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BURUNDI



EAST AND
HORN OF
AFRICA
HUMAN RIGHTS
DEFENDERS
PROJECT
(EHAHRDP)

Ernest Manirumva

Murdered Human Rights Defender

A Lost Light, a Derailed Trial, and an Embattled Civil Society



**Ernest Manirumva – Murdered Human Rights Defender
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Table of Acronyms

ACHPR	African Charter on Human and Peoples' Rights
APGFT	African Principles and Guidelines on the Right to a Fair Trial and Legal Assistance
APRODH	<i>Association Burundaise pour la Protection des Droits Humains et des Personnes Détenues</i> (Association for the Protection of Human Rights and Prisoners in Burundi)
ASF	<i>Avocats Sans Frontières</i> (Lawyers Without Borders)
EHAHRDP	East and Horn of Africa Human Rights Defenders Project
FBI	Federal Bureau of Investigation (USA)
FDLR	<i>Forces démocratiques de libération du Rwanda</i> (Democratic Forces for the Liberation of Rwanda)
FIDH	<i>Fédération Internationale des Ligues des Droits de l'Homme</i> (International Federation for Human Rights)
FORSC	<i>Forum pour le Renforcement de la Société Civile</i> (Forum for the Strengthening of Civil Society)
G8	Group of Eight (Canada, France, Germany, Italy, Japan, Russia, United Kingdom, and United States)
ICCPR	International Covenant on Civil and Political Rights
ICESR	International Covenant on Economic and Social Rights
OMCT	<i>Organisation Mondiale Contre le Torture</i> (World Organization Against Torture)
OLUCOME	<i>Observatoire de Lutte Contre la Corruption et les Malversations Économiques</i> (Anti-Corruption and Economic Malpractice Observatory)
UDHR	Universal Declaration of Human Rights

INTRODUCTION

Ernest Manirumva was a Burundian human rights defender working as vice-president of a civil society organization, the Anti-Corruption and Economic Malpractice Observatory (OLUCOME), as well as vice-chairman of the dispute settlement committee in Burundi's Public Procurement Authority. On the night of 8-9th April 2009 he was kidnapped from his home and murdered in the early hours of the morning. Manirumva had been investigating illegal arms transfers to foreign rebels carried out by Burundi's security services. The findings of his investigations were later confirmed by a United Nations investigation.¹

Manirumva was a leader within civil society, a public servant, and an effective human rights defender working to expose the rot of corruption. His murder demonstrates both the dangers faced by those who challenge powerful interests and, so far, the difficulty in attaining justice in Burundi.

Given the importance of the investigation into Manirumva's killing and the resulting trial in demonstrating accountability in Burundi and diminishing impunity, it is essential that justice be done. Yet the case remains unresolved over two and a half years after Manirumva's assassination, while the judicial process has in many ways failed to live up to domestic and international fair trial standards. The East and Horn of Africa Human Rights Defenders Project calls upon all relevant organs of Burundi's judiciary to ensure the full manifestation of truth and justice.

EHAHRDP TRIAL OBSERVATION MISSION

As the secretariat of a network of over 75 human rights organizations throughout the sub-region, the East and Horn of Africa Human Rights Defenders Project (EHAHRDP) works to protect and promote the work of human rights defenders through protection, capacity building, and advocacy activities. Human rights defenders routinely face threats and harassment, but it is in the most extreme and intolerable circumstances that a human rights defender is murdered due to their work. EHAHRDP joins with the calls for justice made by the national campaign "Justice for Ernest Manirumva."

In order to remain abreast of the Manirumva case, demonstrate solidarity, sustain international attention, ensure that fair trial guarantees under national, regional, and international law are met, and share facts, EHAHRDP sent a trial observation team to Bujumbura to be present at a hearing for 14 accused in the case which took place on 15th June 2011. While in Burundi the trial observation team met with officials of the judiciary to announce their presence and interest in the case, as well as members of the legal team registered as civil parties to the suit, members of the Justice for Ernest Manirumva campaign, and members of the diplomatic community.

¹ United Nations, (2009), "Final report of the Group of Experts on the DRC submitted in accordance with paragraph 8 of Security Council resolution 1857", *S/2009/603*. Available at http://www.un.org/french/document/view_doc.asp?symbol=S/2009/603

This report provides background to the case based on existing materials², an account of the hearing of 15th June 2011, and an update on the current climate for human rights defenders working in Burundi.

BURUNDI'S OBLIGATION TO FAIR TRIAL STANDARDS

Fair trial principles are embodied in numerous international agreements, domestic laws and national constitutions, and in various sources of non-binding but internationally recognized 'soft law'. The two main components of fair trial principles are the right to equality before the law and courts, and the right to a fair trial before an independent, impartial, and competent tribunal. In Burundi, these fair trial principles are guaranteed at the domestic level in the constitution and code of criminal procedure.

In addition, Burundi is signatory to a variety of international human rights instruments which bind state institutions to recognize and implement the various provisions of fair trial principles. These instruments include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the African Charter on Human and Peoples' Rights (ACHPR), and the UN Convention against Torture (CAT).

Sources of soft law which Burundi accedes to through membership in international bodies include the Universal Declaration on Human Rights (UDHR) adopted by the UN General Assembly on 10th December 1948, and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (APGFT) adopted by the African Union in 2003.

The above legal sources enshrine the state's obligation to uphold an array of fair trial rights. These include the essential fair trial principles of the right to trial before an impartial³ and independent⁴ tribunal, and the right to equality before the law.⁵ These also include ancillary rights such as the right to a trial within a reasonable period of time or to be released,⁶ to challenge the lawfulness of one's detention,⁷ to a fair hearing,⁸ to the presumption of innocence,⁹ to be tried without undue delay,¹⁰ and the prohibition on arbitrary arrest and detention.¹¹

² The most complete account of the evidence and developments in the case up to April 2011 can be found (in French) in: *Burundi: L'assassinat d'Ernest Manirumva, défenseur des droits de l'homme: deux ans après, un déni de justice* (2011) from L'Observatoire pour la Protection des Défenseurs des Droits de l'Homme (OMCT/FIDH), available at <http://www.omct.org/fr/human-rights-defenders/reports-and-publications/burundi/2011/04/d21198/>

³ International Covenant on Civil and Political Rights (ICCPR) Article 14(1), African Charter on Human and Peoples Rights (ACHPR) Article 7(1), Universal Declaration of Human Rights (UDHR) Article 10, Guidelines and Principles on the Right to a Fair Trial and Legal Assistance in Africa (APGFT) Principles A(1) & A(5)

⁴ ICCPR Article 14(1), ACHPR Articles 7(1) & 26, UDHR Article 10, APGFT Principles A(1) & A(4)

⁵ ICCPR Articles 2(1), 3, 14(1) & 26, ACHPR Articles 2 & 3, UDHR Articles 1, 2, 7 & 10

⁶ APGFT Principle M(3)

⁷ APGFT Principle M(4)(5), UDHR Article 8

⁸ ICCPR Article 14(1), ACHPR Article 7(1)

⁹ ICCPR Article 14(2), ACHPR Article 7(1)(b)

¹⁰ ICCPR Article 14(3)(c), ACHPR Article 7(1)(d)

¹¹ ICCPR Articles 9(1) & 11, ACHPR Article 6, APGFT Principles M(1)(a) & (b), UDHR Articles 3 & 9

BACKGROUND TO THE CASE

From his position within OLUCOME, Manirumva conducted investigations in 2009 into arms shipments ordered by the Minister of Public Security which were never delivered domestically but rather routed to the Democratic Forces for the Liberation of Rwanda (FDLR), a rebel group operating in the Democratic Republic of Congo.¹² In the months prior to his assassination, Manirumva and other members of OLUCOME received threats through telephone calls and unsigned notes left near their offices. On the morning of 9th April 2009, Manirumva's body was found outside his home, and files inside his home and his office at the Ministry of Agriculture and Livestock were found tampered with, while others were missing. The subsequent autopsy of Manirumva's body suggests he endured torture before being killed.

Two commissions of inquiry into Manirumva's death were established on the 10th and 22nd April 2009 respectively. Each commission was dissolved in turn following complaints of inaction and lack of independence. Finally on 22nd October 2009 a third commission of inquiry was formed and given a mandate to collaborate with civil society and international parties. A United States Federal Bureau of Investigation (FBI) forensics team was invited by the Government of Burundi to provide technical and logistical support to the Burundian police, but additionally made a report to the Government with a copy provided to the Prosecutor General of the Republic of Burundi. The FBI report calls for several high-ranking officials within Burundi's military and police services to be investigated in relation to the case.¹³

STATUS OF THE CASE

Sixteen individuals stand accused in relation to Manirumva's murder. Fourteen are charged with committing, cooperating with, and/or ordering the murder of Manirumva (names and charges listed in footnote).¹⁴ One, Gaspard Nahimana, is charged with illegally performing a marriage ceremony between Gabriel Nduwayo aka 'Sésé' and his partner several days after Manirumva's murder and immediately before Nduwayo's departure with his wife to the United States from where he would subsequently travel to Canada and claim asylum. Finally, Gaspard Rusabagi, then Deputy Director of Burundi's Rutana prison, is charged with obstructing justice by illegally transferring Joseph Ntirampeba aka 'Biraba', one of those charged in Manirumva's murder, from Rutana prison to Mpimba Central Prison in Bujumbura. The transfer was apparently made without the knowledge of the Commission of Inquiry which had ordered that Ntirampeba be kept in Rutana Prison so that he could be cross-examined without contact with the other prisoners being held at Mpimba Central Prison.

¹² See footnote 1

¹³ Both reports, of the FBI and of the 3rd Commission of Inquiry are available in digital format on the website of OMCT at <http://www.omct.org/fr/human-rights-defenders/reports-and-publications/burundi/2011/04/d21198/>

¹⁴ On the charge of, as perpetrators and co-authors, murdering Ernest Manirumva stand eight accused: Gabriel Nduwayo aka 'Sésé', Albert Sibomana, Joseph Ntirampeba aka 'Biraba', Audifax Manirakiza aka 'Karyazi', Jurdence Kwizera, Egide aka 'Runyanya', Jean-Claud Ciza, and Obède Ndikuriyo (Burundi Penal Code Articles 37 & 213). On the charge of ordering and cooperating directly in the assassination of Ernest Manirumva stands one Hilaire Ndayizamba (Burundi Penal Code Articles 37, 39 & 213). On the charge of ordering Gabriel Nduwayo to conduct the assassination of Ernest Manirumva stand two accused: Salvator Rwaswa and Prosper Méréme Bigirindavyi (Burundi Penal Code Articles 39 & 213). On the charge of cooperating directly in the assassination of Ernest Manirumva stand three accused: Déo Bigirimana, Léonard Nkunzimana, and Herménégilde Rugerinyange (Burundi Penal Code Articles 39 & 213).

The accused were mainly arrested during the course of 2009, with the earliest arrests in April and May 2009. The names of the accused first appeared in the report of the 3rd Commission of Inquiry. None of the military and police officials indicated by the FBI report have been charged.¹⁵ At the time of writing, none of the accused had been granted provisional release and the judicial process has been repeatedly stalled.

The charge against Rusabagi of illegally transferring Joseph Ntirampeba – one of the accused – to a different prison dominated the judicial agenda up to mid-2011. Rusabagi claims the transfer was made due to behavioural problems with Joseph Ntirampeba and denies any irregularity of the transfer. Due to the senior status Rusabagi holds as a police official, the case was heard in the Criminal Chamber of the Court of Appeal of Bujumbura rather than in the lower Tribunal de Grande Instance (Superior Court). In the first case hearing, held on 14th July 2010, Rusabagi's lawyer challenged first that his charge should be heard in the same case file as the other accused, and secondly the jurisdiction of the court to hear his case given that his charge stipulates a maximum five years imprisonment while the Criminal Chamber of the Court of Appeal only hears cases for which a sentence of life imprisonment would be applicable.

In the same hearing, defence attorneys for the remaining accused persons applied for bail for their clients. The judges stated that some accused had not properly been charged in their summons and issued a decision dated 13th August 2010 to adjourn the hearing until a later date when the prisoners' cases had been properly assigned. They did not consider the question of the jurisdiction of the court vis-à-vis Rusabagi nor did they consider or rule on the other prisoners' applications for provisional release.

A new hearing was scheduled for 29th September 2010, but was cancelled only days prior when the court claimed to be unable to finance the costs of the hearing. It was not until 19th January 2011 that a new hearing was scheduled with the assistance of Lawyers without Borders (*Avocats sans Frontières*, ASF) which provided lawyers for the plaintiffs (Manirumva's family, OLUCOME and civil society) and certain defendants who needed but could not pay for representation by themselves. The hearing was heard again at the Criminal Chamber of the Court of Appeal of Bujumbura. Once again, the attorney for Gaspard Rusabagi submitted a challenge to the jurisdiction of the court to hear his case in conjunction with the other accused, while defence attorneys for the remaining accused again applied for provisional release.

In a decision dated 26th January 2011, the Court of Appeal accepted the arguments made on behalf of Gaspard Rusabagi to detach his case from that of the other accused, sending the remaining accused to the Criminal Chamber of the Tribunal de Grande Instance of Bujumbura for a new hearing, while again declaring itself incompetent to rule on the matter of provisional release of the accused, arguing it to be a matter for the Tribunal de Grande Instance.

In this way over two years passed without any court hearing evidence, receiving pleas, or considering applications for provisional release. Throughout this process the civil society campaign and the legal team registered as civil parties to the case have repeatedly called for complementary investigations into the case to follow the recommendations of the 3rd Commission of Inquiry and FBI reports.

¹⁵ OMCT/FIDH p. 11

HEARING OF 15th JUNE 2011: PROCEEDINGS AND OUTCOME

At the Criminal Chamber of the Tribunal de Grande Instance of Bujumbura, ten of the accused were present at the hearing on 15th June 2011, while four – Salvator Rwasa, Jurdence Kwizera, Audifax Manirakiza, and Egide (aka ‘Runyanya’) – were listed as ‘wanted’ or ‘on the run’. Charges against Gaspard Rusabagi and Gaspard Nahimana had been separated from the main case file. Two of the accused lacked defence attorneys. For the first time since the beginning of the judicial proceedings, Gabriel Nduwayo aka ‘Sésé’ was present at the Tribunal. Nduwayo, who arrived in separate transport from the other accused and was not dressed in prison uniform, had been in remand since he was returned from Canada in May 2011, following an unsuccessful asylum claim.

The anticipated interest in the case materialized as the courtroom swelled with diplomats, members of civil society, family members of the victim and of the accused, international and local media, and other members of the public. APRODH outfitted the court room with a sound system including microphones and speakers allowing court proceedings to be heard throughout and outside the room of the Tribunal. No official count was made but approximately 250-300 individuals were seen present to observe the hearing. This high level of interest existed even though it was generally known that no substantial evidence or argumentation would come out of the hearing, with the defendants seeking provisional release.



Nduwayo’s lawyer complained that he had not been permitted to read the file on his client before the hearing, a complaint echoed by other lawyers for the defendants, and that a new summons (*assignation*) had not been issued for Nduwayo.

Lawyers registered as civil parties to the case working with the civil society coalition and with the family of Manirumva argued for the need for the prosecutor to conduct complementary investigations in the case, specifically to follow the recommendations of the FBI memorandum and the 3rd Commission of Inquiry, including to obtain phone records, DNA samples, and to question and cross-examine all those individuals named in those investigations.

Defence lawyers individually requested provisional release for their clients. At issue in particular was the violation of their clients’ rights under articles 71 and 75 of the Code of Criminal Procedure.^{16,17} Lawyers read the contents of these articles to the Tribunal. They argued

¹⁶ **Article 71**

The accused cannot be placed under preventive detention unless there exists against them sufficient evidence of guilt and that charges against them constitute an infraction for which punishment would exceed one year of incarceration

In addition, preventive detention may not be ordered or maintained except where there is conditions necessary to satisfy at least the following conditions:

that under article 71, preventive detention could not be maintained due to the lack of sufficient evidence of guilt against their clients, nor was there cause to believe that any of the sub-criteria for preventive detention under article 71 would apply.

Under article 75, preventive detention of accused must not exceed 30 days in duration without judicial renewal, yet over the course of their pre-trial incarceration none of the accused have had their detention reviewed or renewed by a judge. For Herménégilde Rugerinyange, the earliest to be detained, this constituted 26 months of preventive detention without review or renewal.

The deteriorating health of two of the accused (Hilaire Ndayizamba and Prosper Mérimé Bigirindavyi) was raised in the course of applications for provisional release.

The issue of DNA samples, which had previously been collected from several of the accused, was also raised. The accused asked if the genetic evidence they had provided was not already sufficient to have them convicted or acquitted.

The officer of the Public Prosecutor made a request for the case file to be returned to his office so that complementary investigations could be conducted. The officer of the Public Prosecutor refused to elucidate the details or the duration of the complementary investigations when questioned by attorneys registered as civil parties, saying only that new evidence had emerged and investigations were needed in order to obtain the full manifestation of the truth.

In response to the defence's applications for provisional release, the Public Prosecutor argued that release should be denied on the grounds that it would endanger the public interest as stipulated within the sub-conditions of Article 71 of the Code of Criminal Procedure.

-
- To preserve substantial proofs and evidence or prevent influence upon victims or witnesses or conspiracy among accused, co-accused and accomplices
 - To preserve the public order from current trouble caused by the crime
 - To protect the accused
 - To end the commission of a crime or prevent its recidivism
 - To guarantee the availability of the accused to justice

Article 75

The order authorizing the preventive detention is valid for 30 days including the day the day it is issued. At the end of this period, preventive detention may be extended by a reasoned decision for a month and so on from month to month as long as the public interest requires it. However, the preventive detention cannot exceed twelve months if the fact appears not to be an offense for which the penalty prescribed by law is not more than five years in prison. At the expiry of preventive detention period, the hierarchical authority of the magistrate handling the case orders the provisional release at behest of either the person concerned or the head of prison. Where, without reasonable excuse, an examining magistrate fails to arraign the accused before the judge of preventive detention, s/he is liable to disciplinary and/or possible criminal sanctions. Extension orders are made in pursuance of forms and deadlines laid out in Article 74.

¹⁷ The application for provisional release for Gabriel Nduwayo was argued under Article 71, while the applications for the remaining nine defendants who appeared in court were made under both Articles 71 & 75.

HEARING OUTCOMES

On 22nd June 2011, one week after the hearing, the Tribunal de Grande Instance of Bujumbura rendered its decision on the hearing in a 14-page judgment. A copy of the judgment was made available to lawyers registered as civil parties to the case on 7th July 2011.

In their decision the tribunal judges ruled that, following the declaration of the Public Prosecutor that his office was in possession of new elements which required further investigations in order to ascertain the truth in the case, the tribunal had the duty to grant his request for complementary investigations. However no direction on the substance and the duration of such investigations was provided.

On the applications for provisional release of the accused, the tribunal judgment rejected each application. On the challenge based upon Article 71 of the Code of Criminal Procedure, the tribunal ruled that sufficient evidence existed against all the accused, and that furthermore the conditions for the necessity of preventive detention existed.

On the challenge based upon Article 75 of the Code of Criminal Procedure, the tribunal argued that violation of the requirement to renew bail on a monthly basis did not in itself necessitate the granting of a provisional release.

On the complaints of Ndayizamba and Bigirindavyi of ill health, the tribunal ruled that medical care could be equally sought while in preventive detention.

In particular the tribunal ruled that, in conformity with sub-condition 5 of Article 71, all of the accused should be kept under preventive detention in order to guarantee their availability to the court for the administration of justice.

Civil society's arguments made to the court calling for complementary investigations to be targeted to meet the recommendations of the FBI or 3rd Commission of Inquiry reports were not noted or responded to in the tribunal judgment. Nor did the tribunal comment on the provisions of Article 75 that the investigating magistrate could face disciplinary or criminal action against them for failing to produce prisoners under preventive detention to a judge on a monthly basis.

HARASSMENT OF CIVIL SOCIETY DURING THE JUSTICE FOR ERNEST MANIRUMVA CAMPAIGN

A coalition of civil society organizations was formed in July 2009 to maintain public attention on the case and to advocate for justice. The Justice for Ernest Manirumva campaign includes colleagues who knew him personally, lawyers registered as civil parties to the case, as well as youth associations and representatives of other sectors of civil society who are committed to seeing justice done in this case.

The Justice for Ernest Manirumva campaign has been harassed throughout its operation and key members and organizations have encountered threats from state and non-state actors. In November 2009, for example, Pacifique Nininahazwe, the President of the Forum for the Strengthening of Civil Society (FORSC) was warned of an assassination plot against him. Again, in March 2010 Gabriel Rufyiri and Pierre Claver Mbonimpa, presidents of OLUCOME and APRODH respectively, were also warned of a plot to assassinate one of them in a deliberately engineered traffic accident. Other activists have also reported receiving anonymous phone calls and finding their movements tracked.



On 9th April 2011 in order to mark the second anniversary of Manirumva's murder, over 80 members of civil society gathered to march to the Court of Appeal of Bujumbura to renew their call for justice. As soon as the peaceful march started, the group was intercepted and harassed by police under the command of Colonel David Nikiza and Major Désiré Uwamahoro. Claver Irambona and Gabriel Rufyiri of OLUCOME were taken into custody, interrogated for 4-5 hours then released without charge.

Later in April 2011 a pro-government demonstration was held in Bujumbura Rural accusing Bujumbura civil society of ‘dividing Burundian society’, singling out Gabriel Rufyiri of OLUCOME and Pacifique Nininahazwe of FORSC as ‘societal villains’. In another instance the same activists as well as others were publically criticized on a talk show held on the ruling party-aligned radio station Radio Rema FM in its ‘Akabirya’ program following civil society interventions on the Manirumva case on the private radio station *Radio Publique Africaine* in their ‘Kabizi’ program where the population speaks live on concerns related to public affairs.



Kirundi sign held in a rural demonstration reading: ‘Pacifique Nininahazwe end your ethnic divisionism, Ernest Manirumva is not the only murdered Burundian’.

In early July 2011 two OLUCOME staff members, Claver Irambona and Prudence Bararunyeretse, experienced security incidents against them, including an attempted break-in at the home of Vice-President Prudence Bararunyeretse by men armed with knives. OLUCOME has additionally reported finding threatening unsigned notes near their office in several instances.

These threats against prominent human rights defenders have repeatedly necessitated temporary evacuation from the country. Gabriel Rufyiri of OLUCOME has reportedly been forced to flee the country on four occasions.

Civil society organizations involved in the campaign have been continuously frustrated through bureaucratic means, generalized intimidation, and threats to their legal existence. In 2009 the legal status of FORSC was suspended via ordinance of the Minister of the Interior on an apparent technical flaw made by the Ministry of the Interior when registering as an NGO in 2006. FORSC’s legal status was only reinstated in February 2011. In 2010 the campaign was twice refused permission to organize a peaceful demonstration for Manirumva in Bujumbura. In June 2011 OLUCOME was threatened with deregistration and publically denounced in relation to the submission of a report to governments of the G8 on Burundian government corruption.¹⁸ On 8th June, OLUCOME was telephoned by the Minister of the Interior and ordered to hand over the report to the Ministry. On 10th June the Minister of Foreign Affairs and International Cooperation and the Minister of Justice hosted a joint press conference denouncing OLUCOME’s submission of the report to G8 member countries.

On 7th September 2011, Pierre Claver Mbonimpa and Gabriel Rufyiri were summoned to be interviewed by the Public Prosecutor of Bujumbura. On 7th and 8th September, Mbonimpa and Rufyiri were questioned on meetings they had with a suspicious individual claiming to possess testimony on Manirumva’s murder. Rufyiri was questioned for four and a half hours including on tracts dropped on the streets of Bujumbura on the night of 21 June 2009 by an unknown vehicle which claimed Rufyiri himself had planned the murder of Manirumva because of a

¹⁸ Xinhua. “Une ONG demande au G8 d’imposer des restrictions de voyage aux personnes accusées de corruption”. 31 May 2011. Available at <http://www.afriquinfos.com/articles/2011/5/31/brevesdafrique-179138.asp>

misunderstanding he had with him.¹⁹ A week later Gertrude Kazoviyo, Vice-President of the Observatoire de l'Action Gouvernementale, another civil society organization active in the Justice for Ernest Manirumva Campaign, as well as the former Executive Secretary of OLUCOME Richard Ntawe, were interrogated by the Public Prosecutor in Bujumbura. The Prosecutor also interrogated Jean-Marie Vianney Kavumbagu, former campaign member and current commissioner of the National Independent Human Rights Commission (CNIDH), as well as summoning another commissioner and former President of Ligue ITEKA, David Nahimana, who at the time was on an official mission in Geneva.

Civil society activists and prominent journalists have been repeatedly summoned and intimidated over recent months in relation to this case and other dossiers. The office of public prosecutions should focus its efforts on following the avenues of investigation recommended by the 3rd Commission of Inquiry and the FBI report, rather than continuing to use judicial means to harass human rights defenders.

¹⁹ Iwacu, "Affaire Manirumva : les nouveaux suspects", 19 September 2011. Available at <http://www.iwacu-burundi.org/spip.php?article879>

SUPPORT MECHANISMS FOR HUMAN RIGHTS DEFENDERS IN BURUNDI

In this environment of menace and non-cooperation for human rights work, mechanisms to support and protect human rights defenders are particularly urgent in Burundi. As civil society cannot rely on protection by the police and judiciary, they have turned to domestic and international solidarity to obtain recognition for their struggles, leverage support, maintain the flow of information and media attention, and protect human rights defenders at risk.

The diplomatic community has continued to play a positive role towards human rights defenders in Burundi. In 2010 a local implementation strategy for the EU Guidelines on Human Rights Defenders²⁰ was developed by the EU delegation & EU member state missions in Burundi in consultation with national civil society organizations. The document lays out a strategy to provide support to human rights defenders in the form of regular meetings, information sharing, diplomatic support, and emergency support. It is urgent that this strategy be disseminated within civil society and adhered to in order to strengthen this positive relationship.

A twinning program connecting Belgian MPs with prominent Burundian human rights defenders has also been developed as a valuable protection mechanism. The relationship has fostered information sharing and increased advocacy on Burundian issues in Belgium, as well as raising the profile of human rights defenders in Burundi by publicly demonstrating high-level relationships and increasing their visibility.

Domestic civil society has responded to the various security threats posed against them through the formation of a human rights defenders coalition. The coalition serves as a focal point for reporting threats and accessing financial and training resources for protection purposes. The East and Horn of Africa Human Rights Defenders Project has played a role in working with the coalition in Burundi in order to make protection resources available and increase the security preparedness of the sector through security management training.

²⁰ European Union, (2004), “Guidelines on Human Rights Defenders”. Available at http://eeas.europa.eu/human_rights/guidelines/defenders/docs/16332-re02_08_en.pdf

CONCLUSIONS AND RECOMMENDATIONS

The murder of Ernest Manirumva sent shockwaves through Burundian civil society, who are still waiting for justice two years on. It is important that justice be provided in a timely, fair and impartial manner, not least in order to safeguard the space for human rights defenders to operate within Burundi.

A number of serious concerns have been raised about the handling of the case to date. The trial has suffered from repeated delays, due in part to a lack of adequate resources. So far, no substantive evidence has been presented in court, nor have pleas been accepted.

During these delays the rights of the accused have been impinged upon. Several of the accused have now been held in pre-trial detention for over two years. Procedures regarding pre-trial detention, such as the requirement that detention orders be reviewed on a monthly basis, have not been properly followed. When requests for provisional release by a number of the accused were eventually heard on 15th June 2011, the application was rejected for all defendants.

The 22nd June 2011 decision to call for complementary investigations in the case is one positive development, although no timeline has been published and no date set for the next hearing. Questions have been raised as to whether all possible lines of investigation, such as those proposed by the 3rd Commission of Inquiry and the FBI report are being fully pursued.

In order to ensure impartial and independent investigations into Manirumva's murder and a fair trial for the accused, to support a positive environment for human rights work in Burundi, and to protect human rights defenders working in the country today, EHAHRDP echoes the recommendations made by OMCT/FIDH in April 2011 in calling for Burundi officials to:

1. Ensure the protection of all witnesses in Manirumva's assassination;
2. Conduct investigations including interrogations, cross-examinations and DNA tests on those individuals named by the FBI and 3rd Commission of Inquiry reports;
3. Ensure the swift resumption of public hearings on the case of Ernest Manirumva;
4. Ensure the inviolability of judicial independence in the case.

In addition, EHAHRDP calls upon:

5. The concerned tribunals and courts to reconsider, on the basis of individual merit, the 22nd June 2011 decision denying grounds for provisional release of the accused currently in pre-trial detention;
6. The Government of Burundi to keep the UN Human Rights Council regularly informed on steps taken to implement the recommendations of the Independent Expert on Burundi (whose mandate was recently terminated), specifically his recommendation to accelerate the investigations into Manirumva's murder;
7. The Government of Burundi and the international community to provide the Independent National Human Rights Commission with sufficient financial support and protect their ability to carry out their mandate independently;

8. The EU delegation and EU member states in Burundi to disseminate within civil society and continue to put into practice the provisions of the local implementation strategy for the EU Guidelines on Human Rights Defenders;
9. The international community, including the human rights department of the UN Office in Burundi, to support and strengthen protection mechanisms for human rights defenders in Burundi, such as contributing to the development of a domestic legal framework for their protection.

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) seeks to strengthen the work of human rights defenders (HRDs) throughout the sub-region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to effectively defend human rights.

EHAHRDP is the secretariat of EHAHRD-Net, a network of over 75 human rights organizations in the eleven countries of the sub-region: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.

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