



**International Covenant on
Civil and Political Rights**

Distr.: General
13 January 2023
English
Original: French
English, French and Spanish only

Human Rights Committee

138th session

26 June–28 July 2023

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**Replies of Burundi to the list of issues in relation to its third
periodic report***

[Date received: 4 November 2022]

* The present document is being issued without formal editing.



I. Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. All the provisions of the Covenant are reflected in the Constitution of Burundi (in articles 21–61, which concern rights and duties). In addition, they have continued to be invoked before the courts. The process of ratifying the two Optional Protocols to the Covenant is under way. The Government has taken steps to disseminate the Covenant through awareness-raising workshops organized by the Ministry of National Solidarity, Social Affairs, Human Rights and Gender. The participants often include judges, lawyers, criminal investigation officers, administrative staff and young people, who may or may not be affiliated to a political party.

2. In accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), the Independent National Human Rights Commission is fully independent. The tasks assigned to the Commission are consistent with the Paris Principles. Moreover, it is accredited as a national institution for the promotion and protection of human rights. It has already regained its A status. The following table shows the resources allocated to the Commission annually since 2014.

Resources allocated to the Independent National Human Rights Commission by Burundi since 2014

<i>Fiscal year</i>	<i>Operating expenses</i>	<i>Capital expenses</i>	<i>Total</i>
2014	912 165 493	20 191 000	932 356 463
2015	912 165 493	20 191 000	932 356 463
2016	784 462 324	12 114 600	796 576 924
2017	784 462 324	12 114 600	796 576 924
2018/19	784 462 324	12 275 545	796 737 869
2020/21	1 434 462 324	12 275 545	1 446 337 869
2021/22	1 677 496 194	12 643 811	1 690 140 005

II. Anti-corruption measures (arts. 2 and 25)

3. The Government continues to take a zero-tolerance approach to corruption. Members of the Burundian authorities are required to declare their assets on entering and leaving office. According to available information, no member of the Government has refused to comply with the legal obligation to provide a declaration of assets.

- With regard to the number of investigations conducted into public officials involved in corruption cases, Burundi informs the Committee that, whenever a case of corruption comes to light, an investigation is promptly carried out and the alleged perpetrators are held accountable. The investigations completed thus far have led, inter alia, to the arrest of local administrative officers in Makamba Province on charges of corruption and the arrest of an accountant of the Burundi Revenue Authority in Gitega, on 28 August 2019, for failing to accurately record the value of receipts issued.
- The Anti-Corruption Court, its prosecutor's office and the Special Anti-Corruption Brigade have not been abolished and are operating as normal.

III. Non-discrimination and equality between men and women (arts. 2, 3, 23, 25 and 26)

4. Homosexuality is an offence under article 590 of the Criminal Code. However, there have not been any arrests, detentions or prosecutions for the offence.

5. Burundi has taken a number of legislative measures to combat discrimination, violent assaults and harassment, including:

- (a) The revision of the Constitution in 2018;
- (b) The revision of the Criminal Code in 2017;
- (c) The revision of the Labour Code pursuant to Act No. 1/11 of 24 November 2020 amending Decree-Law No. 1/037 of 7 July 1993, which, in turn, had introduced amendments to the Labour Code;
- (d) The adoption of Act No. 1/013 of 22 September 2016 providing for the prevention and punishment of gender-based violence and the protection of victims.

6. All peaceful assemblies are permitted in Burundi, as freedom of assembly is recognized in national laws, for example the Constitution (art. 32) and Act No. 1/28 of 5 December 2013 introducing regulations on public demonstrations and meetings (art. 1). It is also enshrined in international instruments to which Burundi is a party, including the Covenant (art. 2).

7. With regard to the abolition of articles 38, 88, 122 and 126 of the Code of the Person and the Family, Burundi informs the Committee that the Code is currently being revised, and a preliminary bill aimed at tailoring it more closely to the country's sociopolitical and economic context is already under consideration. The Nationality Code is undergoing the same process.

IV. Violence against women, including sexual violence (arts. 2, 3, 6, 7 and 26)

8. The courts have applied Act No. 1/013 of 22 September 2016 providing for the prevention and punishment of gender-based violence and the protection of victims to punish a range of acts of violence against women. In 2020, 1,104 investigations were carried out into 1,104 reported cases of domestic violence. In 2021, 1,435 investigations were carried out into 1,435 reported cases. These are but one example; investigations were also carried out in respect of other offences under the same Act.

9. With regard to the measures taken to offer appropriate reparations to victims and their family members, including psychological support and social and legal assistance, several measures have been taken to strengthen service provision for victims of sexual and gender-based violence. These include the establishment, at the courts of major jurisdiction (*tribunaux de grande instance*), courts of appeal and prosecutors' offices attached to the courts, of legal aid commissions (five judicial officers per province are members), which work with women; the creation of provincial directorates for family and social development, which provide psychosocial care, support and victim referral services; and the setting up, in 2017, of centres for victims of sexual and gender-based violence, in Cibitoke, Makamba and Muyinga Provinces. They provide holistic care for victims of sexual and gender-based violence.

10. When sentencing the perpetrators of acts of sexual and gender-based violence, the courts also rule on damages.

11. Act No. 1/013 of 22 September 2016 providing for the prevention and punishment of gender-based violence and the protection of victims remained in force even during the COVID-19 pandemic. The Act has been and continues to be applied to protect victims and prevent and punish perpetrators of gender-based violence.

V. Voluntary termination of pregnancy (arts. 3, 6 and 7)

12. With regard to the decriminalization of abortion, particularly in cases of incest and rape or when the pregnancy puts the mother's life and health at risk, and in cases of fetal impairment, article 534 of the Criminal Code clearly specifies that the penalties established under the Criminal Code for abortion are not applicable when a pregnancy is terminated by a licensed physician, with the written consent of the pregnant woman and the approval of a

second licensed physician, as the only way of averting a threat to the life of the mother or serious and permanent harm to her health.

13. If a pregnant woman is unable to express her will, the written consent of her legal representative is required.

14. The third paragraph of article 534 of the Criminal Code adds that, if there is an emergency or the consent of the pregnant woman or the person authorized to represent her cannot be obtained, a pregnancy may be lawfully terminated in accordance with a decision taken by two physicians.

15. With regard to the measures taken to ensure legal and effective access to abortion, the aforementioned article 3 is in force.

16. As for the estimated annual number of clandestine abortions each year, 3,346 cases have been recorded since 2014.

VI. Coronavirus disease (COVID-19) pandemic (art. 6)

17. Like other countries, Burundi adopted measures to prevent and combat COVID-19. These included: (i) individual and collective prevention measures announced by the Ministry of Public Health and AIDS Control; (ii) the decentralization of centres for testing and free treatment throughout the country; (iii) self-isolation requirements for arrivals from outside the country; (iv) the suspension of visa services; (v) the suspension of official missions abroad; (vi) the closure of certain land and sea borders; and (vii) the suspension of commercial flights at Melchior Ndadaye International Airport in Bujumbura.

18. In addition to these measures to address the COVID-19 pandemic, which had already been implemented, the President used his address to the nation on the occasion of the fifty-eighth anniversary of Burundian independence to formally launch a campaign entitled “Ndakira, sinandura kandi sinandukiza coronavirus”, which involved the mass testing of all persons with COVID-19 symptoms, among other measures.

19. Burundi therefore denies that, as is falsely asserted in the list of issues, “the State party has neglected to conduct a prevention, awareness-raising and public protection programme in response to COVID-19”. On the contrary, measures were taken, yielding satisfactory results. In addition, activities were carried out across the country to raise awareness of this scourge, as is evidenced by the fact that the number of COVID-19 deaths has not been alarmingly high and the number of new infections has continued to fall steeply. Once significant progress had been made in combating the pandemic, some of the aforementioned measures were lifted by the Government. These included: (i) the suspension of visa services; (ii) the suspension of official missions abroad; (iii) the closure of certain land and sea borders; and (iv) the suspension of commercial flights at Melchior Ndadaye International Airport in Bujumbura.

20. With regard to the number of infections and deaths due to COVID-19, official statistics show that, since the beginning of the pandemic, there have been 8 deaths among the 5,606 cases treated, giving a case fatality rate of 0.15 per cent.

VII. Participation in the conduct of public affairs (art. 25)

21. Concerning the allegations that violations were perpetrated during the 2020 elections, Burundi informs the Committee that the most notable outbreak of violence occurred in 2015, following repeated insurrectionist protests. The aim of the protests was to bring about a coup d'état. The Government has continued to take legislative measures aimed at combating violations of human dignity uncompromisingly and further cracking down on criminals in order to maintain peace and security. Amendments have been made to several pieces of legislation, including the 2009 Criminal Code and the 2013 Code of Criminal Procedure, which have been revised to adapt them to the current situation. In addition, several commissions have been set up. They include:

- The commission of inquiry into the insurrection that began on 26 April 2015

- The commission of inquiry into the allegations of extrajudicial killings during fighting that followed the attack on four military camps on 11 December 2015
- The commission of inquiry into the massacres that occurred on 14 May 2018 in Ruhagarika in the commune of Buganda, Cibitoke Province

22. As a result, some of the perpetrators have been identified, prosecuted and convicted; others are still being sought. In addition, international warrants have been issued for the arrest of the alleged perpetrators who have fled the country. In 2020, however, there was a sharp reduction in violence; political party leaders had adopted a road map to ensure that the elections held that year were entirely peaceful. Nevertheless, in a few isolated cases in Bujumbura Mairie, terrorists intent on sabotaging the Government's tireless efforts threw grenades, although most of these terrorists have been arrested and prosecuted.

23. Regarding acts of political violence, intimidation, torture and violations of fundamental freedoms aimed at the opposition, Burundi informs the Committee that the Government has undertaken to combat impunity. Any act that undermines human dignity is prohibited under the Constitution (art. 21) and the 2017 Criminal Code (arts. 197–205).

24. As for the allegations that the judicial system is used as a tool against opposition parties, Burundi informs the Committee that the Burundian judicial system is independent, as provided for in article 214 of the Constitution. Accordingly, no one has the right to interfere in its affairs.

25. Justice is administered throughout the country in the name of the Burundian people (Constitution, art. 210), and members and supporters of opposition parties are Burundians. In view of this article, the Government denies the false allegations that the judicial system is used as a tool against opposition parties.

26. Burundi also denies reports that the authorities failed to respond to virulent statements about political opponents. Virulent statements are prohibited in Burundi. In addition, no authority may refuse to take action in response to speech of this kind, since incitement to violence is prohibited.

27. With regard to allegations that the right to stand for election is restricted by the financial deposits required, all political parties were aware of the requirement for presidential election candidates to put up a deposit. Political parties and independent candidates had also been informed of the requirements for independent candidates.

28. Fabien Banciryanino was sentenced to 1 year's imprisonment and a fine of 100,000 Burundi francs (F Bu) by the Ntahangwa court of major jurisdiction for rebellion, false accusation and undermining the internal and external security of the State. He was released in 2021.

VIII. Rights of minorities and Indigenous peoples (art. 27)

29. The first paragraph of article 169 of the new version of the Constitution promulgated in 2018 states as follows:

The National Assembly shall have at least 100 members, of whom 60 per cent shall be Hutu and 40 per cent Tutsi; no less than 30 per cent shall be women. These members shall be elected by direct universal suffrage for a five-year term. There shall also be 3 members from the Twa ethnic group selected via co-optation in accordance with the Electoral Code.

30. Analogous provisions may be found in article 185 of the Constitution, which states that:

The Senate shall have:

(1) Two members from each province, elected by an electoral board consisting of members of the communal councils of the relevant province, belonging to different ethnic groups and elected through separate ballots;

(2) Three members belonging to the Twa ethnic group; at least 30 per cent of members shall be women. The practical arrangements, including co-optation where necessary, shall be set out in electoral law.

31. As part of a birth registration campaign, Burundi has taken steps to promote child registration among minorities and Indigenous peoples.

IX. Liberty and security of person (arts. 9 and 14)

32. There have been few cases of arbitrary detention, of either adults or minors.

33. Burundi has arranged for spot checks to be carried out by the Ministry of National Solidarity, Social Affairs, Human Rights and Gender as a way of gathering information about the situation in places of deprivation of liberty. These spot checks are carried out every three months in places of deprivation of liberty to prevent and combat any possible arbitrary detention on an ongoing basis. The results are satisfactory in that no alarming cases of arbitrary detention have been uncovered. If such cases are encountered, those affected are immediately released, regardless of their party political affiliation.

34. The Ministry of Justice also carries out spot checks of this kind. Cases of arbitrary detention are not frequent, since spot checks are carried out on a regular basis. This is also true of cases involving minors, who are imprisoned only as a last resort. The 2017 Criminal Code is applied strictly to punish perpetrators of acts of arbitrary detention.

35. With regard to the conditions for receiving a presidential pardon in recent years, in 2017, for example, 2,500 prisoners who met the applicable criteria were released. Eligible prisoners were released. The maximum duration of pretrial detention is 30 days. The maximum duration of police custody remains 7 days, renewable once only, upon request to the State prosecutor.

X. Trafficking in persons (arts. 6 and 24)

36. Act No. 1/28 of 29 October 2014 providing for the prevention and punishment of trafficking in persons and protection for victims of trafficking has been and continues to be applied by the courts to prevent and punish trafficking in persons and protect victims. Burundi has significantly increased the number of investigations and prosecutions in cases of alleged trafficking-related offences, has convicted traffickers and has referred victims for assistance.

37. With regard to prevention, the various ministries often organize training courses on trafficking in persons for law enforcement officials, prosecutors and justice officials. Through the Ministry of National Solidarity, Social Affairs, Human Rights and Gender, the Government provides training on trafficking in persons for those responsible for applying the law, for example judges, members of the parliament, police officers and local administrative officials. From 26 to 30 November 2018, for example, 25 criminal investigation officers received training on investigating cases of trafficking in persons.

38. The training covered the following topics: (i) the legal framework in place to address trafficking in persons; (ii) a comparison between trafficking in persons and migrant smuggling; (iii) protection and assistance for victims of trafficking; (iv) interactions with victims and witnesses, including children; (v) the rights of suspects; and (vi) techniques of investigation, including financial investigation. In addition, the heads of the country's 26 border checkpoints and four officers responsible for issuing documents received training in Gitega from 25 to 29 June 2018.

39. The training addressed victim identification, referrals, protection, assistance and gathering intelligence on traffickers. The participants, in turn, trained 113 officers of the migration police under their supervision.

40. Regarding reports that trafficking in persons persists, Burundi informs the Committee that it has already made considerable progress in combating trafficking in persons. Consequently, trafficking in persons does not persist, save for a not insignificant number of

isolated cases. Burundi welcomes the fact that the country has been recategorized from tier 3 to tier 2 in the Trafficking in Persons Report of the United States of America. The country is now listed among those whose Governments have made significant efforts to bring themselves into compliance with the minimum standards for the elimination of trafficking. With regard to mechanisms established to identify and protect victims of trafficking, including children, Burundi has partnered with the International Organization for Migration to establish a mechanism to coordinate the anti-trafficking measures carried out by government ministries involved in combating trafficking, the police and civil society. For example, a project is being implemented to strengthen the Government's capacity to combat trafficking in persons over the period 2019–2022. In addition, a consultation and monitoring commission has been set up to prevent and punish trafficking in persons and protect victims.

41. As for the Committee's concern regarding the creation of an effective system of assistance and support for victims, including specialized shelters, article 23 of Act No. 1/28 specifies that, regardless of their status under the legislation on the entry, stay and settlement of foreign nationals in Burundi and on their expulsion, victims receive support and assistance, which, at a minimum, must include safe and adequate housing and basic medical care and psychological treatment provided on a confidential basis and in a language they understand. Special attention is paid to the needs of vulnerable persons, in particular women and children.

XI. Displaced persons and refugees (arts. 6, 7, 12, 16 and 26)

42. With regard to information on the situation of the many internally displaced persons, including those displaced by natural disasters, Burundi informs the Committee that those affected are calm and remain in their homes in satisfactory conditions, apart from in Gatumba, where some households who were forced to leave are still waiting for the water to recede to Lake Tanganyika and the Rusizi River. Nevertheless, many of those who were displaced following the Gatumba disaster have now returned to their homes, and others have received financial support from the Government to rent residential housing in a safe location. Those who remain in affected areas are protected by the Government against all forms of violence, including sexual violence and exploitation.

43. Reports that members of the Burundian political opposition have been tracked down among refugees and asylum-seekers in Tanzania by Burundian intelligence officers are false. The Constitution of Burundi provides for freedom of movement within the country and the freedom to travel abroad, emigrate and return to Burundi. Whatever their political affiliation, Burundians have the right to take refuge abroad and seek asylum without any obstruction. Moreover, it is not true that these persons were subjected to intimidation, arbitrary detention and enforced disappearance.

44. Reports of Burundian refugees and returnees being subjected to intimidation, extortion and arbitrary detention when they return voluntarily to their country are false and come from enemies of the Government who want to paint the country in a negative light. Burundian refugees and returnees are always treated with warmth and care by the Burundian authorities and their fellow citizens. The Government of Burundi provides them with the necessary protection and transport to their provinces of origin.

XII. Independence of the judiciary and access to justice (arts. 2 and 14)

45. In accordance with article 219 of the Constitution, judges are appointed by presidential decree on the proposal of the Minister responsible for justice, following a recommendation by the Supreme Council of Justice. Article 224 provides that the President of Burundi serves as president of the Supreme Council of Justice, with the assistance of the president of the Supreme Court and the Minister of Justice as vice-president and secretary, respectively. The President's role in appointing judges is consistent with the Covenant in that it is procedural in nature (see the information relating to article 219, above). Act No. 1/02 of 23 January 2021, which empowers the Council to monitor the quality of judgments, rulings

and other judicial decisions and the related enforcement measures, is consistent with the principle of the independence of judges.

46. Regarding measures to build the capacity of the judiciary, in particular to put in place procedures to protect it from interference by the executive branch and political influence, to combat corruption effectively and to provide the judicial system with the resources necessary for its operation, article 214 of the Constitution states that: “The judiciary is impartial and independent of the legislative and executive powers.” No one may break this law, and anyone who does so is brought straight to justice. In addition, Burundi has adopted a zero-tolerance approach to corruption. The Ministry of Justice carries out regular awareness-raising campaigns among judges with a view to stamping out corruption. As for the concern that the Ministry of Justice has insufficient resources, Burundi informs the Committee that the Government continues to support the Ministry financially within existing means. The Government increased the budget allocated to the Ministry of Justice for the 2020/21 fiscal year to F Bu 25,786,166,006.

XIII. Freedom of expression and peaceful assembly (arts. 6, 7, 9, 18 and 21)

47. Articles 14, 19, 20, 52, 62 (d) and (f), 77 and 79 of Act No. 1/19 of 14 September 2018 governing the press do not severely restrict the freedom of the press; they ensure the proper functioning of the press in Burundi. As for the withdrawal of licences and the suspension of private and independent media outlets, the National Communication Council imposed these sanctions because the media outlets in question had committed professional misconduct in violation of the laws and regulations in force. However, on 26 February 2021, following a dialogue with media representatives, the Council decided to lift the sanctions imposed on Bonesha FM and allowed it to resume broadcasting. In addition, on 16 June 2021, the Council also lifted the sanctions imposed in 2018 on the radio station operated by the British Broadcasting Corporation (BBC) and the newspaper *Ikirihó*. These radio stations are now freely broadcasting.

48. The National Communication Council is fully independent. The fact that its members are appointed by the President, in consultation with the Vice-Presidents, does not preclude its independence.

49. With regard to the false allegations of the excessive and disproportionate use of force, arbitrary detention and summary execution by members of the police and intelligence services during demonstrations, Burundi informs the Committee that, during the demonstration, the Government took all possible measures to protect the public and peacefully repel the rabid insurrectionists intent on staging a coup d'état. As for investigations, a commission of inquiry has been established in connection with the insurrection that began on 26 April 2015, and the results so far are satisfactory. The alleged perpetrators either have been arrested or have fled abroad. The Government has issued international warrants for the arrest of those abroad.

50. With regard to assemblies and demonstrations, the right to freedom of peaceful assembly is guaranteed. However, it is a legal requirement to obtain authorization from a competent administrative authority prior to holding an assembly. In addition, there are no restrictions on the exercise by civil society organizations and opposition parties of the right to demonstrate and hold public assemblies in accordance with the law. For example, over the period 2019–2020, more than 19,529 assemblies were freely held by associations, civil society organizations and various political parties, including opposition parties.

51. This right continued to be freely exercised during the COVID-19 pandemic subject to compliance with the measures introduced by the Government, namely, social distancing, mask-wearing and hand-washing before participation in assemblies.

XIV. Freedom of association and the protection of journalists, human rights defenders and political opponents (arts. 6, 7, 9, 19 and 22)

52. With regard to the implementation of Act No. 1/01 of 23 January 2017 on the general framework for cooperation between Burundi and foreign non-governmental organizations (NGOs) and Act No. 1/02 of 27 January 2017 on a legal framework for non-profit associations, the Government is sovereign and must monitor all associations subject to its jurisdiction. The Government's goal in implementing these two laws is not to prohibit NGOs from operating but simply to monitor their activities. All national and foreign organizations must respect the national laws of the country in which they operate. The allegations that members of opposition parties and persons with no political affiliation have been forced to join political groups are false. All Burundians are free to join the political party of their choice without any restriction.

XV. Rights of the child (art. 23, 24 and 26)

53. Regarding allegations that students who were minors were forced to vote in the 2020 elections, Burundi informs the Committee that the minimum voting age is 18 years. No one under this age may vote. These allegations are entirely false.

54. Concerning the measures taken to protect children from all forms of violence, the second paragraph of article 25 of the Constitution provides that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Moreover, article 44 of the Constitution states that: "All children are entitled to specific measures to provide or improve the care necessary for their well-being, health and physical safety and to be protected against ill-treatment, abuse or exploitation." In addition, Burundi adopted Act No. 1/27 of 29 December 2017 amending the Criminal Code, which strengthens the protection of children's rights through, inter alia, an increase in the age of criminal responsibility from 13 to 15 years, the recognition that being aged under 18 years constitutes a mitigating circumstance, and the introduction of measures to protect children against domestic violence, incitement to immoral behaviour, procuring, prostitution, rape, kidnapping, fraudulent adoption, sale, exploitation, pornography and so forth.

55. With regard to the outcomes of the measures adopted to reform the juvenile justice system, Burundi notes that the Government's priority is to safeguard the best interests of the child.

56. Article 30 of the Criminal Code, which sets out the protection, education and supervision orders that may be imposed in respect of a minor, is applied by the courts. Minors aged under 15 years may not be held criminally responsible. The offences that they commit give rise only to civil damages (Criminal Code, art. 28).