealing ballot boxes;
• Transmission of election results from the polling centres to the sectors and to the district level by telephone, without the physical transfer of the tallying forms and materials as required by NEC instructions (thus not being fully observable by election observers);
• In Kigali, polling centre results being delivered directly to the NEC office, bypassing the district; and
• Observers being barred from entering some district consolidation offices and being informed the following day upon re-visiting the centres that they could only get the results from the NEC headquarters.528

The CSEOM raised similar concerns in its report on the same elections, noting that the processes could be improved and made more transparent. In their report on the 2010 presidential election, they further observed that:

Electoral procedures regarding the transmission of results and physical location of district level consolidation were lacking in detail, and this was reflected in practice. Practice was inconsistent around the country, as was information provided to observers .... In summary, consolidation of results was a problematic element of this electoral process.529

The Commonwealth Observer mission in its report on the 2010 presidential election also notes a range of counting, transmission and consolidation irregularities:

• Ballot boxes not being sealed properly or certified empty before commencement of voting;
• Haphazard application of ink on voters’ fingers;
• Lapses in the counting procedure, such as the start of the count not being announced formally or reconciliation of votes not being done in accordance with the stipulated law and NEC instructions;
• Delays in transmission of ballot boxes; and
• Tabulation and consolidation processes shrouded in secrecy in many districts.530

528 Ibid., pp. 20, 39–41.
These challenges continue to weigh down Rwanda’s electoral process as observed by the CSEOM in the September 2013 parliamentary elections.\textsuperscript{531} There are also legal challenges affecting the voting and vote counting and consolidation processes. These include the obligation to vote, the start time of voting, the use of thumbprints to cast a vote, and the display and publication of results at the polling and consolidation stations.

Overall, there have been no problems with the actual voting and the process has been praised as well organised and peaceful by many observers, with the voters’ register generally in order, enabling all eligible voters to exercise their right to vote. The idea of voting as an obligation\textsuperscript{532} has been problematic, with the NEC sometimes employing tactics that were deemed inappropriate in an effort to implement the law.\textsuperscript{533} The 6am start time for voting has also been considered inappropriate as it is still dark at this time and most rural polling stations do not have electricity. Further, the current practice of voting using a thumbprint has been criticised, with observers concerned that it could be used to trace a ballot to a voter.

The Electoral Code provides for an obligatory public display of election results at polling-station level and at later stages of the consolidation process. The manner of this display is, however, not prescribed in law and is left to the discretion of the NEC. In most cases, there has been no public display or posting of electoral results at the polling stations or at the district consolidation centres. In its report on the 2010 presidential election, the CSEOM noted that transparency of polling station counting would be enhanced through a legal or procedural requirement to immediately post results outside each polling centre.\textsuperscript{534} Some of these challenges have, however, been recognised by the NEC and are addressed in the June 2013 revision of the electoral law:

- Voting will be a civic duty rather than a legal obligation;\textsuperscript{535}
- Polling will start at 7am and end at 3pm for direct elections;\textsuperscript{536}
- The time for a candidate to review his or her dossier in case of disqualification before announcement of the final list has been increased to five days from two;\textsuperscript{537}
- More rights for electoral observers have been granted;\textsuperscript{538}

\textsuperscript{532} Article 46 of the Electoral Code.
\textsuperscript{533} A case in point was NEC officials’ use of loudspeakers in the early hours of the morning (approximately 2–3am) in Eastern Province (Rwamagana District) to call people to come to vote, reported by the Commonwealth team (Commonwealth Secretariat (2010), op. cit., p. 23).
\textsuperscript{534} CSEOM (2010), op. cit., p. 28.
\textsuperscript{535} Article 3, modifying Article 8 of Law No. 27/2010.
\textsuperscript{536} Article 14.
\textsuperscript{537} Article 18.
\textsuperscript{538} Articles 30 and 31.
• Casting of votes using a thumbprint or pen where ballot papers are used, unlike before when the thumbprint was the only option.539

Election observation
The NEC has over the years established good working relations with election observers, giving them accreditation and permitting them access to observe elections at different levels.

Since 2000, Rwandan civil society has deployed domestic observers to monitor key national elections. Notably, the Programme d’Observatoire des Élections au Rwanda (POER), a coalition of some 150 local CSOs, was established in 2000, monitoring the March 2001 local elections at district level, the March 2002 local elections at sector-level, the December 2002 elections of judges for the Gacaca courts, and the May 2003 referendum on the new Constitution.

POER delivered generally favourable observation reports until 2003, when a split occurred in the organisation between those who wanted the report watered down and those who sought to include more critical remarks in the report on the 2003 referendum. Afraid to be denied accreditation if it formed its own organisation, the critical group remained within the organisation. During the 2003 presidential election, it decided to write its own report but was denied accreditation by the NEC. On the day of the election, POER managed to get accreditation, but suffered a range of frustrations, including being denied access to both the voting and vote consolidation processes and the electoral results. Faced with a wide range of leadership and funding challenges, POER disintegrated and died in the years that followed.

In 2008, it was replaced by the Rwandan Civil Society Election Observation Mission (CSEOM), which was established under the Rwanda Civil Society Platform (RCSP). The RCSP is the national apex organisation of some 15 umbrella organisations representing a majority of the non-governmental and community-based organisations operating in Rwanda. The CSEOM, bringing together some 500 long-term and short-term observers drawn from member organisations, has observed every national and grassroots-level election since 2008. Since its establishment, the CSEOM has enjoyed increased capacity, resources and goodwill from development partners and has generated reasonably objective reports of the conduct of elections in the country. This performance has, however, tended to vacillate, depending on who heads the RCSP and in turn the CSEOM.540

Another civil society group that has been involved in the monitoring of elections is the Ligue Des Droits de personnes des Grands Lacs (LDGL), a regional non-governmental organisation (NGO) working on democracy and human rights issues. Steered by

539 Article 15.
540 This researcher observed the operations of the CSEOM during the tenures of the immediate former chairperson of the RCSP and the CSEOM and the incumbent.
leaders and staff from the three Great Lakes countries. LDGL has been monitoring Rwandan elections since 2003.

In practice, election observers have faced numerous challenges in following the various stages of the electoral process, as shown in their various reports. This aspect of the NEC’s work presents perhaps one of the main transparency tests for Rwanda’s electoral process. In the run-up to the 2008 parliamentary elections, for example, the LDGL was prevented from deploying its full election observer mission, fiercely attacked by the president of the NEC even before its report came out, and implicitly threatened with denial of registration as an NGO in Rwanda. The NEC president accused the LDGL of altering an earlier version of its observation report to make it more critical.

In its report of the 2008 parliamentary elections, the EU Election Observation Mission recounts being deliberately excluded, obstructed, and in some cases even misdirected during the district level consolidation processes. The report notes that the mission was only able to receive preliminary results on the same day as consolidation in two out of the 30 electoral districts and that the results were relayed directly to the NEC National Centre in Kigali by telephone, and without being announced or published at the districts. The CSEOM made the same observations in its report on the same elections, stating that it only observed the consolidation of results at sector level in 50% of the sectors. In some cases, observers were actually prevented from observing, while in others they were not informed of the location of the sector-level consolidation, making it impossible for them to confirm the accuracy of consolidated results at any stage beyond the polling centre. The CSEOM observed further that at the district level, observers often had to negotiate to be allowed to attend, were at times directed to the wrong location, and that the transmission of results from sector to district level was inconsistent and in some cases took place by telephone.

Similar accounts are given of the 2010 presidential election, with the Commonwealth Elections Observer Mission reporting lack of transparency in the tabulation process in a number of districts:

Prior to the day of the election, observers had met with district officials in order to gain an understanding of the plans for the tabulation, among other things. However, on the evening after the close of polls and the subsequent days, the district offices were in many cases not active and the process was not apparently ongoing despite earlier assurances that it would be. Observers sought to gain clarification from relevant officials but in some cases it was not possible to ascertain quite where, how or when the tabulation was to be completed. As a

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541 Burundi, DRC and Rwanda.
consequence, this part of the process lacked the requisite transparency in some districts.\textsuperscript{545}

The CSEOM also reports being denied access to observe the voting procedures and the district-level consolidation process for the same election.\textsuperscript{546} One respondent, citing ‘reverse rigging’\textsuperscript{547} observed:

\begin{quote}
There is no value added in supporting elections. We were able to monitor everything, except when it came to consolidation of the votes at the district level. They slammed the door on our faces at this point.\textsuperscript{548}
\end{quote}

The Electoral Code also provides for candidates or representatives of candidates to follow the entire process of vote counting and to sign on the tally sheets and have their observations recorded in the statement of the conduct of elections. These provisions are, however, not obligatory and the failure to follow the process or sign on the tally sheets and on the statement of conduct of elections does not invalidate the election results. Elections observation reports show that apart from the candidates and agents of the ruling RPF, the other candidates or their representatives have not followed the counting and consolidation processes as keenly as they should, or signed or registered their complaints in the designated forms. Likewise, ordinary citizens have not shown a keenness to follow the vote counting and consolidation processes once they cast their ballots. For the candidates and their agents, the reasons are linked mainly to the lack of resources needed to deploy personnel in all the polling and consolidation points across the country, although some of them attributed it to despondency among opposition candidates and agents arising from their diminished faith in the fairness of the electoral process and the limited prospects of them winning against the ruling party. According to respondents, the electoral law appears deficient in not making it a requirement for the agents or representatives of political candidates to sign on the tally sheets or establish their right to receive copies of the signed results forms from the polling stations, and in not requiring the NEC to immediately post the results of the elections outside the polling stations. They proposed increased political education and changes to the Electoral Code, both to build demand for oversight and to ensure that these are made legal requirements of the electoral process.\textsuperscript{549}

\begin{flushleft}
545 Commonwealth Secretariat (2010), op. cit., p. 25.
547 Reverse rigging refers to the illegal practice where votes are adjusted backwards during the consolidation process at the district level to avoid a situation where one party secures more than 95% of the total votes, thus prompting a constitutional crisis in regard to the formation of government.
548 View of a respondent from the Dutch embassy, interview, 27 September 2013.
549 Interviews conducted in September and October 2012.
\end{flushleft}
Independence

While the Constitution establishes the NEC as an independent EMB, a number of observers question its independence. In the words of one respondent, the ‘NEC is only as effective as the mandate from above. There is not much it can do …. [It] conducts a very efficient electoral process, but does not deliver a free and fair result.’\(^{550}\) A member of the opposition referring to the 2011 mayoral elections remarked: ‘Some knew the results, had even relocated and were already celebrating their elections.’\(^{551}\)

Other reasons cited for the low confidence in the ability of the NEC to deliver free, fair and transparent elections include those discussed earlier, among them:

- The last-minute withdrawal of candidature by some electoral contestants, even with their names and photographs already printed on the ballot papers, believed to arise from ‘pressure from above’;
- Concerns about NEC agents influencing voters to vote for specific candidates;
- Cases of the NEC not investigating or not imposing sanctions on the RPF or RPF agents who commit electoral offences such as deploying government resources or wearing party colours during their campaigns, previously forbidden by the law; and
- The NEC locking out election observers during certain stages of the electoral process.

According to the Commonwealth Observer Group report on the Rwanda presidential election in 2010, serious concerns were raised about the implicit political affiliation of members of the NEC, given the importance attached to its independence. The report recommended thus:

> It would be helpful for this to be clarified to ensure transparency of and confidence in the electoral process. There are various models for the composition of an electoral management body, and they can comprise independent, non-political figures or be broadly representative of political contestants depending upon what is felt to be most suitable in any given context. Whichever model is preferred, it is important for the process to be clear and transparent.\(^{552}\)

Commissioners were implicitly drawn from different political parties.\(^{553}\) In reality, however, the composition of the NEC commissioners was criticised, with many observers concerned that it comprised people affiliated to or biased towards the RPF. Respondents felt that in the context of Rwanda, where the political and administrative setup

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\(^{550}\) US Embassy staff, interview, 27 September 2012.

\(^{551}\) Member of PS-Imberakuri, interview, 21 September 2012.

\(^{552}\) Commonwealth Secretariat (2010), op. cit., p. 11.

\(^{553}\) Interviews with Charles Munyaneza, Apollinaire Mushinzimana, Damascene Ntawukuriyayo, all op. cit.
is dominated by one strong political party, the commissioners and members of the NEC at decentralised levels should be balanced between different political parties and civil society. This would avoid any perception that the commission is an extension of the RPF, hence eroding its independence in the eyes of political stakeholders. The CSEOM in its report of the 2010 presidential election observed:

It would be helpful to be clearer about the background and/or affiliation of members as it is vital that the body responsible for managing the electoral process be inclusive and representative. Ideally, such a body either needs to be completely independent of any political affiliation or comprise a good representative balance.\textsuperscript{554}

Other commentators have recommended that, at a minimum, the president of the NEC should be someone not affiliated to any political party.\textsuperscript{555}  

\section*{Relationship with the media}  
The NEC and the Media High Council (MHC) enjoy good working relations in facilitating and monitoring access to the media by political parties.\textsuperscript{556} A monitoring report of the coverage of the 2010 presidential election by the MHC shows substantial improvement in the media’s respect for electoral law and regulations, as well as general reporting on electoral matters. Key improvements included live coverage of presidential campaigns by Rwanda Television (RTV), respect for the regulatory requirement of equal and fair coverage for all competing political parties and candidates, and improvements in the levels of professionalism in coverage.\textsuperscript{557} However, the report also identified shortcomings, among them:

- The failure to respect the principle of equal airtime in the print and electronic media;
- The dominance of RPF and its candidates as news sources;\textsuperscript{558}
- Limited political analysis and interpretation of events;
- Lack of interest among some segments of the media, in particular the faith-based media, in covering political campaigns; and
- A general urban bias in the coverage of political campaigns by the media.\textsuperscript{559}

Independent election observers, on the other hand, portray the public media in different ways. While the CSEOM expressed satisfaction with the public media’s coverage

\textsuperscript{554} CSEOM (2010), op. cit., p. 31.  
\textsuperscript{556} Mr Eric Bazirema, Director of the MHC, interview, 22 September 2012.  
\textsuperscript{557} An et al. (2008), op. cit., pp. 3–4.  
\textsuperscript{558} Ibid., pp. 6–7.  
\textsuperscript{559} Mr Eric Bazirema, op. cit.
of the 2010 presidential election,\textsuperscript{560} groups like the LDGL portrayed it as biased towards the ruling RPF.\textsuperscript{561} In the same vein, key informants were concerned over the reluctance of journalists working for the state-owned media (ORINFOR) to report the activities of opposition political parties, and about the MHC’s inability to immediately sanction state-owned media outlets that violate regulations relating to equitable and fair coverage of candidates or party activities during elections. According to the 2009 media law,\textsuperscript{562} the MHC can only inform the NEC and offer recommendations where they observe irregularity. This does not offer the needed immediate redress for candidates whose rights may have been infringed. Under the 2013 revision of both the Electoral Code and the 2005 NEC Law, the responsibility for media monitoring during elections has now been moved away from the MHC to the NEC.\textsuperscript{563}

Overall, the media environment in Rwanda, especially its role in promoting free expression, remains constrained. According to the media organisation Article 19, the reforms adopted in 2013 through the new media law do not go far enough in guaranteeing the independence of the media from the government.\textsuperscript{564} While providing some useful safeguards for the freedom of the press, the new law regulating the media contains many provisions that still pose threats to journalists and the independence of the media in the country, including online media. Defamation remains a criminal offence under the penal code, while definitions of a number of criminal offences are still vague, unclear and broad, making it easy for legislation to be manipulated to restrict expression and media freedom. In its report of Rwanda’s September 2013 parliamentary elections, the East African Community Election Observer Mission noted that the coverage of the elections was generally lacklustre. ‘Despite the existence of various media outlets, the media did not significantly engage with the electoral process.’\textsuperscript{565}

These limitations remain troubling and put to question the role of the media in promoting a free, fair and transparent electoral process in Rwanda.

\textbf{H. Electoral management and the debate on democratic reforms}

An interesting point of discussion was whether Rwanda could now open up more and genuinely address the questions of political space and freedom of expression identified in this report. Opinion was divided. Some felt that Rwanda was already ‘letting go’ and that the question was one of how much, not whether, to let go.

\textsuperscript{560} CSEOM (2010), op. cit., p. 8.
\textsuperscript{561} LDGL (2013), op. cit., pp. 64–65.
\textsuperscript{562} Law No. 30/2009 of 16 September 2009.
\textsuperscript{563} Article 1(7) of Law No. 38/2013 of 16 June 2013 modifying and complementing the 2005 NEC Law.
Others felt that given the country’s history, it was important to move cautiously on democratic and electoral reforms. This group observed that 50 years on, the Holocaust of the Jews was still fresh, yet Rwanda was being asked to let go hardly two decades after the Genocide. They observed that there was still evidence of divisionism and genocide ideology in the country and that more time was needed to heal and unite the country. It was, therefore, both inevitable and necessary to put stability first.

The first group concurred, but felt that the current levels of openness were disproportionate given how far the country had come. While there were grounds to be cautious, they felt these must not become pretexts for closing the door on legitimate political opposition and fundamental freedoms. They observed that while it was too soon to expect Rwanda to be a liberal democracy, the question of whether it was moving fast enough towards being one, or whether it could move faster without endangering the evident gains of stability and prosperity needed to be addressed by the ruling party. They also pointed out the risks of maintaining the status quo and allowing authoritarian norms to become ossified into the political system.

In conclusion, Rwanda’s NEC has been effective in handling elections since 2000. However, it remains a young institution operating in an extremely volatile and dynamic political environment, calling for the constant reform of institutions and procedures in order to fulfil the mandate of delivering free, fair and transparent elections. Key stakeholders and observers are challenging its structural and institutional framework and independence in this regard and calling for further reforms.

I. Recommendations

Legal and institutional reforms to improve the overall electoral environment

- The NEC should immediately act on its promise to establish a formal mechanism to facilitate the collaborative review and reform of electoral laws, in line with the recommendations of various election observer missions.
- The NEC should work closely with Parliament to improve the timeliness of the review, adoption and publication of electoral reforms to allow candidates, voters and other stakeholders sufficient time to familiarise themselves with the new laws and to conduct effective civic and voter education.
- Improve the Electoral Code and NEC instructions to clearly define what constitutes illegal campaigning to ensure equal application of campaign regulations.
- Review and amend the group of laws relating to divisionism, sectarianism, genocide ideology and defamation to further clarify and bring them in line with international standards on freedom of expression, so that genuine incidents of hate speech or conduct and slander can be differentiated from legitimate freedom of expression.
• Review the 5% vote threshold set for entry into Parliament, which especially disadvantages independent candidates.

• Speed up the processes of ratifying the East African Draft Protocol on Good Governance and educate the public on its content and meaning, along with those of the East African Principles for Elections Observation, Monitoring and Evaluation, and ways to make both fully operational.

Electoral dispute management and powers of sanction
• Revise the provisions on time for submission and resolution of petitions in disputed local legislative and presidential elections.

• Review NEC’s sanction powers with a view to limiting them, especially the powers to de-list candidates.

Independence and transparency
• Establish a clear and transparent process for identifying and recruiting the seven commissioners of the NEC. Institute a public advertisement and recruitment process for the president of the NEC. Revise the 2005 NEC Law accordingly.

• Increase efforts to improve the transparency of the vote tabulation, transmission and consolidation processes. The revision of the electoral law to allow observers more access to these processes is welcome. The results of vote counting, tabulation and consolidation should be publicly displayed and posted outside each tallying and consolidation centre immediately upon completion of counting and consolidation.

• Legal reform should require the NEC to make available signed copies of the tally sheets and the statement on the conduct of elections from polling and consolidation centres to representatives of political candidates and the electoral observers on request.

• The NEC should increase electoral and voter education for political parties, their agents and observers to increase their appetite for and participation in overseeing the electoral process, in particular to ensure that the procedures stipulated for handling the voting, results transmission and consolidation processes are clearly understood and properly followed.

• Increase the capacity of the NEC through recruitment of more permanent staff and proper training, to remove the current system of engaging thousands of volunteers with unclear political affiliation.

• Detail electoral procedures in relation to transmission of results and the physical location of district-level consolidation to avoid the current confusion regarding how to handle these processes that lead to claims of lack of transparency.
Broaden meaning, approach to delivering civic and electoral education

- Expand the delivery of civic and electoral education by involving more providers in its design, planning and delivery. A key step towards this is changing the 2005 NEC Law to allow it to legally enlist other providers through a legal forum that brings together electoral stakeholders to agree on the scope, content and plans for country-wide delivery and management of civic and electoral education. This is also necessary to encourage providers to develop programmes for civic and electoral education and to fund-raise for such activities.

- Work closely with political parties to expand their role in offering civic and political education in line with their mandate, building on the legal opportunity that now allows them to decentralise their activities down to the lowest level of government. This is important to remove the fear of politics and elections from the population, build the profiles parties need to mobilise membership and raise funds locally, while increasing both political awareness and the appetite for greater political engagement, particularly in regard to increasing oversight of electoral processes and pursuing the redress of electoral disputes through established legal channels.

- Together with other relevant institutions, continue the efforts to promote the culture of dialogue and debate at different levels of society, building on existing successful models such as the annual national dialogue and the civil society-led national dialogue forums, which could be further improved by decentralising them to the grassroots to capture communities’ voices. These efforts could be extended to schools and higher institutions of learning where the youth could be encouraged to establish forums to debate issues of national concern freely, unburdened by their history and an intransigent old guard.