



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

Distr.: General  
31 October 2016  
English  
Original: French  
English, French and Spanish only

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**Committee against Torture**

**Concluding observations of the Committee on the special  
report of Burundi requested under article 19 (1) *in fine* of the  
Convention**

**Addendum**

**Information received from Burundi on follow-up to the  
concluding observations\***

[Date received: 12 October 2016]

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\* The present document is being issued without formal editing.



**Comments by Burundi on the concluding observations of the Committee on the special report of Burundi requested under article 19 (1) *in fine* of the Convention**

1. Pursuant to article 19 (1) *in fine* of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States parties are to submit to the Committee an initial report on the measures taken to give effect to their undertakings within one year after the entry into force of the Convention. Thereafter, the States parties are to submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. Therefore, in fulfilment of that treaty obligation, the Government of Burundi submits herewith its response to the Committee's concluding observations on its special report, which were adopted on 11 August 2016 at its 1456th and 1457th meetings.

3. In order to enlighten the Committee about the principal areas of concern referred to in the concluding observations, the Government of Burundi would like to begin with some brief comments on certain aspects of the Committee's introduction to the concluding observations. It will then provide information on the measures already taken and respond to the Committee's principal areas of concern and recommendations.

**A. Comments on the Committee's introduction**

4. In a letter of 16 November 2015, the Committee invited Burundi to submit by 30 November 2015, in person or through its representatives, information as part of the follow-up procedure to the Committee's concluding observations on the second periodic report of Burundi, adopted on 26 November 2014.

5. The alleged violations that were brought to the attention of the Committee against Torture included allegations of torture, extrajudicial executions and political violence.

6. In conformity with article 19 (1) of the Convention, the Committee decided to request Burundi to submit to it a special report on the following:

**(a) The measures taken by the Government of Burundi to investigate numerous and credible reports of summary executions, including political assassinations, arbitrary arrests, ill-treatment and torture, of members of opposition political parties, journalists, human rights defenders and their families, and any other persons perceived to be supportive of the opposition in 2015**

7. The Committee requested Burundi to provide information on whether any investigations had led to the prosecution of members of the security forces or any other officials and individuals and on the outcome of the prosecutions.

8. As to the prevailing social and political context in the country during the period covered by the special report, Burundi wishes to inform the Committee that the protection of rights is guaranteed and all violations of guaranteed rights and freedoms are punishable under the country's legal proceedings. The authorities in Burundi are of the view that the circumstances of the murders and the identities of those responsible have been correctly ascertained through the processing of the cases brought for that purpose, and judicial decisions have been taken (pp. 10-12).

9. With regard to the alleged threats, intimidation and arrests experienced by journalists, the Government of Burundi would like to inform the Committee that the country's competent institutions have received virtually no complaints of threats or intimidation against journalists, and no journalist has been arrested. Even in cases currently under investigation, Burundi finds the lack of cooperation on the part of victims regrettable. Burundi wishes to reassure the Committee that any person who feels threatened has the right to request police protection.

10. Concerning the reports of acts of torture against journalists, the Government of Burundi wishes to inform the Committee that the office of the public prosecutor for the Bujumbura court of appeal has opened just one case, No. RMPG 11158/ND.R, involving complaints filed by the journalist Esdras Ndikumana, Agence France-Presse and France Médias Monde.

11. The Committee may wish to note that this case is still under examination and that the complainants' legal counsel has worked closely enough with the competent judicial services to allow for a preliminary inquiry to be set up: at the last meeting in the investigating judge's chamber, counsel agreed to return with a list of the alleged perpetrators of the reported acts of torture.

12. With regard to the normal functioning of independent radio stations, the Committee may also wish to note that the situation of the media was chaotic during the attempted coup d'état of 13 May 2015 in Bujumbura.

13. However, the measures taken by the Government to prohibit access to the offices of the private radio stations that had been destroyed were dictated by two major concerns, namely the obligation of any responsible Government in similar circumstances to assume responsibility for protecting places that have been nearly destroyed and the need to conduct inquiries.

14. Furthermore, it should be noted that some stations continued to operate, while others that had been suspended have since reopened and are up and running.

15. Regarding the question of whether the measures are consistent with international human rights standards, particularly with the right to freedom of expression as guaranteed by article 19 of the International Covenant on Civil and Political Rights and articles 19 and 31 of the Constitution of 2005, the Government requests the Committee to note that the restrictions were imposed for the purpose of safeguarding the rights of the stations, the rights of others and the rights of the community.

16. Burundi also requests the Committee to note that the Government has in no way violated article 19 (3) of the Covenant, because the measures adopted were intended only to provide security and protect public order.

**(b) The progress achieved in any investigations into the armed attack on Pierre Claver Mbonimpa perpetrated in August 2015 and the abduction and murder of his son, Welly Nzitonda, in November 2015**

17. Burundi recognizes that Pierre Claver Mbonimpa was the victim of attempted murder in August 2015. It has therefore put a lot of effort into finding the perpetrators of the attack so that they may be brought to justice. However, the Government of Burundi must inform the Committee that the competent national authorities have not yet been able to capture the perpetrator(s) and urges the injured party or his representative to cooperate with it more closely in order to bring about a prompt resolution of the case.

18. The Committee should also note that, prior to this incident, Pierre Claver Mbonimpa had been duly prosecuted in criminal case No. RMP 148310/RP 23699 for his involvement in forgery and the use of forgeries and for having compromised the internal security of the State.

19. In the case of his son, Welly Nzitonda, Burundi deplores the death of one of its young citizens, but it regrets that he was armed at the time of the incident.

20. The Government of Burundi would like to draw the Committee's attention to the fact that the failure of the injured party's representatives to cooperate is a significant obstacle to bringing the proceedings to a swift conclusion. Burundi calls on the injured party and his counsel to make a greater effort to work in collaboration with it.

(c) **The measures taken by the Government of Burundi to investigate numerous and credible reports of torture perpetrated by members of the National Intelligence Service at its compound near Bujumbura Cathedral, as recommended in paragraph 31 of the concluding observations on the special report of Burundi and in paragraph 28 of the concluding observations on its second periodic report**

21. The Committee requested Burundi to provide information on whether any investigations had led to the prosecution of National Intelligence Service members and on the outcome of the prosecutions. With regard to National Intelligence Service agents and the security forces in general, the Government would like the Committee to note that, at a meeting held on 14 August 2015, the National Security Council of Burundi issued a series of recommendations designed to ensure strict compliance with the provisions of the law in general and the laws governing the police service in particular on the part of members of the Burundian National Police. The recommendations were directed at all police officers, including agents of the National Intelligence Service.

22. One of the recommendations was formulated as follows: “Given the climate of indiscipline and the increasing prevalence of theft and gun crime, sometimes perpetrated by members of the defence and security forces using resources intended to be used for the protection of people and property, the Criminal Code should be revised to incorporate exemplary penalties for those who commit offences of this kind.”

23. The Committee may appreciate, in the light of this evidence, that the Government’s intention is not to protect one group at the expense of another. The Committee may wish to note, for example, that the cases Nos. RMP 154370 and RMP 154561 opened by the public prosecutor’s office of the municipality of Bujumbura involve allegations against officers of the defence and security forces.

24. All officers of the Burundian National Police, including agents of the National Intelligence Service, are subject to the country’s Criminal Code and the other provisions that govern their profession.

25. Officers of the National Intelligence Service do not enjoy immunity for any major or minor offences that they might commit. When the competent authorities become aware of incidents, administrative and criminal cases are opened against the police officers involved. The investigating judge’s examination of exculpatory and incriminatory facts to determine whether or not to launch a formal investigation is carried out on the basis of the presumption of innocence.

26. Similarly, a new law governing the police has been introduced to allow the Government to monitor the activities of the National Police.

27. The Committee may have confidence in the Government of Burundi on this point, since it can be verified that a number of defence and security officials are currently serving sentences in Burundian prisons.

(d) **The measures taken by the Government of Burundi to investigate numerous and credible reports of killings and torture perpetrated by members of the Imbonerakure youth group against persons perceived to be supportive of the opposition, including during an incident on 3 October in Cibitoke, as recommended in paragraph 31 of the concluding observations on the special report of Burundi and in paragraph 28 of the concluding observations on the second periodic report of Burundi**

28. The Committee asked Burundi to indicate whether any investigations had led to the prosecution of Imbonerakure members and on the outcome of the prosecutions.

29. As the Government has already emphasized with respect to officers of the National Intelligence Service, no one is above the law. Imbonerakure members are citizens like any others; they do not enjoy immunity of any kind; and there is no so-called Imbonerakure profession.

30. During the police investigation, the prosecution’s investigation and the hearing, accused persons are never identified as activists, because several political movements exist.

31. Being a member of the Imbonerakure group constitutes neither subjective grounds for exemption from criminal responsibility or mitigation of penalty, as set out in articles 25 to 30 of the Criminal Code, nor objective grounds for exemption from criminal responsibility, as specified in article 31 of the Criminal Code, nor one of the legitimate excuses provided for by articles 32 and 33 of the Criminal Code in cases of punishable offences.

32. The Government of Burundi therefore invites the Committee to note that, for members of the Imbonerakure group facing criminal proceedings, no exception is made or immunity or privilege granted in connection with their status as activists.

**(e) The measures taken by the Government of Burundi to implement the recommendations contained in paragraphs 11 (a), (b) and (d) and 22 (b) of the concluding observations issued by the Committee on 26 November 2014 under the follow-up procedure and paragraph 28 of the concluding observations on the second periodic report of Burundi**

33. The Committee requested information in writing on the outcomes of the investigations and judicial proceedings opened and on the convictions and sentences handed down in respect of the above-mentioned allegations, including the killings that occurred during and in the wake of the 2010 elections and more recent events, such as the killings of several members of religious minorities.

34. Since December 2015, few incidents of torture have come before the courts. Burundi finds it regrettable that the present allegations of torture have been exaggerated. According to judicial practice, officers from the public prosecutor's office monitor the arrests made by the police on an ongoing basis, and most arrested persons are later released.

35. The Government of Burundi suspects that the Committee has placed its faith in malicious informants providing information on a stage of the judicial process that is difficult to trace under domestic law. Burundi refutes the allegations that acts of torture go unpunished and advances as proof of this the cases that are currently before the courts: RMP 152724, RMP 155353, RMP 155357, RMP 155358 and RMP 155366.

36. With regard to the killings of members of religious minorities, the Government of Burundi would first like to correct the use of the phrase "religious minorities", preferring instead the idea of "religious communities". The State wishes to clarify that religious communities are not targeted by violence. Cases are opened regardless of the religious or political affiliation of the victims.

37. The allegations of impunity to which the Committee refers in its report are a product of political posturing. The Government of Burundi has already demonstrated above that it takes all necessary measures to promote and protect human rights throughout the country.

**(f) The Committee urges the Government to introduce into its Code of Criminal Procedure provisions to make it mandatory to open investigations into all allegations of torture or ill-treatment and to establish that no statute of limitations applies to the crime of torture or ill-treatment**

38. The Government of Burundi wishes to draw the Committee's attention to the fact that the national law provides for severe penalties against the perpetrators of acts of torture or ill-treatment. Specifically, article 209 of the 2009 Criminal Code stipulates that the penalties established for such offences are mandatory, while article 208 stipulates that the order of a superior officer or public authority cannot be invoked as a defence for torture.

39. With regard to the Committee's proposal that a provision be introduced into the Criminal Code to establish that no statute of limitations applies to prosecutions for torture, the Government of Burundi would like to remind the Committee that such a matter must be left to the discretion of each State party.

40. Additionally, article 4 (1) of the Convention clearly provides that: "Each State party shall ensure that all acts of torture are offences under its criminal law."

41. Therefore, in the light of chapter II of the Criminal Code, which addresses torture and other cruel, inhuman and degrading treatment, the Government of Burundi believes that the Committee should again recognize the efforts made to date with respect to the national legislation, as it did in its concluding observations on the positive aspects of the second periodic report of Burundi.

42. As regards the recommendation to ensure that a judicial investigation be opened automatically for every incident of torture or ill-treatment, the Government of Burundi does not consider this a new idea, and it has always done so for all cases made known to it. Article 64 (5) of the Code of Criminal Procedure provides for the protection of victims against intentional violations of the life or bodily integrity of any person, including ill-treatment and torture. The law authorizes any accredited association to join in with a victim or to lodge a complaint on the victim's behalf.

43. The Government is not, therefore, opposed to the idea of strengthening protection for victims of acts of torture under the above-mentioned article and thanks the Committee for its contribution.

44. By note verbale of 30 June 2016, the Permanent Mission of Burundi forwarded the Government's special report containing the above information to the Committee.

45. Subsequently, and in response to the Committee's invitation of 9 December 2015 to submit to it the special report, the delegation of Burundi participated in the 1438th meeting of the Committee on 28 July 2016.

46. During that meeting, the delegation of Burundi noted that the Committee had not officially transmitted in writing all of the communications submitted to it, as required under article 22 (3) of the Convention, and that it had neglected to request information on the measures taken by the Government of Burundi to address the situation.

47. Similarly:

- Not all of the areas of concern mentioned by the Committee during its 1,438th meeting had been communicated to the Government in advance;
- The majority of the dialogue focused on the content of a civil society shadow report that had not been communicated to the Government in advance to allow it to take stock of its observations;
- Data on the social and political crisis facing Burundi were used in an impartial manner (*de manière impartiale*), and the Committee did not pay any attention to the progress made by Burundi in restoring social order;
- The time frame required for providing information was not observed by the Committee.

48. In the light of these criticisms, the delegation of Burundi did not participate in the dialogue at the 1441st meeting of the Committee on 29 July 2016 and believes that its decision was understood by the Committee, which granted it additional time.

49. By note verbale sent to the Committee the day after the meeting of 29 July 2016, Burundi indicated its position regarding the procedure for considering its special report and requested the Committee to grant it sufficient time to prepare information on all of the issues raised, including the issues that were only brought to the attention of the delegation of Burundi during the meeting.

50. By note verbale of 29 July 2016, the Committee told the Permanent Mission of Burundi that it found the absence of the delegation of Burundi during the second meeting regrettable and informed it of its decision to adopt its concluding observations on the special report of Burundi based on the special report and other available information.

51. Despite the Committee's position, the Government would like to draw its attention to the patent injustice that Burundi has suffered and takes the opportunity to denounce the impartial nature (*le caractère impartial*) of the procedure followed by the Committee.

52. In the same note verbale of 29 July 2016, the Committee wrote that it had reminded Burundi of its practice of drawing on useful information in the public domain as well as the

reports of States parties and information from other sources (NGOs, United Nations bodies) that is submitted to it and posted on the Committee's website for the consideration of reports, including special ones.

53. The Committee also wrote that it had limited the dialogue to the issues that the special report had been meant to address, expressed its eagerness to resume the dialogue as soon as possible and given the State party's delegation the opportunity to submit its replies to the issues raised at the first meeting within 48 hours, in accordance with the Committee's usual practice regarding the consideration of State party reports. The Committee wrote that no response had been received from the State party.

54. The Government of Burundi regrets that the Committee seems to be twisting the knife in the wound when it refers to the time frame of 48 hours that was granted to Burundi. The Committee knows very well that, on 28 July 2016, the delegation could do nothing but note down for three hours all the Committee members' questions even if it meant that it would have only 90 minutes the following day to provide clarification. However, 28 July 2016 fell on a Thursday, and 29 July 2016 on a Friday, when the working day in Burundi finishes at noon. In other words, all of the public services that the delegation needed to consult regarding several new concerns that had not been communicated by the Committee in advance — including the disappearance of the journalist Jean Bigirimana, the purported political hate speech used by the President of a political party and the case of Désiré Uwamahoro — had closed, as it was the start of the weekend. Furthermore, the time frame of 48 hours cited by the Committee comprised 30 and 31 July, a Saturday and Sunday. The delegation's only option was to request extra time. Unfortunately, and unexpectedly, the Committee proceeded to take its decision.

55. The Government of Burundi notes that the Committee's practice cannot always be reconciled with the willingness of States parties to provide reliable, substantiated information. The time frame of 48 hours is usually too short to gather information, verify it and communicate it to the Committee.

56. In the view of the Government of Burundi, the practice of strictly limiting the time to respond to 48 hours is unproductive, because it fails to consider the specific legislation of States parties with regard to leave and public holidays, and it shows blatant disregard for delicate questions that require a considered response. This strict policy is one that [stands in the way] of participating in the interactive dialogue with the Committee.

## **B. Principal areas of concern and recommendations**

### **1. Suspected extrajudicial executions, mass graves and politically motivated murders**

57. The Committee states that it is deeply concerned by the grave human rights violations, documented and denounced by the Office of the United Nations High Commissioner for Human Rights (OHCHR), among others, that were committed in Burundi starting in April 2015 as part of the effort to suppress protests against President Pierre Nkurunziza's decision to run for a third term of office.

58. The Committee further states that it is especially concerned by the high number of extrajudicial executions, as attested by the June 2016 report of the United Nations High Commissioner for Human Rights (A/HRC/32/30, para. 10), which asserts that 348 such executions, committed mainly by the security forces, were documented between April 2015 and April 2016.

59. In addition, the Committee indicates that it is greatly alarmed by the number of summary executions that reportedly occurred on 11 and 12 December 2015 in neighbourhoods of Bujumbura whose residents were reportedly opposed to a third term in office; those executions occurred after military installations had been attacked by unidentified armed groups. While it takes note of the establishment by the public prosecutor's office of a commission of inquiry to look into those executions and the suspected existence of mass graves, the Committee reports that it has been informed that, according to the commission's final report, all 79 of the persons killed were considered to

be attackers, except for 1 person who was reportedly killed by a stray bullet, and that there were no mass graves.

60. However, the Committee states that it is concerned at the considerable discrepancy between that figure and those provided in other, non-governmental reports that point out that there were between 150 and 200 victims, including civilians who had been summarily executed, and numerous corpses had been taken to undisclosed locations.

61. It finds it regrettable that the State party has not responded to its requests for information on whether exhumations and autopsies had been performed and whether inquiries had been launched into the possible disproportionate use of deadly force given the number of persons killed.

62. The Committee is further concerned by information received, and corroborated by the High Commissioner for Human Rights, on the locations of at least nine mass graves around Bujumbura, and notes that local authorities have acknowledged the existence of some of those graves. It also notes with concern the reports received about the murder of numerous persons who opposed the Government, and it regrets not having received additional information on the investigations conducted by the State party into the cases of Faustin Ndabitezimana, Zedi Feruzi, Charlotte Umugwaneza, William Nimubona and Melchior Hakizimana (arts. 2, 4, 12, 13 and 16).

63. The Committee says that it is deeply concerned by the grave human rights violations, documented and denounced by OHCHR, among others, that were committed in Burundi starting in April 2015 as part of the effort to crack down on protests against President Pierre Nkurunziza's decision to run for a third term of office.

64. The Committee should not be overly concerned about this point, because most of the information reported to it by OHCHR is, generally speaking, false.

65. Burundi rejects the allegations spread by its detractors concerning the use of extrajudicial executions. Burundi regrets the loss of human life following the social and political crisis, but it believes the figure of 348 executions advanced by the Committee to be an exaggeration. The Committee should have provided Burundi with the identities of the 348 executed persons so that it could investigate all such cases. Burundi also continues to object to the statistics reported by OHCHR which have been proved to be incorrect. Unfortunately, the Committee has fallen into the same trap as the United Nations Independent Investigation on Burundi. How is it possible that two United Nations protection bodies can report different numbers of executed persons, with the United Nations Independent Investigation on Burundi reporting 564 and the Committee against Torture reporting 348, while, curiously, both claiming to have received their figures from OHCHR?

66. With regard to the events that reportedly occurred on 11 and 12 December 2015 in neighbourhoods of Bujumbura whose residents were said to be opposed to a third term in office, including executions after military installations had been attacked by unidentified armed groups, the Committee says that it is concerned by the number of summary executions. It adds that while taking note of the establishment of a national commission of inquiry, it is concerned by the considerable discrepancy between the figure provided by the commission (79 persons killed) and those provided in other, non-governmental reports (between 150 and 200 victims).

67. Again, Burundi wishes to dwell on the figures cited in these reports, which seem to come from out of the blue, as they cannot be verified on the ground. The Committee also refers to other non-governmental reports but does not indicate their authors. The Committee has adopted such a strategy, because it itself doubts the veracity of the statistics provided to it by OHCHR.

68. Burundi wishes to inform the Committee that the commissions of inquiry established by the public prosecutor are motivated by the desire not only to investigate cases properly but also to do so swiftly.

69. Burundi would also like to point out that it does not aim to protect the perpetrators of crimes, whether they are State agents or any other person. Burundi reminds the Committee that it is confident in the conclusions of the commission of inquiry established

to shed light on the events of 11 and 12 December 2015 and on the alleged existence of mass graves.

70. The Committee has emphasized how regrettable it finds that Burundi has not responded to its requests for information on whether exhumations and autopsies have been performed and whether inquiries have been launched into the possible disproportionate use of deadly force given the number of persons killed.

71. In that regard, the Government of Burundi would like to remind the Committee that inquiries have been carried out and a report produced. However, Burundi invites any person with information on these events to report it to the public prosecutor's office so that additional cases may be opened where appropriate.

72. Burundi also categorically rejects the allegation that disproportionate deadly force might have been used. This is an unfounded claim based on rumours spread by those responsible for the attack.

73. The Committee indicates that it is further concerned by information received, and corroborated by the High Commissioner for Human Rights, on the locations of at least nine mass graves around Bujumbura and notes that local authorities have acknowledged the existence of some of those graves.

74. Burundi wishes to draw the Committee's attention to the possibility that its information may have been manipulated and again encourages it to avoid taking all the data supplied by OHCHR as the absolute truth. The Committee may note that Burundi has already conducted an inquiry into these allegations, and a report has been produced. Burundi continues to work on these cases and remains willing to examine any new information that may be of help in establishing the truth.

75. With regard to the many reports received about the assassination of opponents of the regime, the Government of Burundi urges the Committee to treat with care the baseless claims and incorrect information brought to its attention, which it describes as "several corroborating reports" or "reliable sources of information", particularly in relation to the list of persons killed which continues to be cited and which is a source of confusion.

76. The case of Zed Feruzi is still under criminal investigation by the public prosecutor's office in Bujumbura.

## **2. Enforced disappearance of political opponents**

77. The Committee states that it is concerned by the information in the report of OHCHR (A/HRC/32/30, paras. 16 and 17) according to which 36 enforced disappearances were documented between April 2015 and April 2016 and by the rising trend in such disappearances, as indicated by the Secretary-General of the United Nations (S/2016/352).

78. The Committee adds that a number of reliable sources indicate that the disappearances targeted young men suspected of participating in protests, members of civil society who were opposed to a third term of office for the President, such as the case of Albert Dushime, and members of the opposition, such as Christa Benigne Irakoze and Eddy Claude Ndabaneze. The Committee notes with concern that, in some instances, members of the police reportedly demanded ransoms, as in the cases of Charles Mutoniwabo and Pascal Ndimurukundo.

79. The Committee points out that it is also concerned by the unavailability of official data on the documented cases and on the investigations conducted at the time and by the fact that the State has not provided information on the cases mentioned during the dialogue (arts. 2, 12, 13 and 14).

80. Burundi calls upon the Committee to treat with caution any information it receives given that some of it has not been verified. The Committee seems to set great store by the information provided to it by OHCHR even though — as demonstrated above — the Office's statistics do not always tally with the reality on the ground. We will return to this point in the section on torture.

81. The Government of Burundi would like to reiterate to the Committee and to the international community that a case is opened every time an enforced disappearance is reported. Burundi always endeavours to identify those responsible for such disappearances. Any person may inform the public prosecutor's office of a disappearance, and the office may also take up and investigate a case at its own initiative if it has direct knowledge of it. The public prosecutor's office has therefore opened case No. RMP 154051/NTT/HL on the alleged enforced disappearances under the provisions on disappearances and abductions in the Criminal Code. The case is still being investigated.

82. The Committee should note that the culture of Burundi is oral-based and attaches great weight to rumours. The public prosecutor's office cannot prosecute offenders on the basis of rumours but must rely solely on evidence that can be substantiated.

83. The Committee states that it is also concerned by the unavailability of official data on the documented cases and on the investigations conducted at the time and by the State party's failure to provide information on the cases brought up during the dialogue (arts. 2, 12, 13 and 14).

84. The Government of Burundi has always been committed to the proper functioning of the administration of justice. Burundi has taken all relevant steps to shed light on the circumstances of some of those cases raised by the Committee which had been brought to the Government's attention.

85. In the investigation to date, the public prosecutor's office has already questioned some of the people involved in the barbaric acts committed in the capital, Bujumbura.

86. These armed rebels claim that they killed some of their own members as well as their opponents, including people who supposedly came from neighbourhoods which were not involved in the insurrection that began on 26 April 2015. When they joined the armed insurgent groups, they did not tell their parents or family members where they were going. They killed those of their companions who were seriously injured during clashes with defence and security forces.

87. Rather than leaving the bodies on the streets of Bujumbura or elsewhere, they buried them either in mass graves or in improvised tombs, depending on the deceased's rank in the group.

88. Like many other experts, the Committee in some cases draws on the biased and one-sided 2016 report of the United Nations High Commissioner for Human Rights on the human rights situation in Burundi.

### **3. Acts of torture and ill-treatment**

89. The Committee states that, while noting that, according to the State party's special report to the Committee, few cases of torture have been reported since December 2015, it is concerned by the 651 cases of torture documented by the OHCHR office in Burundi between April 2015 and April 2016 (A/HRC/32/30, para. 27).

90. The Committee states that it is also concerned at the recent increase in acts of torture associated with the political crisis, as reported by the Secretary-General of the United Nations (S/2016/352, para. 9) and by the Human Rights Council-mandated mission of independent experts after its second visit to the State party. The acts of torture and ill-treatment reportedly took place mainly on the premises of the National Intelligence Service near the cathedral in Bujumbura and also at unofficial places of detention, such as the isolation unit known as Iwabo W'abuntu and the police operations command centre known as Chez Ndayaye, to which national and international observers have not been granted access. While noting that, according to the special report, only five cases involving acts of torture have been under active investigation since September 2015, the Committee says that it remains deeply concerned by the discrepancy between that information and the numerous cases of torture documented in the High Commissioner's report, which, the Committee concludes, would seem to indicate that not all allegations of torture have been the subject of an investigation.

91. The Committee finds it regrettable that the State party has not provided the information requested of it concerning the follow-up to these investigations and on the cases of torture of Esdras Ndikumana, Omar Mashaka, General Cyrille Ndayirukiye and Egide Nkunzimana.

92. The Government of Burundi has at all times been willing to provide the relevant information requested by the Committee.

93. However, Burundi is perplexed by the Committee's references to the statistics presented in the report of the Human Rights Council-mandated mission of independent experts and those provided by the OHCHR office in Burundi, which are contradictory. Section C of the report of the mission of independent experts states that: "The Burundian Independent National Commission on Human Rights (CNIDH) has issued one report since the crisis erupted. The report downplays gross human rights violations by indicating minimal numbers. As an illustration, for the whole of 2015, the report refers to 27 cases of torture and ill-treatment in contrast to 250 cases of torture and ill-treatment documented by OHCHR between April 2015 and April 2016." Curiously, in its concluding observations on the special report of Burundi, the Committee was quick to refer to 651 cases of torture recorded between April 2015 and April 2016 by OHCHR. This is highly contradictory.

94. Burundi regrets that none of the reports it has produced to date have proved satisfactory to the Committee. Burundi would like to alert Committee members to the fact that they have been misled by false reports, to which they attach great importance without making a point of verifying for themselves that they are accurate. Furthermore, Burundi wishes to reiterate that it has always contested the astronomical figures presented by OHCHR, whose country office in Burundi has only a small unit based in Bujumbura with a minimal presence in the regions. It is clear that many of the reports presented by this office rely on second-hand information, hence the reason for the exaggerations concerning cases of torture in particular. It is surprising and puzzling that the reports that the OHCHR office in Bujumbura shares with the authorities differ from those it submits to its headquarters.

95. With regard to the unofficial places of detention condemned by the Committee, namely the isolation unit known as Iwabo W'abuntu and the police operations command centre known as Chez Ndadaye, to which national and international observers have not been granted access, Burundi would like to state that all places of detention where persons in conflict with the law are held are common knowledge and are accessible to everyone.

96. Burundi invites the Committee to make a field visit to see the truth for itself.

97. With regard to the cases of torture which have been under investigation since September 2015, Burundi would like to remind the Committee that all cases of torture that have been brought to its attention have been investigated.

98. The Committee was also concerned that it had not received information about the case of the journalist Esdras Ndikumana.

99. Burundi wishes to inform the Committee that the journalist Esdras Ndikumana, a correspondent for Radio France Internationale and Agence France-Presse, did indeed file a complaint. A case was therefore opened (No. RMPG 11158/NDR) and is currently under investigation. Mr. Ndikumana filed a complaint with the public prosecutor's office, but additional information is required in order to follow up the case. His cooperation with the justice system would therefore be welcomed in order for these acts to be punished.

100. In the case of Cyrille Ndayirukiye, we would like to remind the Committee that he was the mastermind of the aborted coup d'état on 13 and 14 May 2015. During questioning, he confirmed that he had participated in the clashes with loyalist security forces organized by his rebel group and admitted that the group had not achieved its aim despite the fierceness of the fighting. Following his arrest, he was questioned by officials from the public prosecutor's office. The case was transferred to the relevant court and a judgment was handed down. To date, no irregularities have been cited either by the defendant or his counsel to render the various police reports that have been drawn up for that purpose void. Nowhere has Mr. Ndayirukiye claimed that he was tortured.

101. In parallel, the Government also continues to fulfil its commitments, having organized several monitoring exercises and awareness-raising initiatives that have had clearly verifiable results on the ground.

102. The Government wishes to highlight that, in conjunction with the OHCHR office in Burundi, on 29 and 30 October 2015, the Minister of Justice held an information-sharing workshop for members of the judiciary on the subject of human rights in the administration of justice. Regular inspections have been carried out and cases of torture have been identified in accordance with the recommendations made by the participants, who were all public prosecutors and court administrators in Burundi.

103. Awareness-raising and training workshops on how to prevent torture and ill-treatment are organized on a regular basis for police officers, who are thus now aware of the danger that cases of torture present for the victim, for society and for police officers themselves.

104. Burundi reiterates its regret that OHCHR continues to mislead international human rights bodies with its inflated figures for reasons known only to itself.

#### **4. Acts of politically motivated violence perpetrated by the Imbonerakure youth group**

105. The Committee states that it is concerned by several reports corroborating the systematic involvement of members of the ruling party's youth wing (the Imbonerakure) in a number of serious violations of the Convention.

106. The Committee adds that, based on the information it has received, it is concerned that this group, which United Nations sources describe as a militia, has received weapons and training from the Burundian authorities and that, in liaison with the police and members of the National Intelligence Service, it makes arrests and mounts crackdowns on its own with full impunity.

107. While noting that, in its special report to the Committee, the State party seems to disassociate itself from this group's actions, the Committee regrets that no express position was stated concerning the structure of the Imbonerakure group, its organizational ties to the authorities and its attributed functions.

108. The Committee states that it is concerned by the Minister of the Interior's statements acknowledging that the Imbonerakure group was part of a national security strategy that included mixed-composition security bodies set up pursuant to the government order of 4 February 2014.

109. The Committee also regrets that it did not receive from the State party the information it requested on action taken against abuses committed by members of the Imbonerakure group, in particular with regard to their suspected involvement in the confrontations that took place on 3 October 2015 in Cibitoke, in the execution of five young people on 9 December 2015 and in the murder of Laurent Gasasuma (arts. 2, 12 and 16).

110. Burundi considers that the Committee's claim that a number of reports corroborate the systematic involvement of members of the ruling party's youth wing is exaggerated. The Imbonerakure youth group has often been demonized and insulted simply because of its affiliation with the ruling party.

111. Burundi notes that the Committee goes even further than that, stating that in its special report to the Committee, Burundi appears to dissociate itself from the actions of the group, thus implying that the Government was acknowledging the nature of those acts up front. Burundi reiterates once again that the Imbonerakure group does not carry out militia-style activities and has never been mandated to do so by the ruling party. If any of the young people commit an offence, that person is to be punished in accordance with the law.

112. Burundi finds it surprising that the Committee wishes to brandish the order of 4 February 2014 as proof that the Government of Burundi recognizes that the Imbonerakure group operates alongside the police. This is untrue. The order seems to have been misinterpreted intentionally with a view to making Burundi yield to pressure.

113. Why would a country like Burundi, with its well-structured defence and security forces, which are recognized internationally for their staffing levels and professional competence, need to ask a youth group to carry out its operations?

114. It is equally absurd for the Committee to state that it regrets that it did not receive from the State party the information it requested on action taken against abuses committed by members of the Imbonerakure group, as though the Government of Burundi were acting in bad faith. Burundi has always said that the members of the Imbonerakure group are no different from any other young people and that every individual Imbonerakure member bears personal criminal responsibility not as a member of the group but as a citizen.

## **5. Sexual violence associated with the political crisis**

115. The Committee also states that it is alarmed at the numerous corroborated allegations of sexual violence against women as a means of intimidation and repression during protests and during searches conducted by the police, the military or members of the Imbonerakure youth group in opposition neighbourhoods of Bujumbura.

116. The Committee is also concerned by reports of certain chants inciting Imbonerakure members to rape women.

117. While noting that OHCHR has documented 19 cases of sexual violence perpetrated by the security forces and Imbonerakure youth group members between April 2015 and April 2016, the Committee believes these cases may represent only a small fraction of the total number of cases of such violence considering that most victims are afraid to report these rapes.

118. Although it acknowledges the statement by the Ministry of Human Rights that these events are not linked to the political crisis but are instead a social phenomenon, the Committee notes with concern that the reported acts were committed with the involvement, consent or acquiescence of agents of the State in the course of duty and would therefore constitute acts of torture.

119. The Committee concludes by expressing its regret at the unavailability of official data concerning allegations of acts of sexual violence committed by the security forces or Imbonerakure youth group members during the period as well as on the investigations conducted, cases prosecuted and sentences handed down (arts. 1, 2, 4 and 16).

120. Burundi has already noted that there is false evidence in the form of fake montages allegedly showing ethnically motivated rape in neighbourhoods where residents were said to be protesting that were disseminated on social media and relayed by organizers of the insurrection such as Pacifique Nininahazwe. Some rebels who have renounced such criminal acts have confirmed that they were involved in making the fraudulent montages with the aim of discrediting the security and defence forces.

121. Burundi wishes to inform the Committee that the cases of rapes described in the report as a means of repression of opponents bear no resemblance to the cases of rape currently pending before the courts. The Government appreciates that action must be taken to tackle such acts in Burundi and has taken legislative and regulatory steps to ensure that they are duly punished, including the revision of the Criminal Code and of the law governing gender-based violence.

122. Burundi continues to take concrete action to end this scourge. Accordingly, two mechanisms have been created: specialized court divisions to ensure the proper processing of cases of sexual violence and a unit within the Ministry of Justice tasked with planning and monitoring activities to tackle sexual and gender-based violence.

123. Burundi works with United Nations agencies including the United Nations Development Programme (UNDP), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), OHCHR, the World Bank and the United Nations Children's Fund (UNICEF) to organize regular awareness-raising campaigns and special sessions to deal swiftly with cases of gender-based sexual violence. To date, these partner organizations have not reported cases of rape used as a means of repression of political

opponents. Neither have any such cases been reported by the Humura and Seruka Centres, which treat victims of this form of violence.

124. To date, none of the 133 cases of rape referred to the public prosecutor's office have shown the rape to be ethnically motivated. Furthermore, none of the perpetrators identified to date are members of the security or defence forces.

125. The investigation conducted notwithstanding, the allegations of ethnically motivated rape are intended solely to tarnish the image of the defence and security forces and to give credence to the claims of genocide, which some rebel leaders turned to their advantage, as attested by those who took part in making the above-mentioned montages — a hoax that some organizations such as Human Rights Watch perpetrated.

126. In order to achieve positive results, the Committee is invited to note that national organizations to combat sexual and gender-based violence have been established and are now operational under the following regulations:

- Ministerial Decree No. 550/1650 of 28 September 2012 establishing a national commission to combat gender-based violence;
- Ministerial Decree 550/1622 of 19 November 2013 on the remit, composition and operation of the special courts for minors and victims of sexual violence in Burundi and the establishment of special divisions for minors within courts of major jurisdiction, appeal courts, public prosecutor's offices and prosecutor's offices attached to appeal courts.

127. The Committee may wish to note that the Government is supported in its efforts to combat sexual violence by the World Bank Great Lakes Emergency Sexual and Gender Based Violence and Women's Health Project, the UNDP and UN-Women.

128. The Government of Burundi encourages victims or claimants in such cases to cooperate with the public prosecutor's office and the administrative authorities in place by filing a case either directly with the relevant prosecuting authority or through the Independent National Human Rights Commission or one of the approved national civil society organizations working on sexual violence.

129. Burundi and the OHCHR office in Burundi work closely together in this area.

130. The public prosecutor's office has opened a case on the ethnically motivated rapes reported since February 2016 with the prosecutor's office for Bujumbura Marie Province (case No. RMP 154051 Bus/NTT/HL).

131. Although none of the alleged victims or witnesses in the cases have yet given evidence, at the current stage of investigation the facts as reported have been found to be nothing but montages.

## **6. Ethnically motivated acts of violence and incitement to hatred**

132. According to the Committee, although the crisis in Burundi is political in nature, the Committee notes that the President's assumption of a third term of office undermined the ethnopolitical sharing of power established in the Arusha Peace Agreement.

133. The Committee further states that it is gravely concerned by information from United Nations sources of statements being made by senior government officials that include genocidal rhetoric.

134. It is alarmed as well at corroborated information concerning the murder or enforced disappearance of officers of the former Burundian Armed Forces after the attempted coup d'état of May 2015; as indicated by the High Commissioner for Human Rights, those violations may have been ethnically motivated. This ethnic dimension of the conflict risks being exacerbated by the repressive measures taken in neighbourhoods inhabited mainly by Tutsis (arts. 2, 12 and 16).

135. Burundi sincerely regrets the attitude displayed by the Committee in drawing such hasty conclusions, which tarnish the country's image.

136. With regard to the Committee's grave concerns about information from United Nations sources claiming that senior government officials have made statements containing genocidal rhetoric, Burundi would like to point out to the Committee that the Government is fully committed to its policy of national unity, which it promotes in word and deed.

137. It is not logical for the Committee to draw conclusions on the murder or enforced disappearance of officers of the so-called former Burundian Armed Forces without investigating those cases or providing any real figures. It is widely known that the murders and disappearances affected officers of all ethnicities, both from the former Burundian Armed Forces and the former armed political movements and parties. The Committee has not conducted an investigation into how many Hutus and Tutsis have been killed but has concluded that Tutsis in particular have been targeted.

138. The Government reiterates its continuing commitment to prohibiting hate speech in Burundi and to prosecuting any person who incites hatred or ethnic violence, in accordance with the legal provisions of the Criminal Code. It also commits to taking firm action if the allegations in this regard are proved to be true.

## **7. Excessive use of force against protesters**

139. With regard to cracking down on protests against a third term for the President, such protests having been prohibited by the authorities, the Committee notes with concern the corroborated allegations of excessive and disproportionate use of force, including the firing of live bullets in response to stone-throwing by protesters and the use of grenades and tear gas in the street and in homes.

140. The Committee states that it is similarly concerned by assertions made by the Director General of Police that some of the officers involved had been brought in from training centres and had little experience with controlling protesters.

141. The Committee goes on to say that, while taking into account the findings of the commission of inquiry tasked with looking into the events of 26 April 2015, it regrets that the commission was silent about the violations committed by agents of the State at that time.

142. It also regrets that the State party did not respond to the requests for information as to whether investigations have been or will be conducted into these events (arts. 2, 12, 13 and 16).

143. With regard to the excessive use of force against protesters and acts of intimidation, the Government wishes to point out that the Burundian police force was confronted by armed rebels, as evidenced by the civilian, police and military victims and the weapons seized during the searches conducted (1,110 firearms, 12,626 cartridges, 4 boxes of MKV, 178 magazines, 1,140 grenades, 175 bombs, 5 missiles, 5 anti-personnel mines, 48 rockets and other military and police items). The Government has nevertheless conducted investigations to identify the culprits and victims and also the circumstances surrounding the deaths of the victims. An interim report has been produced and some of those responsible have been identified. The uprising was extremely violent and caused considerable material and human damage.

144. The Committee is similarly concerned by assertions made by the Director General of Police that some of the officers involved had been brought in from training centres and had little experience with controlling protesters.

145. Burundi considers that the Committee has distorted the statements made by the Director General of Police.

## **8. Arbitrary detention and arrests**

146. The Committee states that it notes with concern the information contained in the report of the High Commissioner for Human Rights (A/HRC/32/30, paras. 18 and 19) according to which 5,881 persons (including 351 children) were arrested or detained between April 2015 and April 2016; of those arrests, 3,477 were considered to have been arbitrary or illegal.

147. The Committee goes on to say that corroborated information indicates that these detentions mainly targeted persons opposing a third term for the President.

148. The Committee is similarly concerned by reports that most of the prisoners have not been allowed to contact their families or a lawyer, that they have been held beyond the legally allowed time limits and that, in some instances, they have been refused medical care (arts. 2 and 16).

149. As in any other State governed by the rule of law, the procedures for arrest in Burundi are known. It is therefore illogical for experts to throw around figures in the thousands without providing full details. Burundi considers that these figures are exaggerated. The figures put forward by the Committee and the claim that persons opposing a third term for the President have been targeted imply that the prisons are full of protesters. This is untrue.

150. The Committee should note that the overcrowding in prisons is completely unrelated to the crisis in Burundi and is a long-standing problem of which the Government is aware. Many measures have been taken to relieve overcrowding, including presidential pardons, parole and monitoring of detention through inspections organized by the Ministry of Justice and the public prosecutor's office.

151. The Committee states that it is similarly concerned by reports that most of the prisoners have not been allowed to contact their families or a lawyer, that they have been held beyond the legally allowed time limits and that, in some instances, they have been refused medical care (arts. 2 and 16).

152. Burundi considers that assertion unwarranted and unfounded. The rights of prisoners are effectively guaranteed, including the right to a defence and the right to receive visits. There is a well-established schedule to enable prison authorities to attend to inmates. It is difficult to believe that the Committee claims that inmates have been refused medical care given that all prisons have competent medical staff assigned to them. In addition to the care provided to any inmate taken ill inside a prison, more complicated cases are transferred to hospitals.

153. By way of example, with the support of the OHCHR office, the Government of Burundi organized a nationwide general census of detainees in police cells and prisons in June 2016. The aim of the census was to monitor places of detention and verify that inmates' files were in order.

154. In each place of detention, the census officials systematically counted the inmates held there and scrutinized the files one by one, category by category, taking note of the information they contained and any irregularities. The results were positive and encouraging.

155. NGOs, in particular the International Committee of the Red Cross, do a lot of work to improve the health of detainees.

## **9. Attacks and acts of intimidation against human rights defenders, journalists and their families**

156. The Committee states that it is gravely concerned by the corroborated information on acts of intimidation and aggression committed against human rights defenders and journalists, who are often taken to be political opponents of the Government because of their involvement in the "No third term!" campaign inasmuch as they report on events that show State institutions in an unfavourable light and broadcast live scenes of repression of protests.

157. The Committee goes on to say that some NGOs have had their activities suspended as a result of the political crisis, and their bank accounts have been closed; and press outlets, especially for private media, are being targeted by police raids.

158. With regard to the high-profile case of the attempted murder of human rights defender Pierre Claver Mbonimpa in August 2015 and the murder of his son Welly Nzitonda in November 2015, the Committee notes that, according to the State party, "the

lack of collaboration by the civil party's representatives is impeding the prompt conclusion of the procedure"; however, these are crimes that can be prosecuted *ex officio*.

159. The Committee states that it regrets that the State party did not provide information concerning investigations conducted into the cases mentioned by the Committee, such as the murder of the journalist Jean-Baptiste Bireha, the murder of the journalist Christophe Nkezabahizi and members of his family, and the arrest of Jean Bigiri on 22 July 2016 (arts. 2, 12 and 16).

160. Burundi considers that the Committee appears to base its beliefs on false information.

161. The attempted murder of Pierre Claver Mbonimpa, like all wrongful acts committed in Burundi, is being investigated, under case No. RMP 153248/BI.

162. His son died in battle, as confirmed by one of his fellow fighters, Mr. Epitace Ningabire, who surrendered. Mr. Ningabire has stated that Mr. Nzitonda was killed as he was about to throw a grenade at police in Mutakura. Criminal proceedings have nevertheless been brought against Epitace Ningabire and his associates under case No. RMPG 718Bis/N.TH.

163. Despite the proceedings already under way in Burundi, investigators were unable to come up with anything from them to allow them to complete their investigation. The Government of Burundi invites the Committee to note, for example, that following investigations, the journalist Jean Baptiste Bireha, who was initially thought to have disappeared, is in fact alive and currently residing in Nyabugogo, Rwanda.

164. In the case of cameraman Christophe Nkezabahizi, contrary to the allegations in the Committee's report, Burundi has carried out an investigation under case No. RMP 152961/NTT. The alleged perpetrators of this crime are armed rebels, three of whom have been brought to justice and are already standing trial.

165. Contrary to information from certain United Nations entities, the journalist Jean Bigirimana was abducted by unidentified persons. An investigation has been launched under case No. D15 No. 28/ML/NO at the public prosecutor's office in Muramvya, where Mr. Bigirimana was abducted. The Committee goes on to say that some NGOs have had their activities suspended as a result of the political crisis, and their bank accounts have been closed; and press outlets, especially for private media, are being targeted by police raids.

166. Without verifying the law or the facts, the Committee merely states that some NGOs have had their activities suspended as a result of the political crisis. Natural and legal persons are subject to criminal and/or civil liability. There is no law which grants immunity to NGOs or their directors from criminal and/or civil prosecution for punishable offences committed by them. As such, the organizations are subject to legal proceedings for their involvement in organizing and carrying out the uprising which began on 26 April 2015. They also collaborated closely with the organizers behind the failed coup d'état on 13 May 2015 and other crimes, including murders and the destruction of public and private property. An example can be found in a statement made by Pacifique Nininahazwe, one of the main organizers of the uprising and the coup d'état, following the death of a man working for a mobile telephone company who was burned alive as he went about his daily tasks. Following this crime, Mr. Nininahazwe said: "This is just the beginning. Over the coming days the situation will become more serious and more violent."

167. What kind of human rights defender would rejoice at such a terrible act? In encouraging that act, he is guilty of justifying a crime. The Committee members should have considered the strategies, discourse and actions of the movement's organizers so that they could establish the organizers' responsibility for the various attacks on lives and on other fundamental rights. The agitators managed to fool the Committee, who, unfortunately, fell into their trap. Burundi notes that the Committee members did not deign to investigate who was behind the accusations against the NGOs and their directors. They presented these criminals as victims in order to allow them to escape the criminal proceedings brought against them.

**10. Impunity: failure to conduct investigations and lack of judicial independence**

168. The Committee states that it is concerned by the impunity that the perpetrators of violations seem to have been enjoying since the political crisis began in April 2015. This impunity is clearly discernible from the case of Désiré Uwamahoro, a police officer who was sentenced to 5 years in prison for having committed acts of torture but never served the sentence and was subsequently promoted to the rank of commander of the Anti-Riot Brigade on 23 September 2015 by a government order.

169. The Committee notes with concern that the three commissions of inquiry set up at the time did not produce a single instance of prosecution of an agent of the State. Such impunity is an additional barrier to the bringing of legal actions by the victims and their families.

170. Furthermore, the Committee regrets that the State party provided virtually no official data that would allow the Committee to ascertain whether the State party is honouring its obligations under the Convention with regard to investigations.

171. The Committee notes with concern that little progress has been made in terms of independence of the judiciary: the Supreme Council of the Judiciary, which has the power to suspend or recall judges, remains under the control of the executive branch.

172. The Committee regrets that the report of the National Forum on the Justice System has not yet been published and that the Committee's recommendations have not been implemented, despite the stated commitment of the State party in that regard (arts. 2, 12, 13 and 16).

173. Despite the efforts that Burundi has made to date to provide information on all situations of human rights that arise, the Committee has failed to consider it.

174. It is absurd to speak of the lack of an investigation and judicial independence in a case such as that of Désiré Uwamahoro.

175. Mr. Uwamahoro has been prosecuted for and found guilty of first-degree aggravated assault and battery. The case is not yet closed because an appeal has been lodged and the Supreme Court has not yet handed down the final decision.

176. Why, then, would we speak of impunity for someone whose case has not yet received a final decision? Burundi is surprised to hear that the Committee notes with concern that the three commissions of inquiry set up at the time did not produce a single instance of prosecution of an agent of the State, and that such impunity is an additional barrier to the bringing of legal actions by the victims and their families.

177. The Committee's position is regrettable, as the three commissions have indeed produced reports which were made available to the public. As the reports do not contain the false information provided by Government opponents that the Committee wished to see, the Committee expresses its concern! It is surprising that none of the reports Burundi has produced to date have satisfied the Committee.

178. The Committee notes with concern that little progress has been made in terms of independence of the judiciary: the Supreme Council of the Judiciary, which has the power to suspend or recall judges, remains under the control of the executive branch.

179. Burundi regrets that the Committee seems to call the Burundian justice system into question and considers these statements to be purely political. The Courts function normally and regularly deal with cases brought by members of the public, including victims of human rights violations. The executive branch does not put pressure on the judiciary.

180. With regard to the National Forum on the Justice System, Burundi wishes to inform the Committee that a report has indeed been published and that some of its recommendations are already being implemented, including a competitive process for the recruitment of judges.

181. As the punishment of crimes is one of the bedrocks of a sovereign State, the public prosecutor's office has always sought to bring offenders before the courts and continues to do so. The jurisdiction of Bujumbura Mairie has been the one most affected since the

uprising which began on 26 April 2015. The following are some examples of criminal cases that have been opened and tried.

#### **11. Reform of the security sector**

182. The Committee notes with concern the lack of legal regulation of the scope of responsibility and actions of the various security forces of the State party allegedly responsible for most of the violations during the political crisis in Burundi since April 2015.

183. The Committee also takes note of corroborated reports of a parallel chain of command within the police force, the politicization of the latter and the overlapping responsibilities of the Ministry of Public Security and the Office of the Director General of the Police, a situation that prevents effective supervision of the work of the police.

184. The Committee is likewise concerned by reports that the new security units in place since the 2015 crisis — namely, the Anti-Riot Brigade, the Institutional Support Brigade and the Special Brigade for the Protection of Institutions — have been accused of several violations (arts. 2 and 12).

185. Burundi wishes to inform the Committee that, with the support of the international community, it has been engaged in the development of the security sector since the signing of the Arusha Accords in 2000. Because of the role played by the defence and security forces, Burundi has always been invested in their transformation.

186. A new national police service was established in 2004 and the services existing at the time were merged to form the Burundian National Police. Since 2005, training initiatives have been developed through bilateral and multilateral partnerships. The National Police continues to develop its management systems and procedures, oversight mechanisms and operational capacity.

187. Likewise, the reform of the army also began in 2004, with the integration into the National Defence Forces of members of the former Burundian Armed Forces and the former armed political movements and parties and the implementation of the agreement on the harmonization of ranks. This integration process was designed to ensure that ethnic quotas were respected.

188. The refurbishment and construction of barracks and training centres were also supported by the international community, whose assistance also covered training activities and the establishment of improved management and oversight.

189. When the Committee talks of corroborated reports of a parallel chain of command within the police force, the politicization of the latter and the overlapping responsibilities of the Ministry of Public Security and the Office of the Director General of the Police, Burundi finds it unjust that the Committee seems to disregard the efforts and progress made by the Government in terms of oversight and restructuring in the defence and security forces.

190. With regard to the Committee's concern at reports that the new security units in place since the 2015 crisis — namely, the Anti-Riot Brigade, the Institutional Support Brigade and the Special Brigade for the Protection of Institutions — have been accused of several violations (arts. 2 and 12), the Government refutes these allegations and considers that certain things have been passed over in silence. During the reporting period in 2015, Burundi had to manage a delicate and unusual situation which necessitated effective security measures. The tasks and operations of the Brigade are formally regulated by law. Burundi wishes to recall that, today, the situation is under control. Burundi further recalls that sovereignty over the organization of the security services resides with the State.

#### **12. Obstacles to the cooperation of civil society organizations with the Committee**

191. The Committee is deeply concerned by the letter of 29 July 2016 from the Public Prosecutor at the Court of Appeal of Bujumbura requesting the President of the Bar Association to disbar the lawyers Armel Niyongere, Lambert Nigarura, Dieudonné Bashirahishize and Vital Nshimirimana.

192. These lawyers had contributed to the drafting of a joint shadow report submitted to the Committee for the consideration of the special report of Burundi, and three of them had attended the interactive dialogue between Burundi and the Committee on behalf of the Burundian civil society organizations they represented.

193. Noting that this request was made after the delegation had broken off its dialogue with the Committee, in particular because of the alternative report from Burundian civil society, the Committee sent a letter to the State party on 5 August 2016 asking for information on the measures taken to stop all reprisals against members of civil society working with the Committee.

194. In view of the information provided by the State party in its reply of 11 August 2016, stating that the request for disbarment had been made within the framework of ongoing criminal investigations of these lawyers, the Committee notes with deep concern that the request itself is an act that, in violation of the principle of presumption of innocence, assumes the outcome of ongoing criminal proceedings that have not yet led to a finding of guilt against the persons targeted by the disciplinary sanction.

195. Burundi recalls that, since April 2015, a number of punishable offences under Burundian criminal law have been committed. The prosecution authority has spared no effort in initiating criminal proceedings. An investigation has been opened whenever the authority has learned that an offence has been committed.

196. These investigations were conducted either through commissions of inquiry or, as is usual practice, through the opening of a case on the matters brought to its attention.

197. With regard to the lawyers, Burundi would like to remind the Committee that no individual is above the law and that the Government already provided sufficient clarity on the lawyers' legal situation in the response it sent in August 2016 to the Committee's letter of 5 August 2016.

198. Burundi is astonished that the Committee has returned to this issue when in fact it should be contributing to the prosecution of the lawyers for the crimes they have committed.

199. In conclusion, Burundi urges the Committee to consider and recognize the true value of the comments submitted by the Government.

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