



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

Distr.: General  
7 November 2023

Original: English

---

## Committee against Torture Seventy-eighth session

### Summary record of the 2039th meeting\*

Held at the Palais Wilson, Geneva, on Tuesday, 31 October 2023, at 10 a.m.

*Chair:* Mr. Heller

## Contents

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

*Third periodic report of Burundi*

---

\* No summary record was issued for the 2038th meeting.

---

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



*The meeting was called to order at 10 a.m.*

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

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

1. *At the invitation of the Chair, the delegation of Burundi joined the meeting.*
2. **Ms. Sabushimike** (Burundi), introducing her country's third periodic report (CAT/C/BDI/3), said that combating torture and other cruel, inhuman or degrading treatment or punishment was important to her Government, which wished to reiterate its commitment to and prioritization of promoting and protecting human rights. The Government was determined to prevent all human rights violations, in particular that of torture, with which it had made significant progress since the presentation of its second periodic report in November 2014, despite the attempted coup d'état of May 2015.
3. Awareness-raising sessions on respecting human rights and preventing torture had been organized for judges, criminal investigation officers, civil servants, doctors and young people, both members of political parties and others. Torture was prohibited under article 25 of the Constitution of 2018. The Criminal Code, as amended in 2017, provided for more severe penalties for perpetrators of acts of torture and their accomplices: prison terms of between 10 years and life, along with fines of up to 1 million Burundi francs. Under the Criminal Code, State officials, including law enforcement officers, could not invoke a superior's order to justify acts of torture; moreover, commanding officers repeatedly reminded their subordinates that criminal and civil proceedings could be brought against anyone who committed torture offences, including members of the armed and security forces.
4. Effective national mechanisms for the furtherance of human rights, good governance, security and equitable justice – all of which had seen their financial and human resources increased – included the Truth and Reconciliation Commission; the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity; and the new courts of appeal and attached prosecutors' offices. The Ombudsman's Office had been decentralized to the provincial and communal levels, while the Independent National Human Rights Commission had also been decentralized and accredited with category A status by the Global Alliance of National Human Rights Institutions. Efforts had been made to ensure judges' independence and impartiality, by operationalizing the Supreme Council of Justice.
5. There were no unofficial places of detention in Burundi. The prosecutors in the various jurisdictions regularly conducted inspections of the country's communal detention centres (*cachots*), and the Ministry of National Solidarity, Social Affairs, Human Rights and Gender, the Independent National Human Rights Commission and national and international non-governmental organizations (NGOs) all conducted visits to places of deprivation of liberty. Measures regularly taken to reduce the prison population included temporary release, parole and presidential pardons, while the imposition of community service instead of custodial sentences had started in 2022.
6. The National Gender Policy, 2012–2025 had been introduced with a view to combating sexual and gender-based violence and fostering gender equality and women's independence. The Policy had been implemented by means of the 2012–2016 and 2017–2021 action plans, which included nationwide awareness-raising campaigns on changing behaviour and mentalities and on female leadership. Specialist training had been provided for judges sitting in the specialized chambers of courts of law and for officers of the police child protection and vice unit. Refuges had been established in five provinces, at which victims of spousal, sexual and gender-based violence were offered legal, medical and psychosocial assistance free of charge.
7. The national legal aid strategy adopted in April 2018 had improved access to justice, in particular for vulnerable and disadvantaged persons, such as women, persons with disabilities and members of the Twa Indigenous People. Likewise, some 800 children in conflict with the law had benefited from legal aid to date. Moreover, such children enjoyed

good detention conditions in reform and rehabilitation centres, and specialized chambers for children in conflict with the law had been established within *tribunaux de grande instance* (courts of major jurisdiction) and courts of appeal.

8. **Mr. Touzé** (Country Rapporteur) said that State party's delegation had refused to attend the second meeting of its 2016 dialogue with the Committee, at which it had been scheduled to answer the questions posed in the first meeting. Since then, the State party had ignored resolutions issued by both the Security Council and the Human Rights Council and had refused to cooperate with the Commission of Inquiry on Burundi and the Special Rapporteur on the situation of human rights in Burundi, denying both access to the country and disputing their legitimacy. In the light of all that, he wished to know why the State party had been refusing to cooperate in any way with United Nations institutions.

9. Following the first meeting of its dialogue with the Committee in 2016, the State party had taken reprisals against the representatives of civil society who had been in attendance, requesting their expulsion from the Bujumbura Bar Association and asking the public prosecutor to bring them to trial as soon as possible, with the result that many of those individuals had been unable to return to Burundi; in that connection, the State party had not responded to any of the Committee's requests. While the State party had recognized the Committee's competence to receive individual communications, it had not responded to any of the Committee's numerous requests or implemented any of its recommendations. In July 2023, the State party's delegation had abandoned its dialogue with the Human Rights Committee, objecting to a certain individual's presence in what was, by design, a public meeting room. In addition, the report that the State party had submitted to the Committee against Torture in 2023 was, apart from the addition of information on a small number of laws enacted since 2016, identical to the text submitted in 2012; it took no account of the Committee's 2014 and 2016 concluding observations; and it made no mention of how the laws that it covered were actually being implemented. In short, most State authorities were ignoring their responsibilities under the Convention, to which Burundi was a party.

10. Article 206 of the Criminal Code, as amended by Act No. 1/27 of 29 December 2017, incorporated the definition of torture set out in the Convention; however, the statute of limitations of 20 or 30 years to which acts of torture were subject under article 152 of the Code was not in line with the Convention. He wondered how the State party could make use of the compensation fund for victims of torture mentioned in the report, since that fund had never actually been established. He would appreciate more extensive and accurate statistical data on instances where the Convention had been explicitly cited by the Burundian judiciary and, in particular, on convictions for torture offences that had been handed down by the State party's courts.

11. According to numerous reports by both United Nations entities and civil society organizations, the Government and its agents – including the police, the National Intelligence Service, members of the Imbonerakure militia and military personnel – had committed murders, often of members of opposition parties and of persons exercising their legal rights. Human rights defender groups could not agree on the precise number of those murders. The Government's restrictions on the activities of human rights monitors and NGOs, and its refusal to grant international human rights bodies access to the country, made it difficult to gather accurate statistics on the matter and to determine responsibility for such deaths; therefore, he wondered whether the Government would consider allowing the Special Rapporteur to visit Burundi. While investigations into such murders and prosecution of their suspected perpetrators – some of whom were members of the Government or the ruling party – were extremely rare, he wished to know whether the Minister of Justice and Civil Protection had actually requested that they should be conducted. In addition, it was reported that numerous corpses displaying signs of violence continued to be found in public places; that many individuals had disappeared; and that the National Intelligence Service, the police and the Imbonerakure had arbitrarily detained, tortured and harassed persons belonging to opposition parties or suspected of working with armed rebel groups.

12. Numerous reports had been received of summary, extrajudicial and arbitrary executions at the hands of State officials and unidentified armed groups. The authorities' hasty burial of any bodies found and their frequent failure to conduct investigations were indicative of their apparent complicity in such crimes. He wished to know what steps had

been taken to develop mechanisms to combat impunity for extrajudicial executions, as called for by the African Commission on Human and Peoples' Rights; to implement the recommendations, accepted by Burundi during its universal periodic review in 2018, regarding the creation of a fully transparent and fair judicial system aligned with international norms; and to create an independent mechanism for investigating complaints of torture and ill-treatment by police and security forces and establish services to encourage victims to lodge complaints, as recommended by the Human Rights Committee.

13. According to various reports, the police and security forces systematically used torture to obtain information and intimidate individuals, primarily actual or assumed members of the political opposition. The National Intelligence Service, whose actions were outside all judicial control, was also implicated in acts of torture and ill-treatment perpetrated by the Imbonerakure. It would be useful to know whether the State party intended to investigate such allegations of torture or ill-treatment perpetrated by members of the National Intelligence Service, whether any investigations had been conducted thus far and, if so, what penalties had been handed down.

14. While the Imbonerakure was, according to the State party's report, independent of the State authorities, in practice the group resembled a militia and appeared to cooperate almost systematically with public law enforcement officials, especially in violations of the Convention. NGOs had reported numerous instances of violations – including executions – committed by the Imbonerakure under the aegis of, or with the tolerance of, the State authorities. The Committee wished to know what the structure of the Imbonerakure was, whether it had official duties, whether its members were armed and, if so, who supplied those weapons. It would also be helpful to learn whether members of the Imbonerakure received training from the State authorities, whether any of its members had been prosecuted for violations of the Convention and, if so, what crimes they had been found guilty of and what penalties they had received.

15. Given the numerous reports of enforced disappearance at the hands of the National Intelligence Service and the Imbonerakure, he wished to know why the State party had seemingly failed to take action on specific cases that had been brought to its attention by civil society and the Independent National Human Rights Commission. He wondered whether the State party had taken any steps to prevent enforced disappearances, whether any cases had been investigated and, if so, who had been found culpable.

16. Regarding the reports of excessive and disproportionate use of force, including firearms, by law enforcement officers against protesters, he wished to know what penalties were applicable in such cases and, in particular, what penalties had been handed down against the officers responsible for the particularly violent shutdown of protests in 2015 and 2016. It would also be useful to learn what measures were in place to limit the use of force in such situations and to raise awareness among law enforcement officers regarding the legal provisions on the use of force. In addition, he would welcome the State party's comments regarding reports that members of the National Intelligence Service and the Imbonerakure had arrested, intimidated and detained political opponents who had been participating in protests.

17. With regard to arbitrary arrest and detention, he wished to know what avenues were available, in practice, to enable individuals deprived of liberty to contest the legality of their detention and to report conditions of ill-treatment in detention. While the legal provisions governing detention and arrest were clear, the police reportedly rarely adhered to them in practice, and cases were rarely brought before the judicial authorities for assessment. There was also no indication that any members of the security forces had been held legally accountable in connection with cases of arbitrary detention. In addition, owing to failings in the judicial system, pre-trial detention could extend for unreasonable periods, far beyond the legal limits. He wished to know what the State party was doing to address those failings.

18. It would be useful to know whether any complaints had been received regarding allegations of sexual violence against women committed by law enforcement officials and military personnel, and whether any investigations had been conducted and perpetrators prosecuted in that connection. He would welcome the State party's comments regarding the allegations of rape by law enforcement officials, including mass rapes used as a tool of

repression. He also wondered whether the State party agreed with the Minister responsible for human rights who had described such crimes as a “social phenomenon”. Lastly, he asked what the State party was doing to combat gender-based violence in general, including conjugal rape, and to prosecute perpetrators.

19. **Mr. Rouwane** (Country Rapporteur) said that, despite the reaccreditation of the Independent National Human Rights Commission with category A status in 2021, it was unclear what role the Commission had played in guarding against the serious human rights violations that had occurred in the State party during the reporting period. He wished to know how many alleged cases of torture had been investigated and what the outcome of those investigations had been, including those mentioned in paragraph 21 of the State party’s replies to the list of issues (CAT/C/BDI/RQ/3). He would also welcome more detailed statistics on the complaints of torture and ill-treatment received by the Commission since 2014, as well as clarification of whether those complaints had been passed to the relevant authorities for investigation and prosecution. It would be helpful to know what steps had been taken to give effect to the recommendations issued by the Commission.

20. The Committee appreciated the State party’s efforts to repatriate Burundian refugees, including through tripartite agreements signed with the Office of the United Nations High Commissioner for Refugees (UNHCR) and neighbouring countries. Nevertheless, it would welcome details of any investigations, prosecutions and convictions related to cases in which Burundian refugees and returnees, including political opponents allegedly tracked down by intelligence agents, had reportedly been subjected to forced returns, intimidation, extortion, arbitrary detention and enforced disappearance. It would be useful to hear how the authorities guaranteed the security and right to life of Burundian refugees who returned to the State party and how their reintegration into society was managed. The Committee would also welcome information on internally displaced persons, with a particular focus on any measures in place to assist them in returning to their normal lives and to protect them from sexual exploitation and all forms of violence, including gender-based violence.

21. The delegation might wish to comment on allegations that trafficking in persons continued to occur in the State party, in particular for the purposes of sexual exploitation, domestic servitude and begging, and on any investigations, prosecutions and convictions of the perpetrators of such abuses. He would be grateful for a detailed account of the mechanisms in place to identify victims of trafficking and provide them with appropriate support, with a particular focus on children, women, refugees, persons with disabilities and displaced persons.

22. The Committee would welcome detailed information on the training programmes designed to ensure that legal and medical personnel dealing with detainees were able to detect the physical and psychological effects of torture. In particular, the delegation might confirm whether such programmes included a module on the second edition of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Information would also be appreciated on efforts to introduce training for law enforcement agents in the use of non-coercive investigation techniques and on the methods used to evaluate anti-torture training initiatives. It would be helpful to know whether the State party authorities planned to have the Convention translated into Kirundi and to disseminate it widely, including to law enforcement agents.

23. In the light of the concerns raised by the Committee during its previous review of the State party regarding overcrowding in prisons, and in view of reports that the problem was due to the automatic use of detention, including for minor offences, and to arbitrary arrests made by members of the Imbonerakure, he would appreciate an update on the results of implementation of the policy adopted in 2018 to reduce the prison population and improve conditions of detention. The delegation might comment on claims that the justice system was dysfunctional as a result of insufficient resources and capacity.

24. He wished to hear the delegation’s response to reports that certain prisoners, including the radio journalist Floriane Irangabiye, the former director of Kira Hospital Dr. Christophe Sahabo, members of the armed group known as Résistance pour un État de droit au Burundi (RED Tabara) and persons detained for their participation in the attempted coup in May 2015,

were detained in facilities located a great distance from their homes and were denied visits from family members. The Committee also had concerns surrounding the allegedly insufficient amount of food supplied to prisoners, some of whom reportedly sometimes did not eat for three days, and which had apparently led to the death from starvation of Déo Havyarimana in Bubanza prison in August 2022.

25. In addition, a lack of medical care and limited access to clean drinking water reportedly left many prisoners seriously ill and had allegedly led to the deaths of a detainee known as Amani in Gitega in February 2022 and of a prisoner named André Ndagijimana in Ngozi in July 2022. He would welcome details of the prevention and protection measures, including vaccination, that had been introduced during the coronavirus disease (COVID-19) pandemic, in particular for the most vulnerable detainees, and of how many detainees had died from COVID-19.

26. The Committee wished to receive data on the number of deaths in custody, disaggregated by sex, age, national or ethnic origin and cause of death, and details of any investigations launched into such deaths and the outcomes thereof. It would be useful to receive an account of the procedures and mechanisms in place to allow detainees to file complaints of ill-treatment or violence, and of the number of such complaints that had been received. He would be interested to learn about the measures being taken to ensure that solitary confinement was used only as a last resort.

27. He would welcome information on any visits to places of deprivation of liberty conducted by the Public Prosecutor's Office, the International Committee of the Red Cross or civil society organizations, as well as on the follow-up that had been given to any recommendations issued following such visits. It was unclear why the Subcommittee on Prevention of Torture had so far been unable to visit the State party, and why the authorities had yet to establish a national preventive mechanism as required under the Optional Protocol to the Convention. If plans for the establishment of such a mechanism were being drawn up, the delegation might explain how they met the requirements of the relevant guidelines with respect to the legal basis, resources and guarantees of independence, and when the mechanism would begin its work.

28. The Committee wished to receive details of any measures of reparation or compensation, including rehabilitation, ordered by the courts in respect of victims of torture or their family members during the reporting period, as well as information on the reparation and rehabilitation programmes in place for such victims, including details of the material, human and budgetary resources made available for those programmes. It was unclear whether the compensation fund for victims of torture provided for in articles 289 and 290 of the Code of Criminal Procedure was operational. He would welcome clarification of whether victims of torture had a specific legal right to reparation.

29. He would like to know what measures had been taken to ban the use of corporal punishment in all settings, to protect children from all forms of violence, including sexual exploitation, and to prevent the ritual murders of children with albinism. It would be interesting to hear about the outcomes of any investigations into cases of those forms of violence, as well as the effects of any measures taken to reform the juvenile justice system.

30. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence had been critical of the Truth and Reconciliation Commission. The Committee therefore wished to learn about the steps taken by the State party to ensure that complaints of serious human rights violations received by the Commission were referred to an independent investigative authority for timely and impartial investigation; to guarantee that all perpetrators of serious human rights violations committed during the period covered by Act No. 1/18 of 15 May 2014 were prosecuted; to ensure access to appropriate and fair reparation and compensation; to guarantee the Commission's independence; and to ensure progress in the area of transitional justice, including with regard to institutional, security and justice reforms. He would welcome the delegation's comments on whether it might be advisable to revise the Commission's mandate to encompass serious violations that had occurred since 2015 and during the reporting period.

31. **Ms. Racu** said that she would like to hear about the prison regime for women and girls, including those who had children. She would welcome an update on the measures taken

to improve material conditions of detention for female detainees, as well as details of employment and social programmes and other activities aimed at women in prison, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

32. It would be helpful to learn about the legal provisions governing involuntary placements in psychiatric institutions and social care homes and how those provisions were applied in practice. She wondered whether a mechanism was in place to allow patients to challenge such placements. It was unclear which authority had the right to conduct inspections or monitoring visits of psychiatric institutions and social care homes. She would be grateful for an account of the measures that the Government had taken to prevent violence, ill-treatment and torture in such facilities and to improve the capacities of the medical and other personnel who worked in them.

33. **Mr. Tuzmukhamedov** said that Burundi had made a significant contribution to United Nations peacekeeping operations, but that Burundian peacekeepers had been alleged to have been involved in misconduct, notably sexual abuse in the Central African Republic in 2016. He wondered whether an internal inquiry had been conducted. He also wished to know if lessons learned, such as the need to make personnel aware of international legal standards, including the Convention, had been incorporated into training. Were units that were deployed internationally accompanied by legal advisers?

34. While Burundi had abolished capital punishment in 2009, it was not a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights. It had initially voted in favour of four United Nations General Assembly resolutions concerning a moratorium on the use of the death penalty, before voting against further resolutions and finally not voting or abstaining. He would therefore welcome an explanation on the inconsistent position of Burundi regarding legal and political aspects of the abolition of the death penalty.

35. **Mr. Buchwald** said that, in the List of issues in relation to the third periodic report of Burundi (CAT/C/BDI/Q/3), the Committee had asked the State party to provide information on any measures taken to incorporate the principles of command responsibility for the offence of torture into legislation. Had the State party made a specific provision which affirmatively established that a superior who failed to take steps to prevent and punish torture by his or her subordinates was criminally liable for failing to do so?

*The meeting was suspended at 12.10 p.m. and resumed at 12.35 p.m.*

36. **Ms. Sabushimike** said that the Independent National Human Rights Commission was a completely independent body, operating in accordance with the Paris Principles. It had been accredited with category A status on 28 July 2021; it had its own budget, was representative of society and could not be impeded from fulfilling its mandate by any State body. The law that created it also enabled it to work with technical and financial partners.

37. Between 2019 and 2022, the Independent National Human Rights Commission had conducted investigations into cases of alleged torture that had been submitted to it. Some of those cases were determined to be founded and the Commission had passed them on to the public prosecutor. The Commission had also set up regional offices to provide services to local communities.

38. Burundi had not created a national preventive mechanism because it considered that the work being done by the Independent National Human Rights Commission was commendable. Its responsibilities included the prevention of torture and other cruel, inhuman or degrading treatment, visits to detention centres to verify the protection of human rights, the production of critical and constructive reports, and recommendations for solutions regarding human rights.

39. Work to prevent torture was also carried out by national human rights bodies such as the Ministry of Human Rights, Social Affairs and Gender, the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity, and the Centre for the Promotion of Human Rights and the Prevention of Genocide, and by civil society and non-governmental organizations. Training programmes on human rights were also available to State officials, police, judges and civil servants.

40. Visits to detention facilities were conducted by the Ministry of Justice and Civil Protection, the Ministry of Human Rights, Social Affairs and Gender, the Independent National Human Rights Commission and national and international human rights NGOs, in order to investigate conditions, ensure that procedures were complied with and verify the existence of victims of torture and other cruel, inhuman or degrading treatment. Their recommendations were acted on by the relevant officials.

41. The Truth and Reconciliation Committee, which had been set up in December 2014, had also been mandated to investigate suspected serious violations of human rights and international humanitarian law committed between 1962 and 2008. On the conclusion of its work, it had proposed a programme of reparations, incorporating individual and collective material, moral and symbolic measures. It had also established a programme aimed at promoting forgiveness, reconciliation and institutional reform.

42. **A representative of Burundi** said that the use of force was regulated by law. In particular, firearms could be used only as a last resort, when no other means of recourse were available. Act No. 1/27 of 29 December 2017 amending the Criminal Code stated that force was permissible only in case of necessity, such as imminent and grave danger, and that it should only be used in proportion to the seriousness of the threat. It could also be used in instances of legitimate defence.

43. A code of ethics had been established for the Burundi police force in 2009, which included guidance on human rights, and officers received training in that area. When the use of force or firearms by the police led to injury, the persons responsible immediately submitted a report to their superior officers, an investigation was launched and a detailed report was sent to the relevant authorities and judicial bodies.

44. Terrorism was on the rise in Burundi and had been criminalized in the Criminal Code in 2017. Burundi had ratified the Protocol to the Organization of African Unity Convention on the Prevention and Combating of Terrorism. A national centre for combating terrorism had been established, as well as an anti-terrorist unit within the police force. A specialized unit in the Ministry of Finance, Budget and Economic Planning had been tasked with addressing money-laundering and financing for terrorism.

45. While the Government attached great importance to freedom of expression and religion, it was also responsible for guaranteeing public order. A 2022 law regulating religious groups should be seen in that context.

46. It was disappointing to note that any person under the age of 40 affiliated to the political party in power, in other words, a member of the Imbonerakure youth league, was described as a potential criminal. It was regrettable that such categorization persisted, despite the Government's efforts to demonstrate the danger of discriminating against a group of people because of their political affiliation.

47. **A representative of Burundi** said that, since the review of its second periodic report, the State party had updated the Constitution, the Criminal Code, the Code of Criminal Procedure and a number of laws concerning interrogation rules, instructions, methods and practices, custody, arrest, detention and imprisonment, as well as laws specifically aimed at combating torture.

48. In 2018, the Government had adopted a penitentiary policy to deal with overcrowding in prisons, not by expanding their capacity but rather by improving the living conditions within them and reducing the number of prisoners. Work had been undertaken to renovate the prisons in Gitega, Ngozi and Rumonge. Conditions linked to health, ventilation and drinking water were guaranteed, so far as possible, in collaboration with development partners. Thanks to a joint ordinance issued by the ministry responsible for health matters and the Ministry of Justice and Civil Protection concerning the operation of health centres attached to prisons and centres for the rehabilitation of children in conflict with the law, prisoners were able to receive comprehensive medical care.

49. Prisoners received training in skills such as livestock rearing, carpentry and literacy to facilitate their rehabilitation. The release of over 43,000 prisoners in the reporting period had helped to reduce prison overcrowding. To meet the needs of specific groups such as minors, women, persons with disabilities and the elderly, a special section for girls had been



created within the specialist women's prison in Ngozi and two re-education centres had been set up for boys in conflict with the law in Rumonge and Ruyigi. However, challenges remained, notably in terms of finance.

50. Pretrial detention practices were in line with international standards concerning a fair trial; in particular, the legality of pretrial detention was systematically monitored and a reasonable limit was set on its duration, under the provisions of article 155 of the Code of Criminal Procedure. Exceptions were made for cases that were difficult to process within the time limit laid down by law.

51. The State party had a strict approach to homosexuality, which was criminalized under the Criminal Code.

*The meeting rose at 1.05 p.m.*