



Burundi
Joint Submission to the UN Human Rights Council
Universal Periodic Review (UPR)
43rd Session of the UPR Working Group

Submitted 11 October 2022

**Submission by CIVICUS: World Alliance for Citizen Participation,
NGO in General Consultative Status with ECOSOC
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Ligue Burundaise des Droits de l'Homme "Iteka" (Ligue Iteka),
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1. Introduction

- 1.1** CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 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 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 Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.
- 1.3** The Iteka League was created in 1991 as an initiative by a group of activists, lawyers, religious leaders and others to contribute to building a united and democratic Burundi where peace and security are based on the respect for the rule of law. It aims to advance social justice and prosperity based on the common interests of the people of Burundi and build a society where all citizens enjoy their fundamental rights.
- 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. The organisation seeks to assess the status of human rights in general and the rights of persons deprived of freedom in particular, fight against torture and all kinds of violence and abuse, advocate for victims of human rights violations, assist vulnerable people to access fair justice, and disseminate information on national and international human rights issues.
- 1.5** In this submission, CIVICUS, DefendDefenders, Iteka League, and APRODH 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 the freedoms of association, peaceful assembly and expression and unwarranted restrictions on HRDs since its previous UPR examination on 18 January 2018. To this end, we assess Burundi's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide follow-up recommendations.
- 1.6** During the 3rd UPR cycle, the Government of Burundi received 33 recommendations relating to the space for civil society (civic space). Of these recommendations, it accepted three and noted 21.¹ However, an evaluation of a range of legal and human rights sources addressed in subsequent sections of this submission demonstrates that the Government of Burundi has partly implemented one recommendation relating to civic space.
- 1.7** While the government has made some strides in addressing unwarranted restrictions on civic space since its last UPR examination, acute implementation

¹ 'Report of the Human Rights Council on its thirty-eighth session', UN Human Rights Council, 24 August 2018, <https://www.ohchr.org/en/hr-bodies/upr/bi-index>.

gaps were found with regard to the right to the freedom of association and protection of HRDs, civil society activists and journalists.

- 1.8** Since Burundi's last UPR review, President Pierre Nkurunziza indicated that he would not run for another term,² and the ruling party, the National Council for the Defence of Democracy–Forces for the Defence of Democracy (CNDD-FDD), nominated Évariste Ndayishimiye as its candidate for the presidential election.³ On 18 June 2020, after his election and following Nkurunziza's death, Ndayishimiye was sworn in as president.⁴
- 1.9** Some perpetrators of human rights abuses have been prosecuted. In August 2020, more than a dozen people were jailed, including police and members of the CNDD-FDD's youth wing, the Imbonerakure militia, after being found guilty of extorting money from migrant workers returning from Tanzania.⁵ In February 2021, a Court of Appeals sentenced two Imbonerakure members, Boris Bukeyenzeza and Dieudonné Nsengiyumva, to 15 years in prison for the May 2020 killing of Richard Havyarimana, a representative of the Congrès National pour la Liberté (CNL) opposition party in Mbogora Commune, Mwaro Province.⁶
- 1.10** Despite the initial promises of Burundi's President Ndayishimiye to improve the human rights situation and restore the rule of law, structural measures to bring long-lasting change are yet to be seen. Democratic space remains tightly closed and serious human rights violations continue to be committed.⁷
- 1.11** We are deeply concerned by the persistent human rights violations and abuses in Burundi, including extrajudicial killings, enforced disappearances, torture and arbitrary arrests, as well as severe restrictions on civil and political rights and widespread impunity.
- 1.12** We are alarmed by the targeting of CSOs and HRDs through restrictive laws and practices, and judicial harassment in the form of fabricated cases and unfair trials.
- 1.13** As a result, civic space in Burundi is currently classified as 'closed' by the CIVICUS Monitor, indicating the existence of particularly severe civic space restrictions.⁸

² 'Burundi's President Again Says He Won't Run For Another Term', Voice of America (VoA), 26 December 2019, https://www.voanews.com/a/africa_burundis-president-again-says-he-wont-run-another-term/6181661.html.

³ 'Burundi's Ruling Party Picks General as Presidential Hopeful', VoA, 26 January 2020, https://www.voanews.com/a/africa_burundis-ruling-party-picks-general-presidential-hopeful/6183200.html.

⁴ 'Burundi's Evariste Ndayishimiye is sworn in as president', BBC, 18 June 2020, <https://www.bbc.com/news/world-africa-53084769>.

⁵ 'Burundi jails members of notorious ruling party youth wing', News24, 17 August 2020, <https://www.news24.com/news24/africa/news/burundi-jails-members-of-notorious-ruling-party-youth-wing-20200817>.

⁶ 'Condemnation of two Imbonerakure, an encouraging sign in Burundi?', Trial International, 18 February 2021, <https://trialinternational.org/latest-post/condemnation-of-two-imbonerakure-an-encouraging-sign-in-burundi>.

⁷ 'Burundi: Behind a façade of normalization, grave human rights violations continue, and the democratic space remains closed', UN Office of the High Commissioner for Human Rights (OHCHR), 16 September 2021, <https://www.ohchr.org/en/press-releases/2021/09/burundi-behind-facade-normalization-grave-human-rights-violations-continue>.

⁸ CIVICUS Monitor: Burundi, <https://monitor.civicus.org/country/burundi>.

- Section 2 of this submission examines Burundi's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 3 examines Burundi's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 4 examines Burundi's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, media freedom and access to information.
- Section 5 examines Burundi's implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
- An annex on the implementation of 3rd cycle UPR recommendations related to civic space is in Section 7.

2. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

2.1 Under Burundi's previous UPR examination, the government received 13 recommendations on the protection of HRDs, journalists and civil society representatives.⁹ The government noted all the recommendations. The government has partly implemented recommendation on the release of detained HRDs.

2.2 Articles 19, 21, and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Burundi is a state party, guarantee the rights to the freedoms of association, peaceful assembly and expression. Despite these protections, HRDs, activists and journalists continue to face attacks and threats to their physical integrity. The government continues to reject UN Human Rights Council resolutions, refuses to meaningfully cooperate with Council mechanisms and has explicitly refused to cooperate with the Special Rapporteur, whose mandate was established in October 2021.

2.3 During the reporting period, there have been positive developments related to the release of HRDs. On 27 December 2018, a Burundian court acquitted three HRDs who had each been sentenced to 10 years in jail for 'undermining state security'.¹⁰ Aimé Constant Gatore, Marius Nizigama and Emmanuel Nshimirimana, members of Parole et Action pour le Réveil des Consciences et l'Évolution des Mentalités

⁹ 'Burundi State Review', UPRInfo, <https://upr-info-database.uwazi.io/en/entity/dtw1tm8j2e>.

¹⁰ 'Burundi acquits rights activist sentenced to 10 year terms', News 24, 28 December 2018, <https://www.news24.com/Africa/News/burundi-acquits-rights-activists-sentenced-to-10-yearterms-20181227>.

(PARCEM), had been planning a human rights workshop when they were arrested in June 2017. The three were not released until 21 March 2019.¹¹

2.4 In July 2021, HRD Germain Rukuki, who was working for Action by Christians for the abolition of torture in Burundi, was released following his second trial on appeal.¹² Rukuki had been sentenced to an unprecedented 32 years in prison on charges including ‘rebellion, breach of state security, participation in an insurrection, and attack on the Head of State’ on 26 April 2018.¹³ The Appeals Court sentenced him to one year in prison; he had already served four. Several CSOs highlighted irregularities in the judicial proceedings around his case, while UN experts described the case as ‘evidently linked to his work in defending human rights.’¹⁴

2.5 On 27 April 2021, HRD Nestor Nibitanga received a presidential pardon and was released from prison. Nibitanga had been sentenced to five years in prison on 13 August 2018 by the High Court of Mukaza in Bujumbura on charges of ‘undermining state security’.¹⁵ He was accused of reporting on human rights violations on behalf of the Association Burundaise pour la Protection des Droits Humains et des Personnes Détenues, a prominent organisation shut down by the government in 2016.

2.6 Despite these steps, HRDs continue to face numerous obstacles to their legitimate work and civic space remains severely restricted. The government continues to exert control over civil society and deny citizens the enjoyment of their rights to the freedoms of association, peaceful assembly and expression. Those perceived as critical of the government have faced continued repression.

2.7 the Burundian justice system is used as a tool to target dissenting voices. HRDs, journalists and critics of the government have been charged with ‘undermining security’ and ‘collaborating with armed groups’.

¹¹ ‘Burundi: Parole et Action pour le Réveil des Consciences et l’Évolution des Mentalités to lodge an appeal for its three representatives sentenced by Muramvya Court’, Iwacu, 13 March 2018, <https://www.iwacu-burundi.org/englishnews/burundi-parcem-to-lodge-an-appeal-for-its-three-representatives-sentenced-by-muramvya-court>.

¹² ‘Burundi: Germain Rukuki released after four years of arbitrary detention’, International Federation for Human Rights, 7 July 2021, <https://www.fidh.org/en/region/Africa/burundi/burundi-germain-rukuki-released-after-four-years-of-arbitrary>.

¹³ ‘Burundi: Human rights defender jailed for 32 years must be released’, Amnesty International, 27 November 2018, <https://www.amnesty.org/en/latest/press-release/2018/11/burundi-human-rights-defender-jailed-for-32-years-must-be-released>.

¹⁴ ‘UN experts call for release of Burundi human rights defender Germain Rukuki’, OHCHR, 25 August 2017, <https://www.ohchr.org/en/press-releases/2017/08/un-experts-call-release-burundi-human-rights-defender-germain-rukuki>.

¹⁵ Amnesty International, 27 November 2018, op. cit.

2.8 On 28 August 2022, Floriane Irangabiye, a Burundian woman HRD, was arrested and detained by the Burundi Intelligence Bureau after her return from Rwanda, where she had been living. She is accused of working with rebel groups and spying for another country.¹⁶

2.9 On 2 February 2021, Burundi's Supreme Court announced its ruling sentencing 12 exiled HRDs to life in prison.¹⁷ The Supreme Court made its decision on 23 June 2020, seven months before the announcement. The 12 were accused of 'attempting a coup' against President Nkurunziza. The trial and sentencing happened in absentia.

2.10 Lawyer and HRD Tony Germain Nkina remains in arbitrary detention after the Court of Appeal of Ngozi upheld his conviction and five-year prison sentence.¹⁸

2.11 In October 2020, former opposition parliamentarian Fabien Banciryano was arbitrarily arrested, detained and subjected to degrading treatment while in detention on charges of rebellion, defamation and endangering national security.¹⁹ Banciryano was released after serving a one-year prison sentence in October 2021.²⁰

2.12 On 29 June 2018, trade unionist Amissi Hakizimana was arrested in Cibitoke and taken to an undisclosed destination by armed police officers, following numerous threatening telephone calls from people claiming to work for the National Intelligence Service. He was forced into a police vehicle and brought to a location that was not disclosed to his family and colleagues. On 4 July 2018, Amissi was released from seven days' incommunicado detention by Bujumbura police force.²¹

2.13 Independent national and international human rights organisations are still unable to operate in Burundi. Several of the country's most prominent human rights groups have been either suspended or outlawed since 2015.

¹⁶ 'Arbitrary arrest and detention', SOS Burundi Torture, Burundi Report No. 352, 2022

<https://sostortureburundi.org/wp-content/uploads/2022/09/Weekly-report-no-352.pdf>.

¹⁷ 'Halte À La Répression Des Défenseurs Des Droits Humains Et Des Journalistes!', Action des chrétiens pour l'abolition de la torture, 10 March 2021, <https://www.acatfrance.fr/appel-urgent/halte-a-la-repression-des-defenseurs-des-droits-humains-et-des-journalistes>.

¹⁸ 'Burundi: Lawyer's Conviction a Travesty of Justice; Appeals Court Upholds 5-Year Sentence for Tony Germain Nkina', Human Rights Watch, 8 October 2021, <https://www.hrw.org/news/2021/10/08/burundi-lawyers-conviction-travesty-justice>.

¹⁹ 'Fearless Burundi MP suffers in jail', Mail and Guardian, 26 October 2020, <https://mg.co.za/africa/2020-10-26-fearless-burundi-mp-suffers-in-jail>.

²⁰ 'Annual Report 2021/2022', Amnesty International, 29 March 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en>.

²¹ 'Amissi Hakizimana arrested', Committee to Protect Journalists, 13 July 2018, <https://www.frontlinedefenders.org/en/case/amissi-hakizimana-arrested#case-update-id-7982>.

3. Freedom of association

- 3.1** During Burundi's review under the 3rd UPR cycle, the government received seven recommendations on the right to the freedom of association and creating an enabling environment for CSOs. Among the recommendations, the government committed to ensuring that 'members of the political opposition, civil society and the media participate freely and openly in civic and political activities in Burundi' and to 'take measures, in collaboration with the international community, to create an environment in which the people of Burundi can enjoy all human rights'. The government accepted one recommendation and noted six. However, as evidenced below, the government has failed to take adequate measures to realise any of the recommendations.
- 3.2** Article 32 of the Burundian Constitution guarantees the right to the freedom of association, stating that the freedoms of association and assembly are guaranteed, as well as the right to establish associations or organisations in accordance with the law. Moreover, article 22 of the ICCPR also guarantees the freedom of association. However, despite these commitments, the freedom of association remains severely curtailed in Burundi, including for CSOs and political parties. The government has systematically targeted political opposition members and continue to use the 2017 NGO legislation to restrict the operations of CSOs.
- 3.3** Although the level of political violence decreased after the May 2020 national election, the ruling party remains highly intolerant of dissent and civic space remains restricted. Members of opposition parties, particularly the CNL, are still regularly targeted by abusive restrictions and are subject to grave human rights violations such as enforced disappearances, arbitrary arrests, detention and torture.²²
- 3.4** In December 2018, the Burundian government decided to shut down the country office of the Office of the UN High Commissioner for Human Rights (OHCHR) and to stop cooperating with OHCHR. The government claimed that the existence of the office was no longer justified as it had made sufficient progress putting in place national mechanisms for the protection of human rights. On 28 February 2019, the OHCHR office in Burundi was closed. It has not been allowed to reopen.
- 3.5** On 28 September 2018, the Burundian government announced a three-month ban on several local and international CSOs, demanding that the organisations undergo a new registration exercise and adhere to ethnic quotas for hiring local staff.²³ In October 2018, the government suspended the activities of all active international CSOs in Burundi.²⁴ In November 2018, the government lifted the suspension of 25

²² OHCHR, 16 September 2021, op. cit.

²³ 'Burundi suspends some NGOs for violating new law', Reuters, 28 September 2018, <https://www.reuters.com/article/us-burundi-rights/burundi-suspends-some-ngos-for-violating-new-law-%20idUSKCN1M81AI>.

²⁴ 'Government bans NGOS for 3 months amid continued crackdown in civil society', CIVICUS Monitor, 1 October 2018, <https://monitor.civicus.org/updates/2019/01/10/government-bans-ngos-3-months-amid-continued-crackdown-civil-society>.

CSOs after they complied with the reregistration requirements, including the controversial ethnic quotas.²⁵

3.6 On 16 May 2019, Burundi's Supreme Court ordered the seizure of assets belonging to politicians, HRDs, journalists in exile and jailed military officers.²⁶ The former government suspended PARCEM, the country's last independent civil rights group, for allegedly 'disturbing peace and public order' on 3 June 2019.²⁷ In 2021, the government of President Ndayishimiye lifted the ban on PARCEM.²⁸

3.7 Ahead of the 2020 election, members of opposition parties bore the brunt of restrictions on association. An audio recording of a purported senior police threatening opponents of the government surfaced in mid-April 2020. The police officers said: 'If you want to disrupt security, I'll finish with you there, and if you're with your wife and children, you'll go together'.²⁹

3.8 Between March and April 2019, more than 130 members of the CNL were detained and subjected to torture,³⁰ and some were killed.³¹ Members of the party continue to face harassment from Imbonerakure members for holding 'unauthorised' meetings, despite their party receiving approval from the Ministry of Home Affairs in February 2019.

3.9 Between March and August 2019, the homes of 20 CNL members were vandalised³² and the perpetrators either went unpunished or were briefly detained and released without being charged. In July 2020 the CNL reported that its offices in five locations had been vandalised. This included a local office in Rumonge, which was demolished on 16 July 2020.³³

3.10 On 16 March 2020, Methuselaha Nahishakiye, head of the CNL in Migera locality, Kabezi commune, Bujumbura Province, was shot dead.³⁴ His family members claimed that he revealed that the Imbonerakure had been threatening to assassinate him. His relatives claim that Mr Nahishakiye was killed for political

²⁵ 'Burundi lifts suspension of 25 NGOs', Xinhuanet, 6 November 2018, http://www.xinhuanet.com/english/2018-11/06/c_137584538.htm.

²⁶ 'Burundi: la justice ordonne la saisie de biens d'opposants', RFI, 17 May 2019, <https://www.rfi.fr/fr/afrique/20190517-burundi-justice-ordonne-saisie-biens-opposants>.

²⁷ 'Burundi suspends last independent civil rights group', The East African, 18 June 2019, <https://www.theeastafrican.co.ke/news/ea/Burundi-suspends-last-independent-civil-rights-group/4552908-5162006-6tn3p8z/index.html>.

²⁸ 'Burundi: Charm Offensive or Real Change?', International Crisis Group, 2 July 2021, <https://www.crisisgroup.org/africa/central-africa/burundi/burundi-charm-offensive-or-real-change>.

²⁹ 'Burundi: Rampant Abuses Against Opposition', Human Rights Watch, 12 June 2019, <https://www.hrw.org/news/2019/06/12/burundi-rampant-abuses-against-opposition>.

³⁰ 'Environ « 130 militants » du parti CNL arrêtés dans un mois', Iwacu, 19 April 2019, <https://www.iwacu-burundi.org/environ-130-militants-du-parti-cnl-arretes-dans-un-mois>.

³¹ 'Burundi Opposition Leader Says Party Members Attacked in Run-up to Elections', VOA, 8 May 2020, https://www.voanews.com/a/africa_burundi-opposition-leader-says-party-members-attacked-run-elections/6188985.html.

³² 'Burundi Opposition Warns of Rising Violence Ahead of 2020 Vote', BNN Bloomberg, 22 August 2019, <https://www.bnnbloomberg.ca/burundi-opposition-warns-of-rising-violence-ahead-of-2020-vote-1.1305185>.

³³ 'Civil society intensifies calls to release jailed activists, journalists', CIVICUS Monitor, 12 October 2020, <https://monitor.civicus.org/updates/2020/10/12/civil-society-intensifies-calls-release-jailed-activists-journalists>.

³⁴ 'Leader of opposition CNL in Kabezi shot dead', Iwacu, 18 March 2020, <https://www.iwacu-burundi.org/englishnews/leader-of-opposition-cnl-in-kabezi-shot-dead>.

reasons.³⁵ Since 7 February 2022, Jean Claude Nzigamyé, an activist and member of the CNL, has been missing. According to witnesses he was allegedly kidnapped in Ngozi by a group of armed men in civilian clothes led by Msafiri Niyonkuru, the head of the Imbonerakure.³⁶

4. Freedom of expression, media freedom and access to information

4.1 During its 3rd UPR examination, the government received four recommendations relating to the freedom of expression, media freedom and access to information. The government pledged to ‘allow members of the political opposition, civil society and the media to participate freely and openly in civic and political activity in Burundi’. The government noted all the recommendations. The government has taken steps to partly implement some of them.

4.2 Article 19 of the ICCPR guarantees the right to the freedoms of opinion and expression. Article 32 of the Burundian Constitution also guarantees the right to the freedom of expression. Article 9 of the African Charter on Human and Peoples’ Rights states that every individual shall have the right to express and disseminate their opinions within the law.

4.3 Since President Ndayishimiye’s accession to power, the government has taken some measures to lift some restrictions on the press. However, these measures are more symbolic than structural and cannot effectively guarantee respect for Burundian people’s right to the freedoms of expression and opinion.

4.4 President Ndayishimiye pardoned journalists from the Iwacu press group who were arrested in October 2019. On 28 January 2021, he affirmed his commitment to a ‘free and responsible press’ and requested the National Media Council to find solutions that would allow suspended media outlets to resume their activities.³⁷

4.5 On 11 February 2021, the National Communication Council (CNC) reversed its 2018 decision that closed the comments section of Iwacu press group’s online newspaper,³⁸ and on 21 February 2021, the CNC allowed Radio Bonesha, shuttered following the 2015 coup attempt, to reopen and dropped all sanctions against the station.³⁹ On 16 June 2021, the CNC lifted sanctions against online media outlet Ikiriho, which was suspended in 2018 after a private lawsuit was filed against the outlet for defamation.⁴⁰

³⁵ Ibid.

³⁶ ‘Rapport N° 323 de SOS-Torture Burundi Publie le 19 Fevrier 2022’, SOS- Torture, 19 February 2022, <https://sostortureburundi.org/wp-content/uploads/2022/02/Rapport-hebdomadaire-no-323.pdf>.

³⁷ ‘Burundi Improves in Press Freedom Ranking’, AllAfrica, 3 May 2021, <https://allafrica.com/stories/202105040114.html>.

³⁸ ‘Will Burundi’s new government lift restrictions on its once-lively press?’, Global Voices, 16 February 2021, <https://globalvoices.org/2021/02/16/will-burundis-new-government-lift-restrictions-on-its-once-lively-press/>.

³⁹ ‘Burundi lifts sanctions on local radio station’, The East African, 22 February 2021, <https://www.theeastafrican.co.ke/tea/news/east-africa/burundi-lifts-sanction-on-radio-station-3300402>.

⁴⁰ ‘Burundi’s Lifting of Media Ban Met With Cautious Optimism’, VOA, 2 July 2021, <https://www.voanews.com/a/press-freedom-burundis-lifting-media-ban-met-cautious-optimism/6207771.html>.

4.6 Despite these developments, the freedom of expression in Burundi has been severely restricted by a combination of restrictive laws and a dangerous working environment for media. Media workers continue to be threatened, harassed and arrested for the work they do.⁴¹ In September 2019 the government adopted amendments to the press law with a new Code of Conduct for Media and Journalists ahead of the 2020 election. The amendment required journalists to provide ‘balanced’ information or face criminal prosecution. It prohibited journalists and broadcasters from broadcasting election results other than those released by the Independent National Electoral Commission, prevented the use of survey data as a source of information and required journalists to obtain a press card from the CNC.⁴² The law also requires journalists to have a certain level of education to be eligible for a press card.

4.7 On August 31, President Ndayishimiye criticised Esdras Ndikumana, a reporter for French public radio broadcaster Radio France Internationale (RFI), accusing him of inflating the number of COVID-19 cases and using RFI’s platform to harm the country’s reputation by focusing on poverty. Along with Ndikumana, Ndayishimiye referred to Iwacu director Antoine Kaburahe as one of two journalists destroying the country and tarnishing its image.⁴³

4.8 In May 2018, the CNC banned the BBC for six months for ‘violating press laws’ and ‘unprofessional conduct’ after inviting prominent HRD Pierre Claver Mbonimpa onto its programme on 12 March 2018.⁴⁴ The BBC’s licence was revoked in March 2019 after it was accused of airing a documentary that the CNC claimed was inaccurate and damaged Burundi’s reputation.⁴⁵ At the same time, the CNC banned the Voice of America, claiming that it was using a ‘banned frequency’.⁴⁶

5. Freedom of peaceful assembly

5.1 During Burundi’s review under the 3rd UPR cycle, the government received nine recommendations on the right to the freedom of peaceful assembly, including to allow members of the political opposition, civil society and the media to participate freely and openly in civic and political activities.⁴⁷ The government noted all nine recommendations, and has not implemented any in practice.

⁴¹ ‘Freedom in the world 2022: Burundi’, Freedom House, <https://freedomhouse.org/country/burundi/freedom-world/2022>.

⁴² Ibid.

⁴³ ‘Burundian president attacks RFI reporter covering surge in Covid cases’, Reporters Without Borders, 2 September 2021, <https://rsf.org/en/burundian-president-attacks-rfi-reporter-covering-surge-covid-cases>.

⁴⁴ ‘April 2015 – June 2020: A Chronology of Repression of Media and Civil Society in Burundi’, Human Rights Watch, 26 May 2021, <https://www.hrw.org/news/2021/05/26/april-2015-june-2020-chronology-repression-media-and-civil-society-burundi>.

⁴⁵ ‘Burundi media regulator bans BBC and VOA’, Committee to Protect Journalists, 2 April 2019, <https://cpi.org/2019/04/burundi-media-regulator-bans-bbc-and-voa>.

⁴⁶ ‘Burundi bans BBC and VOA in run-up to referendum’, Reporters Without Borders, 4 May 2018, <https://www.refworld.org/docid/5b8504e2a.html>.

⁴⁷ UPRInfo, op. cit.

5.2 Despite Article 32 of the Burundian Constitution and Article 21 of the ICCPR guaranteeing the right to the freedom of peaceful assembly, enjoyment of the right remains limited in practice. Protests and gatherings are severely restricted.

5.3 Law 1/28 of 5 December 2013 on Public Gatherings requires notification to the competent authority at least four working days before the date of any planned assembly. In practice, however, the notification is treated as a request for authorisation and requests are often denied. Further, the legislation grants discretion to the authorities to determine that a planned assembly would 'endanger public order', a concept that is not defined, and therefore prohibit the assembly. In response to protests, police officers use excessive and sometimes lethal force against protesters, despite article 13 of the 2017 law on the police stating that 'police may only use force where necessary for a legitimate law enforcement objective' and that such force must be 'reasonable and proportionate to the objective being sought'.⁴⁸ The law on the police does not regulate the use of firearms. Police use of firearms is governed by Ordinance No. 215/891 of 9 July 2009 on the Code of Ethics of the Burundi National Police,⁴⁹ which gives discretion to the police to use guns where necessary. This is not in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials⁵⁰ and the Practical Recommendations for the Management of Assemblies, based on the Joint report on the proper management of assemblies of the UN Special Rapporteur on Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.⁵¹

5.4 On 17 August 2018, security personnel detained roughly 20 attendees of a workshop organised by the Burundi Leadership Training Program. Even though the organisers had a letter of authorisation that had been approved by the Interior Ministry, they were detained. The police provided no explanation for these arrests.⁵²

⁴⁸ '2017 Organic Law on the Burundi National Police',

[https://www.rightofassembly.info/assets/downloads/2017 Organic Law on the Burundi National Police.pdf](https://www.rightofassembly.info/assets/downloads/2017%20Organic%20Law%20on%20the%20Burundi%20National%20Police.pdf).

⁴⁹ 'Ordonnance 215/891 du 9 juillet 2009 portant code de déontologie de la Police nationale du Burundi'

[https://www.rightofassembly.info/assets/downloads/Ordonnance 215 891 du 9 juillet 2009 portant code de d% C3%A9ontologie de la Police nationale du Burundi.pdf](https://www.rightofassembly.info/assets/downloads/Ordonnance%20215%20891%20du%209%20juillet%202009%20portant%20code%20de%20d%C3%A9ontologie%20de%20la%20Police%20nationale%20du%20Burundi.pdf).

⁵⁰ 'Basic Principles on the Use of Force and Firearms by Law Enforcement Officials', United Nations human rights Office of the High Commissioner, 2016, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement#:~:text=Law%20enforcement%20officials%2C%20in%20carrying,of%20achieving%20the%20intended%20result>.

⁵¹ 'Practical Recommendations For The Management Of Assemblies', Former United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2016, [www.UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, 2016.](http://www.unspecialrapporteur.org/sites/default/files/2016/08/Practical%20Recommendations%20for%20the%20Management%20of%20Assemblies.pdf)
<http://freeassembly.net/reports/managing-assemblies/>

⁵² CIVICUS Monitor, 1 October 2018, op. cit.

5.5 On 14 February 2019, six CNL members were detained in Mugina Commune after holding a meeting.⁵³ They were detained based on allegations that they had gathered unlawfully, despite the party receiving formal approval from the Ministry of Home Affairs that day.

6. Recommendations to the Government of Burundi

6.1 Protection of human rights defenders

- Allow civil society activists, journalists and international human rights organisations to carry out their work without obstruction and reprisals, including by lifting the legal and financial measures targeting them
- Take measures to prevent acts of harassment and intimidation against HRDs and journalists and ensure they are able to carry out their legitimate activities independently and without fear of reprisal, prosecution, harassment, intimidation, or violence.
- Conduct prompt, thorough and impartial investigations into all violations against HRDs and journalists, including prosecution of perpetrators of offences.
- Withdraw all restrictive measures adopted since 2015 and review the laws adopted in 2017 regarding non-profit organisations and foreign non-governmental organisations, lift suspensions and reverse the revocation of licences of media and CSOs so they can resume their activities.
- Set up a national mechanism for the protection of HRDs.

6.2 Freedom of association

- Conduct prompt and impartial investigations into unlawful acts committed by security forces and members of the Imbonerakure, including extrajudicial executions, enforced disappearances, arbitrary arrests and torture of members of the opposition, journalists, civil society activists and people perceived as critics and their families.
- Allow members of the political opposition, civil society and the media to participate freely and openly in civic and political activities in Burundi.
- Lift measures that limit or prevent the legitimate work of members of civil society and journalists, in particular by amending laws governing the press, and domestic and foreign CSOs, with a view to ensuring their compliance with international human rights norms.

⁵³ 'Mugina: Six CNL followers detained,' Iwacu, 2 February 2019, <https://www.iwacu-burundi.org/englishnews/mugina-six-cnl-followers-detained>.

6.3 Freedom of expression, media freedom and access to information

- Ensure full respect for the freedom of expression and media freedom in accordance with the ICCPR.
- End all acts of reprisal, intimidation and harassment against journalists and media in and outside Burundi and avoid imposing new legal restrictions on media independence.
- Allow independent media that have been shut down to reopen.

6.4 Freedom of peaceful assembly

- Ensure respect for the right to freedom of peaceful assembly and protest, particularly for HRDs.
- Publicly condemn at the highest level all instances of the use of excessive and lethal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.

6.5 Access by UN Special Procedures mandate holders

- Respond positively to official visit requests by the: (1) Special Rapporteur on the situation of human rights in Burundi; (2) Special Rapporteur on the situation of human rights defenders; (3) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; (4) Special Rapporteur on Freedom of Peaceful Assembly and of Association; and (5) the Special Rapporteur on the independence of judges and lawyers.
- Fully cooperate with the UN Human Rights Council and allow the Office of the High Commissioner for Human Rights to reopen its country office in Burundi.

7. Annex: Assessment of implementation of civic space recommendations under the 3rd cycle

Recommendation	Position	Assessment/comments on level of implementation
<p>137.172 Allow members of the political opposition, civil society and the media to participate freely and openly in civic and political activity in Burundi (United States of America);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 7</p>	Supported	<p>Not implemented</p> <p>Sections 2, 3, 4 and 5</p>
<p>137.90 Guarantee the respect of the fundamental rights and freedoms of the whole population (Argentina);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 7</p>	Supported	<p>Not implemented</p> <p>Sections 2, 3, 4 and 5</p>
<p>137.91 Take measures, in collaboration with the international community, to create an environment in which the people of Burundi can enjoy all human rights (Japan);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 7</p>	Supported	<p>Not implemented</p> <p>Sections 2, 3, 4 and 5</p>
<p>137.62 Resume cooperation with the mechanisms of the United Nations system on the protection and promotion of human rights (Chile);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 6</p>
<p>137.157 Lift the measures limiting or preventing the legitimate work of members of civil society and journalists, in particular by amending the new laws governing the press, foreign non-governmental organizations and non-profit organizations in Burundi with a view to ensuring their compliance with international human rights norms (Switzerland);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 2, 3, 4</p>
<p>137.119 Conduct prompt and impartial investigations into unlawful acts committed by security forces and Imbonerakure youth, such as extrajudicial execution, arbitrary arrest and torture of members of the opposition, journalists, civil society activists and persons perceived as having supported the opposition and their families (Czechia);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 2, 3, 4</p>

Recommendation	Position	Assessment/comments on level of implementation
<p>137.153 Guarantee fully freedom of expression and the press, and freedom of assembly and association, in accordance with the International Covenant on Civil and Political Rights (Greece); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 4</p>
<p>137.151 Fully respect freedom of expression and assembly, reopen independent media, and put an end to the persecution of human rights defenders, civil society actors and opposition politicians (Norway); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 3, 4, 5</p>
<p>137.154 Guarantee the full exercise of the rights to freedom of expression and association and ensure a safe environment conducive to the work of human rights defenders and civil society organizations (Italy); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 3 and 4</p>
<p>137.152 Ensure respect of the right to freedom of expression, in particular for the independent press and human rights defenders (France); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 4 and 5</p>
<p>137.155 Ensure the respect of the freedoms of association, assembly and protest, in particular for human rights defenders (France); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 3, 4, and 5</p>
<p>137.123 Investigate, prosecute lawfully and, if they are convicted, adequately punish those guilty of human rights violations, including those committed against human rights defenders, members of civil society and the press, as well as against lesbian, gay, bisexual and transgender persons (Greece); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 2, 3, & 4</p>
<p>137.156 Lift the legal and financial measures targeting human rights defenders and journalists and, in the short term, take all necessary measures to prevent acts of harassment and violence against them, in particular by ensuring that the perpetrators are brought to justice (Belgium); Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 3 & 4</p>

Recommendation	Position	Assessment/comments on level of implementation
137.158 Lift the legal and financial measures against human rights defenders and journalists, and prevent all acts of harassment and violence against them (Austria); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 3 & 4
137.159 Review the laws adopted in 2017 regarding non-profit organizations and foreign non-governmental organizations, and lift suspensions and reverse the revocation of licences of media and civil society organizations so they can resume their activities with complete independence (Sweden); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 3, 4, & 5
137.160 Ensure the safety, and respect the independence of, all media and civil society organizations, including by withdrawing all restrictive measures adopted since April 2015 (Canada); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 2, 3, & 4
137.161 Allow civil society activists, journalists and international human rights organizations to carry out their work without obstruction and reprisals, including by lifting the legal and financial measures targeting them (Finland); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 2, 3, & 4
137.162 End all acts of reprisal, intimidation and harassment against journalists and media in and outside Burundi, and avoid new legal restrictions on media independence (Netherlands); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 3 & 4
137.163 Put an end to the sanctions against non-governmental organizations defending human rights, media and civil society and set up a national mechanism for the protection of human rights defenders (Czechia); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 2, 3, & 4
137.164 Put an immediate end to any intimidation of or sanction against members of non-governmental organizations defending human rights and journalists (Estonia); Source of position: A/HRC/38/10/Add.1 - Para. 8	Noted	Not implemented Sections 2 & 3

Recommendation	Position	Assessment/comments on level of implementation
<p>137.165 Guarantee that human rights defenders are able to carry out their legitimate activities independently and without fear of reprisal, prosecution or intimidation, and ensure prompt, thorough and impartial investigations into all violations against them, as well as prosecution of perpetrators (Ireland);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 2 and 3</p>
<p>137.166 Guarantee that human rights defenders can carry out their activities freely and without reprisal (Spain);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Section 3</p>
<p>137.167 Take the necessary measures to ensure the full protection of human rights defenders (Georgia);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 3</p>
<p>137.168 Take measures to prevent acts of harassment and intimidation against human rights defenders and journalists (Latvia);</p> <p>Source of position: A/HRC/38/10/Add.1 - Para. 8</p>	Noted	<p>Not implemented</p> <p>Sections 2 and 3</p>