




Violence against Women in Burundi

*Report prepared
for the Committee
on the Elimination
of Discrimination
against Women*





**Committee
on the Elimination
of Discrimination
against Women**

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**Implementation of the Convention
on the Elimination of All Forms
of Discrimination against Women
by Burundi**

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The United Nations Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. In 1981, the Convention entered into force and the Committee on the Elimination of Discrimination against Women was formally established. The major task of the Committee is to review the reports submitted by the States parties in order to oversee the implementation of the Convention.

The issue of gender-based violence is not specifically addressed in the Convention, but it is however essential to its most fundamental provisions. In the general recommendation No. 19 adopted at its eleventh session in 1992, the Committee on the Elimination of Discrimination against Women formally extended the general prohibition on gender-based discrimination to include gender-based violence. The Committee affirmed that violence against women constitutes a violation of their internationally recognised human rights, regardless of whether the perpetrator is a public official or a private person.

One becomes inevitably aware of the fact that the States present reports that show only a one-sided image of reality, which is frequently incomplete. The case being, the effectiveness of this supervision and control depends on the quality of information available to the members of the various committees. Recent information, verified by reliable sources, is consequently indispensable.

In submitting alternative reports to the Committee on the Elimination of Discrimination against Women (CEDAW), OMCT seeks to provide de facto information concerning violence against women, including torture, in a specific country as well as analyse national legislation that fosters violence against women.

OMCT's reports highlight the legal provisions, both penal and civil, of the States concerned, which discriminate against women or which, without being discriminatory as such, become so through their application. Unequal power relations between men and women have led to the domination of and discrimination against women, which in turn leads to violence against women.

Furthermore, the reports draw attention to the lack of ways for the victims of violence to obtain reparation and identify the mechanisms guaranteeing the impunity of torturers.

The reports include recommendations for reform of de facto practices and legislation aimed at reducing the incidence of violence against women in the country in question.

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I

Preliminary Observations

Burundi ratified the Convention on the Elimination of All Forms of Discrimination against Women (hereafter Convention) on 8 January 1992.

Burundi is also a party to other international instruments relating to human rights which implicitly prohibit violence against women, *inter alia*: the International Covenant on Civil and Political Rights of which article 2 prohibits discrimination on the basis of sex, article 3 guarantees “the equal right of men and women to the enjoyment of all rights set forth in the Covenant”, article 6(1) protects the right to life, article 7 prohibits torture and other cruel, inhuman or degrading treatment or punishment, article 9(1) protects the right to liberty and security of a person, and article 24 promises children protection by the state without any discrimination on the basis of *inter alia* sex; the Convention against Torture, which provides protection against violence in a more detailed manner; the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child which constantly uses both feminine and masculine pronouns in its provisions, and which makes it explicit that the rights apply equally to female and male children. OMCT welcomes Burundi’s ratification of the African Charter on the Rights and the Welfare of the Child in November 1990.

Article 12 of the Constitutional Act of Transition of 1998 states that: “Respect for the rights and duties proclaimed and guaranteed by the Universal Declaration of Human Rights, the international human rights covenants, the African Charter on Human Rights and People’s Rights, and the Charter of National Unity are guaranteed by the present Constitutional Act.” Although the report states on page 7 that “[a]ccordingly, the international human rights instruments are an integral part of Burundi’s legislation”, the first periodic report (UN. Doc. CEDAW/C/BDI/1) of the government of Burundi (hereafter referred to as the government report) does not make clear how these treaties are applied in Burundi: for example, if these treaties are self-executing, and how conflicts between treaties, the Constitution and the laws are solved.

OMCT recognises that since 1993, Burundi has been in a state of civil war in which thousands of civilians have been killed - many of them women and children. The present Government under President Pierre Buyoya came to power through a coup d’état in 1996. Since 1999, the former

President of South Africa, Nelson Mandela, has been acting as a peace negotiator to try to restore peace in Burundi.

OMCT acknowledges that the conflict in Burundi has had negative implications for the implementation of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.

OMCT welcomes the first periodic report of the government of Burundi to the Committee on the Elimination of Discrimination Against Women. However, OMCT regrets that the report hardly focuses on violence against women, especially since women in situations of armed conflict or post armed conflict are particularly at risk of violence, not only by the parties to the conflict but also in the domestic sphere.

OMCT would like to recall that in its General Recommendation No. 19, (Eleventh session, 1992) the Committee on the Elimination of Discrimination against Women (hereafter referred to as CEDAW) recommended that States parties should take all appropriate measures to overcome all forms of gender-based violence, both public and private. Moreover, the Committee stated that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, while promoting respect for their dignity and integrity. The Committee requested States parties to report on the nature and extent of violence and on the measures they have undertaken to overcome violence.¹

Given the government's virtual silence on violence against women, this report will, after general observations on the socio-economic and legal status of women in Burundi, focus on domestic violence, rape, and on women in detention. It will also look at violence against women that is attributable to the conflict situation in Burundi as the government report is silent on this matter.

1 – UN Doc. HRI/GEN/1Rev.2.


 II

Status of Women in Burundi

II.1 Legal Status

Articles 13 to 42 of the Constitutional Act of Transition contain a comprehensive catalogue of human rights Protections. Article 17 of the Constitutional Act of Transition states that “[a]ll persons are equal in dignity and in rights and duties without discrimination as to sex, origin, race, religion or beliefs. All persons are equal before the law and are entitled without distinction to equal protection by the law.” Article 36 of the Constitutional Act of Transition provides for equal salary for equal work.

OMCT acknowledges the efforts made by Burundi to set the Code of the Person and the Family (CPF) on the grounds of gender equality. However, certain provisions of the code remain discriminatory against women. For example: article 88 of the CPF states that the age of marriage is 21 for men and 18 for women. Article 122 section 1 of the same code still states that the husband is the head of the family.

Women are also discriminated against in the Penal Code. Article 363 of the Penal Code defines the crime of adultery in terms more favourable to men than to women. If a wife sleeps with another man, it is considered adultery. On the other hand, men only commit adultery when the circumstances of the crime constitute a *heavy* injury. The code does not say who is injured and to what degree an injury is considered heavy.

Moreover, the Nationality Code of Burundi does not grant women equal rights with men with respect to the nationality of their children. A woman of Burundian nationality who is married to a non-Burundian man does not transmit her nationality to her children. She can only transmit her nationality to her child if the father of the child is unknown or if the child is not recognised by anyone else.

In the case of Burundi it has to be noted that it is not so much the written legal system that hinders women first and foremost from enjoying their rights² as there are customary practices and prejudices that are far more detrimental to the protection and advancement of women. Furthermore, the effects of the written legal system on the rights of women are insignificant as far as the rural population is concerned.³

2 – Ligue Burundaise des droits de l’Homme, ITEKA, Rapport annuel 1999, p. 15.

3 – *Ibid.*

Inheritance law is still governed by customs, which provide, for example, that women cannot inherit land. Unequal inheritance rights leave women dependent on men. In this regard, on page 36, the government report states in relation to rural women: “She cannot inherit either from her father or from her husband. And, paradoxically, she cannot control what she produces, especially if the products are marketable.” As will be shown below, the discriminatory inheritance customs lead directly to violence against women.

Even though polygamy has been outlawed by article 143 of the Code of the Person and the Family, the Special Rapporteur on Burundi mentions polygamy as one of the violations of women’s rights occurring in Burundi.⁴ Polygamy has only recently been forbidden and does not affect polygamous marriages contracted prior to entry into force of the new law. As CEDAW states in its general Recommendation 21, “polygamous marriage contravenes women’s right to equality with men, and can have such serious emotional and financial consequences for her and her dependants that it ought to be discouraged and prohibited.”⁵

Considering the patriarchal society that prevails, it is not surprising that domestic violence occurs on a large scale in Burundi. Women are looked upon as property and men have disciplinary rights over them.

II.2 Socio-economic status

The low proportion of women in decision-making posts and posts of responsibility in Burundi is alarming. The government admits in its reports that the situation has been deteriorating in the last few years (5% in 1993 compared to 3.1% in 1998), one single minister out of 22 is a woman and there is not a single female Provincial Governor. As a social group, women are practically isolated from the decision-making levels in the legislature and politics. Their lack of opportunity to make decisions in the political, economic, social and cultural fields has serious consequences for the advancement of women and the full realisation of their fundamental rights. Women’s needs will only be met if women are able to express themselves so as to ensure that they are taken into account when policies and laws are being elaborated.

4 – UN Doc. A/55/358, Interimreport on the human rights situation in Burundi, submitted by the Special Rapporteur, Mrs. Marie-Thérèse A. Keita Bocoum, September 2000, para. 91.

5 – UN. Doc. HRI/GEN71/Rev.3.

Even though the illiteracy rate in Burundi is 62%, OMCT notes with satisfaction that the government managed to maintain the percentage of girls in primary school at around 45% even during the armed conflict. It is now one of its main tasks to make schooling available in all parts of the country. However, it has to be noted that the school attendance rate of girls at the secondary or university level is much lower than that of boys. This is due to the fact that there are only a few places available at secondary level and girls in the sixth grade who do not get one of the rare places the first time are expected to stay at home and help or to marry instead of repeating the course and trying to pass the examination the following year. Boys usually simply repeat the course and pass the examination the following year. This is due to the fact that women are expected to marry sooner or later and therefore it is not considered necessary that they persevere with their studies. Furthermore, it is common practice to expel pregnant girls from school.

Despite the lifting of the embargo imposed on Burundi by its neighbours, the economy has not recovered. The Special Rapporteur on Burundi states in her latest report that poverty has increased in recent months in spite of government efforts to combat corruption, fraud and embezzlement.⁶ Burundi is one of the least developed countries in the world with just 28% of the population having access to safe drinking water, this affects the most vulnerable groups of society, such as women, first.

Many mono-parental families are now headed by the mother because men have been killed in the bouts of sporadic violence that have erupted since 1993. Furthermore, large numbers of families have been separated, with the children usually remaining with their mother. In addition, Burundi has a very high fertility rate of 7 children per woman. Women start reproducing at an early age and are constantly struggling to make ends meet.

Sabine Sabimbona of the Association of Women Lawyers in Bujumbura describes the situation of women in the context of Burundi as follows: “As in so many wars, economic hardship and the fear of violence forced thousands of Burundi women to take their children and abandon their land. With nowhere to go, these women joined the internally displaced and sought refuge in camps. Most of these women will not be able to return to their original homes even if peace and security are restored because, under customary law, as applied in Burundi, a widowed woman cannot inherit

6 – UN Doc. A/55/358, Interimreport on the human rights situation in Burundi, submitted by the Special Rapporteur, Mrs. Marie-Thérèse A. Keita Bocoum, September 2000, para. 31.

land from her husband, and her brothers and sisters-in-law would not welcome her back.”⁷

Many of these women - obliged to take care of their children, siblings and themselves – are forced to sell their bodies in order to cover the basic needs of their families. This situation frequently occurs in camps for displaced people where women agree to sexual intercourse with soldiers in exchange for security or a little remuneration.⁸

Furthermore, Burundi has a huge number of orphaned children whose parents have died of AIDS or been killed in the conflict or who have simply lost track of their parents during the last years. When there is an attack of some sort, boys tend to flee by themselves while girls would rather stay and take care of their younger siblings. Thus, one comes across thousands of small family units in Burundi headed by a girl. Needless to say, these girls are especially vulnerable because they have the duties of an adult without an adult’s possibilities of self-defence.

7 – In: Leilani Farha, Women’s rights to land, property and housing, Forced Migration Review, April 2000.

8 – Human Rights Watch, Emptying the Hills, regroupment in Burundi, March 2000, p. 20.



Domestic Violence

III.1 Woman Battering

As many men are no longer able to cope with the needs of their families as a result of the armed conflict which started in 1993, they feel threatened in their role as head of the family as it is often the women who work in the fields and nourish the family. Consequently, they often turn to drink and take their frustrations out on the women by battering them in order to show who is the head of the family. A study⁹ conducted by the Ligue ITEKA shows that 42% of the women who participated in the study in Bujumbura had experienced some kind of domestic violence. 91% of the women who reported domestic violence were battered. 49% of the girls who reported domestic violence were raped. The study also shows that the main cause of domestic violence is alcoholism (79% of the cases).

It is important to note that domestic violence is also clearly related to the economic position of women. The fewer resources a woman has, the more likely she is to suffer domestic violence. Poor women made up 65% of the cases of domestic violence. The fact that the husband was rich was, in 30% of the cases, one of the reasons for domestic violence. This situation is aggravated if one considers the position of adolescents and girls without resources. 86% of female victims of domestic violence were orphans, 77% were war scarred and 57% were poor. This is a major concern for the tens of thousands of orphans living in the streets of Burundi.

III.2 Marital Rape

Marital rape is not specifically addressed in the Burundian Penal Code. At first sight, marital rape seems to be included in the rape-provisions (article 382-387) of the Penal Code as it does not exclude married couples. However, the courts in Burundi allegedly consider forced sexual intercourse within a marriage to be legal.¹⁰

Furthermore, it is still very shameful in Burundian society to admit to having been raped and the shame is even greater when the rape has occurred within the family, therefore, most women are reluctant to charge

9 – Ligue Burundaise des droits de l'homme, ITEKA, Réflexion sur la lutte contre les violences faites aux femmes dans les ménages en mairie de Bujumbura, December 1999.

10 – CHANGE, available at: <http://www.ncsm.net>.

their husbands with rape. Another factor is that many women do not know their rights and consider it normal that their husbands force them to have sexual intercourse, an act that they do not consider as rape. This can be deduced from a study by the Ligue ITEKA. Amongst all the women who participated in the study not one reported to have been raped by her husband. Rape as a category of domestic violence only applies to girl-children in this study (49%). Rape does not seem to exist for adolescents either. Adolescents only reported sexual violence in 63% of all the cases of domestic violence. This study shows that the problem of marital rape is not addressed in Burundian society.

IV

Violence in the Community

The Burundian culture encourages a raped woman to conceal her suffering. Consequently, hardly any women report rape to the police. If a woman does report a rape to the police and her case goes to court, the procedure is reportedly very humiliating for the woman, especially since the male judge questions the woman on her behaviour before and during the act.

In 1999, only 17 cases of rape were heard by the High Court of Bujumbura. Eleven of the cases were settled. For ten of the cases, the following data was available: The age of the victims was between 21 years and 2 years and 8 months. Only one case concerned an adult woman. The fact that a woman does not report a case of rape out of fear and shame leads to negation of this form of violence and impunity of the rapist.

Case: G.N. was raped by her superior, E.S. on 26 June 1999. G.N. reported the rape to the police. She subsequently lost her job and the presumed perpetrator was simply moved to another post. The police took him into pre-trial detention for a short time and released him shortly after.¹¹

11 – Ligue Burundaise des droits de l'homme, ITEKA, Rapport annuel sur les droits de l'homme, April 2000, p. 16.



Violence Against Women during the Armed Conflict

The impact of the armed conflict on women's human rights has been overwhelming. It is impossible to quantify the amount of individual suffering among Burundi's population. The rights of women are especially violated since women are often victims but seldom perpetrators of acts of violence.

Cases of violence

- On 31 May 1999, the rebels allegedly attacked several families and killed 4 people in the Colline Kimina (Rural Bujumbura).¹²
- On 8 June 1999, the rebels came from the Ngongo forest and surrounded the village of Makombe. Within two hours, they had killed 13 civilians in the village and wounded another two. They subsequently set fire to the houses. The military stationed at the nearby army base did not intervene.¹³
- Between 12 June and 6 July 1999, at least 30 unarmed civilians were killed. They were either shot from a short distance or burned alive in a series of ambushes on the national highways.¹⁴
- On 26 June 1999, rebels launched an ambush on a civilian minibus. The bus started to lurch and tipped over. The passengers were burned alive.¹⁵
- On 3 August 1999, rebels attacked the centre of Kigwena for four hours. Besides three soldiers, eight civilians also died.¹⁶
- On 10 August 1999, some 100 rebels attacked Kanyosha market, firing into the air. The crowd panicked and ran away. The military sent a bullet-proof car to reinforce the soldiers at the market. The bullet-proof

12 – *Ibid.*, p. 10.

13 – *Ibid.*

14 – *Ibid.*

15 – *Ibid.*

16 – *Ibid.*

car opened fire on the people trying to climb over the barriers. More than 75 civilians were killed during that day.¹⁷

- On 28 August 1999, rebels attacked the quarter of Bujumbura Mairie. 18 civilians, including 7 women and 1 child, were killed. The army arrived too late.¹⁸
- On 4 October 1999, rebels launched a punitive expedition against the inhabitants of a house on the outskirts of Bujumbura. 10 people were killed. The soldiers knocked down a 10-year-old child who was running towards them to take refuge.¹⁹
- On 21 October 1999, rebels attacked the Gikinja Colline and massacred 23 civilians including 12 women and children. Afterwards, they raided the houses.²⁰
- On 26 November 1999, several hundred rebels armed with guns, sticks and machetes attacked the assembly site of Rudehe where 5000 people were living, of which over 95% were women. They massacred 16 people: 14 women and 2 men. They subsequently raided the rooms.²¹

Displaced Women

VI

In the autumn of 1999, the Tutsi-dominated army and government of Burundi started to forcibly move from their homes up to 80% of the population living in the province of Rural Bujumbura - which surrounds the capital, Bujumbura - forcing most of them into over 50 re-assembly camps throughout the province. Mostly Hutus were affected by this re-assembly policy. Hutus make up to 85% of the population in Burundi.

17 – *Ibid.*, p. 11.

18 – *Ibid.*

19 – *Ibid.*

20 – *Ibid.*, p. 12.

21 – *Ibid.*

Often, the army forced the population to leave without giving them time to gather their belongings or even food to take with them. At the end of 1999, more than 350,000 people were displaced in Rural Bujumbura province alone. Elsewhere in the country, hundreds of thousands of people were internally displaced or forcibly relocated, mainly because of the ongoing internal conflict. In some cases, the army allegedly killed people if they did not obey their orders quickly enough.²²

The camps in Rural Bujumbura were created following an intensification of attacks by armed opposition groups on the capital. The government claimed that the camps were “protection sites” and that the re-assembly policy was a security measure to protect civilians from attacks by the mainly Hutu armed opposition groups. However, most of the displaced population felt more secure before being displaced. It seems, rather, that the army wished to have greater military control over the population and to create a free zone where anyone outside the camps would be considered a member of the armed opposition and, as such, a military target.²³

The people in the camps were not allowed to leave to go to their fields to gather food, resulting in severe malnutrition in the camps. Furthermore, the soldiers in charge of the re-assembly sites forced the population to provide them with water, wood and food. These daily duties and the stress of not knowing what the future would bring, nor how to provide for one’s family weakened the displaced people even more.

The 1998 UN Guidelines on Internal Displacement, note that national authorities have a responsibility under international humanitarian law to ensure that all displacements are effected with safety and dignity. The authorities must ensure the nutrition, health, safety and hygiene of the displaced population. Article 17 of Additional Protocol II to the Geneva Conventions prohibits the forced transfer of civilians. Exceptions are only allowed if the security of the population or imperative military reasons demand such a measure. In either case, the government has the duty to provide the displaced population with shelter, hygiene, health, safety and nutrition. The measures of the Burundian government fall far short of the provisions of the Guidelines and of Additional Protocol II to the Geneva Conventions. The government created the camps so as to keep a tight control over an ethnic group. Furthermore, the way in which the camps

22 – See AI, Burundi, Conditions in “regroupment” camps: an update, June 2000; Human Rights Watch, Emptying the Hills, Regroupment in Burundi, March 2000.

23 – AI, Burundi, Conditions in “regroupment” camps: an update, June 2000.

were administered is a subject of major concern. The displaced population suffered multiple and systematic abuses of their human rights, ranging from overcrowding, poor sanitation and inadequate medical care in the camps to extra-judicial killings, rape and torture of the displaced population by the soldiers. It is no wonder that the Peace Negotiator for Burundi and former President of South Africa, Nelson Mandela, compared the camps to the World War II Nazi concentration camps.

Even though the government claims that all the camps were dismantled between January and August 2000, there is reason to doubt this. Representatives of the Hutu armed opposition groups claim that not all the camps have been dismantled. Most of the camps created in 1993 do not seem to have been affected by the government's new policy of dismantling camps.

However, there are varying reports of human rights violations that occurred during the dismantling process. Very often, the population of these camps was given only a few hours to leave them before they were destroyed. No food or transport was provided for them. Once again, it was the women, who were in a majority in the camps, who bore the brunt of this treatment. They had to pick up their things and leave with all their children – some of whom may have been ill because of systematic malnutrition.

Cases of violence

- After rebels attacked soldiers near Nyambuye camp in December 1999, soldiers came to the camp the next day and ordered the residents to vacate the camp and gather at the nearby administrative zone office. There they beat men, women, and children, accusing them of having harboured the rebels. “They hit many people, trying to get information, even old women and children too.”²⁴
- On 7 May 2000, members of the military and gendarmes from Bujumbura mounted an operation on the Kavumu re-assembly camp in the province of Bujumbura-rural, supposedly to search for arms concealed in the camp. The people assembled in the camps were divided into groups and searched for hours. They realised afterwards that the military had robbed them of their property and food, which had

24 – Human Rights Watch, Emptying the Hills, regroupment in Burundi, March 2000, p. 14.

been taken away in pick-up trucks. In addition to such plunder, five people were killed during the operation. Although the authorities disagreed about the number of victims, they admitted that blunders had been committed and they carried out some arrests.²⁵

- On 18 April 2000, four soldiers raped and brutally abused three young women from the Nyambuye camp, aged respectively twenty-five, nineteen, and sixteen, who had come to fetch water at a place called Gasanga. They found the young women at the watering place at about 6:30 p.m., just as dusk was falling, and forced them to go a short distance away where they began raping them. Other camp residents who saw the crime taking place went to alert one of the *abashingantaha* (council of elders), who came with others to rescue the victims. However, because the source of water was so far from the camp, the rescuers arrived only after the women had already been abused for over an hour. Two of the women were able to walk back to Nyambuye with the support of others, but one was so badly injured that she had to be transported by stretcher. She was taken to the Prince Regent Charles Hospital, where she remained under treatment for eleven days. The crime had been so blatant and the woman's injuries so grave, that her family dared to complain to the local administrator at Isale commune and to "Commandant Gisanganya" Ngarambe at the neighbouring post of Shesheka hill. The commandant allegedly answered that it had been so dark at the time of the rape that the victims could not have seen the assailants clearly and that they were mistaken in thinking they had been soldiers; the rapists, he is reported to have said, had been rebels. The soldiers suspected of having committed the crime have apparently since been transferred to another post.²⁶
- In another case reported by the women at Nyambuye, a fifteen-year-old girl was raped by a soldier alongside the path as she came home from selling cassava at Gahabwa market. In this case, the family mobilised other camp residents for support, and went to complain to the commander of the post. He apparently did nothing to punish the suspected rapist, who was transferred to another post not long after.

25 – UN Doc. A/55/358, Interimreport on the human rights situation in Burundi, submitted by the Special Rapporteur, Mrs. Marie-Thérèse A. Keita Bocoum, September 2000, para. 42; Human Rights Watch, *Emptying the Hills, regroupment in Burundi*, March 2000, p. 17.

26 – Human Rights Watch, *Emptying the Hills, regroupment in Burundi*, March 2000, p. 18.

- Another woman from Nyambuye camp, aged twenty-two years, was attacked by a soldier as she went to fetch water. But others nearby came running and the soldier himself fled.
- Women at Nyambuye were so concerned by the abuse of girls and young women by the soldiers at the nearby post that they decided to send young men or older women when soldiers required the delivery of water or other services.²⁷
- One family in a camp had been victimised several times in the last year. They had been robbed twice by armed men in uniform. The third time, on a Saturday night in mid-May 2000, four men - three of them in uniform - forced their way into the home, where the parents were sleeping with their eight children. They demanded money but, dissatisfied with the amount they received, two of them then raped two daughters of the family, one aged thirteen and the other aged fourteen. Then they brutalised the girls, one by kicking her in the genitals, the other by sticking a wooden paddle in her vagina. The father of the family ran out of the house to seek help. One of the men in uniform shot him in the back, killing him immediately. Relatives of the victims stated that soldiers committed the crimes but have brought no formal complaint against them. Asked why not, one family member replied, "Complain? To whom?" In previous cases of crimes that they knew of, victims received no help from either local civilian or military officials, who always took the position that the crimes had been committed by rebels.²⁸
- In mid-January of this year, soldiers sent several girls from Nyamaboko camp, one of them seventeen years old, to buy beer for them in Buhonga. On the way home, the seventeen-year-old was stopped by a soldier at the foot of Gisovu Hill. The others continued on their way, leaving her alone with the soldier. He told her to put down the beer and to take off her clothes. When she refused, he raped her at knife-point. She has complained to no one and is just relieved that the soldier in question has since been transferred elsewhere. She lives in fear that she has contracted AIDS after being raped.²⁹

27 – *Ibid.*, p. 19.

28 – *Ibid.*, p. 19.

29 – *Ibid.*, p. 19.

VII

Prison Conditions

Prison conditions are harsh in Burundi. One reason is the serious overcrowding of the detention centres. On 31 December 1999 there were 9,312 inmates living in a centre built for 3,650.³⁰ Men and women are usually detained separately, however, OMCT notes with deep concern that the guards in female prisons are generally men.

Torture is systematically practised in Burundian prisons. A representative of the Burundian government stated that torture was a tolerated practice in Burundian society in order to extract the “truth” from the suspect.³¹

VIII

Conclusions & Recommendations

Despite the fact that the Constitutional Act of Transition of Burundi provides for equality between men and women and bans discrimination against women, women do not fully enjoy human rights on an equal footing with men. In fact, in OMCT's view, women suffer from discrimination, both from a *de jure* and *de facto* point of view. Women suffer particularly from the attitudes concerning the role of women in the family and society, which are based on male superiority, and the subordination of women.

The full advancement of women is hindered by the fact that, *inter alia*, according to the law, men are the head of the family, that women cannot inherit land, that women receive less education than men and that women's participation in decision-making processes is very limited. OMCT is very concerned about the low socio-economic status of women in Burundi, which renders women particularly vulnerable to violence. Furthermore, the

30 – Ligue Burundaise des droits de l'homme, ITEKA, Rapport annuel sur les droits de l'homme, April 2000, p. 29.

31 – Aimé-Gaudence Kabuyenge, General Director of the Human Rights Ministry, in: Association Burundaise pour la Defense des droits des Prisonniers (ABDP), Journée de réflexion, 26 June 2000, p. 13.

lack of laws that effectively prohibit violence against women including marital rape and the lack of political will to abolish gender-discriminatory customary laws and to promote awareness among the population, have intensified acts or threats of violence.

OMCT urges the Burundian authorities to make a commitment to amend or repeal all discriminatory laws. With regard to traditions, customs and attitudes that discriminate against women, OMCT urges the Burundian government to embark on a programme of measures to modify and abolish them gradually. Such a programme should encompass educational, social and legislative measures, as well as awareness-raising campaigns.

Although the authorities often address the problem of domestic violence in Burundi as a “private” matter (e.g. in cases of marital rape), OMCT would like to point out that under international law it is recognised that States are responsible for their failure to exercise due diligence in the control of private actors by protecting the rights of individuals to exercise their human rights, investigating alleged violations of human rights, punishing the violators of human rights and providing effective remedies for the victims of human rights violations.

OMCT encourages the government to collect statistical data on domestic violence. Moreover, adequate information should also be provided to the victims of such violence concerning their right to compensation.

OMCT is concerned that women in Burundi are not coming forward with complaints of rape. This behaviour is attributable to the reaction of society and the judiciary to reports by women who have been raped. OMCT urges the authorities to launch an awareness raising campaign on sexual violence against women.

The already dramatic situation of human rights of women in Burundi has been aggravated by the ongoing armed conflict. While entire communities suffer the consequences of armed conflict, women and girls are disproportionately exposed to violence because of their sex and their vulnerable status in society. Women fall victim to all kinds of abuse during armed conflict whether they participate as combatants or are non-participating civilians. Women’s subordinate status in Burundian society has been exacerbated by the conflict, which places them and their children at a significant risk from various forms of abuse. These include rape, sexual violence and humiliation, torture, forced impregnation, sexual slavery, servitude, forcible prostitution. The rape of women has been used as a strategic weapon of war.

OMCT is concerned about the high level of violence related to the armed conflict that women are facing in Burundi. OMCT urges the authorities to strengthen their efforts at negotiating a peace agreement that includes provisions which have an overall influence on the situation of women such as an immediate cease-fire and the prosecution and punishment of violators of women's human rights. OMCT would like to stress that there can be no lasting peace without full equality for women and men as emphasised in UNESCO's Statement on Women's Contribution to a Culture of Peace, April 1995.

The culture of peace and non-violence should be actively encouraged. The resources and expertise of UNESCO, UNIFEM and UNICEF should be utilised to inculcate the population with values of tolerance for diversity, respect for human rights, non-violence and gender sensitivity, particularly among boys and men.

OMCT is deeply concerned about the fact that, to a large extent, perpetrators of human rights violations enjoy impunity. Human rights violations committed by security forces are often not addressed by the Burundian authorities. OMCT urges the Burundian government to end its tolerance of violations of human rights of women in order to prevent, investigate, punish the perpetrators and provide redress for the victims of such acts.

Finally, OMCT would like to insist on the need to implement all the provisions of the Women's Convention. Furthermore, it would like to insist on the implementation of the Beijing Rules and Platform for Action, the Beijing + 5 Outcome Document and the Declaration on the Elimination of Violence Against Women as they are the most relevant international instruments concerned with all forms of violence against women. OMCT also recommends that Burundi ratify the Optional Protocol to the Convention, enabling the Committee to receive individual communications relating to Burundi and to conduct inquiries into grave or systematic abuses of women's human rights, and that it ratify the Rome Statute of the International Criminal Court adopted in June 1998. This statute recognises gender-based crimes such as rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation and other forms of sexual abuse, in defined circumstances, as crimes against humanity and as war crimes. Furthermore, it provides for the application of gender-sensitive justice through the selection of judges as well as the establishment of a Victims and Witness Unit which must be staffed by individuals with expertise in trauma, including that related to crimes of sexual violence. ■



*24th session
15 January - 2 February 2001*

**Concluding Observations of the
Committee on the Elimination of
Discrimination Against Women:
Burundi**

(Advance Unedited Version)

Introduction by the State Party

1. The Committee considered the initial report of Burundi (CEDAW/C/BDI/1) at its 488th, 489th and 496th meetings, on 17 and 23 January 2001.

2. In introducing the report, the representative of Burundi informed the Committee that the socio-political crisis of 1993 and the economic embargo imposed by Burundi's neighbouring countries in 1996 had severely impeded national development and had in particular affected the situation of women. A fifth of the population lived below the poverty level, including many women heads of households who took care of a large number of orphans.

3. The representative reiterated the Government's firm commitment to the Convention, which was exemplified by the preparation of the initial report, despite the continuing socio-political crisis in the country. The Government of Burundi had adopted certain measures to assure the advancement of women by guaranteeing their fundamental freedom and individual rights based on equality. The Government also encouraged the establishment of women's associations and development projects for women. The Ministry of Social Action and the Advancement of Women¹ and the Ministry of Human Rights, Institutional Reforms and Relations with the National Assembly² had been entrusted with the implementation of the Convention.

4. Since the ratification of the Convention in 1991, the Government had adopted two decree laws to change women's legal situation. The decree law adopted in 1993 reformed the Code of the Person and the Family³ and contained a number of measures eliminating discrimination against women, including abolition of polygamy, unilateral repudiation of marriage, and introducing legal divorce and regulation of age at marriage. Another decree law in 1993 revised the Labour Code and aimed to achieve social and economic justice. Chapter V of the Code addressed women and labour, including women's rights during pregnancy and maternity.

1 – Ministère de l'action sociale et de la promotion de la femme.

2 – Ministère des droits de la personne humaine, des réformes institutionnelles et des relations avec l'assemblée nationale.

3 – Code des personnes et de la famille.

5. The representative stated that the Transitional Constitution⁴ endorsed respect for the rights and obligations proclaimed and guaranteed by the Universal Declaration of Human Rights and other relevant regional and national legal instruments. Notably, the Transitional Constitution declared that all persons were equal before the law, without distinction of sex, origin, ethnic group, religion or opinion.

6. In the field of education, the representative deplored the high drop-out rate⁵ of girls in the transition from primary to secondary education which had been accessible to only 10 per cent of children. The practice of giving preferential treatment to girls with lower grades than boys in admission to secondary level, introduced in the 1970s, had been stopped due to a concern that it would foster an inferiority complex among female students. The Government was aware that other corrective measures needed to be taken in regions with low levels of schooling, such as public awareness campaign, incentives and coercion towards parents. She stated that, until recently, a girl would be expelled from school if she were pregnant. Such girls were now able to resume their education in another institution after the birth of their children.

7. The representative informed the Committee that there was a paucity of health care, particularly in the rural areas. More than 66 per cent of medical personnel remained concentrated in urban areas, where only 4 per cent of the population lived. Rural women, already burdened with an excessive domestic workload, had to travel long distances to receive basic social services. For this reason, 80 per cent of women gave birth at home, often under precarious sanitary conditions, and the maternal mortality rate was 826 per 100,000 live births. The Government had tried to redeploy medical personnel to the rural areas and to set up a public medical system. However, the task was immense and much more needed to be done, particularly since 30 per cent of the health-care infrastructure had been destroyed or impaired during the crisis. Assisted by the United Nations Population Fund (UNFPA), the Government had launched programmes on reproductive health for rural women.

8. Because the majority of women lived in rural areas, their livelihood was based on agricultural products. The Government had made great efforts to address their situation, since economically, rural women depended totally on male family members and had no inheritance rights and no economic

4 – L'Acte constitutionnel de transition.

5 – Taux de déperdition.

control over the goods they produced. The Government promoted anti-poverty programmes through income-generating activities carried out by women's associations. Since 1996, the Ministry of Social Action and the Advancement of Women had established Family Development Centres⁶ all over the country to assist women in managing their own income.

9. The representative observed that, through the creation of the Union of Burundi Women, women had become aware of the important role they could play in all spheres of society. However, traditional attitudes still prevailed and very few women occupied decision-making positions in the National Assembly, judiciary, public administration, or public or private institutions.

10. The representative informed the Committee that the current crisis, extreme poverty and crowded living conditions in camps had given rise to prostitution. The Government had adopted legal measures to punish the trafficking of women, the exploitation of prostitution, violation of public decency and rape.

11. Women had played a key role in the peace process. From the outset, women had organized and gained observer status at the peace negotiations. The Arusha Accords⁷ formed the basis for building lasting peace and granted equal status to women and men, in accordance with the Convention. The Accords recognized women's role in reconstruction and rehabilitation, and suggested the inclusion of women in all management structures related to reconstruction, mobilization of women as peace mediators for national reconciliation, adoption of laws on inheritance rights of women and rebuilding of houses for homeless women.

Reintegration or post-trauma counselling for women victims of violence or those forced into marriage was also considered necessary.

6 – Centres de développement familial.

7 – Accords d'Arusha.

Concluding comments of the Committee

Introduction

12. The Committee commends the Government of Burundi for ratifying the Convention without reservations in 1991 and for preparing and presenting its initial report in a time of socio-political crisis, civil unrest and economic hardship. It welcomes Government efforts to comply with the Committee's reporting guidelines.

13. The Committee also commends the Government for sending a high-level delegation headed by the Minister on the Status of Women. It appreciates the frankness with which the report was prepared and its sincere presentation by the State party, which allowed the Committee to engage in a constructive dialogue.

Positive aspects

14. The Committee welcomes the State party's efforts to implement the Convention despite the difficult socio-political and economic situation. In particular, the Committee welcomes the creation of a national plan of action in the follow-up to the Fourth World Conference on Women which is testimony to the importance given to the advancement of women.

15. The Committee welcomes the establishment of the Ministry of Social Action and the Advancement of Women and the Ministry of Human Rights, Institutional Reforms and Relations with the National Assembly, which were jointly responsible for the implementation of the Convention.

16. The Committee commends the Government for legal reforms introduced since the ratification of the Convention in 1991, in particular the reform of the Code of the Person and the Family and the Labour Code.

Factors and difficulties affecting the implementation of the Convention

17. The Committee recognizes that the civil war and the economic crisis pose serious challenges to the full implementation of the Convention. It

also notes that deep-seated prejudice and stereotypical perceptions of the role of women and some discriminatory customary and traditional practices pose significant obstacles in implementation.

Principal areas of concern and recommendations

18. The Committee considers the absence of peace to be a most serious obstacle to the full implementation of the Convention. It also expresses its concern about the large number of women who have been affected by violence during conflict.

19. The Committee recommends in the implementation of the Arusha Accords, and in accordance with those Accords, that emphasis be put on the role of women in reconstruction, and that the acceleration of women's equality be integrated in all its aspects. It urges that special efforts be made to include women in national reconciliation and peace-building initiatives. It recommends that the Government encourage women from all ethnic groups and women who are victims of violence and armed conflict to become advocates for peace.

20. The Committee recommends that, when introducing quotas for ethnic groups, the Government should also consider introducing measures as permitted under article 4.1 of the Convention and outlined in the Committee's general recommendation 23 on women in public life, to increase the participation of women in decision-making at all levels. It emphasizes the importance of strict adherence to principles of gender equality in all reconstruction efforts.

21. The Committee is concerned about the situation of refugee and displaced women and girls and their living conditions, including in refugee camps.

22. The Committee recommends that the Government give greater assistance to refugee and displaced women and girls and carry out rehabilitation efforts directed at such women and girls. It stresses the importance of mainstreaming a gender perspective in all policies and programmes of national and international assistance for displaced people.

23. The Committee recommends provision of post-trauma counselling, as stipulated in the Arusha Accords, for women who are victims of gender-based violence. It calls on the Government to ensure that relevant personnel are trained to give such assistance.

24. The Committee notes with concern the existence of legislative provisions which discriminate against women. It is also concerned at the existing gap between *de jure* and *de facto* equality.

25. The Committee recommends that the State party take steps to bring discriminatory legislative provisions, *inter alia*, in the Code of the Person and the Family and the Penal Code into line with the Convention. It recommends review of provisions that predicate differential ages of marriage for women (article 88 of the Code of the Person and the Family), indicate that the man is head of the household (article 122 of the code of the Person and the Family) and establish discriminatory provisions with regard to adultery (article 3 of the Penal Code). The Committee also encourages the Government to ensure implementation of laws and policies that provide for *de jure* equality and seek to eliminate discrimination against women. It recommends that the Government ensure that those charged with responsibility for the implementation of laws and policies are fully aware of their contents and that public education and legal literacy campaigns be put in place to ensure wide knowledge of law and policy reform.

26. The Committee expresses its concerns about the high prevalence of illiteracy among women and the low level of schooling of girls, especially in the rural areas. It notes that education is a key to the empowerment of women, and low levels of education of women remain one of the most serious impediments to national development.

27. The Committee urges the Government to continue its efforts to improve the access of girls to all levels of education and prevent drop-outs. It encourages the Government to introduce corrective measures that address all stakeholders involved, including incentives for parents, and to consider requesting international assistance to improve women's and girls' education.

28. The Committee is alarmed by the increasing rate of HIV/AIDS infection, which has eroded earlier gains in the country. It is also concerned about the absence of facilities for the care of those infected and affected.

29. The Committee urges the Government to take a multifaceted and holistic approach to combating the HIV/AIDS pandemic, one which not only incorporates broad-based educational strategies but also includes practical prevention efforts, such as increased access to both male and female condoms. It encourages the Government to consider requesting

international assistance for this purpose. The Committee underlines the fact that the collection of reliable data on the incidence of HIV/AIDS is critical to gaining an understanding of the pandemic and to informing policies and programmes.

30. The Committee expresses its concern about the high rate of maternal mortality, especially in the rural areas, including deaths as a result of illegal abortions.

31. The Committee recommends that the State party make every effort to increase access to health-care facilities and medical assistance by trained personnel in all areas, including the rural areas so as to increase, particularly, the number of births assisted by qualified personnel. It recommends the introduction of effective measures, such as sex education and information campaigns and the provision of effective contraception, to reduce the number of clandestine abortions. The Committee emphasizes that abortion should not be used as a method of family planning.

32. The Committee is concerned about the persistence of stereotypes that confine women and girls to traditional roles.

33. The Committee invites the Government to take concrete steps, including sector-specific and gender awareness campaigns, to eliminate deep-rooted prejudice and stereotypes in order to achieve *de facto* equality.

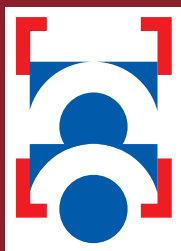
34. The Committee encourages the Government to consider ratification of the Optional Protocol to the Convention and acceptance of the amendment to article 20.1 of the Convention, relating to the Committee's meeting time.

35. The Committee urges the Government to respond in its next periodic report to the specific issues raised in the present conclusions. It also urges the Government to improve the collection and analysis of statistical data, disaggregated by gender and age, and to submit such data to the Committee in its next report.

36. The Committee requests that the text of the present conclusions should be widely disseminated in Burundi so as to inform the public, in particular administrators, officials and politicians, of the measures taken to guarantee equality *de jure* and *de facto* between men and women and of the supplementary measures to be adopted in that area. The Committee also urges the Government to continue to give broad publicity to the Convention, its Optional Protocol, the general recommendations of the Committee, the Beijing Declaration and Platform for Action, and the

results of the twenty-third special session of the General Assembly, “Women 2000: gender equality, development and peace in the twenty-first century”, which took place in June 2000, particularly among women’s associations and human rights organizations

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