

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 29th Session

BURUNDI

I. BACKGROUND INFORMATION

Burundi acceded to the *1951 Convention relating to the Status of Refugees* in 1963 and its *1967 Protocol* in 1971 (hereinafter jointly referred to as the *1951 Convention*). However, despite applying a flexible approach and having inclusive policies towards refugees, Burundi has made reservations to the *1951 Convention*, limiting refugee's freedom of movement, access to wage-earning employment and right to education. In addition, in 1975, Burundi ratified the *1969 Convention Governing the Specific Aspects of Refugee Problems in Africa* (the *OAU Convention*). However, the *African Union Convention for the Protection and Assistance of Internally Displaced Persons* (the *Kampala Convention*), signed on 23 October 2009, has not been ratified yet. In close collaboration with UNHCR, the Government of Burundi is currently launching the ratification process of the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) and the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

As for the national legislation, the *2008 Law on Asylum and Refugee Protection*¹ and its relevant "ordonnances d'application" regulates the asylum system by providing asylum applicants with relevant procedural safeguards.

As of 31 March 2017, Burundi hosts 3,877 asylum-seekers and 58,259 refugees. 51 per cent of refugees and asylum-seekers are female and 22.2 per cent are between 18 and 59 years old. 99 per cent originate from the Democratic Republic of Congo, mainly from the South Kivu region. Furthermore, 41 per cent are urban refugees, while the remaining 59 per cent live in four refugee camps, namely Kavumu, Bwagiriza, Kinama and Musasa.

The population of Burundi continue to be affected by the harmful impact of the political unrest which started in April 2015 and resulted in generalized violence, human rights violations and the deterioration of the socio-economic context. The country is currently experiencing a multidimensional socio-political and macroeconomic crisis impacting different sectors and aspects of protection and livelihoods, which has led to displacement and food insecurity.

There has been a four-fold increase in people who are food insecure – from 730,000 in 2015 to 3 million in 2016 – due to the rising prices of basic food items and the loss of income generating opportunities resulting in the decrease of household purchasing power; restrictive measures disrupting the cross-border trade with neighboring countries; fiscal pressure; the seasonal rain deficit during the 2016 agricultural season; chronic poverty; and poor harvests.

The deterioration of living conditions and the political instability have led to a significant increase of the population displacement.

The number of Burundian refugees in neighbouring countries such as Tanzania (59.1 per cent), Rwanda (21.1 per cent) and Democratic Republic of Congo (8.9 per cent) rose to 401,428 as of 3 April 2017.

¹ *Burundi: Loi No. 1/32 de 2008 sur l'asile et la protection des réfugiés au Burundi* [Burundi], 13 November 2008, available at: <http://www.refworld.org/docid/49eef2572.html>

According to the Displacement Tracking Matrix (DTM) report released by the International Organization for Migration (IOM) in March 2017, with reference to eleven provinces (Makamba, Kirundo, Rutana, Ruyigi, Muyinga, Rumonge, Cibitoke, Bujumbura rural, Gitega, Bubanza and Cankuzo), the total number of IDPs amounts to 148,490 individuals (31,245 households), over half of which are female, and require comprehensive assistance at different levels. This figure covers displacement due to both the current socio-political situation (37 per cent) and natural disasters (63 per cent). The trend also suggests that the majority of IDPs (6.5 out of 10) face food insecurity.

Moreover, about 40,000 Burundian nationals who had left the country due to the crisis and its aftermath have returned, reportedly due to the deterioration of the living conditions in the countries of asylum. Among these spontaneous returnees, at least 7,000 were registered as refugees in neighbouring countries as of 31 January 2017.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendations no. 126.30 “Finalize and enact anti-trafficking legislation and, in the interim, enforce existing trafficking provisions of the 2009 Criminal Code (United States of America)”; **and no. 126.94:** “Continue to strengthen the abilities of the law enforcement agents to address the impunity of the perpetrators of sexual and sexist violence and to ensure the protection of the victims of trafficking (Republic of Moldova)”.

Burundi adopted a law on the prevention and repression of trafficking in persons in 2014 (*Loi n. 1/28 du 29 octobre 2014 portant prevention et repression de la traite des personnes et protection des victimes de la traite*) as well as a related national Action Plan 2014-2017, rolled-out by the Ministry of Human Rights, Social Affairs and Gender. Moreover, community sensitizations campaigns and training courses for the police and the judiciary are being realized. A technical working-group composed of the Ministry of Human Rights, Social Affairs and Gender, the Ministry of External Relations and International Cooperation, the Ministry of Public Security, IOM, OHCHR and UNICEF was also established.

Finally, within the context of a national conference on good governance as conflict-prevention strategy, promoted by the Ombudsman of the Republic of Burundi with the support of the UN and the French Embassy on 21-23 March 2017 in Bujumbura, the Ombudsman adopted, among others, a specific recommendation on combating trafficking in persons.

The system in place could enhance prevention and response capacity, particularly as regards effective access to justice for the victims and criminal prosecution of the authors, transparent and measurable implementation of the national Action Plan and investment of additional resources.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Sexual and gender-based violence and child protection

Linked to 2nd cycle UPR recommendation no. 126.35 “Adopt and implement appropriate and efficient measures to address the high incidence of sexual violence against women and girls, including addressing the reported widespread impunity of perpetrators” (Slovakia); **no. 126.62** “Carry out appropriate and comprehensive measures to combat gender-based

violence and discrimination against vulnerable groups” (Vietnam); and no. 126.91 “Establish the necessary mechanisms to put an end to violence against women and children” (Japan).

According to the Humanitarian Needs Overview (HNO) of 2016,² the number of people in need of humanitarian assistance has increased in Burundi from 1.1 million to at least 3 million (26 per cent of the total population), with women, children and youth in situation of displacement being the most affected. Moreover, female-headed households make up 1/5 of the 1 million people affected by severe food insecurity.

The socio-political crisis negatively impacted on the rule of law and on the access to essential support services, thus exposing the most vulnerable ones to multiple protection risks, including gender-based violence (GBV) and other violations and abuses.

The risk of GBV including sexual violence, has exacerbated. Communities have disclosed feelings of insecurity, particularly among single women, widows, adolescent girls and female heads of households. The latter are more vulnerable to sexual exploitation because of the erosion of protective family and community structures, the lack of access to livelihoods and the dysfunction of the judicial and administrative system, which often leads to impunity. In addition, female refugee returnees may face higher risks of sexual violence due to political stigmatization.

Increased number of children are at risk of violence, abuse and exploitation, including sexual exploitation and trafficking due to the socioeconomic situation and the high rate of school dropout. Besides, the Protection Sector reports arrest and detention of children leaving and working in the streets over perception of security threat.

Furthermore, some service providers have reported decreases in financial resources since the beginning of 2016, further reducing the availability of life-saving services to survivors of sexual violence.

We wish to note that positive measures have been taken by the Government. Burundi has a national strategy to fight GBV, a national plan of action to implement the UNSC Resolution 1325, and a criminal code that integrates prevention, victims’ assistance and punishment of perpetrators. Furthermore, the strategy has been reinforced through the adoption of a new legislation on GBV in 2016 (*Loi no. 1/13 du 22 septembre 2016 portant prevention, protection des victimes et repression des violences basées sur le genre*). Burundi has also established gender focal points within the judiciary and in all ministries, including those of national defence and public security, and is working to pilot a Specialized Police Unit for GBV cases in a number of provinces.

However, in addition to the abovementioned structural challenges yet to be addressed, the new legislation criminalizes, within the scope of the punishment of GBV crimes, the *de facto* unions (‘union libre’), providing for detention and considering cohabitation as an aggravating circumstance (chapter IV, Articles 24 and 42, *Loi no. 1/13*).

Public campaigns for the civil registration through marriage of the *de facto* unions aim to enhance the protection of the most vulnerable members of the household.³ Nevertheless, screenings of these unions and consequent reporting to authorities are taking place at local level, also in view of possible criminal punishment, and with the risk of forced marriage, in

² Available at https://www.humanitarianresponse.info/system/files/documents/files/hno_burundi_2017_fr_small.pdf, page 5 ff. and page 18.

³ IWACU, 26 May 2017, page 9: “Couples en union libre priés de régulariser leur situation”.

breach of the fundamental right to privacy and family life as per Articles 17 and 23 of the *1976 International Covenant on Civil and Political Rights* (ratified by Burundi in 1990).

Besides, there are concerns over the systematic practice of police round-ups targeting *street children* - with consequent detention of these minors and forced return to their supposed areas of origin -, as well as over house-search operations. In particular, according to media information, a recent draft reform of the criminal procedure code, currently debated by the Parliament, would allow under exceptional circumstances house-searches at night and in derogation of the legal requirements.⁴ This reported draft reform, if finally adopted, would expose the most vulnerable individuals, first of all women and children, to possible abuses including GBV.

Recommendations:

UNHCR recommends that the Government of Burundi:

- a) Amend the 2016 GBV Law (*Loi no. 1/13 du 22 septembre 2016 portant prevention, protection des victimes et repression des violences basées sur le genre*) by repealing its Articles 2c, 14 and 42 ;
- b) Strengthen the capacity of the criminal judiciary and enhance access to legal assistance for GBV survivors, without any discrimination, in order to promote a system of effective justice, and of prevention and response to GBV;
- c) Reinforce basic social services, including health and legal aid, and their accessibility for GBV survivors;
- d) Introduce a standardized GBV information management system, in order to guarantee safe and ethical collection, management and sharing of incident data and trends.
- e) Convert the current practices of police control and repression against street children into a prevention and protection response system aiming to grant adequate reception, assistance, family reunion and other durable solutions in accordance with the principle of the best interest of the child, also in cooperation with humanitarian actors for livelihood support to the most vulnerable households; and
- f) Withdraw the submitted draft reform of the criminal legislation, particularly as regards the derogation to procedural safeguards in the context of police and security operations.

Additional protection challenges

Issue 3: IDPs and returnees

Burundian authorities do not fully acknowledge the presence of persons who have been internally displaced (IDPs) due to the 2015 socio-political crisis and related violence.

The sensitivity around displacement equally renders access to affected populations challenging, as individual profiling of IDPs is judged to be of greater risk than benefit to displaced populations. In some cases, stigmatization of IDPs and Burundian refugee returnees, due to their flight, exposes them to discrimination and abuses.

Incidents of arbitrary arrest and illegal detention of returnees upon their arrival in Burundi are reported. Moreover, new displacement situations were generated by evictions and security operations.

Recommendations:

UNHCR recommends that the Government of Burundi:

- a) Ratify the *African Union Convention for the Protection and Assistance of Internally Displaced Persons* (the *Kampala Convention*), following its signature on 23 October

⁴ IWACU, 19 May 2017, page 2: "De grâce, dormir au moins...".

- 2009, in order to prevent further displacement and introduce a formally recognized system of IDPs protection with a durable solutions perspective; and
- b) Discontinue the practice of systematic arrest and detention of returnees at the border, while introducing procedural safeguards for any security control.

Issue 4: Humanitarian access and protection environment

Due to the suspension of the activities of a number of human rights agencies, the scope of protection monitoring has been reduced therefore affecting general protection response and needs assessment capacity.

Delivering humanitarian assistance according to established priorities and targets as well as access to affected populations by humanitarian and civil society actors including some of the UN agencies have been limited. Moreover, visa requirements and procedures for humanitarian organizations willing to operate in Burundi have become more restrictive.

A new law regarding international NGOs (INGO) was enacted in January 2017 (*Loi n. 1/01 du 23 janvier 2017 portant modification de la Loi n. 1/011 du 23 juin 1999 portant modification du decret-loi n. 1/33 du 22 aout 1990 portant cadre general de la cooperation entre la Republique du Burundi et les Organisations Non Gouvernementales etrangeres-ONGE*). In particular, three provisions raised concerns, namely the limitation of recruiting international staff and the obligation to profile the ethnicity of the national candidates in view of ethnical balance (Art. 18), strict financial obligations (Art. 16), and the application of a fixed 35% taxation rate to the net salaries of the national staff (Art. 39).

Regarding the general protection environment, beyond the above-mentioned constraints to humanitarian access, it is to be noted that a number of protection incidents are still being reported. Freedom of movement is limited, particularly in border areas and on the routes out of the country. This has an impact on those fleeing Burundi for purpose of seeking asylum in neighboring countries, exposing them to abuses and reprisals. Nevertheless, the Government of Burundi is willing to promote voluntary repatriation programs.

Moreover, in January 2017, the Government of Tanzania announced the revocation of the *prima facie* refugee status determination previously granted to Burundian asylum-seekers and the reintroduction of the individual asylum procedure, resulting into restricted access for Burundian nationals to the Tanzanian territory and to the asylum procedure. It is expected that, as a result of this, thousands of Burundians may return to Burundi in the near future, both spontaneously – also under voluntary repatriation programs, if all required conditions will have been met - or forcibly.

In this context, a meaningful improvement of the protection situation is crucial for preparing sustainable returns and reintegration prospects, and prevent further tensions at community level or threats to social cohesion.

Moreover, it is to be noted that the Burundian authorities are restricting as well the freedom of movement of the refugees in the country, by imposing to those willing to leave the camps formal authorisation (*'billets de sortie'*) issued at the discretion of the local authorities and the administration of the camps. Urban refugees are also facing arbitrary arrests, exactions and other violations.

Recommendations:

UNHCR recommends that the Government of Burundi:

- a) Amend Articles 16, 18 and 39 of the new law on INGO (*Loi n. 1/01 du 23 janvier 2017 portant modification de la Loi n. 1/011 du 23 juin 1999 portant modification du decret-*

loi n. 1/33 du 22 aout 1990 portant cadre general de la cooperation entre la Republique du Burundi et les Organisations Non Gouvernementales etrangeres-ONGE);

- b) Reinforce cooperation with UNHCR and all relevant humanitarian and development actors for enhancing the protection environment in the country through human rights promotion, including the promotion of freedom of movement, as well as through community resilience building efforts, also in view of possible increasing returns; and
- c) Work closely with UNHCR and other relevant actors to assess the situation of the main areas of return, and revive with UNHCR and the major Burundian refugees' countries of asylum the Tripartite Agreements for voluntary repatriation signed many years ago between the parties concerned.

Issue 5: Statelessness

According to the findings of the verification exercise conducted by UNHCR and ONPRA (the governmental office in charge for the protection of refugees and stateless persons) in September 2016, there are 974 persons at risk of statelessness.

For the identified stateless population coming from the Oman Sultanate, UNHCR advocates for nationality recognition from Oman authorities and for obtaining temporary residence permits and effective access to local services in Burundi.

Moreover, under Article 2 of the Burundian Nationality Law (*Loi no. 1/013 portant réforme du code de la nationalité du 18 juillet 2000*), a Burundian mother cannot transmit her nationality to her children except in the case where the paternity is not determined and the maternity is not contested.

In addition, under Article 3, a Burundian woman cannot transmit her nationality to a foreign husband, while a Burundian man can do so for his wife by mere declaration, and the birth on the Burundian territory does not lead to the acquisition of the Burundian nationality except when both parents are unknown.

With regards to women's access to civil documentation, it should be noted that the current birth declaration procedure is discriminatory. Only fathers can register the birth of their children on their own, while mothers have to be accompanied by their children's father, unless the father is unknown.

Recommendations:

UNHCR recommends that the Government of Burundi:

- a) Finalize the ratification process of the *1954 Convention relating to the Status of Stateless Persons* and of the *1961 Convention on the Reduction of Statelessness*;
- b) Reform the Nationality Law with a view to reinforcing the *jus soli* clauses and removing any discrimination between men and women in their ability to transmit their nationality *jure sanguinis*.

**UNHCR,
June 2017**

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

BURUNDI

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Burundi.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ⁵	Recommending State/s	Position ⁶
Trafficking in persons		
126.30 Finalize and enact anti-trafficking legislation and, in the interim, enforce existing trafficking provisions of the 2009 Criminal Code	United States of America	
126.94 Continue to strengthen the abilities of the law enforcement agents to address the impunity of the perpetrators of sexual and sexist violence and to ensure the protection of the victims of trafficking	Republic of Moldova	
Groups with specific needs		
126.31 Intensify efforts in order to eradicate from its legislation and practice all discriminatory laws and adopt a comprehensive strategy on awareness raising campaigns to eliminate discrimination based on any grounds and against all vulnerable groups, particularly girls with respect to their inheritance and education rights, children born out of wedlock, albinos and those pertaining to the Batwa minority and taken into families under the kafala regime	Uruguay	
126.46 Implement follow up mechanisms of the UPR recommendations that allows verifying the implementation and impact of legislation and measures adopted to promote equal rights and non-discrimination for all citizens, in particular vulnerable groups such as: women, children, ethnic minorities, LGBTI community and persons with disabilities	Columbia	

⁵ All recommendations made to Burundi during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Burundi" (25 March 2013), A/HRC/23/9, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BISSession15.aspx>.

⁶ Burundi has either not filed its Addendum to the Report of the Working Group, or its response has not yet been posted by OHCHR. Once submitted and posted, the Addendum will be available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BISSession15.aspx>.

126.69 Put a special emphasis on gender equality, the effectiveness protection of children and the protection of victims of albinism	Côte d'Ivoire	
Sexual and gender-based violence		
126.35 Adopt and implement appropriate and efficient measures to address the high incidence of sexual violence against women and girls, including addressing the reported widespread impunity of perpetrators	Slovakia	
126.57 Intensify measures against acts of sexual violence against women and girls, and careful and effective treatment of alleged occurrence of extrajudicial executions	Cape Verde	
126.62 Carry out appropriate and comprehensive measures to combat gender based violence and discrimination against vulnerable groups	Viet Nam	
126.64 Further improve its efforts in regard to the measures on combating gender-based violence	Azerbaijan	
126.65 Strengthen and take the measures required to prevent and punish sexual violence	Columbia	
126.89 Pass legislation to address sexual and gender based violence and ensure its full application, among others by providing the required budgetary allocations for legal and psychological assistance to victims	Hungary	
126.90 Further fight all forms of violence against children and women	Djibouti	
126.91 Establish the necessary mechanisms to put an end to violence against women and children	Japan	
126.92 Continue its efforts aimed at combating gender-based violence, including adopting a specific bill on gender-based violence	Malaysia	
126.93 Redouble its efforts to fight against violence against women and adopt a law on sexual and sexist violence and ensure its implementation	Republic of Moldova	
126.94 Continue to strengthen the abilities of the law enforcement agents to address the impunity of the perpetrators of sexual and sexist violence and to ensure the protection of the victims of trafficking	Republic of Moldova	
126.97 Speed finalizing drafting the special law to prevent and punish crimes of gender based violence in order to put an end and fight violence against women	Sudan	
SOGI		

126.20 Revoke article 567 from the Penal Code and remove any discrimination on the grounds of sexual orientation from all other laws and policies	Hungary	
126.24 Adopt all necessary political and legislative measures to decriminalize sexual relations between consenting adults of the same sex as well as adopt measures to guarantee the enjoyment of the right to health without discrimination based on sexual orientation	Uruguay	
126.26 Reconsider decriminalizing certain conducts based on sexual orientation and gender identity, as recommended by the High Commissioner for Human Rights	Chile	
126.34 Promote gender equality and adopt legislation to protect vulnerable groups	Madagascar	
126.59 Speed up the implementation of the national gender policy and to establish the national gender council by providing appropriate resources	Tunisia	
126.69 Put a special emphasis on gender equality, the effectiveness protection of children and the protection of victims of albinism	Côte d'Ivoire	
126.82 Revise its education policy that further entrenches discrimination on the basis of sexual orientation	Netherlands	
126.83 Ensure that no one is discriminated against on any grounds, including on the grounds of sexual orientation and gender identity	Brazil	
126.89 Pass legislation to address sexual and gender based violence and ensure its full application, among others by providing the required budgetary allocations for legal and psychological assistance to victims	Hungary	
Birth registration		
126.134 Take the necessary measures to ensure that all the persons born in Burundi obtain a birth certificate regardless the status of their parents	Mexico	
126.135 Strengthen efforts to ensure increased free birth registration for children, both in urban and rural areas	Namibia	
126.136 Ensure access of all children to free birth registration	Turkey	

II. Treaty Bodies

Human Rights Committee

Concluding Observations, (21 November 2014), [CCPR/C/BDI/CO/2](#)

Discrimination based on sexual orientation

8. The Committee is concerned by reports that homosexuals are faced with threats to their physical integrity, intimidation and discrimination in various spheres of life. In particular, the Committee is concerned by the fact that homosexuality is defined as an offence in the Criminal Code; the fact that, pursuant to article 9 of Ministerial Order No. 620/613 of 7 June 2011 of the Minister of Basic Education, students considered to be homosexuals may be barred from their schools; and the obstacles faced by homosexuals seeking to found associations (arts. 2, 17, 22 and 26).

The State should decriminalize homosexuality; amend the ministerial order of the Minister of Basic Education in order to forestall its discriminatory application to young homosexuals; remove any de jure or de facto obstacle to or any restriction on the establishment of associations by homosexuals; and take all necessary steps to provide effective protection for homosexuals from threats to their physical integrity and from discrimination of any kind.

Domestic violence

12. The Committee notes with concern the persistence of domestic violence in the State party despite the measures that it has recently adopted in that regard. The Committee is also concerned by the lack of statistics on the extent of violence against women and on the impact of awareness-raising campaigns in this regard; the lack of sufficient social services and shelters for victims of domestic violence; and the lack of information on complaints, investigations and prosecutions, convictions and penalties imposed on the perpetrators of domestic violence (arts. 3, 7 and 26).

The State party should: ensure that the relevant provisions of its Criminal Code are effectively enforced and expedite the passage of the bill on the prevention of gender-based violence and the punishment of perpetrators of such violence; facilitate the filing of complaints of domestic violence and protect women from any form of reprisal and any form of social stigmatization; ensure that cases of domestic violence are investigated thoroughly and that the perpetrators are brought to justice; ensure that law enforcement officials receive sufficient training to enable them to handle domestic violence cases properly and that the number of shelters is sufficient and that they have qualified staff and the necessary financial resources; and conduct public information campaigns to raise awareness of the harmful effects of violence against women.

Human trafficking

16. The Committee notes with concern the persistence of human trafficking in the State party, in particular for purposes of sexual exploitation, labour exploitation or exploitation as beggars, and notes with regret the lack of accurate information on the scope of the phenomenon and the absence of specific legislation on trafficking or a national plan of action for combating it. It notes that, according to information supplied by the State party, there have been no convictions for human trafficking and that the cases involving human trafficking are still under investigation (art. 8).

The State party should take steps to prevent and combat human trafficking, in particular by adopting the specific law and plan of action currently in preparation. It should also carry out investigations into all cases of human trafficking, prosecute the suspected perpetrators and, if they are found guilty, impose appropriate sentences on them and take the necessary steps to see to it that the victims receive appropriate compensation. Lastly, it should conduct public awareness campaigns on human trafficking and strengthen links with neighbouring countries in order to combat trafficking effectively.

Committee against Torture

Concluding Observations, (12 December 2014), [CAT/C/BDI/CO/2](#)

Situation of refugees and asylum seekers

16. While taking note of the information provided by the State party in its written replies regarding the measures taken to ensure that the rights of asylum seekers are respected, the Committee remains concerned at information to the effect that the process for determining refugee status is not in line with the relevant international standards and that persons have been returned to the border without being able to file an application for asylum (art. 3).

The State party should ensure that all asylum seekers are able to file applications for asylum and to enjoy their fundamental rights, including the right to appeal a negative decision, during the corresponding consideration process, in accordance with the relevant provisions of the Convention. Officials responsible for processing asylum cases should receive specific training on this subject.

Discrimination based on sexual orientation

23. The Committee is concerned at the fact that homosexuality is an offence under the Criminal Code and at reports of homosexuals being subject to threats to their physical integrity, persecution and acts of violence (art. 16).

The State party should decriminalize homosexuality and take all necessary measures to effectively protect homosexuals from threats and any form of violence (CCPR/C/BDI/CO/2, para. 8); and, in accordance with the relevant provisions of the Convention, investigate any cases involving violations of their physical integrity.

Other issues

26. The State party is encouraged to ratify, as soon as possible, the International Convention for the Protection of All Persons from Enforced Disappearance, the two Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the Agreement on the Privileges and Immunities of the International Criminal Court and the Kampala amendments to the Rome Statute.

Committee on Economic, Social, and Cultural Rights

Concluding Observations, (16 October 2015), [E/C.12/BDI/CO/1](#)

Non-discrimination

15. The Committee is concerned that there is no comprehensive anti-discrimination law applying to all the areas covered by the Covenant. It is also concerned by the lack of legislative and other measures to eliminate discrimination against the Batwa, persons with albinism and persons with disabilities, in particular with regard to ensuring the effective exercise of their economic, social and cultural rights (art. 2, para. 2).

16. The Committee recommends that the State party:

- (a) Enact a comprehensive anti-discrimination law in line with article 2, paragraph 2, of the Covenant and general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights with a view to prohibiting direct and**

indirect discrimination on any grounds in all the areas covered by the Covenant;

- (b) Guarantee effective remedies for victims of discrimination, including the possibility of redress;**
- (c) Prevent and effectively combat — through such means as awareness campaigns and affirmative action — the ongoing discrimination against the Batwa, persons with albinism and persons with disabilities as well as all other disadvantaged or marginalized individuals and groups in order to guarantee their unrestricted exercise of all the rights recognized in the Covenant.**

Discrimination on the basis of sexual orientation

17. The Committee is concerned by the definition of homosexuality as a crime in the Criminal Code and by Ministerial Order No. 620/613 of 7 June 2011, whereby children may be refused schooling on the grounds of their sexual orientation (art. 2, para. 2).

18. The Committee recommends that the State party repeal all provisions that could lead to the discrimination, prosecution or punishment of individuals on the basis of their sexual orientation or gender identity and that it take all appropriate steps to ensure that lesbian, gay, bisexual and transgender individuals may exercise all the rights enshrined in the Covenant.

Gender equality

19. The Committee notes with concern that gender stereotypes are deeply ingrained in the family and in society in the State party. It is concerned as well by inequality in the employment sphere and by the wide salary gaps (art. 3).

20. Recalling its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party:

- (a) Take steps to dispel gender stereotypes, in particular through information campaigns to promote the sharing of family responsibilities by men and women and to make people aware of equal job opportunities to which they can gain access by completing their studies and by seeking training in areas other than those traditionally associated with one sex or the other;**
- (b) Take steps to close the gap between men's and women's salaries by breaking up the vertical and horizontal segregation that exists in the labour market, as this has led to women occupying lower paid jobs and has created obstacles that deprive them from enjoying the same career opportunities as men, in both the formal and the informal economies.**

Forced labour

29. The Committee notes with concern the information provided on the continued existence of forced labour in the State party. The Batwa, in particular, continue to be subjected to the customary practice of *ubugererwa* (servitude) even though it has been formally abolished.

30. The Committee calls upon the State party to take specific steps, without delay, to eliminate forced labour, including by way of public information campaigns and by offering stronger protection to victims and bringing those responsible for such practices to justice.

Violence against women

35. The Committee is concerned by the high incidence of gender violence, especially domestic violence and sexual violence. It regrets that the victims of such violence do not enjoy unhindered access to the justice system and that they do not receive appropriate support (art. 10).

36. The Committee recommends that the State party take the necessary steps to combat domestic violence, including by encouraging people to report incidents, and that it ensure that the victims of domestic violence and sexual violence have access to the justice system and that perpetrators are prosecuted and punished. It further recommends that the State party ensure that victims have access to appropriate recovery, counselling and rehabilitation services and that steps be taken to sensitize law enforcement officials and the public to the need to eliminate all forms of violence against women.

Economic exploitation of children

37. The Committee notes that the minimum age for employment established in national legislation is in line with international standards. It is concerned, however, that children continue to be subjected to economic exploitation in the State party (art. 10).

38. The Committee recommends that the State party take steps to effectively prevent and combat the economic exploitation of children, especially in the informal sector. In this regard, the State party should ensure that child labour legislation is properly enforced, that individuals who exploit children are duly punished and that there is effective enforcement of child labour legislation. The Committee recommends also that disadvantaged families be afforded support so that they may rise out of poverty and social exclusion, which often lie at the origin of the economic exploitation of children.

Abandoned children

41. The Committee is concerned by the number of children who are not living with their families, in particular children with HIV/AIDS (art. 10).

42. The Committee recommends that the State party take all necessary steps to provide support to families so that children are not forced to live away from their families or, when such separation cannot be avoided, to ensure placement in an alternative care setting that allows the child to enjoy an environment that provides similar support.

Poverty

43. The Committee is concerned that, despite the launching of strategic frameworks for poverty reduction, much of the population does not enjoy an adequate standard of living. Poverty is highest among the country's most disadvantaged and marginalized groups, which include women, the Batwa and internally displaced persons (art. 11).

44. Bearing in mind its statement on poverty and the Covenant (2001), the Committee recommends that the State party intensify its efforts to combat poverty, especially extreme poverty, by ensuring that targeted social programmes are implemented with a human rights-based approach and are endowed with the necessary resources, giving due attention to the needs of the most disadvantaged and marginalized individuals, families and social groups.

Access to land and security of land tenure

45. The Committee notes that poverty and social inequality in the State party have been exacerbated by unequal access to land and insecurity of land tenure. The Committee is particularly concerned by reports that many Batwa families have been subjected to or are at risk of forced eviction (art. 11).

46. **The Committee recommends that the State party:**

- (a) **Launch, as promptly as possible, a reform of the land tenure system aimed at ensuring rational land use and eliminating existing discriminatory practices, especially with regard to women, the Batwa and internally displaced persons;**
- (b) **Strengthen guarantees for the independent and impartial operation of the National Land and Property Commission, the Special Court for Land and Property and the Communal Land-Use Office in order to ensure equitable access to land and adequate security of land rights, in particular for women, the Batwa and internally displaced persons;**
- (c) **Implement effective measures against forced eviction, in line with international human rights standards, and ensure that victims of forced eviction have effective remedies, including restitution of their property and adequate compensation.**

Right to housing

47. The Committee notes with concern that a large part of the population lives in informal settlements in unsuitable conditions and without adequate access to drinking water or sanitation (art. 11).

48. **Recalling its general comments No. 4 (1991) on the right to adequate housing and No. 15 (2002) on the right to water and its statement on the right to sanitation (2011), the Committee recommends that the State party take all appropriate steps to improve the supply of affordable housing, in particular for disadvantaged and marginalized individuals and groups, by adopting and implementing a national housing strategy. It also recommends that the State party ensure that everyone has a safe and accessible supply of water and sanitation services, in particular in rural areas.**

Right to adequate food

49. The Committee notes with concern that, despite the launching of the National Agricultural Strategy and the National Agricultural Investment Plan, much of the population lives in a situation of food insecurity. It is also concerned by the high levels of chronic child malnutrition.

50. **The Committee recommends that the State party step up efforts to ensure the right to adequate food and to address hunger and child malnutrition, in particular in rural areas. The Committee also recommends that the State party redouble its efforts to boost productivity among small-scale farmers by making appropriate technologies available to them, in line with their right to enjoy the benefits of scientific advances, and by enhancing their access to local markets with a view to raising rural income levels. The Committee refers the State party to its general comment No. 12 (1999) on the right to adequate food and to the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations.**

Access to health care

51. The Committee is concerned that, despite the State party's efforts to improve access to health services through such means as the medical assistance card, disadvantaged or marginalized individuals and groups, in particular the Batwa and internally displaced persons, continue to encounter obstacles in accessing health services. The Committee is similarly concerned by the quality and availability of health-care services, especially in remote rural areas (art. 12).

52. The Committee recommends that the State party allocate sufficient resources to the health sector and continue its efforts to guarantee the accessibility, availability and quality of health services, in particular in remote rural areas. It further recommends that the State party upgrade its primary health care infrastructure and ensure that hospitals have the necessary medical personnel and essential supplies and drugs.

Education

57. The Committee notes with satisfaction the increase in primary school enrolment, which was the result mainly of the State party's decision to make education available free of charge. The Committee is concerned, however, by:

- (a) The reports that there continue to be indirect costs associated with school attendance, such as payments that parents are required to make which limit access to education, in particular for Batwa children;
- (b) The continued unequal access to education for internally displaced children, children with disabilities and children with albinism;
- (c) The number of children enrolled in primary education who do not finish their schooling;
- (d) The high dropout rate in secondary education, in particular among girls (art. 13);
- (e) The poor quality of instruction owing to the shortage of qualified teachers and the lack of teaching materials and infrastructure.

58. The Committee recommends that the State party take steps to ensure that primary education is indeed provided free of any charge, that it take the necessary steps to ensure access of all children to the education system by encouraging inclusive education for children with disabilities, and that it address as a priority the high dropout rates in primary and secondary education, in particular among girls. It also recommends that the State party improve school quality and infrastructure, in particular in rural areas, and that it ensure that all rural schools have adequate water supply and sanitation, and in particular separate washrooms for boys and girls.

62. The Committee encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Committee on the Elimination of Discrimination against Women

Gender based violence against women

24. The Committee welcomes the recent promulgation of the Law N° 1/13 of 22 September 2016 on combatting sexual and gender based violence as well as the revision of the Criminal Code in 2009 to include severe sanctions for violence against women. The Committee is concerned that:

- (a) Gender-based violence against women remains highly prevalent in the State party and that domestic violence is tolerated owing to deep-rooted patriarchal attitudes (CEDAW/C/BDI/CO/4, para. 23);
- (b) Cases of violence against women are underreported for reasons including stigmatization by family and community members, fear of reprisal, and impunity of perpetrators;
- (c) Women who are older, belonging to the Batwa, internally displaced, refugees, with albinism or/and with disabilities are at an increased risk of violence committed with impunity in the absence of specific measures of protection; and
- (d) There is a lack of systematic data collection on the investigation, prosecution and sentencing of acts of gender-based violence against women, limited access for women and girls to victim assistance and protection, and a limited number of shelters in the State party.

25. The Committee recalls its general recommendation No. 19 (1992) on violence against women and recommends that the State party:

- (a) Implement the 2016 law effectively and enhance the prevention and protection of victims and the prosecution of perpetrators of sexual and gender based violence and to that end provide systematic training on all its provisions to judges, law enforcement personnel and lawyers;**
- (b) Ensure that victims are de-stigmatized and encouraged to report incidents of gender-based violence, and that they have access to effective protection and redress, including compensation, and prosecution of perpetrators by a competent criminal court;**
- (c) Remove obstacles faced by victims of gender based violence in gaining access to justice, including by eliminating the requirement of a medical certificate to initiate criminal proceedings for rape;**
- (d) Provide sufficient assistance and protection to women and girls who are victims of gender-based violence, including by increasing the number of shelters and providing medical treatment, psychosocial rehabilitation and reintegration programmes, especially in rural areas, and through coordination of interventions and of support services in cooperation with civil society organizations and international partners;**
- (e) Effectively implement the National plan to combat gender-based violence (2010), and allocate adequate resources to ensure its implementation in a coordinated and effective manner, paying special attention to women in situations of vulnerability;**
- (f) Intensify public awareness efforts, through consistent strategic media campaigns and educational programmes to address gender-based violence and discrimination against women; and**

- (g) **Ensure systematic collection and analysis of data on all forms of gender-based violence against women, disaggregated by age, region and relationship between the victim and the perpetrator.**

Trafficking and exploitation of prostitution

28. The Committee welcomes the 2014 law on the prevention and repression of trafficking in persons and the protection of victims of trafficking, and notes its implementation through a multi-sectorial action plan (2014-2017) and the establishment of a National Committee. However, it continues to be concerned (CEDAW/C/BDI/CO/4, para. 27) about the lack of a coordinated and effective response by the State party to the increasing number of women and girls being trafficked out of the country for purposes of domestic servitude and sexual slavery. It notes the insufficient budget of the National Committee to perform its mandate. It regrets the absence of a disaggregated data collection system on both trafficking in women and girls and exploitation of prostitution, including on the number of victims, investigations, prosecutions, convictions and punishments. It further remains concerned that prostitution is punishable by a term of imprisonment and a fine, exposing women to a risk of violence and abuse, including by the police.

29. **The Committee reiterates its previous recommendation (CEDAW/C/BDI/CO/4, para. 28) and draws attention to Sustainable Development Goal 5, target 5.2 to eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, and recommends that the State party:**

- (a) **Ensure sufficient human, technical and financial resources for the effective implementation and monitoring of the 2014 law combatting trafficking in persons and its multi-sectorial action plan;**
- (b) **Provide continuous capacity-building for law enforcement officials on the early identification, referral and rehabilitation of trafficking victims;**
- (c) **Prevent, prosecute and adequately punish traffickers and perpetrators of related human rights violations and adopt gender-specific protection measures for women and girl victims;**
- (d) **Carry out nationwide education and awareness-raising campaigns about the risks and criminal nature of trafficking;**
- (e) **Systematically collect sex-disaggregated data on both exploitation of prostitution and trafficking in persons;**
- (f) **Amend article 539 of the draft revised Penal Code to decriminalize women in prostitution; and**
- (g) **Ensure that perpetrators of violence against women in prostitution are prosecuted and punished, and that victims are provided with gender-sensitive protection and support.**

Nationality

32. The Committee reiterates its concern (CEDAW/C/BDI/CO/4, para. 29) that article 4 of the Nationality Code does not comply with article 9 of the Convention because it does not allow a Burundian woman married to a foreigner to transmit her nationality to her husband or children on the same basis as a Burundian man married to a foreigner. The Committee further notes with concern the discriminatory provision of the Persons and Family Code (article 38) under

which registration of a child's birth can only be effected by the father, and by mothers in very specific cases. It further notes the high rates of unregistered births.

33. The Committee reiterates its recommendation (CEDAW/C/BDI/CO/4, para. 30) that the State party amend the Nationality Code and the Persons and Family Code so as to bring them in line with article 9 of the Convention, and ensure the registration of all births.

Education

34. The Committee welcomes the measures in place to increase the enrolment and retention of girls in school, including the adoption of a policy on the reintegration of girls into school after pregnancy, the establishment of school meal programmes, and training of school teachers and students on combatting violence against women. However, the Committee is concerned that:

- (a) The drop-out rate for girls at the secondary level is extremely high owing, inter alia, to early marriage and pregnancy, indirect school costs, malnutrition, child labour, preference to send boys to school, and the lack of enforcement of compulsory education;
- (b) Access to education is extremely limited for girls who are internally displaced, refugees, Batwa, those with albinism and those with disabilities, particularly due to discrimination and inability to pay fees;
- (c) The quality of education remains low due to the lack of sufficiently trained teachers and high student-teacher ratio;
- (d) The post-pregnancy re-integration policy requires girls to be absent from school for one year; and
- (e) Girls are often victims of sexual and gender based violence on the way to and from school as well as on school premises and that perpetrators of such acts regularly enjoy impunity due to the frequent lack of investigations into these allegations.

35. The Committee, in line with Sustainable Development Goal 4, target 4.5 to eliminate gender disparities in education, recommends that the State party:

- (a) Enforce compulsory education up to the ninth grade;**
- (b) Eliminate the indirect costs of schooling, increase the number of schools and trained teachers and improve the quality of teaching and school infrastructure, including school meal programmes;**
- (c) Eliminate policies requiring a waiting period of one year before re-admitting to school young mothers and those who do not pass the High School exam on the first sitting;**
- (d) Implement targeted measures to ensure access to education for Batwa girls, girls with disabilities and internally displaced girls;**
- (e) Raise public awareness about the importance of women's and girls' education and reinforce a zero-tolerance policy with respect to sexual abuse and harassment at school, ensuring that perpetrators are punished appropriately, corporal punishment is abolished in practice, and that victims are ensured access to health-care, psychological services and reparations; and,**

- (f) **Establish a robust gender-disaggregated data collection system in the education system, covering special needs education, school net enrollment and retention, and incidents of sexual and gender-based violence in school settings, including their resolution, and enforce the Committee's previous recommendations (CEDAW/C/BDI/CO/4, para. 32).**

Health

38. The Committee welcomes the marked reduction in the rate of new HIV infections among children. It is concerned, however, about:

- (a) Women's limited access to basic health care services, in particular for rural women, women with disabilities, refugees and internally displaced women;
- (b) The persistently high ratios of maternal and infant mortality, HIV/AIDS prevalence among women in prostitution and in rural areas, and acute malnutrition affecting women; and,
- (c) The unavailability, unaffordability and inaccessibility of modern contraceptives and sexual and reproductive health services in the State party, criminalization of abortion and that 45% of incarcerated women are serving sentences up to 20 years imprisonment on conviction for abortion and infanticide.

39. **The Committee, recalling its general recommendation No. 24 (1999) on women and health, to Sustainable Development Goal 3, targets 3.1 and 3.7 on the reduction of global maternal mortality ratios and ensuring universal access to sexual and reproductive health services, recommends that the State party:**

- (a) **Increase the budgetary allocation to basic health care and sexual and reproductive health services, affordable modern contraceptives and family planning services, giving priority to women in rural areas, young women and girls, women with disabilities and refugee and internally displaced women;**
- (b) **Reduce maternal mortality by improving access to basic pre- and post-natal care, emergency obstetric services, skilled birth attendance and post-abortion care, as well as access to specialist care, throughout the territory of the State party, and taking into consideration the Technical Guidance of the Office of the United Nations High Commissioner on Human Rights on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality (A/HRC/21/22 and corr. 1 and 2);**
- (c) **Decriminalize abortion and expand the grounds on which abortion is permitted to include cases of rape, incest, risk to the life and health of the mother or severe malformation of the foetus and prepare guidelines on post-abortion care to ensure that women who are pregnant as a result of rape or incest have free access to safe abortion services; and**
- (d) **Ensure the Strategic Plan to combat AIDS (2014-2017) includes a strategy to reduce the vulnerability of women and girls and to fight the stigma and discrimination against women and girls living with HIV/AIDS.**

Refugee and internally displaced women

44. The Committee notes that the political instability and security situation in the State party since April 2015 has resulted in more than 50,000 persons being internally displaced and 320,000 persons seeking refuge outside the country, the majority of whom are women and children. It further notes that over 50,000 refugees from neighbouring countries reside in the State party. It has received consistent reports indicating that women and girls in contexts of

internal and external displacement are at heightened risk or have been subjected to sexual violence and exploitation. The Committee is concerned that no preventive measures are being taken by the State party to ensure protection against forced displacement, as well as access to basic services by displaced women and girls.

45. The Committee recalls that the Convention applies at every stage of the displacement cycle, as indicated in its General Recommendation No. 30 (2013) and recommends that the State party:

- (a) Address the specific risks and particular needs of different groups of refugee and internally displaced women and girls who are subjected to multiple and intersecting forms of discrimination, such as rural women, elderly women, widows and women with disabilities;**
- (b) Adopt practical measures to prevent all forms of violence against women and girls, including sexual violence and exploitation, and ensure their protection;**
- (c) Ensure that accountability mechanisms are in place in all displacement settings and provide victims with immediate access to medical services, and in particular, to sexual and reproductive health services including quality obstetric care; and**
- (d) Establish a data collection system on the number of IDPs disaggregated by sex, age, and ethnicity, as well as on their living conditions.**

Disadvantaged groups of women

46. The Committee is concerned:

- (a) About the absence of a strategic plan to promote the socio-economic rights of disadvantaged groups of women in the State party, including women with disabilities, Batwa women and women with albinism, and the absence of social protection specifically addressing their needs;
- (b) That widows, single mothers, and older women in the State party, are victims of discrimination; and
- (c) That the physical and societal barriers, including severe stigmatization and discrimination, faced by these women under all areas of the Convention, reinforce their situation of exclusion, extreme poverty and vulnerability to gender-based violence and sexual exploitation.

47. The Committee recommends that the State party:

- (a) Enact a comprehensive law on the social protection of persons with disabilities, Batwa and persons with albinism and establish a mechanism to monitor its enforcement, ensuring that perpetrators of discrimination and gender-based violence against them are adequately punished and that victims are adequately compensated;**
- (b) Carry out a census to establish the number of persons with disabilities, Batwa and persons with albinism in the State party, disaggregated by sex, age and region; and**
- (c) Ensure that women in situations of vulnerability benefit from special measures in accessing justice, political and public life, education, income generating activities and health care, including sexual and reproductive health services.**