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Civil and Political Rights**

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Human Rights Committee

**Third periodic report submitted by Burundi
under article 40 of the Covenant, due in 2018***

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* The present document is being issued without formal editing.



I. Introduction

1. The third periodic report on the implementation of the Covenant follows the report considered by the Committee on 8 and 9 October 2014. It has been prepared in compliance with the general guidelines on the form and content of periodic reports.
2. The report covers the period from 2015 to 2018. Subjects dealt with in previous reports that have remained unchanged during the reporting period are not addressed.
3. This report was drafted by the members of the Standing Committee responsible for drafting initial and periodic reports established under Ministerial Order No. 225/177 of 3 February 2016.
4. The production of this report followed successive stages of documentary research, consultation of State and non-State actors working in the field of human rights, processing of the information gathered, and pre-approval and national approval sessions involving all actors in the area of human rights.

A. Background information on Burundi

5. Burundi is an East African country that has a surface area of 27,834 km², 25,950 km² of which is land. Although landlocked, it lies on Lake Tanganyika (32,600 km², of which 2,634 km² belong to Burundi) at the eastern end of the Great Rift Valley. Rwanda lies to the north, Tanzania to the south and east, and the Democratic Republic of the Congo to the west.
6. The last general population and housing census, conducted in 2008, found it to have a population of 8,053,574, of which 51 per cent were female and 49 per cent male. The annual growth rate of the population is 2.4 per cent and the average household size is 4.7 persons. With regard to age structure, young persons and children account for more than 60 per cent of the population. The population density was 310 inhabitants per km².
7. Projections based on the census, issued by the Burundi Institute of Statistics and Economic Studies, give an estimated current population of 10,114,505,¹ with a population density of 379 inhabitants per km².
8. The population density varies from province to province, ranging from 116.5 inhabitants per km² in Cankuzo Province to 474.7 in Kayanza Province. According to the Institute, only 10 per cent of the population live in an urban environment. Bujumbura, the capital, is the largest city by population.
9. Burundi has three types of administrative division: provinces; communes; and *collines* (meaning “hills” in French) and districts, the smallest administrative units in Burundi. The national language is Kirundi. The official languages are Kirundi and the other languages determined by law.² The national currency is the Burundi franc.
10. The principle of the separation of powers is guaranteed by the Constitution. The executive, legislative and judicial branches are independent of each other.
11. The Burundi electoral system is one of universal, equal, secret, free and transparent suffrage. It may be direct or indirect under the conditions provided for by law. The electoral process of 2015 featured elections at the communal, legislative, senatorial, presidential and *colline* levels. Following these elections, women accounted for 36.4 per cent of the members of the National Assembly, 41.8 per cent of the members of the Senate, 32.7 per cent of communal administrators and 17.1 per cent of persons elected to the *colline* councils.
12. In 2015, however, a climate of sociopolitical insecurity prevailed in some parts of the country. This situation adversely affected the enjoyment of the rights enshrined in the Covenant, which is the subject of the present study. Indeed, people experienced violations of their fundamental rights and a number of them took refuge abroad.

¹ Data collected in 2016.

² Article 5 (1) of the Constitution of the Republic of Burundi promulgated on 7 June 2018.

13. Several measures have been taken to stabilize the country. Some alleged perpetrators of human rights violations have been brought to justice, while others have fled and are still at large. An internal dialogue was initiated within the country and a report was produced, leading to the drafting of the new Constitution following the organization of a constitutional referendum on 17 May 2018. This stabilization process has continued through external dialogue supported by the mediator appointed by the subregion. The process of voluntary repatriation is continuing in accordance with the tripartite agreement established between Burundi, Tanzania and the Office of the United Nations High Commissioner for Refugees.

B. Legislative and institutional framework

1. Legal framework

14. Regarding legislative and legal matters, since 2014³ the Government of Burundi has adopted several laws aimed at strengthening the protection and promotion of human rights. These include:

- Act No. 1/28 of 5 December 2013 introducing regulations on public demonstrations and meetings
- Act No. 1/18 of 15 May 2014 providing for the establishment, mandate, composition, organization and operation of the Truth and Reconciliation Commission
- Act No. 1/56 of 4 June 2014, the Electoral Code
- Act No. 1/26 of 15 September 2014 providing for the establishment, organization, composition, operation and jurisdiction of the Special Court for Land and Other Property
- Act No. 1/22 of 25 July 2014 introducing regulations on direct legal action by the State and communes for indemnity against public agents and officials
- Act No. 1/28 of 29 October 2014 providing for the prevention and punishment of trafficking in persons and protection for victims of trafficking
- Act No. 1/33 of 28 November 2014 amending Act No. 1/12 of 20 April 2010 establishing the organization of communal administrations (communal entities)
- Act No. 1/35 of 31 December 2014 establishing the legal framework for the operation of religious denominations
- Act No. 1/15 of 9 May 2015 governing the press in Burundi
- Act No. 1/04 of 27 June 2016 providing for the protection of victims, witnesses and other persons at risk
- Act No. 1/13 of 22 September 2016 providing for the protection of victims and the prevention and punishment of gender-based violence
- Act No. 1/02 of 27 January 2017 establishing the legal framework for the operation of non-profit organizations
- Act No. 1/25 of 23 December 2017 establishing the function, composition and operation of the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity
- Act No. 1/27 of 29 December 2017 amending the Criminal Code
- Act No. 1/09 of 11 May 2018 amending the Code of Criminal Procedure
- Act No. 1/03 of 10 January 2018 providing for the protection and promotion of the rights of persons with disabilities
- Act No. 1/19 of 14 September 2018 amending Act No. 1/15 of 9 May 2015 governing the press in Burundi

³ The previous periodic report on the implementation of the Covenant was reviewed in 2014.

2. Institutional framework

15. A number of institutions have been established to protect and promote human rights, including the Independent National Human Rights Commission, the National Communications Council, the Office of the Ombudsman, the National Land and Property Commission, the courts of law, the anti-corruption squad, the Anti-Corruption Court and the Inspectorate General of State.

16. Since 2014, efforts have been made to consolidate an institutional framework that promotes respect for human rights. It is worth noting in particular the Truth and Reconciliation Commission, established pursuant to Act No. 1/18 of 15 May 2014, the National Commission for Inter-Burundian Dialogue, established pursuant to Decree No. 100/34 of 23 September 2015 providing for the establishment, mandate, composition, organization and operation of the National Commission for Inter-Burundian Dialogue, the Inspectorate General under the Ministry of Human Rights, Social Affairs and Gender, the Special Court for Land and Other Property, the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity, established pursuant to Act No. 1/25 of 23 December 2017, and the National Council for National Unity and Reconciliation, established pursuant to Act No. 1/21 of 16 October 2017 establishing the function, mandate, composition, organization and operation of the National Council for National Unity and Reconciliation.

II. Progress made on the implementation of the Committee's recommendations

1. Incorporation of the Covenant into national law and applicability of the Covenant in national courts

17. The Committee recommended that the State of Burundi ensure that all the provisions of the Covenant are given full effect in its domestic legal order and take the necessary steps to raise awareness of the Covenant among judges, lawyers and prosecutors in order to ensure that its provisions are considered before and by the national courts.

18. Regarding the incorporation of the Covenant into the domestic legal order, article 19 of the Constitution incorporates all the rights and duties established and guaranteed by the international human rights instruments duly ratified by Burundi. All the Covenant's provisions are contained in the chapter on the fundamental rights of the individual and the citizen (arts. 21–61) of the current Constitution.

19. With regard to measures taken to raise awareness about the Covenant among judges and lawyers, the Ministry of Human Rights, Social Affairs and Gender organizes annual training and awareness-raising workshops for judges, police officers and military personnel. In 2017, 250 judges, military personnel and police officers took part in awareness-raising activities.

2. Ratification

20. Regarding ratification, the Committee recommended that Burundi ratify the Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

21. The process of ratifying the two Protocols is under way. Both chambers of Parliament approved the bills ratifying these two instruments on first reading. All that remains is for them to be promulgated by the President of the Republic. With regard to the Second Optional Protocol, let us point out that Burundi abolished the death penalty with the signing into law of the new Criminal Code, as amended in April 2009 and again in December 2017.

3. Independent National Human Rights Commission

22. Regarding the Independent National Human Rights Commission, the Committee recommended that the Government take the necessary steps to ensure that the Commission

is in fact fully independent and to provide it with sufficient resources to enable it to carry out its mandate in accordance with the Paris Principles.

23. The Government recognizes the advisory role played by the Commission, which is to provide the public authorities with accurate, realistic and relevant opinions, proposals and recommendations on all human rights issues. The tasks assigned to the Commission are therefore in compliance with the Paris Principles.

24. As provided for in articles 7 and 8 of Act No. 1/04 of 5 January 2011, the composition of the Commission follows the Paris Principles in that it reflects the pluralism and diverse range of backgrounds and professional skills of the Commission's members.

25. However, the Commission is facing the challenge of obtaining the financial resources required to fulfil its mandate.⁴

4. Discrimination based on sexual orientation

26. The Committee recommended that the State of Burundi decriminalize homosexuality by amending the ministerial order of the Minister of Basic Education, 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.

27. Criminal matters fall under the sovereignty of each country. In order to protect its culture, morals and customs, the Government has come down in favour of criminalizing homosexuality and does not intend to yield on this point.

5. Non-discrimination, equality between men and women

28. In this connection, the Committee recommended that the State of Burundi continue its efforts to protect persons with albinism against all forms of discrimination, including attacks on their physical integrity, and find lasting solutions that will give persons with albinism access, without discrimination, to health care, social services, employment and education.

29. To this end, the Government of Burundi has undertaken all-out awareness-raising campaigns to ensure the protection of persons with albinism, particularly children. In order to guarantee them special protection, an ad hoc community police unit has been set up and the perpetrators of murders have been apprehended, tried and sentenced. In 2018, cases involving the violation of the physical integrity of persons with albinism completely came to an end.

30. The Government has also approved two organizations that work to defend the rights of persons with albinism: Albinos sans frontières and the Organisation pour la Protection des Albinos (OPA-Burundi), whose overarching goal is to protect persons with albinism.

31. At the operational level, the Ministry of Human Rights, Social Affairs and Gender supports various projects aimed at integrating and empowering persons with albinism by enhancing their access to education and launching income-generating activities for them.

32. Nevertheless, this group continues to be affected by the lack of very expensive drugs for diseases affecting their eyes and skin.

33. The Committee also recommended that the State of Burundi continue its efforts to ensure increased representation of women in public affairs by, inter alia, ensuring the enforcement of the applicable legislation and encouraging women to run for elective office. It should also take measures to increase the number of women in decision-making positions in all other areas.

34. The Committee further recommended that the State of Burundi amend the Personal and Family Code so that it sets the same minimum age of marriage for men and women, in accordance with international standards.

⁴ Annual report of the Commission for 2015.

35. No changes have been made in this regard since the consideration of the last report submitted by Burundi.

36. The Committee recommended that the State of Burundi adopt the bill on inheritance, matrimonial regimes and bequests and make sure that it is in full compliance with the Covenant.

37. With a view to implementing this recommendation, the Government of Burundi commissioned a study on the consequences of the lack of a law on succession, matrimonial regimes and gifts. This study, which was carried out in 2015, revealed that the time is not yet right for Burundi to adopt such a law. The Government's approach is not to shake up society but to wait for attitudes about this issue to change.

38. It was also recommended that the State of Burundi conduct public awareness campaigns to help bring about a change in traditional attitudes that hinder women's ability to exercise their fundamental human rights.

39. In this regard, Burundi has implemented the National Gender Policy 2012–2025 in order to ensure gender equality and women's empowerment. This policy is implemented through two five-year action plans: the 2012–2016 plan and the 2017–2021 plan. These national plans include awareness-raising activities on behavioural and attitudinal changes and women's leadership. Several campaigns along these lines have been organized throughout the country.

6. Domestic violence

40. The Committee recommended that the State of Burundi: 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 about the harmful effects of violence against women.

41. With regard to this recommendation, the provisions of the Criminal Code relating to domestic violence are all being enforced and Act No. 1/13 of 22 September 2016 providing for the protection of victims and the prevention and punishment of gender-based violence has been promulgated.

42. The implementation of this Act makes it possible to protect women against all forms of reprisal and social stigma and ensure that cases of domestic violence are investigated and that the perpetrators are brought to justice. To this end, specialized chambers have been set up in courts of law, a police child protection and vice unit has been set up and committees to combat gender-based violence at the provincial, communal and *colline* levels have been introduced.

43. In order to ensure that law enforcement officials receive sufficient training to enable them to handle domestic violence cases properly, State and non-State actors have provided training to the judges of specialized chambers and to child protection and vice squads.

44. In order to increase the assistance available to victims of domestic and gender-based violence, new integrated support centres were set up in Makamba, Muyinga and Cibitoke Provinces in 2017. There is also the State-run Humura Centre and the privately-run Seruka and Nturingaho centres. A legal support service for victims has been established at each of these centres.

45. Mounting public awareness campaigns on the harmful effects of violence against women is one of these centres' top strategic priorities.

46. All these measures have resulted in the regularization of de facto unions, as shown in the table below:

Table 1
Regularization of households living in de facto unions in the context of the application of the specific law on gender-based violence

Ranking	Province	No. of households living in de facto unions	No. regularized as at 30 October 2018	No. not yet regularized
1	Bubanza	12 048	11 746	302
2	Bujumbura Rural	13 254	12 952	302
3	Bururi	4 473	4 179	294
4	Cankuzo	9 506	9 185	321
5	Cibitoke	26 140	26 078	62
6	Gitega	13 563	13 538	25
7	Karuzi	9 892	7 978	1 914
8	Kirundo	No data	-	-
9	Kayanza	7 607	7 565	42
10	Makamba	25 314	15 560	9 754
11	Muramvya	3 442	2878	564
12	Muyinga	20 348	19 497	851
13	Mwaro	1 962	1 913	49
14	Ngozi	49 125	46 305	2 820
15	Rumonge	7 456	No data	7 456
16	Rutana	7 638	5 323	2 315
17	Ruyigi	7 706	5 918	1 788
18	Bujumbura Mairie	19 098	No data	19 098
Total		234 629	190 615	47 957

Source: Data collected from the Ministry of the Interior, Patriotic Education and Local Development, October 2018.

47. In addition to implementing the above recommendation, the Government is continuing its efforts to combat gender-based violence, including domestic violence. A legal aid unit with a budget to pay lawyers' fees on behalf of vulnerable persons has been set up in the Ministry of Justice, Civil Protection and Keeper of the Seals. Family and community development centres, which are decentralized services operating under the Ministry of Human Rights, Social Affairs and Gender, play an active role in raising awareness of the specific law on gender-based violence and counselling and supporting victims of such violence.

48. With regard to the Committee's concern about the lack of statistics that would allow the extent of violence against women to be measured, the Ministry of Justice and Civil Protection has created a computerized database containing information on complaints filed, investigations pursued, prosecutions brought, convictions obtained, and penalties imposed on perpetrators. This database is used in every *tribunal de grande instance* (court of major jurisdiction) in Burundi.

7. Extrajudicial killings

49. With regard to extrajudicial killings, the Committee recommended that Burundi take all necessary and effective measures to combat impunity by systematically and promptly carrying out impartial, effective investigations in all cases of alleged arbitrary deprivation of the right to life in order to identify and prosecute the suspected perpetrators and, if found guilty, punish them and see to it that the victims' families receive appropriate compensation.

50. The Committee also recommended that Burundi strengthen human rights training and instruction regarding the provisions of the Covenant, for the security and defence forces.

51. In response to these recommendations, the Government has amended the Criminal Code to improve the mechanism for the prevention and punishment of offences in general and violations of the right to life in particular. Pursuant to Act No. 1/27 of 29 December 2017, amending the Criminal Code, all violations of the right to life are punishable offences, including intentional homicides (arts. 212–220), unintentional homicides (arts. 227–228), intentional bodily harm (arts. 221–225), unintentional bodily harm (arts. 229–230), trial by ordeal (arts. 231–235), cannibalism (art. 239), duels (art. 240) and abduction (arts. 257–258). The Code ensures that the right to life is protected from the moment of conception, for even cases of elective abortion are punished (arts. 528–534).

52. To meet procedural requirements, Burundi adopted Act No. 1/09 of 11 May 2018, amending the Code of Criminal Procedure. The Code provides for fast-track proceedings, known as *flagrante delicto* proceedings, for cases of flagrant breaches of the law. The organization of the national judicial system allows investigations to be conducted quickly and effectively. The criminal investigation service is organized so that every commune and every province have a police station responsible for conducting investigations.

53. The same structure is replicated in the National Intelligence Service. This is also the case for the public prosecution service, which has an office in every province to monitor the action of the criminal investigation police and act as the prosecuting authority.

54. As regards the prosecution and conviction of alleged perpetrators, Burundi wishes to inform the Committee that all allegations of arbitrary deprivation of the right to life known to the administrative, police and judicial authorities are prosecuted, and perpetrators found guilty are sentenced appropriately. However, Burundi acknowledges that some alleged perpetrators of violations of the right to life may escape prosecution and conviction because they are not identified or have fled to other countries or owing to insufficient evidence.

55. Burundi recognizes that the issue of compensation remains problematic. The courts do seek to award damages, but such compensation is rarely actually paid owing to the insolvency of the perpetrators. Book III, article 258 of the Civil Code provides: “The perpetrator of any act that causes damage to another person must make reparation”. In addition, article 95 of the Criminal Code of 2017 stipulates: “Any criminal conviction shall be without prejudice to restitution and damages that may be due to the parties, upon their request or that of the Public Prosecutor’s Office.” Courts may also set the amount of damages and award *ex officio* restitution and damages due under the law or local custom (art. 96). The Code further provides that orders for restitution, damages or costs may be enforced through civil imprisonment (art. 97). The Code of Criminal Procedure defines such imprisonment and the conditions for its application (arts. 291–299).

56. In practice, many judgments handed down provide for compensation to the families of victims and the courts sometimes even apply civil imprisonment. However, most perpetrators are unable to make good the harm done to the victims. To address this concern and ensure that all victims are compensated, Burundi is planning to establish a compensation fund for victims, which, unfortunately, is not yet in place. A feasibility study is in progress.

57. Despite its efforts to protect the individual right to life, Burundi has continued to face challenges in reducing violence, notably in 2015, when some parts of the country experienced the loss of human life as a result of the insurrection that began on 26 April. Some of the perpetrators were identified, prosecuted and convicted; others are still wanted. Although the situation is under control, there remain isolated cases of violations of the right to life and Burundi is striving to find the suspected perpetrators to bring them to justice.

8. Prohibition of torture and ill-treatment

58. With regard to the prohibition of torture and ill-treatment, the Committee recommended that Burundi ensure that torture is prevented in its territory, that allegations of torture and ill-treatment by the police, security and defence forces and intelligence services are thoroughly investigated, that persons responsible are prosecuted and those found guilty punished with appropriate penalties and that victims are adequately compensated and offered rehabilitation services.

59. It was also recommended that Burundi establish an independent mechanism for investigating complaints of torture or ill-treatment at the hands of members of police or security forces or the intelligence services and facilitate the filing of complaints by the victims.

60. It was further recommended that Burundi ensure that law enforcement officials continue to receive training in the investigation of cases of torture and ill-treatment by integrating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1999 (Istanbul Protocol) into all training programmes for such officials and ensure that confessions obtained under torture were systematically rejected by the courts.

61. In response to this recommendation, Burundi improved its preventive mechanism by building the capacity of criminal police officers, public prosecutors and judges through specially organized training sessions. Burundi also amended its Criminal Code on 29 December 2017. Torture remains a criminal offence (art. 206) and the penalties incurred have a deterrent effect. They vary, according to the circumstances, from 10 years' imprisonment to life imprisonment (arts. 206–211). These sentences are mandatory and may not be reduced. They may be combined with additional penalties.

62. For compensation to victims, the Code of Criminal Procedure of 2018 provides that the State is responsible for full compensation for harm caused by torture committed by a State official in the course of his or her duties (art. 349). When the State compensates a victim of torture, it may take action for indemnity against the agent who has committed torture and any accomplices. The Code also extends the right to sue for damages in criminal proceedings to any duly registered association whose purpose is to combat sexual violence or any other intentional offences against life or the integrity of the person (which would include torture). Action for indemnity by the State is regulated by Act No. 1/22 of 25 July 2014 introducing regulations on direct legal action by the State and communes for indemnity against public agents and officials.

63. This array of legal tools shows the determination of Burundi to combat impunity for the perpetrators of torture.

64. Regarding the independent mechanism to investigate complaints of torture and ill-treatment, Burundi considers the investigation and prosecution authorities already in place, from the police stations in each commune to the prosecutor's office in each province, are sufficient. However, whenever necessary, the Public Prosecutor's Office may establish ad hoc commissions to investigate alleged violations. Examples of this include the commission of inquiry into the insurrection that began on 26 April 2015, the commission of inquiry into the allegations of extrajudicial killings during fighting that followed the attack on four military camps on 11 December 2015 and the commission of inquiry into the massacres that occurred on 14 May 2018 in Ruhagarika in the commune of Buganda, Cibitoke Province.

65. With regard to capacity-building for staff on the prevention and combating of torture, Burundi has continued its efforts to train judges and police officers on human rights (see para. 19). Unfortunately, these efforts are currently being frustrated by the withdrawal and disengagement of some of the country's traditional technical and financial partners.

66. In 2015, the Independent National Human Rights Commission recorded a total of 27⁵ allegations of torture and other cruel, inhuman or degrading treatment. The investigations conducted by the Commission showed that these acts are generally committed at the time of arrest or during police custody.

67. Regarding the lodging of complaints by victims, the Code of Criminal Procedure provides for three ways for cases to be pursued by the investigation authorities: complaints; denunciations; and automatic referrals to the courts. In all cases, the prosecuting authorities give priority to hearing the victim's testimony to further the investigation. However, Burundi regrets that, in some cases, victims do not come forward to lodge complaints or denounce the

⁵ Report on Independent National Human Rights Commission activity for 2015.

persons responsible to the judicial authorities and prefer to take flight or denounce them to the media, which impedes proceedings. That is why many cases are reported by the media.

68. Regarding the systematic rejection by the courts of confessions obtained under torture, the Code of Criminal Procedure provides that any confession or information obtained under torture, coercion or any other underhand method and all the resulting evidence is considered null and void. Article 90 (3) of the Code of Criminal Procedure of 2018 provides that “when it is found or proved that confessions of guilt or any other information have been obtained through torture, coercion or any other underhand method, they are deemed null and void along with any evidence obtained”. Confessions extracted under torture are therefore inadmissible in court. If cases have been reported to the Committee, it would be best if it informed the Government of them so they may be addressed on a case-by-case basis.

9. Corporal punishment

69. On this subject, the Committee recommended that the State party take practical steps, including legislative measures where appropriate, to put an end to corporal punishment in all settings. The Committee also recommended that Burundi encourage the use of non-violent forms of discipline instead of corporal punishment and conduct public information campaigns to raise awareness about its harmful effects. In response to this recommendation, the State would like to inform the Committee that corporal punishment is put in the same category as bodily harm. Corporal punishment is therefore punished under both the Criminal Code of 2009 (arts. 219–233) and the Criminal Code of 2017 (arts. 221–225). Anyone who commits such offences will be prosecuted and sentenced in accordance with the provisions of the Code of Criminal Procedure. Many such cases are prosecuted in the courts as minor or serious intentional assault or actual or grievous bodily harm.

10. Trafficking in persons

70. At the review of the second periodic report, with regard to trafficking in persons, the Committee recommended that steps be taken, including the adoption of a specific law and plan of action to prevent and combat trafficking in persons. It also recommended investigating all cases of trafficking, prosecuting those responsible and, if found guilty, punishing them with appropriate penalties and taking the necessary steps to ensure that the victims receive adequate compensation. Lastly, it recommended conducting public awareness campaigns on trafficking and strengthening links with neighbouring countries in order to combat trafficking effectively.

71. In response to these recommendations, Burundi adopted Act No. 1/28 of 29 October 2014 providing for the prevention and punishment of trafficking in persons and protection for victims of trafficking. In addition, the Criminal Code of 2017 includes a section on the trafficking and smuggling of human beings (arts. 244–246), provides for supplementary penalties (arts. 247–249) and criminalizes trafficking-related offences (arts. 250–256).

72. Regarding the investigation of cases of trafficking, some cases related to trafficking in persons are pending before the courts and prosecution service, while others have been tried and the perpetrators sentenced to appropriate penalties. Others have been under judicial or preliminary investigation since 2014.

73. Nonetheless, Burundi acknowledges that there are cases of trafficking in persons in which the perpetrators are not prosecuted and convicted because they are outside the country’s jurisdiction. Allegations of trafficking in persons to countries such as Saudi Arabia via other countries have been reported. The Public Prosecutor’s Office has opened an investigation into these cases (RMPG 787/KT).

74. Regarding compensation, the problem lies with the insolvency of the perpetrators, as explained in the section on extrajudicial killings.

75. Burundi wishes to inform the Committee that an ad hoc commission has been established to examine strategies for dismantling trafficking networks.

11. Police custody, pretrial detention and basic legal guarantees

76. The Committee recommended amending the Code of Criminal Procedure in order to align it with the Covenant by: setting the allowable period of police custody at 48 hours; specifying the duration of pretrial detention and ensuring that it was adhered to; and taking steps, as a matter of urgency, to address the situation of persons who had been in pretrial detention for years. It also recommended systematically ensuring that persons held in police custody or pretrial detention were informed of their rights and that the basic legal safeguards mentioned above were in place. Lastly, it recommended ensuring that release orders issued by the courts were acted upon so that people could regain their freedom as soon as possible.

77. In response to these recommendations, Burundi amended the Code of Criminal Procedure on 11 May 2018. Articles 41, 43 and 44 of the Code provide that the maximum period of detention for public intoxication, identity checks and verifications or a dangerous mental state is 24 hours. For other cases requiring a thorough investigation, the duration of custody has remained 7 days, renewable once by the prosecutor.

78. Regarding the length of pretrial detention, the Code of Criminal Procedure provides that a provisional arrest warrant signed by the investigating judge is valid for 15 days. Before the end of this period, the investigating judge must ensure that the accused is heard in chambers to monitor the legality of the detention. The court order confirming pretrial detention is valid for 30 days, renewable each month for not more than 12 months, depending on the nature and seriousness of the offence. Article 159 (2) and (3) of the Code of Criminal Procedure provides that the maximum period is 1 year for an offence that is punishable by a sentence of 5 years' imprisonment or less and 3 years if the offence is punishable by a sentence of more than 5 years' imprisonment.

79. Regarding the steps taken to address the situation of persons who have been detained for many years, Burundi, through the Ministry of Justice, Civil Protection and Keeper of the Seals, has established a standing commission responsible for monitoring the prison and judicial records of detainees pursuant to Ministry Ordinance No. 550/2083 of 11 November 2016.

80. For information, in 2016, through pardons, 1,753 convicted prisoners received a full remission of their sentence and were released from prison, 498 received a partial remission of their sentence and 12 had their sentence commuted from life imprisonment to 20 years.

81. In 2017, 2,576 convicted prisoners received a full remission of their sentences, 576 received a partial remission, 16 had their sentences commuted and 123 were granted a conditional release.

82. In 2018, 1,365 prisoners received partial remission or commutation and 2,979 received full remission.

83. The courts and the prosecution service also take other steps whenever they observe prolonged detention.

84. With respect to the rights guaranteed to persons held in police custody or pretrial detention, article 138 of the Code of Criminal Procedure provides that accused persons must be informed of their rights before questioning, on pain of declaring the proceedings null and void. Accused persons are informed of their rights, including the right to choose a lawyer, communicate freely with that lawyer and remain silent when he or she is not present.

85. To ensure systematically that persons held in police custody or pretrial detention are informed of their rights and that the basic legal safeguards mentioned are in place, article 155 (3) of the Code of Criminal Procedure provides for disciplinary measures against any investigating judge who fails to refer the matter within 15 days at the latest to the court responsible for reviewing the detention.

86. Article 155 (4) provides for the same sanctions against any presiding judge who does not organize a pretrial detention review hearing within 15 days at the latest of the date of referral of the case to the court by the public prosecutor or the accused.

87. Article 156 of the Code provides that, if the detention is found to be illegal, the court must order the lifting of the pretrial detention on its own motion.

12. Conditions of detention

88. Under this heading, it was recommended that Burundi step up its efforts to improve the living conditions and treatment of persons held in custody and continue to take steps to address overcrowding in prisons in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

89. It was also recommended that Burundi: introduce a specific policy on the use of non-custodial penalties; set up an effective mechanism to receive and handle complaints filed by inmates while maintaining their confidentiality; and take the necessary steps to separate prisoners by age, sex and custodial status. It should also ensure that effective and regular visits were paid to places of detention and establish a national mechanism for the prevention of torture as soon as possible.

90. To improve living conditions and the treatment of prisoners and reduce the prison population, Burundi has begun to rehabilitate some penal institutions with support from its partners in bilateral cooperation and from international organizations.

91. Furthermore, rehabilitation centres for minors in conflict with the law have been constructed in Rumonge and Ruyigi and a section for girls has been created at the women's prison in Ngozi. Measures such as pardons, release on parole and temporary release are contributing to an improvement in prison conditions and a reduction in overcrowding.

92. Regarding policy on alternatives to detention, Burundi is in the process of introducing the penalty of community service. It is provided for by the Criminal Code and an implementing decree was signed on 13 June 2013.⁶ A commission was established to coordinate this work. The Criminal Code provides for further alternatives to detention, namely fines. Suspended sentences are another alternative to detention provided for by the Criminal Code of 2017.

93. With respect to the separation of prisoners by age and sex, all prisons in Burundi comply with the principle of separating men from women and adults from minors. For children, who may not be detained together with adults, two rehabilitation centres for minors in conflict with the law are in operation. Since 2015, no minors may be detained with adults.

94. Concerning visits to places of detention and the establishment of a torture prevention mechanism, all places of detention are open to visits by any person. Family members, prosecutors, officials from the Ministry responsible for human rights and civil society and international organizations such as the International Committee of the Red Cross are all permitted visits. The Independent National Human Rights Commission is responsible for the mechanism for the prevention of human rights violations, including torture.

13. Administration of justice and fair trial

95. At its last review, Burundi was recommended to take all necessary steps to ensure the independence of the judiciary, strengthen measures designed to ensure access to justice, ensure that everyone was afforded all the legal safeguards, in law and in practice, including the right to be assisted by a lawyer in the course of criminal proceedings, and foster conditions conducive to a fair trial, furnish the justice system with appropriate human and financial resources so that it could operate properly and provide legal assistance to persons accused of criminal offences.

96. On the matter of the independence of the judiciary, the Constitution grants independence to the judicial branch and judges make decisions based only on the law and their conscience.

97. Regarding measures designed to ensure access to justice, the organization of the courts and prosecution service is community-based. The country is divided into provinces, communes and *collines*. Justice is accessible from the communal to the national level. Moreover, for vulnerable persons who cannot afford to pay for a lawyer, Burundi has put in place a legal aid unit at the Ministry of Justice, which pays for the lawyers of this group. From 2016 to August 2018, 5,297 persons – 1,566 women and 3,771 men – received free

⁶ Decree No. 100/151 of 13 June 2013 on the administration of community service.

legal assistance services from lawyers. Persons accused of offences for which the penalty is at least 20 years' imprisonment, women prisoners, persons with advanced incurable diseases, returnees and internally displaced persons, widows and orphans, indigent persons and Twa persons are entitled to these services.

98. This legal aid unit also works to raise public awareness of judicial proceedings, the services offered by each judicial entity and the cost of those services and the legally prescribed time frame for each judicial act. The aim is to ensure the transparency of judicial proceedings, improve relations between judicial institutions and persons subject to trial and help these persons enforce their rights. To this end, 8,438 persons, including 3,569 women, have been made aware and informed of their rights.

14. Freedom of expression, assembly and association

99. Regarding freedom of expression and opinion, the Committee recommended that Burundi revise its legislation to guarantee that any restriction on press and media activities was in strict compliance with article 19 (3) of the Covenant.

100. The Press Act of 2013 mentioned in the Committee's concluding observations is no longer valid. Act No. 1/19 of 14 September 2018, amending Act No. 1/15 of 9 May 2015 governing the press in Burundi, is the law currently in force.

101. Pursuant to article 56 of this law, public and private media companies enjoy freedom of expression. They make independent decisions on their programming and are responsible for the content they broadcast.

102. Article 5 of the Act specifies that the State is to assist print and broadcast media that contribute to fulfilling the right to information, in order to promote the profession of journalism. Articles 59 and 60 give practical expression to this public assistance to public and private print and broadcast media by granting them exemptions from value added tax on imported equipment and providing them with funds to promote the industry (annual budget allocations and assistance from donors).

103. The new law on the press does not contain any provisions that would lead to threats against or the intimidation or harassment of journalists.

104. The obligations on the news media include their duty to refrain from using illegal funding (art. 62 (a)) and from disseminating or publishing content detrimental to public morals or public order (art. 62 (d)). They must also ensure that the programmes they broadcast reflect an attempt to represent the different possible points of view in a balanced way and must comply with the terms of reference and stated mission agreed with the National Communications Council at the time of their accreditation (art. 62 (c)). The payment of fines by way of settlement has been abolished.

105. With respect to freedom of assembly and the associated freedom to form associations, Act No. 1/28 of 5 December 2013, governing public demonstrations and meetings, does not apply to private meetings and demonstrations, which are unrestricted. In addition, it does not apply to the statutory bodies of political parties or non-profit organizations (art. 2).

106. The revision of legislation on this subject includes:

- Act No. 1/02 of 27 January 2017 establishing the legal framework for the operation of non-profit organizations
- Act No. 1/35 of 31 December 2014 establishing the legal framework for the operation of religious denominations

107. Both these laws result from the revision of Decree-Law No. 1/012 of 18 April 1992 establishing the legal framework for the operation of non-profit organizations.

III. Information on the implementation of the Covenant as a whole

Article 1: Right of peoples to self-determination

108. The information provided in the previous report remains valid.

Article 2: Right to non-discrimination

109. Please see the information provided in response to recommendation No. 5, in paragraphs 28–39 above.

Article 3: Right to gender equality

110. The principle of equality between men and women is enshrined in article 13 of the Constitution of 2018: “All Burundians are equal in merit and dignity. All citizens enjoy the same rights and the right to the same protection of the law. No Burundian may be excluded from the social, economic or political life of the nation on grounds of race, language, religion, sex or ethnic origin.”

111. Similarly, article 22 of the Constitution provides that: “All citizens are equal before the law, which affords them equal protection. No one may be discriminated against on grounds, *inter alia*, of origin, race, ethnicity, gender, colour, language, social situation, or religious, philosophical or political convictions, or by reason of a physical or mental disability or for being a carrier of HIV/AIDS or any other incurable disease.”

112. In order to give effect to these principles, Burundi has continued to implement the 2017–2021 National Action Plan on Security Council resolution 1325 (2000) and the 2017–2021 National Gender Policy Action Plan. These action plans, which were updated in 2017, are aimed at: (i) raising awareness among all stakeholders of the need to mitigate the effects of conflict on women and girls; (ii) protecting women and girls from gender-based violence and its many consequences; (iii) promoting the participation of women and girls in the bodies that make decisions regarding the consolidation of peace and economic recovery; and (iv) promoting the rights of women and girls.

113. With regard to the empowerment of women, loans totalling \$647,400 were granted to 5,168 persons, including 3,858 women, from a \$740,000 fund.⁷ The Government encourages women’s organizations to become involved in trade and makes efforts to strengthen managerial and business capacities. Many women’s organizations are involved in trade, microcredits and other business activities.

114. With regard to decision-making bodies, considerable progress was made at the 2015 elections, as the following table shows:

Table 2

Representation of women in decision-making bodies

<i>Indicator/Year</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Seats held by women in the National Assembly (as % of the total)	31.7	29.2	36.4
Seats held by women in the Senate (as % of the total)	46	46.3	41.8
Women communal administrators (as % of the total)	31	31.7	33.6
Women heads of <i>collines</i> (as % of the total)	7.1	5.3	6.3

Source: Independent National Electoral Commission.

Article 4: Public emergencies

115. There are no developments to report under this article.

⁷ Ministry of Human Rights, Social Affairs and Gender report of 2016.

Article 5: Guarantee of the rights recognized in the Covenant

116. The information provided in the previous report remains valid.

Article 6: Right to life

117. On the legislative front, article 24 of the Constitution states that: “Every human person has the right to life.” Articles 195–241 of the Criminal Code of 2017 criminalize all the acts that violate the right to life. Pursuant to Act No. 1/09 of 11 May 2018 revising the Code of Criminal Procedure, Burundi introduced special forms of procedure for the prosecution and swift punishment of the perpetrators of various offences, including offences that violate the right to life. One example is the special form of procedure for the investigation and trial of cases in which the perpetrator has been or is said to have been caught in the act (Code of Criminal Procedure, arts. 268–279).

118. Despite the efforts made to protect the human right to life, Burundi still faces challenges connected with persistent violence, especially after 2015, when lives were lost in the country. Some perpetrators have been identified, prosecuted and convicted; others remain wanted. The situation is now under control, but there continue to be isolated cases of violations of the right to life, and the Government is trying to find the alleged perpetrators.

Article 7: Prohibition of torture

119. Please see the information provided in response to recommendation No. 8, in paragraphs 58–68 above.

Article 8: Prohibition of slavery

120. Burundi prohibits slavery in all its forms. This prohibition is set out in article 26 of the Constitution of 2018: “No one may be held as a slave or in servitude. Slavery and trafficking in slaves are prohibited in all their forms.”

121. For further information, please see paragraphs 70–75 above on trafficking in persons.

Article 9: Right to liberty and security of the person

122. Everyone is entitled to have his or her security and liberty guaranteed.

123. Article 39 of the Constitution states that the conditions of apprehension and arrest are strictly determined by law. A person may be arrested and charged only with good cause, namely if he or she has committed a criminal offence.

124. The Code of Criminal Procedure of 2018 regulates the procedures by which suspects are arrested, charged and tried in Burundi. Article 52 of the Code obliges public prosecutors to ensure strict compliance with the statutory rules authorizing restrictions on personal freedom, including detention and custody. If they observe that a person is being detained arbitrarily or unlawfully, they must take all appropriate measures to free him or her immediately. If it is observed or proved that a confession has been obtained by coercion, it is declared null and void.

125. In order to promote human rights, the Ministry of Human Rights, Social Affairs and Gender, through the Directorate General responsible for human rights, organizes annual training workshops for judicial and police officers, in which 250 such officers have participated.

126. Officials from the Ministry of Human Rights, Social Affairs and Gender carry out visits to various places of deprivation of liberty across the country in order to identify any human rights violations. In 2017, 107 places of deprivation of liberty, including 9 central prisons and 98 lock-ups, were visited: (i) 316 persons held unlawfully in the lock-ups that were visited were released; and (ii) 52 persons detained in the various detention centres were released after irregularities in their case files were sorted out.

127. Article 23 of the Constitution provides for compensation for harm resulting from a miscarriage of justice or failure of the justice system to function properly.

Article 10: Humane treatment and respect for the dignity of detainees

128. Please see paragraphs 89–95.

Article 11: Prohibition of imprisonment for civil debts

129. As Burundi has ratified the Covenant, it is obliged to incorporate the prohibition of imprisonment for civil debts into national law.

130. Article 19 of the Constitution states that: “The rights and duties proclaimed and guaranteed by the Universal Declaration of Human Rights, the international human rights covenants, the African Charter on Human and Peoples’ Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, among other instruments, form an integral part of the Constitution.”

131. Article 39 of the Constitution states that: “No one may be deprived of his or her liberty except in accordance with the law.”

132. Contracts that have been drawn up in accordance with the law and without defects fall far outside the scope of police powers. Only a court ruling on civil matters is competent to award repayment and/or compensation, which is the purpose of repayment guarantee clauses. Police and administrative authorities must scrupulously observe the provisions of the law, in accordance with the principle of legality of the offence and the punishment.

133. Civil debts are contracts between the parties. They are entered into with complete freedom and consent and contain guarantees of repayment.

Article 12: Right to liberty of movement and freedom to choose one’s residence

134. There is nothing to add to the information provided in the previous report.

Article 13: Prohibition of expulsion and return (“refoulement”)

135. Act No. 1/03 of 4 February 2008, as revised by Act No. 1/32 of 13 November 2008 on asylum and refugee protection in Burundi, and Ordinance No. 530/443 of 4 April 2009 on the implementation of the latter Act deal with the situation of asylum seekers, including stateless persons.

136. Articles 19, 78 and 79 of the Act on asylum seekers prohibit the refoulement or expulsion of asylum seekers to the frontiers of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion.

137. Two Rwandan asylum seekers received protection against refoulement following a hearing before the Appeals Committee of the Office for Refugees and Stateless Persons on 27 April 2018.

Article 14: Right to a fair trial

138. Please see the information provided in response to recommendation No. 13, in paragraphs 96–99 above.

Article 15: Prohibition of retroactivity of the law

139. Article 41 of the Constitution states that: “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law at the time when it was committed.”

140. The article continues: “Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.” Any ambiguity is dispelled by article 4 of the revised Criminal Code of 29 December 2017, which states that: “Penalties may not be imposed for any offence if the law did not provide for them before the offence was committed.”

141. “However, where there are two competing criminal laws, of which one was in force at the time of the offence and the other enacted subsequently, and a final judgment has yet to be handed down, the more recent law may be applied only if it provides for a lesser penalty.”

142. Greater awareness of human rights has further strengthened compliance with these provisions. Indeed, no complaints have yet been received regarding violations of the provisions.

Article 16: Right to recognition as a person before the law

143. The Committee made no recommendations relating to this article, and no changes have taken place since the consideration of the second periodic report in 2014.

Article 17: Right to protection of privacy

144. Article 43 of the Constitution states that: “No person may be subjected to arbitrary interference with his or her privacy, family, home or correspondence or to attacks on his or her honour or reputation.”

145. “Home searches and visits may only be conducted in the manner and under the conditions prescribed by law.”

146. “Privacy of correspondence and communication is guaranteed in such forms, and subject to such conditions, as are prescribed by law.”

147. Article 17 of Act No. 1/15 of 9 May 2015 governing the press in Burundi states that: “In accordance with journalistic ethics and standards of conduct, journalists are required to report only balanced information whose sources have been carefully checked.”

148. Articles 45 and 46 of Act No. 1/10 of 3 April 2013 revising the Code of Criminal Procedure ensure respect for human rights in the context of searches.

Article 18: Right to freedom of thought, conscience and religion

149. This right is guaranteed by article 31 of the Constitution: “The State respects freedom of religion, thought, conscience and opinion.”

150. Religious diversity is recognized in the Constitution, which, in article 1, also enshrines the principle of the secular nature of the State.

151. The Government has by and large respected freedom of religion in practice. The Government has continued to respect this freedom.

152. The meeting of the Association of Episcopal Conferences of Central Africa held in Gitega between 10 and 13 January 2018 is a prime example. On 15 March 2018, in the interests of maintaining order, the Minister of the Interior, Patriotic Education and Local Development signed Ministerial Ordinance No. 530/310 introducing regulations on the operation of nightclubs and dance bars and organization of prayer vigils. Article 4 of the Ordinance states that: “Prayer vigils are subject to a requirement to obtain prior authorization from the city mayor or provincial governor.” On 21 May 2018, in support of the implementation of the Ordinance, the Minister of the Interior, Patriotic Education and Local Development met with representatives of religious denominations in order to urge them to comply with the law.

Article 19: Right to freedom of opinion and expression

153. Article 31 of the Constitution guarantees freedom of expression.

154. The National Communication Council, the official press regulator in Burundi, monitors respect for freedom of expression.

155. Act No. 1/15 of 9 May 2015 governing the press in Burundi was amended by Act No. 1/19 of 14 September 2018. Journalists continue to exercise their freedoms within the legal framework established under the Act.

156. Burundi has 20 local public and private radio stations, 4 community radio stations and 6 television stations that continue to broadcast daily; there are also 2 local news agencies, 24

public and private newspapers, 17 websites and 12 associations and bodies of professional journalists.

157. As well as these private radio stations, there are international radio stations authorized to broadcast freely in the country.

158. Two new stations have also been launched:

- Channel-E Radio, a station owned by the International University of Equator, which was officially launched by the President of the National Communication Council on 1 February 2018
- The Voice of Orphans and Widows, a radio and television station operated by the Buntu Foundation, which was officially launched by the President of Burundi on 3 February 2018

159. Freedom to use the Internet has been maintained. The installation of fibre-optic cables has given Burundian citizens access to information via the Internet and mobile telephone networks. Burundi now has 17 news websites.

Article 20: Prohibition of war propaganda and incitement to racial, religious or tribal hatred

160. Article 78 of the Constitution provides that: “In their organization and operation, political parties must comply with democratic principles. They must be open to all Burundians and their national character must also be reflected in their leadership. They may not advocate violence, exclusion or hatred in any form, including those based on ethnicity, regional origin, religion or gender.”

161. In addition, article 15 of the Code of Conduct for political parties during the election period, published in February 2010, reads as follows: “Respect one another by: being careful with language, in particular by avoiding intimidating language, inflammatory comments inciting violence, defamation, personal attacks, including invasions of privacy, demonization, divisive speech and the spreading of rumours; speaking in a non-aggressive manner with a focus on social programmes and projects; putting one’s own qualities forward; avoiding confrontation; respecting the symbols associated with other candidates, particularly by seeing to it that a mockery is not made of anthems, songs, posters, flags and greetings.”

Article 21: Right to freedom of peaceful assembly

162. Freedom of assembly is enshrined in article 32 of the Constitution of 2018, which states that freedom of assembly is guaranteed in accordance with the law.

163. Even the law on political parties guarantees this freedom. Article 12 of the law states that: “Political parties may hold meetings, organize demonstrations and campaign in accordance with the law.”

164. However, an administrator, mayor, provincial governor and ultimately the Minister of the Interior may prohibit any meeting or demonstration likely to disturb public order.

Article 22: Right to freedom of association and right to organize

165. Article 32 of the Constitution enshrines “freedom of association and assembly and the right to found associations and organizations in accordance with the law”.

166. For persons in pursuit of shared interests, Act No. 1/02 of 27 January 2017 establishing the legal framework for non-profit associations specifically guarantees freedom of association in Burundi.

167. Between 2013 and July 2017, the Ministry of the Interior, Patriotic Education and Local Development approved 1,761 non-profit organizations and 15 religious denominations governed by the new law.

168. With regard to the legal framework for foreign non-governmental organizations, 53 new organizations have been registered since 2013 by the Ministry of the Interior, Patriotic Education and Local Development in collaboration with the Ministry of Foreign Affairs and

International Cooperation. The Ministry of Civil Service, Labour and Employment has also approved 38 unions.

Article 23: Right to protection of the family

169. Articles 27–30 of the Constitution ensure strict respect for the right to protection of the family.

170. “The State ensures as far as possible that all citizens are able to lead an existence compatible with human dignity” (Constitution, art. 27).

171. “Freedom to marry and the right to choose one’s partner are guaranteed. Marriage may only be entered into with the free and full consent of the intending spouses. Marriage is prohibited between persons of the same sex” (Constitution, art. 29).

172. “The family is the natural basic unit of society. Marriage provides its legitimate foundation. The family and marriage are accorded special protection by the State” (Constitution, art. 30).

173. Articles 87–157 of the Personal and Family Code of 28 April 1993 address the question of marriage: entry into a marriage; the effects and obligations that result from a marriage; and annulment of a marriage.

174. Article 88 states that: “Neither a man aged under 21 years nor a woman aged under 18 years may enter into a marriage. Provincial governors may nevertheless grant dispensations as to age requirement where there are serious reasons for doing so.”

175. As for divorce, the following matters are dealt with in articles 159–195: the causes of divorce; divorce proceedings; provisional and protective measures during divorce proceedings; the grounds for the inadmissibility of a divorce petition; the effects of divorce; and divorce by mutual consent.

Article 24: Rights of the child

176. Burundi has made significant progress regarding the administration of justice for minors.

177. The innovations introduced by the Code of Criminal Procedure of 2018 mainly concern the preliminary inquiry, the pretrial investigation and the prosecution and trial of minors aged under 18 years (arts. 280–291).

178. These include: (i) compulsory legal assistance for children at every stage of the proceedings; (ii) the compulsory supervision of the child’s parents or relatives; (iii) the obligation to carry out a background investigation on the child; (iv) the compulsory separation of minor and adult detainees; (v) the expedited treatment of cases involving minors through the introduction of orange-coloured files; (vi) the establishment of specialized court chambers for minors; (vii) the introduction of in camera hearings in criminal cases involving minors; and (viii) the establishment of two rehabilitation centres for minors in conflict with the law.

179. The various initiatives to bring the system of administration of justice for minors into line with international standards have led to a reduction in the number of minors in detention and an improvement in their conditions of detention.

180. The statistics show that, while there were 440 minors in conflict with the law and more than 120 infants living with their mothers in detention centres in 2012, these figures had fallen to 145 detainees and 48 infants with their mothers in prison by the end of 2015.

181. Steps have been taken to address the phenomenon of street children. In December 2013, the Government adopted the National Strategy to Prevent and Combat the Phenomenon of Street Children.

182. A national platform of actors in this area (government agencies and civil society) implements the national action plan, which is aimed at prevention, the identification of victims, their reintegration into their families and communities and combating the phenomenon.

183. These measures have been taken to strengthen other government actions, through such initiatives as the Enfants Soleil Training and Social Reintegration Centre and the Enfants Soleil Project, which take children off the street and reintegrate them into society and the world of work.

184. Other civil society organizations are also involved in the reintegration of such children into families.

Article 25: Right to vote and to take part in the conduct of public affairs

185. In 2014, the Committee recommended that Burundi continue its efforts to ensure increased representation of women in public affairs by, inter alia, ensuring the enforcement of the applicable legislation and encouraging women to run for elective office. The Committee recommended that Burundi also take measures to increase the number of women in decision-making positions in all other areas.

186. The right to vote is guaranteed by article 51 of the Constitution and is given effect through article 4 of the Electoral Code.

187. With regard to measures to increase the number of women in decision-making positions, the Government of Burundi has made the following progress:

Table 3
Representation of women in various sectors of national life

<i>Category</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>	<i>% Women</i>
1. Registered voters in 2015	1 879 188	1 970 540	3 849 728	
2. Ministerial assistants	10	10	20	50
3. 2015 electoral lists for the National Assembly	1 433	730	2 133	34
4. Communal administrators	78	41	119	34
5. Bureau of the Senate	2	1	3	33
6. Bureau of the National Assembly	2	1	3	33
7. Communal council members	1 347	631	1 978	32
8. NGOs/Human rights sectors	38	17	55	31
9. Regional dialogue	71	27	98	28
10. National commissions and councils	235	85	320	27
11. Ministers	15	5	20	25
12. Governors	15	3	18	17
13. Directors General	41	8	49	16
14. Provincial health departments	16	2	18	11
15. Secondary school administration	102	12	114	11
16. Permanent secretaries	18	2	20	10
17. Semi-public and private sector	49	5	54	9
18. Embassies	21	2	23	9
19. Party leaders	37	3	40	8
20. Peacekeeping missions/ Burundian National Police	382	23	405	7
21. Courts	150	11	161	7

Category	Men	Women	Total	% Women
22. Heads of hill districts	2 723	186	2 909	6
23. Media executives	58	4	62	6
24. Provincial education departments	17	1	18	6
25. Agriculture and livestock (provincial agriculture and livestock departments)	17	1	18	6
26. Communal education departments	154	9	163	6
27. Health district departments	44	2	46	4
28. National Defence Force senior officers	175	3	178	2
29. Peacekeeping missions/National Defence Force	5 986	52	6 038	1
30. University administration	11	0	11	0
31. President and Vice-Presidents of Burundi	3	0	3	0
32. Overall average				17

Source: Association of Repatriated Women of Burundi, Bujumbura, December 2016, p. 10.

188. Overall, the representation of women in decision-making bodies stands at 30 per cent for elected positions, as in the previous report. Burundi is therefore aware that raising this rate remains a challenge.

Article 26: Right to equality before the law without any discrimination

189. This right is enshrined in article 22 of the Constitution: “All citizens are equal before the law, which affords them equal protection. No one may be discriminated against on grounds, inter alia, of origin, race, ethnicity, gender, colour, language, social situation, or religious, philosophical or political convictions, or by reason of a physical or mental disability or for being a carrier of HIV/AIDS or any other incurable disease.”

190. In practice, Burundi faces the challenge of overcoming poverty in order to guarantee the enjoyment of fundamental rights by all.

Article 27: Rights of minorities

191. Although the Batwa are a minority community in Burundi, they enjoy civil and political rights on the same basis as other Burundian citizens.

192. In recent years, positive steps have been taken, including to ensure that minorities are represented in Parliament through a quota system. The Constitution thus grants the Batwa three seats in the National Assembly, three in the Senate and one in the East African Legislative Assembly. Members of Batwa communities have been appointed to the Land and Property Commission, the State General Inspectorate, the National Commission for Dialogue among Burundians and the Ministry responsible for human rights.

193. Moreover, as a result of the measures taken by the Government since 2009 to provide primary education free of charge, the number of Batwa children in primary education is increasing. Health care and medical checkups are now provided free of charge for Batwa families and children in hardship. The Batwa are also considered as part of the policy of creating villages known as “*villagisation*”.

194. The other positive measures taken by the Government include the allocation of land to the Batwa to help the population become sedentary. The Ministry of Human Rights, Social Affairs and Gender also bears some of the costs associated with marriage ceremonies and

hospitalization. International partners are supporting projects to promote citizenship and access to justice for the Batwa community.

Conclusion

195. The present report shows that positive changes have taken place in Burundi in terms of promoting and protecting civil and political rights. Indeed, important reforms have been carried out in the administration, the executive, the legislature, the judiciary and the defence and security forces, in implementation of the Covenant.

196. There have also been improvements in the country's legal and institutional human rights mechanisms, including the revision of the Constitution, the Criminal Code and the Code of Criminal Procedure, the strengthening of various commissions, for example the Independent National Human Rights Commission, the Land and Property Commission, the Office of the Ombudsman and the Truth and Reconciliation Commission, and the establishment of new institutions, including the National Observatory for the Prevention and Eradication of Genocide, War Crimes and Other Crimes against Humanity and the National Council for National Unity and Reconciliation.

197. Burundi has thus made satisfactory progress in its implementation of the Covenant.

198. The Government once again reiterates its commitment to strengthening the rule of law in Burundi.
