



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

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**Committee against Torture**

**Consideration of reports submitted by States  
parties under article 19 of the Convention**

**Burundi\*\*\***

**Addendum**

**Special report requested under article 19 (1) *in fine***

[Date received: 5 July 2016]

\* The second periodic report submitted by the Government of Burundi was published as document CAT/C/BDI/2 and was considered by the Committee at its 1262nd and 1265th meetings (CAT/C/SR.1262 and 1265), held on 11 and 12 November 2014. For the consideration of this report, reference should be made to document CAT/C/BDI/CO/2. On 9 December 2015, the Committee requested Burundi to submit a special report.

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





1. In the context of the review of Burundi by the United Nations Committee against Torture, the Government of Burundi hereby submits a special report on the alleged violations that have been brought to the attention of the Committee, including allegations of torture, extrajudicial executions and political violence.
2. In conformity with article 19 (1) of the Convention against Torture, the Committee decided to request that Burundi submit to it a special report on the following:
3. 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.
4. Information on whether any investigations have led to the prosecution of members of the security forces or any other officials and individuals and on the outcome of the prosecutions.
5. 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.
6. 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.
7. Information on whether any investigations have led to the prosecution of National Intelligence Service members and on the outcome of the prosecutions.
8. 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.
9. Information on whether any investigations have led to the prosecution of Imbonerakure members and on the outcome of the prosecutions.
10. 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.
11. In response to all these allegations, the Government invites the Committee to consider the following information:

#### **A. Introductory remarks by the Government of Burundi**

12. The State of Burundi is a party to universal international instruments guaranteeing protection of the right to life and the right to a fair trial, the right to free speech, freedom of assembly, peaceful association and freedom of movement, and the prohibition of arbitrary detention (namely, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, among others).
13. The State of Burundi is thus committed to ensuring that its agents cannot engage in acts of torture or ill-treatment (in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the African Charter on Human and Peoples' Rights).



14. The State's primary responsibility is to protect, promote and give effect to all human rights and protected fundamental freedoms. In the event of a violation, the criminal courts have final jurisdiction in disputes.

15. The Burundian criminal justice system rests on the complementary nature of the duties of prosecutors and judges. The legislature has adopted the system of public prosecution whereby criminal courts may neither initiate proceedings on their own motion nor expand proceedings initiated by the Public Prosecution Service.

16. The separation between the duties of the criminal investigation police and those of the Public Prosecution Service does not mean that the two bodies are opposed, but rather that they cooperate while respecting their respective prerogatives. The same may be said of the separation between the duties of prosecutors and judges.

17. To avoid any risk of jeopardizing the independence of the judiciary through a blurring of roles, cooperation between actors should not under any circumstances amount to complicity.

18. The application of criminal law to individual cases therefore involves a number of processes.

19. Essentially, these are the investigation (preparation of a criminal case with sufficient evidence to support the allegations and prove the identity of the alleged perpetrator), the criminal proceedings (conduct of the public prosecution) and the judgment (assessment of the evidence and legal qualification of the established facts by a judge, who imposes a prison term or other sentence or else returns an acquittal).

20. The Constitution of Burundi sets out certain fundamental principles related to, inter alia, the jurisdiction of the criminal courts and criminal procedure. These principles, which contribute to the protection of fundamental human rights, include:

- The principle of equality and prohibition of discrimination (art. 22)
- The protection of liberty and freedom of movement (arts. 25, 31, 32, 33), a safeguard which means pretrial detention can be ordered only in exceptional circumstances
- Freedom of expression (art. 31)
- Freedom of assembly and association (art. 32)
- Freedom of movement and freedom to take up residence (art. 33)
- The principle of compulsory prosecution (arts. 39 (1) and (2), 41, 42, 47 and 48)
- The presumption of innocence (art. 40)
- The protection of the rights of the child (arts. 44 to 46)
- Respect for the right to a defence (art. 39 (3)) and the right to a fair trial (arts. 38 and 60)
- The principle of the inviolability of the home (which means that searches can be conducted only in the manner and under the conditions laid down by law) and the confidentiality of correspondence and communication (art. 43)
- The prohibition of forced exile (art. 49)
- The right to a public hearing (art. 206), meaning that in camera hearings are permitted only if a public hearing would constitute a risk to public order or an affront to morality and that judgments and sentences must always be delivered in public



- The obligation for judges to substantiate their decisions (art. 207)
- Independence and impartiality of the judiciary (art. 209)
- Establishment of the Supreme Court to ensure proper application of the law by lower courts and tribunals (art. 221)

21. Should the above principles be violated, victims may take legal action to secure protection for themselves and punishment for those responsible. To enhance protection while combating impunity, the Government of Burundi is also obliged to adopt other equally essential measures.

## **B. Measures taken by the Government of Burundi to combat impunity and safeguard the rights protected in Burundi more effectively**

### **b.1 Legal, regulatory and public policy measures adopted by the Government of Burundi**

#### **Information provided by the Government of Burundi**

- Act No. 1/15 of 9 May 2015 on the regulation of the press in Burundi
  - Act No. 1/28 of 29 October 2014 on the prevention and punishment of trafficking in persons and protection for victims of trafficking
  - Act No. 1/07 of 26 March 2014 on the ratification by the Republic of Burundi of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto
  - Act No. 1/17 of 6 September 2013 on the accession by the Republic of Burundi to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  - Act No. 1/10 of 3 April 2013 amending the Code of Criminal Procedure
  - Act No. 1/17 of 6 September 2013 on the accession by the Republic of Burundi to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  - Act No. 1/19 of 10 September 2013 on the organization of basic and secondary education
  - Act No. 1/20 of 8 September 2012 amending certain articles of Act No. 1/05 of 22 April 2009 amending the Criminal Code
  - Act No. 1/04 of 5 January 2011 establishing the Independent National Human Rights Commission
  - Act No. 1/05 of 22 April 2009 amending the Criminal Code of Burundi
  - Act No. 1/32 of 13 November 2008 on asylum and the protection of refugees in Burundi
  - Act No. 1/04 of 27 June 2016 on the protection of victims and witnesses
22. The following decrees have been issued by the Ministry of Justice:
- Ministerial Decree No. 550/993 of 23 June 2010 establishing the national unit for the judicial protection of children within the Ministry of Justice
  - Ministerial Decree No. 550/1650 of 28 September 2012 establishing a national commission to combat gender-based violence



- Ministerial Decree of 17 April 2015 establishing centres for minors in conflict with the law and, in conjunction with the Ministry of Justice's technical partners, two rehabilitation centres for minors in conflict with the law, one in Rumonge and the other in Ruyigi
  - 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
23. The Government has adopted the following national public policies:
- National child protection policy for the period 2012-2016
  - National human rights policy for the period 2012-2017
  - National gender policy for the period 2012-2017
  - Ministry of Justice sectoral policy for the period 2012-2015, which addresses the needs of minors in conflict with the law
  - National action plan to combat the worst forms of child labour for the period 2010-2015
  - Strategic Framework for Growth and Poverty Reduction (first and second phases), which takes account of the specific needs of children
24. In response to reports of summary/extrajudicial executions and mass graves in Burundi, certain other measures have also been adopted.
25. Administrative measures have included the establishment by the State Prosecutor, by letter No. 552/10/772/BV/2015 of 17 December 2015, of a commission composed of three public prosecutors to shed light on the extrajudicial killings alleged to have occurred as a result of the National Defence Forces' reaction to the attacks on military installations in Bujumbura on 11 December 2015.
26. By letter No. 552/10/01/BV/2016 of 4 January 2016, the same commission has also been tasked with conducting a judicial investigation into allegations of mass graves being created following the aforementioned attacks of 11 December 2015.
27. In the case of violations of individual rights and freedoms that have been brought to the attention of the prosecuting authorities, namely the criminal investigation police, the Public Prosecution Service and the courts, a number of judicial decisions have been issued, including court judgments, rulings, committal orders and arrest warrants. These are considered later in this report.

## **b.2 Punishment of those responsible for acts of torture under Burundian law**

### **Information provided by the Government of Burundi**

28. Burundian legislation, namely article 204 of the 2009 Criminal Code, provides a definition of torture that is very close to the definition contained in the Convention against Torture.
29. Under Burundian law, any act committed by a public official or person of equivalent status whereby suffering is intentionally inflicted upon a person for the purposes of obtaining information or a confession, inter alia, constitutes torture.
30. Torture is prohibited in Burundi, and those responsible for such acts are duly investigated, prosecuted and punished in accordance with national law.



31. Article 25 of the Constitution stipulates that “every man and woman has the right to liberty of person, including bodily and mental integrity and freedom of movement. No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment”.

32. The provisions of articles 204 to 209 of the Criminal Code establish penalties for the perpetrators of torture and other cruel, inhuman or degrading treatment. Depending on the specific case, the competent judge may impose sentences consisting of a prison term and fine upon those found guilty of torture. In serious cases, judges may impose a sentence of life imprisonment.

33. The judicial authorities’ competence to hear cases involving violations of this kind, a fortiori when acts of torture have been reported to them, is unquestionable and has never been challenged. On a day-to-day basis, criminal cases are routinely opened whenever cases of human rights violations are brought to the authorities’ attention.

### **b.3 Punishment of those who arbitrarily deprive others of the right to life**

#### **Information provided by the Government of Burundi**

34. Burundi is a party to universal legal instruments that safeguard the right to life and the right to a fair trial, namely the International Covenant on Civil and Political Rights and the African Charter on Human Rights and Peoples.

35. Under Burundian criminal law (the Criminal Code of 2009), manslaughter (*meurtre*), murder (*assassinat*) and poisoning are categorized as intentional acts of deprivation of life.

36. Article 211 of the Criminal Code stipulates that any person who intentionally causes the death of another is guilty of manslaughter and shall be sentenced to life imprisonment.

37. Article 213 of the Criminal Code stipulates that, when the killing is premeditated, the offence constitutes murder and that persons found guilty of murder shall be sentenced to life imprisonment.

38. Pursuant to articles 214 and 215 of the Criminal Code, any person who kills another using poisonous substances or acts of barbarity causing the victim’s rapid death shall receive the same sentence.

39. Persons found guilty of intentionally infecting another with an incurable disease shall likewise be sentenced to life imprisonment.

40. The penalties established by law for persons convicted of violating the right to life are mandatory. In addition to imposing a primary penalty, the judge may order a period of social and judicial supervision, without prejudice to any other complementary penalties provided for in the Criminal Code (art. 218).

### **b.4 Information on identifying those responsible for violations, prosecution procedures and sentencing**

#### **Information provided by the Government of Burundi**

41. For purposes of establishing which parties are responsible for violations, conducting the prosecution proceedings and delivering judgments, the competent national bodies adhere to the Code of Criminal Procedure.

42. The Code of Criminal Procedure promulgated on 3 April 2013 is a set of procedures covering, inter alia:

- Preliminary investigations and the criminal police investigations conducted in the case of flagrant offences



- Police custody, preventive detention and criminal police searches
- Investigative measures taken or ordered by the prosecution
- Use of interpreters, translators and experts
- Pretrial detention
- Court procedure
- Specific investigation and trial procedures applicable for flagrant or allegedly flagrant offences and misdemeanours
- Specific procedure for handling confessions and guilty pleas
- Objection and appeal procedures
- Sentence enforcement
- Court fees and proportional charges

(a) *Information on identifying those responsible for violations*

43. In Burundi, criminal proceedings may be brought against:

- Any individual: Article 18 of the Criminal Code establishes this principle in stipulating that “criminal liability is personal in nature: an individual can be held criminally liable only for his or her own (physical or intellectual) actions”.
- Any living person: The death of the defendant of necessity brings criminal proceedings to an end (art. 137 of the Code of Criminal Procedure), although a civil claim for damages may be brought against the successors or heirs of an accused person who has died.
- Any person whose identity has been established: Criminal proceedings against a person whose identity is not known are not admissible in trial courts.
- Any person guilty of an offence: Criminal proceedings may be brought only against the perpetrator of the offence and his or her accomplices, never against a person liable under civil law. Vicarious liability is civil, not criminal.
- Any legal entity: Legal entities are criminally liable for offences committed by legal representatives acting on their behalf, except in the case of State and municipal authorities and public institutions (arts. 21 to 24 of the Code of Criminal Procedure).

44. The dissolution of a company brings criminal proceedings to an end (art. 137 of the Code of Criminal Procedure) but does not prejudice any criminal proceedings brought against the company’s directors.

45. Proceedings are brought against those responsible for offences under criminal law as a consequence of the injury caused (public or private injury).

(b) *Prosecution procedures*

46. In Burundi, the Public Prosecution Service is responsible for investigations and prosecutions. This means that criminal proceedings are instituted as soon as the Public Prosecution Service instructs the trial court or, more precisely, as soon as the evidence collected is submitted to the competent court.

47. However, the Public Prosecution Service does, in principle, have discretion to choose whether or not to exercise its right to prosecute. To guarantee the independence of the Public Prosecution Service and prevent a level of caution detrimental to the interests of



Burundian society, the Prosecution Service cannot be held liable for injury and damages in the event that proceedings are discontinued or an acquittal is returned.

48. In Burundi, public prosecutors are nevertheless subject to the supervision and guidance of their superior officers (the State Prosecutor and the Prosecutor General).

49. The Minister of Justice may report any offences of which he has knowledge to the State Prosecutor, enjoining him in writing either to instigate proceedings or order their instigation, or alternatively may refer them to the competent court (arts. 55 and 59 of the Code of Criminal Procedure).

(c) *Sentencing*

50. In Burundi, judges take decisions in accordance with the law and their personal convictions. Judgments are delivered as soon as possible after the close of the hearing and, at the latest, within one month (art. 200 of the Code of Criminal Procedure).

51. As of 31 May 2016, there were a total of 3,669 convicted prisoners in detention in the different prisons of Burundi, of whom 3,601 were adults and 68 were minors (persons aged under 18 years old) being held in juvenile detention centres.

**b.5 Information on ensuring adequate redress for victims or dependents of victims of violations**

**Information provided by the Government of Burundi**

52. The Government of Burundi asks the Committee against Torture to note that the Code of Criminal Procedure of 2013 provides solutions that, by their nature, serve to ensure the protection of victims. The national legislature's commitment to ensuring protection is reflected in the provisions of articles 289 and 290, which expressly specify the procedure through which victims of acts of torture may claim compensation.

53. Specifically, to guarantee appropriate reparation for victims or beneficiaries of victims of violations, article 289 of the Code of Criminal Procedure stipulates that "if a State official commits an act of torture in the duly ascertained exercise of his or her duties, and provided that the victim has duly sued for damages, the full cost of reparation shall be borne by the State".

54. In order to ensure the effectiveness of the above provision, article 290 of the Code of Criminal Procedure stipulates that the State may, after paying compensation, institute indemnity proceedings against the torturer.

55. Article 163 (1) of the Code of Criminal Procedure stipulates that, once criminal proceedings have been instituted in the trial court, the injured party may sue for damages by lodging a criminal indemnity action before the same court. Article 163 (2) and article 64 (5) provide that a claim for damages may be made on behalf and in place of the victim by any association duly registered for at least five years at the time of the events whose stated mission is to combat any and all instances of wilful endangerment of the life or integrity of a person.

56. To reinforce the protection provided, article 96 of the Code of Criminal Procedure stipulates that the claimant may be assisted by a counsel of his or her choice during the pretrial proceedings. He or she is also entitled to consult the case file.

57. The Government of Burundi asks the Committee to note the pressing need to reconcile two competing needs: the need to protect victims of acts of torture and the need to ensure an impartial investigation and thus to protect the wider social order (application of



due process, respect for the rights of the victim, respect for human rights, due application of the law and respect for the right to a defence).

**C. Progress achieved in the investigation of the armed attack on Pierre Claver Mbonimpa in August 2015 and the abduction and murder of his son, Welly Nzitonda, in November 2015**

**Information provided by the Government of Burundi**

58. With regard to the national sociopolitical context, the Government of Burundi considers that its criminal justice system provides protection against, or rather penalties for, all violations of rights and guaranteed freedoms.

59. Except in those cases in which the investigations have failed to locate the perpetrators, the Burundian authorities are of the view that the circumstances of the murders and killings and the identities of those responsible may be ascertained from the legal files compiled for that purpose.

60. The Government of Burundi does not deny that Pierre Claver Mbonimpa was the victim of an assassination attempt in August 2015. As would logically be expected, the perpetrators will be sought and punished in accordance with the law. 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 to cooperate with it more closely in order to bring about a prompt resolution of the case.

61. The Committee should also note that, prior to this unfortunate incident, Pierre Claver Mbonimpa had been duly prosecuted in a criminal case (RMP case No.148310/RP 23699) for his involvement in forgery and the use of forgeries (arts. 584 and 585 of the Criminal Code) and for having compromised the internal security of the State (arts. 584 and 585 of the Criminal Code).

62. As for the unfortunate case of Pierre Claver Mbonimpa's son, the Government of Burundi regrets that Welly Nzitonda lost his life in unexplained circumstances on 6 November 2015 between 13th Avenue and 14th Avenue in Mutakura, in the municipality of Bujumbura, Burundi.

63. The Committee should note that investigations have been initiated by the Bujumbura Public Prosecutor's Office under RMP case No. 153 248. The lack of cooperation from representatives of the injured party is preventing timely completion of the proceedings.

64. The authorities of Burundi ask only that the injured party and his counsel make more of an effort to cooperate with them and call on the victim's family and representatives to place greater trust in them.

**D. 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**

**Information provided by the Government of Burundi**

65. The Committee asked the Government of Burundi to indicate whether any investigations have led to the prosecution of National Intelligence Service members and to comment on the outcome of the prosecutions.

66. With regard to measures regulating the work of members of the Burundian National Police, the Committee should note the following important laws:



- Act No. 1/16 of 31 December 2010 amending the conditions of service of the Burundian National Police
- Act No. 1/17 of 31 December 2010 establishing conditions of service for constables of the Burundian National Police
- Act No. 1/18 of 31 December 2010 establishing conditions of service for officers of the Burundian National Police
- Act No. 1/19 of 31 December 2010 amending Act No. 1/17 of 29 April 2006 establishing conditions of service for personnel of the National Defence Forces
- Act No. 1/20 of 31 December 2010 amending Act No. 1/16 of 29 April 2006 establishing conditions of service for non-commissioned officers of the National Defence Forces
- Act No. 1/21 of 31 December 2010 amending Act No. 1/15 of 29 April 2006 establishing conditions of service for officers of the National Defence Forces

67. 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 (the law in general and the laws governing 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. 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.”

68. The Committee may appreciate, in the light of this evidence, that the Government’s concern is not to protect one group at the expense of another. The law is always universal. The Committee should also accept that the Government should be accorded due benefit of doubt: unless there is evidence to the contrary, the Government should be presumed to be acting for the benefit of its people and in the common interest.

69. Officers of the Burundian National Police (commissioned officers, non-commissioned officers and ordinary police officers) are all subject to criminal law and to the various laws that govern their profession. Officers of the National Intelligence Service do not enjoy immunity for offences or misdemeanours they might commit. Whenever incidents come to light, administrative and criminal cases are opened against the police officers at fault.

70. The Committee may have confidence in the Government of Burundi on this point since it can be verified that a number of police officers, including officers of the National Intelligence Service, are currently serving sentences in Burundian prisons.



**E. 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**

71. The Committee asked the Government of Burundi to indicate whether members of the Imbonerakure youth group have been prosecuted for such actions and to comment on the outcomes of any prosecutions.

**Information provided by the Government of Burundi**

72. The State of Burundi has made a solemn commitment to ensure that its agents do not commit acts of torture or ill-treatment (in line with the Convention against Torture and the African Charter on Human and Peoples' Rights, both of which Burundi has already ratified).

73. Articles 204 to 209 of Act No. 1/05 of 22 April 2009 amending the Criminal Code represent an application, in Burundi, of the letter and spirit of the Convention against Torture.

74. Under Burundian law, a case is automatically opened whenever acts of torture are brought to the attention of the prosecuting authorities and the penalties that the law establishes are mandatory for all persons found guilty of such acts.

75. The Government also continues to fulfil its awareness-raising commitments, having organized several sensitization initiatives that have had clearly verifiable results on the ground.

76. In conjunction with the Office of the United Nations High Commissioner for Human Rights 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.

77. Following a series of presentations by human rights experts, workshop participants, consisting of all public prosecutors and all court administrators in Burundi, formulated recommendations to ensure the systematic application of the law in cases of violation of protected rights.

78. Awareness-raising and training workshops on how to prevent torture and ill-treatment are also 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.

79. In December 2015, in the course of a working meeting with a delegation of United Nations representatives in Burundi, including the Deputy Chief of the Office of the United Nations High Commissioner for Human Rights, that was hosted by the Minister of Public Security, the participants unanimously recommended that the Office should continue to work closely with designated police officials to prevent torture in places of custody or detention.

80. As already emphasized for the case of officers of the National Intelligence Service, members of the Imbonerakure youth group do not enjoy immunity for any violations of criminal law they might commit.

81. Should they be recognized as being criminally liable, the applicable penalties are those established in the Criminal Code. If they have killed intentionally, they are prosecuted in the criminal courts on charges of either manslaughter or murder.



82. Likewise, in the course of police investigations, pretrial investigations, prosecutions and public hearings, being a member of the Imbonerakure group accords no immunity and carries no exemptions for the suspect.

83. Being a member of the Imbonerakure group constitutes neither subjective grounds for exemption from criminal responsibility or mitigation of penalty (arts. 25 to 30 of the Criminal Code), nor objective grounds for exemption from criminal responsibility (art. 31 of the Criminal Code), nor a legitimate excuse (arts. 32 and 33 of the Criminal Code).

84. The Government of Burundi therefore invites the Committee to take due note that the criminal justice system accords no special exceptions, immunities or exemptions to members of the Imbonerakure group.

**F. The Committee requests 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**

**Information provided by the Government of Burundi**

85. Since December 2015, few incidents of torture have been reported. It can therefore be concluded that the present allegations of torture are exaggerated.

86. An examination of criminal cases actually opened by the Public Prosecutor's Office of the municipality of Bujumbura shows that five cases involving torture have been opened since December 2015: RMP cases Nos. 152724, 155353, 155357, 155358 and 155366. This amply demonstrates that the number of cases of human rights violations involving acts of torture perpetrated by State agents has been exaggerated.

87. With regard to the reports of killings of members of religious minorities, the Government informs the Committee that investigations have been opened in these cases. For example, the case of the Kamenge nuns is registered under RMP case No. 149791/RPC 453 and remains open.

88. As of 31 May 2016, a total of 5,017 persons had been prosecuted and were being detained in the different prisons of Burundi. Of this total, 4,933 were adults and 84 were minors (persons aged under 18 years) being held in juvenile detention centres.

89. In Burundi, judges take decisions in accordance with the law and their personal convictions. Judgments are delivered as soon as possible after the close of the hearing and within one month at the latest (art. 200 of the Code of Criminal Procedure).

90. As of 31 May 2016, there were 3,669 convicted prisoners in detention in the different prisons of Burundi, of whom 3,601 were adults and 68 were minors (persons aged under 18 years old) being held in juvenile detention centres.

91. In the criminal case registered under RMP case No. 151775/RP24775, 54 suspects were prosecuted on charges of involvement in the insurgency. Of these 54, 26 were acquitted, 16 were sentenced to 18 months' imprisonment and 12 were sentenced to 3 years' imprisonment. The sentences were delivered on 13 June 2016.

92. The Public Prosecutor's Office of the municipality of Bujumbura has opened investigations into officers of the defence and security forces, including members of the National Intelligence Service, under RMP cases Nos. 154370 and 154561.



93. 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.

**G. 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**

**Information provided by the Government of Burundi**

94. The Government of Burundi informs the Committee that the national legislature has already taken measures to ensure that perpetrators of acts of torture or ill-treatment are punished severely. Specifically, article 209 of the Criminal Code stipulates that the penalties established for such offences are mandatory, while article 208 of the Criminal Code stipulates that the order of a superior officer or public authority cannot be invoked as a defence for torture.

95. The Government considers that the Committee's proposal that a provision be introduced into the Criminal Code (rather than the Code of Criminal Procedure) to establish that no statute of limitations applies to prosecutions for torture is an excellent idea, and the proposal will be considered when the Criminal Code currently in force is next revised. However, the Committee should bear in mind that the national legislature has the sovereign right to decide how and when to implement the Committee's proposal.

96. As regards the recommendation to ensure that a judicial investigation be automatically opened for every incident of torture or ill-treatment, the Government of Burundi does not consider this a new idea: article 64 (4) provides for the protection of victims against intentional violations of the life or bodily integrity of any person, including ill-treatment and torture.

97. 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.

98. The addition of two to three new articles would not be superfluous and would serve to clarify the existing provisions of the Code of Criminal Procedure.

**H. The Committee requests that the Government of Burundi protect victims from any sort of reprisal and guarantee them appropriate redress**

**Information provided by the Government of Burundi**

99. For information on guarantees of redress, see b.5.

100. With regard to the protection of victims of acts of torture from any sort of reprisals, the Government undertakes to work with relevant stakeholders, partners and all national institutions involved in the protection of human rights to ensure effective protection for all victims and witnesses on the ground. A law on the subject has already been promulgated.

101. Having examined the matter closely, the Government believes that the reprisals feared have not materialized and were in reality no more than suppositions.



## **I. Political violence**

102. The Committee writes that it is concerned about the serious human rights violations perpetrated by a youth group, referred to as the Imbonerakure, with close ties to the Government, including the harassment of political opponents, the disruption of public meetings, acts of intimidation, arbitrary arrests and detention, the use of violence and recourse to so-called “amicable” arrangements for settling disputes.

103. The Committee has expressed deep concern at reports that the Government is providing this group with weapons and training.

### **Comments of the Government of Burundi**

104. The Government of Burundi considers this allegation to be groundless, particularly since members of the Imbonerakure youth group do not enjoy immunity from criminal prosecution and do not benefit from any form of exemption from jurisdiction under Burundian law. They are therefore ordinary citizens and, in the event of proven misconduct, they, rather than the group to which they are affiliated, are fully and personally liable.

105. The Government of Burundi nevertheless acknowledges that isolated incidents can occur. It urges all victims of acts of harassment or intimidation to report such incidents to the relevant judicial authorities as soon as possible so that an investigation may be initiated into the events.

106. However, the Government of Burundi warns against the exploitation for political purposes of certain acts of wrongdoing committed by certain young people, recalling that liability is personal and that the Imbonerakure group never directs its activists to commit offences. Furthermore, not all young persons are members of the group.

107. The Government is committed to working hard to ensure that antisocial behaviour is swiftly eradicated among young Burundians.

108. The task is fairly straightforward since these young “delinquents” enjoy neither immunity from criminal prosecution nor exemption from jurisdiction (see above). The Government of Burundi confirms, and hereby assures the Committee, that, whenever a violation is reported, criminal proceedings will be initiated.

109. The Government of Burundi also undertakes to monitor closely the progress made in any cases opened and to ensure strict application of the law.

110. The Government of Burundi categorically denies the false allegations that it provided these young people with weapons and training. The State has an army and a national police force that are adequately resourced and diversified in terms of the professional training they have received. There is nothing to justify the use of civilians to maintain the security of a country in times of peace.

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