



Submission to the United Nations Universal Periodic Review

37th Session of the UPR Working Group

Republic of Rwanda

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Joint Submission by:

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And

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1. Introduction

- 1.1 CIVICUS: World Alliance for Citizen Participation is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society throughout the world. Founded in 1993, CIVICUS has members in 180 countries.
- 1.2 The East and Horn of Africa Human Rights Defenders Project (DefendDefenders) is a regional CSO registered and based in Uganda. Established in 2005, DefendDefenders seeks to strengthen the work of human rights defenders (HRDs) throughout the East and Horn of Africa sub-region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to defend human rights effectively. DefendDefenders focuses its work on 11 countries including Rwanda.
- 1.3 In this submission, CIVICUS and DefendDefenders examine the Government of Rwanda's human rights record since its second-cycle universal periodic review (UPR) in 2015. Specifically, we assess the government's fulfilment of the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on HRDs. To this end, we analyse Rwanda's implementation of recommendations received relating to these issues and provide specific, action-orientated follow-up recommendations. This submission was prepared prior to the postponement of the deadline for submissions in relation to the 37th session of the UPR Working Group. It has been updated to reflect challenges in relation to the COVID-19 pandemic and human rights.
- 1.4 During its second UPR cycle in 2015, the Government of Rwanda fully accepted 152 recommendations and noted 77. In total, Rwanda received 26 recommendations on the space for civil society (civic space), although it accepted 17 of them. However, an evaluation of legal resources and human rights documentation analysed in subsequent sections illustrates that Rwanda falls behind on its commitment to implement the recommendations it accepted. Only two recommendations relating to access to information and freedom of speech have been partially implemented.
- 1.5 HRDs, including civil society activists and journalists, have been systemically targeted by the government since 2015. This submission outlines several highly concerning examples that illustrate a pattern of systematic threats faced by many Rwandans in their exercise of the rights to the freedoms of association, peaceful assembly and expression. This points to a failure on the part of the Government of Rwanda to uphold and implement the recommendations accepted during its 2015 examination that relate to HRDs and the freedoms of association, peaceful assembly and expression.
- 1.6 As a result of these issues, civic space in Rwanda is currently classified as 'repressed' by the CIVICUS Monitor.¹
 - **Section 2** of this submission highlights concerns related to the freedom of expression, access to information, and attacks on journalists and media houses;
 - **Section 3** examines concerns over intimidation, threats and attacks on HRDS;

¹ CIVICUS Monitor: Rwanda, <https://monitor.civicus.org/country/rwanda>.

- **Section 4** highlights concerns over the freedom of association, and unwarranted and unlawful government interference in the affairs of CSOs;
- **Section 5** examines collective concerns over the freedom of peaceful assembly;
- **Section 6** contains recommendations to the Government of Rwanda to address the concerns identified in preceding sections.
- An annex lists the implementation of recommendations received by Rwanda during the 2nd UPR cycle that are referenced in this submission.

2. Freedom of expression, access to information and attacks on journalists

2.1 Under the second UPR cycle, the government received eight recommendations relating to access to information. Of the recommendations received, two were accepted and six were noted. The government has partially implemented one recommendation regarding access to information. It is acknowledged that access to information and communication has improved due to government's strategy to develop an information economy. By 2017, internet penetration had reached 33 per cent² compared to 20 per cent in 2015,³ while mobile telephone penetration continues to rise, reaching 73 per cent in 2017 compared to 70 per cent in 2016.⁴

2.2 In relation to the freedoms of opinion and expression, Rwanda received 18 recommendations and accepted five, incorporating them into its roadmap to implement UPR recommendations. Rwanda is credited with undertaking extensive media reforms since its previous UPR in 2015.

2.3 Article 21 of the International Covenant on Civil and Political Rights (ICCPR), to which Rwanda is state party, guarantees the right to the freedoms of expression and opinion. Rwanda has a robust domestic legal framework for the protection of the right to the freedom of expression. Article 34 of the Constitution of the Republic of Rwanda states that "freedom of the press and freedom of information are recognised and guaranteed by the state." Moreover, article 38 of the Constitution also states that "freedom of press, of expression and of access to information are recognised and guaranteed by the State." In line with implementing the 2015 UPR recommendations, the Republic of Rwanda conducted a review of the Penal Code, and article 169 on criminal defamation was repealed by parliament. However, some articles on defamation were maintained and there are still provisions that undermine the freedom of expression by criminalising defamation. These include article 162 on defamation of religious ceremonies, article 165 on publication of edited statements or images of persons and articles 254 and 257 on humiliation of administrative authorities and persons in charge of public service respectively.

2.4 CIVICUS and DefendDefenders are however concerned about the vast and growing disconnect between law and practice in Rwanda. Despite the existence of a relatively

² 'Statistics and tariff information in telecom, media, and postal service as of the first quarter 2017', Rwanda Utilities Regulatory Agency (RURA), 2017, http://www.rura.rw/uploads/media/Telecom_Statistics_Report_1st_quarter_2017_.pdf.

³ 'Individuals using the Internet, 2005-2019', International Telecommunication Union, 2020, <http://bit.ly/1cblxxY>.

⁴ 'Statistics and tariff information in telecom, media, and postal service as of the second quarter 2017', RURA, 2017, http://www.rura.rw/uploads/media/Telecom_Statistics_Report_Second_quarter_2017_Updated_.pdf.

progressive legal framework, the freedom of expression and media freedoms are severely and unwarrantedly restricted. Journalists are routinely targeted and subjected to judicial and non-judicial persecution. Although there are no legal provisions expressly prohibiting speech or advocacy by CSOs, in practice significant restrictions on the freedom of speech and political space persist. Between 2016 and 2017, seven cases of harassment and intimidation of journalists were recorded.⁵

2.5 In August 2018, President Paul Kagame signed into law a revised Penal Code, which prescribes prison sentences of five to seven years for defamation against public servants, and specifically the president, and criminalises the offence of ‘humiliating’ state officials, although it decriminalises defamation against private individuals.⁶ The Supreme Court struck down part of the law, but upheld the offence of criminal defamation against the president, punishable by at least five years in prison.

2.6 A new Law on Prevention and Punishment of Cybercrimes, Official Gazette No. Special of 15 September 2018, imposes a number of restrictions, including up to five years’ imprisonment and a fine of between one million Rwandan francs (approx. US\$1,000) and 3 million francs (approx. US\$3,000)⁷ for publishing “rumours that may incite fear, insurrection or violence... or that may make a person lose their credibility.”⁸ Additionally, anyone who “establishes, publishes, or uses a site of a terrorist group” faces imprisonment of 15 to 20 years and a fine of between 20 million (approx. US\$21,000) and 50 million Rwandan francs (approx. US\$53,000).⁹ As the government considers many exiled Rwandan opposition figures and organisations to be terrorist groups, this has contributed to concerns that the law will be used to further crack down on opposition activities.¹⁰

2.7 A new Information Communication and Technology (ICT) law enacted in June 2016, Law No. 24/2016 of 18/06/2016 Governing Information and Communication Technologies published in Official Gazette No. 26 of 27 June 2016, created a new legal and regulatory framework for the ICT sector and codified specific restrictions on internet activities that are antithetical to internet freedom.¹¹ The law allows the state to interfere with personal communications. For instance, Section 123 requires all electronic communications service providers to install features that facilitate lawful interception by the state.¹²

2.8 As a result of the hostile environment for the freedom of expression, journalists in Rwanda are often unable or unwilling to engage in investigative reporting on politically sensitive issues for fear of reprisals and related prosecutions. When journalists do speak out, they are

⁵ ‘Freedom on the Net 2019: Rwanda’, Freedom House, 2019, <https://freedomhouse.org/country/rwanda/freedom-net/2019>.

⁶ Official Gazette No. 68/2018, Government of Rwanda, 2018, <https://rwandalii.africanlii.org/sites/default/files/gazette/OG%2Bno%2BSpecial%2Bof%2B27-09-2018.pdf>.

⁷ Article 39, Law on Prevention and Punishment of Cybercrimes, Official Gazette No. Special of 15/09/2018, Government of Rwanda, pg. 126.

⁸ Freedom House, 2019, op. cit.

⁹ Article 41: Creation or publication of a site for terrorist groups, Official Gazette No. Special of 25/09/2018, Government of Rwanda, pgs. 127-128, http://minijust.gov.rw/fileadmin/Laws_and_Regulations/Law_on_Cyber_crim...

¹⁰ ‘New law critical to cybersecurity’, The New Times, 21 January 2019, <https://www.newtimes.co.rw/opinions/new-law-critical-cybersecurity>.

¹¹ ‘Rwanda Enacts New ICT Regulations’, Juli Africa, 30 December 2016, <http://juriafrique.com/eng/2016/12/30/rwanda-enacts-new-ict-regulations>.

¹² ‘Shadow Report on the State of Freedom of Expression Online in Rwanda’, Collaboration on International ICT Policy for East and Southern Africa, 31 October 2017, https://cipesa.org/?wpfb_dl=257.

routinely persecuted. On 16 July 2019, Constantin Tuyishimire, a journalist with TV1 Rwanda, was reported missing while reporting in the northern part of the country.¹³ The Rwanda Investigation Bureau (RIB) denied its involvement, although Tuyishimire claimed that he was detained and interrogated by national security officers.

2.9 In March 2019, Rwandan authorities arrested and detained a journalist, Olivier Habimana, for allegedly spreading “rumours and propaganda” against President Kagame through YouTube.¹⁴ Similarly, in October 2018, authorities arrested Damascene Mutuyimana, Shadrack Niyonsenga and Jean Baptiste Nshimiyimana, journalists for Iwacu TV, a Kinyarwanda-language news broadcaster on YouTube.¹⁵ They were charged with spreading “false information or harmful propaganda” with the intention to cause hostile international opinion against the Rwandan government,¹⁶ causing uprising or unrest among the population and formation of and joining a criminal association.¹⁷ At the end of January 2020 Shadrack Niyonsenga and Jean Baptiste Nshimiyimana were still incarcerated at Mageragere Prison.

2.10 In January 2019, Nsengiyumva René Hubert, a journalist with the online newspaper Ibyishimo, was arrested by the police. Although he was released on police bail in February 2019, his case is yet to be decided. He was accused of being an accomplice of state enemies because his newspaper reportedly broadcast a programme that allegedly contained ethnically divisive language.¹⁸

2.11 On 21 November 2018, the RIB arrested freelance journalist Phocas Ndayizera in Nyamirambo. The journalist, who until June 2018 contributed to the BBC’s Kinyarwanda and Kirundi services, was accused of terrorism.¹⁹ Phocas and 12 co-accused people were presented to court on 21 December 2018 and proceedings were adjourned. They reappeared in court on 21 November 2019, and proceedings were also adjourned, and to date the case remains unfinished while Phocas and the other accused people remain incarcerated.²⁰

2.12 In April 2018, the government closed the Amazing Grace radio station and deported station owner Gregg Schoof for criticising the government. The Rwanda Utilities Regulatory Authority revoked the license of Amazing Grace allegedly after a broadcast in which evangelist Nicolas Niyibikora denigrated women.²¹ In March 2018, a court sentenced blogger Joseph Nkusi to 10 years in prison for incitement to civil disobedience

¹³ ‘Rwanda: Disappearances Require Credible Investigations’, Human Rights Watch, 15 August 2019, <https://www.hrw.org/news/2019/08/15/rwanda-disappearances-require-credible-investigations>.

¹⁴ Freedom House, 2019, op. cit.

¹⁵ ‘Shadrack Niyonsenga’, Committee to Protect Journalists, October 2018, <https://cpj.org/data/people/shadrack-niyonsenga>.

¹⁶ Law No. 68/2018 of 30/08/2018 determining offences and penalties in general, Article 194.

¹⁷ Ibid., Article 224.

¹⁸ ‘Journalist Facing Prosecution Claims Investigators Using him as ‘Guinea Pig for Research’, While 3 Others Acquitted’, The Chronicles, 20 February 2019, <https://www.chronicles.rw/2019/02/20/journalist-facing-prosecution-claims-investigators-using-him-as-guinea-pig-for-research-while-3-others-acquitted>.

¹⁹ ‘Phocas Ndayizera’, Committee to Protect Journalists, 21 November 2018, <https://cpj.org/data/people/phocas-ndayizera/index.php>.

²⁰ ‘Rwanda: Trial of Journalist Phocas Ndayizera’, JamboNews, 28 November 2019,

<https://www.jamboNews.net/en/actualites/20191128-rwanda-trial-of-journalist-phocas-ndayizera>.

²¹ ‘Amazing Grace radio station loses licence’, The New Times, 24 April 2018, <https://www.newtimes.co.rw/news/amazing-grace-radio-station-loses-licence>.

and the spread of rumours. This followed his deportation from Norway in 2016.

2.13 On 3 February 2016, police raided the offices of regional newspaper The East African with warrants to search the newspaper's computers. One journalist was briefly arrested and taken to a police station for interrogation. He was released several hours later. The reasons for this search and arrest remain unknown; however, it is expected that they related to several articles that had been published by the newspaper.²²

2.14 Despite progress in terms of access to information, several websites, including blogs and independent online news outlets, were restricted during the 2017 election period, particularly those operated by opposition parties.²³ In January 2016, John William Ntwali, an editor and investigative reporter at the Ireme website, was prosecuted over his critical online presence.²⁴ In December 2015, the Ireme news site was blocked, and online news editors were asked by government to withhold or delete content on "sensitive" topics about the presidential term-limit debate.

2.15 The government also restricts access to public broadcasting for opposition political parties and CSOs critical of the government, while the ruling party dominates the public broadcaster, which undermines access and the freedom of expression for other interested parties.²⁵ The space for private discussion also remains limited amid indications that the government monitors email and other personal communications. The Law Relating to the Interception of Communications (2013) authorises high-ranking security officials to monitor email and telephone conversations of individuals considered potential threats to public security. Social media is widely believed to be monitored, and the law allows for government hacking of telecommunications networks.

3. Intimidation, threats, and attacks on human rights defenders

3.1. Under Rwanda's second cycle UPR examination, the government received six recommendations²⁶ on the protection of HRDs, of which it committed to implementing two: to strengthen policies aimed at protecting HRDs²⁷ and ensure prompt, thorough and impartial investigations of all violations against HRDs.²⁸ However, as set out in this section, the government has failed to operationalise these recommendations effectively, and they remain unimplemented at the time of writing.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. However, in spite of this, HRDs,

²² 'Overview of the Human Rights Situation in the East and Horn of Africa October 2015- April 2016', DefendDefenders, April 2016, <https://www.defenddefenders.org/wp-content/uploads/2016/04/Overview-of-the-Human-Rights-Situation-in-the-East-and-Horn-of-Africa-October-2015-March-2016-.pdf>.

²³ 'Freedom on Net 2016', Freedom House, 2016, https://freedomhouse.org/sites/default/files/FOTN_2016_Rwanda.pdf. Accessed 10 February 2020.

²⁴ 'Investigative reporter freed provisionally after prosecutor reduces charge', Reporters Without Borders, 10 February 2016, <https://rsf.org/en/news/investigative-reporter-freed-provisionally-after-prosecutor-reduces-charge>.

²⁵ 'Freedom in the World 2017', Freedom House, 2017, https://freedomhouse.org/sites/default/files/FH_FIW_2017_Report_Final.pdf.

²⁶ 'Universal Periodic Review, Rwanda, matrix of recommendations', United Nations Human Rights Council (UNHRC), 4 November 2015, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/RWindex.aspx>.

²⁷ 'Report of the Working Group on the Universal Periodic Review, Rwanda', UNHRC, 19 December 2015, A/HRC/31/8, para. 133.31 (Madagascar) and para 134.56 (Austria), https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/8.

²⁸ Ibid., para. 134.56 (Austria).

civil society activists and journalists have been criminalised for undertaking their legitimate work.

- 3.3 HRDs and independent CSOs operate within severely confined boundaries and are subjected to numerous threats. The authorities continue to target and attack HRDs despite commitments made during the second UPR cycle to strengthen policies aimed at their protection. The annual report by the UN Secretary-General, released in September 2019, lists Rwanda as one of 38 countries where HRDs face reprisals for cooperating with the UN and its mechanisms. The operating environment is thus not conducive for HRDs to carry out their work effectively. HRDs engaging in legitimate activities have either been forced to flee the country or self-censor.
- 3.4 Since 2015, threats, arbitrary arrests, intimidation and harassment of HRDs and other dissenting voices have been matched by increasingly sophisticated online smear and intimidation campaigns. These campaigns have often taken the form of vicious, deliberately opaque and highly coordinated ad hominem attacks against HRDs via Twitter, blogs and other social media platforms
- 3.5 Kizito Mihigo, a gospel musician and critic of President Kagame, was found dead in a police cell in Kigali on 17 February 2020.²⁹ Mihigo was arrested in 2014 for singing a song about the genocide and was pardoned in 2018.³⁰ However, he was rearrested during the week of 9 February 2020, allegedly for trying to flee to Burundi and join rebel groups.
- 3.6 On 28 May 2016, Epimack Kwokwo, former Executive Secretary of the Ligue de Droits de la Personne dans la Region des Grand Lacs (LDGL), was declared persona non grata by the government and accompanied by immigration officials to the border with the Democratic Republic of the Congo.³¹ His passport, which had been held by the Rwandan authorities since October 2015, was returned to facilitate his crossing.³² Our submission in the 2015 UPR cycle highlighted Kwokwo's situation following his arrest as he and a colleague travelled to participate in LDGL's management committee meeting.
- 3.7 The political landscape in Rwanda is heavily tilted in favour of the ruling party, the Rwandan Patriotic Front, led by President Kagame. The 2015 referendum amended the Constitution and allowed President Kagame to seek a third term. Subsequently he won the 2017 election with a landslide victory of around 98 per cent. Although the election was declared free and fair by the National Electoral Commission, independent election observers disagreed, citing a climate of fear and intimidation of several independent candidates.³³

²⁹ 'Rwandan gospel singer and critic of president dies in a police cell', The Guardian, 17 February 2020, <https://www.theguardian.com/world/2020/feb/17/rwandan-gospel-star-president-critic-kizito-mihigo-dies-police-cell>.

³⁰ 'World Report 2019: Rwanda', Human Rights Watch, 2019, <https://www.hrw.org/world-report/2019/country-chapters/rwanda>.

³¹ 'Human rights defender deported from Rwanda', CIVICUS Monitor, 1 August 2016, <https://monitor.civicus.org/updates/2016/08/01/rwanda-update>.

³² 'Case History: Epimack Kwokwo', Front Line Defenders, 2016, <https://www.frontlinedefenders.org/en/case/case-history-epimack-kwokwo>.

³³ 'State continues relentless targeting of opposition leaders', CIVICUS Monitor, 19 January 2017, <https://monitor.civicus.org/updates/2017/12/19/state-relentless-targeting-political-opposition>.

- 3.8 A post-election political crackdown then ensued, during which members of unregistered opposition parties and other political opponents were threatened, harassed and arrested. On 23 September 2019, two unidentified men killed Syldio Dusabumuremyi, the national coordinator for the unregistered Forces démocratiques unifiées (FDU)-Inkingi party.³⁴ On 15 July 2019, Eugène Ndereyimana, an opposition member with FDU-Inkingi, was reported missing by his colleagues after he failed to arrive for a meeting in Nyagatare, in Rwanda's Eastern Province. Before the election, Jean Damascene Habarugira, an FDU-Inkingi member, was murdered in May 2017.³⁵ Violet Uwamahoro, wife of an exiled activist, was arrested in February 2017. Opposition activist Illuminee Iragena was forcefully disappeared in March 2016.
- 3.9 In almost all instances, the government is responsible for human rights violations committed against HRDs who dare to speak out against the state. These violations are committed with impunity, with the perpetrators enjoying protection from the state. The actions of the state and its failures to act affect every aspect of the lives of Rwandans, both for those in the country and those in exile.

4. Freedom of association and unwarranted government interference in the affairs of civil society organisations

- 4.1 During Rwanda's examination under the second UPR cycle, the government received three recommendations on the right to the freedom of association and committed to one. Additionally, Rwanda received six recommendations on cooperation with civil society, of which it agreed to implement five. The government committed to continuing to advance measures to ensure the right to the freedom of association, guarantee an adequate environment for the opposition and increase the space for civil society. However, as evidenced below, the government has failed to take adequate measures to realise these recommendations, which remain unimplemented.
- 4.2 Article 35 of the Constitution of Rwanda guarantees the freedom of association. Article 22 of the ICCPR also guarantees this right. However, the government has overtly or covertly infiltrated almost all CSOs and human rights groups operating in Rwanda, especially those that have a history of criticising government actions and calling the state to account. As a result, there are now very few freely functioning and entirely independent human rights organisations left in Rwanda that can meaningfully challenge government policies and advocate for reforms, without genuine and well-founded fear of reprisals.
- 4.3 CSOs are regulated by Law N0 04/12, which requires them to register with the Rwanda Governance Board (RGB), a process described by the UN Special rapporteur on the rights to freedom of peaceful assembly and of association in 2014 as "bureaucratic and burdensome."³⁶ The law is currently under review, although the government is yet to make

³⁴ 'Rwanda: Killing is the latest attack on opponents', Human Rights Watch, 24 September 2019, <https://www.hrw.org/news/2019/09/24/rwanda-killing-latest-attack-opponents>.

³⁵ 'Setting the scene for election: silencing dissent in Rwanda', Amnesty International, 2017, <https://www.amnesty.org/download/Documents/AFR4765852017ENGLISH.pdf>.

³⁶ 'Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Republic of Rwanda', UN Office of the High Commissioner for Human Rights, 27 January 2014, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14201&LangID=E>.

public the proposed amendments.³⁷ Some of the operational barriers under the law include the denial of registration on grounds of security, public order, health, morals and human rights. These grounds are not clearly defined, opening up the potential for abuse. Additionally, a memorandum of understanding and a performance contract must be concluded between CSOs and district authorities to ensure that a CSO's activities are in line with the district's priorities. These restrictive provisions remain contrary to Rwanda's commitment to simplify the registration process for CSOs.³⁸

- 4.4 According to the UN special rapporteur on the right to freedom of peaceful assembly and of association, states must take positive measures to establish and maintain an enabling environment for associations and refrain from unduly restricting the right. The right to the freedom of association includes the right to form and join political parties.³⁹ During its 2015 UPR process, Rwanda agreed to guarantee fully the freedom of association and guarantee an adequate environment for the activities of opposition parties.⁴⁰ However, the operating environment for political parties remains seriously confined, despite some efforts by the government to open up political space. On 15 September 2018, 2,140 prisoners were released, including opposition leader Victoire Ingabire of the FDU-Inkingi party.⁴¹ Ingabire was arrested in 2012, following her return from exile in 2010 to run for president. She had been sentenced to 15 years in prison.
- 4.5. Undue restriction on activities of political parties were more pronounced in the run-up to and during the 2017 general elections. Presidential hopeful Diane Rwigara and her mother Adeline Rwigara were charged with the use of counterfeit documents and discrimination and sectarian practices.⁴² They were eventually acquitted on 6 December 2018. Further, on 6 September 2017, seven members of the FDU-Inkingi party were arrested.⁴³ Leonille Gasengayire, also a member of FDU-Inkingi, was arrested in March 2016, released, then rearrested in August 2016 on charges of inciting insurrection. He was later acquitted and released on 23 March 2017.⁴⁴ FDU-Inkingi has been denied registration as a political party and is therefore barred from taking part in elections.

5. Freedom of peaceful assembly

- 5.1 During Rwanda's examination under the second UPR cycle, the government received seven recommendations on the right to the freedom of peaceful assembly. The government accepted four recommendations and committed to ensuring that the work it had started on these would continue. However, as evidenced below, the government has not implemented any of the recommendations.

³⁷ 'Civic Freedom Monitor: Rwanda', International Center for Not-for-Profit Law, 2020, <https://www.icnl.org/resources/civic-freedom-monitor/rwanda>.

³⁸ A/HRC/31/8, op. cit., para. 134.59 (Switzerland).

³⁹ 'What are the rights to freedom of peaceful assembly and of association?', Former UN Special rapporteur on the rights to freedom of peaceful assembly and of association, <http://freemassembly.net/about/freedoms>.

⁴⁰ A/HRC/31/8, op. cit., para. 134.64 (Colombia).

⁴¹ 'Rwanda Freeing Over 2,000 Prisoners, Including an Opposition Leader', New York Times, 15 September 2018, <https://www.nytimes.com/2018/09/15/world/africa/rwanda-prisoners-opposition.html>.

⁴² 'World Report 2019: Rwanda', Human Rights Watch, op. cit.

⁴³ 'Post-election crackdown on opposition: arrests, threats and harassment', CIVICUS Monitor, 26 October 2017, <https://monitor.civicus.org/updates/2017/10/26/post-election-crackdown-opposition-threats-arrests-harassment>.

⁴⁴ Amnesty International, 2017, op. cit.

5.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 38 of the Rwandan Constitution also guarantees the right to the freedom of peaceful assembly. However, the enjoyment of this right remains limited in practice. Public authorities have not respected these provisions on several occasions. Assemblies in public places and demonstrations by political parties are subject to prior authorisation. Meetings of political parties and spontaneous peaceful demonstrations have not been authorised or allowed for reasons that appear to be unrelated to the justifications listed in article 21 of the ICCPR. Due to fear of arrest, individuals and organisations often refrain from exercising their right to peaceful assembly.

5.3 While the Constitution recognises the right to peaceful assembly, Law No. 68/2018 Determining Offences and Penalties in General regulates this right and requires that organisers give the authorities a month's notice of their intention to gather.⁴⁵ The law does not provide for spontaneous demonstrations. As a result, protests in Rwanda are rare, although demonstrations related to the Rwandan government's actions are frequently organised by diaspora communities living outside Rwanda. When protestors in Rwanda fall foul of the rules governing public assemblies, they are liable to be punished with imprisonment or harsh fines. Further, Article 225 of Law No. 68/2018 prescribes that if a protest "threatens" security, public order, or health, the penalty upon conviction is a term of imprisonment of between six months and a year and a fine of between 3,000,000 Rwandan francs (approx. US\$3,210) and 5,000,000 Rwandan francs (approx. US\$5,350).⁴⁶

5.4 In February 2018, police fired live ammunition into two crowds of Congolese refugees in Karongi town and Kiziba refugee camp who were protesting against cuts in assistance, killing at least 11 people and injuring at least 20.⁴⁷ By the end of the year, there had not been any investigation into the police's use of force during the demonstrations; in comparison, 65 protesters were arrested and charged with holding an illegal demonstration and violence against the police, among other allegations.⁴⁸

6. Recommendations to the Government of Rwanda

CIVICUS and DefendDefenders are profoundly concerned by the failure on the part of the Government of the Republic of Rwanda to implement the recommendations it accepted in 2015 relating to civic space and HRDs meaningfully. CIVICUS and DefendDefenders call on the Government of Rwanda to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the Rwandan Constitution, the African Convention on Human and Peoples' Rights, the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, urgent steps should be taken by the Government of Rwanda to prevent further backsliding on basic and fundamental civil and political rights. Specifically, steps should be

⁴⁵ Official Gazette No. Special of 27/09/2018, Government of Rwanda, <http://www.therwandan.com/wp-content/uploads/2018/10/The-New-Rwanda-Penal-Code.pdf>.

⁴⁶ Ibid.

⁴⁷ 'Rwanda: Police officers remain free while protesting Congolese refugees face jail time', Amnesty International, 22 February 2019, <https://www.amnesty.org/en/latest/news/2019/02/rwanda-police-officers-remain-free-while-protesting-congolese-refugees-face-jail-time>.

⁴⁸ Ibid.

taken to ensure the realisation of the rights to the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference and surveillance, the right to communicate and cooperate with UN and other regional human rights bodies, the right to seek and secure funding and the state's duty to protect.

While recognising that a number of restrictions to human rights, in particular the rights to the freedom of peaceful assembly and the freedom of movement, may be legitimate in order to prevent the spread of COVID-19, the Government of Rwanda should ensure that these restrictions are grounded in law, temporary, non-discriminatory, necessary and proportionate. They must not serve as tools to target independent CSOs and HRDs and must not outlast the pandemic.

In the light of this, the following specific recommendations are made:

6.1 Freedom of expression

1. Respect and protect the freedom of expression online and offline, fully investigate threats to journalists and representatives of the media both in Rwanda and abroad and bring the perpetrators to justice.
2. Take steps to ensure that all individuals can fully exercise their right to the freedom of expression without intimidation or harassment. As part of this, revise and reform the Penal Code and national security laws to ensure that provisions related to criminal libel and insult are consistent with international human rights obligations.
3. Review and amend restrictive provisions of the Law on Prevention and Punishment of Cybercrimes to ensure they conform with international human rights obligations.
4. Amend restrictive provisions of the revised Penal Code, Information and Technology Law and Law on Prevention and Punishment of Cybercrimes to provide a favourable space for the freedom of expression and media freedoms.
5. Desist from conducting smear, misinformation and threat campaigns against journalists, human rights groups and others seeking to express legitimate opinions.
6. Publicly condemn at the highest-level attacks on and threats to journalists and government critics and ensure protection by law enforcement agencies.
7. Ensure that the rights of journalists and representatives of the media are protected during periods of elections and emergencies, in accordance with the Rwandan Constitution.
8. Ensure that all the journalists still in detention are immediately and unconditionally released.

6.2 Intimidation, threats and attacks on civil society activists and human rights defenders

1. Thoroughly investigate all threats to HRDs, including civil society representatives, and ensure that the perpetrators are prosecuted according to international human rights standards.
2. Unconditionally release all HRDs and civil society activists arrested and detained on the basis of their legitimate human rights activities and drop all charges against them.
3. Desist from promoting online smear campaigns against HRDs and civil society activists who participate in the review of Rwanda's human rights record at the Human Rights Council.

6.3 Freedom of association

1. Desist from interfering in the activities and internal governance processes of CSOs and human rights organisations, particularly with regard to the appointment of the leadership of these organisations.
2. Amend restrictive provisions of Law No. 04/12 that interfere with the operations of CSOs in Rwanda.
3. Ensure that the mandate of the Rwanda Governance Board, which is mainly regulatory, is clear and adhered to.
4. Take measures to increase space for dissent, discussion and dialogue, and ensure a conducive and safe environment for anyone exercising or seeking to exercise their right to the freedom of association. As part of this, ensure that CSOs and political parties can carry out their activities without hindrance and with a less cumbersome registration process.

6.4 Freedom of peaceful assembly

1. Adopt best practices on the freedom of peaceful assembly and ensure no one is subject to criminal processes for exercising the right to peaceful assembly nor subject to violence, harassment, persecution, intimidation, or reprisals.
2. Approve, facilitate and protect peaceful demonstrations, including those expressing views that are contrary to the government's policies and actions.
3. Equip security forces in charge of crowd control with non-lethal weapons and provide training across the board on humane means of crowd control and on the UN Basic Principles on the Use of Force and Firearms.
4. Provide recourse for judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

5. Urgently sign and ratify the First Optional Protocol to the ICCPR, which allows individuals to petition the Human Rights Committee if they believe the state has violated their human rights as protected under the Covenant.
6. Amend Law No. 68/2018 Determining Offences and Penalties in General and take other measures necessary to ensure that all individuals, CSOs and political parties fully enjoy, in practice, their rights to the freedoms of association, peaceful assembly and expression, including by guaranteeing that any restrictions on the exercise of such rights comply with the strict requirements set out in the Covenant. The Government should also refrain from interfering with the internal functioning of CSOs and political parties.

6.5 Regarding access to UN Special Procedures mandate holders

The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders, 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association.

6.6 Regarding state engagement with civil society

1. Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
2. Include CSOs in the UPR process before finalising and submitting the national report.
3. Systematically consult with civil society on the implementation of the UPR, including by holding periodical comprehensive consultations with a diverse range of civil society.
4. Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, considering 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.

