



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 44 of the Convention

Second periodic report on the Convention on the Rights of  
the Child

**Burundi\***

[17 July 2008]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## List of abbreviations

APRODH	Burundian Association for the Protection of Human Rights and Detained Persons
CEPGL	Economic Community of the Great Lakes Countries
CNDD-FDD	National Council for the Defence of Democracy – Force for the Defence of Democracy
CRE	Economic Recovery Credit
EPI	Expanded Programme on Immunization
FAO	Food and Agriculture Organization
FAWE	Forum for African Women Educationalists
FDN	National Defence Force
ICRC	International Committee of the Red Cross
IRC	International Rescue Committee
LIBEJEUN	Burundian League for Children and Young People
NGOs	Non-governmental organizations
OBDP	Burundian Centre for the Monitoring of Prisoners
OPDE	Oeuvre Humanitaire pour la Protection et le Développement de L’Enfant en Difficulté
PALIPEHUTU-FNL	Party for the Liberation of the Hutu People National – Liberation Front
PRASAB	Agricultural Rehabilitation and Support Project
PRDMR	Rural Recovery and Development Project
PREBU	Burundi Rehabilitation Programme
SEP/CNLS	Permanent Executive Secretariat of the National Council to Combat AIDS
UNAFRI	United Nations African Institute for the Prevention of Crime and the Treatment of Offenders
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCHR	Office of the United Nations High Commissioner for Human Rights
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
WFP	World Food Programme
WHO	World Health Organization

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## I. Introduction

### A. General information

1. Burundi's initial report on the implementation of the Convention on the Rights of the Child (CRC/C/3/Add.58) was considered by the Committee on the Rights of the Child in 2000 (CRC/C/15/Add.133).
2. Given that the conflict continued until the end of 2003, the present report notes little change in the geographic, economic, social, political and security situation described earlier.
3. From the point of view of security, a ray of hope appeared on the horizon on 28 August 2000, when the Arusha Peace and Reconciliation Agreement for Burundi was signed by the Government, the political parties and several armed political movements. Unfortunately, the agreement did not lead to the peace which Burundians had been hoping for so fervently. It was not until the end of 2003 that the principal armed movement, the National Council for the Defence of Democracy – Force for the Defence of Democracy (CNDD-FDD) signed the ceasefire agreement to allow itself a breathing spell.
4. From that time on, peace gradually returned to most of the country, except in the province of Bujumbura Rural, which is located above the capital, where the Party for the Liberation of the Hutu People National – Liberation Front (PALIPEHUTU-FNL) continued to wage war and refused to take a seat at the negotiating table until April 2005. A situation of neither war nor peace continues to prevail in that province to this day, to the detriment of the populations, which have been displaced repeatedly.
5. The current security situation can be described as good on the whole, were it not for the prevalence of organized crime, armed robbery and rape throughout the country, which is linked to the widespread presence of weapons and at times inadequate functioning of the judicial system.
6. Most fortunately, on 9 May 2005 the Government started a national programme to disarm the population. This initiative bolsters the national programme for the disarming, demobilization, resettlement and reintegration of members of the armed forces and armed movements, officially launched in December 2004 with the assistance of the World Bank.
7. In 2003, well before these two disarmament programmes had been launched, the Government had already begun with the demobilization of child soldiers, initiating a plan to that effect in conjunction with the United Nations Children's Fund (UNICEF) and the World Bank. The objectives of the plan are to demobilize all child soldiers, reintegrate them into society and raise popular awareness of the need to prevent the recruitment of children.
8. The Government has also set up a National Defence Force (FDN) and a National Police Force in conformity with the Arusha Agreement.
9. At the political level, new hope was born on 28 August 2000, as mentioned above, when representatives of the Government, the National Assembly and 17 political parties representing all political tendencies in the country signed a ceasefire under the Arusha Peace and Reconciliation Agreement for Burundi. The Agreement, adopted on 1 December 2000 by Parliament, became the political starting point for restoring peace and achieving reconciliation in Burundi.
10. In November 2001, more than one year after the signing of the Arusha Agreement, a transitional government was created and, in February 2002, a National Assembly and a

Senate were elected. The implementation of the Arusha Agreement led to a number of important political developments which constituted a decisive step forward: the change in political leadership on 30 April 2003 and the signing of a comprehensive (definitive and permanent) ceasefire agreement by the transitional government and the CNDD-FDD of Peter Nkurunziza on 16 November 2003. The new Government which came to power included representatives of the CNDD-FDD.

11. A Constitution of the Republic was approved by referendum on 28 February 2005 and promulgated on 18 March of the same year. Shortly thereafter, the Government established an independent national electoral commission, which immediately went to work to prepare communal, legislative, presidential and collinaire (hill) elections. The President was elected on 19 August 2005 and took office on 26 August.

12. At the social level, according to Burundi's human development report of 2003, an analysis of the main social indicators showed a major deterioration of the living conditions of the population, which in the early 1990s was already one of the world's poorest. Gradual improvements have been noted in some sectors since 1999, but the security situation remains critical.

13. Today, there is more or less general agreement that the war has had a disastrous impact on human development, as seen in the following points highlighted in the report:

- An enormous loss of life: more than 250,000 persons are estimated to have died in the war
- The destruction of infrastructures and pillaging (public services, private installations)
- The abandonment of many schools and health units, especially in rural areas, which were hardest hit by the fighting
- A drastic decline in human resources and its effect on staffing for the principal social services
- A reduction in State funding of public investments, especially in the social sectors, due to difficulties in collecting revenues and the heavy burden of military and security expenditure
- A considerable decline in international aid (discontinuation of many development programmes), which on the whole was converted into emergency relief, to the detriment of assistance for development projects
- The collapse of both private and public investments, stagnation in most sectors of the economy and unemployment

14. The disorganization of the system of production, in particular in the agricultural sector, has had immediate and lasting consequences for household income and diet. Owing to the decline in domestic resources, families have spent less on health and education. These developments, together with the deterioration in the availability of health care and training, have been rapidly reflected in infant morbidity and mortality and the school dropout rate.

15. Moreover, the internal and transboundary displacement of hundreds of thousands of persons has resulted in a situation which can legitimately be called a humanitarian disaster. In 2003, an estimated 1.2 million Burundians, or 17 per cent of the total population of the country, were on the move or were living in exile or in camps for displaced persons.

16. An estimated 200,000 persons returned to Burundi between 1997 and 2003. In addition to these displaced and repatriated persons, whose numbers are relatively well known, many people are also lodged with families, usually in urban and peri-urban areas;

reference is also made to other very vulnerable persons, such as widows or children at the head of households, street children, school dropouts and young unemployed persons (unemployed university graduates, repatriated persons). With regard to the national programme for the rehabilitation of disaster victims, the Government's working hypothesis is for a return of 60 per cent of the victims in 2004, 20 per cent in 2005 and 20 per cent in 2006, by which time the programme is to be terminated.

17. The above-mentioned report notes that the economy has been profoundly disrupted by the effects of the war and the vicissitudes of weather. The evolution in the terms of trade in general, and in particular the collapse in global prices of coffee, Burundi's main export product, has been an additional factor aggravating the country's economic difficulties.

18. There has been a gradual economic recovery since 2001, with GDP growth of more than 2.1 per cent due to good rainfall and an improvement in the security situation in much of the country. The revival of economic activity, driven by reconstruction and a sharp increase in the production of coffee, continued in 2002 (+4.5 per cent) and resulted in a resumption in positive growth in per capita income.

19. However, the economic situation remains fragile. Growth is still very limited for industries and services, notably because of a shortage of foreign currency. A drought has struck several provinces, above all in the north, leading to deaths and displacements to regions not yet affected or to neighbouring countries.

20. The human development report on Burundi for 2003 also found that donations, which before the crisis stood at 20 billion Burundi francs, or 34 per cent of all State revenues, are at present no more than 10 or 15 per cent. The State finances its deficit by systematically relying on bank credits and by accumulating payments arrears with public debt.

21. With the support of the United Nations, Burundi has called on the international community to mobilize resources for emergency programmes and reconstruction.

22. Four conferences have been held since the end of 2000: Paris (December 2000); Geneva I (December 2001); Geneva II (November 2002); and Brussels (January 2004). The commitments announced by development partners totalled 907 million dollars for Geneva II. Of this sum, actual disbursements as of the end of May 2003 amounted to only 355 million dollars, or 39 per cent of the total. The Government greatly hopes that action will be taken on the promises made on those occasions, which have yet to be honoured.

23. It is in this security, political, social and economic context that Burundi has continued to implement the Convention on the Rights of the Child. Its financial means are extremely limited, and the Government is very preoccupied with the search for peace and national reconciliation.

## **B. Implementation of the observations and recommendations of the Committee on the Rights of the Child on the initial report**

24. The concluding observations adopted by the Committee on the Rights of the Child (CRC/C/15/Add.133) following the introduction of the initial report by the Government of Burundi have for the most part been implemented through actions which will be explained below.

25. Concerning the general measures of implementation, the Committee encouraged the State party to continue its efforts in the area of law reform with a view to ensuring conformity with the principles and provisions of the Convention, to ensure that customary

law and traditional practices fully respect the provisions of the Convention and to pursue the adoption of the code of laws on the rights and duties of children.

26. The Government has continued its efforts to bring national legislation into line with the Convention on the Rights of the Child, as can be seen by the ratification of the following conventions and protocols relating to the rights of children:

- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was ratified by Law No. 1/121 of 20 June 2001
- The African Charter on the Rights and Welfare of the Child was ratified on 11 August 2000
- ILO Convention No. 138 concerning Minimum Age for Admission to Employment was ratified by Law No. 1/112 of 20 June 2001
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified by Law No. 1/15 of 18 January 2005
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was ratified by Law No. 115 of 18 January 2005

Reference should also be made to the Constitution of the Republic of Burundi, legislation in force and bills awaiting adoption, in particular the bill on the protection of children in difficulty, the bill on the protection of delinquent children and the bill to amend certain provisions of the Code of Personal and Family Affairs. The three bills are the result of a recommendation by the Council of Ministers that the draft code on the rights of the child should be divided into three separate texts so as to have specific provisions for all possible cases and thus ensure a better protection of children. The Government is committed to taking all necessary steps to bring about the passage of the bills and their implementation without delay.

27. The bill on the protection of children in difficulty sets up preventive mechanisms for child protection, creates new bodies and strengthens existing ones so that the mechanisms can be put into effect. These bodies are: the Family Council and the Council of Prominent Persons of the collinaire (hill) regions, which already exist, and the office of the delegate for the protection of children, communal social services and juvenile courts, which are new.

28. The bill on the protection of delinquent children focuses on their rehabilitation and reaffirms the pre-eminence of non-custodial measures and the exceptional nature of measures for the deprivation of liberty, which can only be taken for serious offences. In prison, minors must be separate from adults. Children are tried in juvenile courts and in special juvenile chambers.

29. The aim of the bill to amend certain provisions of the Code of Personal and Family Affairs is to bring the Code into line with the Convention.

30. The age of marriage is set at 18 years for both sexes. In order to safeguard the best interests of the child, recourse to the Family Council is recognized even when the father and the mother refuse to give their consent for the marriage of their child. The views of the child on the question of custody are taken into account both during and after divorce proceedings.

31. Bills have been drafted on matrimonial property and succession that legalize the right of girls to inherit, thereby overriding customs which do not recognize that right. Along

the same lines, the Ministry of Education has taken steps to root out stereotypes and prejudices about education for girls.

32. With regard to the recommendation to establish a national plan of action and policy on children's rights, the Government has elaborated a national policy for orphans and other vulnerable children. Once adopted, the policy, together with the bills on the protection of children in difficulty and on delinquent children, will ensure comprehensive protection of children's rights. These projects and policies are being formulated in consultation with the ministries concerned and civil society.

33. The Government has been making a determined effort to set up child rights committees at provincial level throughout the country and to give fresh impetus to existing ones. It has not been able to establish them throughout the country at communal level for lack of financial resources. However, the Permanent Executive Secretariat of the National Council to Combat AIDS (SEP/CNLS), has been working equally hard to create communal committees for the protection of orphans and other vulnerable children in a number of pilot provinces.

34. Efforts will need to be pursued with UNICEF and all development partners in order to make the committees as successful as possible.

35. The Committee also recommended that the protection of child rights and the implementation of programmes to address priority child rights concerns be included in the peace agreements.

36. As mentioned earlier, on 28 August 2000 the Government signed the Arusha Peace and Reconciliation Agreement with the political parties and a number of rebel movements. The agreement reviews the origins of the conflict in Burundi and proposes ways and means of putting an end to it once and for all.

37. In this connection, the Government has been trying, to the best of its ability, to gradually address the problems which children have been confronted with during the crisis, in conformity with the provisions of Protocol I, chapter II, relating to the nature of the Burundian conflict, which proposes as a solution a set of measures in the area of education, including:

- Equitable regional distribution of school buildings, equipment and textbooks throughout the national territory, in such a way as to benefit girls and boys equally
- Transparency and fairness in non-competitive and competitive examinations

The rights of girls and boys whose schooling was interrupted as a result of the conflict or of exclusion are to be restored by effectively reintegrating them into the school system and later into working life. With regard to the implementation of these measures, by far the most important provision is the decision taken by the Government at the start of the school year 2005/06 on free compulsory primary school education for all children. This provision follows earlier initiatives, including the "Back to school" programme, the "African Girls' Education Initiative" and the "universal school enrolment" project.

38. In paragraph 26 of the same chapter, provision is made for education of the population, particularly of youth, in positive traditional cultural values such as solidarity, social cooperation, forgiveness and mutual tolerance, patriotism, discretion and sense of responsibility (ibanga), dignity and respect for others and for oneself (ubupfasoni) and humanism and character (ubuntu).

39. Protocol II, chapter I, article 3, on the charter of basic rights, stipulates that every child has the right to special measures to protect or promote his/her care, welfare, health and physical security and to be protected from maltreatment. It prohibits the use of children in an armed conflict and sets conditions for their detention.

40. Protocol III, on peace and security for all, provides that the categories of people to be demobilized include those who do not meet the age criteria.

41. Protocol IV, chapter I, article 3, on activities in preparation for return, resettlement and reintegration, stipulates that the Government must undertake preparatory measures by requesting international organizations and the host countries concerned to conduct a gender and age disaggregated census of the refugees, including the old caseload refugees (1972), and a multidimensional census of the disaster victims.

42. Pursuant to chapter I, article 4, on guidelines governing resettlement and integration, the National Commission for the Rehabilitation of Disaster Victims must strive to achieve the following aims and objectives:

- To grant all returning families, including female- and child-headed families, food aid, material support and assistance with health, education, agriculture and reconstruction until they become self-sufficient
- To provide communes, villages and collines (hills) with assistance in the reconstruction of community infrastructures and with support for income-generating activities, paying special attention to women and enhancing their roles in building and sustaining families and communities
- To offer intensive language courses for returnees to mitigate the language problems
- To help returnees in other areas such as medical services, psychosocial support, social security and retirement, education of children and the equivalency of diplomas awarded outside Burundi

43. Pursuant to article 5 of the same chapter, on actions with regard to returnees in their country of asylum, the Government must undertake the following actions:

- In the context of agreements between countries or social security institutions, helping those who were employed in the country of asylum receive social security benefits to which they are entitled in respect of such employment
- Assisting pupils and students in their two final years of study in primary, secondary and higher education wishing to complete their studies in the country of asylum

44. Article 8 of the same chapter, on issues relating to land and other property, stipulates that a series of measures are to be taken in order to avoid subsequent disputes over land, including the establishment of a register of rural land, the promulgation of a law on succession and, in the longer term, the conduct of a cadastral survey of rural land.

45. Article 10, on vulnerable groups, specifies that the Government must ensure, through special assistance, the protection, rehabilitation and advancement of vulnerable groups, namely child heads of families, orphans, street children, unaccompanied minors, traumatized children, widows, women heads of families, juvenile delinquents, the physically and mentally disabled, etc.

46. Chapter II concerns the material and political reconstruction of the country. Article 12 of the chapter gives guidelines for its physical reconstruction, which must contribute to correcting the imbalances relating to public infrastructures, including school infrastructures.

47. Article 13, on political reconstruction, provides that programmes and measures must be undertaken to:

- Promote rights and freedoms of the human person
- Educate the population in the culture of peace
- Initiate tangible actions for the advancement of women

48. Chapter III concerns economic and social development. Article 15 of the chapter on principal objectives stipulates that the Government must endeavour to correct the imbalances in distribution of the country's limited resources. It sets the following objectives:

- Providing all children with primary and secondary education at least to the age of 16
- Reducing the infant mortality rate by at least half
- Giving the entire population access to health care
- Improving the well-being of the population in all areas

49. Article 16 of the same chapter contains guidelines for promoting the role of women and youth in development, with the aid of specific measures to benefit them.

50. Article 17, on implementation, makes provision in paragraph 1 for the creation of an Inter-Ministerial Reconstruction and Development Unit, to which the Ministries of Planning, Finance and Reintegration must second personnel whose mandate is to prepare an emergency reconstruction plan which sets the priorities for reconstruction and provides an initial estimate of costs. The National Commission for the Rehabilitation of Disaster Victims is to be consulted and invited to submit proposals. The emergency plan is also to serve as the basis for discussion at a donor conference.

51. With the invaluable support of national, international, bilateral, multilateral, public and private partners, the Government has worked since the conclusion of the Arusha Agreement and other peace accords to gradually implement all the above-mentioned initiatives to the best of its ability.

52. The Committee on the Rights of the Child recommended that Burundi should review its coordinating mechanisms in order to facilitate the promotion and implementation of the Convention, should allocate adequate human and financial resources for their smooth functioning and should include NGOs in the coordination process.

53. In view of the economic and financial problems which the country had been experiencing since the 1993 crisis and the enormous operational difficulties that existing mechanisms are encountering, the Government has decided against the creation of new ones. However, these reforms have become a priority in the reconstruction phase which the country has already entered as it gradually overcomes the crisis.

54. Benefiting from UNICEF support, the Burundian Institute of Statistics and Economic Studies of the Ministry for Development Planning and Reconstruction is responsible for data collection, which is being improved through the inclusion of all data gathered from every sector of national life and the provision of the requisite human and financial resources.

55. For the reasons referred to earlier, the Government has decided against the establishment of an independent mechanism to monitor implementation of the Convention and to record and report on violations of children's rights.

56. With the assistance of donors, the Government has been working to respond to the recommendation to raise the proportion of spending on social expenditure, but steps taken remain limited given the enormous needs and challenges in the area. This can be seen in the allocations for the social sectors (education, health, welfare, advancement of women, etc.), where a special ongoing effort has been made, as testified by the appropriation acts of the past three budgetary years 2004, 2005 and 2006. In these same sectors, the contribution of NGOs and civil society has been considerable, especially in caring for vulnerable children. Cooperation between the Government and its partners has focused above all on emergency measures.

57. Training classes in children's rights have been conducted for stakeholders working with children. Other training classes will need to be held, given the reforms to be introduced after the elections and during the reconstruction phase. The support of donors will be a valuable contribution.

58. On the whole, as shown throughout this report, the Government has strived to implement the observations made by the Committee on the Rights of the Child on the initial report, apart from those requiring considerable financial resources.

59. The major challenge which the Government has not been able to meet in full is the problem of caring for street children, whose numbers have been increasing with the impoverishment of the population, one of the immediate consequences of the crisis.

## **II. General measures of implementation (arts. 4 and 42; art. 44, para. 6)**

60. Burundi acceded to the Convention on the Rights of the Child without reservations by means of Decree-Law No. 1/032 of 16 August 1990. Since that time, it has been working to implement the Convention, despite difficulties associated primarily with the above-mentioned situation.

61. In 2000, Burundi submitted its initial report on the implementation of the Convention on the Rights of the Child under article 44. In it, Burundi reported on the situation with regard to the promotion and protection of children's rights. Five years later, again under article 44, paragraph 1 (b), Burundi has produced its second periodic report on the implementation of the Convention.

62. The general measures of implementation described below concern security, social and legislative questions.

63. With regard to security, in 2003, after the signing of the ceasefire between the Government and the National Council for the Defence of Democracy — Force for the Defence of Democracy — CNDD-FDD, the main armed movement, the Government began disarming the belligerents. The national programme for disarmament, demobilization, resettlement and reintegration was then launched in 2004 with the support of the World Bank.

64. Even before the start of that programme, a programme to demobilize child soldiers had been under way since 2003. The demobilization programme began in 2001 with a number of studies, followed in 2002 by consultations among the various stakeholders, the administration and the communities concerned. A national demobilization structure for these children has been in place since March 2003.

65. As to social questions, the Government has signed a joint programme with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the reception and resettlement of repatriated persons in dignity and with respect for human rights, in particular the human rights of the most vulnerable groups, such as women and children who are heads of families. The programme aims to provide human rights training to staff working with repatriated persons at the borders and in the host communities.

66. The National Commission for the Rehabilitation of Disaster Victims set up under the Arusha Agreement gives special attention to children.

67. In the area of education, the objective of the "Back to school" programme is to enrol children between 7 and 12 years of age who were unable to stay in school during the crisis. Medical care for disaster victims is supported by the National Commission for the

Rehabilitation of Disaster Victims. Burundi University holds courses in the Kirundi language for persons who were repatriated some time ago and do not intend to go back to school. A national policy for the care of orphans and other vulnerable children was adopted in February 2005.

68. With regard to children's rights, Burundi has ratified many conventions, some specifically on the rights of the child and others with a general human rights scope which have an impact on children's rights. These conventions and protocols have been referred to earlier.

69. The following conventions and declarations with a general scope which have an impact on children's rights have been ratified or signed:

- The Rome Statute of the International Criminal Court relating to the Statute of the International Criminal Court was ratified by Burundi without reservations on 30 August 2004.
- The Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction was ratified on 22 July 2003.
- The Declaration of Burundi accepting the competence of the African Court of Human and People's Rights to receive complaints from individuals and non-governmental organizations was signed in November 2000.
- Legislation punishing the crime of genocide, war crimes and crimes against humanity was enacted in 2004.
- Legislation relating to the organization and functioning of the Truth and Reconciliation Commission was enacted in 2004.
- A bill on special measures to combat rape was submitted to Parliament for passage. It was drafted in response to the alarming proliferation of rape committed against girls and women in virtually all the provinces and of homicide, due to the large number of weapons in circulation; the bill aims to ensure that alleged offenders are tried without delay.

70. Reference is also made to the creation of the National Commission for the Rehabilitation of Disaster Victims by Law No. 1/17 of 13/12/2002, which defines the Commission's objectives, competence, organization and functioning. The Commission is responsible for rehabilitating children who were victims of the Burundian conflict, in particular by providing medical care and schooling.

71. The Government has also produced a compendium of legislative texts on children's rights. It contains some 500 articles from 20 codes, laws and regulations, providing an overview of the basic legal provisions on the subject for individuals, associations and organizations active in the area of children's rights.

72. Article 19 of the Constitution recognizes that the Convention on the Rights of the Child forms an integral part of that instrument. Article 19, paragraph 2, specifies that fundamental rights may not be the subject of any restriction or derogation, except when justified by the public interest or the need to safeguard a fundamental right.

73. For this reason, the Government allows individuals to demand the implementation of the Convention by the public authorities, and in cases of a conflict with domestic legislation, the international norm is applicable in conformity with the Vienna Convention on the Law of Treaties, to which Burundi is a party.

74. Accordingly, the means of recourse in cases of violations of rights recognized under the Convention are the same as for all other cases, and no restrictions may be placed on the rights of children embodied in that instrument.

75. The mechanism for the coordination and monitoring of policies concerning children currently falls within the competence of the Ministry of Welfare, the Advancement of Women and Human Rights.

76. The Burundian Institute of Statistics and Economic Studies, the department within the Ministry for Development Planning and Reconstruction responsible for data collection, has set up a gender database to update statistics on gender-related disparities in all areas of the cultural, economic and political life of the country.

77. Apart from the procedure for preparing periodic reports and studies in specific areas, there are no mechanisms to monitor implementation of the Convention and assess progress made in that regard.

78. As to the proportion of the national budget allocated for social expenditure for children, it is difficult to determine the percentage earmarked exclusively for children, apart from the budgets of the Ministry of Education and Culture and the Ministry of Health. However, the analysis of the budget for public expenditure since the 1993 crisis indicates a very perceptible reduction in funding for the social sectors, with an increase in budgeting for institutions and defence. Allocations for education declined from 44 per cent of the national budget in 1988 to 13 per cent in 2004, and from 13 per cent to 2 per cent for health care over the same period. That gives an idea of the state of health of the population in general and children in particular.

79. Hospitals have a tremendous shortage of medicines, reagents and equipment. Health-care services have become inaccessible for the population; people prefer to stay at home rather than seek treatment; persons who go for treatment are often unable to pay and are frequently prevented from leaving the hospital.

80. The Ministry of Welfare and the Advancement of Women, which is responsible for vulnerable persons in general and orphans and other vulnerable children in particular, has received a mere 0.25 per cent of the annual national operating budget over the past five years, of which 75 per cent goes for staff remuneration.

81. There has been a slight improvement in 2005, allocations having risen from 13 per cent in 2004 to 17 per cent for the Ministry of Education, by 5 per cent for the Ministry of Health and by 20 per cent for the Ministry of Welfare and the Advancement of Women, but this increase is not nearly enough to meet the enormous needs in the children's sector. A new children's policy should be put into place during the reconstruction period, to be funded from unspent allocations for military expenditure associated with the war.

82. Initiatives conducted in all the provinces to promote awareness of the Convention have gone hand in hand with a dissemination of the initial report. The campaign to distribute the Convention and the initial report was supported by UNICEF.

83. With regard to the elaboration of the present report, an inter-ministerial committee was set up with the participation of 11 ministries directly concerned by the question of children's rights, under the supervision of the Ministry of Institutional Reforms, Human Rights and Relations with Parliament. All the stages of the elaboration of the report have been made known in the media.

84. Following its production, the periodic report will again be disseminated via the media, workshops and seminars to the public at large and in all institutions.

### III. Definition of the child (art. 1)

85. With regard to the main statutory texts currently in force relating to the promotion and protection of children's rights in Burundi, the situation is virtually unchanged since the elaboration and submission of the initial report as far as the minimum legal age defined in legislation is concerned.

86. Thus, most of the information provided at the time continues to be valid (Code of Personal and Family Affairs, arts. 335 and 337). For example:

- Under civil law, the age of majority is 21 years. This is ambivalent in the sense that the Government has not yet amended the legislation in force to bring it into line with the Convention, which provides that "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (art. 1).
- The age of marriage is 18 years for girls and 21 years for boys, but the bill to amend certain provisions of the Code of Personal and Family Affairs sets the age of marriage at 18 years for both sexes. However, cases have been observed throughout the country of young girls who marry or have sexual relations, whether willingly or not, but have not attained the age of majority.

87. This situation is due in particular to undesirable traditional practices concerning early marriage and the many and varied adverse effects of the war, which has gone on for 12 years and has led to crowded living conditions, an increasing number of rapes, a deterioration of morals and an erosion of accepted standards of behaviour, promiscuity and prostitution associated with poverty, culture shock, drug use and impunity.

- The age of partial criminal responsibility is 13 years; the age of full criminal responsibility is 18 years
- The right to vote is acquired at the age of 18 years
- Under school regulations, education is compulsory from the age of 7 to 12, although this is very relative for a number of reasons

88. The gross primary school enrolment ratio (81 per cent) and the net primary school enrolment ratio (59.1 per cent) in 2004 clearly show that some children start schooling early and some late. This is due to the implementation of Decree No. 100/025 of 24 March 2004 on the organization of preschool education in Burundi, which sets preschool age at 3 to 6 years, and the Back to School programme initiated in 2004, which promotes the return of all children to school, including repatriated children, regardless of their age.

89. However, these positive statistics must be seen in the context of the enormous shortage of schools (74 pupils per class) and teachers (61 pupils per teacher), whereas normally a class should have 30 children per teacher. This means that many 6 year old children who leave kindergarten cannot enrol in primary school because there is no room for them, priority having been given to the many children aged 7 or older. This situation is contrary to the objectives of education for all and is an obstacle to the attainment of universal school enrolment and gender parity.

90. The minimum age for admission to employment is 16 years, apart from exceptional cases provided for by law and explained in the initial report.

91. Since the preparation of the initial report, national legislation has evolved with regard to voluntary enlistment or recruitment in the government armed forces, the minimum age having been raised from 16 years to 18.

92. Burundian legislation now protects minors against participation in armed hostilities, because the Constitution provides that no child may be used directly in an armed conflict and that the protection of children must be ensured in periods of armed conflict (art. 45).

93. Above and beyond this legal provision of principle, as mentioned earlier, in 2003 the Government adopted specific measures to demobilize child soldiers recruited by the government army or by the former armed political movements which had signed the ceasefire agreements.

94. In terms of minimum legal age, it can be seen that, in two very specific areas (age of majority and age of marriage for boys), there is a difference between the definition of the child in the Convention and the definition in Burundian legislation, under which the age of majority is set at 21 years. This will be corrected with the passage of the above-mentioned bill.

95. Under Burundian legislation, a child may not bring a case before the courts unless he or she is declared to be of full age and capacity, i.e., is of sound judgement, which in accordance with Burundian law cannot be acquired until the age of 16 years.

96. The issue of criminal responsibility for minors is addressed in articles 14 and 16 of the Criminal Code. If a child is found guilty of an offence, he or she is punished in conformity with the law. If the punishment imposed on the perpetrator of an offence is imprisonment, the child is in fact imprisoned, but in conditions which theoretically are different. The Constitution provides that no child may be imprisoned unless as a last resort, in which case the duration of imprisonment must be as short as possible (art. 46).

97. Article 46 of the Constitution also stipulates that every child has the right to be detained separately from detainees over 16 years of age and is the subject of treatment and conditions of detention in keeping with his or her age. However, this provision of Burundian law differs from the reality on the ground. In view of the alarming evolution in juvenile delinquency in recent years, the Burundian courts frequently resort to ordering measures of deprivation of liberty for minors, including police custody, pretrial detention or prison, which often lasts longer than the time period actually imposed due to a lack of appropriate monitoring mechanisms, in particular for prisons.

98. With regard to social and cultural questions, a child may not have a medical consultation or treatment or be operated on without prior parental consent and is not permitted to use alcohol or other drugs of any kind.

99. A child has the right to choose a religion and to receive religious instruction, but this right is limited in that the child's parents, guardians or persons who legally represent the parents have the prerogative to ensure that the child has made a wise decision that is not detrimental to his or her harmonious development.

100. A child also has the right to file an application for a determination of paternity, in other words to have access to information concerning his or her biological family.

101. With regard to inheritance, a child has every right to inherit, but the child's property is administered either by the guardian or by the Family Council until the child has reached the age of majority.

102. However, Burundian legislation has not yet regulated the system of succession, which is still based on custom and is currently the subject of heated public debate, for the good reason that it simply excludes women and girls, males being the only possible heirs.

103. However, jurisprudence has resulted in a change in the law of succession for girls in families in which there are no boys. As stressed earlier, a bill on matrimonial property and succession that legalizes inheritance by girls has been elaborated and is on the programme of the Council of Ministers.

## IV. General principles

### A. Non-discrimination (art. 2)

104. Title II, section I, of the Constitution of 18 March 2005, which affirms the fundamental rights of individuals and citizens, is explicit in the following articles with regard to discrimination:

Article 21 provides that human dignity must be respected and protected. Any violation of human dignity is punishable under the Criminal Code.

Article 22 contains the most specific provision on discrimination, because it stipulates that all citizens are equal before the law, which ensures them equal protection, and that no one may be discriminated against on grounds of origin, race, ethnic group, sex, colour, language, social situation, religious beliefs, philosophical or political views or for being a carrier of HIV/AIDS or any other incurable illness.

105. Thanks to the national effort in this regard, and bearing in mind the country's resources, everyone is entitled to the enjoyment of the economic, social and cultural rights indispensable for their dignity and free personal development (art. 54).

106. The right of everyone to equal access to instruction, education and culture is also recognized, as is the duty of the State to provide for public education and promote access to it (art. 52).

107. Moreover, given that the rights and obligations proclaimed and guaranteed by the Universal Declaration of Human Rights, the International Covenants on Human Rights, the African Charter of 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 are integral parts of the Constitution of Burundi, their provisions have become an integral part of Burundian positive law. These instruments, including those relating to non-discrimination, may thus be invoked at all times in domestic courts.

108. Although non-discrimination is enshrined in Burundian legislation, it cannot be said that it does not persist in practice, notably between boys and girls with regard to the age of marriage and schooling, customary practices, and schooling for children in general and Batwa children in particular. However, efforts are continuing with a view to reducing inequalities in these areas.

109. In respect of the age of marriage, the bill to amend certain provisions of the Code of Persons and Family aims to set the age of marriage at 18 years for both sexes. With regard to schooling, a whole series of measures have been adopted to implement this principle and are spelled out in the section on education.

110. As to the question of customs, there is discrimination above all with regard to succession, because girls cannot inherit, whereas boys can. As seen above, this shortcoming will be addressed through the passage of a bill on matrimonial property and succession, which recognizes the right of girls to inherit on an equal footing with boys.

111. The national gender policy adopted by the Government in September 2003 calls for equality of opportunity in all walks of life and prescribes measures to be taken by stakeholders to eliminate all gender discrimination, in particular in the area of customs. The Government must take measures to implement this policy.

**B. Best interests of the child (art. 3)**

112. In addition to the information provided in the initial report on this point, it can be said that the State has taken steps to safeguard the best interests of the child through the Arusha Agreement, which provided for a set of measures for the rehabilitation of children's rights.

113. The purpose of the proposed bill to amend certain provisions of the Code of Personal and Family Affairs is to further safeguard the best interests of the child. This concerns in particular article 90, which does not provide for recourse to the Family Council unless the parents cannot agree on the proposed marriage of their underage child. Under the bill, recourse is possible even if both parents refuse to give their consent to the marriage, the best interests of the child being the primary consideration.

114. The same applies to articles 175, 184 and 192, which concern custody of the child during and after divorce proceedings. These articles provide that children must be consulted and that the judge must take their views into account in accordance with their age and maturity.

115. Article 206 introduces a new form of guardianship, the surrogate guardian, who replaces the guardian if the latter is unable to perform that duty. If there is a conflict of interest between the guardian and the child, it is no longer the ad hoc guardian appointed by the Family Council who fulfils the task of guardian, but the surrogate guardian, the best interests of the child again being the primary consideration.

116. Article 293 strengthens the protection of children against material damage. When parental authority is exercised by a single parent who has a tendency to abuse that authority and to compromise the child's interests, the parent must request the authorization of the Family Council for acts of major importance such as loans, sales, mortgages, etc.

117. In short, the amendment of the Code of Personal and Family Affairs aims to strengthen the protection of the best interests of the child. However, in the situation of general crisis throughout the country, the best interests of the child have not always prevailed. Since the 1993 crisis, many children have lived and grown to adulthood on the street; others are heads of families, war orphans or HIV/AIDS orphans; still others are vulnerable because their parents are destitute. They are all in need of assistance.

118. The Government has launched a number of initiatives, such as the *Enfant Soleil* project, orphanages to care for these children. The National Council to Combat AIDS has a project aimed at caring for AIDS orphans and other vulnerable children.

119. NGOs have done their best to assist these children. Reference is made to the *Oeuvre Humanitaire pour la Protection et le Développement de L'Enfant en Difficulté (OPDE)*, the *Maison SHALOM*, the *Fondation Stham*, etc. However, all these initiatives are small compared to the enormous needs in the area. The post-transitional government will have to make special efforts on behalf of these groups during national reconstruction.

**C. Right to life, survival and development (art. 6)**

120. The crisis which has rocked Burundi since 1993 has had a very detrimental impact on this right. The life of children has not always been safeguarded; children have not only been passive participants in the conflict but have also sometimes participated actively in it, either willingly or unwillingly, and have thus become priority targets for belligerents.

121. To address this problem, the Government has committed itself, under articles 24 and 25 of the Constitution, to safeguard the physical and emotional integrity, personal liberty

and freedom of movement of every man and woman. Article 25 stipulates that no one may be subjected to torture or cruel, inhuman or degrading punishment or treatment.

122. In addition, the Government recently adopted a national policy in favour of orphans and other vulnerable children, including street children, children with disabilities, traumatized children, child soldiers, children in conflict with the law and refugee and displaced children. The policy's main objectives are:

- To make available a reference document to all stakeholders in the area for a better coordination of their activities
- To reduce the number of orphans and other vulnerable children by addressing the causes, including poverty, the AIDS pandemic and the impunity of perpetrators of rape and other violations of the fundamental rights of children
- To reduce the number of orphans and other vulnerable children by putting bodies into place to supervise and care for children in difficulty

123. The adoption of legislation on the protection of children in difficulty and on delinquent children is also expected to help provide effective assistance for vulnerable children by promoting their social reintegration.

124. In addition, the Ministry of Public Health, in collaboration with UNICEF and the World Health Organization (WHO), regularly organizes vaccination campaigns and sets up food supplement centres for children whose parents have difficulty feeding them.

#### **D. Respect for the views of the child (art. 12)**

125. Article 31 of the Constitution guarantees freedom of expression and provides that the State must respect freedom of religion, thought, conscience and opinion.

126. To better safeguard this principle, articles 175, 184 and 192 of the bill to amend certain provisions of the Code of Personal and Family Affairs specify that children must be consulted and that the judge must take their views concerning custody into account during and after divorce proceedings.

127. The right of children to express their views is also anchored in articles 219 and 226, on consent to recognition of a natural child; these provisions lower the age of consent from 18 years previously to 13, which is considered to be the age of discretion. Articles 5 to 7 of the bill on the protection of delinquent children guarantee the right of children to express their views freely to the authorities. Article 7 of the bill on the protection of children in difficulty likewise provides that children have the right to freely express their views, which must be taken into account in accordance with their age and maturity.

128. Mentalities have been evolving constantly, and in practice, children have increasingly been granted the right to express their views within the family. Associations of young people have repeatedly called for a dialogue between parents and children to make parents more open to learning about their children's problems. Human rights clubs created in schools have also helped young people assert this right in institutions and the family.

129. Lastly, at the International Day of the African Child, held every year on 21 June, young people are encouraged to express their views on their role in resolving the national conflict and rebuilding the country. The 2004 themes were:

- Towards an awareness of young people about the Burundian conflict
- Education, the economy, justice and the political system

Young people run all the activities during the week dedicated to the day. Public and private radio stations allow young people to speak out about their problems.

## **V. Civil rights and freedoms (arts. 7, 8, 13 to 17 and 37 (a))**

### **A. Name and nationality (art. 7)**

130. A name and nationality are important elements of a person's identity, especially for children, who are entitled to acquire them from birth.

131. The Code of Personal and Family Affairs (DL No. 1/024 of 28 April 1993) devotes a number of articles to names and mandates the administration to inform all Burundian citizens about what steps to take when a child is born:

- The birth must be declared within 15 days at the office of the civil registry for the locality in which the mother resides
- Late declaration is punishable by a fine, which varies depending on the degree of lateness
- A written report may be made to the communal authority regarding a person who fails to register a birth
- If the father of an illegitimate child is unknown, it is generally the mother who must make the declaration of the child's birth

132. However, many children are not registered at birth because of the mass internal and transboundary population displacements brought about by the armed conflict.

133. A number of factors play a role in the failure to register a birth:

- Distance from the civil registry office.
- Ignorance or insufficient information.
- Negligence.
- Shame felt by mothers about illegitimate children.
- Communal taxes which parents must pay when making a declaration of birth. Sometimes the administration uses the situation to collect other taxes, such as for the care of indigent persons or the operation of the communal water supply.

134. The authorities have held meetings to raise awareness and have broadcast radio programmes to explain to the population why people should register their newborns with the civil registry, while also stressing the disadvantages of failing to do so (problems with obtaining documents for school enrolment, marriage, etc.).

135. There is a general dispensation for displaced, repatriated and dispersed persons, who can register births without paying a fine. The dispensation is renewed every year at the close of a workshop seminar on civil status organized for provincial civil registry inspectors and the sociocultural counsellors of provincial governors.

136. To help civil registries function properly and adapt to new developments, training programmes for staff have been intensified and services have been decentralized, bringing them closer to the beneficiaries.

137. For the registration of a birth, the child is given the father's name or, if the father is not known, the mother's name or, if both are unknown, the name of the person present during childbirth.

138. Registration records date and place of birth, sex, family name and given name and, if the child is born in wedlock, the family names and given names of the father and mother. Sometimes a medical certificate issued by the hospital in which the child was born is required.

139. Articles 234 to 242 of the Code of Personal and Family Affairs provide for a procedure to establish paternity for an illegitimate child. The illegitimate child is generally recognized by the mother. If the child is not recognized by the father, the child, represented by his or her mother, may institute an action to establish paternity, which must be filed at the latest by the year after the child reaches the age of majority. If the alleged father is deceased, the action is directed against his heirs.

140. In the case of simple adoption, adopted children retain the right to belong to their family of origin, with regard to which they conserve all rights and obligations compatible with their new status (article 253, paragraph 2, Code of Personal and Family Affairs). In the case of full adoption, all ties with the biological family are severed.

141. Article 12 of the Constitution specifies that Burundian citizenship is acquired, retained and lost in accordance with conditions prescribed by law. Children born of Burundian men or women have the same rights under the law of nationality. Article 34 of the Constitution provides that no one may be arbitrarily deprived of nationality or of the right to change one's nationality.

142. Law No. 1/013 of 18 July 2000 on the reform of the Code of Nationality enshrines dual nationality — unlike DL No. 1/93 of 10 August 1971, which prohibited the acquisition of another nationality before the former nationality is relinquished — and simplifies the acquisition of the second nationality.

143. Articles 21 to 29 indicate which persons may be granted dual nationality. Persons who lost their Burundian nationality when acquiring a second nationality may, upon recovering Burundian nationality, retain the second nationality by means of a simple declaration (art. 22). If a child loses Burundian nationality by adoption, upon reaching the age of majority he or she may apply to recover it without losing the adopted nationality (art. 23). If a child's mother acquires dual nationality, a child whose paternity has not been established acquires the full dual nationality of his or her mother (art. 25).

144. The law is silent on the situation of children who request asylum or child refugees and also on the acquisition by a child of the nationality of a Burundian mother when the father is a foreigner.

145. A Burundian citizen with dual nationality may not assert that he or she is a foreigner to avoid the fulfilment of civil obligations (art. 26).

146. A Burundian citizen with dual nationality is entitled to diplomatic protection and consular services (art. 27).

147. The Minister of Justice is the authority empowered to issue a certificate of citizenship.

148. The major innovation is that current legislation makes it easier for Burundian children born abroad to conserve their nationality of origin. However, the Nationality Act must be brought into line with the provisions of the Constitution concerning the acquisition of the nationality of Burundian parents (Burundian father or mother). That would also ensure conformity with both the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, which are integral parts of the Burundian Constitution.

**B. Preservation of identity (art. 8)**

149. Article 34 of the Constitution provides that no one may be deprived of their nationality or of the right to change it.

150. Article 49 of the Constitution draws on the provision of the transitional decree-law stipulating that no one may be forced into exile.

151. Article 53 of the Constitution stipulates that all citizens have a right to equal access to instruction, education and culture and that the State has an obligation to organize education and promote access to it.

152. It is clear that the Government continues to take steps to preserve the identity of children, who acquire their name at birth at the same time as the nationality of their country. This concern can also be seen in programmes to teach the Kirundi language at all levels.

153. Other equally important initiatives include radio broadcasts on Burundian art, cultural clubs, traditional dance and songs, poetry, etc.

**C. Protection of privacy (art. 16)**

154. A person's privacy is a fundamental value. The protection of privacy is anchored in articles 28 and 43 of the Constitution, which contain the following provisions:

- All Burundians are equal before the law and in dignity, possess the same rights and are entitled to the same protection of the law
- No one may be treated in an arbitrary manner by the State or its bodies
- Article 28 provides that all men and women are entitled to respect of their privacy, their family, their home and their personal communications
- Article 43 stipulates that no one may be subjected to arbitrary interference with their privacy, their family, their home or their correspondence or to attacks on their honour or reputation

155. Major progress has been made in the area of legislation. However, given the realities on the ground, it is clear that much remains to be done. The basic structures needed to implement these texts at sectoral level are often lacking, although it is the role of such structures to elaborate plans of action for each sector. The formulation of a priority plan of action reflects the Government commitment to implementing the Convention.

156. Isolated initiatives have been conducted, but the results have not been apparent. Reference is made in this connection to the "Back to School" education programmes for reintegrating repatriated and displaced children, child soldiers, etc., who have dropped out of school because of the war, and the introduction of a special class on "education for peace" in primary and secondary schools.

157. The recent establishment of specialized structures and units has helped to identify areas in need of priority attention.

## **D. Freedom of expression and access to appropriate information (arts. 13 and 17)**

### **Freedom of expression (art. 13)**

158. Freedom of expression is guaranteed under article 31 of the Constitution. The State respects freedom of religion, thought, conscience and opinion. As stated in the initial report, Burundian children exercise their right to freedom of expression through parental authority. Children have never been subject to harassment on account of their views. They enjoy the right to seek, receive and freely impart information and ideas using all legal means.

### **Access to appropriate information (art. 17)**

159. The Constitution of 18 March 2005 guarantees the right to information. Article 284 of the Constitution establishes a national council of communication responsible for ensuring freedom of audio-visual and written communications in accordance with the law, public order and morals. The national council has decision-making power in the area of protection and promotion of freedom of the press and equal access to the public media for a diversity of political, social, economic and cultural opinions.

160. Access to a variety of national and international information sources aimed at fostering the social, spiritual and moral well-being and physical and mental health of Burundian children is guaranteed.

161. At national level, more than a dozen public and private television and radio stations broadcast special programmes for children and young people with a view to promoting their psychological, intellectual and sociocultural development. The national broadcasting station has a variety of topics for children, focusing on education, news, animated films, education for peace, the fight against AIDS and everyday life. Programmes are broadcast regularly on such topics as “Tuganirize ibibondo” (Let’s talk with children), in children’s features, and “Urwaruka rw’Uburundi rugona iki?” (What are the ambitions of youth?) “Remesha ibibondo” (Encourage and support our children), “Ntunganiriza” (I want justice). In addition to the national public media, a number of private radio stations also make a significant contribution, for example the broadcast for Batwa children on the studio channel “Ijambo”.

162. The national broadcasting station imports from developed countries some of the features, reports and broadcasts to which children have access, provided that their parents can afford a radio or television.

163. Unlike the evolution of radio and television journalism, the print media are still not very developed and do not necessarily reach the population because of their relatively high cost and poor distribution networks.

164. Children in the capital and in a number of other cities also have access to the Internet, enabling them to obtain a wealth of information. However, attention should be drawn not only to the obvious advantages of the new information and communication technologies but also to their adverse effects on children. When surfing the Internet, children encounter dangerous and harmful information, such as pornography, paedophilia and certain electronic games. Measures are planned to protect children while not interfering with the imperatives of modern times.

165. Schools and the French Cultural Centre have reading and documentation rooms, and the Ministry of Youth, Sport and Culture has established reading and cultural activities centres in rural areas in several provinces. Unfortunately, these centres are usually concentrated in the cities; efforts need to be pursued to increase their numbers.

166. The law places restrictions on the admission to cinemas and discotheques for children who have not reached the age of 18 years.

167. At international level, the Government has signed cooperation agreements with foreign radio stations to allow them to broadcast on the national territory, and their programmes are very popular with children who have had some education.

168. Foreign newspapers are also permitted, but they are available only in bookshops, hotels, cultural centres and libraries, which means that they reach very few children.

#### **E. Freedom of thought, conscience and religion (art. 14)**

169. Article 31 of the Constitution stipulates that the State must respect freedom of religion, thought and conscience. As with freedom of expression, children enjoy these rights as specified by law.

170. With regard to freedom of religion, enthusiasm for the creation of religious movements continues unabated. As legislation is not restrictive in this regard, a religious movement may be started through the mere creation of a non-profit association. This might enable unscrupulous persons to exploit the desperation of people in general and children in particular in order to abuse them.

#### **F. Freedom of association and freedom of peaceful assembly (art. 15)**

171. The regulations in this area have not changed. Article 32 of the Constitution guarantees freedom of association and assembly and the right to found associations and organizations in conformity with the law. The law of 18 April 1992 establishing the legal framework for the operation of non-profit organizations prohibits any person under 21 years of age from joining a non-profit organization. However, children may join youth movements of a cultural, sports, social or religious nature.

#### **G. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

172. Article 25 of the Constitution provides that every man and woman has the right to freedom of person, including physical and psychological integrity and freedom of movement. No one may be subjected to torture or cruel, inhuman or degrading punishment or treatment.

173. Title X, chapter II, of the Code of Personal and Family Affairs (1993), on the attributes of parental authority, indicates in article 298 that the competent court may decide the temporary or permanent withdrawal of parental authority of the father, the mother or both in the event of abuse of their authority or of ill-treatment of the child.

174. Sentences imposed on any person who commits an assault, including children, are set out in Book II, Title I, chapter II, of the Criminal Code (1981) relating to homicide and bodily harm. The sentences are doubled if a relative in the ascending line or a child under 13 years of age is the victim.

175. As pointed out earlier in the section on general measures of implementation, many awareness campaigns have been conducted on human rights in general and on the rights of children in particular, including for members of the police force.

176. Monitoring mechanisms have been set up by the Government, NGOs and non-profit associations. In 2000, the Government put into place a national commission on human

rights in addition to the centre for the promotion of human rights and the prevention of genocide, established in 1992. There are also many associations of civil society which do remarkable work in protecting human rights, for example the Iteka League, the Burundian association to combat torture, the Burundian Association for the Protection of Human Rights and Detained Persons (APRODH), the Burundian Centre for the Monitoring of Prisoners (OBDP) and the Burundian League for Children and Young People (LIBEJEUN).

## **VI. Family environment and alternative care (art. 5; art. 18, paras. 1 and 2; arts. 9 to 11, 19 to 21, and 25; art. 27, para. 4; art. 39)**

177. As stressed in paragraph 106 of the previous report, the family environment exists on three levels: the extended family, the larger household or family group, and the nuclear family.

178. Owing to the crisis of October 1993, whose effects are still felt, and the AIDS pandemic, the family structure has been badly disrupted, hence the existence at present of single parent and child headed families. The growing impoverishment brought about by the continuing insecurity has had a major impact on the family structure, making the living conditions of many families very precarious. Needless to say, this situation has had an impact on children, some of whom have found themselves in the street, neglected by their parents or abandoned, and are thus at greater risk of becoming victims of violence, exploitation, discrimination, abuse or neglect.

### **A. Parental guidance (art. 5)**

179. As in many other societies, children grow up primarily in their nuclear family. It is up to the biological parents to guide their children and advise them about the enjoyment of their rights. Traditionally, the head of the household did not play this role alone: the extended family and the community also took part in educating children. In Kirundi there is a saying “umwana si uwumwe”, that is to say, a child does not belong only to his or her parents.

180. With the modernization of society, education is also provided by other persons, whether in school or in the spiritual, cultural and moral framework, and advice can be received from other information sources, such as radio, television and newspapers. Given the many sources of information, it falls increasingly to the nuclear family to guide the child with a view to promoting his or her development and best interests.

181. Burundi does not have any specific family guidance service or education programme for parents to support the family, but many different stakeholders have conducted public initiatives and media campaigns on the rights of children.

### **B. Parental responsibilities (art. 18, para. 2)**

182. The Constitution stipulates that parents have the natural right and duty to educate and raise their children, and they are supported in this task by the State and the local authorities. This principle is also recognized in Title X of the Code of Personal and Family Affairs, on parental authority, which is defined as the set of prerogatives which fathers and mothers exercise over the person and property of the child in the child’s interest.

183. Although responsibility for raising children rests above all with the parents, many parents have enormous problems assuming that responsibility because of their difficult

living conditions. According to data provided by the United Nations Development Programme (UNDP) in May 2004, more than 60 per cent of the population lived below the poverty line.

184. In addition to this impoverishment, HIV/AIDS has also had an economic impact on families, whose meagre resources must be spent on health care. To alleviate the impact of poverty and AIDS on the population, the Government has initiated many programmes for reviving the economy as well as a national programme to combat AIDS, one of whose components is devoted exclusively to AIDS orphans and other vulnerable children. The Government has also adopted regulatory measures in the areas of health care and education, as will be seen later. In this task, it has received support from donors such as the World Bank, UNICEF, the World Food Programme (WFP), the Food and Agriculture Organization (FAO) and UNHCR, which have put into effect projects to assist the most vulnerable persons, including children. International NGOS and non-profit associations have also worked to assist children in difficulty in Burundi.

### **C. Separation from parents (art. 9)**

185. In conformity with article 9, paragraphs 1 and 2, of the Convention, the Code of Personal and Family Affairs grants custody of the child to the parents (title XI, sect. I), unless the competent court decides to separate the child in the context of divorce or deprivation of parental authority.

186. In cases of divorce, the judge decides on the placement of the child, taking into account the child's best interests, whereas in cases of deprivation of parental authority, the judge appoints a guardian. In both cases, the child may not be present during the deliberations, for which the competent court is primarily responsible. However, this situation is corrected by the bill to amend certain provisions of the Code of Personal and Family Affairs, which grants children the right to be consulted and requires the judge to take their views into account in accordance with their age and maturity (arts. 175, 184 and 192).

187. In addition to the reasons enumerated in article 9, paragraph 4, of the Convention, separation may also result from armed conflicts that have led to mass internal and transboundary population movements.

188. In Burundi, the persistence of the crisis has resulted in internal and transboundary population movements. These movements have tended to stabilize since 2003, following the signing of the ceasefire agreements between the Government and the National Council for the Defence of Democracy – Force for the Defence of Democracy (CNDD-FDD). During the period under consideration, the Government, with the cooperation of donors (UNHCR, UNICEF and the International Committee of the Red Cross (ICRC)), launched a number of programmes to promote family reunification.

### **D. Family reunification (art. 10)**

189. In keeping with the principle of maintaining family unity, children separated from their parents following an emergency situation, such as an armed conflict or a natural disaster, must be reunified with their family as soon as possible. They may leave the country or enter it for this purpose.

190. In cases of separation resulting from armed conflicts or natural disasters, the guidelines of international bodies and NGOs (UNHCR, UNICEF, ICRC, the International Rescue Committee (IRC), Save the Children and World Vision International) concerning

unaccompanied and separated children recommend rapidly identifying such children and proceeding without delay to look for the family, the goal being reunification. During the period under consideration, the six bodies present in Burundi and in neighbouring countries collaborated closely with the Governments concerned to meet this challenge.

#### **E. Illicit transfer and non-return of children (art. 11)**

191. The relevant regulations have not changed since the elaboration of the initial report. No child may leave the national territory without parental consent.

192. In the case of international adoption, the authorities must obtain the approval of their counterparts in the host country, including permission to enter the country and reside there permanently.

#### **F. Recovery of maintenance for the child (art. 27, para. 4)**

193. These regulations have not changed either. During divorce proceedings, the court must take the interests of the child into account. When parents file for divorce, they are required to comply with provisions regarding the custody and education of children.

194. The Code of Personal and Family Affairs is silent on measures to be taken in the event of failure to pay maintenance for the child. However, the Criminal Code provides for imprisonment for anyone who, having been sentenced in a court decision to pay maintenance to his spouse, their offspring or a relative in the ascending line, has deliberately failed to meet the terms for such payment for more than two months.

195. At national level, the court is competent to take appropriate measures to recover maintenance, but if the parent who has the financial responsibility for the child lives in another country, the court refers to the regulations in force in the country concerned.

#### **G. Children deprived of a family environment (art. 20)**

196. Protecting and assisting children deprived of their family environment will be one of the great challenges facing the Government in coming years. Owing to AIDS and the socio-political crisis that has gone on for more than 12 years, the family structure has been subjected to unprecedented disruption. In 2000, for example, the number of orphans who had lost one or both parents was estimated at 558,000, or 19 per cent of children under 15 years of age; 77,000 lost both parents.

197. Although article 30 of the Constitution recognizes the right of children to the special protection measures which their status as minors requires, the State has not yet adopted a clear policy for protecting and assisting children deprived of their family environment, except with regard to adoption, which will be discussed below. There are four types of alternative protection in Burundi:

- Placement in a foster family
- Placement in an extended family
- Placement in a reception centre
- Adoption

198. An assessment conducted in 2000 of a project on assistance to unaccompanied children showed that, following the crisis of October 1993, 85 per cent of unaccompanied children had been taken in by their extended family and 14 per cent had been placed in

foster families. However, placement in a foster family or an extended family is not regulated by law; it is either done informally or is organized by NGOs or associations working with children in difficulty.

199. Like the above categories, placement in reception centres is not regulated by law either, but is organized according to the rules of each centre. Today, 30 orphanages look after nearly 3,000 orphans, and more than 84 NGOs and associations provide full or partial care for orphans and other vulnerable children.

200. Thus, the placement of children deprived of their family environment is not yet regulated in Burundi. It should be pointed out that the phenomenon of children deprived of their family environment has grown considerably over the last 15 years, at a time in which social questions have unfortunately come second to political and security concerns.

201. With the return of peace, the Government is installing a system of social assistance for children in difficulty; until now, children in reception centres have been looked after either by the family, the association or the person who placed the child. In this connection, the Government has already elaborated a draft national policy for orphans and other vulnerable children.

## **H. Adoption (art. 21)**

202. In Burundi, adoption is governed by Law No. 1/004 of 30 April 1999 amending the provisions of the Code of Personal and Family Affairs relating to the adoption of children. What makes this law new is that it regulates international adoption in conformity with the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. In accordance with this law, the Ministry of Welfare and the Advancement of Women is the central authority empowered to promote cooperation and collaboration with the central authorities of other States, in conjunction with the Ministry of Foreign Affairs.

203. The Ministry sees to it that the adopted child is entitled to the same guarantees and standards as in the case of national adoption. This law closes a gap which existed in the placement of children abroad. The Ministry also makes sure that its counterpart in the host country has approved the international adoption.

## **I. Periodic review of placement (art. 25)**

204. As with the placement of children deprived of their family environment, the placement of children for care, protection or physical or psychological treatment is not regulated by law. A child placed in a reception facility or centre is cared for by members of the family, the association or the person who placed the child.

205. The placement of children deprived of their family environment is a question of great urgency. The number of associations which look after these children has grown considerably in the aftermath of the crisis of 1993 and in response to the impact of AIDS, but unfortunately there is no clear policy regarding care for children in difficulty. Aware of this shortcoming, the Ministry of Welfare and the Advancement of Women has formulated a draft policy for orphans and other vulnerable children.

206. As noted earlier, a bill has been drawn up on the protection of children in difficulty which, once passed, will address this insufficiency. The bill provides for the setting up of a number of bodies to ensure such protection. They will take action at different stages:

- Each collinaire (hill) census will include a delegate for the protection of children, who will have a preventive mission
- The Council of Prominent Persons of the collinaire (hill) regions will replace the Family Council if the latter does not exist or in the event of incapacity
- The communal social protection service will help children in difficulty, organize aid and assistance for them and ensure that they can stay in their natural environment

In the event of an emergency, the communal social service may place a child in a facility, a reception centre or another family on a temporary basis. The juvenile court, which forms part of the machinery for the protection of children in difficulty, will take action in limited cases enumerated by law.

## **J. Abuse and neglect, including physical and psychological recovery and social reintegration (arts. 19 and 39)**

207. Article 44 of the Constitution stipulates that all children have the right to special measures to ensure or improve the care needed for their well-being, their health, their physical safety and their protection against ill-treatment, abuse or exploitation. These measures are set out in the Code of Personal and Family Affairs and the Criminal Code, which contain provisions for the protection of children against all forms of violence, abuse or exploitation, including sexual violence. The legislation has not changed since the drafting of the initial report.

208. Although legislation punishes the neglect of family responsibility, it is not rigorously applied, hence the many cases of violations of children's rights. Many meetings and media campaigns have been organized to alert the public to the need to prevent violations of these rights. The growing number of cases reported shows that there is a real awareness of the issue.

209. With regard to abandonment, neglect and all forms of violence, physical or mental abuse, ill-treatment or exploitation, there is no specific programme to provide assistance to children or their legal representatives. However, many associations and NGOs offer aid, consultation and guidance services to victims of violence, abuse, abandonment or any other form of violence.

## **VII. Basic health and welfare (art. 6; art. 18, para. 3; arts. 23, 24 and 26; art. 27, paras. 1 to 3)**

### **A. Children with disabilities (art. 23)**

210. In 2002, a study on children with disabilities conducted throughout the national territory with the assistance of UNICEF found that there were 10,558 children with disabilities, of whom 50 per cent had motor disabilities, 23 per cent had sensory disabilities and 27 per cent had mental disabilities. The study also determined that 19 per cent of the disabilities were prenatal, 5 per cent were neonatal and 35 per cent were postnatal.

211. The biggest problem that these children face is linked to the attitude of parents, who consider them to be lost, worthless and pitiful. Everything possible is done for children with disabilities. They are overprotected, which may result in their thinking that their incapacity is more or less definitive and that nothing can be done about it.

212. To address this situation, training and information initiatives must be conducted for the public at large and for health-care workers in particular and must focus on vaccinations, care and above all the socialization and school enrolment of such children to the extent possible.

213. To help with this task, the Union of Persons with Disabilities of Burundi was formed to heighten public awareness and promote the rights of disabled persons by helping them enrol in school and assisting them in other ways. An orthopaedic centre is responsible for diagnosing disabilities and providing care in most cases. The biggest problem with assisting these children is the scarcity of appropriate facilities, specialized teachers and physical rehabilitation personnel.

214. Burundi has only one centre that is more or less equipped to care for children with motor disabilities, the national centre for prosthetic appliances and re-education in Gitega, and four special schools for children with sensory disabilities (School for the Deaf-Mute – EPHPHTA), one school for the deaf, one school for the blind in Gitega, another in Gihanga and two for children with mental disabilities, Akamuri in Mairie de Bujumbura and the medical training institute of Mutwenzi in Gitega. Most of these centres are supported by the NGO Handicap International.

## **B. Health and health services (art. 24)**

215. Article 55 of the Constitution provides that everyone has the right to have access to health care. As seen in the section on general measures of implementation, the Arusha Peace and Reconciliation Agreement makes provision for a number of measures to protect and improve children's health.

216. However, the crisis which has rocked the country for the past 12 years has exposed children to a multitude of abuse which has had a profound physical and psychological impact. The socio-economic analysis described in the introduction testifies to a major deterioration in the living conditions of the population in the course of the crisis, which has led to the destruction of the social fabric, the abandonment of land by part of the population, who have become refugees or displaced persons, overcrowding, an upsurge in epidemics, including HIV/AIDS, malaria and tuberculosis, as well as malnutrition, complications associated with pregnancy, injuries and trauma.

217. According to statistical data of the Ministry of Health, the mortality rate for children under 5 years of age currently stands at 165 per thousand. The maternal mortality rate is estimated at slightly higher than 800 deaths per 100,000 births. Life expectancy at birth is relatively low: it ranged between 50 and 55 for both sexes between 1990 and 1998, and today it is 43.6 for men and 43.8 for women.

218. The current situation in Burundi is characterized by a poor state of health. This has an adverse impact on the productivity of the population, which has become increasingly impoverished and is less able to contribute to the GDP and State revenues. As a result, the State is also becoming impoverished and can no longer provide for basic social needs.

219. Notwithstanding this situation, the Government has entrusted the Ministry of Health and the Ministry for the Fight against AIDS with the launching of a set of measures to attempt to improve the state of health of children. The security situation having stabilized almost everywhere, health-care personnel have been redeployed throughout the country. Public and health-care centres which had been closed have reopened, although they are still insufficient, which is why other measures are being pursued to gradually improve the situation.

220. The Expanded Programme on Immunization (EPI), whose objective is to protect all children against measles, tetanus, diphtheria, whooping cough, tuberculosis and polio, is part of this effort.

221. Efforts are also being made to raise vaccination coverage and promote routine vaccinations. A study conducted to determine the annual and monthly target population at national and provincial level has made it possible to put into place a system for the assessment of needs and the recovery of dropouts as soon as possible through cooperation with collinaire (hill) heads and community health-care officials. The assessment showed that, except for BCG and VAR, the objectives set for vaccination coverage in 2004 were not met due to the interruption in deliveries of OPV, VAR and BCG, and thus the figures declined compared to 2003.

222. In the course of 2004, additional vaccination initiatives were conducted in the framework of the national week for the promotion of the health of mothers and children, organized jointly by the Ministry of Health and UNICEF; the latter supplies the Expanded Programme on Immunization with vaccine. The EPI also monitors illnesses, including polio, measles and Haemophilia influenza type B.

223. Burundi has always experienced sporadic malnutrition as a result of seasonal shortfalls in the food supply or in connection with natural disasters such as floods or drought. Soil depletion and demographic pressure on farmland constitute the two main causes of food insecurity. In the course of the crisis, food shortages have become endemic, vulnerable groups (children, pregnant and breastfeeding mothers, and disaster victims) having been hardest hit. The situation varies from one province to another and, within each province, from one commune to another as a function of the security situation and other factors.

224. Surveys conducted in recent years show an improvement in the nutritional situation in the country. Among children, the rate of acute malnutrition is 10.4 per cent and the rate of severe acute malnutrition is 1.85 per cent, compared to an overall rate of acute malnutrition of 5.99 per cent and an overall rate of severe acute malnutrition of 1.1 per cent. Acute malnutrition most often affects children of weaning age (12 to 24 months). The frequency of acute malnutrition is virtually the same in urban and rural areas, and there is no difference in malnutrition rates between the sexes.

225. Although food self-sufficiency has been maintained to a large extent at the pre-crisis level, diets have always been characterized by an insufficiency in animal lipids and proteins. Bearing in mind that the fight against malnutrition requires a multisectoral and multidisciplinary approach, in 2003 the Ministry of Health, in collaboration with its partners, began the preparation of a national food and nutrition plan. The plan serves as a tool for implementing proposals for projects with a focus on food security, the nutritional situation and education on nutrition.

226. There is a correlation between the level of education of the mother and the prevalence of malnutrition. According to a survey conducted by UNICEF and the Burundian Institute of Statistics and Economic Studies and published in 2001, the malnutrition rate for newborns declined from 25 per cent in 1990 to 10.5 per cent in 2000. The survey also found that nearly three quarters of children aged up to 3 months were breastfed exclusively, a rate which is low compared to the WHO recommendation that children should be breastfed exclusively until the age of 6 months.

227. Almost all pregnant women obtain prenatal care, and most of them consult a professional (doctor, nurse or midwife). Assistance during childbirth by traditional midwives is just as common as by medical professionals. About 25 per cent of women aged 15 to 49 years are assisted by a professional during childbirth. Assistance by traditional midwives helps alleviate the shortage of medical professionals, the inaccessibility of care

due to the distances involved and the inability of the population to pay the medical fees of modern medical facilities (*Source*: Final Annual Report on therapeutic and preventive activities at medical centres and hospitals, 2003; the situation of children and women in Burundi, study of practices in maternal and childcare in households in Burundi (2002); National Survey to assess the living conditions of children and women in Burundi (ENECEF – Burundi 2000) 2001; National Plan of Action for food and nutrition in Burundi, National Health Care Policy 2005–2015; Health Care Development Plan, August 2004).

228. The national rate of access to drinking water remains low (42 per cent in rural areas and 72 per cent in urban areas). Some facilities, including boarding schools, health-care centres and prisons, do not have running water (*Source*: *idem*, *infra* para. 236).

229. Concerning latrines in rural areas, 89 per cent of households use latrines, which are traditional types for the most part, and only 22 per cent meet hygienic standards. In urban areas, 72 per cent of households have access to hygienic systems for sewage disposal, such as improved family latrines and septic tanks.

230. Air pollution aggravated by overcrowding, the poor ventilation of dwellings, the utilization of biomass and petroleum lamps for lighting in houses, the lack of information on the use of chemical substances, poor disposal of solid and liquid wastes, the importation of old cars and motorcycles, the use of leaded petrol, bush fires, deforestation, farms which fail to observe hygienic measures and water pollution have a heavy impact on the health environment.

### **C. Social security and childcare services and facilities (art. 26; art. 18, para. 3)**

231. When Burundi became independent, the most important law, promulgated in 1962, concerned the establishment of a social security system to cover occupational hazards and workers' pensions in the private sector. The Decree-Law of 1981 concerning the reform of the general social security system made noticeable improvements in the level of benefits and greatly simplified the modalities for their calculation and payment. The latest reform was introduced by the Decree-Law of 1990 amending the Decree-Law of 1981. The objective of all these reforms was to improve the benefits of the insured, but they did not in any way modify the structure of the system, which continues to cover the two above-mentioned areas, namely pensions and occupational hazards.

232. In addition to the general social security system, which protects workers who are subject to the Labour Code and those in comparable categories, other insurance schemes have also been established. Reference is made to:

- Decree-Law No. 100/107 of 27 June 1980 establishing and regulating a mutual insurance fund for the civil service, the semi-public body in charge of health insurance for civil servants, members of the armed forces, employees in semi-public bodies and students at Burundi University.
- Decree-Law of 19 June 1981 on reform and survivors' pensions, which covers civil servants and judges, whose statutory system differs from the general social security system. The civil service scheme provides for extensive health care, maternity, retirement, survivors' and occupational accident benefits.
- Decree-Law of 28 July 1983 on the provision of health care to workers in commercial and industrial enterprises. These enterprises are not yet subject to the health insurance scheme.

- Ministerial Order of 20 March 1984 establishing a health insurance scheme for the informal rural sector.

However, this sector does not benefit from any social protection, apart from health care. This is regrettable, given that the mutual health insurance fund for the civil service in principle covers 10 to 12 per cent of the population, a percentage which is merely theoretical, since the services of the mutual health insurance fund are not decentralized.

233. In addition to the 1999 Social Security Code, there is also a plan for the creation of a private health insurance fund, the MUSABU, which would bring to two the number of mutual health insurance funds.

234. With regard to farmers who account for about 90 per cent of the population, the Government has helped them have access to health care by providing them with a health insurance card and by defraying 80 per cent of the cost of treatment and medicine. However, a large part of the population still does not have access to medical care because they cannot afford to pay the remaining 20 per cent. The number of beneficiaries of the health insurance card has gradually declined and today is less than 10 per cent, judging by the data collected by the Department of Communal Finances on the number of cards sold for the years 2001 to 2003.

235. Moreover, the Government's option of covering 80 per cent of care with the help of the health insurance card has resulted in staggering costs for independent hospitals because of the loss of earnings due to the inability to recover 80 per cent of fees charged; this compromises their financial stability. Under the appropriation act for the budget year 2004, the Government obtained a credit of 180 million Burundi francs to cover this deficit.

236. In addition to the health insurance card, new regulations for medical care for the indigent entered into force pursuant to Ministerial Order No. 630/530/445 of 2 April 2003 setting the modalities for medical treatment and health care for indigent persons. Under the Order, 80 per cent of care for indigents is covered by the State and 20 per cent by the communes. However, given that more than 60 per cent of the population is below the poverty line, it is very difficult for the Government and the communes to provide such care.

237. These regulations should have been supplemented by those introduced under Law No. 1/009 of 4 July 2003 concerning the direct allocation of the revenues of health-care centres and dispensaries for the development of the health-care sector, but in practice, these bodies are unable to produce a surplus.

238. Pursuant to the terms of Decree-Law No. 01/012 of 23 June 1999, a maternity insurance fund was set up for civil servants and similar categories; it took material form in Law No. 1/005 of 10 September 2002 on the reform of the health insurance scheme for civil servants and similar categories. The law is new in that it provides for care for pregnancy, childbirth, voluntary therapeutic interruption of pregnancy and follow-up.

239. In accordance with the provisions of the Labour Code, an employer is under an obligation to cover the health-care costs of employees. However, for some enterprises this requirement is completely theoretical. For this reason, Law No. 1/002 of 29 February 2000 was promulgated, which establishes a health insurance fund for the formal private sector. The fund is not yet operational, however. The State has set itself the following goals in the area of social security:

- Extend health insurance coverage to a larger part of the population through a variety of private initiatives
- Mobilize the population for a rapid implementation of community health insurance funds for the informal sector

240. Under the Arusha Peace and Reconciliation Agreement for Burundi signed on 28 August 2000, the signatory parties undertook to set up a national fund for disaster victims, to be paid for from the national budget and by donations from bilateral and multilateral cooperation organizations or with NGO assistance. Owing to the country's financial problems, the fund has not been created. The section on pensions has not changed since the elaboration of the initial report. The State is also planning to establish social insurance mechanisms.

#### **D. Standard of living (art. 27, paras. 1 to 3)**

241. Human development is a multidimensional concept centred on the self-fulfilment of the individual. It entails a durable improvement in various aspects of the standard of living of the population, including level of income and access to health care, education and various basic services.

242. The evolution in Burundi over the past decade has been marked by war, the destruction of infrastructures, economic hardship, acute financing problems and a decline in the quality of social services, leading to a major deterioration in human development indicators. However, a number of signs give reason to hope that peace and economic growth will return and that poverty will be alleviated.

243. In this connection, an interim strategic framework has been adopted to revive economic growth and combat poverty. It was elaborated on the basis of consensual conclusions and recommendations formulated during participatory consultations with communities on the ground, civil society, the private sector and the technical services of sectoral ministries.

244. In the context of the interim strategic framework, Burundi has subscribed to the new poverty reduction approach adopted by the World Bank and the International Monetary Fund. Its objective is to benefit from the enhanced debt relief initiative for heavily indebted poor countries; the benefits obtained from the debt relief are to be allocated to poverty reduction initiatives.

245. The six main strategic targets are:

- Restoring and improving the quality of basic social services of health care and education
- Stabilizing the macroeconomic framework and promoting the quality accelerated economic growth needed to reduce poverty
- Resettling the victims of the conflict and members of disadvantaged groups and reintegrating them into the economic system
- Stepping up the fight against HIV/AIDS
- Promoting the role of women in development
- Promoting peace, security and good governance

246. Many programmes have been launched with donor support, including the Rural Recovery and Development Project (PRDMR), the Burundi Rehabilitation Programme (PREBU), the Agricultural Rehabilitation and Support Project (PRASAB), the Economic Recovery Credit (CRE), the Economic Governance Project, etc.

## **VIII. Education, leisure, recreation and cultural activities (arts. 28, 29 and 31)**

247. Education is one of the sectors hardest hit by the socio-political crisis that Burundi has been going through since 1993. The sector is characterized by a loss of teachers and the destruction of school buildings and materials for basic education.

248. Despite these disruptions, the Ministry of Education and Culture, which is responsible for promoting the comprehensive advancement of women, children and adolescents, has conducted many activities, thereby attaining a number of educational objectives, including:

- Designing, planning and implementing a coherent national policy for formal education
- Introducing a basic education system in rural areas to help promote endogenous economic development, in conjunction with other ministries concerned
- Encouraging preschool education
- Ensuring a constant improvement of education
- Establishing and implementing a plan for universal school enrolment
- Teaching schoolchildren and students civics and ethics and introducing them to intellectual issues to heighten their awareness of national realities
- Creating an equitable school system to correct various disparities, an educational system which will benefit from equitable enrolment
- Promoting private school education at all levels

249. Article 53 of the Constitution stipulates that all citizens have a right to equal access to instruction, education and culture. The State has a duty to organize and promote access to public school education.

### **A. Education, including vocational training and guidance (art. 28)**

250. To better address discrimination against girls in the area, the Ministry of Education and Culture has set up a unit to coordinate activities relating to their enrolment. It has also launched two special programmes:

- The programme of guidance and counselling for children of school age, begun in 1999, whose overall objective is to promote education for girls and women to make them more independent in a context of socio-economic change. To this end, gender perspective, guidance and counselling units have been adapted to national realities and have helped to train 600 primary schoolteachers. This has led to the creation of school clubs at which children can express themselves and behavioural changes can take place that will improve the school environment and bring about greater equality (the national gross enrolment ratio rose from 69 per cent in 2001 to 81 per cent in 2004).
- The African Girls' Education Initiative of the Ministry of Education and Culture, with the support of the United Nations Girls' Education Initiative, was started in 2001 to promote access to education for girls, help them remain in school and encourage their success.

251. The halfway assessment of the programme, carried out in 2004, showed that results have been positive, as can be seen from the following statistics:

- The improved access of girls to education is reflected in the net enrolment ratio, which rose from 43.9 per cent in 2001 to 53.3 per cent in 2004, and by the decline in the dropout rate of girls from 10 per cent in 2001 to 4.7 per cent in 2004
- The improvement in the quality of education can be seen in the promotion rate, which in 2004 was 64.5 percent for girls and 65.6 per cent for boys

252. Despite these results, problems remain:

- A serious shortage of teachers, many of whom are not qualified, and of school buildings, textbooks and appropriate curricula, hence the need to introduce classes on the new information and communication technologies, the gender perspective and life skills
- A shortage of classroom materials (as many as five pupils sometimes share one notebook)
- Poor follow-up of the evaluation of teachers due to a lack of financial means and materials

253. A number of studies have also been conducted by the Ministry of Education and Culture with the support of UNICEF and in collaboration with the NGO Forum for African Women Educationalists (FAWE). These include:

- A sociological study on obstacles to school enrolment for girls in Burundi, conducted in 2003. A seminar is to be organized to decide on a policy for girls' education on the basis of the study's recommendations. The overall objective of the study was to make information and analysis available about the low school enrolment rate of girls in order to formulate proactive strategies for the creation of an education policy to address the problem.
- A study of primary school textbooks, carried out in 2003, whose aim was to identify the main gender stereotypes in the school context which have resulted in the low primary school enrolment of girls and to formulate recommendations to help those who prepare curricula to remove such stereotypes from textbooks and introduce new elements advocating fairness and equality in school.
- A feasibility study on free primary school education, conducted in 2003: a debate is to be organized between stakeholders on this topic. The purpose of the study was to consider whether to introduce free primary school education and to propose alternatives which take the political and economic context into account. The aim was to organize a debate, to make an investment for peace, to reflect on the cost of primary school education, to ensure that parents are not relieved of all responsibility for sending their children to school and to underscore the firm commitment of the State.
- A survey on the situation of Batwa children, carried out in 2003, in order to collect the information needed to formulate and implement a national policy to improve the situation of the Batwas in general and their children in particular.
- An assessment made in 2003 of activities conducted on behalf of small children: a programme is to be put into effect soon, and guidelines are being elaborated. The purpose of the study was to carry out an objective evaluation of the services offered to young children to promote their development, identify shortcomings and propose ways of improving strategies and contents, bearing in mind the educational, economic and geographic circumstances prevailing in Burundi.

254. A number of training courses have been conducted by the Ministry of Education and Culture, including:

- Training courses on data collection and processing for inspectors and persons responsible for school distribution
- Adaptation to national realities of training units on law, gender, and counselling and guidance
- Training of school directors and teachers in gender awareness

255. These initiatives have resulted in an increase in the school enrolment ratio of girls: whereas the ratio was more or less 20 per cent for primary school in the period 1990–1994 (see initial report), it was between 44.3 per cent and 45.2 per cent in 2003. The ratio has progressed in virtually the same proportions in secondary schools.

256. The Ministry of Education and Culture has also worked to ensure the best interests of the child through the following:

- The setting up of a department of preschool education by means of Decree No. 100/054 of 19 April 1998 to coordinate activities relating to the integrated development of young children. The protection of young children is ensured by several ministries.
- The signing of Decree No. 100/057 of 27 May 2000 establishing provincial offices of abbreviated education. The regional education offices supervise, on behalf of the Ministry of Education, all primary and secondary education services at provincial level.
- Decree No. 100/011 of 18 January 2002 on the reorganization of the Ministry of Education.
- Decree No. 1000/132 of 30 September 2004 on the reorganization of the Education Inspectorate.
- The Education Inspectorate is responsible for providing educational and administrative assistance to public and private schools with a view to ensuring quality education at all levels.
- The creation of provincial committees for young children.
- The setting up of networks of journalists for young children.
- The establishment of facilities for young children:
  - 191 public and private kindergartens in primary schools.
  - 197 preschool circles initiated by the non-profit organization Twitezimbere.
  - 14 community day-care attendants, an initiative of the Burundian Scouts Association, the NGO COPED and the communities. They have a programme for preschool learning, health care and hygiene, and they also promote their assistance activities.
- The creation of African Girls' Education Initiative clubs in schools; technical, material and financial support for the operation of these structures comes from donors such as the World Bank, UNICEF and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

257. Apart from the system of pupil representation in schools, not many activities are conducted in the sense of respecting the views of the child.

258. Pursuant to the 2005 appropriation act, allocations for the Ministry of Education and Culture amounted to 17 per cent of the national budget. This is distributed unequally among the various levels of education:

- Preschool: 7,741,664, or 0.00019 per cent
- Primary school: 17,236,092, or 42 per cent
- Secondary school: 6,484,871,255, or 16 per cent
- Higher education: 13,145,771, or 0.032 per cent

Allocations for administrative personnel must be added to these figures.

259. The general conclusion is that the realization of certain activities is blocked due to insufficient funding of the various levels of education.

260. Although primary school education has been free and compulsory since the start of the 2005/06 school year, parents must pay for classroom materials for each child and help put school infrastructures into place.

261. The State contributes to the functioning of the Ministry of Education and Culture both directly, by funding institutions, and indirectly, by requesting aid from donors. The Ministry of Education and Culture has the following responsibilities:

- Provision of school textbooks for pupils and teachers

The production of report books is the task of educational bodies such as the Rural Education Office, the Secondary School Education Office and the Department for the Production of Educational Materials. Special attention is given to the production of books of sociocultural utility to teach subjects such as education for peace, the fight against AIDS, etc.:

- Payment of teachers
- Establishment of school infrastructures
- Creation of a housing fund for teachers
- Establishment of a legislative and regulatory framework to promote education

262. Kirundi, the national language spoken by all Burundians is still used in primary school. It was employed in basic education as early as 1924 in missionary schools. It has since been giving way to French as the language of education. An educational reform was carried out in March 1973, the basic objective being to use the national language and to rationalize for better achievements.

263. One of the operational concepts of this reform was the use of Kirundi as the classroom language during the six years of primary school. The aim was to improve school results, support rural areas, rehabilitate the Burundian cultural heritage and promote community schools. The use of Kirundi was an important aspect of the reform because it presented an advantage from the psychological, linguistic and civic points of view. Kirundi has been the classroom language in the first four years of primary school since 1975.

264. Textbooks and teachers' record books were elaborated and produced for primary schools in 2003. These textbooks, in the national language, allow pupils to learn without complexes, to study other subjects in a language which they speak and understand, to learn in greater depth about the culture which the language conveys and to preserve the language as a sacred heritage. (*Source*: working document of the national colloquy on primary school curricula, Ministry of primary and secondary school education, Bujumbura 1989, p. 12).

265. The study contains the following recommendations for ensuring that the reform is sustainable:

- Make Kirundi the language of all primary schools and broaden the experiment to assess whether its use will improve learning

- Explain the reasons for the reform to all stakeholders in education so that it is understood, supported and implemented
- Support and consolidate structures for the production of textbooks
- Support the Department for the Production of Educational Materials
- Review all textbooks and teaching methods used in other languages

266. Although the gross primary school enrolment ratio improved perceptibly since 2003 (with a ratio of 50 per cent, declining more than 20 per cent between 1992 (67.3 per cent) and 1995 (26 per cent), but showing a tendency to improve in 2003, with a ratio of 50 per cent), one of the major problems in education is the serious shortage of teachers, many of whom were killed or fled the country during the war. This can be seen in the ratio of pupils to qualified teachers, which now stands at 61/1, whereas the normal ratio is 30/1. This enormous shortage is due above all to the unattractiveness of the teaching career, poor teacher motivation and lack of means for monitoring and assessing teacher performance.

267. To address these problems, the following initiatives have been carried out:

- Revitalizing teacher training schools so that graduates can provide quality education
- Organizing refresher courses for qualified teachers
- Helping unqualified teachers to obtain qualifications
- Instituting a special status in order to motivate teachers pursuing a civil service career
- Motivating teachers working in double shifts in order to maintain and enhance their professionalism. Teachers receive financial incentives in various forms, including:
  - A higher category upon recruitment
  - Promotions
  - Higher benefits (continuity bonuses, double-shift allowances and performance awards) and compensation (for equipment and transport)
  - Housing subsidies in most cases

268. The Ministry of Education has organized, inter alia:

- A colloquy on curricula
- Initiatives to mobilize donors and raise their awareness of the need to build and equip school infrastructures
- Activities to motivate teaching staff

269. The educational system in Burundi is in flux. The following changes have gradually been introduced with a view to improving education indicators:

- Needs-based training courses have been conducted for teachers on the gender perspective, human rights, the new information and communication technologies, etc.
- Unqualified teachers who have been recruited by the administration in order to replace departing teachers have received training to improve their qualifications.
- Teachers have received career-related statutory benefits, bonuses and compensation payments, as well as non-statutory benefits, notably parcels of land for construction and subsidies from a housing fund. Difficulties exist, however, because these benefits are not granted on a regular basis.

270. Assignment to a particular school is based on pre-established criteria, in particular:

- Proximity of the school to the domicile
- Competence in a particular subject

271. Committees have been set up in a number of areas:

- Parents' associations
- Disciplinary boards
- Supervisory committees
- Stop AIDS clubs, clubs associated with the African Girls' Education Initiative, etc.
- Provincial education committees

272. The organization chart of the Ministry of Education and Culture shows primary, secondary and higher education schools at its base. Each primary school has a school director responsible for coordinating administrative, educational and extra-curricular activities. The director receives support from an assigned teacher, the parents' committee, the heads of the STOP AIDS club and the African Girls' Education Initiative/United Nations Girls' Education Initiative club, as well as from provincial education committees.

273. Every secondary school is headed by a school director, who is assisted by a deputy director and a bursar (compendium of rules and regulations for primary school) and has the support of the disciplinary board and the parents' association.

## **B. Leisure, recreation and cultural activities (art. 31)**

274. The Ministry of Youth and Sport makes a major contribution to improving children's behaviour through games and culture. For example, it regularly organizes a national youth festival; the theme of the eighth such event which has just taken place was: "Young people, let's work together for reconciliation, the fight against AIDS and national reconstruction." The democratically elected Government has demonstrated a determination to promote sports.

275. The Ministry of Youth and Sport has also helped set up the National Burundian Youth Council, a mouthpiece for young people which is responsible for promoting and supporting the ethical framework of activities conducted by Burundian youth. It also serves as a link between the Government and young people for addressing problems concerning them. The Council has working groups that are present from the grassroots to the national level and are represented by young people who were democratically elected.

276. A recently created body, the Council has had financial difficulties in implementing its plan of action. UNICEF, UNDP and other partners have undertaken to assist it.

277. The Ministry of Youth and Sport has also worked to create a national network of young people (Renajes-Simbimanga) active in the fight against HIV/AIDS. The network is operational throughout the country. It is present with a secretariat at communal, provincial and national level.

278. An agreement was signed in 1997 between the Government and the Agency for Cultural and Technical Co-operation of the Francophonie to establish reading and cultural centres in rural areas. The centres aim to:

- Open up rural communities by creating facilities to provide access to books and modern information media

- Make premises available in rural areas for an exchange of ideas and training in the areas of education, literacy, health, agriculture, technology, literature, etc.
- Promote local cultures and popular traditions
- Establish sports federations in virtually all disciplines

279. These centres have been established in 11 localities in 11 provinces, and an updated agreement is being finalized to open them in the remaining provinces. Each centre is equipped with:

- A collection of books chosen on the basis of suggestions made by the centre's management committee
- A collection of educational and group games and toys for children
- Audio-visual and other equipment

280. These centres have a number of problems. The centres were pillaged in a number of localities during the crisis. The updating of the above-mentioned agreement provides for their reconstruction.

281. In addition to the play activities organized in primary schools, there has been a proliferation of cultural clubs for adults in which children may also participate.

282. The Ministry has also set up sports federations in virtually all disciplines and regularly organizes a sport event called "tournament of hope", which brings together children in primary schools, dropouts and children who have never been to school.

## **IX. Special protection measures (arts. 22, 38, 39, 40, 37 (b) and (d), and 32 to 36)**

283. Young people were at the centre of the socio-political conflicts in Burundi. They were used as major participants and they became the main victims. Young Burundians fought on all sides. They experienced war and its horrors and camps for refugees and for displaced persons, with all their misery, deprivation, illness, hunger, boredom and violence. They were nearly killed in battle or in flight, they lost brothers, sisters and parents and, above all, they lost the sense of belonging to a country in which they could grow up and flourish. They were traumatized by the strife which divided the nation. They lost hope, and today they adopt survival tactics, negotiating for any service rendered, demanding payment for helping family members, and selling their bodies or influence.

284. Thus, in addition to the usual categories of children (enrolled in school, not enrolled, dropouts, rural, urban, etc.), young Burundians are now divided into further categories as a result of the conflict: displaced, dispersed, repatriated, soldiers, demobilized, war orphans, heads of families, indigents, street children, members of the FDD, of the FNL, of the GEDEBU, of the JRR, children who have known no failure, no defeat, etc. These various qualifications deepen the gap between the different categories, against a background of general indifference in which national identity is lost, and with it a nation's children.

### **A. Children in emergency situations**

285. In addressing this situation, the main objective of the Ministry of Reintegration and Resettlement of Displaced and Repatriated Persons is to rehabilitate Burundians who have been victims of the war (domestically displaced, repatriated and dispersed persons). This takes place in the form of humanitarian aid, resettlement and reintegration, in which the focus must be on reconciliation and peaceful coexistence, income-generating activities and

access to basic social services. A large part of this effort is devoted to helping children, who, like women and the elderly, are particularly vulnerable.

286. The Ministry conducts activities in three areas:

- Medical assistance
- Food supplies and other basic necessities
- School assistance

287. UNHCR has built homes and primary schools in areas with large numbers of repatriated persons.

288. Since its creation, the Ministry has helped many child disaster victims (displaced and gathered at certain locations, dispersed or repatriated) with medical assistance. Support focuses on the supply of medicines, the issuance of referrals for hospitalization in two hospitals in Bujumbura (Roi Khaled Hospital and Prince Régent Charles Hospital) and the supply of eyeglasses for indigent pupils in secondary school.

289. Food aid is provided to families in need as a function of the number of children. This means that children usually receive food aid through their parents. With regard to other basic necessities, assistance takes the form of clothing and blankets for children.

290. As to school aid, prior to the setting up of the National Commission for the Rehabilitation of Disaster Victims, the Ministry provided classroom materials to indigent and repatriated pupils. Today, that activity has been taken over by the National Commission.

291. In addition to the three key activities of the Ministry for the Reintegration and Resettlement of Displaced and Repatriated Persons concerning children, it also conducts initiatives with UNDP, UNHCR and other partners. As part of the community support programme framework carried out in cooperation with the Ministry, UNDP has built and rehabilitated basic infrastructures (schools and health-care centres) in areas with large numbers of disaster victims.

292. The crisis that has rocked the country since October 1993 has led to massive internal and transboundary population displacements. The security situation started to stabilize after the Arusha Peace and Reconciliation Agreement was signed in 2000 and a number of ceasefire agreements concluded between the Government, the armed movements and the political parties in 2003. Refugees and displaced persons continue to return.

293. There has been a noticeable decline in the number of internally displaced persons. According to a survey conducted by the Office for the Coordination of Humanitarian Affairs, the number of displaced persons fell from 281,628 in 2002 to 145,024 in 2004, a decrease of nearly 50 per cent, and 116,245 in 2005. Of these displaced persons, 49 per cent are under 15 years of age, and more than one third of households are headed by women (32 per cent) or children (6 per cent).

294. Forty per cent of displaced persons questioned said that they did not wish to return to their place of origin. The reasons given included persisting mistrust, lack of protection, the destruction of their home, dependence vis-à-vis other displaced persons, the long stay in a particular area, the lack of land and the development of new habits. The Government has begun to look into a resettlement of this category of displaced persons, because 89 per cent of displaced persons live relatively close to their place of origin.

295. In addition to experiencing the flight of its populations to other countries, Burundi has also taken in refugees from its neighbours, including the Democratic Republic of the Congo and Rwanda. Children account for the largest percentage of these refugees. They receive assistance from UNHCR, and the Government provides camps. Three refugee

camps for Congolese have been opened in the country, one in Gasorwe, the second in Mwaro and the third in Nagagara, a neighbourhood in Bujumbura. Rwandan refugees arrive from time to time and are quickly repatriated to their country.

296. The camps accommodate nearly 3,000 children under 18 years of age. An unknown number of urban refugee children, mainly of Congolese origin, are also in the camps, where they benefit from the protection of UNHCR, which ensures respect for their rights. They also receive material assistance from UNHCR, which distributes food and other basic necessities (foodstuffs once a month, cooking utensils, mosquito nets, blankets, jerry cans, pails, mats, soap and clothing). Pregnant women in the camps receive a kit for their newborns consisting of a carrying sling, diapers and flannels. The kit is in the process of being modified to add soap and baby clothing so as to better meet the needs of newborns. Newborns who cannot be breastfed for medical reasons (mothers who are HIV-positive or have problems lactating) receive infant formula for several months.

297. A nutritional supplement centre has been set up at the Muyinga camp which periodically conducts a survey to ascertain the nutritional health of children and address nutritional deficiencies. More than 1,300 children up to the age of 5 years were tested in April, and 150 received a food supplement package. Children in nurseries at the camp receive baby cereal daily.

298. Basic health care, medicines, hospitalizations, vaccinations and preventive medicine are provided. HIV/AIDS carriers receive psychosocial assistance and counselling.

299. The following measures are taken with regard to unaccompanied, separated or orphaned children:

- They are placed in families and monitored.
- Individual records are produced to assess their situation and ensure that action is taken in their best interests. The best solution is sought for each individual case.
- Unaccompanied repatriated children are looked after and an attempt is made to reunify them with their families.

300. The following initiatives have been taken at the Mwaro and Muyinga refugee camps with regard to education:

- Classrooms for primary school education have been built; the classrooms are equipped with desks and blackboards.
- Classroom materials are supplied in cooperation with UNICEF and other partners.
- UNHCR supplies school uniforms, where available.
- Assistance is made available so that children raised in the camps can receive secondary school education.
- Support is provided for the functioning of the schools, teacher training, educational follow-up and inspections on the basis of an agreement with a Congolese school in order to facilitate the teaching of the Congolese curriculum. Refugee children at the camps can take tests to enrol in Congolese school in Bujumbura. They receive assistance in the form of transport and food as well as during the examinations.
- Lodging and food are provided for pupils at the camp who passed the tests for admission to the Bujumbura boarding school.
- In close cooperation with UNHCR, the Ministry of Education and Culture holds tests for Burundian children in refugee camps in Tanzania until they are repatriated. UNHCR covers the ensuing costs (logistics, travel expenses). The initiative enables the children to return to school once they are repatriated to Burundi.

301. Projects for the second half of 2005 have also been elaborated:

- Awareness-raising about the rights of children is to continue.
- A database on refugee children is to be set up.
- UNHCR is building a multi-purpose hall for cultural and educational activities in the two camps. It plans to hold an awareness-raising campaign at the camps to enrol all children of school age, in particular girls and disabled children whose disability is not such that they cannot attend school.
- UNHCR has concluded a financial agreement with the International Olympic Committee for the building of a sports field at the Mwaro refugee camp (football, basketball, volleyball). Sports equipment (jerseys, balls) will also be provided. Children repatriated to communes with large numbers of returnees and where UNHCR offices are located will receive volleyballs and nets.
- Funding is being sought to organize cultural and educational activities.
- Funding is being sought to enhance UNHCR assistance.

302. As noted in the introduction, in 2002 the Government launched a programme for the demobilization of children who had taken part in the armed conflicts. The target groups are:

- Child soldiers recruited by the government army
- Police officers
- Children who fought on the side of the armed movements which signed ceasefire agreements

303. Objectives of the programme:

- Demobilize 90 per cent of all child soldiers (estimated at 3,000) in military formations of the government army and in the targeted rebel factions over a period of 12 months
- Reintegrate all demobilized child soldiers into their communities over a period of eight months
- Ensure that mechanisms are in place and operational within 18 months to prevent all parties to the conflict from recruiting children

304. The programme has attained its objectives because more than 3,000 children have been demobilized. It is pursuing the reintegration and prevention process, providing material aid to children who are still able to go to school or wish to earn a living. The children receive psychological counselling from organizations which have concluded agreements under the programme.

305. The Government has devised a plan for the demobilization and reintegration of child soldiers with the financial support of the World Bank. The objective is to achieve the social reintegration of 1,440 demobilized child soldiers old enough to work through a subsidy to help them find a decent job and regular income. The other objective is to prevent recruitment, the target group consisting of 1,000 children. The provinces covered by the plan are Cibitoke, Bubanza, Bujumbura Mairie, Bujumbura Rural, Muramvya, Kayanza, Makamba, Ruyigi and Karusi.

## **B. Children in conflict with the law (art. 40)**

306. The Convention on the Rights of the Child is an integral part of Burundi's Constitution, article 44 of which provides that children may not be imprisoned except as a

last resort, in which case imprisonment must be as short as possible. Children must be separated from adults, and their treatment and detention must be in keeping with their age.

307. The 1999 Code of Criminal Procedure does not contain any specific provisions regarding juvenile delinquents, but recommends strict respect for legal norms, including those set out in the Constitution and international instruments ratified by Burundi.

308. The Criminal Code contains specific provisions regarding minors in conflict with the law:

- The age of criminal responsibility is set at 13 years
- Minors in conflict with the law may not be sentenced to death or life imprisonment; the maximum prison sentence may not exceed 10 years

309. The 2003 Prison Act prohibits torture and inhuman and degrading treatment, including of children. It also provides that juvenile detainees of school age are entitled to education and vocational training (art. 49).

310. As seen in the statistical data of the Directorate-General of Prison Affairs of the Ministry of Justice, the prison population of juveniles is quite large.

#### **Number of minors in prison**

<i>Year</i>	<i>As of 31 December 2005</i>
1998	130
1999	103
2000	185 (including 156 awaiting trial and 24 serving sentences)
2001	184
2002	166 (98 awaiting trial and 68 serving sentences)
2003	129 (48 awaiting trial and 81 serving sentences)
2004	175 (94 awaiting trial and 81 serving sentences)
2005	164 (131 awaiting trial and 33 serving sentences as of 31 March 2005)

311. The table shows that from 1998 to 2004, a period of seven years, the average number of juvenile prisoners as a percentage of the overall prison population was 2 per cent (148 juveniles out of 7,439 persons). Unfortunately, the table does not provide any information on the age groups of incarcerated juveniles, their sex, offences committed or sentences imposed.

312. Just as Burundi still does not have specific legislation for minors, it does not have special detention centres for juveniles, who are detained in the same prisons as adults in wings specially equipped for minors.

313. As mentioned earlier, a bill on the protection of delinquent children has been elaborated. New in the bill is that it draws on the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Guidelines for the Prevention of Juvenile Delinquency, as well as positive experiences in other countries.

314. This new approach places emphasis on the reintegration of delinquent minors. It reaffirms the pre-eminence of non-custodial measures and the exceptional nature of preventive detention measures, which may be taken only for serious offences. Minors must be separated from adults, and children must be able to express their views freely to specially trained personnel.

315. The bill creates a Council of Prominent Persons, responsible for dealing with offences committed by children aged under 13 years and petty offences committed by minors between 13 and 18 years of age. A juvenile court, a special chamber and an appeals court have also been established for children.

316. Support will need to be mobilized to bring about the adoption and implementation of this bill, given that it calls for the creation of new bodies and a revitalization of existing ones, something which will take a rather long time and require considerable funding. It is expected that the bill will be taken into account in the planned reform of the justice system.

317. It is important to note that, during the prosecution of minors in court, certain NGOs often cover the costs of a lawyer, the minor has the right as a matter of principle to be assisted by counsel, and the public prosecutor suggests punishment on the basis of the provisions of articles 16, 20 and 22 of the Criminal Code.

### **C. Children in situations of exploitation**

318. No changes were made to labour regulations between 2000 and 2005. The 1993 Labour Code sets the minimum age for admission to employment at 16 years. A 1981 ministerial order regulates child labour.

319. The order stipulates that children under 16 years of age may be employed, provided that the work:

- Is not likely to be detrimental to their school attendance or their ability to learn
- Is not prejudicial to school services
- Is not harmful to their health or development

The order also specifies which work and categories of enterprises are prohibited from employing young people and sets the relevant applicable minimum age. Article 128 of the 1993 Labour Code provides that labour inspections may require the examination of children and young people by a doctor to ensure that the work is not too strenuous.

320. The regulations are quite clear in the formal sector, but this is not the case for the informal sector, where child labour is a fact of life. A study commissioned by UNICEF in 2000 showed that 25 per cent of children under the age of 14 worked. The situation is unlikely to have improved, given the deterioration in living conditions in the past five years. Children raise crops and livestock and are employed in commerce and construction. They run machines, repair cars and help out in restaurants. Sometimes they work by necessity to support their families, thereby sacrificing their education.

321. The use of drugs is one of the great scourges afflicting humanity, and the Burundian population, and children in particular, have not been spared. Trafficking in these harmful and destructive substances has reached such an alarming scale that existing measures have not been able to curb the phenomenon. The problem has grown out of control in the context of the turmoil in Burundi since the 1960s.

322. Proposed preventive and punitive legislative measures do not get to the root of the problem. Articles 324 to 330 of the Criminal Code prohibit the planting, production, sale, transport, possession and use of drugs; violators are liable to prison sentences, which are doubled if the offender has led a minor to use, produce or traffic in such substances (art. 327, para. 3).

323. Drug manufacturing and trafficking take place clandestinely. Burundi has never tolerated the use of drugs, as has been made clear in school. Today, parents and teachers regularly warn children about the harmful effects of certain substances, including tobacco,

alcohol and drugs, but schools do not have the structures needed to combat drug use. However, there has been no shortage of awareness campaigns on this issue in the overall framework of efforts to curb juvenile delinquency.

324. Government initiatives to combat drugs are only noticeable in actions by the police and the courts aimed at arresting and punishing perpetrators. An anti-drugs brigade has been created within the police force, but it is only involved in suppression. It does not have the resources needed to operate properly and does not have the support of the public authorities.

325. A specialized service in the Public Security Police has the same tasks and faces the same difficulties as the anti-drugs brigade. Burundi is also cooperating on the eradication of transnational crime with virtually all the countries of the world through Interpol, and it has signed an agreement on mutual judicial assistance among the member States of the Economic Community of the Great Lakes Countries (CEPGL) for the extradition of persons tried and convicted in another member State.

326. At the subregional level, Burundi is a member of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI). At international level, it has acceded to the United Nations Convention against Transnational Crime, which it signed in December 2000.

327. The prevention of juvenile delinquency has awakened the conscience of a number of persons, and private initiatives have been called into being which the State firmly supports. Reference is made in this regard to projects by “Enfants soleil” of the Oeuvre Humanitaire pour la Protection et le Développement de L’Enfant en Difficulté (OPDE), the “Maison Shalom” and FVS Burundi, as well as the work of a number of orphanages in assisting orphans and children who have been abandoned by their families and are living in the streets in abject poverty. These children, who are often addicted to drugs, commit many offences, including robbery, rape and homicide, and the aim of these projects is to remove them from this unhealthy environment and focus on rehabilitation, resocialization, family reintegration and health care. A number of NGOs are also involved in such efforts.

328. The ministries concerned (the Ministries of Health, Education, Justice, Culture and the Interior) need to conduct public awareness-raising and mobilization campaigns as part of a coordinated policy aimed at preventing and combating the production and use of these substances, which are harmful to health and destructive for the country as a whole. Given the growing rate of unemployment among young people, the Government must also increase the number of centres which provide them assistance.

329. As pointed out in the initial report, the 1981 Criminal Code protects children against all forms of sexual exploitation and violence. Title IV, chapter II, of the Code on offences against accepted moral standards, provides for imprisonment for anyone who violates morals by exciting or encouraging the satisfaction of the passions of others, immoral behaviour, corruption or the prostitution of persons where one of the persons concerned is, or appears to be, younger than 21 years of age. The sentence is doubled if the person concerned is under 18 years of age. Section II of the chapter, on indecent assault and rape, also doubles the sentence if the offence involves a person under 18 years of age.

330. Pursuant to Law No. 1/015 of 18 January 2005, Burundi ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

331. Although such offences are severely punished by law, many persons complain of the lax treatment of such cases by the courts.

332. Another effect of the armed conflict is that rape and sexual violence have reached alarming proportions, and cases are reported every day in many provinces. In recent years,

many public awareness campaigns have been organized and initiatives conducted by the authorities, including by the national health and reproduction programme and the anti-AIDS Office of the Ministry of Health, in cooperation with ICRC, UNICEF, the United Nations Population Fund (UNFPA) and WHO.

333. Thanks to the actions of associations and NGOs working with the victims and denunciations from within the population, an awareness has grown of the need to report offenders so as to better combat this scourge. Associations active in this area include Médecins sans frontières, the Association Nturingaho and other human rights leagues and associations.

334. In cooperation with WHO, UNICEF, UNFPA and ICRC, the Ministry of Health has recently produced a handbook on comprehensive assistance to victims of sexual violence.

#### **D. Children from minorities or indigenous groups (art. 30)**

335. Burundi is characterized by cultural and linguistic homogeneity, which is unusual for Africa. Although the Batwa are an indigenous minority population (1 per cent of the total population, together with Hutus, 84 per cent, and Tutsis, 15 per cent),<sup>1</sup> no one would contend that their children are deprived of the right to a cultural life or the right to express themselves in their own language.

336. Until very recently, the Batwas were marginalized from the political and economic life of the country, firstly because Burundian culture ostracized them, and secondly because they developed a behaviour of self-exclusion. Today, the Constitution grants them three seats in Parliament and in the Senate and ensures their presence in other political bodies. Measures to promote their rights are being elaborated.

337. In August 2003, the Government conducted a study in conjunction with UNICEF on the situation of Batwa children. Its most important recommendations are as follows:

- The initial aim of the Government and the administration should be to encourage the Batwa to become sedentary by giving them lands. An inventory of public lands has been drawn up to this end.
- In coordination with the Batwas themselves, the State and NGOs should then design agricultural, livestock raising and self-development projects which enable them to earn enough to meet more than just subsistence needs, instead of merely providing them with occasional assistance, thereby perpetuating a mentality of dependency.
- Many schools are run by religious communities; the churches, and above all the Catholic and Pentecostal denominations, should be commended for the role they are playing in the educational system in general and with Batwa children in particular.
- Primary and secondary school education should be free of charge for Batwa children. The communities should assist Batwa children, just as they already do for indigent children.
- The Arusha Agreement of 28 August 2000, which provides for a fund for disaster victims, should also be applied to the school enrolment of Batwa children.
- Media initiatives to promote the school enrolment of Batwa children should be intensified.

<sup>1</sup> According to estimates from the colonial period.

338. If the rights of Batwa children to basic health care, access to education, respect for their views to life, survival and development, to alternative care, to the administration of justice for juveniles, etc. are not safeguarded, it is due to the difficult living conditions of nearly all families in Burundi, regardless of ethnic group. For Hutu and Tutsi families who are just as destitute as their Batwa neighbours, any policy which provides assistance solely for Batwa children would be seen as discriminatory, would arouse jealousies and might even lead to confrontations.

## **X. Conclusions and recommendations**

339. As can be seen in the present report, the Government has been striving to protect the rights of children. It has been supported in this endeavour by the specialized agencies of the United Nations and national and international NGOs.

340. However, the challenges are enormous, and efforts must therefore continue; in particular, a national children's policy must be elaborated and a mechanism set up to ensure its implementation.

341. Children are Burundi's future, and the reconstruction phase which is about to begin must focus on this category of the population in order to create favourable conditions for lasting peace.

342. Donors must assist the country in its reconstruction efforts in all areas, in particular those of importance for children, by rehabilitating existing basic infrastructures and social services and building new ones.

343. National legislation must continue to be brought into line with international conventions, notably through the rapid adoption of the bill on the protection of children in difficulty, the bill on the protection of juvenile delinquents and the bill to amend certain provisions of the Code of Personal and Family Affairs. Priority must be given to the effective enforcement of national law to achieve better protection of children.

344. There must be a much greater involvement at community level in taking preventive and protection measures for the benefit of children without families and families in particularly vulnerable circumstances.

## Annex

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24. Decree-Law No. 1/054 of 19 August 1998 on the reorganization of the Ministry of Education	Ministry of Justice, Ministry of Education
25. Arusha Peace and Reconciliation Agreement for Burundi (August 2000)	Ministry of Institutional Reforms, Human Rights and Relations with Parliament, Ministry of Justice
26. Act No. 1/013 of 18 July 2000 on the reform of the Code of Nationality	Ministry of Justice, Ministry of the Interior

<i>Documents available</i>	<i>Ministry</i>
27. Act No. 1/017 of 21 October 2001 establishing the transitional Constitution of the Republic of Burundi	Ministry of Justice, Ministry of Institutional Reforms, Human Rights and Relations with Parliament
28. Act No. 1/017 of 13 December 2002 defining the functions, powers, organization and operation of the National Commission for the Rehabilitation of Disaster Victims	Ministry of Justice, Ministry for the Reintegration, Resettlement and Return of Displaced Persons and Returnees
29. The Republic of Burundi's instrument of accession to the African Charter on the Rights and Welfare of the Child, adopted in Addis Ababa in July 1999	Ministry of Foreign Affairs, Ministry of Institutional Reforms, Human Rights and Relations with Parliament
30. Act No. 1/004 of 8 May 2003 punishing the crime of genocide, crimes against humanity and war crimes	Ministry of Justice, Ministry of Institutional Reforms, Human Rights and Relations with Parliament
31. Act No. 011 of 30 August 2003 on the ratification by the Republic of Burundi of the Rome Statute of the International Criminal Court adopted in Rome on 17 July 1998	Ministry of Justice, Ministry of Institutional Reforms, Human Rights and Relations with Parliament
32. Act No. 1/015 of 22 September 2003 attributing criminal jurisdiction to the high courts	Ministry of Justice
33. Act No. 1/25 of 27 November 2003 on the regulation of the press in Burundi	Ministry of Justice, Ministry of Communication
34. Act No. 1/010 of 13 May 2004 amending the Code of Criminal Procedure	Ministry of Justice
35. Act No. 1/020 of 31 December 2004 on the establishment, organization, functions, composition and operation of the national police	Ministry of Justice, Ministry of Public Security
36. Act No. 1/015 of 18 January 2005 on the ratification by the Republic of Burundi of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	Ministry of Justice, Ministry of Institutional Reforms, Human Rights and Relations with Parliament
37. Constitution of 18 March 2005 Electoral Code (2005)	
38. Texts on the organization and recruitment of the new National Defence Forces	Ministry of Defence
39. Text on the organization of the National Youth Council (already enacted)	Ministry of Youth, Sport and Culture
40. Bills on:	Ministry of Institutional Reforms, Human

<i>Documents available</i>	<i>Ministry</i>
	Rights and Relations with Parliament
<ul style="list-style-type: none"> <li>• Amendments to certain provisions of the Code of Personal and Family Affairs</li> <li>• The protection of delinquent children</li> <li>• The protection of children in difficulty</li> </ul>	
41. The challenges of the transition process Common Country Assessment (CCA). United Nations system: February 2004	Ministry of Institutional Reforms, Human Rights and Relations with Parliament
42. Burundi Human Development Report 2003	Ministry for Development Planning and Reconstruction, UNDP
43. UNICEF Annual Reports (2001, 2002, 2003, 2004)	UNICEF
44. Compendium of legislation and regulations on children's rights	Ministry of Institutional Reforms, Human Rights and Relations with Parliament, UNICEF
45. Initial report of Burundi on the implementation of the Convention on the Rights of the Child	
46. Training manual for health-care personnel on comprehensive care for victims of sexual violence (September 2004)	Ministry of Health
47. Final annual report on therapeutic and preventive activities at medical centres and hospitals (2003)	Ministry of Health
48. The situation of women and children in Burundi	
49. Study of practices in maternal and childcare in households in Burundi (2002)	
50. National survey to assess the living conditions of women and children in Burundi (2001)	
51. National plan of action for food and nutrition in Burundi	
52. National health-care policy (2005–2015)	
53. Health-care development plan (August 2004)	
54. Report on input to the “Gender” database (November 2004)	Ministry of Welfare and the Advancement of Women, Burundian Institute of Statistics and Economic Studies
55. National policy for orphans and other vulnerable children (December 2004)	Ministry of Welfare and the Advancement of Women
56. Initial report of Burundi on the implementation	Ministry of Institutional Reforms, Human

<i>Documents available</i>	<i>Ministry</i>
of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Rights and Relations with Parliament
57. Appropriation Acts of budgetary years 2002, 2003, 2004 and 2005	

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