



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

2015: Burundi at a Turning Point

Human Rights Defenders Working
In the Context of Elections



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Published January 2015

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This publication is available online in PDF format at <http://www.defenddefenders.org/our-publications>

Research for this report was supported in part by the Open Society Internship for Rights and Governance, which is funded and administered by the Open Society Institute (OSI). The opinions expressed herein are the author's own and do not necessarily express the views of OSI.

Produced with additional financial support of the Ministry of Foreign Affairs of the Kingdom of the Netherlands, the Swedish International Development Agency (SIDA), and the Finnish NGO Foundation for Human Rights (KioS).

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“The new strategy isn’t to kill, but to terrorise and divide. There are even organisations that have been created to that end. Civil society organisations are very weak. It has become a practice to attack their presidents in order to endanger the entire organisation.”¹

“Professionalism is the best protection. They can kill us, but before the law they won’t stand a chance. Today we are powerless, but they will pay in the end.”²

“Things are only going to get worse with the elections coming up. I have been openly told that by 2015 I will be in prison or dead.”³

1 EHAHRDP Interview, July 2014

2 EHAHRDP Interview, September 2014

3 EHAHRDP Interview, July 2014

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Glossary of Terms

ACAT Burundi	<i>Action des Chrétiens contre la Torture au Burundi (Action of Christians Against Torture in Burundi)</i>
APRODH	<i>Association pour la Protection des Droits Humains et des Personnes Détenues (Association for the Protection of Human Rights and the Rights of Detainees)</i>
AUSTF	<i>African Union Special Task Force</i>
BINUB	<i>Integrated UN Office in Burundi</i>
BNUB	<i>UN Office in Burundi</i>
CNC	<i>Conseil National de la Communication (National Communications Council)</i>
CNDD-FDD	<i>Conseil National Pour la Défense de la Démocratie– Forces pour la Défense de la Démocratie (National Council for the Defence of Democracy – Force for the Defence of Democracy)</i>
CNTB	<i>Commission Nationale des Terres et autres Biens (Land and other Assets Commission)</i>
DDH	<i>Défenseur des droits de l'homme (Human rights defender)</i>
FNL	<i>Front National de la Libération (National Front for Liberation)</i>
FORSC	<i>Forum pour le Renforcement de la Société Civile (Forum for the Strengthening of Civil Society)</i>
FRODEBU	<i>Front Démocratique du Burundi (Democratic Front of Burundi)</i>
GONGO	<i>Government NGO</i>

Imbonerakure	<i>youth league affiliated with the CNDD-FDD ruling party</i>
MENUB	<i>UN Electoral Mission in Burundi</i>
MONUSCO	<i>UN Organisation Stabilisation Mission in the Democratic Republic of the Congo.</i>
MSD	<i>Mouvement pour la Solidarité et la Démocratie (Movement for Solidarity and Democracy)</i>
OLUCOME	<i>Observatoire pour la Lutte contre la Corruption et les Malversations Economiques (Observatory for the struggle against Corruption and Economic Embezzlement)</i>
ONUB	<i>Office of the United Nations in Burundi</i>
PARCEM	<i>Paroles et Actions pour le Réveil des Consciences et l'Evolution des Mentalités (Words and Actions for the Awakening of Consciences and the Evolution of Mindsets)</i>
RPA	<i>Radio Publique Africaine (Public African Radio)</i>
SYMABU	<i>Syndicat des Magistrats du Burundi (Judges' Union in Burundi)</i>
UBJ	<i>Union Burundaise des Journalistes (Journalists' Union in Burundi)</i>
UPRONA	<i>Union pour le Progrès National (Union for National Progress)</i>

Burundi is at a turning point in its short history as a democratic country. The country's forthcoming third democratic elections since the end of its long civil war, scheduled for May 2015, are of critical importance to its peaceful development, and are a source of growing concern to many national and international stakeholders.

Since 2005, when the ruling CNDD-FDD was first elected to power, Burundi's political situation has remained relatively stable. A number of institutions have been established which have facilitated the country's imperfect, yet relatively peaceful transition. In this context, Burundi's many human rights defenders (HRDs) have served an invaluable role in promoting and advocating for the human rights of all Burundians. Navigating the inherent complexity of the Burundian political and social context is a challenge in itself, and some laudable progress has been made to move past ethnic differences and the repeated cycles of violence that have blighted the country's recent history.

Burundi has some of the most vocal, resourceful, and committed communities of human rights defenders of any country in which the East and Horn of Africa Human Rights Defenders Project (EHAHRDP) works. However, during the

course of extensive research undertaken throughout 2014, we have documented an undeniable, extremely concerning, and worsening pattern of harassment, stigmatisation, intimidation and attacks against human rights defenders, and a marked narrowing of the space for civil society more broadly.

The United Nations Declaration on Human Rights Defenders affirms that everyone, individually and in association with others, has the right to submit to governmental public bodies, criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realisation of human rights and fundamental freedoms.¹ In Burundi, human rights defenders working to advocate or raise public awareness of human rights are routinely denied this basic right.

In publishing this report, EHAHRDP seeks not only to provide an extensive and accurate description of the situation facing HRDs in Burundi, but just as importantly to provide concrete and pragmatic recommendations to the

¹ United Nations General Assembly, 'Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms' A/RES/53/144, 8 March 1999, Article 8 (2)

Government of Burundi and its national and international partners on how the operating environment for human rights defenders might be strengthened, and how this alarming trend might be reversed.

EHAHRDP's commitment to human rights defenders in Burundi is long standing, and throughout the course of 2014 we redoubled our efforts in response to the scale of the current challenges. Since 2014, we have been working to galvanise Burundi's National Coalition of Human Rights Defenders, in order to facilitate collaboration and improve their practices. This informal coalition will be EHAHRDP's focal point in Burundi in all of our upcoming activities.

EHAHRDP continues to work with human rights organisations across the region to empower and support them in their efforts to address their concerns at the national level. EHAHRDP has helped to establish national coalitions and networks of human rights defenders in Kenya, Rwanda, Somalia, Sudan, South Sudan, Tanzania and Uganda.

EHAHRDP reiterates its commitment to standing alongside civil society in Burundi in their efforts to achieve full respect for human rights. For its part, EHAHRDP hosted its fourth annual flagship workshop "Claiming Spaces: Tactical Tools for Human Rights Defenders" in Bujumbura in December 2014, to impart tactical skills to Burundian human rights defenders.

I wish to take this opportunity to thank all of the individuals and human rights organisations that contributed to these research findings and told their stories to our research team, without whose assistance this report would not have been possible.

The complex political situation in Burundi is closely intertwined with the challenges facing the country's human rights defenders and wider civil society. The contents of this report should sound the alarm to those who are concerned with the country's future. This report aims to present an honest appraisal of this situation in its totality, and make concrete and realistic recommendations for change.



Hassan Shire

Executive Director

East and Horn of Africa Human Rights Defenders Project

Chairperson

Pan-African Human Rights Defenders Network

February 2015

About EHAHRDP

Established in 2005, the East and Horn of Africa Human Rights Defenders Project (EHAHRDP) seeks to strengthen the work of human rights defenders (HRDs) throughout the region by reducing their vulnerability to the risk of persecution by enhancing their capacity to effectively defend human rights. EHAHRDP focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania and Uganda.

EHAHRDP acts as the secretariat of the East and Horn of Africa Human Rights Defenders Network which represents more than 75 members across the sub-region, and envisions a region in which the human rights of every citizen as stipulated in the Universal Declaration of Human Rights are respected and upheld.

EHAHRDP also serves as the secretariat of the Pan-African Human Rights Defenders Network (PAHRD-Net). PAHRD-Net was formed as a result of deliberations at the All African Human Rights Defenders Conference ('Johannesburg +10') hosted in April 2009 in Kampala, Uganda. The five functioning sub-regional networks forming the PAHRD-Net are: the North Africa Human Rights Defenders Network (hosted by the Cairo Institute for Human Rights Studies in Egypt), the West African Human Rights Defenders Network (Lome, Togo), the Southern

Africa Human Rights Defenders Network (hosted by the International Commission of Jurists, the Africa regional office, Johannesburg, South Africa), the Central Africa Human Rights Defenders Network (Douala, Cameroon), and East and Horn of Africa Human Rights Defenders Network (hosted by East and Horn of Africa Human Rights Defenders Project, Kampala, Uganda).

PAHRD-Net is aimed at coordinating activities in the areas of protection, capacity building and advocacy across the African continent.

1. Executive Summary

This report is the result of three extensive research trips to Bujumbura and three other provinces of Burundi conducted in the second half of 2014. Over 50 human rights defenders were interviewed in the course of this research, as well as members of the diplomatic corps, the UN Office in Burundi (BNUB) and the National Independent Commission for Human Rights (CNIDH). Information was verified with other human rights defenders and national and international stakeholders. The government of Burundi was presented with a summary of the key findings of this report in December 2014, and invited to respond (further details in Section 3 of this report).

After emerging from decades of civil war and inter-communal violence, Burundi's first democratic elections since the Arusha Accord was signed in 2000 took place in 2005. That same year, Pierre Nkurunziza of the CNDD-FDD (*Conseil National Pour la Défense de la Démocratie–Forces pour la Défense de la Démocratie*) was elected President. Since 2005 the political situation has remained tense, in particular during the 2010 elections, which were boycotted by an alliance of opposition parties. Whilst human rights defenders working to denounce abuses committed by state authorities have been exposed to threats and intimidations *throughout* this period, EHAHRDP

has observed a noticeable increase in violations against human rights defenders throughout the course of 2013 and 2014.

This report finds that the current political situation in Burundi is palpably tense, and that combined with rising feelings of insecurity, the 2015 elections are highly likely to try the relative stability Burundi has known since the end of widespread armed conflict in 2005. Human rights defenders are facing a number of profound challenges, and their operating space has become increasingly restricted over the past 24 months.

The relationship between civil society and the Burundian authorities has dramatically deteriorated during the course of 2014. State authorities increasingly portray human rights defenders and members of civil society as being 'enemies of the state', and routinely claim that legitimate criticism of the government's practices stems from an affiliation to the political opposition. Numerous attempts have been made by the government to discredit independent civil society voices, as well as to stifle the activities of human rights defenders through overt harassment and intimidation. The Press law and the Law on Public Gatherings that were passed in 2013 are indicative of a growing trend towards controlling civil society through

legislative and state-created tools. The attempts to amend the law regulating not-for-profit organisations, and to amend the Constitution, are illustrative of the political influence to which the judicial system is prone.

Human rights defenders from all areas of civil society are routinely exposed to threats and intimidation. HRDs and journalists concerned with the rise in general and political violence across the country, as well as those undertaking monitoring work to improve the practices of state security forces, have been confronted with serious threats. The numerous interviews conducted by EHAHRDP suggest that speaking out against the government, the national intelligence services, or the police forces exposes HRDs to greatly heightened risks. Infiltrations within organisations and newspapers are reportedly common, and accusations made by NGOs perceived as being close to the government are contributing to the widening divide within civil society. We have also documented widespread judicial and administrative harassment of human rights defenders and their organisations.

The justice system in Burundi is subject to strong political influences, and EHAHRDP was told of many cases where the judiciary has been manipulated to infringe on the basic rights of human rights defenders. In some cases, judges themselves have acted as human rights defenders, and taken a stand against unlawful interference from the executive branch of government. EHAHRDP has

documented a number of cases of legal petitions being opened against human rights defenders, including those who have denounced the alleged armament and paramilitary trainings of the youth league affiliated to the CNDD-FDD, the *Imbonerakure*. At least five journalists have been subjected to legal actions since April 2014 and asked to reveal their sources, which in itself has instilled a climate of fear around speaking to the press. Several human rights defenders have been exposed to legal harassment, whereby they are repeatedly summoned to court for no particular reason.

Monitoring missions by partners on the ground have revealed that trials of human rights defenders do not respect procedures required by national or international law. The trial of Pierre-Claver Mbonimpa, for making allegations about the paramilitary training of the *Imbonerakure*, has become an international symbol of the manipulation of justice in Burundi. Moreover, although the judiciary now has a transparent recruitment examination process, we found that many judges are exposed to serious pressure from the government in cases concerning civil society and the political opposition. This renders human rights defenders' right to a free and fair trial mostly inaccessible. Those who have resisted these pressures have often been exposed to administrative harassment, and are forcibly transferred to different courts within the country.

These findings paint a worrying picture, as Burundi approaches a turning point in its history as a democratic country. Indeed, should these trends continue unimpeded, the forthcoming elections are highly unlikely to take place in a peaceful and democratic manner, and the operating space for human rights defenders in Burundi is likely to narrow yet further.

2. Summary of Key Recommendations

To the Government of Burundi:

- Immediately take steps to ensure that all state agencies, including the Service National des Renseignements (National Intelligence Services - SNR), and all branches of its security apparatus, including all military and paramilitary organisations under its control cease all intimidation, harassment and attacks against human rights defenders;
- Immediately take steps to ensure that human rights defenders and all members of civil society are allowed to conduct public assemblies, form and operate associations, and exercise their right to freedom of expression in accordance with domestic law and regional and international human rights standards;
- Ensure the independence of the judiciary, immediately undertake to investigate all reports of judicial harassment, and publish the report from the 2013 General Assembly of the Judiciary;
- Ensure transparent and thorough investigations into all reported threats or attacks against human rights defenders, and commit to hold perpetrators of such threats or attacks accountable in accordance with international legal standards;

- Drop all spurious charges against Pierre Claver Mbonimpa and all human rights defenders

To the National Assembly of Burundi:

- Commit to reviewing the 2013 Law on Public Assemblies, and undertake to redraft the law to bring it in line with regional and international standards;
- Commit to reviewing the 2013 Press Law, and undertake to redraft the law to bring it in line with regional and international standards;
- Commit to carefully reviewing the draft law on the regulation of not-for-profit associations, ensuring that any future law is substantively compliant with regional and international human rights standards, and is passed in a transparent and democratic manner, acknowledging and incorporating the input of civil society;

To Donors and Development

Partners:

- Continue and expand direct financial and technical support to human rights defenders working across Burundi;
- Continue to provide the Republic of Burundi with direct financial and technical support, and ensure that such support is made contingent upon the state meeting achievable and measurable human rights commitments - including a commitment to protect human rights defenders, and hold perpetrators of violations against HRDs to account;
- Recognise the important role of the CNIDH, and commit to providing it with direct financial and technical support to enable it to fulfill its mandate;
- Publicly recognise that the May 2015 national elections represent a potentially enhanced risk to Burundian human rights defenders, and ensure continued engagement with the government of Burundi and the international community to ensure heightened protection for human rights defenders working on issues relating to the election.

3. Methodology

In producing this report, EHAHRDP staff undertook three extensive research missions to Burundi between July and December 2014, and conducted over 50 interviews. We met with Burundian human rights defenders, including journalists, lawyers, and members of civil society in Bujumbura, as well as in three other provinces. In a number of cases, we were able to follow up with certain individuals from Kampala or during our additional trips to the country. We also met with members of the diplomatic corps in Bujumbura, the National Independent Human Rights Commission, and representatives of the UN office in Burundi (BNUB) and the Office of the High Commissioner for Human Rights. EHAHRDP is grateful to all interviewees for their time in meeting with us, and for sharing their experiences and recommendations.

To preserve anonymity, the names and identifying details of some interviewees have been omitted from this report. In the majority of cases, interviewees were happy to share their stories publicly.

A summary of the key findings of this report was sent to the Minister of the Interior and the Minister of External Affairs and Cooperation of the government of the Republic of Burundi on 15 December 2014, for their comments. At the time of publication, the Minister

of the Interior had replied denying the findings of the report and accusing EHAHRDP of leading biased research. EHAHRDP obtained the information contained in the report from multiple sources, and crosschecked it thoroughly before publication. No comments were received from the Minister of External Affairs and Cooperation.

All interviews were conducted in French and, along with many of the primary documents referred to in this report, have been translated from the original.

4. Background

Historical background:

Burundi's history as an independent country began violently with the assassination of its first elected Prime Minister, Prince Louis Rwagasore, a month after his party, the Union for National Progress (*Union pour le Progrès National* - UPRONA), won a majority of seats in the 1961 parliamentary elections. The years that followed the country's independence were marked the inter-ethnic and political violence that blighted the region. The decades of violence caused a wave of refugees to leave the country and seek asylum in neighbouring countries, and left an estimated 100,000 to 200,000 dead.¹ Political tensions between the governing Tutsi minority and the dissatisfied Hutu majority influenced the political processes of the country and created a context of instability.

In 1993, the first democratically elected Hutu president, Melchior Ndadaye, was assassinated, plunging Burundi into another round of violence. Tens of thousands of unarmed Tutsis and Hutus were killed in the years following the assassination.² The complex and

challenging process initiated by the UN was spread across several arenas during the 1990s, and eventually resulted in the *Arusha Accord* being signed in 2000. The *Arusha Accord* outlined ethnic quotas within government, the police, and the army that were meant to help preserve a balance within the public powers, and appease ethnic tensions.

Before the conflict, the authoritarian nature of the state regime meant that civil society was completely integrated into the dominant political, social and cultural system. The *Ligue Iteka*, which was created in 1990, was immediately countered with the creation of the *Ligue Sonera* by the government. As the creation of political parties was close to impossible, many opponents flocked to civil society to express their discontent, creating the deeply rooted impression that civil society is synonymous with the political opposition.³ After 1993, civil society stopped operating in a context of conflict and was able to report of human rights violations. A number of organisations were created to respond to the needs of the population created by various conflicts and surges of violence.⁴ The *Arusha Accord* finally

1 Wolpe, H.; "Making Peace after Genocide: Anatomy of the Burundi Process"; United States Institute of Peace; 2011; 6

2 Human Rights Watch; "Proxy Targets: Civilians as Targets in Burundi", 1998, p. 20, Accessed on 24 November 2014 <http://www.hrw.org/sites/default/files/reports/BURU983.PDF>

3 Eva Palmans, "Burundi's 2010

Elections: Democracy and Peace at Risk?", European Centre for Electoral Support, July 2012, p. 219

4 *Ibid.* p. 210

properly opened the door for civil society, and although the *Ligue Iteka* did not take part in the negotiations, it acted as an independent observer. Towards the end of this process, civil society organisations started growing throughout the country, ranging from unofficial “groupings” of people in rural Burundi, to formally registered non-governmental organisations based in Bujumbura.

In the aftermath of this violent 12-year civil war, an international presence remained to help safeguard peace and stability, and the African Union deployed a one-year operation in Burundi in 2003. When the mission gradually wound down, the South African contingency remained on the ground in the form of an African Union Special Task Force (AU STF) from December 2006. The Operation of the United Nations in Burundi (*Opération des Nations Unies au Burundi* - ONUB) was mandated by the Security Council in May 2004⁵, and it was eventually replaced by the United Nations Integrated Office in Burundi (*Bureau Intégré des Nations Unies au Burundi* - BINUB) at the end of 2006.⁶ In 2011, it was replaced by the United Nations Office in Burundi (*Bureau des Nations Unies au Burundi* - BNUB).⁷ BNUB left Bujumbura at the end of 2014, in line with Burundi’s wishes.⁸

5 United Nations Security Council, Resolution 1545, 21 May 2004

6 United Nations Security Council Resolution 1719, 25 October 2006

7 United Nations Security Council Resolution 1959, 16 December 2010

8 United Nations Security Council Resolution 2137, 13 February 2014

Political background:

The situation of human rights defenders in Burundi is intrinsically tied to the developments the political landscape over the last ten years. It is essential to understand the political and electoral context in which human rights defenders operate to comprehend properly the risks and challenges they face.

Transition to democracy

In 2005, the CNDD-FDD (National Council for the Defence of Democracy – Forces for the Defence of Democracy) was elected to power, a new constitution was adopted and Pierre Nkurunziza became president, marking the beginning of the CNDD-FDD’s ten-year rule.⁹

In 2010, after the CNDD-FDD won the majority of the votes in the communal elections (64%), political opposition parties accused the ruling party of fraud. International and national election observers stated that the elections were (for the most part) free and fair, but a group of 12 political opposition parties formed the Alliance of Democrats for Change (*Alliance des Démocrates pour le Changement* - ADC Ikibiri) and called for all opposition to boycott the upcoming presidential, legislative and senatorial elections. In the weeks preceding the presidential election, the government cracked down on the opposition through arrests and limitation freedom of movement, expression and assembly.¹⁰

9 “Making Peace after Genocide: Anatomy of the Burundi Process”, p.9

10 Human Rights Watch, “Burundi:

The CNDD-FDD, led by President Pierre Nkurunziza won 91 per cent of the vote in the uncontested presidential election. In the national assembly elections, the CNDD-FDD won 81 seats out of 106, whereas UPRONA and the Front for Democracy in Burundi (*Front pour la Démocratie au Burundi* - FRODEBU), some of the only opposition parties to take part in the election, collected 11 and 5 seats respectively.¹¹

The aftermath of the 2010 elections (2010-2012)

Since none of the main political actors were willing to engage in any form of meaningful political dialogue, the years that followed the presidential election were marked by a worrying increase in fighting between various armed groups, and saw a clear escalation of political violence. The National Intelligence Services (*Service National des Renseignements* - SNR) and the *Imbonerakure*, the ruling party's youth wing, were responsible for a number of politically motivated killings, particularly with the ranks of their main rival: the National Liberation Forces (*Forces Nationales de Libération* - FNL), a former armed rebel group turned political party. Both the CNDD-FDD

Violence, Rights Violations Mar Elections", July 2010, <http://www.hrw.org/news/2010/07/01/burundi-violence-rights-violations-mar-elections>

11 Crisis Group Africa, "Burundi: From Electoral Boycott to Political Impasse"; Report N°169, 7 February 2011, p.6 [http://www.crisisgroup.org/~media/Files/africa/central-africa/burundi/169%20Burundi%20-%20From%20Electoral%20Boycott%20to%20Political%20Impasse%20ENGLISH.pdf](http://www.crisisgroup.org/~/media/Files/africa/central-africa/burundi/169%20Burundi%20-%20From%20Electoral%20Boycott%20to%20Political%20Impasse%20ENGLISH.pdf)

and the FNL suffered losses during this period. Fearing for their lives, opposition leaders Agathon Rwasa (FNL), Alexis Sinduhije (Movement for Solidarity and Democracy - MSD) and Pancras Cimpaye (FRODEBU) fled the country.¹² They only returned in early 2013 after President Pierre Nkurunziza extended an invitation for them to re-join the political scene, and took part in an electoral workshop organised by the UN Office in Burundi (BNUB) to resume dialogue between the different parties.¹³

Human Rights Watch released a report in 2012, which documented a pattern of politically motivated assassinations between 2010 and 2012. This type of violence marked a change from the violence the country experienced in the 1990s, in that it took the form of targeted individual killings, instead of widespread massacres. According to Human Rights Watch, the worst periods in 2011 saw around one politically motivated murder a week.¹⁴ BNUB also documented many extrajudicial executions and politically motivated killings between 2010 and 2012.¹⁵

12 Welsh, N., "Burundi: Opposition Political Parties in Peril", *Think Africa Press*, 5 March 2012, Accessed 24 November 2014, <http://thinkafricapress.com/burundi/opposition-political-parties-peril>

13 BNUB, "*Burundi - Elections*", 13 March 2013, <http://bnub.unmissions.org/Default.aspx?ctl=Details&tabid=2961&mid=5312&ItemID=1167310>

14 Human Rights Watch, "You will not have peace while you are living", 2 May 2012, p.4 <http://www.hrw.org/reports/2012/05/02/you-will-not-have-peace-while-you-are-living-0>

15 BNUB, « *Rapport de la Commission d'enquête sur les cas que certains rapports qualifient d'exécutions extrajudiciaires ou de*

This practice not only eliminated some of the main actors within the political scene, but also affected the operating space for civil society and journalists. Human rights defenders reporting on the political violence were exposed to threats and repeated court summonses, a practice that is still prevalent today. The civil society organisation leaders that continued to speak out against the targeting of the political opposition were accused of inciting “civil disobedience” and “ethnic hatred” to push the country into chaos.¹⁶ The pervading climate of fear that developed during these two years remains rooted within Burundian civil society, even after dialogue between the main political actors began again.¹⁷

The run up to the 2015 elections (2013-2014)

Political dialogue reopened in 2013, when the UN encouraged discussions between the main political actors. These discussions resulted in a road map to the 2015 elections being agreed upon in March 2013, through a 42-point document aimed at improving the general political climate in advance of the 2015 elections.

Although these developments were nominally representative of a thawing of relations within the political scene, tensions have continued to escalate over the past year. Three government ministers from the UPRONA party, the main opposition party represented in government, resigned in February 2014. They did so in protest against the Minister of the Interior’s dismissal of Mr Charles Nditije, president of UPRONA, and the President of the Republic’s removal of the First Vice President, Mr Bernard Busokoza, who is also a member of UPRONA. UPRONA did not boycott the 2010 elections, and remains the second best represented party in the National Assembly.¹⁸ However, tensions have emerged between UPRONA and CNDD-FDD, particularly with regards to the President’s attempted constitutional changes to allow him to run for a third term, and the revision of the law on

torture », September 2012

16 *Contribution d'EHAHRDP, Protection Internationale et Front Line Defenders à l'Examen Périodique Universel du Burundi, 2008-2012, July 2012*

<http://www.defenddefenders.org/wp-content/uploads/2013/01/EHAHRDP-PI-Front-Line-UPR-Burundi-Submission-July-2012-FR-Final-11.pdf>

17 United Nations, Security Council Report of the Secretary General on the United Nations Office in Burundi, S/2014/36, 20 January 2014

18 FIDH, “Burundi: UPRONA leaves the government, Democracy in danger”, 7 February 2014, <https://www.fidh.org/en/Africa/burundi/14617-burundi-uprona-leaves-the-government-democracy-in-danger>

the National Commission for Lands and other Goods (*Commission Nationale sur les Terres et Autres Biens* - CNTB).¹⁹

Alexis Sinduhije, the leader of MSD, was detained on 1 May 2014 in Brussels as result of an arrest warrant and request for extradition issued by the Burundian government. He was released 6 May 2014, in Belgium, and has not returned to Burundi despite the CNDD-FDD government's best efforts to circumvent the lack of extradition agreement between Burundi and Belgium.²⁰ This came after confrontation between MSD supporters and the police in March 2014, which resulted in 21 members of the party being sentenced to life imprisonment, and 26 others sentenced to prison sentences ranging from 3 to 10 years. The appeal hearing began in September 2014, but the trial has come under heavy criticism for not respecting due process. International human rights organisations have expressed serious concern about the MSD supporters' access to a free and fair trial and the EU Delegation in Burundi published a declaration reminding the authorities of the importance of the fundamental rights associated with a free and fair trial.²¹

19 Edouard Madirisha, "Un week-end sans répit pour Nditije et les siens", Iwacu-Burundi, 14 July 2014, Accessed 24 November 2014, <http://www.iwacu-burundi.org/un-week-end-sans-repit-pour-nditije-et-les-siens/>

20 Reuters, "Burundi arrests rights activist for endangering state security", 17 May 2014, Accessed 24 November 2014 <http://uk.reuters.com/article/2014/05/17/uk-burundi-arrest-idUKKBN0DX07L20140517>

21 European Union, "Déclaration locale de l'Union européenne sur la situation

According to an Amnesty International report published in July 2014, these developments are symptomatic of the governing party's desire to silence critics and pose a threat to the stability of the situation in view of the 2015 elections.²²

du président de l'Association pour la protection des droits humains et des personnes détenues (APRODH), Pierre Claver Mbonimpa, et sur le cas des membres du parti Mouvement pour la Solidarité et la Démocratie" 10 September 2014; HRW, "Burundi: Halt Crackdown on Opponents, Critics", 16 July 2014; Amnesty International, "Burundi Locked Down: A shrinking political space", 29 July 2014

22 Amnesty International, "Burundi Locked Down: A shrinking political space", 29 July 2014, p.34 <http://www.amnesty.org/en/library/info/AFR16/002/2014/en>

5. Legal Framework

International law:

Burundi is party to a number of the principle regional and international human rights mechanisms, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhumane and Degrading Treatments and, the African Charter on Human and People's rights.

National law:

Specific Legal Protections for human rights defenders

At the time of writing, Burundi does not have any constitutional or other legislative protection specifically for human rights defenders. A draft bill, aimed at creating a legal status for human rights defenders, is being worked on by the National Independent Commission for Human Rights (CNIDH - *Commission Nationale Indépendante des Droits de l'Homme*), although no specific timeline has been set for its completion. In addition, concerns have been raised that the law may be used to restrict, rather than enable, the operating environment for human rights defenders.

Freedom of Assembly

The Constitution of the Republic of Burundi guarantees the right to freedom of assembly.¹ However, the recent promulgation of a new law on Public Gatherings Law in December 2013 has threatened this constitutional right.² The new law, in practice, restricts freedom of assembly by allowing for peaceful protests and public meetings to be denied authorisation if they pose a threat to public order. 'Public order' is loosely defined as anything touching upon the "*organisation of the nation, the economy, morality, health, security, public peace and the rights and freedoms essential to every individual*".³

The law also introduced a purported 'notification' system, which requires that civil society inform the relevant authorities of its intention to organise a peaceful march or a public meeting.

Article 10 of the law states that "*the administrative authorities can at any moment, regardless of a properly executed notification, defer or end any public meeting, march, or rally organised*

1 *Constitution of the Republic of Burundi* (2005), Article 32

2 *Loi 1/28 du 05 Décembre 2013 portant réglementation de manifestations sur la voie publique et réunions publiques*

3 *Ibid.* Article 2 (Translated from the French)

in the public domain, if it is considered necessary in order to maintain public order". Article 13 of the law requires that the organisers take responsibility for maintaining public order, and makes them vulnerable to prosecution if they fail to do so. During his academic visit in July 2014, Maina Kiai, the UN Special Rapporteur on the Freedoms of Peaceful Assembly and of Association, expressed his concern over the use of this law.⁴

Freedom of Association

The Constitution of the Republic of Burundi guarantees the right to freedom of association.⁵ Current laws impose onerous regulations on NGOs, which makes operating too resource-intensive for some. The registration process for NGOs requires them to travel to Bujumbura, the capital, both to file registration requests and to collect an extensive set of mandatory documents only available in the capital, which presents challenges to smaller NGOs outside of Bujumbura.⁶

As of late 2014, a draft law amending registration requirements for not-for-profit associations poses a further challenge to the creation and operation of civil society groups. The draft law would require that the Minister of the

Interior, and the minister responsible for the field of focus of the association, both sign a registration certificate on an annual basis.⁷ Moreover, coalitions and collectives would be subject to a number of restrictions that would make their registration close to impossible. Finally, the Minister of the Interior would acquire the power to elect legal representatives for each organisation⁸, and would have the power to suspend their activities.⁹

Freedom of Expression

Freedom of expression is constitutionally guaranteed in Burundi.¹⁰ In 2013, the National Assembly passed a law banning the publication of information that might affect overly broad concepts such as "*national unity, public security and order, morality and social mores, human dignity and honour, national sovereignty, privacy, and the presumption of innocence*".¹¹ This new press law, *prima facie*, appears incompatible with Burundi's Constitution and regional and international human rights obligations. The law makes sweeping exceptions to the right of journalists not to reveal their sources, which have subsequently been exploited to arrest and put

4 Radio Isanganiro, "Burundi: l'ONU de plus en plus en colère face à l'espace politique verouillé", 22 July 2014, Accessed 24 November 2014, <http://www.isanganiro.org/spip.php?article7332>

5 *Constitution* (2005), Article 32

6 *Loi-décret – Loi 1/11 du 18 Avril 1992 portant cadre organique des associations sans but lucratif*, Articles 4, 5 and 6

7 *Projet de loi visant à amender la Loi-Décret 1/11 du 18 avril 1992 portant cadre organique des associations sans but lucratif au Burundi*, Articles 18 and 19

8 *Ibid.* Article 44

9 *Ibid.* Article 59

10 *Constitution* (2005), Article 31

11 *Loi 1/11 du 4 juin 2013 portant sur modification de la loi 1/025 du 27 Novembre 2003 régissant la presse au Burundi*, Articles 18 and 19

pressure critics of the government.¹² The law also extends existing restrictions on subjects that journalists may not cover, including the unclear concepts of publishing ‘information and propaganda for Burundi’s enemies in times of peace as well as in times of war’.¹³ The law is currently being challenged at the East African Court of Justice by a group of Burundian lawyers supported by the UK based *Media Law Defence Initiative*.¹⁴

The Right to Communicate with and Access Funding from International Bodies

Burundi’s NGO laws require international NGOs to consent to random inspections by the authorities. The draft law amending registration requirements for not-for-profit associations would also give the Minister of the Interior the power to inspect the funding arrangements of national NGOs. This law is ambiguous as to the permissibility of foreign funding, which is the primary source of funding for most NGOs in the country.

12 *Ibid.* Article 20

13 *Ibid.* article 19

14 RFI, “L’Union des journalistes conteste une loi sur la presse”, 21 January 2014, Accessed 29 December 2014, <http://www.rfi.fr/mfi/20140124-burundi-journalistes-liberte-ubj-presse-constitution/>

6. Issues common to all human rights defenders

“The new strategy isn’t to kill, but to terrorise and divide. There are even organisations that have been created to that end. Civil society organisations are very weak. It has become a practice to attack their presidents in order to endanger the entire organisation.”¹

Members of Burundian civil society have a reputation in the region for being strong and outspoken in their work as human rights defenders. Throughout our interviews with different elements of civil society, EHAHRDP was able to establish that certain challenges are pervasive for human rights defenders working across different domains, whether it is access to fair justice, good governance, or freedom of the media.

State authorities have repeatedly accused civil society of being affiliated with the political opposition, claiming that their criticism stems from their political engagement.

Human rights defenders all over the country have been working on cases of harassment, arbitrary arrests, torture and extrajudicial executions directed at the political opposition, not in support for their political ideals, but in defence of their basic civil and political rights. State attempts to ‘politicise’ civil society are part of a greater strategy to discredit

1 EHAHRDP Interview, July 2014

and smear government critics.

Right to peaceful assembly

“These days, we are simply not allowed to protest.”²

Although the 2013 Law on Public Gatherings does not seem manifestly repressive in theory, in practice it has been used by the authorities to systematically refuse public meetings or peaceful marches organised by civil society. ‘Threatening public order’ has become the most common reason for denying the right to organise public meetings or peaceful marches. In 2014, authorities intervened to prevent two meetings organised by the Burundian Bar Association from taking place. Some NGOs, faced with categorical refusals from the authorities, have been unable to hold a single public meeting in 2014.³

“On 3 May 2014, during the international freedom of the press day, journalists were prevented from organising a peaceful march in favour of freedom of the press. The Mayor of Bujumbura sent the police to stop this activity, claiming he has been notified of the march too late”.⁴

2 EHAHRDP Interview, July 2014

3 EHAHRDP Interviews, July, September and November 2014

4 EHAHRDP Interview, September 2014



Photo Credit: OLUCOME

This past year has seen civil society and the media work together on a number of campaigns, despite the restrictions in place. Since 2011, the “*Campagne contre la vie chère*” (Campaign against rising living costs) has met regularly to discuss and denounce the rising cost of living in Burundi. The campaign, led by anti-corruption organisation OLUCOME (*Observatoire pour la Lutte contre la Corruption et les Malversations Economiques*), now includes 478 members and regularly criticises the rise in taxes. The Campaign has come under heavy fire from the authorities, and most of its leaders have received direct threats.

The mayor of Bujumbura has written to a number of hotels to ‘remind’ them that non-governmental meetings

must be ‘authorised’ by his office.⁵ This requirement has no basis in either the 1991 or 2013 Laws on Public Gatherings. It has, however, had an impact on the public meetings organised within the framework of the *Campagne contre le vie chère*. A number of hotels now require this authorisation, and where a venue has been secured, the police have forcibly closed down at least four meetings since 2012.

At times, peaceful marches organised by the campaign were denied permission for spurious reasons. In September 2014, Bujumbura authorities refused Gabriel Rufyiri, the president of OLUCOME, authorisation to conduct a hunger strike and solidarity march by invoking the risk he posed to public order. When

⁵ Letters from Mayor of Bujumbura, sent to Bujumbura hotels, obtained by EHAHRDP

OLUCOME contacted the Minister for Internal Affairs to appeal this decision, they did not receive a response. Gabriel Rufyiri has been summoned to the prosecutor's office over 30 times since 2004 in connection with his anti-corruption campaigns.⁶

The “*Vendredi Vert*” (Green Friday) campaign united members of civil society and the media in support for human rights defender Pierre Claver Mbonimpa. After he was arrested and detained on Friday 16 May 2014⁷, his supporters wore green clothes every Friday to peacefully demonstrate their discontent with his continued imprisonment. The authorities not only refused to authorise peaceful marches organised in support of Mbonimpa, but also arrested three members of APRODH wearing green t-shirts on 22 May 2014.⁸ This intimidation technique successfully instilled fear in the population. *“I used to take part in the movement to support Pierre Claver on Fridays. But now I don't wear the Pierre Claver T-shirt on Fridays anymore. A member of the APRODH was arrested last week so now I am scared”*.⁹

Many NGOs have come to realise that respecting the law is their best defence. In order to avoid violent repression, they repeatedly notify the authorities of their planned public meetings or peaceful marches, only to see them denied authorisation for reasons such as

“delayed notification” or as ‘threatening public order’. The law allows for the decision to be appealed at the Administrative Court, and *Forum pour le Renforcement de la Société Civile* (FORSC) is currently engaged in legal proceedings against the Mayor of Bujumbura for his refusal to authorise a peaceful march in support of Pierre Claver Mbonimpa in June 2014. The Mayor claimed that the peaceful march had an ‘insurrectional character’, and the Minister of Internal Affairs, to whom FORSC appealed to overturn the Mayor’s decision, refused to authorise the peaceful march claiming that Mbonimpa has a pending case in the national court, and the matter was ‘in the hands of justice’. Neither of these justifications has any basis in law. At the time of writing, three public hearings have taken place. None of these hearings have addressed the substantive issue, despite the fact that FORSC has respected all procedures.

Harassment

Human rights defenders are routinely subject to both legal and administrative harassment by state authorities. Some civil society organisations have had their offices forcibly closed.¹⁰ Other civil society organisations have faced unreasonable barriers to registration. For instance, the journalists union (*Union des Journalistes Burundais – UBJ*), had to wait three years before its request to be registered was processed and approved. Other organisations

6 EHAHRDP Interview with HRD in July and November 2014

7 His case is extensively described at the end of this section.

8 EHAHRDP Interview in July 2014

9 EHAHRDP Interview in July 2014

10 EHAHRDP Interviews, July and November 2014

working on sexual minority rights have never been registered at all. 'Judicial harassment' of human rights defenders generally takes the form of repeated summonses by judicial authorities in an attempt to intimidate them. Increasingly, NGO workers and journalists have faced baseless accusations of terrorism, defamation, or of threatening the interior security of the state. 2014 has seen a number of cases of judicial harassment against human rights defenders, detailed later in this report.

Infiltration, surveillance and GONGOs

"The government has moved into a new phase of controlling civil society. The political [opposition] has already been dealt with, they have already been eliminated."¹¹

Human rights defenders in Burundi are facing the challenge of operating under heightened surveillance. Many of the HRDs interviewed by EHAHRDP, both within civil society organisations and the independent media, suspect they are under the surveillance of the National Intelligence Services (SNR). Some reported that they are followed in the course of their work.¹² Many regularly receive intimidating messages, believed to be from SNR agents, which instil fear for their own security as well as that of their families.

Over the course of EHAHRDP's research, there was a noticeable increase in civil society's concern about the independence of some civil society groups perceived as being connected to the governing party CNDD-FDD.

« There are now parallel organisations who accuse civil society of throwing sand in the wheels of the CNDD-FDD, of trying to get more funding before the elections, of being the only ones with access to the donors. They present civil society like saboteurs, like enemies of the nation, and try and discredit it. »¹³

Some HRDs we interviewed claim that these organisations have been created by the CNDD-FDD to attack and discredit human rights defenders. EHAHRDP met with two of these organisations, who rejected these allegations, and the notion that they were 'close' to the ruling party. When asked about the difficulties faced by some civil society organisations in arranging public assemblies, one interviewee responded, *"Public meetings can be organised without any problems. But they want to organise protests like in Egypt and in Syria, so it seems normal to me for the government to refuse"*. The overwhelming majority of human rights defenders interviewed for this report rejected this analysis.

11 EHAHRDP Interview, July 2014
12 EHAHRDP Interviews, July and November 2014

13 EHAHRDP Interview, July 2014

THE ARREST OF PIERRE CLAVER MBONIMPA

« *His arrest was a message for all of civil society: they can now imprison anyone.*»

Pierre Claver Mbonimpa, an internationally renowned human rights defender who was awarded the Martin Ennals Prize for HRDs in 2007, is considered by most as an elder statesman of Burundian civil society. On 6 May 2014, he spoke on *Radio Publique Africaine* about alleged cross-border paramilitary trainings of the *Imbonerakure*. His claims were initially not corroborated by a report by the United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo (MONUSCO) published on 31 July 2014.¹ A second MONUSCO report released on 2 October 2014 established that the Burundian army was present in the Democratic Republic of the Congo.²

He was summoned by the Judiciary Police of Bujumbura on 7, 12 and 14 May 2014, and asked to present proof of his claims in the context of a criminal investigation. He fully cooperated every time.

Unable to present himself to a summons on 15 May, he was represented by his lawyer Arnel Niyongere. The same evening, he received a court summons for 19 May. However, the General Prosecutor of Bujumbura signed his arrest warrant that same day. He was arrested on 16 May 2014 and taken to Mbimpa Central Prison. After several hours of questioning, he was charged with threatening state security, inciting civil disobedience and using false documents.³ The Chamber's Judge of the High Court of Bujumbura reviewed the lawfulness of his detention, and on 26 May 2014 decided to maintain Mbonimpa in detention. His hearing before the Court of Appeal on 5 June 2014 led to the same conclusion.⁴

On the first day of his trial, on 4 July 2014, Mbonimpa's lawyers raised objections to his detention on the basis of his age and poor health, which entitled him

1 UN Security Council, Secretary General Report on the UN Office in Burundi, 31 July 2014

2 Radio France Internationale, "RDC: l'ONU confirme la présence de l'armée burundaise à Kiliba Ondes", 3 October 2014, Accessed 25 November 2014, <http://www.rfi.fr/afrique/20141002-rdc-ONU-confirme-presence-armee-burundaise-kiliba/>

3 Burundi Penal Code, Articles 579, 602 and 356

4 Avocats Sans Frontières (ASF), "Pierre Claver Mbonimpa's trial must be fair, 3 July 2014, <http://www.asf.be/blog/2014/07/03/pierre-claver-mbonimpas-trial-must-be-faire/>

to be provisionally released according to Burundi's Penal Code. However, on 8 July 2014, judges ruled in favour of his continued detention. Mbonimpa's health deteriorated at the beginning of September 2014, and he was admitted to hospital. Despite once again refusing his provisional release on health grounds, the court accepted to set up an independent medical commission to assess his health conditions. The commission established that Mbonimpa was suffering from several serious health problems, and recommended his release. United States President Obama, along with the European Parliament, publicly asked that he be granted provisional freedom on health grounds.⁵ He was provisionally released on 29 September 2014, under bail conditions that prevent him from leaving Bujumbura. This significantly hampers the activities of Mr Mbonimpa, whose organisation covers the entire country.

In Burundi, Pierre Claver Mbonimpa is recognised as a 'go-to' person for victims of human rights abuses. He is well respected, and Burundians generally see him as an 'untouchable' human rights defender. His arrest came as a shock to civil society, and saw a huge international mobilisation of civil society organisations unite under the campaign "*Vendredi Vert*" (Green Friday). Supporters of Mbonimpa in Burundi suffered intimidation for attempting to speak out regarding his case, or when attempting to visit him. One human rights defender we interviewed claimed that upon returning from a prison visit, which had been broadcast on TV, two men came to her house seeking to question her. This subsequently discouraged her from taking part in any other public acts of support for Mr Mbonimpa.⁶

5 US President Obama, "Remarks by the President at Clinton Global Initiative", 23 September 2014, <http://www.whitehouse.gov/the-press-office/2014/09/23/remarks-president-clinton-global-initiative>;

European Parliament, "Resolution of 18 September 2014 on Burundi, in particular the case of Pierre Claver Mbonimpa (2014/2833(RSP))", <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2014-0023+0+DOC+XML+V0//EN>

6 EHAHRDP Interview, September 2014

6a. Human Rights Defenders at Enhanced Risk

Certain categories of human rights defenders in Burundi are exposed to specific vulnerabilities and risks, either because of the type of human rights abuses on which they focus, or their geographical location.

Human Rights Defenders working to end impunity

"I receive a lot of threats, where I am told that I should not work on political cases, that I am putting my life at risk by doing so."¹⁴

Burundi ratified the Optional Protocol to the *Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment* in October 2013. Under domestic law, Article 205 of Burundi's Penal Code states that: *"Anyone who subjects another person to torture or other cruel, inhumane or degrading treatment, will be punished with ten to fifteen years imprisonment, and a fine of one hundred thousand to one million Burundian francs".¹⁵*

According to the Human Rights and Justice Section of the UN Office in Burundi (BNUB), 68 cases of torture and other cruel, degrading or inhumane treatment took place in 2014. Most of these cases were perpetrated by police forces, although some also implicate local administration officials,

the *Imbonerakure* in collaboration with police forces, and the SNR. In 34 of these cases, the victims of torture were members of the political opposition. A report published by a coalition of civil society organisations, including the Burundian wing of the civil society organisation Action of Christians for the Abolition of Torture (ACAT – Burundi) in October 2014, and which was presented to the Committee Against Torture in November 2014, states that

"When it comes to torture and other bad treatments, impunity remains one of our great preoccupations at the moment, because it encourages other similar acts to be committed and deters victims and their families from acting by bringing their cases to court, or calling upon human rights organisations to help them."¹⁶

Since 2009, Burundi's Penal Procedure Code has allowed NGOs to join criminal proceedings as a *'partie civile'*, enabling them to bring cases on behalf of victims of torture.

"People are too afraid to work with me on this [torture] case, the authorities have already told me that I shouldn't be looking into this"¹⁷

The State has shown a recent willingness to initiate investigations into allegations

¹⁴ EHAHRDP Interview, July 2014

¹⁵ Burundi's Penal Code, Article 205

¹⁶ Civil Society Coalition and FIACAT, "Rapport de la société civile sur la mise en œuvre de la Convention contre la Torture en réponse à la liste des points à traiter", October 2014 http://www.fiacat.org/IMG/pdf/RAPPORT_CAT_BURUNDI_coalition_d_ONGs_CCPR_C_FIACAT.pdf

¹⁷ EHAHRDP Interview, September 2014

of torture by members of the police. However, these investigations are often incomplete, follow an opaque legal process, and often result in the perpetrator being released or given a reduced sentence. One human rights defender working on torture cases told EHARHDP that *“The victims are afraid because they know that the justice system is not strong enough to prosecute the authors of these crimes”*.¹⁸

Sensitisation of the authorities on the work of human rights defenders has improved relationships in some instances, in particular on issues relating to prison conditions and arbitrary arrests by police forces. However, in some cases, the relationship between civil society and the police and public administration is tense.

*“The cases which are difficult to work on are those which involve the authorities or state agents. These difficulties are presented in the refusal to meet us, or in the rapid transfer of the suspects. Getting access to prisons isn’t always easy, because those people who are likely to give us sensitive information are kept outside of the prisons. Often, they are kept in the police offices, where they remain inaccessible.”*¹⁹

*“Women stay muted on the current crisis because they are afraid”*²⁰

Many women human rights defenders we interviewed expressed reluctance to speak out against gender-based

18 EHAHRDP Interview, July 2014

19 EHAHRDP Interview, September 2014

20 EHAHRDP Interview, October 2014

violence and other forms of gender-based harassment perpetrated by state agents. Interviewees feared that doing so might expose them and their families to retribution, including discrimination when accessing state services, such as employment opportunities, and food and agriculture programmes.

A number of human rights defenders EHAHRDP spoke with suspect that they are routinely followed by, and receive direct threats from, SNR agents. Although recorded cases of human rights abuses by the SNR have decreased over the past few years (BNUB), it became apparent in our interviews that HRDs are regularly exposed to intimidating and manifestly unlawful practices. Whilst inherently difficult to document, these intimidating practices have instilled a climate of fear among most human rights defenders interviewed for this report.

*“There is a clear ambition to change appearances for the better, and to pretend to work on past mistakes, but as soon as HRDs try to engage with the authorities, problems arise.”*²¹

Human Rights Defenders and Imbonerakure

Many human rights defenders we spoke with were candid about their fear of the *Imbonerakure*, the youth league affiliated to the governing CNDD-FDD.

The *Imbonerakure* group has become increasingly controversial in Burundi. In 2014, according to the Human Rights

21 EHAHRDP Interview, September 2014

and Justice section of the BNUB, 95 acts of violence were allegedly perpetrated by the *Imbonerakure*, including 69 that targeted members of the political opposition. BNUB reports that in 19 cases, the *Imbonerakure* acted in collaboration with the police forces. As the group has grown in number, it has become unclear whether all those claiming to be members of *Imbonerakure* are actually affiliated to the ruling party.

An issue of particularly acute sensitivity throughout the course of 2014 has been the alleged armament and paramilitary training of the *Imbonerakure*. This has proven deeply concerning to the local population and the international community alike.²² The rise in violence associated with the *Imbonerakure* is having a deep impact on civil society in a country with a history of violence between armed rebel groups, and is entrenching a climate of fear and impunity. Few human rights defenders feel able to denounce publicly human rights abuses allegedly perpetrated by the *Imbonerakure*; those that do, are subject to violence and intimidation.

²² Radio France Internationale, "Burundi: de possibles livraisons d'armes à la jeunesse du CNDD-FDD", 10 April 2014 <http://www.rfi.fr/afrique/20140410-burundi-ONU-possibles-livraisons-armes-jeunesse-parti-pouvoir-cnnd-fdd/>;

US Mission to the United Nations, "Remarks by Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, at a Security Council Stakeout on the Central African Republic", 10 April 2014, <http://usun.state.gov/briefing/statements/224642.htm>;

United Kingdom Parliament, "Written Answers to Questions", 8 April 2014, <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140408/text/140408w0001.htm>

Whilst EHAHRDP received and was able to verify numerous credible reports of human rights defenders being subject to threats and violence from *Imbonerakure* members, the specific details of many of these cases cannot be made public in this report, due to concerns for the safety of our interviewees. A limited number of specific examples are however discussed later in this report.

Human Rights Defenders working in Rural Areas

*"Human rights defenders outside of Bujumbura are underrepresented. People are afraid to be a human rights defender"*²³

Human rights defenders in working in rural areas of Burundi operate in an isolated environment, often disconnected from head offices in Bujumbura, EHAHRDP visited human rights defenders in several provinces of the country.

Many HRDs working in rural areas have experienced surveillance at the hands of the SNR, and intimidation from the *Imbonerakure* in the course of their human rights work. Most interviewees based in provincial towns expressed their concerns over the fact that they are under surveillance, and afraid to leave their homes after nightfall.

"I receive a lot of threats, so I never go out at night. I am always followed by members of the Imbonerakure, so I have

²³ EHAHRDP Interview, September 2014

to be careful about who I talk to. My wife and children are always home before 6pm, and we never go out to restaurants or bars”²⁴

According to HRDs interviewed outside Bujumbura, areas with high political tensions are those where they are under the most pressure. Many claim that mounting tension between the *Imbonerakure* and the population is more noticeable in the hills, where the *Imbonerakure* are especially active. Two human rights defenders told EHAHRDP that *“in the hills, they are powerful, and they have weapons. Even the authorities admit that they are difficult to contain”*.

In this context, working in rural and often isolated areas of Burundi can expose the more vocal members of civil society to very real risks, without being able to rely on the administrative and judicial powers in place to protect them. Civil society collaborates closely with the media to denounce cases of political violence, or sensitive cases involving the *Imbonerakure*.

6b. The media on the frontlines

New press law, self-censorship and protection of sources

Many Burundian journalists act as witnesses and advocates for civil society, which has thrust some on to the frontline of human rights defence. A 2013 Press Law, which includes a controversial provision requiring journalists to reveal their sources, has restricted the media’s operating environment.²⁵ Several journalists have been compelled by court order to reveal their sources, although so far all have refused to do so. Sources, who no longer feel they are protected, have become reticent to speak to journalists. Self-censorship is increasing among journalists, many of whom are afraid that they will be prosecuted if they write about sensitive issues.²⁶

« The new press law has become a Sword of Damocles hanging over the heads of journalists. Now, sources that give information ask to be protected »²⁷

25 Article 20 gives the following exceptions to the protection of sources: Information about offences relating to the security of the state, to public order, to national defense, and the physical and moral integrity of one or more individuals

26 EHAHRDP Interviews, September and November 2014

27 EHAHRDP Interview, July 2014

24 EHAHRDP Interview, September 2014

Harassment of journalists

“Journalists get beaten by the police, members of the administration, the Imbonerakure... For example, this happened when we tried to cover a meeting by the [political opposition party] MSD. These attacks are not common practice, but they happen. When we try and sue, nothing happens.”²⁸

Journalists working as human rights defenders have faced threats and intimidation, and some have also been targeted through physical violence and judicial proceedings. Since October 2014, state authorities have been leading a campaign to discredit certain independent media outlets. Media coverage, relating to a recent spike in violent night-time attacks against the population, has been criticised by several members of government.²⁹ The legitimate issues raised by the media, which reflect increasing feelings of insecurity among the population and the international community,³⁰ have been met with accusations by the National Security Council of trying to ‘incite fear and instability’.³¹

28 EHAHRDP Interview, July 2014

29 Iwacu-Burundi, “C’est la faute aux médias!”, 25 November 2014
<http://www.iwacu-burundi.org/cest-la-faute-aux-medias/>

30 United States Embassy in Burundi, “Travel Warning for Burundi”, October 30 2014
http://burundi.usembassy.gov/information_for_travelers/travel-warning.html

31 Conseil National de Sécurité, Communiqué de presse, 10 November 2014,
<http://spcns-burundi.net/images/communique%2010%20n0v%20014.pdf>

“When journalists are taken to court, and the media reveals this information, a message of fear is spread among the population. This significantly hampers the work of journalists, and their [the government’s] strategy is working. Sources in sensitive cases are becoming difficult to find”³²

Like human rights defenders working within civil society organisations, many journalists in Burundi have been unjustly labelled as ‘political opponents’ of the ruling party, for publishing or attempting to report on sensitive political issues. In the context of the tense political climate in Burundi³³ and in the run up to the May 2015 elections, many journalists often struggle to cover electoral events. One journalist EHAHRDP interviewed for this report was beaten until he lost consciousness whilst attempting to report on allegations of voter intimidation by the CNDD-FDD.³⁴

Since April 2014, a number of journalists have been brought to court over their coverage of human rights violations allegedly committed by the *Imbonerakure*. At the time of writing, there are at least four journalists on trial, facing accusations including “threatening the security of the state” or defamation, linked to their investigations of state agents. These trials send a clear message to all journalists that investigative reporting of the ruling party or *Imbonerakure* will not be tolerated.

32 EHAHRDP Interview, September 2014

33 Amnesty International, “Burundi Lock

Down:

34 EHAHRDP Interview, July 2014

ne journalist interviewed for this report described receiving reliable information of a plan by state security forces to arrest him. At the time, he had been investigating issues relating to the *Imbonerakure*. On the basis of this information, which he concluded was credible, he decided to go into hiding. EHAHRDP has received several other reports of journalists being attacked following their coverage of political meetings, or for investigating acts involving the *Imbonerakure*. As one interviewee told us, *“the Imbonerakure chase journalists in the field, and our sources there are afraid of them”*.³⁵

*“Professionalism is the best protection. They can kill us, but before the law they won’t stand a chance. Today we are powerless, but they will pay in the end”*³⁶

35 EHAHRDP Interview, September 2014

36 EHAHRDP Interview, September 2014



Photo Credit: RFI

The *Radio Publique Africaine* (African Public Radio - RPA) has experienced intense judicial harassment over the past six months. At the time of writing, there are seven court cases against the radio station, its director, and its journalists.

In April 2014, two journalists from RPA and Radio Bonesha reported on the alleged distribution of weapons to the *Imbonerakure*. The CNDD-FDD initiated a lawsuit against the journalists, alleging that their claims were a threat to the internal security of the state. The trial is ongoing.

In the same month, the same journalist claimed in a radio broadcast that entire families had fled the hills around Bubanza for fear that the *Imbonerakure* might attack the area. He was sued by CNDD-FDD for defamation and malicious accusation.

In May 2014, an RPA journalist in Muyinga was ordered to reveal his sources, after the Police Commissioner and the Governor of the region lodged a complaint against him for defamation. He had again been reporting on issues relating to the *Imbonerakure*.

Most recently, an RPA journalist reported on an armed clash between the armed forces and youths in Cibitoke province on 7 October 2014, including reporting the presence of the *Imbonerakure* and the Governor of Bubanza's nephew.

The CNDD-FDD and the Governor of Bubanza immediately filed a petition to the president of the National Communications Council (*Conseil National de la Communication* - CNC) against the RPA and the journalist in question, invoking Article 17 of the highly contested Press Law, which declares that "journalists are required to only divulge balanced and rigorously verified information".

The president of the CNC later declared that the CNC would lodge a complaint to the General Prosecutor against the RPA and the journalist. This course of action is only authorised when the CNC has made a finding that a professional fault has been committed.

Between October and December 2014, five different petitions based on this incident have been filed against RPA.

6c. The judiciary and human rights defenders

“The judiciary is just an instrument now”³⁷

The UN Declaration on Human Rights Defenders defines a human rights defender in purposely broad terms, as including anyone working for the promotion and protection of human rights. This broad definition can extend beyond the professional human rights workers and journalists covered earlier in this report. In Burundi’s unique context, many members of the judiciary – through, *inter alia*, upholding the rule of law (including the right to a fair trial) in the face of executive harassment – display the necessary hallmarks to qualify as human rights defenders.

Judicial harassment of civil society and the media, as has been extensively described earlier in this report, betrays the increasing manipulation of the judiciary with the underlying purpose of undermining independent civil society voices. Government attempts to pressurize and manipulate judges into cracking down on sensitive cases concerning civil society and the political opposition undermines both the rule of law, and the basic civil and political rights of all Burundians.

Faustin Ndikumana, the head of the anti-corruption civil society organisation PARCEM (*Words and Actions for the Awakening of Consciences and the*

Evolution of Mindsets) denounced the lack of transparency in the recruitment of magistrates in February 2012 and was swiftly sentenced to a 5-year custodial term for ‘malicious accusations’. He was released after two weeks, although the status of his custodial sentence remains unclear.³⁸ Judicial recruitment has recently improved, through the introduction of an entrance examination for prospective magistrates. The first transparent recruitment session took place in June 2014. Selected candidates now complete a two-year training program before being appointed as magistrates.³⁹ Whilst efforts to bring more transparency to this process are encouraging, many human rights defenders interviewed for this report expressed concerns regarding the independence of the magistrates once they are recruited.

In January 2014, two judges were forcibly transferred from the Ngozi regional court to Kirondo and Muyinga. The judges had refused to comply with a court president’s request to re-examine a case in public (claiming that there was no new evidence that justified doing so). Subsequently, their offices were searched, and they were forcibly transferred to smaller communes in the province.⁴⁰ According to one

38 EHAHRDP Interview, July 2014

39 United Nations Security Council, “Report of the Secretary-General on the UN Office in Burundi”, 31 July 2014, <http://bnub.unmissions.org/Portals/bnub/SG2%20mid-term%20report%20on%20Burundi%2031%20July%202014.pdf>

40 EHAHRDP Interviews, July to November 2014

37 EHAHRDP Interview, July 2014

human rights defender working within the judiciary, this pattern is not new, and executive pressure on magistrates who attempt to follow the rule of law is common in all major courts of the country.⁴¹ These forced transfers represent a heavy financial burden on judges, who often have to support their families in their hometowns as well as the living arrangements related to their new positions.

The leadership of the Burundian Union of Judges (*Syndicat des Magistrats Burundais* – SYMABU) has been subject to intense administrative harassment, because of its criticism of the lack of independence of the judiciary. Jean Pierre Munyenbari, president of SYMABU, brought a criminal complaint to the Higher Instance Court of Ngozi in order to initiate an investigation into the case of the forced transfer of the two judges described above. This subsequently led to Munyenbari himself being forcibly transferred from the Higher Instance Court of Ngozi to Cankuzo in January 2014.

On 9 June 2014, a judge in Kayanza spoke to the press about a letter his union had sent to the President of Burundi, asking him to address threats against judges. That same evening, he was forcibly transferred to Rutana to work as the deputy head of the local prison. Reacting to this event, the vice president of SYMABU, Aimable Ntaonzoba, denounced this forced transfer, and was *himself* forcibly transferred from the

regional court of Ruyigi, in the north of the country, to the court of Makamba, in the south, on 13 June 2014.

“Judges who are part of the union are the most targeted at the moment, especially the representatives of each province. The threats go through parents or friends, through whom they are accused of being members of the opposition. This makes the threats difficult to prove”⁴²

The widespread pressures exercised on the judiciary are a serious threat to Burundian citizens’ right to a free and fair trial. In parallel, the efforts of some judges to resist unlawful pressure and denounce these abuses constitute a defence of human rights principles. In August 2013, the General Assembly of the Judiciary convened to analyse the prevailing problems within the judiciary, but was criticised by many civil society groups for not creating a timeline to implement changes. *“The fact that the Minister of Justice has not yet published the report from the 5-day conference demonstrates a flagrant unwillingness to see the system change”*, said one human rights defender working in the judiciary. Pressure on the judiciary has had an impact on civil society in a number of court cases concerning human rights defenders, two of which are detailed throughout this report.

41 EHAHRDP Interview, September 2014

42 EHAHRDP Interview, September 2014

CASE OF ERNEST MANIRUMVA



Ernest Manirumva was the vice president of anti-corruption NGO OLUCOME, and was involved in investigating highly sensitive cases including allegations of large-scale police corruption and illegal weapons purchases. He was murdered on 9 April 2009, and the subsequent flawed trial of his suspected murderers has become emblematic in Burundi. In June 2011, EHAHRP conducted an observation mission to Bujumbura to monitor this trial, and we have previously published an extensive report on the shortcomings of the legal process.¹

Three Commissions of Inquiry were set up by the government to investigate Manirumva's murder. The first two were dissolved amidst accusations over their lack of independence. The third Commission cooperated with the United States' Federal Bureau of Investigation (FBI), and both respectively published reports requesting that further investigations and DNA tests be conducted on high-level police and intelligence officials. On 22 May 2012, fourteen individuals were handed prison sentences ranging from 10 years to life imprisonment, amidst a widespread national and international outcry around the flawed legal process, and failure to take into account the recommendations of the third Commission of Inquiry.²

Appeal proceedings began in November 2012, and in January 2013 the Appeal Court confirmed the ruling of the Higher Instance Court of Bujumbura. Civil society organisations have repeatedly denounced the fact that the recommendations made by the FBI and the third Commission of Inquiry have not been taken seriously.

1 EHAHRDP, "Ernest Manirumva: A lost light, a derailed trial, and an embattled civil society", October 2011, <http://www.defenddefenders.org/wp-content/uploads/2011/11/ManirumvaEN.pdf>

2 EHAHRDP, HRW, Amnesty International, et al., "Burundi: Verdict in Activist's Killing Trial Fails to Deliver Justice; Despite Many Leads, Investigation Fell Short", Joint press statement, 23 May 2012 <http://www.defenddefenders.org/2012/05/burundi-verdict-in-activists-killing-trial-fails-to-deliver-justice-despite-many-leads-investigation-fell-short/>

An appeal hearing in the case was scheduled to be heard on 9 April 2014, the fifth anniversary of Manirumva's murder. Seven days prior, on 2 April 2014, OLUCOME had written to the Mayor of Bujumbura to inform him of a peaceful march that was to be held on 9 April 2014 in commemoration of Manirumva. Although OLUCOME followed procedures in accordance with the law, the Mayor of Bujumbura refused their notification, accusing OLUCOME of attempting to "disorient justice".³At a press conference on 4 April 2014, the General Prosecutor announced that Gabriel Rufyiri, current president of OLUCOME, was now a suspect in Manirumva's murder. In a preliminary note published by the General Prosecutor, he also accused civil society organisations of attempting to "disorient justice".⁴

The "Justice for Ernest Manirumva Campaign", which is led by Gabriel Rufyiri and other human rights organisations, has denounced the lack of transparency in the legal proceedings, which have now reached the Supreme Court. The campaign has called upon independent researchers to investigate the matter, and has worked methodically to verify information relating to Manirumva's murder. Moreover, they have denounced the murder and intimidation of several witnesses in the trial. Members of civil society interviewed by EHAHRDP claim that the executive branch of government, who has no wish of seeing the true culprits prosecuted, is manipulating the trial. They have led a powerful campaign over the past 5 years, working in synergy with the media to demand that legal procedures be respected.

3 Iwacu Burundi, "Rufyiri: Un nouveau suspect dans l'affaire Manirumva", 12 April 2014, Accessed 2 December 2014 <http://www.iwacu-burundi.org/rufyiri-un-nouveau-suspect-dans-laffaire-manirumva/>

7. Mechanisms for Human Rights

National

National Independent Commission for Human Rights

Following pressure from the Burundian government and other African member states of the UN Human Rights Council (HRC), the HRC accelerated the termination of the mandate of the UN Independent Expert on the Situation of Human Rights in Burundi in 2011, on the basis that a national human rights institution had recently been created.¹ The National Independent Commission for Human Rights (CNIDH) was set up in May 2011 and is composed of 7 commissioners, two of whom were given 3-year mandates as opposed to 5 others who received 4-year mandates. Parliament elects the commissioners to the CNIDH, and replaced Jean Marie Vianney Kavumbagu and Lucie Nyamarushwa after their 3-year mandate ended in August 2014.² Article 7 of the law that established the Commission requires that an expert in human rights and an expert from civil society focusing on women's rights fill these positions.³

1 The Commission's full mandate is available here: <http://cnidh.bi/mandat>

2 CNIDH, "Prestation de serment de deux commissaires de la CNIDH", 14 October 2014, Accessed 25 November 2014 <http://cnidh.bi/prestation-de-serment-de-deux-commissaires-de-la-cnidh>

3 *Loi n°1/04 du 05 janvier 2011*

The professional backgrounds of the recently appointed new Commissioners raise legitimate concerns about whether the criteria set out in law have been fulfilled.

The Commission has been working on a draft bill to give legal status to human rights defenders, which would improve the domestic legal framework, and available protection mechanisms for human rights defenders. CNIDH has three regional offices in Ngozi, Gitega and Makamba, and is looking to open a fourth one to cover the western part of the country. The Commission's regional observers conduct research, verify information in their region, and visit prisons to ensure that procedures are respected. State authorities now generally understand the role of the Commission, and cooperate with its members thanks to extensive sensitisation work. It is also well respected among civil society, and its independence should be preserved and protected to ensure that it can continue to work unimpeded.

portant création de la Commission Nationale Indépendante des Droits de l'Homme

International

UN Office in Burundi

The UN Office in Burundi (BNUB) left the country at the end of December 2014. Its departure is lamented by a broad range of human rights defenders and associations, who agree that its role in human rights monitoring, and in constructive dialogue with state authorities has contributed to improvements in their situation. Members of BNUB interviewed during the course of this research demonstrated extensive knowledge of the situation of human rights defenders, and an in-depth understanding of the current issues they face.

On 3 April 2014, a confidential communiqué from a senior official at BNUB to the UN office in New York was leaked in local media.⁴ The report made allegations that weapons and military and police uniforms had been distributed to the *Imbonerakure*. Following the leak, the government of Burundi vehemently denied these accusations and declared the Security Adviser of the United Nations, Mr Paul Debbie, *persona non grata* for attempting to « destabilise Burundi » and demanded that he leave the country within 48 hours.⁵

4 RFI, “Burundi: de possibles livraisons d’armes à la jeunesse du CNDD-FDD”, 10 April 2014

5 Iwacu-Burundi, “48 heures au Conseiller de Sécurité des Nations Unies pour quitter le Burundi”, 17 April 2014, Accessed 25 November 2014, <http://www.iwacu-burundi.org/48-heures-au-conseiller-de-securite-des-nations-unies-pour-quitter-le-burundi/>

Throughout the course of its mandate, BNUB has been under an inordinate amount of pressure from state authorities in Burundi. Following the end of BNUB’s mandate, a representative of the Office of the High Commissioner for Human Rights will remain in the country, and will take over a number of activities previously undertaken by BNUB. The former representative of the OHCHR, Jean Luc Marx, worked closely with the National Independent Commission for Human Rights on the draft human rights defenders law. At the time of writing, it was unclear what specific activities the new representative of OHCHR will undertake when he begins his mandate in 2015.

African Commission on Human and Peoples’ Rights

Burundi has ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the African Court on Human and Peoples’ Rights.⁶ However, individuals are not currently permitted to petition the Court directly. Further, only the (currently) 9 NGOs which benefit from Observer Status at the African Commission on Human and Peoples’ Rights (ACHPR) have the right to bring cases to the Commission.⁷ Civil society groups presented four cases of

6 African Commission on Human and Peoples’ Rights, “Ratification Table: Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the African Court on Human and Peoples’ Rights”, <http://www.achpr.org/instruments/court-establishment/ratification/>

7 African Commission on Human and Peoples’ Rights, “NGOs with observer status”, <http://www.achpr.org/network/ngo/>

extrajudicial executions to the ACHPR for the first time in 2014.⁸

East African Court of Justice

The East African Court of Justice (EACJ) was established in November 2001 to ensure the adherence to the East African Community Treaty. Access to the Court requires that domestic remedies first be exhausted. Burundian lawyer, and former head of the Burundian Bar Association, Isidore Rufyikiri has brought eight cases to the EACJ. These cases are generally related to land conflicts, unlawful detention, and the refusal of the authorities to execute legal judgements. Rufyikiri was disbarred and removed from his position in the Bar Association in February 2014. Prior to his disbarment, Burundian state authorities imposed a travel ban on 2 December 2013, which successfully hampered his legal and human rights work. The travel ban was eventually lifted on 8 July 2014, although he was only notified on 24 July 2014.

Four cases presented before the EACJ have now been determined, two of which were dismissed for procedural reasons. Five cases are currently pending, including one brought by Isidore Rufyikiri to call into question his

own disbarment, and another brought by a coalition of Burundian lawyers and the Media Law Defence Initiative (MLDI) to challenge the 2013 Press Law. The court has the power to order the State of Burundi to repeal or revise the law.

8 Iwacu-Burundi, "Exécutions extrajudiciaires: la société civile saisit la Commission Africaine", 20 June 2014, Accessed 25 November 2014, <http://www.iwacu-burundi.org/executions-extrajudiciaires-la-societe-civile-saisit-la-commission-africaine/>

8. The role of the international Community

Diplomats

“We felt like the political situation was improving until 2013, but now this trend is reversing” (diplomat in Bujumbura)

EHAHRDP spoke with several diplomats and political officers about the current situation in Burundi.

They voiced their concerns over the targeting of human rights defenders, and demonstrated a good understanding of the wider political situation across the country.

Under the *EU Guidelines on Human Rights Defenders*, the European Union has an obligation to provide assistance and protection to human rights defenders. These guidelines are meant to have a concrete and direct impact on the protection of human rights defenders, and allow for the EU to intervene in cases where human rights defenders are at risk. At present, the EU Mission in Burundi has not adopted a local implementation strategy for these guidelines, but assurances were given in person to EHAHRDP that steps would be taken to urgently do so.

United Nations Human Rights Council

The United Nations Human Rights Council (HRC), established in 2006 and based in Geneva, is the UN’s premier multilateral human rights body. Made up of 47 elected member states, Burundi participates as an ‘Observer State’ but is not currently a member of the HRC. ‘Special Procedures’ set up by the HRC are positions filled by experts who examine certain specific human rights issues across the world, with either a country or thematic focus.

The Special Procedure mandate of the *UN Expert on the Situation of Human Rights in Burundi* was created in 1997 under the now defunct UN Commission on Human Rights, in response to the then violent civil war in Burundi. This Expert’s mandate was renewed consistently until 2011, when the HRC terminated the mandate following the establishment of a national human rights institution in Burundi. The UN Security Council had previously, in December 2010, established the *UN Office in Burundi* (BNUB).

Despite clear signs of hostility from Burundian state authorities towards the UN and its mechanisms, in late 2014 Burundi saw two UN Special Rapporteurs

visit the country, including one on an official visit within his UN mandate. In July 2014, Maina Kiai, the *UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, visited Burundi on an academic visit. He met with members of civil society, and representatives from the government. During his visit Mr Kiai gave a public lecture during which he expressed concern over the deteriorating situation of human rights in Burundi, and the challenges this presents to the upcoming electoral process. In November 2014, Mr Michel Forst, *UN Special Rapporteur on the Situation of Human Rights Defenders*, conducted an extensive official visit to Burundi in order to assess the operating environment for human rights defenders. In his public statement at the end of his visit, Mr Forst expressed his concerns about the serious obstacles HRDs face: "I was very struck by the incredible vitality and professionalism of civil society in Burundi despite the difficult environment in which they work. They face serious obstacles that can amount to violations of their rights and fundamental freedoms, as well as their legitimate right to promote and protect human rights."¹

In spite of the gravity of the human rights situation in the country, Burundi receives scant attention from the HRC, and is not currently considered

under any official Agenda Item during the Council's three annual sessions. In June 2013, the Universal Periodic Review (UPR) of Burundi was adopted. In November 2014, the Committee against Torture considered the second periodic report of Burundi on its implementation of the provisions of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. These both provided an all too brief opportunity for the human rights situation in the country to come under international scrutiny, and for human rights defenders and members of Burundian civil society to engage with international stakeholders.

1 OHCHR, "Burundi: Government should ease pressure on human rights defenders", 25 November 2014, Accessed 1 December 2014 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15341&LangID=E#sthash.z2Ux8vwO.dpuf>

Office of the High Commissioner for Human Rights

In June 2014, the United Nations Assistant Secretary-General for Human Rights, Ivan Šimonović, visited Burundi and appealed to the authorities to ensure that human rights are fully protected ahead of the 2015 presidential elections. He asked that special attention be paid to the full respect for freedom of expression, including for journalists and human rights defenders. He also warned against violence connected to the electoral process.²

At the time of writing, the current representative of OHCHR in Burundi, Jean-Luc Marx, had just left the country and his replacement, who is set to begin his mandate in January 2015, had not yet been appointed.

2 Stéphane Dujarric, spokesman for UN Secretary General Ban Ki Moon, "Burundi: UN Official calls for the protection of human rights ahead of presidential elections", 27 June 2014
<http://www.un.org/sg/spokesperson/highlights/index.asp?HighD=6/27/2014>

9. Elections in 2015

« *Things are only going to get worse with the elections coming up. I have been openly told that by 2015 I will be in prison or dead.* »¹

The patterns of attacks, harassment, and intimidation against human rights defenders outlined in this report are of particularly acute concern, as Burundi heads towards national elections in May 2015. On 8 November 2014, Adama Dieng, the *UN Special Advisor to the Secretary General on the Prevention of Genocide*, spoke to the press in Arusha, Tanzania, to appeal for greater freedoms in Burundi in order to avoid further deterioration of the situation in the run up to the elections.

The Special Adviser told reporters in Arusha, “*the forces of evil must not be allowed to push certain actors toward criminal violence. [...] The best way to halt this violence is to bring all political players together to talk. If not, the worst could happen.*”²

The run up to the 2015 general elections has led to a worrying increase in political violence across Burundi. Many human rights defenders fear that the current

targeting of civil society is a deliberate effort to stifle voices of dissent before the elections. The independent media in Burundi have been struggling to cover the elections. Journalists who have expressed criticism of the way in which the ruling party is controlling the electoral process have been banned from attending and covering its political meetings. Other journalists have been intimidated in their attempts to cover meetings by the opposition parties.

In addition to human rights defenders, members of opposition political parties have encountered extreme difficulties in organising meetings. According to one human rights defender and electoral monitor in a rural province of Burundi, between January and July 2014, less than three meetings were held by opposition parties, whereas the CNDD-FDD had been able to organise over fifteen.³ International human rights groups have expressed concern at the political pressure being exerted over Burundians by the ruling party, particularly in the country’s more rural parts. In its latest report, Amnesty International expressed concern over politically motivated violence, and the potential violent retaliation of the opposition if the situation continues to deteriorate.

On 10 November 2014, Secretary

1 EHAHRDP Interview, July 2014

2 Iwacu-Burundi, “Avoid the worst in 2015”, 18 November 2014, Accessed 25 November 2014

<http://www.iwacu-burundi.org/blogs/english/avoid-the-worst-in-2015/>

3 EHAHRDP Interview, July 2014

General Mr Ban Ki-moon appointed former president of Mauritius Mr Cassam Uteem as his Special Envoy and Head of the United Nations Electoral Observation Mission in Burundi (MENUM). Mr Isaaka Soua from Nigeria was appointed Deputy Chief to the Mission, and in application with the Security Council's 2137 resolution, the Mission began its work on 1 January 2015, as soon as the BNUB's mandate ended.⁴

Amendments to the Constitution:

Article 124 ensures that two vice presidents belong to different ethnic groups and political parties, in accordance with the Arusha Accords, and in order to maintain the delicate balance of power in Burundi. Article 96 of the Constitution of Burundi allows for the President to renew his mandate once. However, in December 2013 the ruling party attempted to make changes to the Constitution, which would pave the way for current President Pierre Nkurunziza to run for a third term and would reduce the two vice-presidents to a single powerful prime minister and ceremonial vice-president. In March 2014, the CNDD-FDD engaged in negotiations with the parliamentary opposition, composed of UPRONA and FRODEBU parties, to attempt to win these changes through parliamentary approval.⁵ After the CNDD-FDD failed to

win the 85 out of 106 votes necessary to pass the amendments, Minister of the Interior Edouard Nduwimana suggested that the next step will be to submit the draft amendments to a referendum.⁶

4 UN News Centre, "Ban appoints envoy for UN Burundi office ahead of country's elections", 10 November 2014, <http://www.un.org/apps/news/story.asp?NewsID=49301#.VGJVPTEXC4>

5 Reuters, "Burundi's ruling party fails in

first bid to change constitution", 21 March 2014, Accessed 25 November 2014, <http://uk.reuters.com/article/2014/03/21/uk-burundi-politics-idUKBREA2K1MO20140321>

6 Agence France Presse, "Burundi Parliament rejects disputed draft constitution", 21 March 2014, Accessed 25 November 2014, <http://reliefweb.int/report/burundi/burundi-parliament-rejects-disputed-draft-constitution>

10. Conclusions

As documented extensively in this report, the risks and challenges facing human rights defenders in Burundi are both severe, and rapidly worsening. Throughout the course of 2014, the situation noticeably deteriorated.

Human rights defenders should be allowed to operate as neutral actors within civil society, but in Burundi HRDs are routinely and baselessly tarnished with accusations of political bias. The increasingly restrictive legal framework in Burundi is being used as a tool to repress human rights defenders' rights to freedom of expression, association and assembly.

Given the serious underlying human rights issues that Burundian HRDs monitor, document and advocate on, their work should instead be encouraged, and their warnings heeded. In the course of this research, a worrying number of human rights defenders expressed concern over their own safety. State efforts to silence, stigmatise, and undermine human rights defenders in Burundi must be understood in the context of a much wider political crisis which has radically escalated throughout 2014, and now threatens to engulf the country in 2015. In short, the climate of fear outlined in this report should serve as a stark warning to the international community, and all those who care

about Burundi's future, and the stability of East Africa.

If the trends outlined in this report are allowed to continue with impunity, the operating space for human rights defenders in Burundi is highly likely to shrink further, and the patterns of attacks will grow progressively more severe. Without concerted and coordinated action by the international community - including Burundi's development partners - the ability of national human rights defenders to hold the government to account, and articulate the concerns of Burundian citizens, will be further diminished.

A reversal of the trends outlined in this report requires firm commitments from, and concrete and immediate action by, the Burundian government towards radically improving the human rights compliance of all state security, military, and paramilitary forces under its control.

Human rights defenders in Burundi have been working tirelessly to speak out against the abuses committed by state and non-state actors. Their warnings have been attacked with smear campaigns, administrative and judicial harassment, physical violence, and threats to their and their families' lives.

EHAHRDP strongly urges the government of Burundi to immediately re-evaluate its position towards human rights defenders. Civil society should be able to act independently from the government,

and engage in meaningful dialogue with state authorities on issues that affect basic human rights.

11. Recommendations

In order to improve the working environment for human rights defenders in Burundi, so that they may safely and effectively carry out their activities, EHAHRDP offers the following recommendations for action.

To the Government of Burundi:

- Immediately take steps to ensure that all state agencies, including the National Intelligence Services, and all branches of its security apparatus, including all military and paramilitary organisations under its control cease all intimidation, harassment and attacks against human rights defenders;
- Immediately take steps to ensure that human rights defenders and all members of civil society are allowed to conduct public assemblies, form and operate associations, and exercise their right to freedom of expression in accordance with domestic law and regional and international human rights standards;
- Ensure the independence of the judiciary, immediately undertake to investigate all reports of judicial harassment, and publish the report from the 2013 General Assembly of the Judiciary;
- Ensure transparent and thorough investigations into all reported

threats or attacks against human rights defenders, and commit to hold perpetrators of such threats or attacks accountable in accordance with international legal standards;

- Drop all spurious charges against Pierre Claver Mbonimpa and all human rights defenders.

To the National Assembly of Burundi:

- Commit to reviewing the 2013 Law on Public Assemblies, and undertake to redraft the law to bring it in line with regional and international standards;
- Commit to reviewing the 2013 Press Law, and undertake to redraft the law to bring it in line with regional and international standards;
- Commit to carefully reviewing the draft law on the regulation of not-for-profit associations, ensuring that any future law is substantively compliant with regional and international human rights standards, and is passed in a transparent and democratic manner, acknowledging and incorporating the input of civil society;
- Ratify and deposit the African Charter on Democracy, Elections and Governance.

To the National Independent Commission for Human Rights:

- In keeping with their mandate as an independent, non-partisan, human rights watchdog, continue to report regularly and publicly on the human rights situation in Burundi, paying particular attention to the concerns raised in this report;
- Continue to consult widely and actively with civil society, the government, and other stakeholders on the development of a draft law on human rights defenders, ensuring that any proposed law meets regional and international human rights standards;
- Establish, without delay, a human rights defenders desk and focal point.

To Donors and Development Partners:

- Continue and expand direct financial and technical support to human rights defenders working across Burundi;
- Continue to provide the Republic of Burundi with direct financial and technical support, and ensure that such support is made contingent upon the state meeting achievable and measurable human rights commitments - including

a commitment to protect human rights defenders, and hold perpetrators of violations against HRDs to account;

- Recognise the important role of the CNIDH, and commit to providing it with direct financial and technical support to enable it to fulfill its mandate;
- Publicly recognise that the May 2015 national elections represent a potentially enhanced risk to Burundian human rights defenders, and ensure continued engagement with the government of Burundi and the international community to ensure heightened protection for human rights defenders working on issues relating to the election.

To the European Union Mission, and other European country missions in Burundi:

- Design and execute a robust and effective local implementation strategy for the European Union Guidelines on Human Rights Defenders.

To United Nations Human Rights Council and its member states:

- Recognising the gravity of the human rights situation in Burundi, take appropriate steps towards establishing a Special Rapporteur

on the Situation of Human Rights in Burundi, with a mandate to monitor and publicly report on violations of human rights in Burundi, and mandate the Special Rapporteur to report to the Human Rights Council and the General Assembly.

To Burundian Human Rights Defenders:

- Maximise efforts to strengthen networks of human rights defenders in the country to mutually strengthen each others' work.

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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