



## BURUNDI

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#### Submission by

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## **1) Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and the civil society around the world. Founded in 1993, we proudly promote excluded voices, especially from the global south and have members in more than 180 countries throughout the world.
- 1.2** DefendDefenders (the East and Horn of Africa Human Rights Defenders Project or EHAHRDP) is a regional non-governmental organisation that seeks to strengthen the work of Human Rights Defenders (HRDs) throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights. EHAHRDP focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.
- 1.3** The International Federation for Human Rights (FIDH) is an international human rights NGO that unites 184 member organizations from 117 countries. Since its foundation in 1922, FIDH has been defending all human rights set out in the Universal Declaration of Human Rights (UDHR) and other international human rights mechanisms.
- 1.4** Association Burundaise pour la Protection des Droits Humains et des Personnes Détenues (APRODH) was founded in 2000 to protect human rights, particularly of detained persons in Burundi.
- 1.5** Ligue Burundaise des Droits de l'Homme "Iteka" (Ligue Iteka) was created in 1991 to promote and defend human rights and to prevent human rights violations. Since its establishment, it has consistently monitored and denounced human rights violations and published human rights reports for national and international audiences.
- 1.6** In this document CIVICUS, Defend Defenders, FIDH, APRODH, and Ligue Iteka examine the government of Burundi's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Burundi's fulfilment of the rights to freedom of expression, assembly and association and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination on 24 January 2013. To this end we assess Burundi's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-oriented follow-up recommendations.

- 1.7** During the 2nd UPR cycle, Burundi received a total of 173 recommendations. Of these recommendations, 135 were accepted and 38 were noted. An evaluation of a range of legal sources and human rights documentation demonstrate that the government of Burundi has not fully implemented most of the recommendations it accepted and noted in relation to the above-mentioned rights necessary to promote and protect civic space.
- 1.8** CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka are deeply concerned about the high levels of impunity enjoyed by perpetrators of human rights violations committed during peaceful protests which began in April 2015 in response to President Pierre Nkurunziza's decision to run for a third term. Since April 2015, HRDs have been attacked, members of their families targeted, while scores of others have been disappeared, threatened, intimidated and harassed, forcing them to flee the country.
- 1.9** We remain equally concerned by the authorities' systematic attempts to criminalise independent media houses and civil society organisations perceived to oppose the decision of President Nkurunziza to extend his term in office. The vast majority of private media outlets in the country have been attacked or closed. The authorities have further banned almost all independent human rights groups, frozen their bank accounts and issued international arrest warrants of leaders of several CSOs. These human rights violations have been perpetuated by the security forces, the *Service National de Renseignement*, (SNR) or National Intelligence Service and the armed youth wing of the ruling *Conseil National pour la Défense de la Démocratie-Forces pour la Défense de la Démocratie*, (CNDD-FDD) party – *the Imbonerakure*.
- 1.10** Moreover, we express alarm over the government's refusal to cooperate with a range of international human rights and accountability mechanisms. On 15 October 2016, Burundi decided to withdraw from the Rome Statute of the International Criminal Court (ICC). The government also suspended cooperation and collaboration with the Office of the High Commissioner for Human Rights (OHCHR) and with the Commission of Inquiry established by the United Nations Human Rights Council (UNHRC) under resolution 33/24 of 30 September 2016 to investigate human rights violations in Burundi since April 2015.<sup>1</sup> These actions have directly restricted the

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<sup>1</sup> "Commission of Inquiry on Burundi," *United Nations Human Rights Office of the High Commissioner*, "<http://www.ohchr.org/EN/HRBodies/HRC/ColBurundi/Pages/ColBurundi.aspx>", accessed 4 June 2017.

monitoring of atrocities committed by the government and serve to prevent the prosecution of security forces, members of the SNR and the *Imbonerakure* who carry out these human rights violations.

- In section B, CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka examine Burundi's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs and civil society activists.
- In section C, CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka examine Burundi's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, protection of journalists and independence of the media.
- In section D, CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka examine Burundi's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of peaceful assembly.
- In section E, CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka examine Burundi's implementation of UPR recommendations and compliance with international human rights standards related to freedom of association.
- In section F, CIVICUS, CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka make a number of recommendations to address the concerns listed.

## **2 (B) Harassment, intimidation and assault on human rights defenders and civil society organisations.**

**2.1** Under Burundi's previous UPR examination, the government accepted 1 and noted 4 recommendations on the protection of HRDs and civil society representatives. These include a commitment to issue a standing invitation to Special Procedures of the UN including the Special Rapporteur on the situation of human rights defenders. The government of Burundi also agreed to take measures to ensure the protection of HRDs at risk and to allow them to work independently, without fear of persecution or intimidation. However as reviewed in this section, the government has not fully implemented any of these recommendations.

**2.2** Article 12 of the United Nations Declaration on Human Rights Defenders mandates states to take necessary measures to ensure the protection of human rights defenders. The ICCPR further guarantees the rights to freedom of

expression, association and peaceful assembly. However, despite these provisions, HRDs and civil society activists have been assassinated, threatened and subjected to judicial persecution, intimidation harassment and assault. As a result, almost all HRDs and civil society activists have had to flee Burundi to avoid being targeted by the authorities.

**2.3** On 13 October 2013, Burundi ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - a recommendation the government had supported during the last UPR examination. Our organisations welcome this decision but regret the non-implementation of the provisions of the Optional Protocol. Under the second UPR cycle, Burundi had also accepted to implement the recommendations of the Committee against Torture (CAT) in its 2006 Concluding Observations for Burundi.

**2.4** In the aftermath of the first protests that began in April 2015, human rights defenders and civil society representatives were intimidated, threatened and attacked forcing many to flee the country. Senior members of the government including President Nkurunziza released messages reminding HRDs not to forget that they still had family members in Burundi. The government issued international arrest warrants for HRDs including Justine Nkurunziza, Pacifique Nininahazwe, Vital Nshimirimana, Armel Niyongere and Pierre Claver Mbonimpa.

**2.5** After an upsurge of violence in December 2015, mass graves were discovered through satellite images where the bodies of victims of the violence were buried by security forces, supported by *Imbonerakure* members. Similar mass graves have been discovered in different parts of the country since 2016. The government of Burundi failed to prevent or put an end to extra-judicial killings and has been unwilling to adopt measures to fight impunity and to conduct prompt, thorough, independent and impartial investigations into allegations of these crimes.

**2.1** On 17 January 2017, the Bujumbura court of appeal disbarred human rights lawyers Armel Niyongere (President of ACAT-Burundi), Vital Nshimirimana (President of FORSC), Dieudonne Bashirahishize (Deputy President of the East African Court) and temporarily suspended Lambert Nigarura (Chair of the Burundi Coalition of the ICC) for engaging with international human rights

mechanisms.<sup>2</sup> The human rights lawyers had contributed to a report on the human rights situation in Burundi prepared by the United Nations Committee Against Torture.<sup>3</sup> The appeals court highlighted cases against the lawyers implicating them in protests when it made the decision to disbar them.

**2.2** On 10 December 2015, Marie-Claudette Kwizera, a human rights defender and treasurer for civil society group, League Iteka, was abducted in Bujumbura by the SNR.<sup>4</sup> Two days after she was abducted, an official from the SNR - Dieudonné Bigirmana, informed her family that she was being held at the NIS offices and requested 3.5 million (approximately US \$ 2000) to secure her release.<sup>5</sup> The family paid the ransom but did not receive details of Marie Claudette's whereabouts. Subsequently, security forces have not confirmed any details about her arrest and whereabouts. At the time of writing this report, her whereabouts remain unknown.

**2.3** On 4 August 2015, human rights defender Pierre Claver Mbonimpa was shot by unidentified armed men on his way home from work in Bujumbura.<sup>6</sup> He was seriously wounded and after spending several days in intensive care in Bujumbura, he was transferred abroad to receive medical attention. Pierre Claver was previously the victim of judicial persecution, arbitrary arrests and detention in Burundi because of his human rights advocacy. Prior to the attempt on his life, he was detained on 16 May 2014 and released on grounds of ill-health on 29 September 2014. Pierre Claver is the president of a leading civil society organisation, APRODH. On 9 October 2015 Pascal Nshimirimana, Pierre Claver's son-in-law was assassinated by unidentified individuals in the Ngagara neighbourhood in Bujumbura. On 6 November 2015 Welly Nzitonda, Pierre

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<sup>2</sup> "Burundi's court of appeal disbars four lawyers," *IWACU*, <http://www.iwacu-burundi.org/englishnews/bujumbura-court-of-appeal-disbars-four-lawyers/>, accessed, 8 June 2017.

<sup>3</sup> "Brussels bar is concerned about the disbarment of Burundian lawyers," *IWACU*, <http://www.iwacu-burundi.org/englishnews/brussels-bar-is-concerned-about-the-disbarment-of-burundian-lawyers/>, accessed 8 June, 2017.

<sup>4</sup> "The most shocking is the apparent indifference of the authorities," *IWACU*, <http://www.iwacu-burundi.org/englishnews/the-most-shocking-is-the-apparent-indifference-of-authorities/>, accessed 29 May 2017.

<sup>5</sup> "Burundi: detention arbitraire de Mme Marie Claudette Kwizera tresoriere de la Ligue Iteka," *AWID*, <https://www.awid.org/fr/se-impliquer/burundi-detention-arbitraire-de-mme-marie-claudette-kwizera-tresoriere-de-la-ligue>, accessed 20 May 2017.

<sup>6</sup> "Pierre Claver Mbonimpa urges Burundians not to give into divisions," *IWACU*, <http://www.iwacu-burundi.org/englishnews/pierre-claver-mbonimpa-urges-burundians-not-to-given-in-to-divisions/>, accessed, 25 May 2017.

Claver's son was also assassinated by police in the Mutakura neighbourhood.<sup>7</sup>

**2.4** Security services have also carried out targeted killings, including against members of opposition parties. Several members of opposition parties been killed since April 2015. For example, on 23 May, 2015, the leader of the opposition party, the Union for Peace and Democracy (UPD), Zedi Feruzi, was assassinated by armed men wearing police uniforms, which suggests that Feruzi was executed by members of the Burundian national police force<sup>8</sup>.

**2.5** In November 2014, human rights defender and President of the *Forum pour la conscience et le développement* (FOCODE), Pacifique Nininahazwe, was threatened several times after he spoke about human rights violations in Burundi at a seminar on the Great Lakes in Europe days earlier, on 5 November. He also participated in sessions organised by the UN Committee Against Torture in Geneva where he expressed concerns over the state of democracy in Burundi ahead of elections planned for 2015 and publicly condemned attempts by President Nkurunziza to extend his term in office. He received messages on his phone and social media accounts from anonymous sources threatening him and his family.

### **3 (C) Freedom of expression, independence of the media and assault on journalists**

**3.1** Under the second UPR cycle, the government of Burundi noted 13 recommendations relating to freedom of expression, independence of media and the protection of journalists. Among other commitments, the government pledged to strengthen the protection of journalists to enable them to monitor and report on the human rights situation. The government also committed to modify legislation which restrains freedom of expression and guarantee the protection of freedom of opinion to ensure the members of the press can report freely. However, as discussed below, the government has not implemented these recommendations.

**3.2** Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of expression and opinion. Article 32 of the Constitution of Burundi also guarantees the right to freedom of expression.

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<sup>7</sup> "Burundi: le fils de Pierre-Claver Mbonimpa retrouve mort apres son arrestation a Bujumbura," *Jeune Afrique*, <http://www.jeuneafrique.com/277676/politique/burundi-fils-de-pierre-claver-mbonimpa-retrouve-mort-a-bujumbura/>, accessed 20 May 2017.

<sup>8</sup> See FIDH, Ligue ITEKA, "Repression and genocidal dynamics in Burundi", November 2016, p. 56.



Article 9 of the African Charter on Human and Peoples' Rights states that every individual shall have the right to express and disseminate his opinions within the law.

**3.3** The Conseil National de la Communication (CNC) regulates the media and oversees the accreditation of journalists. All 15 members of the CNC are appointed by the President of Burundi<sup>9</sup> and are representatives of the government or journalists affiliated with the public broadcaster. The CNC has the authority to control news coverage and provides accreditation and issues press cards to journalists to cover events. The CNC often targets journalists and media outlets with views that are different from those of the government. It has on several occasions suspended journalists and private radio stations for broadcasting information or taking calls from citizens which are critical of the government.<sup>10</sup>

**3.4** In April 2017, Radio Isanganiro journalist Joseph Nsabiyabandi was interrogated by the SNR and accused of collaborating with two Burundian radio stations - Radios Inzamba and Humura that operate from Rwanda. He was also accused of fomenting public opinion against the government and inciting revolt.<sup>11</sup> He was warned that he would face serious consequences if he continued collaborating with Radios Inzamba and Humura. Following its closure in May 2015, Radio Isanganiro was allowed to resume broadcasting only after it signed an agreement with the government to adhere to a "balanced and objective" editorial policy that will not threaten national security.<sup>12</sup> It also agreed to appoint a director with pro-government views – Samson Mniradukunda who replaced the former editor who had gone into exile.

**3.5** On 24 October 2016, the Minister of Interior - Pascal Barandagiye provisionally suspended the operating permit of the Burundian Union of Journalists (BUJ).<sup>13</sup>

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<sup>9</sup> "Burundi – presse: un nouveau Conseil National de la Communication avec presque les memes visages," *RSF Bonesha FM*, <https://www.bonesha.bi/Burundi-Presses-un-nouveau-Conseil.html>, accessed 6 June, 2017.

<sup>10</sup> "Burundi," *Africa Freedom of Expression Exchange*, <http://www.africafex.org/burundi>, accessed 5 June 2017.

<sup>11</sup> "Interrogation of Radio Isanganiro editor latest attack on free speech in Burundi," *Humanitarian news*, <http://humanitariannews.org/20170406/interrogation-radio-isanganiro-editor-latest-attack-free-speech-burundi>, accessed 5 June 2017.

<sup>12</sup> "SOS-Torture report no 69 of SOS Torture, published 8 April 2017," *SOS Torture, Burundi*, accessed 7 June 2017.

<sup>13</sup> "Burundi government tightens grip on private media," *The East African*, <http://www.theeastafrican.co.ke/news/Burundi-government-tightens-grip-on-private-media/2558-3434584-nh729u/index.html>, accessed 6 June, 2017.



BUJ was suspended together with four human rights organisations after the government accused them of disturbing public order and security (See 5.4 below). On 23 October, the authorities arrested American journalist Julia Steers – a fellow with the International Women’s Media Foundation. She was arrested with her Burundian colleague Gildas Yihundimpundu in the Mutakura district, north of Bujumbura. She was questioned by the police and the CNC and accused of attempting to destroy evidence of crimes which were committed by protesters. Julia Steers was released on the same day but Gildas was detained at the headquarters of the National Intelligence Service and released a day later.<sup>14</sup>

**3.6** On 2 October 2016, Radio Maria journalist Salvador Nahimana was arrested by police and detained at the National Intelligence Service in Bujumbura.<sup>15</sup> He was accused of participating in a meeting that undermined government security. Radio Maria is a Catholic-run radio station with branches in other countries around the world. On 18 August 2016, the authorities arrested Bujumbura FM journalist Gisa Steve Irakoze and transferred him to the SNR in Bujumbura and accused him of threatening internal security.<sup>16</sup> He was released without charge the following week. Again, on 6 November 2015, Radio Isanganiro journalist Célestin Ndiwokubwayo was arrested by soldiers in Bujumbura for his work documenting the crisis in Burundi. He was detained on 27 October 2015 for reporting on political tensions and violence in the country.<sup>17</sup> He was not informed about any charges brought against him.

**3.7** On 22 July 2016, IWACU journalist Jean Bigirimana was abducted by members of the SNR in Muramvya province and has not been heard from since.<sup>18</sup> On 27 March 2017 unidentified individuals left threatening messages on the walls of his family

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<sup>14</sup> “Report No 46 of Sos-torture/Burundi published on 19 October 2016,” *SOS-Torture/Burundi*, accessed 5 June, 2017.

<sup>15</sup> “Ten persons arrested in northern Bujumbura,” IWACU English, <http://www.iwacu-burundi.org/englishnews/ten-persons-arrested-in-northern-bujumbura/>, accessed 6 June 2017.

<sup>16</sup> “SOS-Torture Burundi No 36,” <http://sostortureburundi.over-blog.com/2016/08/sos-torture-burundi-n-36-english-version.html>, accessed, 6 June 2017.

<sup>17</sup> “Burundi: le journaliste Blaise Celestin Ndiwokubwyo toujours dans les mains de la documentation,” *Radio Isanganiro*, <http://www.isanganiro.org/spip.php?article10201>, accessed 7 June 2017.

<sup>18</sup> “Jean Bigirimana: no news about him seven months after his disappearance,” IWACU, <http://www.iwacu-burundi.org/englishnews/jean-bigirimana-no-news-about-him-seven-months-after-his-disappearance/>, accessed 3 June 2017.

home in the Gituro neighbourhood, north of Bujumbura.<sup>19</sup> IWACU is the only independent Burundian newspaper and online news outlet still operating in the country, although its director Antoine Kaburahe was forced into exile in 2015 after being summoned by the prosecutor's office.

**3.8** In January 2016, journalists Jean-Philippe Remy and Philip Edward Moore, who worked for the French daily newspaper, *Le Monde*, were arrested during raids carried out by security forces in the Nyakabiga and Jabe neighbourhoods. They were detained in Bujumbura and released following interventions from the international community.<sup>20</sup>

**3.9** On 26 April 2015, private radio stations Radio Publique Africaine (RPA), Bonesha FM and Radio Isanganiro were taken off air and on 27 April, RPA was shut down by the authorities. All three stations were accused of inciting the public by publishing information about demonstrations opposing the President Nkurunziza's third term. In May 2015, after the radio broadcast a statement related to the attempted *coup d'état*, the premises of RPA were attacked and set on fire by the police and the *Imbonerakure*.

**3.10** On 24 June 2015, unidentified individuals threw a grenade into the home of Voice of America reporter Diane Nininahazwe. A day before the attack, she received threats via text messages after reporting on abductions in Gihanga, north of Bujumbura. She was forced to go into hiding after the attack on her home.

**3.11** On 20 January 2015, journalist and director of RPA Bob Rugurika was arrested after the station published findings of an investigative report about the assassination of 3 Italian nuns in Burundi in September 2014.<sup>21</sup> He was detained at Mpimba prison in Bujumbura and later transferred to Muramvya prison outside of Bujumbura where he was detained in an isolated cell. Before his arrest, he received several threatening messages from the police and members of the SNR over RPA's investigations into sensitive cases. He was provisionally released on a

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<sup>19</sup> "Bigirimana family says its security is threatened," *IWACU*, <http://www.iwacu-burundi.org/englishnews/jean-bigirimana-no-news-about-him-seven-months-after-his-disappearance/>, accessed 1 June 2017.

<sup>20</sup> "Les envoys speciaux du "monde" ont ete liberes," *Le Monde Afrique*, [http://www.lemonde.fr/afrique/article/2016/01/29/ce-que-nous-savons-de-l-arrestation-de-nos-envoyes-speciaux-au-burundi\\_4855931\\_3212.html](http://www.lemonde.fr/afrique/article/2016/01/29/ce-que-nous-savons-de-l-arrestation-de-nos-envoyes-speciaux-au-burundi_4855931_3212.html), accessed 7 June, 2017.

<sup>21</sup> "Burundi arrests radio chief over link with nun's murder suspect," *The East African*, <http://www.theeastafrican.co.ke/news/Burundi-arrests-radio-chief-over-link-with-nuns--murder-suspect/2558-2596818-btes5uz/index.html>, accessed 29 May 2017.

bond of 15 million Burundi Francs (approximately US \$ 8700) and ordered to present himself to a magistrate on the first Monday of every month and was not allowed to leave Burundi without authorisation.<sup>22</sup> Following attacks on journalists after massive protests that began on 26 April 2015, Bob Rugurika fled Burundi and is now in exile.

#### **4 (D) Freedom of peaceful assembly**

**4.1** During Burundi's examination under the second UPR cycle, the government noted 5 recommendations related to the right of peaceful assembly. The government made a commitment to modify legislation which restrains freedom of expression and assembly and guarantee fully the right to freedom of assembly, association and expression in conformity with the International Covenant on Civil and Political Rights. Despite these commitments, the government has not fully implemented any of these recommendations.

**4.2** Article 21 of the ICCPR guarantees the right to freedom of peaceful assembly. It states that no restriction may be placed on the exercise of this right other than those imposed in conformity with the law. Article 11 of the African Charter on Human and Peoples' Rights also provides that every individual shall have the right to assemble freely with others. It notes that the exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others. However, despite these protections, the Burundian authorities have used excessive force to disperse peaceful protesters questioning government actions and the decision by President Nkurunziza to stand for third term in office.

**4.3** The law on Assemblies and Public Demonstrations (2013) has been used by the authorities to prevent assemblies and demonstrations planned by civil society organisations focusing on democracy, accountability, anti-corruption, human rights and the rule of law. The law compels organisers of protests to provide prior declaration to the relevant administrative authority – a governor or mayor of a province - four working days before a planned assembly or protest. Organisers of protests are required to submit details of the protests including the date, time of the demonstration, its purpose, information on members organising the protests

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<sup>22</sup> "Bob Rugurika accueilli en heros," IWACU, <http://www.iwacu-burundi.org/?s=bob+rugurika>, accessed, 20 May 2017.

and the schedule of the protests.

**4.4** Article 10 of law on Assemblies and Public Demonstrations (2013) provides the administrative authorities with discretionary powers to ban assemblies if it is necessary to maintain public order. Article 11 of the law limits public assemblies to between 6 am and 6 pm every day. Under to the law, counter demonstrations are banned and violators are liable to a fine of between 100,000 to 500,000 Burundi Francs (approximately US \$ 30 to US \$ 300). The authorities routinely and unwarrantedly invoke Article 10 of the law, rejecting applications to hold protests on the grounds that such protests pose a risk to public order (see 4.7 and 4.8 below).

**4.5** On 26 April 2015, protesters responded to a decision by President Pierre Nkurunziza to extend his term in office and stand for elections that were then scheduled for 5 June 2015. The largely peaceful protests were organised by civil society groups, members of the political opposition and ordinary citizens who coalesced into the “stop the third mandate” movement.<sup>23</sup> The movement developed into a coalition of more than 300 civil society groups and protesters called for respect for the Constitution and the 2000 Arusha Peace Accords. The Burundian authorities labeled the protests “acts of insurrection” and used violence to disperse protesters in Bujumbura and other cities.<sup>24</sup>

**4.6** Violence against protesters intensified following a failed coup by some members of the military on 13 May 2015. Hundreds of protesters were killed or injured and hundreds more were arbitrarily arrested and detained. Protesters defied a government order which warned that protesters would be treated as accessories to those involved in the attempted coup. Police officers also intimidated medical practitioners treating injured protesters and in some instances threatened medical personnel and requested that they provide lists of injured demonstrators. Since the outset of the crisis in April 2015 more than 405,247 Burundians have fled the violence, more than 2000 people have been killed and over 8,000 have

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<sup>23</sup> “Burundi: a dangerous third term,” International Crisis Group, <https://d2071andvip0wj.cloudfront.net/235-burundi-a-dangerous-third-term.pdf>, accessed 5 June, 2017.

<sup>24</sup> “Report of the delegation of the African Commission on Human and Peoples Rights on its fact finding mission to Burundi 7 – 13 December 2015,” [http://www.achpr.org/files/news/2016/05/d218/achpr\\_report\\_fact\\_finding\\_eng.pdf](http://www.achpr.org/files/news/2016/05/d218/achpr_report_fact_finding_eng.pdf), accessed 1 June 2017.

been detailed.<sup>25</sup>

**4.7** On 25 September 2014, anti-corruption activist and president of the Observatoire de lutte contre la corruption et les malversations économiques (OLUCOME), Gabriel Rufyiri, was prevented from holding a peaceful march against rising corruption on the premises of the Ministry of Justice. He was stopped by police on the way to the ministry and forced to return home.<sup>26</sup> On 4 April 2014, the Mayor of Bujumbura rejected a request by Gabriel Rufyiri to hold a peaceful assembly on 9 April to commemorate the fifth anniversary of the assassination of former OLUCOME President - Ernest Manirumva - in 2009. The Mayor rejected the request on the grounds that civil society organisations including OLUCOME have a tendency to obstruct justice. Established in 2002, OLUCOME campaigns against corruption in Burundi and highlights cases implicating high-ranking government officials.<sup>27</sup> Such campaigns have often elicited brutal responses from the government including the assassination of former OLUCOME president Ernest Manirumva, and arrests, public vilification and detention of staff members.

**4.8** In 2014, civil society groups and representatives of the media organised a peaceful campaign in which they wore green as an act of solidarity with detained HRD Pierre Claver Mbonimpa and to condemn the actions of the government. The Mayor of Bujumbura rejected requests for peaceful marches to be held on the grounds that they were likely to incite an insurrection. On 22 May 2014, three members of the human rights organisation, APRODH, were arrested by the police for wearing green t-shirts as part of the Green Friday campaign which highlighted human rights violations against Pierre Claver Mbonimpa and his arbitrary arrest and his continued detention on 16 May 2014.

**4.9** On 8 March 2014, police violently dispersed protests organised by members of the political opposition party Movement for Solidarity and Democracy (MSD). The

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<sup>25</sup> See “UNHCR’s operational portal for refugee situations, Burundi,” <http://data2.unhcr.org/en/situations/burundi>, accessed 6 June 2017 “April 2015-April 2017, two years now, Burundi still experiences serious crisis,” IWACU, <http://data2.unhcr.org/en/situations/burundi>, accessed 6 June 2017.

<sup>26</sup> “2015: Burundi at a turning point: human rights defenders working in the context of elections,” *East and Horn of Africa Human Rights Defenders Project*, <https://www.defenddefenders.org/wp-content/uploads/2015/02/burundi-2015-en.pdf>, accessed, 21 May 2017.

<sup>27</sup> “OLUCOME,” <http://www.olucome.bi/Qui-sommes-nous.html>, 10 May 2017.

protesters were physically assaulted and many were arrested and detained. Following a highly controversial trial, 21 members of MSD were handed life sentences and 26 others to terms ranging from 3 to 10 years imprisonment.<sup>28</sup>

**4.10** On 18 February 2014, police prevented the Burundi Bar Association from holding a workshop with the Council of Bar Associations in France even though permission had been sought from the Mayor of Bujumbura. Days earlier on 4 February 2014, police prevented the Bar Association from holding its annual general meeting in Bujumbura.

**4.11** On 9 April 2014, a planned demonstration by representatives of civil society organisations to mark the 5<sup>th</sup> anniversary of the death of anti-corruption activist Ernest Manirumva was dispersed by the government. In addition, on 3 May 2014 the authorities prevented journalists and civil society representatives from holding a peaceful march to “Independence Square” to commemorate World Press Freedom Day.

## **5 (E) Freedom of association**

**5.1** During Burundi’s examination under the second UPR cycle, the government noted 5 recommendations related to the right to freedom of association and creating an enabling environment for civil society organisations. It agreed to guarantee fully the right to freedoms of assembly, association and expression in conformity with the ICCPR. However as reviewed in this section, the government has not fully implemented most of these recommendations.

**5.2** Article 22 of the ICCPR, guarantees freedom of association. Article 10 of the African Charter on Human and Peoples Rights states that every individual shall have the right to free association provided that he abides by the law. In addition, Article 32 of the constitution of Burundi guarantees the right to freedom of association. It stipulates that the freedom of assembly and association is guaranteed as well as the right to establish associations or organisations in accordance with the law.

**5.3** However, on 27 January 2017 the National Assembly adopted a law that requires NGOs to obtain permission from the Ministry of the Interior for all activities they

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<sup>28</sup> “2015: Burundi at a turning point: human rights defenders working in the context of elections,” *East and Horn of Africa Human Rights Defenders Project*, <https://www.defenddefenders.org/wp-content/uploads/2015/02/burundi-2015-en.pdf>, accessed 20 May, 2017.

intend to carry out. Article 82 of the law states that NGOs who do not comply with this provision will be suspended.<sup>29</sup> According to the law, all international financial transactions must be done through the Central Bank of Burundi (Article 74) which is under government control. A second law was adopted on 23 January 2017 to regulate international NGOs. It requires all financial transfers made by international NGOs to go through the Central Bank of Burundi and makes it compulsory for international NGOs to comply with government programmes.

**5.4** On 3 January 2017, the government banned the human rights organisation Ligue Iteka from working in Burundi. The Interior Minister Pascal Barandagiye accused Ligue Iteka of inciting hatred, tarnishing the image of Burundi and for sowing divisions. The ban was imposed after Ligue Iteka and FIDH published a report highlighting human rights violations committed in Burundi since the outset of the crisis in April 2015.<sup>30</sup>

**5.5** Before that on 24 October 2016, the government provisionally suspended Ligue Iteka, SOS-Torture/Burundi, COSOME, Coalition Burundaise pour la CPI (CB-CPI), and UBJ. The government accused them of threatening security and disrupting public order.<sup>31</sup> Before that the government banned FORSC, FOCODE, ACAT-Burundi, APRODH, and Réseau des citoyens probes (RCP).

## **6 (F) Recommendations to the Government of Burundi**

CIVICUS, CIVICUS, Defend Defenders, FIDH, APRODH and Ligue Iteka call on the government of Burundi to create and maintain in law and practice, an enabling environment for civil society in accordance with the rights enshrined in the ICCPR, the UN Declaration on human rights defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to function operate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

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<sup>29</sup> Law n°1/02 of January 27th establishing an organic framework for the nonprofit organizations, <http://www.presidence.gov.bi/wp-content/uploads/2017/04/loi-02-2017.pdf>

<sup>30</sup> Ban on the Iteka League another blow for civil society in Burundi," *FIDH World Movement for Human Rights*, <https://www.fidh.org/en/region/Africa/burundi/ban-of-the-iteka-league-another-blow-to-burundian-civil-society>, accessed 1 June 2017.



### **6.1 Concerning the protection of human rights defenders**

- Rescind all international arrest warrants pending for human rights defenders and representatives of civil society, allow them to travel freely and stop the violence against and intimidation of all human rights defenders including those in hiding in Burundi.
- Annul the ruling made by an appeals court in Bujumbura which disbarred leading human rights lawyers and heads of human rights organisations and carry out impartial investigations into the reasons why they were disbarred against the decision made by the Burundi Bar Association.
- Carry out impartial investigations into the harassment and attacks on human rights defenders.
- Provide full information into the whereabouts of human rights defender Marie-Claudette Kwizera and carry out independent investigations into the circumstances that led to her abduction with a view to holding all those responsible accountable.
- Carry out impartial investigations into the attempted assassination of human rights defender Pierre Claver Mbonimpa and the killings of his son and son-in-law and bring all those responsible to justice.

### **6.2 Concerning freedom of expression, independence of the media and access to information**

- Stop threatening and intimidating journalists who operate in Burundi and those based in other countries and allow them to broadcast information without fear of intimidation;
- Review and reconstitute the composition of the membership of the CNC and allow equal representatives from public and private media and civil society to ensure it operates as an independent body without government interference and control;
- Rescind the suspension of the Burundi Union of Journalists and allow the union and its members to operate freely without fear of intimidation;
- Carry out independent investigations into the attacks on all radio stations and media outlets, hold those responsible accountable and ensure that all media outlets which have been forced to shut down are allowed to resume their broadcasting freely and independently.

### **6.3 Concerning the right of assembly**

- Review and if necessary update existing human rights training for police and security forces with the assistance of independent civil society organisation to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms;
- Review and amend the Assemblies and Public Demonstrations Law (2013) to allow civil society organisations and individuals to freely exercise the right to peaceful assembly in line with the constitution and international human rights norms;
- Carry out thorough and independent investigations into the killings of protesters who took part in all protests from April 2015 and hold all those responsible for the violence accountable;
- Release all those still in detention for participating in peaceful protests denouncing the third term of President Pierre Nkurunziza;
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities;
- Ensure that security forces abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.<sup>32</sup> Force should not be used unless it is strictly unavoidable, and if applied it must be done in accordance with international human rights law.<sup>33</sup>

### **6.4 Concerning freedom of association**

- Rescind the ban on all human rights organisations and lift any restrictions against the leaders of these organisations to enable them to carry out their activities without fear of intimidation;
- Lift restrictions on all bank accounts of civil society organisations and those of the heads of these organisations that are currently frozen.

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<sup>32</sup>Basic Principles on the Use of Force and Firearms by Law Enforcement Officials  
<http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf>

<sup>33</sup>Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, UN Doc. A/HRC/31/66, February 2016,  
[http://freeassembly.net/wpcontent/uploads/2016/02/A.HRC\\_.31.66\\_E\\_with\\_addendum.pdf](http://freeassembly.net/wpcontent/uploads/2016/02/A.HRC_.31.66_E_with_addendum.pdf)

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures which unwarrantedly limit the right to association.

#### **6.5 Regarding access to UN Special Procedures mandate holders**

- The government should prioritise official visits with the: 1) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 2) Special Rapporteur on the Independence of Judges and Lawyers; 3) Special Rapporteur on extrajudicial, summary or arbitrary executions; 4) Special Rapporteur on Human Rights Defenders; 5) Special Rapporteur on the Right to Freedom of Association and Assembly and 6) Working Group on Arbitrary Detention. We call on the government to resume engagements with the Commission of Inquiry on Burundi and with the Office of the High Commissioner for Human Rights.

#### **6.6 Regarding State engagement with civil society**

- Incorporate the results of this UPR into Burundi's action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.