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Joint Submission by:

Burundian Coalition of Human Rights Defenders (CBDDH)

And

East and Horn of Africa Human Rights Defenders Project (DefendDefenders)

Contacts for the CBDDH:

E-mail: hrrdburundi@gmail.com

Nibizi Eulalie: coordinator@burundihrdcoalition.org

Ntakiyiruta Leon: communications@burundihrdcoalition.org

<https://burundihrdcoalition.org>

Contacts for DefendDefenders :

Hassan Shire: HassanS@defenddefenders.org

Estella Kabachwezi: EstellaK@defenddefenders.org

+25639393265820

<https://defenddefenders.org/>

I. Introduction

1. The Burundian Coalition of Human Rights Defenders (CBDDH) is a national platform. It was created in 2014 to improve the working environment of human rights defenders (HRDs) through protection, capacity building and advocacy programs. It is made up of ten main organisations working to defend and promote human rights in Burundi.
2. The East and Horn of Africa Human Rights Defenders Project (DefendDefenders) is a regional non-governmental organisation (NGO) that seeks to strengthen the work of HRDs throughout the region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights. DefendDefenders focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania, and Uganda.
3. In this submission, DefendDefenders and the CBDDH assess the government of Burundi's progress in implementing the accepted recommendations made during its universal periodic review (UPR) in 2018. The submission will examine Burundi's compliance with human rights mechanisms, specifically analysing the government's fulfilment of fundamental freedoms relating to civil society (civic space), and the unwarranted restrictions on HRDs, and journalists. Additionally, the submission analyses violations recorded after the 3rd cycle of the UPR and provides recommendations to address the ongoing violations.
4. During the 3rd cycle of the UPR in 2018, Burundi received 242 recommendations. The state accepted 120 of these and noted 122. The recommendations concerning the collaboration with the human rights system and those which have an impact on the life and work of human rights defenders were noted.
5. Responding to the recommendations, the Government of Burundi reaffirmed its commitment to effectuate major normative and institutional changes to promote and protect human rights. However, we note that, despite the proclamation of good faith, the state of Burundi has failed to implement the recommendations.
6. The 3rd cycle of the UPR took place as Burundi was preparing for a controversial constitutional referendum on 17 May 2018. The lead up to the 2020 elections was characterised by a climate of terror, violence, and repression against political opposition groups, civil society organisations (CSOs), and independent journalists.
7. Following the repression of protests against the late President Pierre Nkurunziza's decision to run for a third term in office, which was in violation of Burundi's Constitution and of the Arusha Peace and Reconciliation Agreement, Burundi suffered nearly three years of insecurity. Crimes such as arbitrary arrests and detention, assassinations, torture, sexual and gender-based violence, enforced disappearances, looting and destruction of property were committed by security agents and *Imbonerakure*, the youth wing of the ruling party, under the supervision of the administration. These unprosecuted human rights violations created a climate of insecurity and fear that persists today. Hundreds of journalists and HRDs who were on the frontlines of the protest are in exile, and their organisations have been deregistered.
8. President Evariste Ndayishimiye took steps to normalise diplomatic relations with Burundi's partners, notably the European Union and the United States of America, which had previously placed Burundi and certain authorities under sanctions. The government's promises to restore dialogue, rehabilitate justice, and good governance are slow to materialise. Signals of good faith were made with the release of prisoners, including some HRDs and journalists. However, no lasting measures have been taken to end human

rights violations and restore the rule of law. On the contrary, the working environment for HRDs is deteriorating, discouraging their voluntary repatriation.

II. Cooperation with human rights mechanisms

9. Under the third UPR cycle, Burundi received 19 recommendations relating to human rights mechanisms, and 18 recommendations related to the Commission of Inquiry (CoI) on Burundi were noted.
10. During the period under review, the Government of Burundi denied the CoI permission to enter the country to conduct field investigations and interview stakeholders¹. Worse still, the Ministry of Foreign Affairs declared three UN experts persona non grata on 11 September 2018.² The CoI's report A/HRC/48/68 reflects this lack of collaboration until the end of its mandate in October 2021.
11. On 4 December 2018, the Government of Burundi demanded the closure of the Office of the United Nations High Commissioner for Human Rights in Burundi, effective 28 February 2019.³
12. Additionally, Burundi refused to cooperate with the mechanism of the special rapporteur on human rights, adopted by resolution A/HRC/RES/48/16 of the Human Rights Council on 8 October 2021 to replace the CoI. On 9 December 2021, the Minister of Foreign Affairs and Development Cooperation declared before the diplomatic and consular corps as well as the representatives of international and regional organisations that Burundi will not cooperate with this new mechanism.

III. Harassment, intimidation and assault on HRDs

13. Despite noting 12 recommendations to protect human rights defenders against reprisals, in particular by lifting the legal and financial measures taken against HRDs and journalists, and stopping acts of harassment and violence against them, Burundi continues to use courts and tribunals to convict, imprison or seize the property of HRDs in exile, in violation of the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on Human Rights Defenders.
14. Germain Rukuki, member of the Association of Catholic Jurists of Burundi (AJCB) and former member of Action by Christians for the Abolition of Torture in Burundi (ACAT-Burundi), was victim of a long trial, marred by irregularities. On 26 April 2018, Rukuki received a sentence of 32 years' imprisonment for serious offenses of "participation in an insurrectionary movement, undermining the internal security of the State, attack against the authority of the State and rebellion" without any material evidence. The judgment was upheld by the Ntahangwa Court of Appeal on 17 July 2019. On 30 July 2020, after several unsuccessful appeals, the Supreme Court's cassation chamber quashed the conviction and requested a re-examination of the facts with new judges. On 21 June 2021, Ntahangwa Court of Appeal reduced Rukuki's sentence to one year's imprisonment

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/223/38/PDF/G2122338.pdf?OpenElement>

² <https://www.rpa.bi/index.php/mainarchive/item/1144-trois-experts-de-la-commission-d-enquete-sur-le-burundi-declares-persona-non-grata-par-bujumbura>

³ [https://www.ohchr.org/fr/2019/03/un-human-rights-office-burundi-closes#:~:text=Gen%C3%A8ve%20\(5%20mars%202019\)%20%E2%80%93,%C3%A0%20la%20d%C3%A9cision%20du%20Gouvernement](https://www.ohchr.org/fr/2019/03/un-human-rights-office-burundi-closes#:~:text=Gen%C3%A8ve%20(5%20mars%202019)%20%E2%80%93,%C3%A0%20la%20d%C3%A9cision%20du%20Gouvernement)

and a fine of fifty thousand Burundian Francs (50,000 BIF). Given that he had already served a 4-year prison sentence, he should have been released on the same day, but he was released on 30 June 2021.

15. On 22 October 2019, four journalists from the Iwacu Press Group: Agnès Ndirubusa, Christine Kamikazi, Harerimana Egide and Tércence Mpozenzi were arrested by the head of military operations in the commune of Musigati in Bubanza Province as they were leaving to report on clashes between the police and the rebels. They were accused of "complicity in undermining the internal security of the State" when their mission was announced to the provincial police authorities in Bubanza. They were released following a presidential pardon on 23 December 2020.
16. On 9 and 10 January 2020, the provincial and judicial administration of Ruyigi province in eastern Burundi seized the buildings and property of Maison Shalom located in the capital of Ruyigi province, Sanzu area, under the pretext that they are the property of putschists. On 11 September 2021, the buildings were recovered by the president of the ruling party, the National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD_FDD) to house the football academy of his "black eagle" football team. Marguerite Barankitse was issued an international arrest warrant, wrongfully sentenced to life, and forced into exile following the 2015 crisis.
17. HRDs are subjected to threats, intimidation, and abductions. Police officers kidnapped Arcade Butoyi, provincial representative of the Union of Education Workers of Burundi (STEB) and head of the provincial branch of the Observatory for the Fight against Corruption and Economic Embezzlement (OLUCOME) in Cankuzo province along with one of his friends near his home on 28 April 2020. Despite his family reporting the case, the police did not investigate the case. His relatives and colleagues avoid discussing his case so as not to suffer the same fate.
18. In violation of Burundi's Penal Code, the Supreme Court sentenced 12 HRDs to life imprisonment in the case: Special Penal Role (RPS) 100. The trial took place in absentia. On 2 February 2021, the Supreme Court announced its judgment dated 23 June 2020 against the following HRDs:
 - Mr. Vital Nshimirimana, General Delegate of the Forum for the Strengthening of Civil Society (FORSC) and President of the Citizens Probe Network (RCP),
 - Mr. Pacifique Nininahazwe, president of the Forum for Consciousness and Development (FOCODE),
 - Mr. Armel Niyongere, President of the Action by Christians for the Abolition of Torture and Secretary General of SOS Torture /Burundi and member of the General Assembly of OMCT,
 - Ms. Marguerite Barankitse, president and founder of Maison Shalom,
 - Mr. Dieudonné Bashirahishize, former president of the Collective of Lawyers for the Defense of Victims of International Crimes Committed in Burundi (CAVIB) and former vice-president of the East African Bar Association,
 - Mr. Innocent Muhozi, director of Radio-Television Renaissance,
 - Mr. Patrick Nduwimana, journalist at Radio Voice of America and former director of Radio Bonesha-FM,
 - Mr. Patrick Mitabaro, journalist at Radio Inzamba Agateka Kawe (RIAK) and former editor of Radio Isanganiro,
 - Mr. Bob Rugurika, journalist, director of the African Public Radio (RPA),
 - Mr. Gilbert Niyonkuru, former journalist at the African Public Radio (RPA),

- Ms. Anne Niyuhire, journalist at Radio Inzamba Agateka Kawe (RIAK) and former director of Radio Isanganiro,
 - Mr. Arcade Havyarimana, journalist at Radio Umurisho and former journalist at Radio Isanganiro.
19. 13 October 2020, the National Intelligence Service (SNR) and *Imbonerakure* militia arrested Tony-Germain Nkina, a lawyer in Kayanza province. On 15 June 2021, he was sentenced to a five-year prison term for "collaboration with the rebels who attacked Burundi" yet the minutes of the hearing show that his interrogation was only related to his relations with APRODH, an organization deregistered in 2016 but still active in exile.
 20. We welcome the acquittal of 3 members of Parole et Actions pour le Réveil des Consciences et l'Evolution des Mentalités (PARCEM): Emmanuel Nshimirimana, representative in Muramvya province and his two local collaborators, Aimé Constant Gatore and Marius Nizigiyimana on 24 December 2018. They were sentenced in March 2018 for undermining state security. The three HRDs were arrested while holding a meeting on governance in their province on 27 June 2017.
 21. Additionally, in 2021, Nestor Nibitanga and Germain Rukuki were released from prison. The two HRDs were arbitrarily imprisoned for collaborating with human rights organisations operating in exile. Nestor Nibitanga of APRODH was arrested in 2018 and Germain Rukuki of ACAT was arrested in 2017.

IV. Administrative harassment of NGOs and CSOs

22. During the period under review, six civil society organizations; FORSC, RCP, FOCODE, APRODH, Ligue Burundaise des droits de l'homme Iteka and ACAT-Burundi remain deregistered. They are accused of having strayed from their objectives by carrying out activities likely to disrupt the order and security of the state for engaging in the fight against impunity and respect for the rule of law.
23. On 27 September 2018, all foreign NGOs operating in Burundi were suspended for three months, to comply with the January 2017 law that regulates foreign NGOs. Among the conditions of re-registration was a requirement to respect constitutional ethnic balances within the staff. Some NGOs including; Avocats Sans Frontières (ASF), Handicap International, RCN Justice et Démocratie, 11.11.11 decided to close their offices in Burundi, because they considered the requirements incompatible with their missions.
24. On 3 June 2019, the Minister of the Interior, Patriotic Training and Local Development, Pascal Barandagiye, suspended by ministerial order, the activities of PARCEM. He unfairly accused the organisation of deviating from its objectives and of actively tarnishing the image of the country and its leaders to disturb peace and public order. It legally resumed its activities on April 2, 2021.
25. In June 2021, the Governor of Muyinga Province, Jean Claude Barutwanayo, threatened to seize NGO vehicles as an act of harassment against NGOs. The governor harassed the NGOs operating in his province through his speech while launching the project: "Strengthening civil society in Burundi". He demanded that the NGOs send him an

activity report during the same month, otherwise they would be deregistered⁴.

Positively,

26. On 2 April 2021, the NGO PARCEM was reinstated after 21 months of suspension by the Minister of the interior affairs.⁵

V. Freedom of opinion and expression and freedom of press

27. We commend the government for the release of the four journalists from the Iwacu newspaper in 2021, as well as the reopening of the local Radio RSF Bonesha FM and the BBC by the CNC.⁶ Moreover, the correspondent of the radio VOA was re-authorized to work in the country on 29 March 2022.

However,

28. The 2018 UPR made 14 recommendations relating to the protection of freedom of association, freedom of assembly, freedom of the press and the creation of mechanisms for the protection of HRDs which were all noted.
29. These fundamental freedoms are enshrined respectively in Article 19 and 20 of the UDHR and are included in the Constitution of the Republic of Burundi. The laws that regulate fundamental freedoms in Burundi, such as the Penal Code, the law on the press, the law regulating demonstrations on the public space and public meetings and the law on the organic framework of non-profit associations contain provisions that drastically limit free exercise of these fundamental freedoms. These limitations expose civil society actors and journalists to sanctions whenever they do not work according to the will of the authority. It is concerning that the *Imbonerakure* continue to target, regulate, and interfere with the work of HRDs.
30. In violation of article 7 of the ICCPR, journalists are routinely harassed and subjected to abuse which deters them from covering certain sensitive subjects such as human rights and security.⁷
31. On 25 September 2018, agents of the Presidency and police officers stormed Isanganiro radio studios and interrupted a live media synergy program with Rema FM and the Iwacu Press Group. The program was discussing the fifth round of peace negotiations on Burundi.⁸
32. Independent media houses, Radio Publique Africaine (RPA) and Radio Television Renaissance destroyed after the failed military coup in 2015 and the Voice of America closed in 2019, remain banned even if the President reached out to journalists in February 2021.
33. Since 1 February 2019, Pacifique Nininahazwe, President of FOCODE and its campaign “Ndondeza” (meaning: Help me find my missing person) have suffered a series of digital

⁴ <https://www.sosmediasburundi.org/2021/07/03/muyinga-le-gouverneur-menace-de-chasser-les-ongs-et-de-saisir-leurs-vehicules/>

⁵ <https://www.sosmediasburundi.org/2021/04/05/burundi-le-gouvernement-a-leve-la-mesure-de-suspension-de-long-locale-parcem/>

⁶ <https://www.voaafrique.com/a/r%C3%A9ouverture-de-la-radio-britannique-bbc-au-burundi/6509147.html>

⁷ <https://www.hrw.org/news/2021/05/26/burundi-entrenched-repression-civil-society-media>

⁸ <https://www.rpa.bi/index.php/mainarchive/item/5067-un-agent-de-l-etat-sorti-de-force-des-studios-en-plein-debat>

attacks. Each time the organisation publishes investigation reports, the government accuses it of being the instigator of enforced disappearances and of publishing fake files to tarnish the image of the country.⁹

34. On 3 June 2019, the President of the National Communication Council (CNC), Mr. Bankumukunzi Nestor threatened to take action against Radio France Internationale (RFI) for lack of professionalism and for disseminating unbalanced information. This warning follows the broadcast of the program "Internationales" on RFI, France 24 and the newspaper Le Monde, with guest Marguerite Barankitse whom the CNC accuses of tarnishing the image of Burundi and its institutions.¹⁰
35. On 20 May 2020, the day of the triple ballot (the presidential elections took place at the same time as the legislative and municipal elections), independent observers and journalists were denied access to most polling stations. Furthermore, the CNC prohibited the media from publishing information on the elections or their results which did not come from the national electoral commission. Social networks were blocked, which denied observers and the media the facility to communicate on the conduct of the poll in a timely manner.
36. On 24 September 2021, Aimé-Richard Niyonkuru, journalist at Radio Sans Frontières Bonesha FM was beaten up and dragged through the mud by civilians, soldiers, and police while reporting on a grenade attack at the home of a senior Burundian army officer, Lieutenant-Colonel Aaron Ndayishimiye. Even after presenting his press card, phone and recorder were confiscated. Police officers questioned him and forced him to erase all the recording before releasing him.
37. On 14 March 2022, the police interrupted a joint press conference organised by local NGOs OLUCOME and PARCEM on the impact of the restrictive measure banning motorcycle taxis, bicycle taxis and tricycles in downtown Bujumbura.
38. On 7 and 8 July 2022, Blaise-Pascal Kararumiye, journalist correspondent for Radio-TV Isanganiro in Karuzi province appeared before the public prosecutor in Karuzi province following a report broadcast on the concerns of the population which denounces the illegal slaughter of cows to prevent the spread of the "Rift Valley Fever" epidemic. He was accused of tarnishing the image of Karuzi province in his reporting and he was ordered to always submit his reports to the authorities before they are broadcast¹¹. This is an obstacle to freedom of press.

VI. Impunity for crimes against human rights defenders and journalists

39. During the 3rd UPR cycle, the government noted four recommendations relating to the conduct of impartial investigations into all crimes committed against HRDs, members of civil society and journalists. Most violations against HRDs are committed by state actors. These violations are committed with impunity, with the perpetrators enjoying protection from the state and the judicial systems. The actions and inactions of the state to protect HRDs affect their work both in the country and in exile.

⁹ <https://burundidaily.wixsite.com/burundidaily/post/2019/02/18/l-activiste-pacifique-nininahazwe-le-bouc-%C3%A9missaire-du-pouvoir-de-bujumbura>

¹⁰ [https://www.google.com/search?q=le+cnc+met+en+garde+a+la+radio+france+internationale\(rfi\)+pour+avoir+une+interview+%C3%A0+marguerite+barankitse+responsable+de+la+maison+shalom.&oq=Le+CNC+met+en+garde&aqs=chrome.1.69i57j35i39j69i59.19874j0j9&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=le+cnc+met+en+garde+a+la+radio+france+internationale(rfi)+pour+avoir+une+interview+%C3%A0+marguerite+barankitse+responsable+de+la+maison+shalom.&oq=Le+CNC+met+en+garde&aqs=chrome.1.69i57j35i39j69i59.19874j0j9&sourceid=chrome&ie=UTF-8)

¹¹ <https://www.rpa.bi/index.php/actualites/3droits-de-l-homme/comparution-du-journaliste-aux-allures-d-intimidation>

40. The presumed perpetrators of the assassination of Ernest Manirumva, Vice-President of OLUCOME who was killed on 9 April 2009 are yet to be charged. Despite expert investigation reports providing consistent evidence implicating the senior officers of the National Police and the SNR, the court pronounced against false perpetrators without comparing the DNA of the alleged perpetrators and that collected at the scene of the crime, nor hearing the witnesses.
41. The attempted assassination of Pierre Claver Mbonimpa, President of APRODH, on 3 August 2015, remains unpunished despite the victim having identified some of his executioners
42. The kidnapping, then the assassination of Mrs. Charlotte Umugwaneza, member of OLUCOME, on October 16, 2015, whose tortured body was found in the wild after 2 days of disappearance remains unanswered.
43. The enforced disappearance of Marie Claudette Kwizera, treasurer of Ligue Iteka, after abduction by police agents on 10 December 2015, remains unpunished.
44. The enforced disappearance of Jean Bigirimana, a journalist with the Iwacu Press Group, arrested on 22 July 2016, by persons identified as members of the SNR was not conclusively investigated. His wife was threatened for asking the police to investigate the case which forced her into exile.

VII. Monitoring mechanisms

45. Six recommendations relating to the independence and credibility of the Independent National Commission for Human Rights (CNIDH) in accordance with the Paris Principles were addressed to Burundi. With the efforts made in 2020 to produce a balanced report, the CNIDH was re-credited with “A” status at the Human Rights Council since 2021. It intervenes sporadically in cases of human rights violations.
46. 17 February 2022, the President of the CNIDH was verbally threatened by the speaker of the National Assembly when he presented the annual reports for 2019 and 2021.
47. In addition to interference from state institutions, the CNIDH lacks capacity to monitor human rights violations and provide advice to State institutions.

VIII. Recommendations

➤ Cooperation with human rights mechanisms

- a. Collaborate with UN human rights mechanisms, rapporteurs and special mandate holders to closely monitor the human rights situation in Burundi and provide the necessary technical support;

➤ Harassment, intimidation and assault on HRDs

- b. Put in place mechanisms for the protection of human rights defenders as prescribed by the United Nations Declaration on Human Rights Defenders;
- c. Remove all measures that obstruct the work of human rights defenders and journalists;
- d. Quash the convictions against HRDs who are victims of judicial harassment;
- e. Release HRDs in illegal detention;
- f. Ratify and implement the International Convention for the Protection of All Persons from Enforced Disappearance.

➤ Administrative harassment of NGOs and CSOs

- g. Refrain from any act likely to hinder the activities of NGOs, civil society organisations and the media;
- h. Engage in dialogue with independent civil society and reinstate civil society organisations that have been unjustly banned;
- i. Promote a conducive working environment for NGOs and civil society organisations.

➤ **Freedom of opinion and expression and freedom of press**

- j. Engage in dialogue with stakeholders in the Burundian conflict with reference to the pillars of the Arusha Peace and Reconciliation Agreement to restore peace and security and guarantee the enjoyment of human rights for every citizen;
- k. Accelerate dialogue with partners to adopt a roadmap of human rights and civic space reforms;
- l. Amend restrictive laws, in particular the Penal Procedure Code, Law No. 1/02 of January 27, 2017, on the organic framework of non-profit associations, Law No. 1/19 of September 14, 2018, on the press and Law No. 28 of 05 December 2013 regulating demonstrations on the public space and public meetings;
- m. Refrain from media censorship and guarantee access to information.

➤ **Impunity for crimes against human rights defenders and journalists**

- n. Conduct independent and conclusive investigations into all crimes committed against human rights defenders and journalists;
- o. Prosecute and punish perpetrators of crimes committed against HRDs in accordance with the law;
- p. Reform state institutions in accordance with the Arusha Peace and Reconciliation Agreement and allow the judiciary to act independently.

➤ **Monitoring mechanisms**

- q. Avoid any interference in the work of the Independent Human Rights Commission (CNIDH) in accordance with the Paris Principles;
- r. Reform the composition and functioning of the CNIDH and guarantee it the means necessary for its effectiveness.