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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review*

Burundi

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Introduction

- The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its third session from 1 to 15 December 2008. The review of Burundi was held at the 3rd meeting, on 2 December 2008. The delegation of Burundi was headed by Her Excellency, Ms. Immaculée Nahayo. At its meeting on 4 December 2008, the Working Group adopted the present report.
- On 8 September 2008, the Council selected the following group of rapporteurs (troika) to facilitate the review of Burundi: Mauritius, India and Cuba.
- In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Burundi:
 - A national report submitted made in accordance with paragraph 15 (a) (A/HRC/WG.6/3/BDI/1);
 - A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/3/BDI/2);
 - A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/3/BDI/3).
- A list of questions prepared in advance by the Czech Republic, Denmark, Germany, Latvia, the Netherlands, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to Burundi through the troika. These questions are available on the extranet of the universal periodic review.

I. Summary of the proceedings of the review process

A. Presentation by the State under review

5. On 2 December 2008, at the third session of the Working Group, Ms. Immaculée Nahayo, Minister for Solidarity, Human Rights and Gender, introduced the national report and gave a presentation which should be considered an integral part of the report. She said that peace was gradually being restored in Burundi following the signing of the Arusha Peace and Reconciliation Agreement for Burundi in 2000 and subsequent agreements. The institutions set up in the country following the elections of August 2005 had a mandate to establish the rule of law, with human rights as a priority.

6. The minister drew attention to the many conventions and international and regional treaties on human rights and international humanitarian law, as well as those on the right to peace, development and a healthy environment, to which Burundi was a party.

7. Burundi had done its best to improve the situation of economic, social and cultural rights, particularly with regard to the population's standard of living, education and health. Many efforts had been made to boost agricultural production, jobs and revenues, and the budget increases required, among other things, to eradicate hunger had been implemented.

8. Primary education had been free for all since 2005. The associated budgetary increases had resulted in a 69 per cent increase in enrolment in primary schools between 2005 and 2008. The Government had also started to extend free access to health services, which had resulted in significant improvements in the relevant indicators.

9. The right to work and related rights were guaranteed by the labour and social security codes. The Government was combating unemployment, notably by setting up the National Employment Observatory and by taking measures to improve pay conditions. It was also drafting a national policy on social protection. The protection of copyright was guaranteed and a bill had just been adopted by the Government with a view to protecting industrial property rights.

10. Civil and political rights were protected by the Constitution and legislation. A law on disarmament was being prepared and the draft of the new criminal code criminalized genocide, war crimes and crimes against humanity. It also criminalized acts of torture and other cruel, inhuman and degrading treatment and punishment and provided for the compensation of victims by the State. Rape and violence against women were also criminal offences and carried dissuasive penalties. Judicial guarantees for persons deprived of liberty were provided for by law. Freedom of thought, conscience, religion and expression were protected and there was a multitude of newspapers and media organizations. In addition to government aid for the press, there were plans to lift the tax on press imports, to decriminalize acts considered as press offences and to set up a support fund for the media. The laws relating to political parties and non-profit organizations recognized and protected freedom of association. There were 39 political parties in Burundi, as well as more than 3,000 registered non-profit organizations, with an increase in the number of registrations over the last few years. State support for political parties of all persuasions had been particularly noticeable during the 2005 elections.

11. Burundi was planning to eliminate the difference between the age at which boys and girls could marry in the draft of the new code of individuals and the family. Furthermore, the Constitution provided for a minimum level of participation of women in political institutions. Under the draft of the new criminal code, the offences of rape and violence against women and girls were severely punished. School enrolment for girls no longer posed major problems. A draft code on inheritance, matrimonial regimes and bequests, which recognized the right of women and girls to inherit property, was under consideration. Finally, a married woman no longer required her husband's authorization to be gainfully employed.

12. With regard to minority rights, the Constitution granted the Batwa ethnic group three seats in the National Assembly, as well as in the Senate, and a vast governmental programme, supported by NGOs and the churches, was under way to effectively integrate the Batwa into Burundian society.

13. The Constitution prohibited discrimination against persons living with HIV/AIDS, who received free medical care and were protected against dismissal for reasons of ill health. A multifaceted programme to help the poor, repatriates and displaced persons was being implemented.

14. An independent, national human rights commission would be functional from January 2009. The Government had just adopted a bill on that subject, which would be submitted to Parliament for adoption during the current session. The entry into force of the new criminal code and other private bills with a view to eliminating discrimination would also make it possible to combat human rights violations effectively. The recently adopted code of ethics of the National Intelligence Service, training in human rights and international humanitarian law for the police, army and prosecutors, and institutional support for the justice sector, would all contribute to increasing respect for human rights.

15. Six major challenges should be noted: (a) the decline of values relating to the culture of peace, tolerance and respect for others, and respect for human rights in general, because of the long conflict; (b) State officials' lack of technological awareness and resources; (c) the possession of weapons by the general population for self-defence; (d) extreme poverty; (e) the scarcity of land, which was a deep-rooted cause of violence; and (f) gaps in domestic legislation with regard to human rights.

16. To confront those challenges, Burundi needed huge amounts of resources. In that regard, the representative of Burundi thanked all its partners for their support and reiterated the call to countries that were in a position to do so to show solidarity towards Burundi.

B. Interactive dialogue and responses by the State under review

17. During the interactive dialogue, statements were made by 41 delegations. A number of delegations thanked the Government for the comprehensive national report, which openly addresses the challenges faced by the country. Burundi's continuous efforts and commitments to improving its human rights situation, despite numerous challenges, including the difficult situation resulting from the

civil war, poverty and political turmoil since independence, were also praised. The ratification of a number of human rights treaties was noted as was the inclusion in the Constitution of the rights proclaimed therein. Delegations further welcomed Burundi's new draft criminal code, which abolishes the death penalty and criminalizes torture, rape and sexual violence, as well as the establishment of the Ministry for National Solidarity, Human Rights and Gender.

18. Algeria appreciated that Burundi is working for peace and national reconciliation. It noted the establishment of the Centre for the Promotion of Human Rights and the Prevention of Genocide and the ratification of certain human rights instruments. Algeria welcomed efforts to promote education through free elementary schooling, as well as free maternal care and health care for children under 5. Algeria recommended that both the Government and armed groups that are signatories to the ceasefire agreement of 7 September 2006 continue efforts to implement it. Algeria called upon the international community to increase support to Burundi's judicial system and its fight against poverty.

19. Australia welcomed the progress in the establishment of an independent national commission on human rights, and recommended that it conform to the Paris Principles. Noting that the Committee against Torture and the independent expert on the human rights situation in Burundi have expressed concern about the widespread use of torture, Australia enquired about progress made in the revision of the criminal code to prohibit the practice of torture. It enquired on the veracity of disturbing reports of criminal sanctions against homosexuality in proposed criminal code revisions and, if true, how such provisions were consistent with Burundi's commitments under the International Covenant on Civil and Political Rights in the light of relevant conclusions by the Human Rights Committee.

20. France expressed concern that there is no independent and effective body to address impunity of soldiers, civil servants or non-State actors for acts of sexual violence against women. France noted that press freedom was a major accomplishment of the post-conflict transition, but was concerned by the recent arrest of journalists. Despite improvements with the help of the International Committee of the Red Cross, the prison infrastructure is unsatisfactory, and raised concerns about the sanitary and medical conditions in detention. France recommended that Burundi take all necessary measures to ban secret places of detention, particularly by envisaging the signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. While noting that the principle of gender equality is written in the Constitution, the absence of laws governing inheritance, matrimony and bequests leaves a gap in this regard. France recommended that Burundi adopt legislation guaranteeing equality between men and women, particularly in the area of family and inheritance law. France expressed great concern at the recent crimes against albinos in Burundi, and recommended that Burundi strengthen measures to raise awareness on the situation of these people to prevent such acts and ensure material assistance to victims. Noting that the new Constitution guarantees the protection of children in periods of armed conflict, France recommended that Burundi increase its efforts to contribute to the disarmament, demobilization and reintegration of children involved in armed conflict. France assured the Government of its full support in all of its development activities.

21. The Sudan noted the Government's cooperation with the United Nations in the activities of the United Nations Operation in Burundi and the signing of the memorandum of agreement with the United Nations on a technical cooperation programme in the field of human rights. While noting that the rights of the child are well protected by the Government, the Sudan stated that the international community should help Burundi to provide assistance to children affected by HIV/AIDS, women and for eliminating poverty. It asked Burundi to share its best practices with regard to the protection of the rights of victims through commissions set up to address socioeconomic reintegration, land and other property issues.

22. Luxembourg noted that, despite efforts, there are still concerns, especially with regard to sexual violence, HIV/AIDS orphans and war. It asked the Government about its strategy to stop the recruitment of child soldiers. Luxembourg recommended that Burundi (a) train law enforcement officials better to ensure that perpetrators of sexual violence are prosecuted in a more severe and consequent manner; (b) follow the recommendations of the Committee on the Elimination of Discrimination against Women to guarantee appropriate compensation and support and assistance measures for victims of sexual violence; and (c) set up hosting and reintegration structures for HIV/AIDS orphans. Noting improvements in health care, Luxembourg stated that the right to health has not been guaranteed for the majority of the population and (d) recommended that Burundi progressively increase its budgetary allocations to health in order to try to reach the 15 per cent target set by the Heads of States of the African Union in the African Strategy for Health 2007-2015.

23. Germany shared the concern expressed by the independent expert about the high number of arbitrary arrests and enforced disappearances. It enquired whether the Government would consider technical cooperation to help train police and other officers. Germany recommended that the Government give clear and immediate instructions to key high-ranking officials of the police force, the army and other security forces that all law enforcement officials should treat rape as a crime and take all measures to effectively investigate allegations of rape and other forms of sexual violence, and that it bring perpetrators to justice.

24. Belgium recommended (a) that Burundi, in conformity with its obligations to ensure non-discrimination, withdraw from the draft new criminal code a provision that would punish homosexual relations. Noting tensions between the Government and the opposition parties, and also with certain parts of the media and civil society, Belgium recommended that Burundi respect freedoms of expression, association and assembly, pursuant to international instruments, use mediation procedures to calm conflicts, and end the use of imprisonment for speech critical of the Government. Belgium asked the Government about specific prospects for the establishment of an independent national human rights commission pursuant to the Paris Principles, as well as with respect to the upcoming visit of the independent expert.

25. The Netherlands, noting that the availability of human, financial, material and logistic resources is a challenge for the Burundi judicial system, enquired about training programmes on human rights for judicial personnel. It recommended that such training be mandatory for all judges, lawyers and police officers. It noted that the level of violence against women is alarming and asked for information on policies to combat it. It noted that the national report fails to state that the right to a fair trial is sometimes hampered by political interference and asked what steps are taken to guarantee the independence of the judiciary. Bearing in mind the universality of human rights and the recommendation of the Human Rights Committee on the right to privacy and non-discrimination, the

Netherlands recommended that Burundi extend protection against discrimination and ensure that no one is subject to discrimination on the basis of sexual orientation.

26. The Czech Republic enquired about concrete measures to prevent, investigate and punish cases of torture and extrajudicial killings. It recommended (a) the adoption of further measures to fight impunity of persons responsible for such acts and prompt, thorough, independent and impartial investigations into all allegations of these crimes; (b) an increase of financial and human resources available to the judicial system; (c) accession to the Optional Protocol to the Convention against Torture and the establishment of an effective national preventive mechanism in compliance with the Protocol; (d) the strengthening of efforts to ensure that all newborn children are officially registered; and (e) the issuance and implementation of a standing invitation to special procedures. The Czech Republic was concerned that some provisions of the draft criminal code could in practice undermine the right to privacy and non-discrimination of persons of minority sexual orientation.

27. The United Kingdom noted that the Committee against Torture recommended the clarification of the status of the Convention against Torture in national law; further steps to strengthen the independence of the judiciary; conclusions of investigations relating to the Musinga and Gatumba massacres and that perpetrators be brought to justice. The United Kingdom will continue to provide technical assistance to the Government and its partners to help strengthen the capacity and independence of the judicial system. In this context, it strongly urged Burundi to ensure the establishment of the national human rights commission in full compliance with the Paris Principles. The training of police, the military and security services is critical to improving human rights, and the United Kingdom welcomed work in this regard and the engagement of international partners. The Government's relationship with civil society, media and opposition parties deteriorated in 2008, and the United Kingdom expressed hope that the Government will continue to engage in a constructive relationship with these actors. This approach would ensure that the 2010 elections are free, fair and take place within a peaceful environment. Noting that the Government has agreed to proceed with national consultations to establish transitional justice mechanisms, the United Kingdom recommended that the Government prioritize these consultations to ensure that reconciliation and justice address allegations of the most serious crimes, including war crimes, crimes against humanity and genocide. Recognizing that the Constitution creates a specific provision for the participation of women in political life, the United Kingdom noted that women still do not have land succession rights and remain dependent on men in this regard. Concerned at the high levels of sexual violence against women and the need to bring to justice perpetrators of such violence, the United Kingdom recommended that the Government take further steps to address discrimination and attacks against women.

28. The Holy See recommended the speedy implementation of the new criminal code, declaring sexual violence a crime, while guaranteeing the impartiality of investigations and questioning. It also enquired about measures to ensure the effective participation of women in social and political life and the elimination of discrimination against women.

29. Latvia noted that Burundi strives to implement international human rights standards, although much is still to be done, especially in the fight against torture and impunity. It noted the extensive cooperation of Burundi with the special procedures of the Council and recommended that Burundi consider extending a standing invitation to them all.

30. Austria commended Burundi for its inclusive approach in preparing for the review. It noted that Burundi is facing challenges with regard to impunity, especially for crimes committed during the conflict, and recommended the establishment of transitional justice mechanisms as a key element to the administration of justice and the re-establishment of the rule of law. It noted the increasing sexual violence against women and juveniles and the call of treaty bodies for a comprehensive strategy to combat violence against women. It also noted the need for specific legislation on the rights of the child. Austria recommended that cases of rape and other forms of sexual violence be adequately investigated and perpetrators brought to justice in accordance with international standards concerning the administration of justice.

31. Argentina noted that the definition of torture contained in the Convention against Torture has not been incorporated into domestic legislation, and enquired what steps were being taken to remedy this situation. It noted with concern the high rate of sexual violence, including sexual abuse of women of all ages. Argentina suggested (a) that an amendment be made to the legal system so that crimes of sexual violence and sexual abuse are made punishable, and those responsible for such crimes do not enjoy impunity. It further recommended (b) that the Government develop a strategy for preventing and combating all forms of violence against women. Argentina requested the Government (c) to consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and accepting the competence of the relevant Committee.

32. Italy recommended (a) that Burundi take appropriate measures to align the conditions of detainees with international standards. Noting with concern that journalists have been recently arrested and that political parties have suffered from restrictions of freedom of association, it recommended (b) that Burundi take all measures to guarantee freedoms of expression and association. Italy noted with concern existing gaps in access to justice, particularly in cases of sexual violence, forced disappearances and arbitrary arrest. It recommended that Burundi (c) take all appropriate measures to address effectively the issue of impunity and to implement adequate mechanisms of transitional justice, and (d) continue its national policy to improve access to education for all children and to include in the school system, at all levels, appropriate measures in the field of human rights education in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education.

33. Denmark noted with satisfaction the continuing improvement in the human rights situation, but noted a rise in sexual violence against women and children in detention facilities and enquired about measures to end impunity for such crimes. Denmark recommended that all reports of rape and sexual violence by law enforcement officials be promptly and impartially investigated and that the perpetrators be brought to justice. It further recommended that the practice of torture and other ill-treatment by law enforcement officials be condemned and brought to an end, that immediate independent and impartial investigations into all allegations of such acts be undertaken, and that alleged perpetrators be brought to justice.

34. China welcomed the efforts made in gender equality, children's rights and international human rights cooperation. Regarding the current international food and financial crises, China asked what specific difficulties Burundi encounters in guaranteeing the right to

food, how it will prevent any related potential social uncertainties, and what assistance it expects from the international community. Furthermore, China asked how Burundi is balancing national reconciliation and punishment of criminals and how it assesses the work and the role of the national consultative tripartite commission during the transitional period.

35. Switzerland hoped that the Senate will soon approve the decision taken by the National Assembly to abolish the death penalty. It regretted the decision by the Assembly to criminalize homosexuality. Switzerland (a) encouraged Burundi to step up its efforts to implement the final observations adopted by the Committee on the Elimination of Discrimination against Women. It recommended (b) that Burundi take the necessary steps to amend the Code on Persons and the Family, the law governing inheritance, matrimonial regimes and bequests and the Criminal Code, to bring them into conformity with the principles of non-discrimination as set out in the Convention on the Elimination of All Forms of Discrimination against Women; (c) adopt the necessary additional measures to effectively prevent and combat sexual violence against women, particularly minors; (d) guarantee freedom of expression to journalists and allow political parties to carry out political activities, in particular the right of assembly, without unfounded restrictions, and allow the registration of political parties without abusive constraints and in keeping with the Constitution. Noting the continued impunity for crimes committed since independence, Switzerland also (e) invited Burundi to establish, with the support of the United Nations, a dual machinery including a special tribunal and a truth and reconciliation commission, and (f) recommended that Burundi grant both bodies great independence and do not restrict the powers of the future tribunal to the decisions of the commission. With regard to political reintegration of the political armed movement, Switzerland repeated its full commitment to supporting efforts made to bring together the fighters of the Palipehutu-FNL, and the related disarmament, demobilization and reintegration process concerning this. It regretted the delays in implementing the global ceasefire of 7 September 2006. It (g) invited Burundi to continue its efforts to integrate without delay the Palipehutu-FNL into the defence and security forces, as well as in the various executive, administrative and diplomatic areas.

36. Cameroon congratulated Burundi on its efforts to implement various international and regional instruments and to consolidate peace. Cameroon recommended the continuation of efforts for the stabilization and consolidation of peace through scrupulous respect for projects developed in cooperation with the United Nations. Cameroon welcomed initiatives, including the provision of free primary education and health care for children under the age of 5. Cameroon recommended that Burundi create, strengthen and render operational human rights monitoring bodies, and ensured Burundi of its full support in this regard.

37. Portugal welcomed Burundi's efforts to overturn decades of human rights violations and impunity. Noting that Burundi has not yet fully implemented the recommendations made by the Committee on the Elimination of Discrimination against Women in 2000, Portugal was concerned that women continue to be victims of legal, political and socio-economic discrimination, about the large number of unreported cases of rape, whose perpetrators are often not prosecuted, and whose victims suffer additional cultural prejudice, and about the number of torture and ill-treatment cases, inquiring about measures to implement the recommendations of the Committee against Torture. Portugal recommended that Burundi (a) establish an independent national human rights commission with a strong mandate, according to the Paris Principles; (b) implement the recommendations of the Committee on the Elimination of Discrimination against Women and take measures to eliminate discriminatory practices against women, also through education and awareness-raising programmes; (c) enact legislation against domestic and all forms of gender-based violence, and combat impunity in this regard; and (d) take urgent steps towards the full and prompt implementation of the recommendations of the Committee against Torture.

38. The representative of Burundi thanked the delegations for their recommendations, which would be taken into consideration, and urged the international community to help improve the rule of law in Burundi.

39. Equality between men and women was enshrined in the Burundian Constitution. Women had represented more than 30 per cent of the members of Parliament and the Government after the 2005 elections. However, that percentage was no longer the same because of changes that had taken place since then, especially political changes.

40. With regard to rape and other sexual abuse, the Government was tackling that challenge and laws were being drafted to stamp out the problem. In each province, there was a family development centre under the Ministry of Solidarity, Human Rights and Gender to help victims report crimes and to provide medical follow-up. There were also centres and NGOs that provided psychological care.

41. In addition, the law on inheritance had been submitted to the Council of Ministers and translated into Kirundi so that the general population could understand it better. The law would be resubmitted to the Council of Ministers at a later date.

42. The Council of Ministers had adopted a bill on the establishment of the independent, national human rights commission, in line with the Paris Principles. The bill would be transmitted to Parliament for adoption and the Commission could be established by January 2009.

43. The murder of albinos was a tragedy based on superstition. Efforts were being made to educate the population, particularly in the regions bordering the United Republic of Tanzania. Material assistance had been provided.

44. An independent judiciary was a must for the Government, which had made efforts in that regard thanks to the institutional support provided for the justice sector (with the help, in particular, of the United Kingdom of Great Britain and Northern Ireland, Sweden and Belgium) and for the training of judges, the military and the police.

45. With regard to impunity, the representative of Burundi recalled that the draft of the new criminal code criminalized genocide, crimes against humanity, war crimes, torture and various sexual offences. No statute of limitations would apply to the three aforementioned international crimes, and a framework agreement between Burundi and the United Nations had been signed in order to punish those crimes. Progress had also been made with regard to transitional justice.

46. Freedom of expression and assembly were guaranteed in Burundi and political parties, NGOs, radio stations and newspapers could be set up and express themselves freely.

47. Concerning the criminalization of homosexuality, the representative of Burundi clarified that the amendment to the draft of the new criminal code had been adopted by the lower house of Parliament and that she would need to discuss the matter with the country's authorities in order to be able to give a fuller picture.

48. With regard to arbitrary detention, the draft of the new criminal code dealt harshly with officials who exceeded the time limits for detention. The Gatumba massacre concerned Burundi and the Democratic Republic of the Congo and had taken place against a background of conflict. Burundi's efforts to clarify the case should continue in collaboration with the Democratic Republic of the Congo. Those responsible for the Musinga massacre had recently been given heavy sentences. The main person responsible had been sentenced to death in absentia and Burundi had requested the assistance of all States in finding him and arresting him under an international warrant issued for his arrest.

49. Brazil recognized the adoption of a number of measures in the field of human rights, and expressed confidence that, with the cooperation of the international community, Burundi will continue to overcome its long period of political instability. It enquired about the main needs and steps in the consolidation of peace, steps taken to fulfil children's rights, the rights of women, the fight against all forms of discrimination and torture, the right to housing, refugees and asylum seekers, and urgent needs in the realization of the right to development. Brazil recommended that Burundi (a) consider ratifying the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture; (b) consider extending a standing invitation to special procedures; and (c) consider strengthening programmes to fight and prevent HIV/AIDS, with special attention to women and children.

50. Djibouti welcomed the progress made over the last 20 years in the promotion and protection of human rights. Burundi had shown its commitment to respecting and protecting fundamental freedoms through the ratification of international instruments on human rights, its Constitution and commitment to regional and international bodies. It recommended that the Government ratify (a) the Second Optional Protocol to the International Covenant on Civil and Political Rights and (b) the Optional Protocol to the Convention against Torture.

51. Japan commended Burundi for its efforts to promote peace and democracy since the 2005 elections and appreciated the country's cooperation with the United Nations and international partners to protect and promote human rights. It was concerned about the increasing restriction of freedom of expression, such as the ministerial ordinance requiring political parties to obtain official permission to meet. Japan considered it essential that the elections planned for 2010 take place freely and fairly. Japan recommended that Burundi (a) do its utmost to ensure that political parties are safeguarded in the elections and (b) take further measures to fight against sexual violence against women and children.

52. Ireland welcomed the commitment of Burundi to establish a truth and reconciliation commission. It expressed concern, however, at the slow progress and recommended that Burundi use consultations to ensure that the commission and the special tribunal be established as soon as possible. Ireland welcomed information on measures against gender-based violence and recommended that Burundi improve the functioning and accessibility of the machinery available to victims of rape to ensure that those guilty are brought to justice and punished. While welcoming the decrease in reported cases of torture, Ireland noted worrying information that torture continues to be common. Ireland recommended that Burundi fully comply with the recommendations of the Committee against Torture and do its utmost to ensure that security forces operate within the framework of the rule of law. Ireland noted with concern recent developments regarding the opposition, and treatment of civil society and journalists and recommended that Burundi comply with the recommendations of the independent expert on allowing all political parties to carry out their political activities without undue restrictions.

53. Canada noted positive developments in consolidating peace and respect for the rule of law since the Arusha agreements. It noted allegations of the independent expert that basic freedoms of expression and assembly of political opponents have been restricted. It recommended that Burundi (a) end all restrictions on political activities and meetings and allow the registration of political parties, as recognized under the Constitution; (b) revoke the new Ministerial Order No. 530 of 6 October 2008 restricting political assembly; and (c) support the efforts to establish the procedures for transitional justice under the Arusha agreements, in particular setting methods for national consultations on traditional justice, as called for by the Security Council in its resolution 1606 (2005).

54. Burkina Faso stressed that Burundi has committed itself to democracy and national reconciliation. The initiatives taken to ensure the enjoyment of certain rights are encouraging and should be supported. Burkina Faso welcomed Burundi's collaboration with human rights mechanisms. It fully supported the appeal to the international community to support efforts to promote the respect of human rights and ensure lasting peace.

55. Sweden recommended that Burundi intensify efforts to uphold respect for the rule of law by ensuring an independent and well functioning judicial system. While welcoming the relatively high representation of women in the Senate and Government, Sweden was concerned about the overall situation of discrimination against women and the increase of the already high number of rapes. Sweden noted the new code giving women the right to property and inheritance and enquired further about its provisions. Sweden recommended that Burundi increase its work on sexual violence and empowerment of women, especially regarding women's rights to inheritance and access to land.

56. Slovenia expressed concern regarding the provision in the draft criminal code criminalizing same-sex sexual relations, and recommended that Burundi (a) reconsider including such a provision, which would run counter to Burundi's human rights commitments, the rights to privacy and non-discrimination. Slovenia asked about the strategy for putting into operation the system composed of a Tripartite Steering Committee for National Consultations for Transitional Justice Mechanism, as recommended by the Security Council and the Committee against Torture. With regard to violations of women's and children's rights, Slovenia asked about preventive measures envisaged to prevent and end violations, and measures to help and protect victims. Slovenia recommended (b) the development and implementation of policies and measures to address the inequality between boys and girls regarding access to education and the reported widespread child labour.

57. Azerbaijan noted that the national law of Burundi is being harmonized with international instruments and welcomed the special attention to education. Azerbaijan encouraged the Government (a) to consolidate reconciliation and to step up efforts to reduce poverty in society; recommended (b) the adoption of effective measures to eliminate all forms of discrimination against women, beginning with harmful cultural practices, and appealed to Burundi (c) to fight with resolve sexual violence and impunity and increase the level of representation of women in society. Azerbaijan enquired whether Burundi would ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, about measures taken to strengthen the independence of the legislature and the judiciary and the steps envisaged to facilitate the reintegration of child soldiers into society. It requested explanations with regard to non-responses to communications sent by the Working Group on Enforced and Involuntary Disappearances.

58. The Republic of Korea expected Burundi to continue its efforts to comply with its human rights obligations fully, and emphasized that it should submit its overdue submission of reports to the relevant treaty bodies. It recommended that Burundi speed up the process of setting up an independent human rights commission, in conformity with the Paris Principles.

59. Senegal stated that Burundi must be supported to meet security challenges and to ensure all the assistance vulnerable groups, women and children require. Such support can encourage Burundi to pursue efforts to establish a peaceful environment. Senegal enquired about the role played by the National Employment Observatory in the campaign against unemployment.

60. South Africa enquired about legal and administrative steps taken to deal with issues of inheritance, matrimonial property regimes and gifts that would ensure that there is no discrimination against women. South Africa recommended that Burundi fast-track the establishment of a national human rights commission.

61. Norway shared the concern that sexual violence against women is increasing, and was concerned that this trend is likely to continue as a result of persisting impunity. It recommended that Burundi (a) in transitional justice mechanisms and reparations programmes, fully integrate gender concerns and ensure that justice for gender-based crimes during the conflict is realized. Norway further recommended that Burundi (b) consider issuing an invitation to the Special Rapporteur on violence against women.

62. Mexico commended progress made, particularly the efforts for the consolidation of peace and good governance, thanks to programmes and projects carried out in conjunction with the United Nations. Mexico welcomed the ceasefire of 2006, the Government's human rights commission and the Centre for the Promotion of Human Rights and the Prevention of Genocide. Mexico recommended (a) the establishment of a moratorium with a view to the abolition of the death penalty and that consideration be given to ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. Welcoming the bill for the reform of the Criminal Code and the Code of Criminal Procedure, it recommended (b) speeding up their approval with a view to criminalizing acts of torture and conferring on victims compulsory State assistance; such assistance should provide proper redress, including adequate compensation for victims of torture, or other cruel, inhuman or degrading treatment or punishment. Mexico recommended that Burundi (c) seriously consider ratifying the Optional Protocol to the Convention against Torture, (d) all cases of rape and other forms of sexual violence be investigated in an expeditious, effective and impartial manner by an independent body and that all accused be prosecuted, and that Burundi (e) consider speedy ratification of the Convention on the Rights of Persons with Disabilities, the Optional Protocol thereto, and the International Convention for the Protection of All Persons from Enforced Disappearance.

63. Malaysia encouraged Burundi (a) to expedite the necessary process to enable the establishment of the proposed independent human rights commission. Malaysia recommended that Burundi (b) consider adopting a comprehensive strategy to combat all forms of violence against women and enact legislation on domestic and all forms of gender-based violence. Malaysia noted that more effective measures needed to be taken against trafficking in women. Malaysia noted the great progress made in promoting and protecting children's rights. It recommended that Burundi continue to take further appropriate measures to improve the situation of children, in particular children victims of war, children living and/or working in the streets, minors in prison and AIDS orphans.

64. Chile urged Burundi to continue the fight against poverty, welcomed steps taken regarding torture, and hoped that similar steps will be reproduced with respect to violence against women. Chile recommended that Burundi (a) implement, as speedily as possible, the legal, political and ministerial initiatives to eradicate the practice of torture and other forms of ill-treatment by State officials. These initiatives include an explicit denunciation of such acts by State authorities; the establishment of a national authority with the powers necessary to investigate cases of torture independently and to bring them before the courts; and strict regulation of police and security forces; (b) include the content of the Convention against Torture in its legislation; (c) establish a machinery to compensate victims of torture; and (d) establish independent machinery which can document, investigate and process cases of rape, and facilitate the end of impunity. Chile also recommended that (e) rape be addressed as a crime and noted that traditional practices of compensation between the family of the perpetrators and the victims are inconsistent with human rights standards. Chile further recommended that Burundi (f) ensure that the courts effectively apply penalties to those responsible for rape with a focus on police and State officials; and (g) decriminalize same-sex relations between consenting adults.

65. Egypt congratulated Burundi on its efforts in the areas of gender equality and women's rights, and enquired about the achievements, obstacles faced and the need for technical assistance and international cooperation. Egypt welcomed the efforts of the Government regarding the Millennium Development Goals and enquired about any needs for international support. Egypt recommended that Burundi (a) continue, with international support, its efforts to spread a culture of human rights in the society, establish and reform the institutions for law enforcement and an independent, effective and impartial justice system; (b) with international support, that further programmes for human rights training and capacity-building be implemented to train the relevant institutions of law enforcement and justice in the area of human rights, as well as introducing human rights in the education system at all levels; (c) complete its efforts for the establishment of a national human rights commission in accordance with the Paris Principles, and finalize the submission of the required bill to the Parliament for adoption; and (d) continue its efforts to reform security sector institutions, with the support of OHCHR and the international community.

66. Benin welcomed the implementation of the programme of national reconciliation. Benin called upon States Members of the United Nations to support the Government in meeting the tremendous challenges referred to in its presentation.

67. Nigeria appreciated the efforts to promote and protect the rights of children and to reintegrate child soldiers into society, and the empowerment of women and gender mainstreaming. Nigeria commended the efforts of Burundi to use non-judicial mechanisms to reconcile opposing groups and opposition parties. It recognized Burundi's need for financial and political support from the international community to meet the Millennium Development Goals. Nigeria recommended that Burundi continue to reform the judicial system and fully promote the protection of human rights in the country.

68. Bangladesh noted the decision to establish a national human rights commission as an example of the seriousness of the Government to deal with human rights issues. While noting improvements in education and health care, it noted that poverty and deprivation is reflected in the high number of destitute, homeless and landless people and people suffering from deadly diseases. Bangladesh recommended that, with the support and cooperation of the international community, Burundi (a) continue to combat diseases such as HIV/AIDS, malaria and tuberculosis with special attention to the vulnerable; (b) fight poverty, particularly extreme poverty; and (c) continue to promote education for all, with special attention to gender parity in school enrolment.

69. Rwanda expressed support for all initiatives taken by the Government to ensure respect for its human rights commitments, and stated that it would be desirable that Burundi continue to receive support from the international community, multilaterally or bilaterally.

70. The representative of Burundi provided the following additional information.

71. The gender policy and the draft of the new criminal code demonstrated the efforts undertaken to combat gender-based violence and to promote equality between the sexes. Recently, Burundi had officially launched a campaign on violence against women.

72. A national policy for orphans and vulnerable children had been adopted by the Council of Ministers, and was to be implemented as part of a national plan.

73. The representative of Burundi said that, even though sexual violence had not been completely stamped out, 500 individuals, including some State officials, were serving sentences for rape or indecent assault. Even though torture was not an offence under the current Criminal Code, physical assault was punished and 20 police officers were currently in jail for aggravated assault.

74. The Government had negotiated ceasefire agreements with the Palipehutu-FNL and a summit of the heads of State in the region, to be chaired by South Africa, would take place on 4 December 2008 to resolve two remaining questions in the presence of mediators.

75. With regard to freedom of assembly, the ordinance of the Ministry of the Interior authorizing political meetings had been revised to stipulate that the administrative authorities should be given prior notification solely for security reasons.

76. The representative of Burundi said that it was regrettable that some representatives of political parties, workers and journalists had been arrested. However, they had not been arrested because of their status.

77. Several measures had been adopted to strengthen the independence of the judiciary, including a pay rise for judges. Likewise, capacity-building measures and institutional support were being implemented, and a conference on the justice system was being prepared with a view to reforming the justice sector. An anti-corruption law had been adopted and an anti-corruption unit set up.

78. Finally, the representative of Burundi pointed out that the National Employment Observatory was being set up to satisfy training and employment needs.

79. In conclusion, the representative of Burundi thanked the speakers for their recommendations encouraging Burundi to establish the true rule of law. She invited the international community to support Burundi in the protection and promotion of human rights in Burundi.

II. Conclusions and/OR recommendations

80. **The recommendations formulated during the interactive dialogue have been examined by Burundi. The recommendations listed below enjoy the support of Burundi:**

1. Consider ratifying the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto (Mexico);

2. Consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Mexico, Argentina) and accept the competence of the relevant committee (Argentina);

3. Consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Brazil), the Optional Protocol to the Convention against Torture (Brazil, Djibouti, Czech Republic, Mexico) and establish an effective national preventive mechanism in compliance with it (Czech Republic);

4. Establish an independent national human rights commission (South Africa, Malaysia) in compliance with the Paris Principles (Portugal, Australia, United Kingdom, Egypt, Republic of Korea) with a strong mandate (Portugal), and finalize the submission of the required bill to the Parliament for adoption (Egypt);

5. Strengthen measures to raise awareness on the situation of albinos, prevent crimes against them and ensure material assistance to the victims (France);
6. Step up efforts to implement the final observations of the Committee on the Elimination of Discrimination against Women (Switzerland);
7. Adopt legislation guaranteeing equality between men and women, particularly in the area of family and inheritance law (France), and take the necessary steps to amend the Code on Persons and the Family, the law governing inheritance, matrimonial regimes and bequests and the Criminal Code in order to bring them into conformity with the principle of non-discrimination as set out in the Convention on the Elimination of All Forms of Discrimination against Women (Switzerland);
8. Increase work on gender equality, sexual violence and empowerment of women, especially regarding women's rights to inheritance and access to land (Sweden);
9. Take effective measures to eliminate all forms of discrimination against women, beginning with harmful cultural practices (Azerbaijan);
10. Speedily implement the new Criminal Code, declaring sexual violence a crime, while guaranteeing the impartiality of investigation and questioning (Holy See);
11. Implement the recommendations of the Committee on the Elimination of Discrimination against Women and take measures to eliminate discriminatory practices against women, also through education and awareness-raising programmes (Portugal);
12. Take urgent steps towards the full and prompt implementation of the recommendations of the Committee against Torture (Portugal), fully comply with those recommendations and do its utmost to ensure that the security forces operate within the framework of the rule of law (Ireland);
13. Take appropriate measures to align the conditions of detainees with international standards (Italy);
14. Continue its efforts towards reforming the security sector institutions, with the support of OHCHR and the international community (Egypt);
15. Consolidate reconciliation (Azerbaijan, Cameroon) and peace through scrupulous respect for projects developed in cooperation with the United Nations (Cameroon);
16. Create, strengthen and render operational human rights monitoring bodies (Cameroon);
17. That the Government and armed groups that are signatories to the ceasefire concluded pursuant to the agreement of 7 September 2006 continue efforts to implement it (Algeria); and continue its efforts to integrate, without delay, the Palipehutu-FNL into the defence and security forces, as well as in the various executive, administrative and diplomatic areas (Switzerland);
18. Increase its efforts to contribute to the disarmament, demobilization and reintegration of children involved in armed conflict (France);
19. Continue, with international support, its efforts to spread a culture of human rights in the society, establish and reform the institutions for law enforcement and an independent, effective and impartial justice system (Egypt);
20. Continue efforts in the sector of the judicial system with the support of the international community (Algeria); intensify efforts to uphold the respect for the rule of law by ensuring an independent and well functioning judicial system (Sweden), reform it (Nigeria), and increase the financial and human resources available to it (Czech Republic);
21. Ensure that training programmes focusing on human rights are mandatory for all judges, lawyers and police officers (Netherlands);
22. Prioritize national consultations to establish transitional justice mechanisms to ensure that reconciliation and justice address allegations of the most serious crimes, including war crimes, crimes against humanity and genocide (United Kingdom);
23. Use consultations to ensure that a truth and reconciliation commission and a special tribunal be established as soon as possible (Ireland);
24. Ensure that transitional justice mechanisms and reparations programmes fully integrate gender concerns and that justice for gender-based crimes during the conflict is realized (Norway);
25. Establish transitional justice mechanisms as a key element to the administration of justice and re-establishment of the rule of law (Austria);
26. Take all appropriate measures to address the issue of impunity and to implement adequate mechanisms of transitional justice (Italy);
27. Support the efforts made to establish the procedures for transitional justice under the 2000 Arusha agreements, in

particular setting up methods for national consultations, as called for by the Security Council in its resolution 1606 (2005) (Canada);

28. Do its utmost to ensure that political parties are safeguarded in the elections of 2010 (Japan);
29. Set up hosting and reintegration structures for HIV/AIDS orphans (Luxembourg);
30. Consider strengthening programmes to fight and prevent HIV/AIDS, with special attention to women and children (Brazil);
31. With the support and cooperation of the international community, continue to combat diseases such as HIV/AIDS, malaria and tuberculosis, with special attention to the vulnerable (Bangladesh);
32. Progressively increase its budgetary allocations to health in order to reach the 15 per cent target set by the Heads of States of the African Union in the African Strategy for Health 2007-2015 (Luxembourg);
33. With the support and cooperation of the international community, continue to fight poverty (Algeria, Azerbaijan, Bangladesh), particularly extreme poverty (Bangladesh);
34. With international support, continue to promote education for all, with special attention to achieving gender parity in school enrolment (Bangladesh);
35. Continue the national policy for greater access to education for all children and to include in the school system, at all levels, appropriate measures in the field of human rights education, in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education (Italy);
36. With international support, undertake further programmes for human rights training and capacity-building to train relevant institutions of law enforcement and justice in the area of human rights, and introduce human rights in the education system at all levels (Egypt);
37. Take further appropriate measures to improve the situation of children, in particular children victims of war, children living and/or working in the streets, minors in prison and AIDS orphans (Malaysia);
38. Strengthen efforts to ensure that all newborn children are officially registered (Czech Republic);
39. Continue its efforts to address the challenges it faces, with the support of the States Members of the United Nations (Benin);
40. Continue its efforts for the promotion and protection of human rights with the support of the international community, at the bilateral and multilateral levels (Rwanda);
41. Fully promote the protection of human rights in the country (Nigeria).

81. The following recommendations will be examined by Burundi, which will provide responses in due time. The response of Burundi to these recommendations will be included in the outcome report adopted by the Human Rights Council at its tenth session:

1. Establish a moratorium with a view to the abolition of the death penalty (Mexico), and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (Djibouti, Mexico);
2. Take all necessary measures to ban secret places of detention, particularly by envisaging the signature and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (France);
3. Develop and implement policies and measures to address inequality between boys and girls in access to education and reported widespread child labour (Slovenia);
4. Extend protection against discrimination and ensure that no one is subject to discrimination on the basis of sexual orientation, bearing in mind the universality of human rights and the recommendation of the Human Rights Committee on the right to privacy and non-discrimination (Netherlands);
5. Reconsider the inclusion in the draft criminal code of the provision criminalizing same-sex sexual relations (Belgium, Chile, Slovenia), in conformity with Burundi's obligations to ensure non-discrimination and the right to privacy (Belgium, Slovenia);
6. Speed up the approval of the bill for the reform of the Criminal Code and Code of Criminal Procedure, with a view to criminalizing acts of torture and conferring on victims compulsory State assistance, which should allow proper redress, including adequate compensation for victims of torture, or other cruel, inhuman or degrading treatment or punishment (Mexico);
7. Better train its law enforcement officials to ensure that perpetrators of sexual violence are prosecuted in a more severe and consequent manner, and follow the recommendations of the Committee on the Elimination of Discrimination against Women to guarantee appropriate compensation and support and assistance measures for victims of sexual violence (Luxembourg);

8. Address rape as a crime (Chile);

9. Establish, with the support of the United Nations, a dual machinery, including a special tribunal and a truth and reconciliation commission, and grant both bodies great independence, not restricting the powers of the future tribunal to the decisions of the commission (Switzerland);

10. Revoke the new Ministerial Order No. 530 of 6 October 2008 restricting political assembly (Canada).

82. The recommendations noted in the report in paragraphs 26 (e), 29, 49 (b), 53 (b), 56 (b), 61 (b), 62 (a), (b), 64 (d), 64 (e) above did not enjoy the support of Burundi:

1. With regard to recommendations concerning special procedures included under paragraphs 26 (e) (Czech Republic), 29 (Latvia), 49 (b) (Brazil) and 61 (b) (Norway), Burundi indicated that it will establish a national human rights institution in conformity with the Paris Principles and considers that the mandate of the independent expert on the situation of human rights in Burundi is no longer necessary;

2. The recommendation under paragraph 64 (d) (Chile) was not supported by Burundi because the proposed independent body would duplicate the judiciary institutions.

83. Burundi takes note of the recommendations reflected in paragraphs 23, 24 (b), 26 (a), 27, 30, 31, 32 (b), 33 (a) and (b), 35 (c) and (d), 51 (b), 52 (b) and (d), 53 (a), 57 (c), 62 (d), 63 (b), 64 (a), (b), (c) and (f), and offers the following comments:

1. With regard to recommendations concerning rape, violence against women and children as included in paragraphs 23 (Germany), 27 (United Kingdom), 30 (Austria), 31 (Argentina), 33 (a) (Denmark), 35 (c) (Switzerland), 52 (b) (Ireland), 57 (c) (Azerbaijan), 62 (d) (Mexico), 63 (b) (Malaysia), 64 (f) (Chile) and recommendation 51 (b) of Japan, Burundi clarified that these acts are already criminalized and reported cases are sanctioned. Programmes related to awareness-raising and education on human rights in general and on women's and children's rights in particular, including rape and violence against women and children, are ongoing;

2. With regard to recommendations concerning guarantees to freedoms of association, expression, opinion and peaceful assembly, included in paragraphs 24 (b) (Belgium), 32 (b) (Italy), 35 (d) (Switzerland), 52 (d) (Ireland), 53 (a) (Canada), Burundi indicated that the enjoyment of these freedoms is characterized by the existence of 39 political parties and more than 3,000 non-profit organizations, including human rights organizations and manifold press organizations, trade unions and media;

3. With regard to recommendations concerning torture, as included in paragraphs numbers 26 (a) (Czech Republic), 33 (b) (Denmark), 64 (a), (b), (c) (Chile), Burundi indicated that acts of torture are sanctioned, including those committed by State agents. It also indicated that rules and regulations of the police and the armed forces prohibit torture and that many members of these institutions have been charged with severe assault and injuries, which is similar to torture in Burundian law. Finally, Burundi informed the Council that a new criminal code would soon be promulgated, which will severely sanction acts of torture and other cruel, inhuman, or degrading treatment or punishment.

84. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

Annex

COMPOSITION DE LA DELEGATION

La délégation du Burundi était dirigée par Immaculée Nahayo, ministre de la Solidarité nationale, des droits de la personne humaine et du genre, et composée de huit membres:

S.E. Madame Immaculée NAHAYO, Ministre de la Solidarité Nationale, du Rapatriement, de la Reconstruction, des Droits de la Personne Humaine et du Genre ;

S.E. Maître Clotilde NIRAGIRA, Ministre de la Fonction Publique, du Travail et de la Sécurité Sociale (ancien Ministre de la Justice et Garde des Sceaux) ;

M. Elysé NDAYE, Procureur Général de la République ;

M. Joseph NDAYIZAMBA, Conseiller Principal du Président de la République, chargé des questions de la Police ;

Maître Emmanuel NKENGURUTSE, Conseiller Principal du Premier Vice-Président de la République pour les questions juridiques et administratives ;

Ambassadeur Pierre BARUSASIYEKO, Représentant Permanent de la République du Burundi auprès de l'Office des Nations Unies à Genève et des autres institutions spécialisées ayant leur siège en Suisse ;

M. Alain Aimé NYAMITWE, Premier Conseiller à la Mission Permanente du Burundi à Genève ;

M. Emmanuel NDABISHURIYE, Deuxième Conseiller à la Mission Permanente du Burundi à Genève.

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