



# International Covenant on Civil and Political Rights

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## Human Rights Committee

138th session

### Summary record (partial)\* of the 4003rd meeting\*\*

Held at the Palais Wilson, Geneva, on Monday, 3 July 2023, at 3 p.m.

*Chair:* Ms. Abdo Rocholl

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Consideration of reports submitted by States parties under article 40 of the Covenant  
(continued)

*Third periodic report of Burundi*

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\* No summary record was prepared for the rest of the meeting.

\*\* No summary record was issued for the 4002nd meeting.

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*The discussion covered in the summary record began at 3.25 p.m.*

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

*Third periodic report of Burundi (CCPR/C/BDI/3; CCPR/C/BDI/Q/3;  
CCPR/C/BDI/RQ/3)*

1. *At the invitation of the Chair, the delegation of Burundi joined the meeting.*
2. **The Chair**, welcoming the delegation, said that she wished to explain to those not present in the room that, shortly before the scheduled starting time for the dialogue, the delegation had provided the Committee with a list of persons who were in legal difficulties in the State party and requested that those persons should be prevented from entering the room; the persons in question were representatives of civil society. Since the sole entry requirement was accreditation by the Office of the United Nations High Commissioner for Human Rights (OHCHR), it was not the prerogative of the Committee to bar any accredited person from entering what was, by design, a public dialogue. Nevertheless, the dialogue itself would take place between the delegation and the members only.
3. **Ms. Sabushimike** (Burundi) said that her country's delegation could not sit in the same room as convicted fugitives from its courts. Therefore, the delegation of Burundi would withdraw from the meeting.
4. **The Chair**, expressing the Committee's regret at the delegation's decision, said that it would therefore be necessary to follow the established procedure for considering a State party report in the absence of a delegation. She proposed that all persons present should take a short break, during which she hoped that the delegation would consider continuing the dialogue with the Committee. While the Committee could follow the aforementioned procedure, the delegation's participation in the dialogue would greatly enrich the members' knowledge of the situation in Burundi.

*The discussion covered in the summary record was suspended at 3.30 p.m. and resumed at 3.50 p.m.*

5. **The Chair** said that, having been afforded time to reconsider and despite the assurances offered in respect of procedures and security, the delegation of Burundi had adhered to its decision not to participate in the remainder of the meeting. Before withdrawing, the delegation had handed members of the secretariat a written statement to be read out.
6. **Ms. Wan-Hea Lee** (Acting Secretary of the Committee), reading out the statement, noted that it said that, in advance of the first of the two scheduled meetings, the delegation of Burundi had informed the Committee that it was out of the question that the delegation should present the report in the presence of certain persons who, while they claimed to be representatives of civil society working outside the country, were actually criminals who had been convicted under the laws of Burundi. A list of their names had been given to the Committee. The Government regretted the Committee's refusal of its legitimate request. The delegation of Burundi was therefore withdrawing from the dialogue. Nevertheless, Burundi reaffirmed its commitment to the human rights treaties to which it was a State party.
7. **The Chair** said that, since the Committee had prepared for the dialogue with the utmost diligence and interest in the human rights situation in Burundi, the members would proceed with their questions in the absence of a delegation.
8. **Ms. Kpatcha Tchamdjia** said that she welcomed the Government's stated commitment to the rule of law and the progress that it had reported in that regard. Given that all the Covenant's provisions had been incorporated into the Constitution of Burundi, specific examples of cases in which the courts had invoked or applied those provisions in such areas as inheritance rights, gender equality and freedom of expression would be useful. She would like to receive up-to-date information on progress towards the ratification of the two Optional Protocols to the Covenant. It would also be of interest to learn what measures had been taken to raise awareness of the Covenant among the population and to broaden knowledge of the provisions and application of the Covenant among the country's judiciary, lawyers and administrative authorities.

9. The Committee had received reports of enforced disappearances; the arbitrary detention of political opponents; the alleged use of torture by the police, the National Intelligence Service and the *Imbonerakure*; and the existence of secret detention centres. Since the reports of the Independent National Human Rights Commission made no mention of any such violations, she would like to obtain up-to-date information on the measures taken to ensure that the Commission could discharge its mandate fully, effectively and in complete independence, in line with the Paris Principles. She wished to know what steps the State party intended to take to augment the Commission's funding, establish provincial offices in order to increase its accessibility and address the lack of representation of the Batwa and the non-involvement of civil society in appointing its own representative to the Commission.

10. The Government had denied reports that it had, for months, refused to recognize the existence of the coronavirus disease (COVID-19) pandemic and had declared four World Health Organization officials personae non gratae. As it had stated that, on the contrary, it had promptly taken measures to prevent the spread of COVID-19, she was curious as to when the adoption of those measures had begun. She would be grateful for up-to-date, realistic statistics on the number of persons who had contracted COVID-19 and the number who had died from the disease. It would be interesting to learn how the State party would respond to reports that it had refused to vaccinate the population for quite some time on the grounds that the vaccines were purportedly still at an experimental stage or were unnecessary.

11. **Mr. Ndiaye** said that he wished to know how many convictions and acquittals had been handed down by the Anti-Corruption Court since 2020. Also, it would be useful to learn how many cases were currently being investigated by the prosecutor's office of the Court and who had referred those cases to it. In the light of persistent reports of corruption in the mining sector and in the administration of public construction contracts, he wondered whether the State party was considering becoming a member of the Extractive Industries Transparency Initiative. Information as to which persons among those who managed public funds were required to declare their assets when taking up and leaving their posts would be helpful, as would information on the penalties applied when such declarations were not submitted on time or at all. He wondered whether there was a hotline or some other mechanism that members of the public could use to report alleged cases of corruption without fear of reprisals.

12. He would like to obtain information on the measures taken to combat spousal abuse and gender-based violence, the number of persons who had been prosecuted for having committed acts of violence directed against women and the number convicted, the punishments imposed on the latter, the measures adopted to offer appropriate redress to victims and their families, and the steps taken to ensure that woman rape victims were given appropriate medical care.

13. In the light, in particular, of reports that sexual violence was used as a means of intimidating women and their families who belonged to the political opposition, he would like to know how agents of the State and members of the *Imbonerakure* were made aware of the prohibition of all forms of violence against women and girls. Details on any cases in which members of the *Imbonerakure* or security services had been convicted of offences of that nature would be useful. He would like to obtain information on the steps taken to prevent sexual assaults against girls in schools, including those committed by teaching staff, and to prosecute and punish the perpetrators; he also wished to know how many teachers had been convicted of such acts since 2020.

14. He wondered why the OHCHR country office had been closed and whether a dialogue concerning the possibility of it being reopened was envisaged. In addition, he would welcome an update on the work of the Truth and Reconciliation Commission and wished to know whether any plans were in place for its strengthening or revitalization.

15. **Ms. Tigroudja** said that, in view of the deterioration of the relationship between the State party and the treaty bodies since 2016, she hoped that the Government was following the meeting online. Since the State party had a responsibility to respect international treaties that it had freely ratified, such as the Covenant, she wished to know when it planned to repeal article 590 of its Criminal Code, under which same-sex relationships were criminalized. Accurate up-to-date figures on the number of persons arrested and prosecuted under article 590 would be useful, as would information on any measures taken to protect persons involved

in same-sex relationships from discrimination, stigmatization, harassment, hate speech, violence and marginalization by society, the authorities and senior politicians. She would also like to obtain information on measures planned and taken to safeguard the rights of such persons to peaceful assembly, health, education and freedom of expression, among others.

16. She wished to know what steps the State party was taking to remove any obstacles to reforming the Code of the Person and the Family, the Nationality Code and laws on inheritance rights and access to land. She wondered how the State party planned to ensure equal rights for women and men under customary law. It would be interesting to learn how, beyond 30 per cent quotas for women in government positions and parliament, the State party intended to ensure equal representation of women at the provincial and district levels. She was particularly curious about any policies or measures aimed at combating stereotypes that had the effect of excluding girls and women from the public sphere and fostering women's empowerment. She wondered whether the State party planned to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

17. She would like to learn what steps the State party planned to take to amend the articles of the Criminal Code under which abortion was criminalized and to prevent women from seeking clandestine abortions by guaranteeing, in practice, access to legal abortions. It was not clear to her how the figure of 3,346 clandestine abortions, mentioned in paragraph 16 of the replies to the list of issues (CCPR/C/BDI/RQ/3), had been obtained. She wished to know what had happened to women who had purportedly undergone clandestine abortions and to persons who had allegedly helped them to do so. She wondered whether the State party intended to establish a policy on education on sexual and reproductive health for women and men, sexual self-determination and women's freedom to control their own bodies. In that connection, she was curious about what kinds of efforts were being made to provide such education to both men and women living in rural areas and to involve religious communities in those efforts.

18. **Mr. Ahmadov** said that, in view of the large number of documented cases of extrajudicial executions in Burundi, detailed statistics on all reported enforced disappearances and killings of political activists by law enforcement officers and *Imbonerakure* members would be useful for the Committee, as would information on all international arrest warrants issued, investigations conducted, prosecutions carried out, convictions handed down and penalties imposed in connection with such crimes. The Committee would also like to have detailed information on any investigations conducted into the suspected summary executions committed in connection with the events of 11 December 2015 and those committed between 19 and 23 February 2020, the reported extrajudicial killing of Claude Ndimunzigo and of rebels in Gahuni, Gitaza and Bugarama, and the death of Jean Claude Ntirampeba.

19. In view of the number of cases of enforced or involuntary disappearances, he would like to know whether the State party had plans to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee had received reports that the courts were willing to award compensation to the families of victims of extrajudicial killings and enforced disappearance, and he would therefore be interested in obtaining information on the number of cases in which such compensation had, in fact, been awarded. As the State party had acknowledged the fact that compensation was rarely paid owing to the insolvency of the perpetrators and had stated that, in order to address that situation, it intended to establish a dedicated compensation fund, the Committee would welcome information on the progress made towards establishing such a fund.

20. Amid reports of judicial malfunction, excessive procedural delays and the ineffectiveness of the Truth and Reconciliation Commission, the Committee wished to learn what measures were to be taken by the State party to ensure access to justice for victims of enforced disappearance and extrajudicial killings, facilitate the filing of complaints and protect complainants, victims and witnesses from reprisals.

21. **Mr. Quezada Cabrera** said that he remained keen to hear the State party's comments on reports of numerous instances of torture and ill-treatment, including sexual violence directed against both women and men, in the detention facilities of the police and the National Intelligence Service, in unofficial places of detention and in public places. Information would

be welcome on the number of complaints received, investigations conducted, prosecutions carried out and convictions handed down and on the nature of the penalties imposed and the reparations granted to victims or their families. He also remained interested in hearing an explanation as to why the new Code of Criminal Procedure no longer provided for the establishment of a compensation fund for such victims, particularly in view of reports that a law obliging the State to compensate victims of torture, regardless of whether the perpetrators of the crime were in a position to pay, had been adopted. In addition, he wished to receive information about the measures adopted to incorporate provisions into the Military Criminal Code on acts of torture and ill-treatment committed by military personnel.

22. The Committee had received inconsistent reports on the number of cases involving acts of torture allegedly committed by State officials in Burundi: the Independent National Commission on Human Rights had registered 10 cases of torture and 4 of ill-treatment since 2019, whereas one civil society organization had registered 26 cases of torture just between January and April 2023. He would therefore appreciate clarification as to the number of cases of torture registered within those time frames. To afford the Committee a more long-term perspective on the matter, statistics on the number of cases of torture registered since the last State party review in 2014 would also be helpful. Details on the outcomes of those cases, including the number of convictions and the nature of the sentences handed down, would also be useful. In that connection, he wished to know whether the State party had implemented the Committee's recommendation to establish an independent mechanism for investigating complaints of torture or ill-treatment suffered at the hands of members of the police force, security forces or the intelligence services and facilitating the filing of complaints by the victims.

23. He wished to learn more about the situation of Floriane Irangabiye, a journalist whose allegations of torture had been ignored by the courts, and to receive information on the measures taken to improve and monitor living conditions and the treatment of inmates in all places of deprivation of liberty. Areas of concern included the lack of sanitation services and adequate food, the lack of access to medical services and drinking water, and, in particular, prison overcrowding, as, according to recent data, the occupancy rate of prisons in the State party stood at 292 per cent. Information on the measures taken in prisons to combat the COVID-19 pandemic would be gratefully received, as would details concerning the mechanisms for monitoring places of deprivation of liberty and the measures taken to establish a national mechanism for the prevention of torture, in line with the commitments undertaken by the State party pursuant to its accession to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Lastly, he would be interested in learning more about any investigations conducted into the Gitega prison fire of 7 December 2021, which had reportedly left hundreds dead or injured, and any measures adopted to prevent such events and protect the lives and physical integrity of inmates.

*The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.*

24. **Ms. Kpatcha Tchamdjia** said that, in view of the number of allegations of arbitrary detention, most of which involved members of the political opposition, she would be interested in learning about the measures taken to ensure that any State officials responsible for such acts were punished and that the victims were released and adequately compensated. She would appreciate receiving up-to-date information on the issuance of pardons in recent years and would like to invite the State party to comment on allegations that not all prisoners eligible for release had actually been freed.

25. She would like to obtain statistics that illustrated the impact of the measures taken to reduce the disproportionate use of preventive detention. She also wondered whether the fact that the 7-day limit on police custody could be prolonged to 14 days disincentivized police officers from conducting preliminary investigations swiftly.

26. Up-to-date information would be useful on the situation of the many internally displaced persons in the country and on any measures adopted to ensure their return to their places of origin under satisfactory conditions, including measures to protect their land rights. Comments from the State party would be welcome on reports that internally displaced persons living in the camps scattered across the country were targets of constant intimidation

by *Imbonerakure* members and administrative officials. Information on any specific measures that might be in place to protect displaced persons from all forms of violence, including sexual violence, and to prevent the exploitation of displaced women and girls would also be appreciated.

27. Lastly, she wished to receive updated information on the implementation and outcomes of measures aimed at increasing the representation and participation of Batwa persons in public life and helping them to obtain identity documents and register their children's births. Reports received by the Committee suggested that Batwa persons were, in reality, almost entirely absent from political and all other spheres of public life in Burundi, and recent government initiatives seemed to disregard the official recognition of Batwa persons as an Indigenous People.

28. **Mr. Ndiaye** said that, in the light of the concerns voiced by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and the Working Group on Arbitrary Detention concerning the persecution, enforced disappearance and forced repatriation of Burundians living in refugee camps in Tanzania, he wished to know whether the State party intended to invite any members of the Working Group to visit Burundi to discuss their concerns.

29. As the protection of children fell within the mandate of five different ministries, he wished to know what coordination mechanisms were in place to ensure that the budget for the protection of children was appropriately distributed to ensure that the impact of their work was felt at the local level. He also wished to learn about any action taken to protect and ensure the well-being of the newborn children of women inmates. He would like to know how many children living on the street were at risk of exploitation, trafficking or military recruitment and how many had been taken off the streets since the adoption in 2013 of the National Strategy to Prevent and Combat the Phenomenon of Street Children. Lastly, he was keen to know whether there were any special measures in place to support girls, Batwa children or children with albinism.

30. **Mr. Quezada Cabrera** said that it would be helpful for the State party to clarify who, in addition to the President of Burundi, the President of the Supreme Court and the Minister of Justice, served on the Supreme Council of Justice; how they were elected; and how the Supreme Council's independence from the executive was guaranteed. He would also be interested to learn what the Council's "quality control" functions entailed and what measures had been taken to improve the quality of the administration of justice and to strengthen the judicial system by upholding its independence from State powers, preventing corruption and ensuring the appropriate allocation of resources.

31. In the light of the State party's assertion in its replies to the list of issues (CCPR/C/BDI/RQ/3) that the National Communications Council was fully independent even though its members were appointed by the President of Burundi, he wished to know who the members of the Council were and whether members were required to have any particular qualifications. He also wished to know whether there could be any legal or administrative recourse against disciplinary action taken by the Council. He would like to receive an update on the review of the law on access to information that had been initiated a number of years previously with the assistance of the United Nations Educational, Scientific and Cultural Organization.

32. He was eager to learn whether the disappearances of Iwacu journalist Jean Bigirimana and human rights defender Marie-Claudette Kwigera were being investigated or whether any progress had been made in shedding light on their whereabouts. In that connection, he wished to draw the attention of the State party to the numerous reports from civil society organizations that human rights organizations were being denied access to prisons and that persons were being held in secret detention centres where lawyers had no access to them. He would be interested to hear the State party's response to reports that 12 journalists and human rights defenders had been sentenced to life imprisonment for insurrection and the organization of a coup d'état without being allowed legal representation during the proceedings and to reports of numerous human rights violations being perpetrated against journalists, human rights defenders and members of the political opposition, chiefly by members of the armed forces, National Intelligence Service and *Imbonerakure*. Information

on any investigations and prosecutions of the perpetrators and any compensation awarded to victims or their families would be welcome.

33. **Ms. Tigroudja** said that she would be interested in the State party's comments on reports of the forced recruitment of children by *Imbonerakure* members. It might also outline any measures in place to protect men and women refugees from sexual violence, punish the perpetrators of such violence and facilitate access to health care for victims. Reports received by the Committee indicated that refugees were often victims of sexual violence at the hands of police officers, *Imbonerakure* members and National Intelligence Service officers and that sexual violence was frequently used in Burundi to silence members of the political opposition.

34. She wished to learn what measures had been taken to ensure the enjoyment of the right to peaceful assembly – including the right to refrain from participating in an assembly – in line with the Committee's general comment No. 37 (2020). She also wished to know what measures had been taken to protect protesters and journalists from the excessive use of force, violence, harassment and intimidation by law enforcement officials, the National Intelligence Service and the *Imbonerakure*. It would be useful to learn how many cases involving such offences had been prosecuted, what sentences had been handed down to persons convicted of committing them and what reparation had been provided to victims.

35. With reference to Act No. 1/02 of 27 January 2017, which established the legal framework for the operation of non-profit organizations, she would like to know what measures were planned to ensure that non-governmental organizations and associations working to defend human rights were not subject to excessive State intervention, particularly in terms of requirements regarding the ethnic background of their staff members, access to their bank accounts and financial assets, or the alignment of their activities with government policy. She was also eager to learn what measures were planned to prevent the recurrence of forced recruitment into the party currently in office in Burundi. She would like to know how many investigations and prosecutions had been carried out in connection with the violence that had broken out during the elections held in 2015 and in 2018–2020, what sentences had been handed down to persons convicted of perpetrating that violence, what support had been provided to victims and what measures were in place to ensure that such violence did not reoccur during the upcoming 2025–2026 elections.

36. **Mr. Ahmadov** said that he wished to know what plans were in place to develop a new national action plan for combating trafficking and for implementing Act No. 1/28 of 29 October 2014 on the prevention and punishment of trafficking in persons and protection for victims of trafficking. He would be interested to learn how many investigations, prosecutions and convictions there had been in cases related to trafficking in persons and how the State party planned to reduce the impact of corruption in connection with the prosecution of trafficking offences. He would appreciate receiving statistics on the identification of trafficking victims and their referral to appropriate care thanks to the establishment of interim standard operating procedures for that purpose. He wondered whether the Government planned to establish a fund similar to the one to be created for the families of victims of the violation of the right to life in order to ensure that trafficking victims also received compensation regardless of the solvency of the perpetrators of that crime.

37. The Electoral Code (Act No. 1/11 of 20 May 2019) restricted the right to stand for elections by requiring financial deposits from presidential candidates and establishing strict conditions for persons wishing to run as independent candidates. It also maintained the disenfranchisement of pretrial detainees. He would like to know if there were plans to amend those provisions in line with article 25 of the Covenant.

38. **Ms. Kpatcha Tchamdjia** said that she wished to know what measures would be taken to provide judicial redress and compensation for victims of enforced disappearance who had reportedly been arbitrarily detained by intelligence services and released only following routine inspections of their places of detention.

39. **Mr. Santos Pais** said that the fact that the public prosecution service of Burundi was under the control of the Ministry of Justice, Civil Protection and Keeper of the Seals raised questions about its independence, particularly in corruption cases involving persons at the highest levels of society or the government structure. He therefore wished to know whether

the Ministry had the power to decide which cases should or should not be pursued by the public prosecution service. He was also eager to learn whether there were avenues for securing a review of court rulings and sentences handed down in absentia which would allow defendants to present their case in person.

40. **Mr. Quezada Cabrera** said that he would welcome further information regarding allegations that security committees composed of members of the *Imbonerakure* were working in tandem with prison staff in places of detention to control detainees who were considered to be political opponents.

41. **Ms. Tigroudja** said that the Committee would appreciate further information regarding allegations that refugees returning to Burundi of their own accord had been subjected to intimidation, extortion and arbitrary detention. She also wished to know how the immutability of judges was protected and what was being done to prevent corruption in the judiciary.

42. **Mr. Ahmadov** said that he was keen to learn what mechanisms were in place to enable the families of victims of extrajudicial killings and enforced disappearance to seek justice and hold the perpetrators of those offences accountable without fear of reprisals.

43. **Mr. Ndiaye** said that he wished to know how the Truth and Reconciliation Commission ensured the balanced representation of different ethnic groups in public services, including the defence and security forces, as stipulated by the Arusha Peace and Reconciliation Agreement for Burundi, and what reforms were needed to allow the Commission to effectively address the difficulties hindering the coexistence of those groups.

44. **Mr. El Haiba** said that there had apparently been problems with the most recent election of the members of the Independent National Human Rights Commission, who had been selected by the National Assembly subject to the approval of the President; the Commission was thus at risk of seeing its credibility diminished and once again losing its category A accreditation from the Global Alliance of National Human Rights Institutions. He also wished to know what obstacles had been encountered by the Truth and Reconciliation Commission which had prevented it from fulfilling its mandate in the area of transitional justice.

45. **The Chair** said that the lack of responses to the questions posed by the members of the Committee was regrettable, as it would hinder the Committee's ability to carry out its mandate to examine the State party's fulfilment of its human rights obligations under the Covenant. As the Committee's discussion and comments were available online, she wished to invite the delegation, but also any other member of civil society or academia, to forward information in their possession to the Committee within 48 hours of the closure of the current meeting in order to assist the Committee to reach the most comprehensive and accurate concluding observations possible.

*The discussion covered in the summary record ended at 5.45 p.m.*