

UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

UNIVERSAL PERIODIC REVIEW, 3RD SESSION BURUNDI (FINAL) REVIEWED ON 2 DECEMBER 2008, MORNING

Overview

The review of Burundi was characterised by a high level of participation by members of the Working Group who covered a broad range of topics, including sexual violence, impunity, torture, freedom of expression and association, discrimination against women and on the basis of sexual orientation, and transitional justice. The delegation was headed by Ms Immaculée Nahayo, Minister of solidarity, human rights and gender and comprised the Minister of justice and the Attorney-General of Burundi. The delegation provided additional information on a number of themes not covered in its national report. Regrettably, the delegation was only able to provide rather general responses to most questions and several questions were left unanswered. Of particular note was the announcement that Burundi has abolished the death penalty and that its national human rights commission is hoped to be functional in early 2009. As decided by the Council, the establishment of the national human rights commission in accordance with the Paris Principles will mean the end of the mandate of the Council's Independent Expert on Burundi.

General information on Burundi

- Burundi is not a member of the Human Rights Council.
- The members of the troika for the examination of Burundi were Mauritius, Cuba and India.¹
- The national report does not contain any information on whether a national consultation process was held.

Information submitted to the Working Group

The **national report** of Burundi² deals with a large number of issues although mostly in a very general manner. However, it leaves out significant human rights issues, including freedom of expression and freedom of association. The report acknowledges several challenges to the promotion and protection of human rights in Burundi.

¹ Burundi requested that a member of its regional group be among its troika. There were no objections by Burundi or by the members of the troika to the selection. For a full summary of the selection of troikas, see ISHR's *Daily Update* of 8 September 2008, available at www.ishr.ch.

² A/HRC/WG.6/3/BDI/1, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/BI/A_HRC_WG6_3_BDI_1_Burundi_E.pdf.

The OHCHR **compilation of UN information** focuses on: discrimination against women, torture, impunity, widespread sexual violence, transitional justice, freedom of expression, and economic, social and cultural rights.³

11 non-governmental organisations (NGOs) submitted information for the OHCHR **summary of stakeholders' information**.⁴ They highlighted concerns in relation to discrimination against women,⁵ torture,⁶ prevalence sexual violence,⁷ the rights of children,⁸ the functioning of the judiciary and transitional justice,⁹ freedom of expression and association,¹⁰ discrimination based on sexual orientation,¹¹ and economic, social and cultural rights.¹²

Interactive dialogue¹³

Presentation by the State

Ms Nahayo presented Burundi's report and used about 30 minutes of the time allocated. She reiterated Burundi's commitments under a number of international and regional human rights treaties. The presentation focused broadly on issues related to economic, social and cultural rights; civil and political rights, and the situation of particular groups. It also acknowledged several challenges, including poverty, arming of civilian population, scarcity of land, and the need for legislative reform. Ms Nahayo updated the Working Group on a number of issues and provided information on themes not covered in the national report. It was unclear if some of this information was provided in response to written questions submitted in advance by members of the Working Group. Of particular note was updated information on reform of the criminal code leading to criminalisation of genocide, crimes against humanity, torture and rape and abolition of the death penalty. Ms Nahayo also provided information on freedom of the press and freedom of association, issues that were not covered in the national report but had been addressed by NGOs. Finally, Ms Nahayo announced that the bill establishing the national human rights commission was likely to be adopted by parliament during its current session and that the commission would be functional in January 2009.

Themes and issues

During the interactive dialogue States raised questions and made recommendations in relation to many of the key issues addressed by NGOs.

The issue which received most attention was the prevalence of sexual violence against women and children.¹⁴ States expressed serious concern about this scourge and about violence against women in

³ A/HRC/WG.6/3/BDI/2, available

at http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/BI/A_HRC_WG6_3_BDI_2_Burundi_E.pdf

⁴ A/HRC/WG.6/3/BDI/3, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/BI/A_HRC_WG6_3_BDI_3_E.pdf.

⁵ NGO Coalition, Franciscans International.

⁶ Amnesty International, NGO Coalition.

⁷ Amnesty International, Franciscans International, International Center for Transitional Justice, Sexual Rights Initiative.

⁸ NGO Coalition, Global Initiative to End All Corporal Punishment of Children.

⁹ NGO Coalition, Amnesty International, Franciscans International, International, International Center for Transitional Justice, International Commission of Jurists.

¹⁰ International Commission of Jurists, Reporters Without Borders, Burundi League for Human Rights, NGO Coalition.

¹¹ Association for Homosexuals' Rights, Sexual Rights Initiative.

¹² New Humanity in collaboration with Cadre Associatif des Solidaires du Burundi, Franciscans International.

¹³ Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at www.ohchr.org/english/bodies/hrcouncil/form.htm to receive username and password. Audiovisual archives of the meetings of the Working Group 'webcast' are available at www.un.org/webcast/unhrc/index.asp.

general.¹⁵ France asked what measures were being taken to combat sexual violence while the Netherlands and Argentina asked about the policies and strategies to combat violence against women. Several States recommended that Burundi should investigate all allegations, prosecute perpetrators and provide assistance to victims.¹⁶ Malaysia recommended that Burundi adopt a comprehensive strategy and legislation to deal with domestic violence and all forms of gender based violence. Norway suggested that the Government extend an invitation to the Special Rapporteur on violence against women. The Minister merely explained that the Government is trying to combat rape, including through the new criminal code and providing assistance to victims. The Attorney General acknowledged that not all cases of sexual violence have been prosecuted but noted that 500 prisoners have been convicted of rape.

Several States also highlighted the continued and widespread use of torture¹⁷ with Australia, Argentina and the Netherlands inquiring about the progress towards its effective criminalisation. Denmark recommended that torture be brought to an end, while Ireland and Portugal recommended that Burundi implement the recommendations of CAT. Mexico, the Czech Republic and Brazil also recommended that Burundi ratify the Optional Protocol to the *Convention against Torture*.

Several States were concerned about restrictions on freedom of expression and association for members of the opposition, the media and civil society.¹⁸ Belgium encouraged Burundi to use mediation instead of imprisonment to resolve any conflicts. Italy and Ireland recommended that Burundi take all measures to guarantee freedom of expression and association with Japan recommending that it safeguard political rights during the elections in 2010. The Minister of human rights assured that the rights to freedom of expression and association are guaranteed by law while the Minister of justice stated that it was 'truly regrettable' that members of the opposition, union members and journalists had been arrested. She explained that those still in detention were not detained because of their status, but did not comment on the crimes they allegedly had committed.

Impunity and transitional justice was another key theme of the interactive dialogue. Austria, Ireland, the UK and Switzerland recommended the establishment of transitional justice mechanisms, including a truth and reconciliation commission and a special tribunal, with Norway specifying that such mechanisms should integrate gender equality. The Minister reiterated that the new criminal code explicitly criminalises genocide and crimes against humanity and hoped that the Government could end impunity by punishing all crimes.

Several members of the Working Group encouraged the Government to establish its independent national human rights commission in full compliance with the Paris Principles.¹⁹ Ireland, Malaysia and South Africa recommended that the commission be established as quickly as possible. The Minister replied that the commission will have an independent mandate in accordance with the Paris Principles. She expressed the hope that it will be functional as of January 2009.

A number of States expressed concern about reports that Burundi plans to criminalise consensual same-sex relations in its new criminal code.²⁰ Belgium, Chile and the Netherlands recommended that Burundi ensure that it does not discriminate on the basis of sexual orientation with Belgium explicitly recommending that

¹⁴ France, Luxembourg, Germany, UK, Austria, Argentina, Italy, Denmark, Switzerland, Portugal, Japan, Ireland, Sweden, Norway, Chile.

¹⁵ Netherlands, Holy See, Slovenia, Malaysia.

¹⁶ Germany, Austria, Switzerland, Japan, Ireland, Mexico, Chile.

¹⁷ Czech Republic, Latvia, Argentina, Portugal, Denmark, Chile,

¹⁸ France, Belgium, Japan, Italy, Ireland, Canada.

¹⁹ UK, Republic of Korea, Portugal,

²⁰ Australia, Belgium, Czech Republic, Slovenia, Chile, Netherlands.

the provision in question be removed from the criminal code. The Minister responded that this provision has not yet been passed into law and requested more time to consider the issue before responding.

Economic, social and cultural rights issues received very little attention, although a few States noted the efforts made by Burundi in this area.²¹ A number of States suggested that the international community should continue to support Burundi in this regard.²² Other issues addressed included: the death penalty,²³ reintegration of child soldiers,²⁴ discrimination against women and gender equality, including in relation to inheritance,²⁵ inadequate prison facilities,²⁶ strengthening the functioning and independence of the judicial system and training for judicial personnel,²⁷ and right to life and abortion.²⁸ States also recommended that Burundi ratify the Optional Protocol to the *International Covenant on Civil and Political Rights* (Djibouti), the Optional Protocol to CEDAW (Brazil, Azerbaijan), the *Convention on the Rights of Persons with Disabilities* (Mexico), and the *Convention on Enforced Disappearances* (Mexico, France, Argentina). Latvia, Brazil and the Czech Republic recommended that Burundi extend a standing invitation to all special procedures.

Adoption of the report

On December 4, the report on the UPR review of Burundi was adopted, after Mauritius on behalf of the troika (Mauritius, Cuba, India) announced three minor amendments. The representative of Burundi, Ms Clothilde Niragira, made no objections, and endorsed the draft report before it was adopted.

The final report reveals that altogether ten recommendations, in particular the recommendation to issue a standing invitation to special procedures, did not enjoy the support of Burundi, as Burundi, due to other envisaged measures, or measures already taken, does not regard the recommendations as relevant or necessary.²⁹ Burundi accepts and supports 41 recommendations articulated by the members of the Working Group, amongst those, to consider the ratification of international human rights treaties it has not yet signed up to, to establish without delay an independent national human rights commission, to take effective measures to eliminate all forms of discrimination against women, and to introduce mandatory human rights training programmes for judges, lawyers, and the police.³⁰ Burundi intends to provide before the tenth session of the Human Rights Council final responses to five recommendations, two of which pertain to the protection of human rights of persons regardless of their sexual orientation.³¹ With respect to 23 further recommendations, concerning amongst other rape, violence against women, freedom of association, expression, opinion and peaceful assembly, as well as torture, Burundi made clear that the human rights addressed in those recommendations were already implemented, and that human rights obligations are adhered to by the Government, or about to be implemented, respectively.³²

²¹ Luxembourg, China, Algeria, Sudan.

²² Algeria, Sudan, Senegal, Bangladesh, Rwanda, Egypt.

²³ Australia, Holy See, Italy, Switzerland, Mexico.

²⁴ Luxembourg, Azerbaijan, Nigeria.

²⁵ France, UK, Sweden, Holy See, Switzerland.

²⁶ France, Italy.

²⁷ Netherlands, UK, Egypt, Nigeria.

²⁸ Holy See, Sudan.

²⁹ A/HRC/WG.6/3/L.3, article 82/1,2,3; available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBISession3.aspx

³⁰ A/HRC/WG.6/3/L.3, article 80/1,2,3,4,9,21; available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBISession3.aspx

³¹ A/HRC/WG.6/3/L.3, article 81/2,3; available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBISession3.aspx

³² A/HRC/WG.6/3/L.3, article 83/1,2,3; available at www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CBISession3.aspx

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