



JOINT NGO Submission: UPR on Rwanda Session 37

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In cooperation with: AGIAMONDO, Bread for the World, Eirene, Misereor, pax christi, United Evangelic Mission

The Ecumenical Network Central Africa (ÖNZ), founded in 2002, is an alliance of six German faith-based organizations working on the Great Lakes region (DR Congo, Rwanda and Burundi). Members of this network work together with the church and civil society in the Great Lakes region for the promotion of peace, human rights and development. At its Berlin office, the organization works to fight against the continued marginalization of countries of the Great Lakes region in Africa. The ÖNZ works in coordination with the following organizations: AGIAMONDO, Bread for the World, Eirene, Misereor, Pax Christi and United Evangelical Mission.

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I. Introduction

1. The main objective of this report is to provide information on the progress made in the implementation of previous UPR recommendations to Rwanda. Within the context of the national policy, institutional and legislative framework, this report assesses the human rights situation in six areas: social and economic rights, civil and political rights, enforced disappearances and extrajudicial killings, torture and other cruel, inhuman or degrading treatment or punishment, freedom of expression and freedom of association, and lastly, access to justice. The assessment is based on numerous incidents and data collected from studies, NGO reports, UN documents, news articles and national reports. The ÖNZ concludes the findings in each area with recommendations for legal and policy reforms and other measures aimed at improving the human rights situation in Rwanda.

II. Social and Economic Rights

A. Recommendations and commitments made at the UPR

2. During the second cycle, recommendations related to socioeconomic wellbeing enjoyed the support of Rwanda in high numbers. Among these are recommendations regarding the government's continuing implementation of development policies that aim at poverty reduction and food security,¹ the right to health for all² and reducing malnutrition in children.³

B. Policy framework

3. With its "Vision 2020" programme, the Rwandan government has set itself the goal of transforming Rwanda into a knowledge-based society and turning into a middle-income country by 2020. Among the necessary reforms to achieve this goal are those that target infrastructure development, agricultural productivity and land use management, access to education, universal access to health care and private sector activities.⁴
4. In 1999, Rwanda started its Community-based health insurance (CBHI) as a pilot programme with a nationwide roll-out in 2004.⁵ Law No. 03/2015 of 2 March 2015 regulates the CBHI scheme and makes the enrolment to it mandatory, if not insured by any other health insurance scheme.⁶

¹ A/HRC/31/8 Recommendations 134.101 (South Sudan), 134.76 (Sri Lanka), 134.71 (Nicaragua), 134.75 (Luxembourg), 134.77 (Ukraine),

² A/HRC/31/8 Recommendations 134.73 (Nigeria), 133.41 (Cuba), 133.41 (Djibouti), 134.78 (Mauritius)

³ A/HRC/31/8 Recommendations 134.74 (Ireland), 135.64 (Germany), 135.65 (Ghana), 133.36 (Venezuela), 133.39 (Turkey)

⁴ Ministry of Finance and Economic Planning, Rwanda Vision 2020 Revised (2012), available at: http://www.minecofin.gov.rw/fileadmin/templates/documents/NDPR/Vision_2020_.pdf

⁵ ILO Social Protection Department, 'Rwanda: Progress towards Universal Health Coverage', available at: <https://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=53613>

⁶ Law No. 03/2015 of 2 March 2015 governing the organisation of the community-based health insurance scheme, Article 23

5. In 2007, Rwanda launched a land use consolidation and commenced implementation in 2008 under the Crop Intensification Program (CIP).⁷
6. In 2018, Rwanda established the National Early Childhood Development Coordination Program (NECDP), with the aim of reducing the prevalence of stunting to 19 per cent by 2024.⁸

C. Assessment of Human Rights in the field

7. Vision 2020 envisaged a gradual reduction of poverty. According to the National Institute of Statistics of Rwanda (NISR), the poverty substantially declined from 44.6 per cent in 2010/11 to 39.1 per cent in 2013/14.⁹ Different calculations by the Financial Times, academics and the British consultancy firm Oxford Policy Management, estimate poverty to have increased by at least 6 per cent from 2011 to 2014, due to an increase in living costs.¹⁰
8. In 2018, 38 per cent of children under five years were stunted and 2 per cent suffered from acute malnutrition.¹¹ Land consolidation policies have partly been blamed by researchers to contribute to the problem of malnutrition. The International Food Policy Research Institute (IFPRI) found that land consolidation led to an increased consumption of roots and tubers, but to a decreased consumption of meat, fish and fruits and a lower availability of vitamin B12. These findings are linked to the increasing push of agricultural commercialisation, which often entails on-farm specialisation in only a few crops. The Rwanda Crop Intensification Program (CIP) may significantly influence dietary diversity of Rwandan, not only through encouraging production of specific crops over others, but also by affecting consumption choices via supply and price effects. The IFPRI concludes in its findings that farmers' ability to access markets and market functioning appear to be critical to the effects CIP and land consolidation has on nutrition. Investing in market and transport infrastructure, as well as reducing domestic trade and processing costs could enhance the nutritional benefits of CIP.¹²
9. Rwanda submitted a voluntary pledge during the first cycle to provide universal health care and by the end of 2019 around 90 per cent of Rwandans had health insurance under either government or private schemes. More than 80 per cent of the population is covered under the CBHI scheme 'Mutuelle de Santé'. While this is an extraordinary accomplishment, beneficiaries of the CBHI scheme have raised concerns about a shortage of essential medicines leading to an increased out-of-pocket expenditure on health.¹³ A 2018 study conducted in the Nyanza district with 495 participants suggests, however, that unavailability of medicines is not a driving factor behind declining enrolment rates to the CBHI. Rather, irregularities with the *Ubudehe* system, which assigns beneficiaries to one of four categories

⁷ Innocent Rubanje, 'Linking land use, tenure and consolidation in Rwanda' (February 2016), available at: https://webapps.itc.utwente.nl/librarywww/papers_2016/msc/la/rubanje.pdf

⁸ World Food Programme, 'WFP Rwanda Country Brief' (September 2019), available at: <https://docs.wfp.org/api/documents/WFP-0000109860/download/>

⁹ National Institute of Statistics of Rwanda, '2013/2014 Rwanda Poverty Profile Report' (August 2015)

¹⁰ Tom Wilson and David Blood, 'Rwanda: where even poverty data must toe Kagame's line' (The Financial Times, 13 August 2019), available at: <https://www.ft.com/content/683047ac-b857-11e9-96bd-8e884d3ea203>

¹¹ The World Bank, 'Tackling Stunting: Rwanda's Unfinished Business' (June 2018), available at: <https://www.worldbank.org/en/country/rwanda/publication/tackling-stunting-rwandas-unfinished-business>

¹² Del Prete D, Ghins L, Magrinia E, Pauw K. Land consolidation, specialization and household diets: evidence from Rwanda. *Food Policy*. 2019;83: 139–49

¹³ Arafat Mugabo, 'No medicine for those using Mutuelle de Santé' (15 June 2019), available at: <http://rwandatoday.africa/news/No-medicine-for-those-using-Mutuelle-de-Sant-/4383214-5157490-9sgqlg/index.html>

based on their socioeconomic status, were found to contribute to non-adherence to the CBHI scheme. It has been observed that CBHI members were incorrectly categorised as wealthier than they actually are. In addition, inability to afford premiums was pointed out by 85 per cent of respondents in the study as reason not to enrol in the CBHI scheme. Belonging to the second category can make the slight difference of being or not being able to afford the enrolment to the CBHI, as the seasonal or irregular incomes of persons under that category can make payment more difficult.¹⁴

10. The closure of the Rwanda-Uganda border since late February 2019 has had far-reaching impacts on the lives and livelihoods of the local people and the local economy. In June 2019 three civil society organisations filed a case against the governments of Rwanda and Uganda in the East African Court of Justice (EACJ), alleging that the halting of cross-border trade and movement infringe upon the Treaty establishing the East African Community and the Common Market Protocol.¹⁵ Since the closure, there have been a number of arrests of people crossing the border on both sides. In addition, several Rwandans and Ugandans, suspected or actual smugglers, have been shot dead as they attempted to move across borders.¹⁶

D. Recommendations

11. Rwanda should come clear about its poverty calculations methods and the data used. The government should accept and analyse other serious data base to improve sustainably the current social-economic situation for the majority of the rural population.
12. Rwanda is advised to introduce nutritious-specific policies to address the lack of protein, micronutrients and calories in the population's diets and to counter-act the prevalence of stunting in children. As suggested by the IFPRI, potential starting points are improvements in market access and market functioning.
13. The ÖNZ welcomes the Local Administrative Entities Development Agency's (LODA) exercise of reviewing the *Ubudehe* categories every three years,¹⁷ posing an opportunity to address the challenges faced by the beneficiaries of the CBHI, in particular regarding affordability for seasonal and irregular workers. As to the management of medicines, Rwanda should ensure sustained availability to reduce out-of-pocket expenditure.
14. Rwanda should refrain from measures that limit the citizens' freedom of movement, unless there is a legitimate aim, such as a substantiated threat for national security and public health, and where the restriction is necessary and proportionate to the pursuance of that aim.¹⁸

III. Civil and Political Rights

¹⁴ Mecthilde Mukangendo, Manasse Nzayirambaho, Regis Hitama and Assumpta Yamuragiye, 'Factors Contributing to Low Adherence to Community-Bases Health insurance in Rural Nyanza District, Southern Rwanda', *J Environ Public Health* 2018; 2018: 2624591

¹⁵ EASSI, SEATINI-Uganda and CEFROHT, 'Press statement on a public interest litigation case on the closure of Uganda-Rwanda border' (1 July 2019), available at: <https://eassi.org/wp-content/uploads/2019/07/Press-statement-on-a-public-interest-litigation-case-on-the-closure-of-uganda-rwanda-border.pdf>

¹⁶ Mel Frykberg, 'Border killings stoke Uganda-Rwanda tensions' (27 May 2019), available: <https://www.iol.co.za/news/africa/border-killings-stoke-uganda-rwanda-tensions-24185412>
Risdell Kasasira (AP News), '2 Ugandans killed in Rwanda amid border tension' (10 November 2019), available at: <https://apnews.com/ddf3cb6624df4e51b6218a8891569acb>

¹⁷ Marie-Anne Dushimimana, 'Ubudehe categories to be reviewed' (5 February 2019), *The New Times*, available at: <https://www.newtimes.co.rw/news/ubudehe-categories-be-reviewed>

¹⁸ International Covenant on Civil and Political Rights, Article 12.3

A. Recommendations and commitments made at the UPR

15. During the second cycle, Rwanda received and noted a recommendation to create an environment conducive to the unhindered work of all political parties and to foster a culture of political pluralism.¹⁹ Rwanda was also encouraged to intensify the process of translating its commitments into progress on democratization, the broadening of the political space and the protection of human rights defenders.²⁰

B. Institutional and legislative framework

16. In December 2015 the president's term limit was extended to from two to three terms in a controversial referendum. Ultimately, Paul Kagame stood as a presidential candidate in the 2017 elections. The ruling Rwandan Patriotic Front (RPF) under President Paul Kagame continues to dominate the political landscape in Rwanda.

17. Organic Law No. 00572018.OL of 30 August 2018 governs political parties and politicians. It amends a 2013 law and introduces changes in relation to the financing for and the sanctioning of political parties. In the modified law, the government equally provides registered political organisations with grants. The sanction of dissolution for not submitting financial statements to the Office of the Ombudsman was removed.²¹

C. Assessment of Human Rights in the field

18. The 2017 presidential elections took place in a context of closed political space. Neither of the two co-candidates, Frank Habineza (Democratic Green Party of Rwanda, DGPR) and independent candidate Philippe Mpayimana, posed a serious challenge to president Kagame, who won with a reported 98.79 per cent of the vote. Both Habineza and Mpayimana were subjected to harassment, threats, and intimidation after announcing their candidacy.²² Diane Rwigara was defamed shortly after the announcement of her candidacy in May 2017. The fiercest critic of the Rwandan government was finally disqualified by the election commission because she allegedly did not collect enough signatures from supporters which she denied. The same fate was suffered by another rival candidate, Gilbert Mwendata, who also faced other problems, including hotels denying him conference rooms where he wanted to hold a press conference for his candidacy. The only registered independent opposition party, Democratic Green Party (DGP), with around 200,000 members, was hardly able to conduct an election campaign. It received no financial support from the government and the receipt of international donations and funding is prohibited. Its members have also repeatedly spoken about threats and hostility. Election advertising at markets, in schools, at bus stations or in other institutions is prohibited.²³ Civil society organisations reported that a climate of fear

¹⁹ A/HRC/31/8 Recommendation 135.58 (Czech Republic)

²⁰ A/HRC/31/8 Recommendation 135.56 (Norway)

²¹ Organic Law No. 00572018.OL of 30 August 2018 modifying the Organic Law No. 10/2013/OL of 11 July 2013 governing political organisations and politicians, Articles 5 and 8

²² HRW, 'Rwanda: Politically Closed Elections' (18 August 2017), available at:

<https://www.hrw.org/news/2017/08/18/rwanda-politically-closed-elections>

²³ ÖNZ, 'ÖNZ-Standpunkt: Wahlsieg Kagames bei der bevorstehenden Präsidentschaftswahl in Ruanda gilt als sicher' (August 2017), available at: https://oenz.de/sites/default/files/oenz-standpunkt_praesidentschaftswahl_in_ruanda_0.pdf

prevailed in the run-up to the presidential elections.²⁴ Voters have reportedly been intimidated, such as being told not to participate in Habineza's campaign rallies.²⁵

19. Diane Rwigara was arrested alongside her mother and her sister in late August 2017 shortly after the elections and charged with "inciting insurrection" among other charges. All their possessions were expropriated. Rwigara and her mother were acquitted in December 2018. A few months prior, in September 2018, Kagame pardoned more than 2,000 prisoners including the opposition politician Victoire Ingabire.²⁶
20. Rwigara's arrest coincided with growing pressure on the disqualified political party United Democratic Forces (FDU)-Inkingi. On 6 September 2017 seven of the party's members were arrested and other members were arrested the following days. They were charged with forming an irregular armed group.²⁷ Their trial was still ongoing until January 2020.²⁸
21. In the 2018 parliamentary elections, four deputies from two opposition parties were elected to parliament for the first time, which can be considered a positive development. Yet, the registration requirements for a political party remain strenuous and are linked to a serious financial and logistical burden.²⁹ There are a number of vaguely formulated prohibitions that can lead to the temporary suspension of a party's activities or dissolution, including tarnishing the image of Rwanda, carrying out acts or delivering speeches characterised by intolerance to different opinions, negating the 1994 Genocide against the Tutsi, or using words that intend to denigrate the image of someone.³⁰

D. Recommendations

22. Rwanda should promptly put an end to the systematic oppression of political dissent and widen the space of political participation. To achieve this, Rwanda must cultivate a political environment free from intimidation, harassment and arbitrary arrests. Rwanda is strongly encouraged to strengthen the right to organise in different political parties by removing undue obstacles in the legal framework.

IV. Enforced disappearances and extrajudicial executions

A. Recommendations and commitments made at the UPR

²⁴ Amnesty International, 'Rwanda: Decades of attacks repression and killings set the scene for next month's election' (7 July 2017), available at: <https://www.amnesty.org/en/latest/news/2017/07/rwanda-decades-of-attacks-repression-and-killings-set-the-scene-for-next-months-election/> [accessed 6 February 2020]

²⁵ HRW, 'Rwanda: Politically Closed Elections' (18 August 2017), available at: <https://www.hrw.org/news/2017/08/18/rwanda-politically-closed-elections>

²⁶ Organic Law No. 00572018.OL of 30 August 2018 modifying the Organic Law No. 10/2013/OL of 11 July 2013 governing political organisations and politicians, Article 4

²⁷ HRW, 'Rwanda: Post-Election Political Crackdown' (28 September 2017), available at: <https://www.hrw.org/news/2017/09/28/rwanda-post-election-political-crackdown>

²⁸ Reuters, 'Rwanda jails opposition figures for 7-12 years for 'conspiracy' (24 January 2020), available at: <https://www.reuters.com/article/us-rwanda-justice/rwanda-jails-opposition-figures-for-7-12-years-for-conspiracy-idUSKBN1ZN18U>

²⁹ UN Human Rights Council, 'Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Addendum: Mission to the Republic of Rwanda' (10 June 2014), A/HRC/26/29/Add.2, p. 10

³⁰ Organic Law No. 10/2013/OL of 11 July 2013 governing political organisations and politicians, Article 39

23. Rwanda has yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearances (ICPPED), as recommended to and accepted by the country in the first and second cycles.³¹ During the second cycle, a recommendation to investigate and prosecute human rights violations by law enforcement personnel, including in cases of enforced disappearances and torture, did not enjoy the support of Rwanda.³² However, Rwanda has pledged to take appropriate measure to ensure that all reported cases of enforced disappearance are thoroughly investigated.³³

B. Institutional framework

24. In its mid-term assessment report on the implementation of 2015 UPR recommendation, the Rwanda Civil Society Coalition on UPR noted that the Rwanda National Police (RNP) has created a desk to investigate and respond to cases of enforced disappearances.³⁴ There is, however, little information on the effects the desk has in solving cases of enforced disappearances.

C. Assessment of Human Rights in the field

25. Enforced disappearances target, in particular, members of opposition political parties. Illuminée Iragena, a member of the FDU-Inkingi party, has been missing since 26 March 2016. Her husband, Martin Ntavuka, a former FDU-Inkingi representative, has himself been arrested several times for his political activities. Despite various requests from her party and her family, as well as denunciations by several international human rights organisations, the Rwandan government has not provided any information on her situation. FDU-Inkingi member Jean Damascène Habarugira was reported missing in early May 2017. On 8 May 2017, his family members were contacted by a local hospital to recover his body. The police reported that the body had been found lifeless and that an investigation was ongoing. To this date, no one allegedly responsible for his murder has been identified.³⁵ FDU-Inkingi's vice-president Boniface Twagirimana has allegedly escaped from a maximum-security prison in October 2018 and has not been seen since. On 9 March 2019 the dead body of Anselme Mutuyimana, an assistant of the former FDU-Inkingi leader Victoire Ingabire was found on the edge of a forest. Another FDU-Inkingi member, Eugène Ndereyimana has been missing since mid-July 2019. And on 23 September 2019, FDU-Inkingi member Syldio Dusabumuremyi was stabbed to death by two unidentified men.³⁶

26. There is a disturbing number of at least 37 extrajudicial executions of suspected petty offenders in Western Rwanda between July 2016 and March 2017 documented by Human Rights Watch.

³¹ A/HRC/31/8 Recommendations 134.1 (Netherlands), 134.2 (Togo), 134.3 (Italy), 134.4 (Japan), 134.5 (Madagascar, Mali and Montenegro), 134.6 (Panama), 134.7 (Sierra Leone), 134.8 (Argentina), 134.9 (France), 134.10 (Cabo Verde), 134.11 (Chile), 134.12 (Costa Rica), 134.13 (Greece)

³² A/HRC/31/8 Recommendation 134.43 (France)

³³ A/HRC/31/8 Recommendation 133.18 (Cyprus)

³⁴ Rwanda Civil Society Coalition on UPR, 'Mid-term assessment report of the implementation of 2015 UPR Recommendations by the Republic of Rwanda' (January 2018), pp. 13-14

³⁵ La Tribune Franco-Rwandaise, 'Rwanda : L'ODHR condamne l'exécution extra judiciaire de maître Donat Mutunzi' (25 April 2018), available at: <http://www.france-rwanda.info/2018/04/rwanda-l-odhr-condamne-l-execution-extra-judiciaire-de-maitre-donat-mutunzi.html>

³⁶ Amnesty International, 'Rwanda: Ensure justice for opposition politician stabbed to death' (24 September 2019), available at: <https://www.amnesty.org/en/latest/news/2019/09/rwanda-ensure-justice-for-opposition-politician-stabbed-to-death/>

The murders were predominantly carried out by soldiers and police officers and on at least two occasions by encouraged civilians. The wave of attacks points to a prepared strategy to “spread fear, enforce order and deter any resistance to government policies”. Law enforcement officials held community meetings since early 2016 where they reportedly warned attendees that illegal activities, such as theft or illegal fishing, would no longer be tolerated and that criminals would be killed.³⁷ After having published the report Rwanda has decided not to renew a cooperation agreement with HRW. An investigation by the National Human Rights Commission (NHRC) dismissed HRW’s report.³⁸

27. Extrajudicial killings also target lawyers, such as Toy Nzamwita, who was shot by the police on 29 December 2016 at a roundabout in Kigali because he allegedly refused to stop at a road block and was intoxicated. In April 2018 lawyer Donat Mutunzi was found dead in a police cell, with contradictory statements surrounding his arrest and alleged suicide.³⁹ An examination of his body revealed severe wounds on the face and temples.⁴⁰

D. Recommendations

28. The ÖNZ urges Rwanda to ensure that all cases of enforced disappearance, deaths in custody and extrajudicial killings are promptly, impartially and thoroughly investigated, that all possible action is taken to locate persons reported missing, that those responsible are prosecuted and appropriately punished and that relatives of the victims are adequately compensated.
29. Rwanda should ratify the ICPPED and should make a declaration in accordance with Articles 31 and 32 ICPPED on the recognition of the competence of the Committee on Enforced Disappearances to receive and consider communication from or on behalf of victims or state parties to the Convention.
30. Rwanda must guarantee suspected criminals due process rights and exert strict control over the conduct of its law enforcement agents so as to prevent them from committing human rights violations against suspected criminals.

V. Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

A. Recommendations and commitments made at the UPR

31. During the first cycle, one recommendation to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) enjoyed the support of Rwanda. To this end, Rwanda ratified the OPCAT in June 2015.

³⁷ HRW, “All Thieves Must Be Killed” – Extrajudicial Executions in Western Rwanda’ (13 July 2017), available at: <https://www.hrw.org/report/2017/07/13/all-thieves-must-be-killed/extrajudicial-executions-western-rwanda>

³⁸ NCHR, ‘Report on investigations carried out by the National Commission for Human Rights in Rustiro and Rubavu districts on the Human Rights Watch (HRW)’s report of July 2017’ (October 2017), available at: http://www.cndp.org.rw/fileadmin/user_upload/REPORT_ON_INVESTIGATIONS_CARRIED_OUT_BY_THE_NATIONAL_COMMISSION_FOR_HUMAN_RIGHTS_IN_RUSTIRO_AND_RUBAVU_DISTRICTS_ON_THE_HUMAN_RIGHTS_WATCH_HRW_S_REPORT_OF_JULY_2017.pdf

³⁹ La Tribune Franco-Rwandaise, ‘Rwanda : L’ODHR condamne l’exécution extra judiciaire de maître Donat Mutunzi’ (25 April 2018), available at: <http://www.france-rwanda.info/2018/04/rwanda-l-odhr-condamne-l-execution-extra-judiciaire-de-maitre-donat-mutunzi.html>

⁴⁰ US Department of State, ‘Country Report on Human Rights Practices 2018 – Rwanda’, available at: <https://www.ecoi.net/en/document/2004185.html>

32. During the second cycle, Rwanda supported recommendations to establish a National Prevention Mechanism (NPM) in line with the OPCAT.⁴¹ One recommendation to investigate all allegations of torture and ill-treatment during interrogations in some detention facilities by the police and security forces was considered to be implemented or in the process of being implemented.⁴²

B. Institutional and legislative framework

33. Rwanda failed to put in place the NPM within the designated period of one year in accordance with its obligations under the OPCAT. A visit by the Subcommittee on the Prevention of Torture (SPT) in October 2017, to advise national authorities on the establishment of the NPM, was suspended on the fifth day due to serious obstructions during the visit.⁴³ These were regarding access to some places of detention and concerns about the confidentiality of interviews and possible intimidation and political reprisals arising thereof.⁴⁴ When the SPT resumed its visit in June 2018, it was terminated, citing a lack of cooperation from the government.⁴⁵ Eventually, Law No. 61/2018 of 24 August 2018 modifying law No. 19/2013 assigned special responsibilities as regards to the prevention of torture to the National Commission of Human Rights (NCHR). The NCHR is granted with visiting and advisory powers as regards to the conditions of detention of persons who are or may be deprived of their liberty.

34. The Ministerial Order No. 001/07.01 of 19 April 2018 determines the organization and functioning of the 28 transit centres and was indicated by Rwanda as the legal basis for the placement of street children in the centres.⁴⁶ Transit centres are defined as premises “used for accommodating on a temporary basis the people exhibiting deviant acts or behaviours”. Deviant acts or behaviours include actions such as “prostitution, drug use, begging, vagrancy, [or] informal street vending”.⁴⁷ After the detained individual has been “screened” and within 72 hours, a decision on transfer to a rehabilitation centre or medical facility, or return to the child’s legal guarding shall be made. The transfer should take place within 14 days after the decision has been made. If the individual is to be rehabilitated in the centre, the period should not exceed two months.⁴⁸ Men, women, male and female children admitted into a transit centre are to be placed in separate facilities. Under the order, a detained person has, among others, the following rights: access to hygiene and medical treatment, freedom from discrimination,

⁴¹ A/HRC/31/8 Recommendations 134.17 (Czech Republic) and 134.26 (Denmark)

⁴² A/HRC/31/8 Recommendation 134.48 (Italy)

⁴³ OHCHR, ‘Prevention of Torture: UN human rights body suspends Rwanda visit citing serious obstructions’ (20 October 2017), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22273&LangID=E> [accessed 4 February 2020]

⁴⁴ <https://www.oursplatform.org/wp-content/uploads/G1824710-Secretary-General-Reprisals-Report-HRC38-2018.pdf>

⁴⁵ OHCHR, ‘UN torture prevention body to visit Burundi, Costa Rica, Senegal and Switzerland; terminates Rwanda visit’ (4 July 2018), available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23325&LangID=E>

⁴⁶ OHCHR, ‘Experts of the Committee on the Rights of the Child hail progress in Rwanda, but express concern about street and refugee children and worst forms of child labour’ (28 January 2020), available at:

<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25505&LangID=E>

⁴⁷ Ministerial Order No. 001/07.01 of 19 April 2018 determining mission, organization and functioning of transit centers, Article 2

⁴⁸ Ibidem, Articles 15 and 16

the right to counselling, the right to be visited and the right not to be subjected to corporal punishment.⁴⁹

C. Assessment of Human Rights in the field

35. The National Commission for Children documented 2,882 children living on the streets across Rwanda in an assessment published in May 2019. At least half of this number had been placed in a centre for street children at least once. 44 per cent of boys and 36 per cent of girls consider the fact of being taken to transit centres as violence.⁵⁰ Refuting allegations of arbitrary detention of children, Rwanda maintains that children are not placed in the transit centres “to clear up the streets”, but to support, rehabilitate and if possible reunite them with their families.⁵¹ Although the government justifies the placement of children in transit and rehabilitation centres by Law No. 17/2017 and Ministerial Order No. 001/07.01, the ÖNZ is not convinced that there is a legal basis for the prolonged detention of children in such centres. Under Article 37 UNCRC, the detention of a child should only be used as a measure of last resort and for the shortest appropriate period of time. The ÖNZ is also concerned that the necessity of detention in transit and rehabilitation centres is not reviewed by a court and that the detainees cannot challenge the legality of their detention. Furthermore, the rights of detainees under the ministerial order are not upheld in practice. Between January and October 2019, New York-based group HRW compiled accounts of 30 children aged 11 to 17 who had formerly been detained at Gikondo transit centre. Detention periods of those interviewed ranged from several days to six months. Children were put together with other children (mixed) or adults in overcrowded rooms. Next to a low level of hygiene, medical attention and nutrition, the ÖNZ is disturbed at reports that detainees are regularly beaten, including children. Many former child detainees told HRW that upon release, they were simply brought back to the streets.⁵²
36. There are also concerns about the independence of the NCHR which is all the more alerting considering that it now holds the mandate of the NPM. Members are selected by a Committee appointed by the President, which could compromise their independence.⁵³ Although the concern had already been raised by the UN Human Rights Committee in May 2016,⁵⁴ the modified law of August 2018 on the NCHR that transferred special responsibilities as regards prevention of torture did not introduce any changes about the selection of members. In addition, the NCHR’s visiting powers have been obstructed in the past. Former detainees at

⁴⁹ Ibidem, Articles 10 and 19

⁵⁰ National Commission for Children, ‘A Comprehensive Assessment of the Street Children Phenomenon in Rwanda’ (May 2019), available at:

https://ncc.gov.rw/fileadmin/templates/document/FINAL-Comprehensive_Assessment_-_Street.pdf

⁵¹ OHCHR, ‘Experts of the Committee on the Rights of the Child hail progress in Rwanda, but express concern about street and refugee children and worst forms of child labour’ (28 January 2020), available at:

<https://www.ohchr.org/SP/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25505&LangID=S>

⁵² HRW, ‘Submission by Human Rights Watch to the Committee on the Rights of the Child on Rwanda’ (25 March 2019), available at: <https://www.hrw.org/news/2019/03/25/submission-human-rights-watch-committee-rights-child-rwanda>

⁵³ Law N° 61/2018 of 24 August 2018 modifying law N° 19/2013 determining mission, organisation and functioning of the National Commission for Human Rights, Article 6

⁵⁴ Human Rights Committee, Concluding observations on the fourth periodic report of Rwanda (2 May 2016), para 9-10, CCPR/C/RWA/CO/4

Gikondo recall well-prepared and tightly controlled visits by outsiders.⁵⁵ This is similar to what has been reported by the SPT and led to the suspension of the visit.

D. Recommendations

37. Rwanda must comply with its obligations under Article 12 OPCAT to cooperate with the SPT. In particular, the Rwandan government should immediately initiate dialogue on renewal and completion of the SPT's mission in their territory. During future visits, the government must ensure the SPT's unrestricted access to all facilities where people are or may be deprived of their liberty, as well as providing the SPT with all relevant information needed to carry out an evaluation of the needs of persons deprived of their liberty.
38. Rwanda should take measures to enhance the impact of the NPM. Possible measures to strengthen the NPM are: promoting dialogue and follow-up on the implementation of NPM recommendations; facilitate contacts between SPT and NPM; allocate budgetary resources to the NCHR for it to effectively carry out its NPM mandate; ensure a fully transparent process of appointment of members. As with the SPT, the government must ensure unrestricted access to all detention facilities and information relevant to the NPM's mission.
39. Rwanda should initiate a judicial process to determine the legality of the detentions at transit and rehabilitation centres and bring the legislation that regulates detention facilities in line with Article 37 UNCRRC.
40. An independent commission should investigate the allegations of human rights violations brought by the arrested children.

VI. Freedom of Expression and Freedom of Association

A. Recommendations and commitments made at the UPR

41. During the second cycle, Rwanda accepted two recommendations in relation to freedom of opinion and expression, including strengthening its legislation to eliminate all provisions that undermine freedom of expression.⁵⁶ A few recommendations were made to support the Rwanda Media Commission (RMC), by clarifying and strengthening its competencies,⁵⁷ by ceasing government interference with its work⁵⁸ and by ensuring its independence.⁵⁹ A recommendation to implement the June 2014 recommendations of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and for civil society and journalists to register and participate in civic life freely was supported by Rwanda and considered to be implemented or in the process of being implemented.⁶⁰

B. Institutional and legislative framework

⁵⁵ HRW, 'Submission by Human Rights Watch to the Committee on the Rights of the Child on Rwanda' (25 March 2019), available at: <https://www.hrw.org/news/2019/03/25/submission-human-rights-watch-committee-rights-child-rwanda>

⁵⁶ A/HRC/31/8 Recommendation 133.1 (Chile)

⁵⁷ A/HRC/31/8 Recommendation 135.50 (Germany)

⁵⁸ A/HRC/31/8 Recommendation 135.51 (Austria)

⁵⁹ A/HRC/31/8 Recommendations 135.49 (Ghana) and 135.52 (Sweden)

⁶⁰ A/HRC/31/8 Recommendation 134.66 (United States of America)

42. Rwanda decriminalised defamation and press offences by Law No. 68/2018 of 30 August 2018. That same law criminalised the humiliation of national authorities and persons in charge of public service, whether verbally, by gestures or threats, in writings or cartoons, as a criminal offence.⁶¹ On 24 April 2019, however, Rwanda’s Supreme Court repealed the article that punishes humiliating officials, stating that it violates the freedom of the speech. The decriminalization of both defamation and humiliation of public officials is a considerable expansion of the freedom of expression. Provisions on insults or defamation against the President of Rwanda, providing for a prison sentence of five to seven years and a fine of five million to seven million Rwandan francs, are nevertheless still in place.⁶²
43. A new cyber security law of August 2018 imposes up to five years imprisonment for publishing “rumours that may incite fear, insurrection or violence [...] or that may make a person lose their credibility”.⁶³
44. The functioning of national NGOs is governed by Law No. 04/2012 of 17 February 2012, whereby a revision of that law is underway.⁶⁴ The 2012 law is marred by excessive registration and reporting requirements. Legal personality is not granted immediately after registration, as the Rwanda Governance Board (RGB) first provides a temporary certificate of registration valid for twelve months. The applicant for a temporary certificate must provide a fully-fledged application letter together with ancillary documents such as “the minutes of the general assembly which appointed the legal representative of the organisation and signatures of all the members that attended”.⁶⁵
45. The law governing the organisation and functioning of international organisation, Law No. 05/2012 of 17 February 2012 is onerous as well in the types of documents that have to be submitted and obtained for registration, such as a recommendation letter from the relevant ministry covering their area of work.⁶⁶ After the registration period of five years, the government is accorded considerable discretion on renewal of registration, by each district immigration officer checking whether the INGO has fulfilled its objectives.⁶⁷ INGOs should not spend more than 20 per cent of its budget on “overhead costs in programs that are not in the interest of its beneficiaries”,⁶⁸ which impedes INGO’s freedom to determine their structure and activities without state interference.

C. Assessment of Human Rights in the field

46. Since its establishment in 2013, the extent to which the RMC self-regulates the media has been called into question due to a lack of separation of duties among multiple media regulators, such as RURA, the statutory agency that regulates broadcast frequencies. In 2015, RMC’s

⁶¹ Law No. 68/2018 of 30 August 2018 determining offences and penalties in general, Article 233

⁶² Ibidem, Article 236

⁶³ Law No. 60/2018 of 22 August 2018 on prevention and punishment of cyber-crimes, Article 39

⁶⁴ Rwanda Civil Society Coalition on UPR, ‘Mid-term assessment report of the implementation of 2015 UPR Recommendations by the Republic of Rwanda’ (January 2018), p. 12

⁶⁵ Law No. 04/2012 of 17 February 2012 governing the organisation and the functioning of national non-governmental organisations, Articles 15-24

⁶⁶ Rwanda Directorate General of Immigration and Emigration, ‘Procedures for registration of international non government organizations/INGOS’, available at:

<https://ingo.migration.gov.rw/index.jsp?sid=1&id=105&pid=93>

⁶⁷ UN Human Rights Council, ‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai’ (10 June 2014), para 51

⁶⁸ Law No. 05/2012 of 17 February 2012 governing the organization and functioning of international non-governmental organizations, Article 18(4)

elected chairperson Fred Muvunyi fled the country for fear of being detained or attacked. He has spoken out against the government's suspension of BBC's Kinyarwanda language radio service over allegations that a controversial BBC television documentary included genocide denial as well as against a government proposal to transfer the RMC's powers to a state-run body.⁶⁹ After Muvunyi has gone into exile, the RMC board is said to have been filled in close consultation with the government.⁷⁰

47. In 2019, Rwanda ranked 155th out of 180 in the World Press Freedom Index.⁷¹ Numerous independent news outlets and opposition blogs remain inaccessible online, such as *Umuvugizi*, *the Rwandan* and *Inyenyeri News*. At the height of the diplomatic tensions between Rwanda and Uganda, Rwandan authorities have blocked access to Ugandan news websites, including the largest daily newspaper New Vision.⁷²
48. In March 2018, Joseph Nkusi was sentenced to 10 years in prison for incitement to civil disobedience and spreading of rumors. As a blogger, he was known for sharply criticising the Rwandan government. He had lived in Norway since 2009, but following the rejection of his asylum application, Nkusi was deported to Rwanda in 2016 and immediately arrested.⁷³ This example shows that although we see a loosening of press laws that undermine the freedom of expression, the judiciary interprets other provisions broadly to prosecute people who express criticism.
49. Several journalists have been arrested for allegedly spreading rumours and propaganda online. Four journalists for Iwacu TV, a Kinyarwanda-language news broadcaster on Youtube were arrested in October 2018. Local journalist Olivier Habimana was arrested in relation to his Youtube channel in March 2019.⁷⁴
50. Lately, the Rwandan government is said to have been involved in the dismissal of the Congolese journalist Jacques Matanda at BBC Senegal. In November 2019 Matanda had interviewed Charles Onana, a Franco-Cameroonian author who maintains that the Rwanda Patriotic Front committed a double genocide against the Hutus. Subsequent to the interview, Matanda was dismissed for violating the BBC editorial policy. His letter of dismissal states that Rwanda had accused the BBC of being "unfair, biased and inaccurate" and that Rwanda would "reserve the right to take sanctions against the BBC". Official sources in Kigali deny that they had reached out to BBC management in relation to the controversial interview.⁷⁵

⁶⁹ Committee to Protect Journalists, 'Hopes of independent press in Rwanda fade as head of media body flees' (8 July 2015), available at: <https://cpj.org/blog/2015/07/hopes-of-independent-press-in-rwanda-fade-as-head-.php> [accessed 20 February 2020]

⁷⁰ <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/rwanda/>

⁷¹ Reporters without borders, 'Rwanda', available at: <https://rsf.org/en/rwanda>

⁷² Frank Kisakye (The Observer), 'Ugandan websites blocked in Rwanda as 'war' sucks in media houses' (23 August 2019), available at: <https://observer.ug/news/headlines/61756-uganda-blocks-access-to-rwanda-propaganda-website>

⁷³ Freedom House, 'Freedom on the Net 2018 – Rwanda' (1 November 2018), available at: <https://freedomhouse.org/report/freedom-net/2018/rwanda> [accessed 20 February 2020]

⁷⁴ Committee to Protect Journalists, 'Damascene Mutuyimana', available at: <https://cpj.org/data/people/damascene-mutuyimana/index.php> [accessed 25 February 2020]

⁷⁵ Mehdi Ba, 'Controversial Rwanda interview earns BBC Africa journalist sack' (11 February 2020), The Africa Report, available at: <https://www.theafricareport.com/23224/controversial-rwanda-interview-earns-bbc-africa-journalist-sack/>

D. Recommendations

51. Rwanda should clarify the roles and duties of statutory agency RURA and ensure that these do not diminish the purpose of having a self-regulatory body for the media through overlapping powers and duties. In order to promote self-regulation of the media, RMC must be responsible for the conduct of media practitioners, including the content of audio-visual media, whereas RURA's responsibility is technical in terms of distribution of frequencies to the audio-visual media.
52. Rwanda should allow journalists to operate freely and refrain from action that encourages self-censorship, especially arresting and prosecuting journalists and human rights defenders. Crimes that restrict the freedom of expression should be defined in a precise and narrow manner and be proportionate.
53. The ÖNZ encourages Rwanda to consider in its revision of Law No. 04/2012 and Law No. 05/2017 of 17 February 2012 changes to facilitate the registration requirements for national and international NGOs, in particular by declaring an organisation a legal entity as soon as it has notified its existence to the RGB and by removing bureaucratic obstacles such as extensive application letters and the securing of letters of collaboration or recommendation with local authorities.

VII. Access to justice

A. Recommendations and commitments made at the UPR

During the second cycle, Rwanda pledged to ensure due process and fair trial rights⁷⁶ and conduct effective and objective investigations into cases of alleged arbitrary arrest and detention.⁷⁷

B. Legislative framework

Law No. 30/2013 of 24 May 2013 governs criminal investigations and prosecution. It lays down the rights of a person in custody and before court, determines the procedure of provisional detention and trials.⁷⁸

C. Assessment of Human Rights in the field

54. On 31 March 2016, the Military High Court of Kanombe sentenced Colonel Tom Byabagamba and retired Brigadier General Frank Rusagara to 21 and 20 years in prison for inciting rebellion and tarnishing the government's image. The charges were related to critical remarks made in private conversations against the Rwandan government. The sentences were reduced to 15 years in late December 2019, as this is the maximum for the respective crimes.⁷⁹ Their trial has been considered flawed by civil society groups, such as in regards to one prosecution witness being a judge in the pre-trial detention of their trial, unreliable evidence provided by several prosecution witnesses and the fact that Rusagara had been prosecuted in a military

⁷⁶ A/HRC/31/8 Recommendation 134.49 (Germany)

⁷⁷ A/HRC/31/8 Recommendation 133.17 (Sweden)

⁷⁸ Law No. 30/2013 of 24 May 2013 relating to the code of criminal procedure

⁷⁹ The East African, 'Byabagamba and Rusagara sentences reduced to 15 years' (28 December 2019), available at: <https://www.theeastafrican.co.ke/news/ea/Tom-Byabagamba-frank-Rusagara-sentences-reduced-to-15-years/4552908-5400612-10w87hkz/index.html> [accessed 20 February 2020]

- court, although he has retired from the military.⁸⁰ Under the African Charter on Human and People’s Rights, military courts should have no jurisdiction over civilians.⁸¹ There have also been concerns about inadequate medical attention, as the health of the two convicted has reportedly deteriorated.⁸² In a related trial, retired Sergeant Francois Kabayazi, Rusagara’s driver, was sentenced to 5 years in prison. He raised allegations of torture while in detention.⁸³
55. During the pre-trial of the opposition member Diane Rwigara, which had been postponed multiple times, she reported that she had been denied access to her case file and had not been allowed enough time with her lawyer to prepare her defence.⁸⁴
56. On 28 November 2018, freelance journalist Phocas Ndayizera was arrested on terror charges. According to the Rwanda Investigation Bureau (RIB), Ndayizera was caught receiving explosives, including dynamite. People who are familiar with the journalist’s work believe the key reason for his arrest was his journalism. He has worked for state-owned Radio Rwanda and for a magazine published by the Ministry of Defence. Until June 2018 he has contributed to the BBC’s Kinyarwanda, where he had covered court cases, politics and human-interest stories.⁸⁵ Ndayizera was arrested alongside 12 co-defendants who are charged with plotting to carry out terror attacks on power plants and water installations. During bail hearings, Ndayizera pleaded guilty to the charges, although he and the co-accused pleaded not guilty when their trial started on 19 November 2019.⁸⁶ This gives rise to concern that the accused have been intimidated and forced to confess, such as in the case of radio station director Cassien Ntamuhanga, who was arrested in 2014, convicted in 2015 and accuses the police of extracting a confession under duress.⁸⁷
57. On 27 November 2019, Jackie Umohoza, the daughter of exiled pastor Deo Nyirigira, was grabbed by five men and bundled into a van. She had been arrested on charges of treason and espionage. In late December, Amnesty International reported that the public prosecution had not brought a case against Umohoza,⁸⁸ as would have been required within five days after her arrest for detention to continue.⁸⁹ 21 days after her arrest, her brother stated that Umohoza was denied access to her lawyer, only being allowed to speak with him ten minutes at a time.

⁸⁰ HRW, ‘Rwanda: Ex-Military Officers Convicted Over Comments’ (1 April 2016), available at: <https://www.hrw.org/news/2016/04/01/rwanda-ex-military-officers-convicted-over-comments>

⁸¹ *Media Rights Agenda v. Nigeria*, Comm. No. 224/98, paras. 60-66 (African Commission on Human and People’s Rights 2000); *Law Office of Ghazi Suleiman v. Sudan*, Comm. Nos. 222/98 and 229/99, para. 64 (African Commission on Human and Peoples’ Rights 2003)

⁸² Ivan R. Mugisha (The East African), ‘UK lawmakers in plea for release of Rwandan soldiers’ (9 November 2019), available at: <https://www.theeastafrican.co.ke/news/ea/UK-lawmakers-in-plea-for-release-of-Rwandan-soldiers/4552908-5342758-20u9gp/index.html>

⁸³ HRW, ‘Rwanda: Free Speech Convictions’ (13 January 2020), available at: <https://www.hrw.org/news/2020/01/13/rwanda-free-speech-convictions-upheld> [accessed 18 February 2020]

⁸⁴ Edmund Kagire (The East African), ‘Kigali court suspends Rwigaras pre-trial again’ (11 October 2017), available at: <https://www.theeastafrican.co.ke/news/ea/Rwanda-court-adjourns-Rwigara-case/4552908-4135050-format-sitemap-a36xtp/index.html>

⁸⁵ Committee to Protect Journalists, ‘Phocas Ndayizera’, available at: <https://cpj.org/data/people/phocas-ndayizera/index.php> [accessed 20 February 2020]

⁸⁶ Committee to Protect Journalists, ‘Phocas Ndayizera’, available at: <https://cpj.org/data/people/phocas-ndayizera-1/index.php> [accessed 20 February 2020]

⁸⁷ Reporters Without Borders, ‘Radio journalist gets 25 years on conspiracy charges’ (2 March 2015), available at: <https://rsf.org/en/news/radio-journalist-gets-25-years-conspiracy-charges>

⁸⁸ Amnesty International, ‘Rwanda: Pastor’s daughter arbitrarily detained: Jackie Umohoza’ (20 December 2019), available at: <https://www.amnesty.org/en/documents/afr47/1600/2019/en/>

⁸⁹ Law No. 30/2013 of 24/5/2013 relating to the code of criminal procedure, Article 37

Her sisters were interrogated earlier this year and their Ugandan and Rwandan identity cards were temporarily confiscated.⁹⁰

58. According to an interview conducted by a Freedom House consultant in 2019, the trial of the four arrested Iwacu TV journalists will reportedly not start until 2022.⁹¹ The maximum pre-trial detention period of one year expired in October 2019.
59. Christopher Kayumba, a Rwandan author for the Chronicles, was arrested on 10 December 2019 at Kigali airport, where he was to set off for a flight to Nairobi, on two charges: drunkenness and causing disturbance at the airport. At the time of writing, no proceedings were opened, merely his application for bail was denied on 31 December.⁹²

D. Recommendations

60. Rwanda must take steps to strengthen the rule of law and ensure that the law relating to criminal procedure is upheld at any times. The Rwandan government needs to ensure that the justice is an independent pillar and not a tool of the executive.
61. Rwanda must address and impartially investigate the violations committed by law enforcement agents taking place during criminal procedure, such as in relation to arbitrary arrests, the arrested person's right to be informed about the charges brought against him or her, the length of pre-trial detention, the right to legal counsel, the presumption of innocence, the right to a speedy trial and the right to not be subjected to torture and duress.

⁹⁰ Bukola Adebayo (CNN), 'Rwanda accuses a pastor's daughter of treason and espionage. Her family says the charges are fabricated' (24 December 2019), available at: <https://edition.cnn.com/2019/12/24/africa/rwanda-pastor-daughter-treason-charges/index.html>

⁹¹ Freedom House, Freedom on the Net 2019: Rwanda, (accessed 25 February 2020) available at: https://www.freedomonthenet.org/country/rwanda/freedom-on-the-net/2019#footnoteref3_rn7zi0z

⁹² Top Africa News, 'Rwanda's Main Opposition Leader wants Immediate Justice to Dr. Kayumba' (19 February 2020), available at: <https://www.topafricanews.com/2020/02/19/rwandas-main-opposition-leader-wants-immediate-justice-to-dr-kayumba/>

VIII. Annex

1. List of abbreviations and acronyms

CBHI	Community-based health insurance
CPI	Crop Intensification Program
EACJ	East African Court of Justice
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearances
IFPRI	International Food Policy Research Institute
NECDP	National Early Childhood Development Coordination Program
NHCR	National Human Rights Commission
NISR	National Institute of Statistics of Rwanda
NPM	National Prevention Mechanism
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
RGB	Rwanda Governance Board
RMC	Rwanda Media Commission
RURA	Rwanda Utilities Regulatory Authority