



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

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## Committee against Torture

### List of issues in relation to the third periodic report of Burundi\*

#### Issues identified for follow-up in the previous concluding observations

1. In its concluding observations on the State party's second periodic report,<sup>1</sup> 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 (para. 11 (a), (b) and (d)) and political violence and the serious human rights violations perpetrated by members of the youth league of the ruling party (the Imbonerakure) (para. 22 (b)). 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,<sup>2</sup> 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 those concluding observations. In the light of the response received from the State party on 12 October 2016,<sup>3</sup> the Committee considers that the recommendations included in its concluding observations on the State party's special report have not yet been implemented and asks that the State party provide updated information on the steps it has taken to ensure their effective implementation (see paragraphs 15–21 and 25 below).

#### Articles 1 and 4

2. With regard to paragraphs 16, 20, 30–35, 79–84, 137, 144 and 145 of the State party's third periodic report,<sup>4</sup> given that the Criminal Code does not list torture among the offences that are not subject to any statute of limitations in respect of either prosecution or punishment, please indicate whether any statute of limitations applies to criminal or civil proceedings or penalties in cases involving the offence of torture.<sup>5</sup> Please indicate whether the State party plans to amend its Criminal Code to state that attempts to commit torture and acts by any persons that constitute complicity or participation in torture are criminal offences, in accordance with article 4 (1) of the Convention. Please provide information on any measures taken to incorporate the principle of command responsibility or superior responsibility for

\* Adopted by the Committee at its seventy-sixth session (17 April–12 May 2023).

<sup>1</sup> CAT/C/BDI/CO/2, para. 28.

<sup>2</sup> CAT/C/BDI/CO/2/Add.1, para. 35.

<sup>3</sup> CAT/C/BDI/CO/2/Add.2.

<sup>4</sup> CAT/C/BDI/3.

<sup>5</sup> Act No. 1/27 of 29 December 2017 amending the Criminal Code of Burundi, arts. 206–211.



the offence of torture and other ill-treatment, according to which hierarchical superiors are held criminally responsible for the conduct of their subordinates where they knew or should have known that the conduct was occurring, or was likely to occur, and they failed to take reasonable and necessary preventive measures. Please indicate what steps have been taken to incorporate provisions into the Military Criminal Code establishing that acts of torture and ill-treatment committed by military personnel constitute an offence, that such offences are not subject to any statute of limitations and that the sentences for such offences are irreducible, and providing for appropriate penalties.<sup>6</sup>

#### Article 2<sup>7</sup>

3. With reference to paragraphs 40, 51–54, 64, 65, 147, 150, 154–156 and 170 of the State party's third periodic report, please provide information on the measures taken, and the procedures in place, to ensure that all persons arrested or detained are afforded, in law and in practice, from the very outset of their deprivation of liberty, all fundamental legal safeguards against torture, in particular the right to be informed of the reasons for their arrest, the nature of the charges against them and their rights, in a language that they understand; the right to be registered in places of detention; the right to have access to the services of a lawyer without delay; the right to notify a relative or any other person of their choice of their arrest; the right to undergo a confidential and prompt medical examination by an independent medical doctor, preferably one of their own choosing; the right to have access to their medical records on request; and the right to be brought promptly before a judge and to challenge the lawfulness or necessity of their detention, in accordance with international standards. In this regard, please indicate what steps have been taken to amend article 34 of the Code of Criminal Procedure to ensure that the maximum duration of police custody does not exceed 48 hours, renewable once in exceptional circumstances duly demonstrated on the basis of concrete evidence. Please also describe the measures taken to ensure that all detainees will be brought before an independent judicial authority within 48 hours of their arrest in order to review the grounds for placement in custody and extension of custody and to allow the lawfulness of the custody to be challenged. Please describe the steps taken to regularly monitor compliance with fundamental legal safeguards by all public officials. Please provide information on any disciplinary measures taken since the consideration of the State party's previous periodic report against law enforcement officials who did not immediately allow persons deprived of their liberty to benefit from these safeguards.<sup>8</sup> Lastly, please indicate whether video surveillance equipment has been installed in all interrogation centres and places of custody except where doing so might give rise to violations of detainees' right to privacy or the confidentiality of their conversations with their counsel or doctor.

4. With regard to paragraphs 158 and 192–195 of the State party's third periodic report, please provide information on the steps taken to ensure that the Independent National Human Rights Commission is compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular by guaranteeing that the process for selecting and appointing the Commission's members is clear, transparent and participatory and that the Commission is provided with adequate resources and capacity and with full functional and financial autonomy. Please also provide statistical data, disaggregated by year and the complainants' sex, age, national or ethnic origin and nationality, on the complaints of torture or ill-treatment received by the Commission since the consideration of the State party's second periodic report<sup>9</sup> in November 2014. Please specify the agencies in which the alleged perpetrators of the acts in question

<sup>6</sup> CAT/C/BDI/CO/2, para. 9; and CCPR/C/BDI/Q/3, para. 13.

<sup>7</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also section V of the same general comment.

<sup>8</sup> CAT/C/BDI/CO/2, para. 10; and CCPR/C/BDI/Q/3, para. 15.

<sup>9</sup> CAT/C/BDI/2.

worked. Please state whether the complaints were referred to the prosecuting authority and investigated and, if so, what the outcome was. Please also provide information on the measures taken by the State party since 2014 to follow up on the recommendations of the Independent National Human Rights Commission.<sup>10</sup>

5. With reference to paragraphs 93–114 of the State party’s third periodic report, please provide up-to-date information on legislative or other measures taken during the reporting period to counter all forms of violence against women, in particular in cases where the public authorities or other entities are alleged to have committed acts or omissions engaging the State party’s international responsibility under the Convention. Please provide updated data, disaggregated by the victims’ age, national or ethnic origin and nationality, on the number of complaints, investigations, prosecutions, convictions and sentences in cases of gender-based violence, including domestic and sexual violence, since the consideration of the State party’s second periodic report. Please set out all steps taken to amend the Criminal Code to provide for more appropriate penalties for marital rape<sup>11</sup> and to decriminalize adultery. Please describe the measures taken to strictly enforce Act No. 1/13 of 22 September 2016 on the protection of victims and the prevention and punishment of gender-based violence and the relevant provisions of the Criminal Code to ensure that all cases of violence against women are the subject of effective and impartial proceedings and that the perpetrators are prosecuted and receive punishment commensurate with the seriousness of their acts. Please also indicate what steps have been taken to educate women about the criminal law provisions applicable in cases of sexual violence and to encourage them to pursue criminal proceedings rather than out-of-court settlements. Please provide information on the measures taken to prevent sexual violence from being committed by teaching staff against girls in school settings and to prosecute and punish the perpetrators of such acts.<sup>12</sup> Lastly, please provide up-to-date information on the measures taken to offer appropriate reparation to victims and their family members, including psychological support, social and legal assistance and rehabilitation services.<sup>13</sup>

### Article 3

6. With regard to paragraphs 24, 28, 29 and 177–181 of the State party’s third periodic report, please provide information on the measures taken during the period under review to ensure that no one was returned to a country where he or she was at risk of being tortured. Please provide information on the current asylum, return and extradition procedure and, in particular, on the protection afforded to refugees, asylum-seekers and persons who are being extradited or returned in order to avoid any risk of refoulement. Please describe the measures taken to guarantee effective access to the refugee status determination process. Please outline the measures taken to ensure that procedural safeguards against refoulement are in place and that effective remedies are available during return proceedings, including, in particular, review by an independent judicial body, especially at the appeal stage. Please state whether persons threatened with expulsion, return or extradition are informed of their rights to request asylum and to appeal against a deportation order. If so, please indicate whether such remedies have suspensive effect. Please provide information on the measures taken to identify vulnerable persons among asylum-seekers in Burundi, including victims of torture or trauma, and to ensure that their needs are taken into consideration and addressed in a timely manner.

7. Please provide up-to-date information on the number of asylum applications received during the period under consideration, the number of applications granted and the number of persons whose applications were granted because they had been tortured in their country of origin or would risk being tortured if returned there. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the State party’s second periodic

<sup>10</sup> CAT/C/BDI/CO/2, para. 20; and CCPR/C/BDI/Q/3, para. 2.

<sup>11</sup> Act No. 1/27 of 29 December 2017 amending the Criminal Code of Burundi, art. 577 (“Marital rape is punishable by 8 days’ imprisonment, a fine of from 10,000 to 50,000 Burundi francs or both”).

<sup>12</sup> CAT/C/BDI/2/Add.1, paras. 16 and 17; CCPR/C/BDI/Q/3, para. 7; CEDAW/C/BDI/Q/5-6, para. 9; A/HRC/51/44, para. 68; and A/HRC/48/68, paras. 17–48.

<sup>13</sup> CEDAW/C/BDI/Q/5-6, para. 8; CCPR/C/BDI/Q/3, para. 6; A/HRC/48/68, para. 47; and A/HRC/51/44, paras. 67–72.

report, including a list of countries to which individuals were returned. Please also state how many returns, extraditions and expulsions were carried out by the State party during the reporting period on the basis of diplomatic assurances or the equivalent thereof and specify the States that provided the assurances, the minimum assurances or guarantees required and the mechanisms put in place to monitor whether the assurances or guarantees given were respected.

#### **Articles 5–9**

8. With reference to paragraphs 25–27, 34, 35, 41–47 and 183 of the State party’s third periodic report, please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please inform the Committee of any extradition treaties concluded with other States since the consideration of the State party’s second periodic report and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please indicate what measures have been adopted by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please clarify what treaties or agreements on mutual judicial assistance the State party has entered into and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

#### **Article 10**

9. With reference to paragraphs 15, 17, 18, 48, 49, 55, 78 and 169 of the State party’s third periodic report, please provide information on educational programmes developed by the State party to ensure that all public officials, in particular law enforcement officials, officers of the National Intelligence Service, military personnel, prison staff and medical personnel employed in prisons, are fully acquainted with the provisions of the Convention and are aware that breaches will not be tolerated and will be investigated and that the perpetrators will be prosecuted. Please also provide details on the programmes used in the training of police officers and other law enforcement officials in non-coercive investigating techniques. Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide information on that methodology. Please also indicate the measures taken to give effect to the provisions of article 10 (2) of the Convention. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including whether the programmes contain specific training on the revised Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

#### **Article 11**

10. With regard to paragraphs 58–63, 68–74 and 175 of the State party’s third periodic report, please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the State party’s second periodic report. Please indicate the frequency with which they are reviewed. Please provide updated information on the measures taken to: (a) improve and expand prison facilities in order to bring up to standard those facilities that do not meet international standards; (b) address concerns regarding conditions of detention, including inadequate sanitation, insufficient ventilation and a shortage of bedding, decent food and safe drinking water in prisons and other places of detention; (c) ensure the availability of medical services, including psychiatric services, in all places of detention; and (d) strengthen reintegration and rehabilitation activities in prisons. Please provide information on the concrete measures taken to reduce prison overcrowding during the period under review, including the use of alternatives to detention before and after trial, the parole of prisoners and the introduction of community service. Please provide up-to-date statistical data, disaggregated by sex, age group, national or ethnic origin and nationality, on the number of pretrial detainees and convicted prisoners and indicate the occupancy rate in each place of

detention. Please describe the measures taken to meet the special needs of minors, women, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons and older persons in detention and to take account of their particular status; the current legislation and policies in relation to the pretrial detention of members of the above-mentioned groups; and the use of alternative measures to conviction and imprisonment for juveniles. Please provide information on the measures taken to ensure the strict separation of accused persons from convicts, and of adults from minors, in all places of detention. Please indicate what steps have been taken to put an end to the practice of detaining patients in hospital for non-payment of fees.<sup>14</sup>

11. With reference to paragraphs 37, 38, 66, 67, 148, 151–153 and 171 of the State party's third periodic report, please describe the steps taken by the State party to bring its practices with regard to pretrial detention into line with international standards of due process, including by ensuring that the legality of such detention is regularly reviewed and setting a reasonable limit on its duration. Please indicate what measures have been taken, including disciplinary action, to ensure that persons do not remain in pretrial detention for longer than the maximum sentence to which they are liable. Please also specify what measures have been adopted to reduce the disproportionate use of pretrial detention. Please comment on reports that the Public Prosecutor's Office regularly circumvents court orders to release pretrial detainees and keeps people in detention after they have completed their sentences. Please also comment on the corroborated information available to the Committee regarding the widespread use of arbitrary detention, with no charges being filed, no judicial oversight and no fundamental legal safeguards being observed, of placement in pretrial detention for prolonged or indefinite periods or in secret, unofficial places of detention and of torture or ill-treatment by members of the police, the National Intelligence Service and the Imbonerakure. Please indicate whether the State party has opened any investigations into these alleged practices. If so, please state the outcome of the investigations and indicate whether the persons exercising effective control over unofficial places of detention have been held accountable and what disciplinary measures or penalties have been imposed on them. Please also indicate whether persons who were arbitrarily detained have been released and whether they have been provided with adequate redress. Lastly, please provide information on the measures taken to monitor the places of detention run by the police and the National Intelligence Service and indicate how many persons were detained by these agencies during the period under review, where those persons are currently being held and how much time elapsed between their arrest and their first appearance before a judicial authority.<sup>15</sup>

12. Please provide information on the measures taken to ensure that solitary confinement is used only as a last resort and that, in practice, periods of solitary confinement do not exceed the limit of 15 consecutive days. Please include data on the use of solitary confinement during the period under review and an indication of its average duration. Please indicate whether this detention regime is subject to any oversight mechanism or external supervision.

13. Please provide statistical data regarding deaths in custody, including in police custody, during the period under consideration, disaggregated by place of detention, the victims' sex, age, national or ethnic origin and nationality and cause of death. Please provide detailed information on the investigations opened into the deaths in custody; their outcome; the number of deaths attributed to acts of violence by public officials or by other prisoners, the excessive use of force or negligence; the prosecutions instituted; the convictions secured; and the criminal and disciplinary penalties imposed. Please indicate whether the victims' relatives received compensation in these cases. Please inform the Committee about the measures taken to prevent similar cases from occurring in the future. Please also provide information on whether the authorities monitor inter-prisoner violence, on the number of complaints that have been made or registered, and on whether investigations have been conducted and, if so, what the outcome has been. Please describe any preventive measures that have been taken in this regard.

<sup>14</sup> CAT/C/BDI/CO/2, para. 15; and CCPR/C/BDI/Q/3, para. 14.

<sup>15</sup> CAT/C/BDI/CO/2/Add.1, paras. 22 and 23; CCPR/C/BDI/Q/3, para. 15; A/HRC/48/68, paras. 11, 17, 18, 21, 22, 24, 36, 42 and 70; and A/HRC/51/44, para. 32.

14. With reference to paragraphs 23, 55, 56, 75, 173, 174, 176 and 189 of the State party's third periodic report, please provide information on the visits to places of detention carried out during the period under review by the various national and international bodies that have a mandate to monitor and oversee such places, in particular the Public Prosecutor's Office, the Independent National Human Rights Commission and the International Committee of the Red Cross. Please indicate what measures the State party has taken in response to the recommendations made by these bodies. Please also provide information on the measures taken to establish a national mechanism for the prevention of torture, in line with the commitments undertaken by the State party upon its accession to the Optional Protocol to the Convention in October 2013.<sup>16</sup> Please provide details regarding the mechanism's legislative basis and the human and financial resources allocated to it, including whether it has a separate budget sufficient for it to effectively fulfil its mandate, and indicate what safeguards are in place to ensure its institutional independence in accordance with the guidelines on national preventive mechanisms issued by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>17</sup> Please indicate whether a timetable has been set in this regard. Please specify whether there are plans for the national preventive mechanism to conduct regular, unannounced visits to all places of deprivation of liberty, including the cells used by the police, the National Intelligence Service and the army, and whether civil society organizations are allowed to visit places of detention to verify whether the rights of persons deprived of liberty are respected.

### Articles 12 and 13

15. Please respond to allegations that members of the National Intelligence Service, the police, the armed forces and the Imbonerakure have carried out numerous acts of torture and ill-treatment and extrajudicial executions, and that there was an escalation in such acts, which primarily targeted members of the political opposition, during the demonstrations of 2015, the constitutional referendum of May 2018 and the elections of May 2020.<sup>18</sup> In this regard, please provide statistical data for the period under review on investigations, prosecutions and convictions relating to such acts and the penalties imposed on those responsible, and indicate whether all investigations into such allegations included an independent forensic examination and, if necessary, an autopsy. Please also indicate the steps taken to exercise strict control over the police and security forces to prevent them or any other person from committing extrajudicial executions. Please comment on reports that the authorities immediately bury bodies bearing signs of a violent death, without identifying them, notifying the families or opening investigations into the circumstances of the deaths. In this regard, please specify what steps have been taken 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 exhume, analyse and identify the bodies. Please describe the measures taken to ensure that victims' families and their legal representatives 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 be given a reasonable possibility of recovering the body after the investigation and that they receive adequate reparation. Please provide information on the investigations conducted into the suspected cases of summary execution in Nyakabiga, Musaga, Mutakura, Cibitoke, Jabe and Ngagara during the events of 11 December 2015 and the burial of the victims' bodies in mass graves and on the cases of summary execution in three communes of Bujumbura Province (Isale, Kanyosha and Nyabiraba) between 19 and 23 February 2020.<sup>19</sup>

16. With reference to paragraphs 33, 190, 191 and 200 of the State party's third periodic report, given the lack of relevant information in the State party's special report, please comment on reports of a high number of incidents of torture and ill-treatment, including sexual violence against women and men, committed in the detention facilities of the police

<sup>16</sup> CAT/C/BDI/CO/2, para. 19; and CCPR/C/BDI/Q/3, para. 14.

<sup>17</sup> CAT/OP/12/5.

<sup>18</sup> A/HRC/48/68, paras. 18, 21–23, 51, 52 and 87; A/HRC/48/60/Add.2, paras. 6 and 9; and A/HRC/51/44, paras. 27, 28, 32 and 37.

<sup>19</sup> CAT/C/BDI/CO/2/Add.2, paras. 8 and 9; CAT/C/BDI/CO/2, para. 11; and CCPR/C/BDI/Q/3, paras. 10 and 11.

and the National Intelligence Service, in unofficial places of detention and in public places.<sup>20</sup> In this regard, please provide up-to-date statistical data on complaints of torture and ill-treatment registered since the consideration of the State party's second periodic report in November 2014. Please provide information on investigations, disciplinary and criminal proceedings, convictions, the disciplinary or criminal sanctions applied and the redress provided to the victims or their families. Please also provide information on the measures taken to: (a) ensure that all cases and allegations of torture or ill-treatment are promptly investigated in an effective and impartial manner, that suspected perpetrators of and accomplices to acts of torture, including those occupying positions of authority, are prosecuted and sentenced to punishment commensurate with the seriousness of their actions, and that victims receive adequate reparation; (b) ensure the impartiality of criminal investigations; (c) ensure that prison authorities do not block medical examinations of complainants and that judges question doctors about their findings; and (d) ensure that judges launch investigations on their own initiative whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed.<sup>21</sup> In the light of the State party's lack of cooperation in the individual complaints procedure and its failure to implement the Committee's decisions in almost all cases where violations of Convention rights were found, please provide updated information on the steps taken to follow up on the decisions issued by the Committee under article 22 of the Convention.<sup>22</sup>

17. In view of reports of sexual violence committed mainly against women and girls as a means of intimidation in response to their own or a family member's actual or assumed membership in the political opposition, and allegedly perpetrated by public officials or non-State actors, such as members of the Imbonerakure, with the consent or acquiescence of public officials, please provide information on the steps taken to: (a) conduct thorough and impartial investigations into such acts, prosecute and punish the perpetrators and provide appropriate reparation to victims, including comprehensive medical and psychosocial services; (b) take legislative, administrative and judicial action to protect women against acts of sexual violence during searches or protest control operations; (c) issue clear orders throughout the chain of command to prohibit sexual violence, including in the handbooks and training for the security services, the police and the military; and (d) publicly condemn and denounce in the strongest of terms the commission of rape by public officials or by Imbonerakure youth league members as well as the incitement to commit rape through chanting.

18. Please provide information on the steps taken to: (a) 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 crime; (b) locate persons reported missing, in particular those who go missing after being questioned by law enforcement officials or officers of the National Intelligence Service and, if they are deceased, return their remains to their families; (c) impose criminal liability on members of the police or the National Intelligence Service or any other person who demands a ransom from the family of a disappeared person; (d) establish a central public registry of

<sup>20</sup> [A/HRC/48/68](#), paras. 11, 17, 18, 21, 22, 24, 36, 42 and 70; and [A/HRC/51/44](#), paras. 30–32, 84 and 88.

<sup>21</sup> [CAT/C/BDI/CO/2/Add.2](#), paras. 12 and 13; [CAT/C/BDI/CO/2](#), para. 11; and [CCPR/C/BDI/Q/3](#), para. 13.

<sup>22</sup> 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 Office of the United Nations High Commissioner for Human Rights (OHCHR), "Burundi: UN Torture Committee deplores lack of cooperation in torture complaints procedure", press release, 21 December 2021.

all places of detention; and (e) ensure that victims of enforced disappearance and their relatives have access to effective remedies.<sup>23</sup>

19. With reference to paragraphs 38, 156, 166–168, 190 and 191 of the State party's third periodic report, please indicate what steps have been taken to set up an independent commission of inquiry to promptly, impartially and effectively investigate all allegations of violations committed by the police, the National Intelligence Service and the Imbonerakure since the beginning of the political crisis in April 2015. In this regard, please specify the measures taken to: (a) ensure that there is no institutional relationship or reporting line between the investigators and the suspected perpetrators of violations and that the commission of inquiry can carry out its mandate without any interference whatsoever; (b) ensure that public officials who are the alleged perpetrators of violations are immediately suspended from their duties for the duration of the investigation, and that other measures are taken in respect of anyone else involved in the violations so as to prevent any risk of reoccurrence, retaliation or interference with the investigation, subject to respect for the principle of the presumption of innocence; (c) set up an independent, effective, confidential and accessible mechanism for the lodging of complaints and ensure that, in practice, both those bringing complaints and victims are protected against retaliation in any form; and (d) guarantee adequate reparation for the victims of such violations. Please describe any measures taken to strengthen the capacity and independence of the judiciary, including by putting in place procedures to protect it from interference by the executive branch and political influence and by providing it with the resources necessary for its operation. Please indicate whether measures have been taken to ensure the selection of judges through a competency-based selection process, career progression dependent solely on objective, merit-based assessments of their performance and security of tenure. Lastly, please provide information on Organic Act No. 1/02 of 23 January 2021, which empowers the Supreme Council of the Judiciary to monitor the quality of judgments, rulings and other judicial decisions and the related enforcement measures.<sup>24</sup>

20. Given the lack of relevant information in the State party's special report, please provide information on any efforts made to conduct thorough and impartial investigations into all acts of violence committed by the Imbonerakure during the period under review, including killings, abductions, acts of torture or sexual violence and the unlawful arrest or detention of members of the political opposition, human rights defenders and journalists. Please indicate the number of prosecutions brought and convictions and sentences handed down with respect to members of the Imbonerakure and any public officials who acted as accomplices to or consented to those acts. Please indicate what measures have been taken to 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.<sup>25</sup>

21. In the light of reports of the excessive use of force, including lethal force, and the use of live bullets by law enforcement officials to suppress political rallies and demonstrations,<sup>26</sup> please provide information on the steps taken to amend existing legislation on the use of force, particularly lethal force, in order to bring it into line with the Convention and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please indicate whether the security forces regularly receive mandatory training to ensure that they apply non-violent measures before they use any force when conducting demonstration control operations and respect the principles of legality, necessity, proportionality and accountability. For the period under review, please provide data, disaggregated by type of offence and the victim's sex, age group and ethnic origin or nationality, on complaints, investigations,

<sup>23</sup> CAT/C/BDI/CO/2/Add.2, paras. 10 and 11; CCPR/C/BDI/Q/3, paras. 18 and 23; A/HRC/48/68, paras. 11, 12, 17, 18, 21, 22 and 36; and A/HRC/51/44, paras. 18, 32, 33, 79 and 88.

<sup>24</sup> CAT/C/BDI/CO/2/Add.2, paras. 26 and 27; CAT/C/BDI/CO/2, para. 13; CCPR/C/BDI/Q/3, para. 19; A/HRC/48/68, paras. 53–56; and A/HRC/51/44, paras. 34–38.

<sup>25</sup> CAT/C/BDI/CO/2/Add.2, paras. 14 and 15; CAT/C/BDI/CO/2, para. 22; and CCPR/C/BDI/Q/3, para. 19.

<sup>26</sup> CAT/C/BDI/CO/2/Add.2, paras. 20 and 21; and A/HRC/51/44, paras. 43–46.



prosecutions, convictions and penalties relating to the excessive use of force, including lethal force, and the redress obtained by the victims or their families.

#### Article 14

22. With regard to paragraphs 21, 76, 77, 122–126 and 184–187 of the State party's third periodic report, please provide information on redress, compensation and rehabilitation measures ordered by the courts and actually provided to victims of torture or their family members since the consideration of the State party's second periodic report. That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on ongoing programmes to provide redress to victims of torture and ill-treatment, including programmes for the treatment of trauma and other forms of rehabilitation, and on the material, human and budgetary resources allocated to these programmes in order to guarantee their effective functioning. Please specify whether the compensation fund for victims of torture provided for under articles 289 and 290 of the Code of Criminal Procedure is operational.<sup>27</sup>

23. With reference to paragraphs 13, 14, 196, 197 and 199 of the State party's third periodic report, please provide information on the measures taken to ensure that all complaints of serious human rights violations submitted to the Truth and Reconciliation Commission are referred to an independent investigative authority and are investigated thoroughly and impartially within a reasonable period of time. Please describe the measures taken to ensure that all perpetrators of serious human rights violations committed during the period covered by Act No. 1/18 of 15 May 2014 on the Establishment, Mandate, Composition, Organization and Functioning of the Truth and Reconciliation Commission, including military and civilian superiors, are prosecuted and, if found guilty, are sentenced to punishments commensurate with the gravity of their acts. Please describe the measures taken to ensure that victims of serious human rights violations covered by Act No. 1/18 receive adequate redress and prompt and fair compensation. Please provide information on the measures taken to ensure the independence of the Commission and to promote the pillars of transitional justice, including accountability, reparation and institutional reform, particularly security sector and justice reform.<sup>28</sup>

#### Article 15

24. With reference to paragraphs 127–131 and 136 of the State party's third periodic report, please describe the measures taken to ensure full compliance with article 90 of the Code of Criminal Procedure so as to ensure that any statement that is established to have been made as a result of torture cannot be invoked as evidence against the accused. In particular, please indicate the measures that have been taken to ensure that in cases of alleged torture it is for the prosecuting authority to establish that the evidence has not been obtained under duress, and to adopt the necessary legislation to make retrial possible when the decision in the original trial was made on the basis of confessions extracted under torture. Please provide information on the measures taken to ensure that criminal investigations are based on objective elements of evidence, rather than on the confessions of accused persons, in order to reduce the risk of such persons' being subjected to acts of torture or ill-treatment. Please provide updated statistics for the period since 2016 on the number of cases in which detainees have alleged that their confessions were extracted under torture, the number of cases in which confessions have been declared inadmissible, and the number of cases that have been investigated and the outcome of those investigations.

#### Article 16

25. Please describe the measures that have been taken to protect human rights defenders, members of the political opposition, journalists and members of civil society and to punish the perpetrators of the abductions, enforced disappearances, arbitrary detentions, extrajudicial executions and acts of harassment, intimidation, torture and sexual violence that

<sup>27</sup> CAT/C/BDI/CO/2, para. 18; and A/HRC/51/44, paras. 28, 30, 37 and 88.

<sup>28</sup> CAT/C/BDI/CO/2, para. 21; A/HRC/30/42/Add.1, paras. 97–112; A/HRC/48/60/Add.2, paras. 4–12; and A/HRC/51/44, paras. 39–42 and 88.

they have been subjected to, particularly during the 2015 and 2020 elections and the 2018 constitutional referendum, and that they continue to be subjected to. Please provide statistical data for the period under review on the investigations conducted, the prosecutions carried out, the penalties imposed on perpetrators and the reparation granted to victims and their families.<sup>29</sup> Please provide information on the measures taken by the State party to protect members of civil society and to ensure that they are not subjected to reprisals, including for submitting information to the Committee under the procedures set out in the Convention. In this regard, please provide explanations for the disbarment of Armel Niyongere, Dieudonné Bashirahishize and Vital Nshimirimana and the one-year suspension of Lambert Nigarura, which could constitute reprisals against the four lawyers for the information they provided to the Committee in the context of its consideration of the special report submitted by Burundi.<sup>30</sup>

26. Please comment on reports that members of the Burundian political opposition have been tracked down among refugees and asylum-seekers in the United Republic of Tanzania by Burundian intelligence officers and subjected to forced return, intimidation, arbitrary detention and enforced disappearance. Please also comment on reports of Burundian refugees and returnees being subjected to intimidation, extortion and arbitrary detention when they return voluntarily to their country. In this regard, please provide information on the practical measures taken to ensure the rights to life, physical integrity, liberty and safety of Burundian refugees when they return to Burundi, to investigate and punish the perpetrators of the aforementioned violations and to promote the reintegration of Burundian refugees and returnees who return to their country.<sup>31</sup>

27. With regard to paragraphs 201 and 202 of the State party's third periodic report, please indicate what steps have been taken to repeal article 590 of the Criminal Code, which criminalizes consensual relations between adults of the same sex. Please indicate the number of persons who were arrested, detained, prosecuted and convicted on the grounds of homosexuality during the period under review and the sentences they were given. Please indicate the measures taken to prevent, investigate, prosecute and secure convictions for violence based on the actual or perceived sexual orientation or gender identity of the victim, to provide protection and to encourage victims to report such cases. Please provide statistical data for the period under review on cases of hate crime, disaggregated by grounds for discrimination, including the sexual orientation, gender identity, age group, sex and ethnic origin or nationality of the victim, and state whether the perpetrator was a public official. Please provide information on the outcome of the investigations and prosecutions conducted in each case, the verdicts handed down and the penalties imposed.<sup>32</sup>

28. With regard to paragraphs 162–165 of the State party's periodic report, please indicate what measures have been taken to prevent attacks on persons 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 are brought to justice and victims are provided with redress.<sup>33</sup>

## Other issues

29. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that counter-terrorism measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please

<sup>29</sup> CAT/C/BDI/CO/2/Add.2, paras. 24 and 25; CCPR/C/BDI/Q/3, paras. 22–24; A/HRC/48/68; and A/HRC/51/44.

<sup>30</sup> 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](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1084&Lang=en). See also CAT/C/BDI/CO/2/Add.2, paras. 33–34; and OHCHR, "Burundi torture review: UN experts concerned at reported reprisals", press release, 8 August 2016.

<sup>31</sup> CCPR/C/BDI/Q/3, para. 18; A/HRC/48/68, paras. 40–44; and A/HRC/51/44, paras. 25, 81–83 and 88.

<sup>32</sup> CAT/C/BDI/CO/2, para. 23; and CCPR/C/BDI/Q/3, para. 4.

<sup>33</sup> CAT/C/BDI/CO/2, para. 12.

indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to counter-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

30. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for older persons, hospitals or institutions for persons with intellectual or psychosocial disabilities.

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