



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the initial report of Burundi*

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Burundi on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BDI/1) at its 52nd, 53rd and 54th meetings (E/C.12/2015/SR.52-54), held on 21 and 22 September 2015, and adopted the following concluding observations at its 78th meeting, held on 9 October 2015.

A. Introduction

2. The Committee welcomes the submission of the initial report by Burundi, despite the considerable delay, and the written replies to the list of issues (E/C.12/BDI/Q/1/Add.1). The Committee welcomes as well the constructive dialogue with the high-level delegation of the State party.

B. Positive aspects

3. The Committee welcomes the State party's ratification of the following international human rights instruments:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 22 May 2014;

(b) The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on 18 October 2013;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 24 June 2008;

(d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 6 November 2007;

(e) The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on 18 February 1993;

(f) The Convention on the Elimination of All Forms of Discrimination against Women, on 8 January 1992;

(g) The Convention on the Rights of the Child, on 19 October 1990.

* Adopted by the Committee at its fifty-sixth session (21 September-9 October 2015).



4. The Committee notes with satisfaction the adoption of Act No. 1/04 of 5 January 2011, which provided for the creation of the Independent National Human Rights Commission, and the measures taken to further the realization of economic, social and cultural rights in the State party, such as the national human rights policy adopted in 2012 and the strategic frameworks for poverty reduction.

C. Principal subjects of concern and recommendations

Applicability of the Covenant

5. The Committee finds it regrettable that, despite the constitutional standing of the Covenant, its provisions have never been invoked before or applied by national courts.

6. **The Committee recommends that the State party ensure the direct applicability of the Covenant by promoting among judges, attorneys, public officials and other officials responsible for application of the Covenant, as well as among rights holders, an awareness of the content of the Covenant and of the possibility of invoking it in the justice system. The Committee invites the State party to inform legislators of their role in implementing the Covenant. Recalling its general comment No. 9 (1998) on the domestic application of the Covenant, the Committee requests the State party to include in its next periodic report information on decisions taken by domestic jurisdictions and administrative authorities that give effect to the rights enshrined in the Covenant.**

Independence of the judiciary

7. The Committee is concerned that the security of judges' tenure is not adequately guaranteed, and that could seriously undermine their independence (art. 2, para. 1).

8. **The Committee recommends that the State party take appropriate steps to ensure that judges are selected and appointed in an open and transparent manner based on the candidates' integrity and competences and that it strengthen guarantees of their independence.**

Independent National Human Rights Commission

9. The Committee is concerned by the allegations made in connection with the nomination and reappointment of some members of the Independent National Human Rights Commission, as well as by the scant physical and financial resources made available to the Commission and by the failure to implement the Commission's recommendations in the areas covered by the Covenant (art. 2, para. 1).

10. **The Committee recommends that the State party take the necessary steps to ensure that the procedure for the nomination and reappointment of members of the Independent National Human Rights Commission is properly observed and conducted in an open and transparent manner. The Committee further recommends that the State party endow the Commission with adequate human and financial resources to enable it to fully discharge its mandate in conformity with the Paris Principles and that it give consideration to following up on the Commission's recommendations.**

Corruption

11. The Committee is concerned that, despite the efforts deployed, corruption continues to be widespread in the State party at all levels and is an obstacle to the enjoyment of economic, social and cultural rights (art. 2, para. 1).

12. **The Committee recommends that the State party:**

(a) **Conduct independent, impartial enquiries into all alleged cases of corruption, at all levels, and bring those responsible to justice;**

(b) **Ensure that the provisions with regard to senior government officials declaring their personal wealth upon assumption and finalization of their duties are fully observed;**

(c) **Protect whistle-blowers and witnesses from reprisals of any type;**

(d) **Ensure that victims of corruption receive compensation;**

(e) **Take action to sensitize its civil servants, judges and legislators to the need to move towards the complete elimination of corruption.**

Public funding

13. The Committee is concerned by the weak levels of funding allocated to programmes aimed at ensuring the realization of economic, social and cultural rights (art. 2).

14. **The Committee recommends that the State party take steps to implement a fiscal policy that is suited to needs, progressive and socially just, including by improving tax collection levels and thereby ensuring the availability of resources for the realization of economic, social and cultural rights. It also recommends that the State party review its allowable tax exemptions, inasmuch as they reduce tax revenue, and that it prepare all fiscal reforms and budget proposals using a transparent, participatory approach, allocating the maximum resources possible to the exercise of rights under the Covenant.**

Non-discrimination

15. The Committee is concerned that there is no comprehensive anti-discrimination law applying to all the areas covered by the Covenant. It is also concerned by the lack of legislative and other measures to eliminate discrimination against the Batwa, persons with albinism and persons with disabilities, in particular with regard to ensuring the effective exercise of their economic, social and cultural rights (art. 2, para. 2).

16. **The Committee recommends that the State party:**

(a) **Enact a comprehensive anti-discrimination law in line with article 2, paragraph 2, of the Covenant and general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights with a view to prohibiting direct and indirect discrimination on any grounds in all the areas covered by the Covenant;**

(b) **Guarantee effective remedies for victims of discrimination, including the possibility of redress;**

(c) **Prevent and effectively combat — through such means as awareness campaigns and affirmative action — the ongoing discrimination against the Batwa, persons with albinism and persons with disabilities as well as all other disadvantaged or marginalized individuals and groups in order to guarantee their unrestricted exercise of all the rights recognized in the Covenant.**

Discrimination on the basis of sexual orientation

17. The Committee is concerned by the definition of homosexuality as a crime in the Criminal Code and by Ministerial Order No. 620/613 of 7 June 2011, whereby

children may be refused schooling on the grounds of their sexual orientation (art. 2, para. 2).

18. The Committee recommends that the State party repeal all provisions that could lead to the discrimination, prosecution or punishment of individuals on the basis of their sexual orientation or gender identity and that it take all appropriate steps to ensure that lesbian, gay, bisexual and transgender individuals may exercise all the rights enshrined in the Covenant.

Gender equality

19. The Committee notes with concern that gender stereotypes are deeply ingrained in the family and in society in the State party. It is concerned as well by inequality in the employment sphere and by the wide salary gaps (art. 3).

20. Recalling its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party:

(a) Take steps to dispel gender stereotypes, in particular through information campaigns to promote the sharing of family responsibilities by men and women and to make people aware of equal job opportunities to which they can gain access by completing their studies and by seeking training in areas other than those traditionally associated with one sex or the other;

(b) Take steps to close the gap between men's and women's salaries by breaking up the vertical and horizontal segregation that exists in the labour market, as this has led to women occupying lower paid jobs and has created obstacles that deprive them from enjoying the same career opportunities as men, in both the formal and the informal economies.

Inequality in inheritance and marital regimes

21. The Committee is concerned by the application of customary law in matters of inheritance, marital regimes and voluntary dispositions insofar as that reinforces the unequal treatment of men and women (art. 3).

22. The Committee recommends that the State party enact, without delay, a law on inheritance, marital regimes and voluntary dispositions in line with international standards. The Committee also recommends that the State party conduct awareness campaigns to reshape traditional attitudes that impede women from exercising their economic, social and cultural rights.

Right to work

23. The Committee notes with concern that, despite the State party's efforts, the unemployment rate continues to be high, especially among young people, and that many people are still working in the informal sector and are thus not covered by labour legislation and have no social protection (arts. 6 and 9).

24. Recalling its general comment No. 18 (2005) on the right to work, the Committee recommends that the State party:

(a) Strengthen implementation of its National Employment Policy by introducing specific targets, focusing on young people and women, and improving the quality of education and of technical and vocational training;

(b) Take action, along the lines of International Labour Organization (ILO) recommendation 204 (2015) on the transition from the informal to the formal economy, to regularize the situation of individuals working in the informal

sector by progressively improving their working conditions and extending social security coverage to them.

Labour inspection

25. The Committee is concerned that the labour inspection system lacks the financial and human resources needed to effectively fulfil its mandate (art. 7).

26. The Committee recommends that the State party ensure that the labour inspection system focuses its work on monitoring compliance with labour legislation and that it endow the system with adequate resources, in particular a sufficient number of properly trained labour inspectors and appropriate means of transport.

Minimum wage

27. The Committee notes with concern that the State party has not established a national minimum wage (art. 7).

28. The Committee urges the State party to establish, in collaboration with the social partners, an appropriate and regularly indexed national minimum wage in order to guarantee decent living conditions for all workers and their families.

Forced labour

29. The Committee notes with concern the information provided on the continued existence of forced labour in the State party. The Batwa, in particular, continue to be subjected to the customary practice of *ubugererwa* (servitude) even though it has been formally abolished.

30. The Committee calls upon the State party to take specific steps, without delay, to eliminate forced labour, including by way of public information campaigns and by offering stronger protection to victims and bringing those responsible for such practices to justice.

Restrictions on organized labour

31. The Committee is concerned that the exercise of trade union rights, in particular collective bargaining and the right to strike, continues to be subject to excessive restrictions under the law and in practice (art. 8).

32. The Committee calls upon the State party to align its legislation on trade union rights with article 8 of the Covenant, taking into account as well the provisions of the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98). Special attention should be given to articles 275 (on the selection of labour representatives) and 211 to 223 (on the right to strike) of the Labour Code and articles 8 and 10 of Act No. 1/015 of 29 November 2002, which regulate the exercise of trade union rights and the right to strike in the public sector. The Committee also calls upon the State party to protect trade union rights and to investigate expeditiously all alleged violations of trade union rights brought to its attention and make provision for appropriate redress.

Social security

33. The Committee notes with concern that, despite the adoption of a national social protection policy and the establishment of the Social Protection Support Fund, a large part of the country's population lacks any kind of social protection (art. 9).

34. **Recalling its general comment No. 19 (2008) on the right to social security and its statement on social protection floors (2015), the Committee invites the State party to step up its efforts to institute a social security system that progressively guarantees adequate coverage and benefits to all workers and all disadvantaged individuals and families. The Committee also invites the State party to continue its efforts to expand health service coverage and to ensure a minimum income for older persons.**

Violence against women

35. The Committee is concerned by the high incidence of gender violence, especially domestic violence and sexual violence. It regrets that the victims of such violence do not enjoy unhindered access to the justice system and that they do not receive appropriate support (art. 10).

36. **The Committee recommends that the State party take the necessary steps to combat domestic violence, including by encouraging people to report incidents, and that it ensure that the victims of domestic violence and sexual violence have access to the justice system and that perpetrators are prosecuted and punished. It further recommends that the State party ensure that victims have access to appropriate recovery, counselling and rehabilitation services and that steps be taken to sensitize law enforcement officials and the public to the need to eliminate all forms of violence against women.**

Economic exploitation of children

37. The Committee notes that the minimum age for employment established in national legislation is in line with international standards. It is concerned, however, that children continue to be subjected to economic exploitation in the State party (art. 10).

38. **The Committee recommends that the State party take steps to effectively prevent and combat the economic exploitation of children, especially in the informal sector. In this regard, the State party should ensure that child labour legislation is properly enforced, that individuals who exploit children are duly punished and that there is effective enforcement of child labour legislation. The Committee recommends also that disadvantaged families be afforded support so that they may rise out of poverty and social exclusion, which often lie at the origin of the economic exploitation of children.**

Corporal punishment

39. The Committee notes with concern that there is no explicit prohibition of corporal punishment in the home and that such punishment is widely tolerated and practised in Burundian society, including in schools, alternative care settings and prisons (art. 10).

40. **The Committee strongly urges the State party to adopt legislative and other measures to prohibit and prevent corporal punishment of children under any circumstances, in particular in schools, alternative care settings, prisons and the home.**

Abandoned children

41. The Committee is concerned by the number of children who are not living with their families, in particular children with HIV/AIDS (art. 10).

42. **The Committee recommends that the State party take all necessary steps to provide support to families so that children are not forced to live away from their families or, when such separation cannot be avoided, to ensure placement in an alternative care setting that allows the child to enjoy an environment that provides similar support.**

Poverty

43. The Committee is concerned that, despite the launching of strategic frameworks for poverty reduction, much of the population does not enjoy an adequate standard of living. Poverty is highest among the country's most disadvantaged and marginalized groups, which include women, the Batwa and internally displaced persons (art. 11).

44. **Bearing in mind its statement on poverty and the Covenant (2001), the Committee recommends that the State party intensify its efforts to combat poverty, especially extreme poverty, by ensuring that targeted social programmes are implemented with a human rights-based approach and are endowed with the necessary resources, giving due attention to the needs of the most disadvantaged and marginalized individuals, families and social groups.**

Access to land and security of land tenure

45. The Committee notes that poverty and social inequality in the State party have been exacerbated by unequal access to land and insecurity of land tenure. The Committee is particularly concerned by reports that many Batwa families have been subjected to or are at risk of forced eviction (art. 11).

46. **The Committee recommends that the State party:**

(a) **Launch, as promptly as possible, a reform of the land tenure system aimed at ensuring rational land use and eliminating existing discriminatory practices, especially with regard to women, the Batwa and internally displaced persons;**

(b) **Strengthen guarantees for the independent and impartial operation of the National Land and Property Commission, the Special Court for Land and Property and the Communal Land-Use Office in order to ensure equitable access to land and adequate security of land rights, in particular for women, the Batwa and internally displaced persons;**

(c) **Implement effective measures against forced eviction, in line with international human rights standards, and ensure that victims of forced eviction have effective remedies, including restitution of their property and adequate compensation.**

Right to housing

47. The Committee notes with concern that a large part of the population lives in informal settlements in unsuitable conditions and without adequate access to drinking water or sanitation (art. 11).

48. **Recalling its general comments No. 4 (1991) on the right to adequate housing and No. 15 (2002) on the right to water and its statement on the right to sanitation (2011), the Committee recommends that the State party take all appropriate steps to improve the supply of affordable housing, in particular for disadvantaged and marginalized individuals and groups, by adopting and implementing a national housing strategy. It also recommends that the State party ensure that everyone has a safe and accessible supply of water and sanitation services, in particular in rural areas.**

Right to adequate food

49. The Committee notes with concern that, despite the launching of the National Agricultural Strategy and the National Agricultural Investment Plan, much of the population lives in a situation of food insecurity. It is also concerned by the high levels of chronic child malnutrition.

50. **The Committee recommends that the State party step up efforts to ensure the right to adequate food and to address hunger and child malnutrition, in particular in rural areas. The Committee also recommends that the State party redouble its efforts to boost productivity among small-scale farmers by making appropriate technologies available to them, in line with their right to enjoy the benefits of scientific advances, and by enhancing their access to local markets with a view to raising rural income levels. The Committee refers the State party to its general comment No. 12 (1999) on the right to adequate food and to the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations.**

Access to health care

51. The Committee is concerned that, despite the State party's efforts to improve access to health services through such means as the medical assistance card, disadvantaged or marginalized individuals and groups, in particular the Batwa and internally displaced persons, continue to encounter obstacles in accessing health services. The Committee is similarly concerned by the quality and availability of health-care services, especially in remote rural areas (art. 12).

52. **The Committee recommends that the State party allocate sufficient resources to the health sector and continue its efforts to guarantee the accessibility, availability and quality of health services, in particular in remote rural areas. It further recommends that the State party upgrade its primary health care infrastructure and ensure that hospitals have the necessary medical personnel and essential supplies and drugs.**

Maternal and child mortality

53. The Committee notes with concern that, although the State party has instituted a policy of providing health care to children under 5 and pregnant women at no charge, maternal and child mortality rates continue to be very high (art. 12).

54. **The Committee recommends that the State party:**

(a) Intensify efforts to bring down the high rates of infant mortality and mortality of children under 5 and to take steps to ensure that births are attended by qualified health professionals;

(b) Strengthen measures to prevent maternal morbidity and mortality, in particular by improving women's access to basic obstetrical and post-partum care and to sexual and reproductive health services. In this regard, the Committee invites the State party to bear in mind the technical guidance of the Office of the United Nations High Commissioner for Human Rights concerning the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (A/HRC/21/22);

(c) Review its legislation prohibiting abortion in all circumstances;

(d) Develop and strengthen sexual and reproductive health education for boys and girls at all primary and secondary schools, ensuring that it is comprehensive and age-appropriate.

Disease prevention and treatment

55. The Committee is concerned by the increase in the number of cases of HIV/AIDS, especially in rural areas. It is similarly concerned by the lack of appropriate measures to prevent and combat such diseases as malaria and tuberculosis (art. 12).

56. The Committee recommends that the State party adopt a national plan for preventing the spread of HIV/AIDS, malaria and tuberculosis, giving special attention to groups at risk. It urges the State party to ensure adequate availability of antiretroviral drugs and facilitate access to those drugs for persons with HIV/AIDS, and to conduct information campaigns for medical personnel, employers and the population in general to promote awareness of how HIV is transmitted and greater acceptance of persons living with HIV/AIDS.

Education

57. The Committee notes with satisfaction the increase in primary school enrolment, which was the result mainly of the State party's decision to make education available free of charge. The Committee is concerned, however, by:

(a) The reports that there continue to be indirect costs associated with school attendance, such as payments that parents are required to make which limit access to education, in particular for Batwa children;

(b) The continued unequal access to education for internally displaced children, children with disabilities and children with albinism;

(c) The number of children enrolled in primary education who do not finish their schooling;

(d) The high dropout rate in secondary education, in particular among girls (art. 13);

(e) The poor quality of instruction owing to the shortage of qualified teachers and the lack of teaching materials and infrastructure.

58. The Committee recommends that the State party take steps to ensure that primary education is indeed provided free of any charge, that it take the necessary steps to ensure access of all children to the education system by encouraging inclusive education for children with disabilities, and that it address as a priority the high dropout rates in primary and secondary education, in particular among girls. It also recommends that the State party improve school quality and infrastructure, in particular in rural areas, and that it ensure that all rural schools have adequate water supply and sanitation, and in particular separate washrooms for boys and girls.

Cultural rights of the Batwa

59. The Committee notes with concern the lack of measures to promote cultural diversity and to encourage the dissemination of Batwa culture and traditions (art. 15).

60. The Committee recommends that the State party take the necessary steps to promote awareness of the cultural heritage of the Batwa and to create favourable conditions for the Batwa to protect, develop, express and disseminate their history, culture, traditions and customs.

D. Other recommendations

61. The Committee encourages the State party to consider ratifying the **Optional Protocol to the Covenant**.

62. The Committee encourages the State party to ratify the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**, the **International Convention for the Protection of All Persons from Enforced Disappearance**, the **Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women** and the **ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)**.

63. The Committee recommends that the State party systematically collect data and use those data to compile and make use of statistics on human rights indicators, including economic, social and cultural rights. In this regard, the Committee refers the State party to the conceptual and methodological framework for human rights indicators prepared by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3). The Committee requests the State party to include in its next periodic report annual comparative statistics on the exercise of each right recognized in the Covenant, broken down by age, sex, area (rural/urban) and other relevant criteria and giving special attention to the situation of disadvantaged groups.

64. The Committee requests the State party to circulate the present concluding observations broadly among all sectors of society, in particular among government officials, judicial authorities, legislators, attorneys and civil society organizations, and to report to the Committee, in its next periodic report, on the measures taken to implement them. It also encourages the State party to include civil society organizations in the national-level discussions to be held in advance of the submission of its next periodic report.

65. The Committee requests the State party to submit its second periodic report by 31 October 2020 and invites it to submit the common core document in accordance with the harmonized guidelines on reporting under the international human rights instruments.