



**Submission to the Universal Periodic Review of Burundi**

Human Rights Watch

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## Summary

1. During the reporting period, many trends documented since the beginning of Burundi's human rights crisis in April 2015 persisted. In late April 2015, public demonstrations broke out in response to the late president Pierre Nkurunziza's decision to seek a controversial third electoral term. The Burundian police used excessive force and shot demonstrators indiscriminately. After a failed coup by a group of military officers in May 2015, the Burundian government intensified its repression against suspected opponents and suspended most of the country's independent radio stations. By mid-2015 almost all Burundi's opposition party leaders, independent journalists, and civil society activists had fled the country after receiving repeated threats. Those who remained did so at great risk.

2. Despite accepting recommendations during its previous Universal Periodic Review (UPR) in 2018 related to ensuring security forces' respect for human rights and freedom of media and civil society<sup>1</sup>, since then and during Nkurunziza's third and final term, independent civil society and media continued to be relentlessly attacked. There has been almost total impunity for these crimes. After a flawed electoral process and the sudden death of Nkurunziza, president Évariste Ndayishimiye took office in June 2020 and pledged to implement reforms and end impunity. However, since his election, all of the structural human rights issues documented under his predecessor remain in place. These include arbitrary arrests of political opponents or those perceived as such, acts of torture and other cruel, inhuman or degrading treatment or punishment, enforced disappearances, extrajudicial killings, sexual and gender-based violence, and undue restrictions to the rights to freedom of expression, peaceful assembly and association. Independent national and international human rights organizations are still unable to operate in Burundi. Several of the country's most prominent human rights groups remain either suspended or outlawed since 2015.

### **Killings, Torture and Other Abuses by Security Forces and Ruling Party Youths**

3. Throughout the reporting period, extrajudicial executions, enforced disappearances, arbitrary arrests, and torture by security forces and ruling party youths continued unabated. Dead bodies of people killed in unknown circumstances were regularly found across the country, often rapidly buried by authorities without further investigation.

#### ***Pre-electoral period (2017-2020)***

4. On December 12, 2017, Nkurunziza announced a referendum would take place to revise the constitution. Nkurunziza warned that those who dared to "sabotage" the project to revise the constitution "by word or action" would be crossing a "red line." In the months leading up to the referendum, police, intelligence services, and members of the Imbonerakure killed, raped, abducted, beat, and intimidated suspected opponents of the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie-Forces de défense de la démocratie, CNDD-FDD).<sup>2</sup>

5. Political violence tied to the May 2018 referendum claimed at least 15 lives, but the actual number killed is likely much higher.<sup>3</sup> Numerous political opponents were arrested, intimidated, or held incommunicado in unknown locations, including members of the then-National Liberation Forces (Forces nationales de libération, FNL), the Movement for Solidarity and Democracy (Mouvement pour la solidarité et la démocratie, MSD), and other opposition parties. Some were accused of having told their

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<sup>1</sup> UPR of Burundi (3<sup>rd</sup> Cycle – 29<sup>th</sup> session); Thematic list of recommendations;

<https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/BI/MatriceRecommendationsBurundi.docx>

<sup>2</sup> Human Rights Watch, "Burundi: Killings, Abuse Ahead of Referendum," May 18, 2018, <https://www.hrw.org/news/2018/05/18/burundi-killings-abuse-ahead-referendum>

<sup>3</sup> Ibid.

members to vote against the referendum.

6. As the 2020 elections neared, Burundian authorities and ruling party youths carried out dozens of beatings, arbitrary arrests, disappearances, and killings against real and suspected political opposition members.<sup>4</sup> In a concerted campaign against people perceived to be against the ruling party, there appeared to have been an increase in abuses since the registration of a new opposition party in February 2019, the National Congress for Freedom (Congrès national pour la liberté, CNL). The CNL was formerly known as the FNL.

7. The Commission of Inquiry (CoI) on Burundi mandated by the United Nations Human Rights Council (UNHRC) confirmed new cases of summary execution, enforced disappearance, arbitrary arrest and detention, sexual violence, torture and other cruel, inhuman or degrading treatment in 2018. The CoI concluded that the perpetrators of these crimes—the national intelligence service (Service National de Renseignement, SNR), the police, and the Imbonerakure—operate in “a climate of impunity perpetuated by the lack of an independent judiciary.” The commission for the first time implicated Nkurunziza directly in recurring calls for hatred and violence.<sup>5</sup>

### ***2020 elections***

8. Although Nkurunziza said he would not contest the presidential election in 2020, tensions continued to rise. People were forced to contribute money to the elections scheduled for May 2020 and to the ruling party. Imbonerakure members and local authorities mainly responsible for collecting the contributions largely did so by using force and threats, often at informal roadblocks set up to verify proof of payment. Those who could not provide receipts or refused to contribute faced violent retribution and intimidation. In some cases, people reported being denied access to public services if they were unable to prove they had contributed. In some provinces, CNDD-FDD and Imbonerakure members forced people to join the construction of local CNDD-FDD offices, and threatened, beat, or detained those who refused to comply, which constitutes forced labor.<sup>6</sup>

9. The May 2020 elections took place in the absence of any international observation mission<sup>7</sup> and, on election day, authorities blocked access to social media<sup>8</sup> and messaging apps throughout the country, restricting independent reporting and information sharing. The CNL told local media that over 600 of its members had been arrested during the campaigns and on election day, and Burundian rights organizations reported multiple abuses, including arbitrary arrests and beatings of CNL and other opposition party members.<sup>9</sup> Human Rights Watch spoke with several voters, journalists, and human rights defenders who said that in some rural locations, ruling party youths were present at polling places and had intimidated voters, while election officials and the police turned a blind eye to voter harassment and intimidation.<sup>10</sup>

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<sup>4</sup> Human Rights Watch, “Burundi: Rampant Abuses Against Opposition,” June 12, 2019, <https://www.hrw.org/news/2019/06/12/burundi-rampant-abuses-against-opposition>

<sup>5</sup> United Nations, Report of the Commission of Inquiry on Burundi (A/HRC/39/63), August 2018, <https://www.ohchr.org/en/hr-bodies/hrc/co-i-burundi/co-i-burundi-report-hrc39>

<sup>6</sup> Human Rights Watch, “We Let Our Children Go Hungry to Pay”: Abuses Related to the 2020 Election Levy in Burundi, December 6, 2019, <https://www.hrw.org/report/2019/12/06/we-let-our-children-go-hungry-pay/abuses-related-2020-election-levy-burundi>

<sup>7</sup> Human Rights Watch, “A Perfect Storm Is Brewing in Burundi,” May 14, 2020, <https://www.hrw.org/news/2020/05/14/perfect-storm-brewing-burundi>

<sup>8</sup> Open Observatory of Network Interference, “Burundi blocks social media amid 2020 general election,” May 21, 2020, <https://ooni.org/post/2020-burundi-blocks-social-media-amid-election/>

<sup>9</sup> Ligue Iteka, « Bulletin bimensuel sur le processus électoral de 2020 au Burundi, » May 18, 2020.

<sup>10</sup> Human Rights Watch, Burundi: Intimidation, Arrests During Elections, June 1, 2020, <https://www.hrw.org/news/2020/06/01/burundi-intimidation-arrests-during-elections>

### *Évariste Ndayishimiye's presidency (2020-2022)*

10. After August 2020, security deteriorated and there were several reports of clashes between security forces and armed groups, as well as attacks by unidentified assailants, particularly in provinces bordering the Democratic Republic of Congo. In some of these attacks, Imbonerakure members supported the national army. Groups of unidentified armed men were also reported to be responsible for random attacks resulting in civilian casualties. The Burundian authorities denounced these as “terrorist” or “criminal” acts and committed abuses against alleged perpetrators and civilians. Fabien Banciryano,<sup>11</sup> a former member of parliament and outspoken human rights advocate was convicted of abusive security-related charges on May 7 and sentenced to a year in prison in addition to pay a fine of 100,000 Burundian Francs (US\$51). He was released after time served on October 1, 2021.

11. According to the report of the CoI, men suspected of belonging to, or assisting, armed groups were executed by police or national intelligence agents throughout 2021.<sup>12</sup> Dozens of real or suspected members of opposition groups have been victims of enforced disappearances. Many people were also detained by the SNR and allegedly subjected to severe torture, rape, and ill-treatment.

12. Local and international monitoring groups, including Human Rights Watch, documented cases of torture of people suspected of collaborating with armed groups. The CoI on Burundi documented cases where victims died in detention.

13. After he took power, Ndayishimiye made some efforts to rein in members of the Imbonerakure and their involvement in human rights abuse was less visibly apparent. However, Imbonerakure members have continued to arrest, beat, and kill suspected opponents, sometimes in collaboration with or with the support of local administrative officials, police, or intelligence agents. Révérien Ndikuriyo, Secretary General of the CNDD-FDD and a hardliner within the party, made several incendiary speeches during gatherings of CNDD-FDD members and Imbonerakure. In August 2022, he called on the Imbonerakure to continue night patrols and to kill any “troublemakers”<sup>13</sup> and attacked international human rights organizations. Throughout 2022, Imbonerakure members followed training programs on “patriotism” across the country.<sup>14</sup>

14. On June 27, 2022, the National Assembly enacted a law on the Burundian national defense forces, which created a new reserve force, the Reserve and Development Support Force (Force de réserve et d'appui au développement, FRAD).<sup>15</sup> Its duties include organizing paramilitary trainings, “supporting other components in protecting the integrity of the national territory,” but also conceiving and implementing development projects, and operationalizing national and international partnerships.

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<sup>11</sup> Human Rights Watch, “Prosecution of Former MP Casts Doubt on Reform in Burundi,” October 12, 2020, <https://www.hrw.org/news/2020/10/12/prosecution-former-mp-casts-doubt-reform-burundi>

<sup>12</sup> United Nations, Report of the Commission of Inquiry on Human Rights in Burundi A/HRC/48/68, August 2021, <https://ohchr.org/EN/HRBodies/HRC/ColBurundi/Pages/ColBurundiReportHRC48.aspx>

<sup>13</sup> United Nations, “Statement by Nada Al-Nashif UN Acting High Commissioner for Human Rights,” September 12, 2022, <https://www.ohchr.org/en/statements/2022/09/global-update-statement-nada-al-nashif-un-acting-high-commissioner-human-rights>

<sup>14</sup> Human Rights Watch, “Burundi Leader Lashes Out at Rights Groups,” August 5, 2022, <https://www.hrw.org/news/2022/08/05/burundi-leader-lashes-out-rights-groups>

<sup>15</sup> Loi organique n°1/21 du 27 juin 2022 portant modification de la loi n°1/04 du 20 février 2017 portant missions, organisation, composition, instruction, conditions de service de fonctionnement de la force de défense nationale du Burundi, <https://assemblee.bi/IMG/pdf/n%C2%B021%20du%2027%20juin%202022.pdf>

15. Throughout 2022, the Burundian army conducted operations in neighboring Congo, targeting the Resistance Movement for the Rule of Law-Tabara (Mouvement de la résistance pour un État de droit-Tabara, RED-Tabara), an armed group that has launched attacks in Burundi in recent years. Members of the Imbonerakure supported the operations. According to rights groups and media reports, little or no explanation was given to the families of those who died on the battlefield.<sup>16</sup> In August, Burundian troops officially entered Congo as the first deployment of an East African regional force agreed upon by the East African Community (EAC) in April.<sup>17</sup>

**16. Recommendations to the government of Burundi:**

- a. Give clear and public instructions to the security forces and intelligence services that extrajudicial killings will not be tolerated and that any individual suspected of carrying out, ordering, or in any way participating in unlawful killings will be brought to justice.
- b. Investigate the role of individuals in the security forces and intelligence services alleged to have participated in or ordered unlawful killings and suspend them from active duty until investigations have been completed. If there is sufficient and credible evidence, ensure that these individuals, as well as other individuals involved in such killings, are charged and tried, according to due process and in conformity with Burundian law and international standards.
- c. Investigate and prosecute Imbonerakure members suspected of crimes.
- d. Strengthen the independence of the judiciary, reinforce witness protection, and guard against political interference.
- e. Immediately call for a halt to torture, including by publicly ordering Imbonerakure members to stop illegally detaining and ill-treating people.

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<sup>16</sup> Burundi Human Rights Initiative, “An Operation of Deceit: Burundi’s Secret Mission in Congo,” July 2022, [https://burundihri.org/english/july\\_2022.php](https://burundihri.org/english/july_2022.php)

<sup>17</sup> Reuters, “Burundi sends troops into Congo as part of East African force,” August 15, 2022, <https://www.reuters.com/world/africa/burundi-sends-troops-into-congo-part-east-african-force-2022-08-15/>

## **Civil Society and Media**

17. Most leading civil society activists and many independent journalists remain in exile, after repeated government threats in 2015 and arrest warrants against several of them. In October 2017, the Interior Minister banned or suspended 10 civil society organizations that had spoken out against government abuses.

18. Under Nkurunziza's final term, space for civil society and media shrunk significantly. In March 2018, three members of Parole et Action pour le Réveil des Consciences et l'Évolution des Mentalités (PARCEM), were sentenced to 10 years in prison for having "prepared actions likely to disrupt security." The activists were arrested in 2017 while organizing a workshop on arbitrary arrests. They were acquitted upon appeal in December 2018 and released on March 21, 2019.

19. In April 2018, rights activist Germain Rukuki, a member of Action by Christians for the Abolition of Torture (ACAT), was sentenced to 32 years in prison on charges of "rebellion," "threatening state security," "participation in an insurrectional movement," and "attacks on the head of state." In August 2018, activist Nestor Nibitanga, an observer for the Association for the Protection of Human Rights and Detained Persons (Association pour la protection des droits humains et des personnes détenues, APRODH), was sentenced to five years for "threatening state security." Nibitanga was pardoned and released on April 27, 2021. The conviction of Rukuki, was overturned on appeal in June 2021 and he was released.

20. In early May 2018, the National Communication Council (Conseil National de la Communication, CNC) suspended the BBC for six months for "violating press laws" and "unprofessional conduct" after inviting a leading Burundian human rights activist, Pierre Claver Mbonimpa, to its program on March 12 of the same year. At the same time, the CNC also banned *Voice of America (VOA)*, also for six months, for the technical reason that it was using a banned frequency.<sup>18</sup> Although the ban on the BBC was lifted in March 2022, the ban on VOA remains in place at time of writing.

21. On October 1, 2019, authorities suspended the activities of foreign nongovernmental organizations (NGOs) for three months to force them to re-register, including by submitting new documentation stating the ethnicity of their Burundian employees. In May 2020, the Supreme Court president ordered that the property of several high profile exiled Burundian human rights defenders and journalists be seized.

22. Media were heavily restricted in their coverage of the May 2020 presidential elections. The 2018 amended press law<sup>19</sup> and a new Code of Conduct for Media and Journalists in the election period required journalists to provide "balanced" information or face criminal prosecution, and prevented them from publishing information about the elections that did not come from the national electoral commission.

23. The January 30, 2020 conviction after a flawed trial of four *Iwacu* journalists who were arrested while going to report on fighting between security forces and the rebel group RED-Tabara in October

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<sup>18</sup> Human Rights Watch, International Media Banned During Burundi's Referendum Campaign, May 6, 2018, <https://www.hrw.org/news/2018/05/06/international-media-banned-during-burundis-referendum-campaign>

<sup>19</sup> Loi N°1/019 du 14 septembre 2018 portant modification de la Loi N°1/ 15 du 9 mai 2015 régissant la presse au Burundi, <https://www.presidence.gov.bi/2018/09/28/loi-n1019-du-14-septembre-2018-portant-modification-de-la-loi-n1-15-du-9-mai-2015-regissant-la-presse-au-burundi/>

2019 underscored the dangers of investigating security incidents.<sup>20</sup> Their conviction was upheld on appeal in June, but they were pardoned in December 2020.

24. Although Ndayishimiye’s government lifted some restrictions, including the suspension of the anti-corruption organization PARCEM, and released some detained rights defenders and journalists, the authorities continued to exercise undue interference in and oversight over the operations of civil society and the media.

25. A lawyer and former human rights defender, Tony Germain Nkina, was sentenced to five years in prison in June 2021, likely due to his past human rights work. On September 29, his conviction was maintained on appeal.<sup>21</sup> He remains in jail at time of writing.

26. On February 2, 2021, Burundi’s Supreme Court published the guilty verdict—dated June 23, 2020—in the case against 34 people accused of participating in a May 2015 coup attempt, including 12 human rights defenders and journalists in exile. After a trial, during which the defendants were absent and did not have legal representation, the group was found guilty of “attacks on the authority of the State,” “assassinations,” and “destruction.”<sup>22</sup>

27. On February 11, 2021, the CNC lifted the ban on public comments on *Iwacu*, which had been in place since April 2018, and pledged to restore access to the website in Burundi. On February 22, the CNC lifted the ban on Bonesha FM, which was required to sign an agreement similar to one Isanganiro, a private radio station, and Rema FM, a pro-ruling party station, signed when they resumed broadcasts in February 2016. On April 21, the CNC authorized several new radio and television channels to begin operating.<sup>23</sup>

**28. Recommendations to the government of Burundi:**

- a. Immediately and unconditionally release all prisoners unjustly imprisoned, including Tony Germain Nkina.
- b. Quash the conviction of the 12 defenders and journalists in exile and initiate a dialogue with human rights and media organizations in exile.
- c. Lift the suspension of human rights organizations and media operating from exile.
- d. Publicly support civil society and the media’s right to cover political, human rights, and security issues, and instruct local, provincial, and central authorities to end surveillance of their activities.
- e. Amend laws governing the media as well as domestic and international organizations in line with regional and international obligations.

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<sup>20</sup> Human Rights Watch, “Burundi: Journalists Convicted in Flawed Trial,” February 4, 2020, <https://www.hrw.org/news/2020/02/04/burundi-journalists-convicted-flawed-trial>

<sup>21</sup> Human Rights Watch, “Burundi: Release Lawyer Tony Germain Nkina,” August 10, 2021, <https://www.hrw.org/news/2021/08/10/burundi-release-lawyer-tony-germain-nkina>

<sup>22</sup> Human Rights Watch, “Burundi: Entrenched Repression of Civil Society, Media,” May 26, 2021, <https://www.hrw.org/news/2021/05/26/burundi-entrenched-repression-civil-society-media>

<sup>23</sup> Ibid.

## **Non-Compliance with United Nations mechanisms on Burundi**

29. In September 2016, the UNHRC adopted a resolution to establish the CoI, mandated to investigate human rights violations perpetrated in Burundi since April 2015, and to determine whether they may constitute international crimes. Burundian officials refused to work with the CoI. The Office of the UN High Commissioner for Human Rights (OHCHR) closed its country office in February 2019 at the request of the government of Burundi. In its last report, the CoI concluded on September 16, 2021, that grave human rights violations continued to be committed in Burundi and that “no structural reform has been undertaken to durably improve the situation.”<sup>24</sup>

30. Despite these findings, the European Union delegation in Geneva tabled a resolution at the September 2021 session of the UNHRC, adopted by a vote, which ended the mandate of the CoI and instead created a special rapporteur mandate. The Burundian government has repeatedly rejected the mandate and announced it would never give the mandate holder access to the country. The mandate was extended for a year in October 2022.

### **31. Recommendations to the government of Burundi:**

- a. Cooperate with the UNHRC-mandated special rapporteur on Burundi and allow him unhindered access to the country and relevant sites and people.
- b. Allow the OHCHR to re-open its country office.

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<sup>24</sup> United Nations, Report of the Commission of Inquiry on Human Rights in Burundi A/HRC/48/68, August 2021, <https://ohchr.org/EN/HRBodies/HRC/ColBurundi/Pages/ColBurundiReportHRC48.aspx>