



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the third periodic report of Burundi*

1. The Committee considered the third periodic report of Burundi at its 2039th and 2042nd meetings, held on 31 October and 1 November 2023, and adopted the present concluding observations at its 2066th meeting, held on 12 November 2023.^{1,2}

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party, although it regrets that the report was submitted almost two years late. The Committee also appreciates the State party's written replies to the list of issues.^{3,4}

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and welcomes the oral and written responses provided to the questions and concerns raised during consideration of the periodic report.

B. Positive aspects

4. The Committee notes with satisfaction that, since its consideration of the previous periodic report, the State party has ratified or acceded to the following international instruments:

- (a) the African Youth Charter, on 9 January 2023;
- (b) the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, on 28 April 2022;
- (c) the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, on 28 April 2022.

5. The Committee also welcomes the State party's initiatives to revise or introduce legislation in areas of relevance to the Convention, including the adoption of the following:

- (a) Act No. 1/03 of 10 January 2018 providing for the protection and promotion of the rights of persons with disabilities in Burundi;
- (b) Act No. 1/13 of 22 September 2016 providing for the protection of victims and the prevention and punishment of gender-based violence;

* Adopted by the Committee at its seventy-eighth session (30 October–24 November 2023).

¹ CAT/C/BDI/3.

² See CAT/C/SR.2039 and CAT/C/SR.2042.

³ CAT/C/BDI/RQ/3.

⁴ CAT/C/BDI/Q/3.



(c) Act No. 1/04 of 27 June 2016 providing for the protection of victims, witnesses and other persons at risk;

(d) Act No. 1/28 of 29 October 2014 providing for the prevention and punishment of trafficking in persons and protection for victims of trafficking.

6. The Committee commends the State party's initiatives to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

(a) the creation, in 2021, of the Permanent Interministerial Committee for the drafting of initial and periodic reports under the conventions ratified by Burundi;

(b) the adoption, in 2020, of the National Child Protection Policy (2020–2024);

(c) the adoption, in 2020, of the National Policy on the Rights of Persons with Disabilities and its action plan (2020–2024), and the establishment, in 2019, of the National Committee for the Rights of Persons with Disabilities;

(d) the adoption, in 2018, of the National Human Rights Policy (2018–2023);

(e) the adoption, in 2018, of the National Strategy to Combat Sexual and Gender-based Violence and its action plan (2018–2022);

(f) the establishment, in 2017, of the National Council for National Unity and Reconciliation;

(g) the establishment of the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity pursuant to Act No. 1/25 of 23 December 2017;

(h) the adoption, in 2017, of the Five-Year Action Plan (2017–2021) for the implementation of the National Gender Policy, which aims at gender equality and the empowerment of women;

(i) the creation, in 2016, of a permanent commission responsible for monitoring detainees' prison records and legal cases;

(j) the creation, in 2015, of the National Commission for Inter-Burundian Dialogue.

C. Principal matters of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its concluding observations on the State party's second periodic report, the Committee requested the State party to provide information on the follow-up given to the recommendations relating to allegations of torture and extrajudicial killings, on the one hand, and political violence and the serious human rights violations perpetrated by members of the youth league of the ruling party (the Imbonerakure), on the other.^{5,6} The Committee regrets that the State party did not provide this information, despite the reminder sent to it on 16 November 2015 by the rapporteur for follow-up to concluding observations. In view of the foregoing and of reports, considered by the Committee, from United Nations and non-governmental sources relating serious violations of the Convention, the Committee asked the State party, in a letter dated 9 December 2015, to submit a special report pursuant to article 19 (1) *in fine* of the Convention, which states that States parties are to submit such other reports as the Committee may request. Given the extraordinary nature and urgency of the procedure initiated by the Committee in requesting a special report of Burundi, as well as the interruption of the dialogue by the State party, the Committee, in its concluding observations on the State party's special report, asked the State party to submit a special follow-up report on all the steps it had taken to give effect to the recommendations made in

⁵ CAT/C/BDI/CO/2, para. 28.

⁶ Ibid., para. 11 (a), (b) and (d) and 22 (b).

those concluding observations.⁷ In view of the information received from the State party on 12 October 2016, and taking into account the information provided in the State party's third periodic report and in its written replies to the list of issues, the Committee considers that the recommendations contained in its concluding observations on the State party's special report have not yet been fully implemented.⁸ Those issues are covered in paragraphs 9, 11, 13, 15, 17, 19 and 21 of the present concluding observations.

Allegations of serious human rights violations

8. The Committee remains deeply concerned at the many credible allegations of serious human rights violations, such as ill-treatment and torture, extrajudicial execution and enforced disappearance, committed in Burundi since the political crisis of 2015. It is particularly troubled by credible, consistent and ongoing reports of extrajudicial executions involving, among others, members of the security forces, the armed forces, the National Intelligence Service and the Imbonerakure. While it notes the establishment of commissions of inquiry to shed light on these executions and suspected mass graves, the Committee regrets that investigations and prosecutions have been inadequate and slow – thus giving credence to the allegations that the perpetrators of such practices enjoy impunity – and that it has not received any information on the cases brought before the courts or on the outcome of the proceedings. In addition, the Committee notes with concern the many reports that the authorities immediately bury bodies bearing signs of violence found in public areas without identifying them, notifying the families or investigating the circumstances of the deaths or the perpetrators. It also notes with concern the many reports of opponents of the regime being murdered and regrets not having received additional information on investigations conducted by the State party in such cases. The Committee points out that a number of these violations could constitute crimes against humanity (arts. 2, 4, 12, 13 and 16).⁹

9. The Committee urges the State party:

(a) **To exercise strict control over the police and security forces to prevent them or any other person from committing extrajudicial executions;**

(b) **To fully discharge its obligation to ensure that all allegations of extrajudicial, arbitrary or summary executions, as well as alleged assassinations of political opponents, particularly cases where the alleged perpetrators are State officials or members of Imbonerakure, are impartially investigated, with due regard for the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and that those responsible receive sentences commensurate with the gravity of the offence while fully respecting the principle of command responsibility or superior responsibility, according to which hierarchical superiors are held criminally responsible for the conduct of their subordinates where they knew or should have known that the latter had committed, or were likely to commit, extrajudicial, arbitrary or summary executions and they failed to take reasonable and necessary preventive measures;**

(c) **To take, without delay, all steps necessary to locate, preserve and maintain under surveillance sites of suspected mass graves so that an independent commission of inquiry, equipped with the necessary technical resources, can undertake the exhumation, analysis and identification of any bodies found;**

(d) **To ensure that victims' families and their legal representatives have access to effective remedies, are effectively protected against threats, assault and all forms of reprisals and are allowed to participate in proceedings as civil parties, that they may request that a physician of their choice be present at the forensic examination and the autopsy, that they are given a reasonable possibility of recovering the body after the investigation and that they receive adequate compensation.**

⁷ CAT/C/BDI/CO/2/Add.1, para. 35.

⁸ CAT/C/BDI/CO/2/Add.2.

⁹ A/HRC/48/68, para. 70. and A/HRC/51/44, para. 5.

Allegations of torture and impunity

10. In view of the scale of complaints and the many consistent, ongoing allegations of torture and ill-treatment by State officials, including police officers, agents of the National Intelligence Service and the Imbonerakure, committed chiefly on the premises of the National Intelligence Service near the Bujumbura cathedral, in police stations and prisons, as well as in unofficial places of deprivation of liberty to which national and international observers reportedly do not have access, and of reports that police oversight mechanisms remain ineffective, the Committee remains deeply concerned at the failure to hold to account those responsible, as demonstrated by the limited number of disciplinary measures and criminal prosecutions reported, which contributes to a climate of impunity. Moreover, it regrets that it has not received comprehensive information on the number of cases of torture and ill-treatment that have resulted in criminal proceedings, the number of convictions, and the penalties and disciplinary measures imposed during the period under review. Lastly, the Committee is concerned that there is still no specific, independent and confidential mechanism for the receipt of complaints of torture or ill-treatment in all places of deprivation of liberty and that existing investigation bodies lack the necessary independence, as they belong to the same structure that employs the alleged perpetrators (arts. 2, 4, 11–13 and 16).

11. The State party should:

(a) **Ensure that all alleged acts of torture or ill-treatment are investigated promptly, effectively and impartially by an independent body, that there is no institutional or hierarchical relationship between the investigators and the suspected perpetrators, that suspected perpetrators, including those in command positions, are duly brought before a court and, if found guilty, are sentenced to punishment commensurate with the gravity of their acts and that the victims receive appropriate redress;**

(b) **Ensure that the authorities launch investigations whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed;**

(c) **Ensure that, in cases of alleged torture or ill-treatment, suspected officials are suspended from duty immediately for the duration of the investigation, particularly where there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or obstruct the investigation, subject to the principle of the presumption of innocence;**

(d) **Take urgent steps to establish an effective and independent oversight mechanism for the police and the National Intelligence Service;**

(e) **Establish an independent, effective, confidential and accessible complaints mechanism in all places of detention, including prisons and police custody facilities, and protect victims and witnesses and members of their families from any risk of reprisals.**

Excessive use of force

12. The Committee notes with concern the repeated allegations of excessive use of force, including lethal force, to suppress peaceful protests. It is concerned at the many allegations that police officers, agents of the National Intelligence Service, the Imbonerakure and local authorities have used excessive and disproportionate force, including the use of lethal weapons, particularly in the context of the demonstrations during the 2015 political crisis, leading to death and injury, have engaged in arbitrary arrest and detention and have committed torture and ill-treatment as well as enforced disappearance. It regrets the limited progress in the investigations and the lack of prosecutions to date, which creates a climate of impunity (arts. 2, 12–14 and 16).

13. The State party should:

(a) **Redouble its efforts to provide all police officers, especially those deployed to control demonstrations, with systematic training on the use of force, based on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;**

(b) **Ensure that public order is maintained, to the greatest extent possible, by civilian authorities and ensure that all officers can be effectively identified at all times when carrying out their functions, to help ensure individual accountability and protection against acts of torture and ill-treatment;**

(c) **Ensure that prompt, impartial and effective investigations are undertaken into all the allegations described above, that the perpetrators are prosecuted and punished appropriately, and that the victims or their families receive full redress.**

Enforced disappearance

14. The Committee is deeply concerned by credible, consistent reports of enforced disappearances during the period under review. According to several reliable sources, these disappearances target young men suspected of taking part in demonstrations, human rights defenders and members of the opposition. The Committee remains alarmed at the impunity that perpetrators of such violations have enjoyed and continue to enjoy. Furthermore, the Committee is concerned at the lack of information on the measures taken to ascertain the fate and whereabouts of disappeared persons, on any investigations, prosecutions and penalties in such cases, and on the steps taken to ensure that victims and their families have access to justice and appropriate reparations (arts. 2 and 12–14).

15. The State party should:

(a) **Take the measures necessary to ensure that all cases of enforced disappearance are investigated thoroughly and impartially, that those responsible are prosecuted and, if they are found guilty, that they receive punishment commensurate with the offence;**

(b) **Take all possible action to determine the fate of disappeared persons, in particular those who go missing after being questioned by the police or agents of the National Intelligence Service, and ensure that anyone who has suffered harm as a direct result of an enforced disappearance has access to all available information that could be useful in locating the disappeared person and has an enforceable right to fair and adequate compensation;**

(c) **Establish a central public registry of all places of detention;**

(d) **Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.**

Acts of politically motivated violence perpetrated by the Imbonerakure

16. The Committee remains deeply concerned by the many credible reports corroborating the systematic involvement of members of the Imbonerakure in a number of serious violations of the Convention. The Committee reiterates its deep concern about consistent reports that this group, which United Nations sources term as a militia, has received weapons and training from the authorities of the State party and that, in liaison with the police and members of the National Intelligence Service, it performs arrests and, on its own, engages in acts of repression with full impunity. Noting the State party's apparent denial that this group is involved in the violence and its dissociation from the group's actions, the Committee regrets the lack of information on the structure of the Imbonerakure, the group's structural ties with the authorities and its powers. The Committee also regrets not having received from the State party the information it had requested regarding actions taken in response to the alleged violations by the Imbonerakure, including murder, torture, kidnapping, sexual violence and unlawful arrest of political opponents and human rights defenders (arts. 2, 12 and 16).

17. The State party should:

(a) **Promptly conduct thorough and impartial investigations into all violence committed by the Imbonerakure, prosecute, without delay, the perpetrators of violations and any agents of the State who acted as accomplices to or consented to their perpetration and, if they are found guilty, sentence them to punishment commensurate with the seriousness of their actions;**

- (b) **Assign responsibility for internal security exclusively to a civilian police unit and prepare, as a matter of urgency, effective strategies to disarm and closely monitor all armed groups or individuals who are not officially part of the security forces.**

Sexual violence as a weapon of political repression

18. The Committee is alarmed at the many consistent allegations of sexual violence, including gang rape, committed against women and girls as a means of intimidation and political repression for their, or a relative's, real or perceived affiliation with the political opposition, and which intensified during the 2015 demonstrations, the 2018 constitutional referendum and the 2020 elections, for instance during searches and raids carried out by the Imbonerakure, agents of the National Intelligence Service, members of the security forces and the military in neighbourhoods of so-called dissenters. The Committee notes with concern the allegations that these acts are committed with the involvement, consent or acquiescence of State officials in the exercise of their duties and therefore might constitute acts of torture. Furthermore, it is concerned about the impunity enjoyed by the perpetrators of the violence, the obstacles that victims face in accessing justice and the fear of reprisals, which dissuades victims from lodging a complaint against their attackers. The Committee deplores the fact that, as a result, very few victims have access to effective remedies, reparation or rehabilitation and reintegration services (arts. 2, 12–14 and 16).

19. The State party should:

(a) **Ensure that thorough and independent investigations are opened into all cases of sexual violence committed as a means of intimidation and political repression and that the alleged perpetrators, whether they are State actors or non-State actors having acted with the consent or acquiescence of public officials, are brought to justice and, if found guilty, are sentenced to penalties commensurate with the seriousness of their actions;**

(b) **Ensure that the women victims of this violence have access in practice to legal services, medical care and psychosocial support, as well as to effective remedies, reparation and protection measures, including against reprisals;**

(c) **Give police officers, agents of the National Intelligence Service, the military and the Imbonerakure clear instructions throughout the chain of command banning sexual violence and publicly condemn cases of rape committed by State officials or the Imbonerakure.**

Human rights defenders, members of civil society, journalists and political opponents

20. The Committee remains concerned at the many allegations that human rights defenders, political opponents, members of civil society, journalists and persons critical of the Government continue to be regularly subjected to intimidation, threats, harassment, physical assault, arbitrary arrest and detention, prosecution, torture and ill-treatment, enforced disappearance and extrajudicial execution at the hands of the police, the National Intelligence Service and the Imbonerakure. It is also concerned at the insufficient efforts of the State party to provide these people with adequate protection, to conduct prompt, effective and impartial investigations and to punish the perpetrators with appropriate penalties. Furthermore, the Committee remains deeply concerned at consistent reports of a closing of the civic space in Burundi, characterized by non-governmental organizations and private and independent media being suspended or sanctioned, and at the many allegations of attacks against and judicial persecution of members of civil society and journalists, as illustrated by the situation of Floriane Irangabiye, a journalist who was arrested in August 2022 by agents of the National Intelligence Service for criticizing the Government on a radio broadcast and was convicted on 2 January 2023 of undermining the integrity of the national territory. In this regard, the Committee is concerned about reports that the authorities use provisions of criminal law to quash dissenting opinions. Lastly, the Committee is deeply concerned at the prolonged suspension of lawyer Lambert Nigarura and the lack of clarity concerning the steps to be taken and the competent authority to approach in order to have him readmitted to the bar, and at the disbarment and criminal conviction of lawyers Armel Niyongere, Dieudonné Bashirahishize and Vital Nshimirimana, who cooperated with the Committee in their

capacity as members of Burundian civil society during the consideration of the State party's special report. The Committee is of the view that these penalties could constitute reprisals against the four lawyers for providing it with information for its review of the special report of Burundi (arts. 2, 12, 13 and 16).¹⁰

21. The State party should:

(a) **Ensure that human rights defenders, political opponents, members of civil society, journalists and persons critical of the Government are adequately protected against all forms of intimidation, harassment, violence, arbitrary arrest and detention, prosecution, torture and ill-treatment, enforced disappearance and extrajudicial execution to which they may be subjected as a result of their activities;**

(b) **Take all necessary steps to undertake prompt, effective and impartial investigations into the allegations of human rights violations, to punish those responsible with appropriate penalties and ensure that these are duly enforced, and to immediately release all persons being detained for exercising their right to freedom of expression, peaceful assembly and association;**

(c) **Take steps to promote the civic space and the right to freedom of expression and association, including by amending Act No. 1/02 of 27 January 2017 on the organizational structure of non-profit organizations and lifting remaining suspensions and sanctions on private and independent media outlets;**

(d) **Put an end to the abuse of criminal law provisions to quash dissenting opinions and criminalize the exercise of freedom of expression;**

(e) **Protect the members of civil society who cooperated with the Committee in its consideration of the special report of Burundi, put an end to all reprisals, including against Armel Niyongere, Lambert Nigarura, Dieudonné Bashirahishize and Vital Nshimirimana, and take all appropriate measures to prevent acts of intimidation and reprisals and promote a safe environment conducive to dialogue with the United Nations, its representatives and mechanisms in the area of human rights.**

Definition of torture

22. The Committee takes note of the provisions of article 25 of the Constitution, prohibiting torture and ill-treatment, and considers that the definition of the offence of torture set out in article 206 of the Criminal Code complies with the provisions of article 1 of the Convention. It also notes with satisfaction that the absolute prohibition of torture is enshrined in article 210 of the Criminal Code, in accordance with article 2 (2) and (3) of the Convention, and that appropriate penalties are provided for in articles 207 to 209 of the Criminal Code, in accordance with article 4 (2) of the Convention. However, the Committee is concerned that an attempt to commit torture and an act by any person which constitutes complicity or participation in torture are not explicitly criminalized in the Criminal Code, as required by article 4 (1) of the Convention. It is also concerned that, pursuant to articles 198 and 200 of the Criminal Code, the offence of torture may be subject to the statute of limitations when it is not classified as a crime against humanity or a war crime. Furthermore, it notes with concern that the principle of command responsibility or superior responsibility for the offence of torture and other ill-treatment, according to which hierarchical superiors are held criminally responsible for the conduct of their subordinates when they knew or should have known that the latter were committing, or were likely to commit, such acts and failed to take reasonable and necessary preventive measures, has not yet been incorporated into national legislation (arts. 1, 2 and 4).

¹⁰ See the Committee's letters regarding the reprisals and the State party's response, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1084&Lang=en. See also CAT/C/BDI/CO/2/Add.1, paras. 33 and 34; and Office of the United Nations High Commissioner for Human Rights, "Burundi torture review: UN experts concerned at reported reprisals", press release, 8 August 2016.

23. **The State party should consider amending the Criminal Code to:**

(a) **Ensure that the offence of torture is not subject to the statute of limitations, even in cases where it is not classified as a crime against humanity or a war crime, in order to avoid any risk of impunity and to guarantee that acts of torture are investigated and that their perpetrators are prosecuted and punished;**

(b) **Criminalize the attempt to commit torture or any act committed by any person that constitutes complicity or participation in the act of torture;**

(c) **Incorporate the principle of command responsibility or superior responsibility for the offence of torture and other ill-treatment.**

Fundamental safeguards

24. The Committee notes the safeguards to prevent torture and ill-treatment enshrined in the Code of Criminal Procedure but remains concerned at reports that, in practice, persons in detention do not systematically enjoy the benefits of all fundamental legal safeguards from the outset of their deprivation of liberty. In this respect, it has been reported that: (a) the rights of persons in police custody to be informed of the reasons for their arrest, the nature of the charges against them and their rights are not always respected; (b) access to the services of a lawyer is not guaranteed in practice, particularly during the period of an investigation; (c) timely access to an medical examination by an independent doctor aimed at uncovering signs of torture and ill-treatment is not standard practice; (d) the right to notify a relative or a person of one's choice is often delayed and sometimes denied; (e) registers of persons deprived of liberty, including the details thereof, are often incomplete and are not used systematically and consistently at all stages of detention; and (f) arrested persons are often brought before the examining magistrate well beyond the legal time limit under Burundian law, exposing them to an increased risk of torture or ill-treatment. In this regard, the Committee notes with concern that, under article 34 of the Code of Criminal Procedure, detention in police custody may extend up to seven days, renewable once by reasoned decision of the public prosecutor, and that the time limits for police custody are regularly exceeded (arts. 2, 11 and 16).

25. **The Committee urges the State party to ensure that all fundamental legal safeguards against torture are guaranteed in practice for all detained persons from the outset of their deprivation of liberty, including:**

(a) **The right to be informed, in a language they understand, of the reasons for their arrest, the nature of any charges against them and their rights;**

(b) **The right to be assisted by an independent lawyer of their choice at the various stages of the legal proceedings, including during the investigation phase, and to have access, if necessary, to qualified, independent and free legal aid;**

(c) **The right to request and receive an examination, free of charge, by an independent doctor or a doctor of their choice, apart from any medical examination that may be carried out at the request of the authorities, that is conducted out of the hearing and sight of police officers and prison staff, unless the doctor concerned explicitly requests otherwise, in accordance with the principle of medical confidentiality;**

(d) **The right to have their medical records immediately brought to the attention of a prosecutor whenever the findings therein or allegations made indicate that torture or ill-treatment may have occurred;**

(e) **The right to inform a family member or any other person of their choice about their detention;**

(f) **The right to be registered at the place of detention;**

(g) **The right to be brought before an independent judicial authority as soon as possible, in order to review the grounds for placement in custody and extension of custody;**

(h) **The right to challenge the legality of their detention at any stage of the proceedings.**

26. **The State party should revise the Code of Criminal Procedure to ensure that the maximum duration of police custody does not exceed 48 hours and is renewable once in exceptional circumstances duly demonstrated by tangible evidence. The State party should also provide adequate and regular training on fundamental legal safeguards for officials involved in detention-related activities, and monitor compliance and penalize any failure on the part of officials to comply.**

Pretrial detention

27. While taking note of the provisions in the Code of Criminal Procedure which limit pretrial detention to a maximum of one year “if the act appears to constitute an offence for which the punishment provided for by law does not exceed 5 years’ imprisonment” and three years “if the penalty prescribed for the offence is more than 5 years of penal servitude”, the Committee is concerned by reports that the length of pretrial detention routinely exceeds legal limits, with around 50% of the prison population awaiting trial.¹¹ It is also concerned by the excessive use of prolonged or indefinite pretrial detention without regular review of its legality, which contributes directly to chronic overcrowding in places of detention. In addition, the Committee notes with concern reports that the Public Prosecutor’s Office regularly circumvents court orders to release pretrial detainees and keeps people in detention after they have served their sentences (arts. 2, 11 and 16).

28. **The State party should:**

(a) **Ensure that the regulations governing pretrial detention are scrupulously respected and that it is resorted to only in exceptional circumstances and for limited periods and in accordance with the law, taking into account the principles of necessity and proportionality;**

(b) **Actively promote the use of alternatives to pretrial detention within the prosecution service and among judges, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(c) **Review the case files of all persons held in pretrial detention and immediately release those who have already been in detention for periods exceeding the maximum sentences carried by the offences of which they stand accused.**

(d) **Ensure that the Public Prosecutor’s Office complies with court orders to release pretrial detainees and immediately release people who have already served their sentences and are being held illegally;**

(e) **Amend the Code of Criminal Procedure to reduce the maximum duration of pretrial detention to bring it into line with international standards of due process.**

Conditions of detention

29. While noting the steps taken by the State party to improve conditions in places of detention, including the adoption of a prison policy in 2018, the Committee remains deeply concerned at reports of overcrowding in some prisons and poor material conditions of detention in places of deprivation of liberty, in particular insalubrity and lack of hygiene, lack of ventilation, insufficient beds and sleeping space, and the poor quality and insufficient quantity of the food and water provided, as well as the lack of recreational or educational activities to foster rehabilitation. Furthermore, the limited access to quality health care, including mental health care, in particular for pregnant women and women held in detention with their children, and the lack of trained and qualified prison staff, including medical staff, remain serious problems in the prison system. The Committee is also concerned at reports regarding the prevalence of prison violence, including violent acts committed by prison staff against detainees and inter-prisoner violence, and the failure to effectively separate different categories of detainees (arts. 2, 11 and 16).

¹¹ Burundi, Code of Criminal Procedure, art. 159.

30. The Committee calls on the State party to redouble its efforts, in cooperation with relevant international institutions, including the United Nations Development Programme, to bring conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the Bangkok Rules. The State party should:

(a) Reduce overcrowding in prisons by making more use of alternatives to detention and continue to develop the prison infrastructure and improve detention conditions;

(b) Ensure that the basic needs of persons deprived of their liberty are met, in particular with regard to access to sufficient quantities of drinking water and food of adequate quality;

(c) Facilitate access to recreational and cultural activities in places of detention, as well as to vocational training and education, with a view to promoting the rehabilitation of prisoners in the community;

(d) Ensure that the necessary resources are allocated for the proper medical and health care of prisoners, including mental health care, in particular for pregnant women and women held in detention with their children, in accordance with rules 24–35 of the Nelson Mandela Rules;

(e) Increase the number of trained and qualified prison staff, including medical staff, and strengthen the monitoring and management of inter-prisoner violence;

(f) Ensure that prompt, impartial and effective investigations are undertaken into all allegations relating to acts of torture and ill-treatment by prison personnel and that the alleged perpetrators are prosecuted and adequately punished;

(g) Ensure that, in all places of detention, women are strictly separated from men, juveniles from adults, and pretrial detainees from convicted prisoners.

Death in custody

31. The Committee is concerned about the reported high number of deaths, including violent deaths, occurring in places of detention. It regrets the absence of reliable information on the total number of deaths in custody for the entire period under review, on the causes of these deaths and related investigations, on measures specifically taken to prevent further deaths in custody and on any cases of compensation for relatives of deceased persons (arts. 2, 11–13 and 16).

32. The State party should:

(a) Ensure that all cases of death in custody are promptly and impartially investigated by an independent body, with due regard to the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and assess whether agents of the State or their superiors are the responsible parties and, if this is found to be the case, the guilty parties should be duly punished and the families of the victims should be provided with adequate reparation;

(b) Encourage the Ministry of Justice to evaluate the effectiveness of strategies to prevent suicide and self-harm, as well as of programmes for the prevention, detection and treatment of chronic degenerative and infectious or contagious diseases in prisons;

(c) Compile and provide to the Committee detailed information on deaths in all places of detention, their causes and the outcome of the investigations.

Monitoring of detention facilities and the national preventive mechanism

33. While noting that the State party has indicated that prisons and other places of deprivation of liberty are regularly inspected by the Public Prosecutor's Office, the Independent National Commission on Human Rights and certain non-governmental organizations, the Committee is concerned at the delay in establishing a national mechanism

for the prevention of torture, an obligation incumbent on the State party following its accession to the Optional Protocol to the Convention in 2013. It is also concerned about the lack of information on measures taken to ensure the effective implementation of recommendations made by independent mechanisms following their unannounced visits to places of deprivation of liberty (arts. 2, 11 and 16).

34. The State party should:

(a) **Establish, as soon as possible, a national mechanism for the prevention of torture responsible for monitoring and inspecting all places of deprivation of liberty and provide it with the human and financial resources necessary for its effective and independent operation, in accordance with the Guidelines on National Preventive Mechanisms, and consider seeking technical assistance from the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the establishment of a national preventive mechanism in full compliance with the Optional Protocol to the Convention;¹²**

(b) **Ensure that international and national monitoring bodies responsible for visiting places of deprivation of liberty are able to carry out regular, independent and unannounced visits to all places of deprivation of liberty in the country, including the cells used by the police, the National Intelligence Service and the army, to speak confidentially to all detained persons and ensure that they are protected against any form of reprisal;**

(c) **Authorize non-governmental human rights organizations and civil society actors providing health-care and education services to carry out monitoring activities in detention centres.**

Redress

35. While noting that article 349 of the Code of Criminal Procedure provides for compensation to victims of torture, the Committee regrets that the State party did not provide comprehensive information on the redress and compensation measures ordered by the courts and other State bodies and actually granted to victims of torture and their families during the reporting period, nor on the level of cooperation in this area with specialized non-governmental organizations. The Committee is also concerned about reports indicating the very limited medical or psychosocial rehabilitation received by victims of torture, in addition to compensation, and regrets the lack of information on whether specific rehabilitation programmes have been established for them. It also notes with concern the information provided by the State party to the effect that the initiation of a civil case by which the victim makes a claim for compensation is subordinate to criminal proceedings.

36. The State party should:

(a) **Take the necessary legislative and administrative measures to ensure that civil proceedings for reparation can be brought by victims of torture or ill-treatment, their families or the person defending them, independently of any criminal proceedings that might have been initiated or completed, including in cases where the perpetrator of the acts in question has not been identified;**

(b) **Ensure, in law and in practice, that all victims of torture or ill-treatment obtain redress, including the right to fair and adequate compensation and the means for as full rehabilitation as possible;**

(c) **Compile and disseminate up-to-date statistics on the number of victims of torture and ill-treatment who have obtained redress, including medical or psychosocial rehabilitation and compensation, as well as on the forms of redress and the results achieved.**

¹² CAT/OP/12/5.

Transitional justice

37. While noting the adoption of Act No. 1/022 of 6 November 2018 amending Act No. 1/18 of 15 May 2014 on the establishment, mandate, composition, organization and functioning of the Truth and Reconciliation Commission, whose mandate has been extended to cover the period from 1885 to 2008, the Committee is concerned about the slow progress in holding to account perpetrators of serious human rights violations committed during this period, including torture and ill-treatment. It is particularly concerned by the lack of publicly disseminated information on the progress of investigations and the low number of convictions. It is also concerned about the lack of a comprehensive mechanism to provide redress for victims of human rights violations. In addition, it is concerned by allegations concerning the Commission's lack of effectiveness and independence, and it regrets not having received information on the reforms needed to strengthen this institution. Lastly, the Committee regrets that the Commission's mandate does not cover the serious human rights violations allegedly committed since 2015 (arts. 2, 12, 13, 14 and 16).

38. **The State party should take all measures necessary to ensure that the work of the Truth and Reconciliation Commission is independent, impartial, inclusive, transparent and balanced. It should also ensure that all complaints of serious human rights violations submitted to the Commission are transferred to an independent investigating authority and promptly, thoroughly and impartially investigated, that all perpetrators of serious human rights violations committed during the period covered by Act No. 1/18 of 15 May 2014, including military and civilian superiors, are prosecuted and, if found guilty, sentenced to penalties commensurate with the seriousness of their actions, and that victims and members of their families obtain adequate redress and are promptly and fairly compensated. In addition, the State party should take all necessary measures to ensure the independence of the Commission and to promote the pillars of transitional justice, including accountability, reparation and institutional reforms, particularly security sector and justice reform. Lastly, the State party should consider revising Act No. 1/18 of 15 May 2014 to extend the Commission's mandate to cover the serious human rights violations allegedly committed since 2015.**

Refugees and displaced persons

39. While noting the efforts made to facilitate the repatriation and reintegration of Burundian nationals who had sought refuge abroad as a result of the political instability and insecurity that had prevailed in the country since 2015, the Committee is concerned at reports that a number of these nationals were subjected to intimidation, extortion or arbitrary detention when returning voluntarily to the country, in particular by local administrative officials and Imbonerakure. It is also concerned by allegations that Burundian political opponents, who were in the United Republic of Tanzania as refugees or asylum-seekers, were hunted down by agents of the National Intelligence Service and were subjected to forced return, intimidation, arbitrary detention and enforced disappearance. In addition, the Committee is concerned by reports that a considerable number of displaced persons, particularly those displaced by crises in the country or by natural disasters, are living in camps in deplorable conditions and that displaced and repatriated women and girls have been subjected to or face a heightened risk of sexual violence (arts. 2, 3 and 16).

40. **The State party should take all measures necessary to ensure the integration of repatriated Burundians at the local level in safety and dignity. It should also investigate all cases of intimidation, extortion, forced return and arbitrary detention of repatriated Burundians, and ensure that those responsible for such acts are prosecuted and appropriately sentenced if found guilty, and that victims and their families obtain comprehensive reparation. In addition, it should intensify its efforts to expedite durable solutions for displaced persons, in accordance with relevant international standards, notably the Guiding Principles on Internal Displacement. The State party should also take concrete action to prevent all forms of violence against displaced and repatriated women and girls, including sexual violence, investigate such cases effectively and bring the perpetrators to justice. Lastly, the State party should ensure that victims are protected and have prompt access to medical services, in particular sexual and reproductive health services.**

Gender-based violence

41. The Committee welcomes the adoption of Act No. 1/013 of 22 September 2016 providing for the prevention and punishment of gender-based violence and protection of victims but remains concerned at the persistent violence against women, in particular domestic and sexual violence. It is particularly concerned about the lack of legal and institutional measures, including with regard to the enforcement of criminal provisions on protection against spousal abuse, and the failure to criminalize incest, marital rape and sexual harassment. The Committee is also concerned about the information it has received regarding low reporting rates by victims, for reasons such as stigmatization by family and community members, fear of reprisals and impunity for perpetrators, as well as low rates of prosecution and conviction for acts of sexual and gender-based violence. In addition, it expresses concern at reports of inadequate protection and assistance for victims of gender-based violence, particularly as regards shelters and rehabilitation services (arts. 2 and 16).

42. **The State party should:**

(a) **Ensure that all cases of gender-based violence, especially those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if found guilty, punished appropriately and that the victims or their families obtain redress, including adequate compensation;**

(b) **Ensure the strict application of Act No. 1/13 of 22 September 2016 and the relevant provisions of the Criminal Code and, to this end, provide systematic training to judges, prosecutors, law enforcement officers and lawyers on all of these legal provisions;**

(c) **Conduct major information campaigns to raise awareness among the population and all parties concerned that spousal abuse and sexual violence are offences under criminal law, to break the taboos on these crimes and to eliminate the stigmatization and exclusion of victims, which discourages them from lodging complaints;**

(d) **Consider revising articles 550 and 577 of the Criminal Code to decriminalize adultery and provide more appropriate penalties for marital rape;**

(e) **Intensify its efforts to provide victims and their families with protection, assistance and means of redress, notably by increasing the number of shelters and developing programmes for medical treatment and psychosocial rehabilitation and reintegration, particularly in rural areas.**

Violence against children

43. While noting with appreciation the adoption of the National Child Protection Policy (2020–2024), the Committee is concerned that the law does not expressly prohibit corporal punishment in the home as well as in the institutional child- and day-care centres where adults exercise parental authority over children. In addition, it is alarmed by reports of persecution and attacks on the life and physical integrity of children with albinism, and it regrets the lack of detailed information concerning the measures taken by the State party to ensure the protection of these children from all violence and discrimination (arts. 2, 11 to 14 and 16).

44. **The State party should amend the Criminal Code and the Persons and Family Code with a view to explicitly prohibiting the use of corporal punishment in all settings, including at home and in institutional child- and day-care centres where adults exercise parental authority over children, and raise public awareness of positive, participatory and non-violent forms of discipline. The State party should also take all necessary measures to prevent attacks on children with albinism and to protect them from ritual attacks and other harmful traditional practices, including by ensuring that all acts of violence are investigated, perpetrators brought to justice and victims granted redress.**

Training

45. While noting the State party's efforts to provide general human rights training, in particular for police officers and judicial and prison staff, the Committee regrets the lack of specific training on the provisions of the Convention, as well as on the content of the revised Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), for forensic physicians and medical personnel dealing with detainees, to enable them to detect and document the physical and psychological sequelae of torture.¹³ It also regrets that no mechanism for evaluating the effectiveness of training programmes has been put in place (art. 10).

46. **The State party should:**

(a) **Continue to develop and implement mandatory initial and in-service training programmes to ensure that all public officials, in particular law enforcement officers, military personnel, judicial officials, prison staff, immigration personnel and others who may be involved in the custody, interrogation or treatment of persons subjected to any form of arrest, detention or imprisonment, are well acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and that they are fully aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted and, on conviction, appropriately punished;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify and document cases of torture and ill-treatment, in accordance with the Istanbul Protocol (as revised);**

(c) **Develop and apply a methodology for assessing the effectiveness of training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts, as well as the prosecution of those responsible.**

Cooperation with international human rights mechanisms

47. While noting with satisfaction the establishment, in 2021, of the Permanent Inter-Ministerial Committee for the drafting of initial and periodic reports under the conventions ratified by Burundi and the establishment, in 2016, of the Department of Treaty Bodies, Special Procedures and Universal Periodic Review of the United Nations and other mechanisms within the Ministry of National Solidarity, Social Affairs, Human Rights and Gender, the Committee is concerned at the State party's lack of cooperation and dialogue with international human rights mechanisms, in particular the treaty bodies, the Commission of Inquiry on Burundi established by the Human Rights Council in 2016 and whose mandate expired in 2021, and the special procedures of the Human Rights Council, including the Special Rapporteur on the situation of human rights in Burundi.^{14,15} While noting the State party's commitment during the constructive dialogue to implement the Committee's decisions under article 22 of the Convention, the Committee remains deeply concerned at the State party's lack of cooperation with the individual complaints procedure and its failure to implement the Committee's decisions in almost all cases where violations of the rights enshrined in the Convention have been found.¹⁶ It also regrets the closure of the country office

¹³ The Istanbul Protocol was updated in 2022 (available in English only at the time of issuance of these concluding observations); see Office of the United Nations High Commissioner for Human Rights, Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations, 2022).

¹⁴ See Human Rights Council resolution 33/24.

¹⁵ Human Rights Council resolution 48/16, para. 20.

¹⁶ See *Ndayirukiye v. Burundi* (CAT/C/73/D/952/2019); *M.D. v. Burundi* (CAT/C/73/D/921/2019); *R.M. v. Burundi* (CAT/C/72/D/793/2017); *O.N. v. Burundi* (CAT/C/71/D/843/2017); *B.N. and S.R. v. Burundi* (CAT/C/71/D/858/2018); *Ndarisigaranye v. Burundi* (CAT/C/62/D/493/2012 and CAT/C/62/D/493/2012/Corr.1); *Ndagijimana v. Burundi* (CAT/C/62/D/496/2012 and CAT/C/62/D/496/2012/Corr.1); *C.N. v. Burundi* (CAT/C/60/D/579/2013); *A.N. v. Burundi* (CAT/C/60/D/612/2014); *Kabura v. Burundi* (CAT/C/59/D/549/2013); and *E.N. v. Burundi* (CAT/C/56/D/578/2013). See also CAT/C/BDI/CO/2/Add.2, paras. 31 and 32; and OHCHR,

of the Office of the United Nations High Commissioner for Human Rights in 2019, at the Government's request. Finally, it deplores the fact that the State party withdrew from the Rome Statute of the International Criminal Court on 27 October 2017.

48. The Committee invites the State party to re-establish full dialogue and cooperation with international human rights mechanisms, in particular the treaty bodies and the special procedures of the Human Rights Council, including the Special Rapporteur on the situation of human rights in Burundi. It also encourages the State party to cooperate fully with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment so that the latter can carry out visits to any place of detention under the State party's jurisdiction or effective control, in accordance with the Optional Protocol to the Convention. The Committee also encourages the State party to take all necessary measures to give effect to the decisions issued by the Committee under article 22 of the Convention. It also encourages the State party to authorize the reopening of the country office of the Office of the High Commissioner for Human Rights. Finally, the Committee urges the State party to cooperate fully with the International Criminal Court in the investigations initiated by the Public Prosecutor's Office prior to the State party's withdrawal, and to rejoin the Rome Statute of the International Criminal Court.

Follow-up procedure

49. The Committee requests the State party to provide, by 24 November 2024 at the latest, information on the follow-up given to its recommendations concerning allegations of serious human rights violations, allegations of torture and impunity, enforced disappearances, and human rights defenders, members of civil society, journalists and political opponents (see paragraphs 9 (b), 11 (a), 15 (a) and 21 (e) above). The State party is also invited to inform the Committee of the measures it intends to take to implement some or all of the other recommendations contained in the present concluding observations by the time it submits its next report.

Other issues

50. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations, and to inform the Committee about its dissemination activities.

51. The Committee requests the State party to submit its next periodic report, which will be its fourth, by 24 November 2027. To this end, it invites the State party to accept the simplified reporting procedure by 24 November 2024, under which the Committee will send it an advance list of issues in good time. The State party's replies to this list will constitute its fourth periodic report under article 19 of the Convention.

"Burundi: UN Torture Committee deplores lack of cooperation in torture complaints procedure", press release, 21 December 2021.