

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 40<sup>TH</sup> SESSION BURUNDI COMBINED 2<sup>ND</sup>, 3<sup>RD</sup>, 4<sup>TH</sup> REPORT 16 JANUARY 2008

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### Information submitted to the Committee

On 16 January 2007 the Committee on the Elimination of Discrimination against Women (the Committee) considered the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> combined periodic report of Burundi regarding its implementation of the International Convention on Civil and Political Rights (the Convention). Burundi ratified the Convention on 4 April 1991 without reservations.

Burundi submitted its periodic report to the Committee on 6 March 2007.<sup>1</sup> The report contained the initiatives and progress made in the field of women's rights in Burundi since the country's initial report in 2001. According to the report, significant improvements include the fact that the Convention has been incorporated directly in Article 19 of the Constitution, that a 30-percent quota for women's political participation was put

<sup>1</sup> CEDAW/C/BDI/4, 6 Mar 2007, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

in place, and there had been a recent push to raise people's awareness regarding women's issues. The report identified that priority would be given to the laws on inheritance, marital property and gifts, the bankruptcy law and the law on the protection of persons living with HIV/AIDS, and that further reforms would be made to the Labour Code, the Family Code, the Penal Code, the Nationality Code and the Tax Code so that they may be consistent with the Constitution.

The Committee presented to the State party its list of issues responding to the report on 16 August 2007.<sup>2</sup> Main topics addressed include discriminatory provisions in Burundi's legislation, violence against women, education, trafficking, employment, health, rural women, marriage and family relations, and participation in decision making. Burundi submitted its response to those issues<sup>3</sup> too late for the text to be translated into English by the opening of the session, however, with the questions inadequately addressed. Thus the Committee members asked the State delegation to give oral presentations and clarifications to issues during the session itself. The delegation did not include many specialists who had sufficient information at hand, however, and frequently were compelled to promise the Committee to provide data on an *ad hoc* basis.

Six non-governmental organizations submitted alternative reports to the Committee; the FAO, UNESCO, ILO, CAFOB-UNIFEM, ACAT-OMCT, and the Global Initiative to End All Corporal Punishment of Children.<sup>4</sup> The FAO, UNESCO, and ILO gave an update of their projects to empower rural women, strengthen the education system, and realize gender equity in labour. The CAFOB-UNIFEM's report evaluated progress made in Burundi's follow-up to the last report's concluding observations, arguing that no such thing existed. ACAT-OMCT's report dealt with the situation of violence against women in Burundi based on General Recommendation No. 19 of the Committee, but noted little progress. In fact, according to the report there had been a two-fold increase in gender based violence since the last State report. The Global Initiative to End All Corporal Punishment of Children presented the situation of the legality of corporal punishment in Burundi, which they observed to be legal in all situations except when used as basis to sentence a person for a crime.

Another report that warranted attention was the interim report to the General Assembly submitted by Akich Okola, independent expert on the situation of human rights in Burundi, on 8 August 2007.<sup>5</sup> With regards to women's rights, Mr Okola pointed out in his report that there were more than 300 cases of rape of women and minors in all provinces of Burundi reported during the first five months of 2007, while administrative authorities and community elders (Bashingantahe) continued to recommend amicable settlements. Violence against women was on a constant rise, while impunity for perpetrators remained the norm.

## Themes and issues

The delegation for Burundi was headed by Ms Rose Nduwayo, Deputy Minister for Human Rights and Gender. She was accompanied by Mr Paul Mahwera, the permanent representative of Geneva; Ms Scholastique Ntirampeba, the Director-General for the Advancement of Women and Gender Equality; Mr Nestor Nkundwanabake, Premier Councillor of the Permanent Mission; and Mr Emmanuel Ndabishuriye, the twelfth councillor of the Permanent Mission.<sup>6</sup> Ms Nduwayo and Ms Ntirampeba were the primary delegates to interact with the Committee, with only Mr Mahwera intervening sporadically throughout the session. A point of note is that Ms Nduwayo was appointed to her office a mere two months before standing before the Committee, and despite her expertise certain limitations were apparent in her knowledge of the subject matter during her responses. This lack was supplemented by Ms Ntirampeba to an extent.

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<sup>2</sup> CEDAW/C/BDI/Q/4, 16 August 2007, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

<sup>3</sup> CEDAW/C/BDI/Q/4/Add.1, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

<sup>4</sup> Reports are available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

<sup>5</sup> A/62/213, 8 August 2007, available at <http://www2.ohchr.org/english/bodies/GA/62documents.htm>

<sup>6</sup> Available at <http://www2.ohchr.org/english/bodies/cedaw/docs/list/ListBurundi.pdf>

Ms Nduwayo's opening statement highlighted the economic and political plight of the country, which is in the process of recovering from its recent crisis. She also emphasized that the Convention has been explicitly incorporated in Burundi's revised Constitution, and that measures are being taken to satisfy international treaty obligations. Her statement then went on to provide answers to some of the questions raised in the Committee's list of issues.

In part due to the fact that Burundi's projects towards women's rights have been implemented only recently (mostly in 2007), the delegation did not have many statistics at hand for the review session. The Committee members therefore were not able to pursue their inquiries in depth on many occasions.

Committee members also pointed out throughout the session that little progress have been made since the last CEDAW session seven years ago aside from the recent policy push. Committee member de Silva even questioned the Government's intent to respect its commitment towards the Convention. Towards this, Ms Nduwayo asked for understanding that any lack of progress was due to a lack of means rather than will, and that Burundi needs cooperation and support from the Committee members to help it build necessary capacity. Ms Simonovic, the current President of the Committee, responded that this session was a constructive dialogue rather than an inquisition, the focus of which is to identify issue areas in order to facilitate positive developments in the long run. Assistance and advice would follow after this process.

### **Status of the Convention in domestic law**

Many members of the Committee lauded the fact that Burundi has integrated the Convention in the Constitution as an important and positive step forward in addressing women's rights. However, they pointed out there exists now a tension between national legislation and the Constitution in that the former has not been updated in kind. Committee members emphasized that this needs to be addressed in a timely manner. Hence throughout the session the Burundi delegation was asked for specific measures and action plans to realize the Constitution in many of the discriminatory provisions existing in domestic law.

Director-General Ms Ntirampeba acknowledged that there were discriminatory provisions in the law, including family law and laws regarding succession. She assured the Committee that the gender ministry is collaborating with the civil society to draft a report towards revising the relevant legislature. The report regarding children had been completed and transmitted to the national secretary and Government.

Committee member Mr Flinterman pointed out that the principles of discrimination within the Constitution itself remain limited. For instance, whereas Article 1 of the Convention requires that all spheres of society be covered, the Constitution only mentions formal equality in the public sphere. He added however that maximum use needs to be made of what is available. Thus, as Article 2 of the Convention requires that women have an effective legal remedy in cases where their rights have been violated, Mr Flinterman also asked if there is a functioning constitutional court that can apply the Constitution directly into legal rulings, and what role the Burundi National Human Rights Commission will play once it is set up. Ms Simonovic also inquired if there have been any court cases in which principles of the Convention have been directly applied.

On these points, the delegation replied that it was only recently that the Constitution had been revised and relevant initiatives started. Implementation of international standards was a gradual process, and immediate change shouldn't be expected. With regards to the independent human rights commission, Ms Nduwayo stated that the law establishing it is scheduled to be enforced come February and that equal gender representation will be a personal priority consideration. However she did not mention anything regarding the function of the Commission *per se* apart from the personal opinion that it will ensure the application of human rights in Burundi by accepting complaints and forwarding them to bodies empowered to receive those complaints.

There was also discussion regarding the National Gender Policy, which was adopted in 2003. However the relevant monitoring mechanisms were not yet established, which resulted in slow progress. The Committee members inquired as to the exact function and establishment timelines of these mechanisms, which included the National Gender Council, the Technical Committee on Gender, and the Permanent Executive Secretariat of the National Gender Council. The concluding observations followed up on this by pointing out that Burundi should put in place the relevant mechanisms to implement the National Gender Policy and the related plan of action, including the development of appropriate indicators.<sup>7</sup>

### **Violence against women**

Violence against women, in particular domestic violence and rape, is a big issue in Burundi. There have been numerous NGO reports regarding this, the Human Rights Council's independent expert on Burundi, Mr Akich Okola, has also mentioned it in his special report. Naturally, a lot of questions were asked. Some issues identified were that 1) rape is being used as a weapon of war by the State and armed forces; 2) it is also being committed by those who know they are carriers of AIDS; 3) domestic violence is worsening but incidences are rarely reported to the police partly due to the fact that even when reported officials normally don't intervene; and 4) prisons do not separate men from women, making the situation of detained women worse than it could be.

Many Committee members therefore asked for provisions in the criminal code that penalise acts of domestic violence, sexual violence, and rape; especially rape committed by men who know they have HIV/AIDs. The situation of rural women is even worse, and there are reports of incest in these areas. Committee members Ms Begum and Ms Simonovic specifically inquired what the national plan is that addresses this situation and whether a separate law to address domestic violence will be enacted. In its concluding observations the Committee specifically requested that Burundi ensure that women in detention are systematically separated from men and supervised by gender-sensitive prison staff.<sup>8</sup>

Ms Nduwayo responded to these queries by first reminding the Committee that Burundi is emerging from the traumatizing experiences of war. This has caused psychological scarring, and the rise of rape is a consequence of this. Amicable settlement is a reality, as Burundian culture makes it hard for the victim to give public statements about such things. The Minister highlighted that awareness-raising efforts are being made to advocate that this is not the best solution, such as the '16 Days of Action' carried out in 2007. This was a period of raising people's awareness of the realities and remedies towards violence against women, which was done in collaboration with all related parties. Rape victims spoke out for other women at risk of such situations. Ms Ntirampeba also pointed out that amicable settlements are illegal if violence was involved. Forced marriages are also illegal, although it still happens frequently.

With regards to those who commit rape despite knowing that they have AIDS, Ms Ntirampeba noted that there is a bill pending in the National Assembly this year to strengthen their punishment. She also mentioned that provision of mental services for those who committed rape would also be provided for, although she was not specific as to the exact means.

The Government has assigned a partnership with the national police force to address problems stemming from the administration of justice, as stated above. Thus the police now will have to train their own staff, make progress in terms of capacity-building, set up gender units within the police force, and make available a free telephone number so people can call to report cases. Measures are being taken to provide special temporary assistance to the four provinces in the western part of Burundi, which has received no aid over the past several years due to military activities.

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<sup>7</sup> CEDAW/C/BDI/CO/4, paragraph 9, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

<sup>8</sup> CEDAW/C/BDI/CO/4, paragraph 26, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

The Burundi delegation also cited family development centres that fight the violence perpetrated against women at provincial levels via education and awareness-raising, established in 14 out of 17 provinces. These centres provide rape aftercare, which include psychological help under collaboration with NGOs (i.e. TPO) and material assistance to women disowned by their families because they were victims of rape. Another function of these centres is to help the victims to admit they were raped. However the centres are seriously under-funded and under-staffed, and require support from the international community.

The concluding observations followed up on this issue by directing Burundi to the Committee's General Recommendation 19, and the Secretary-General's study on all forms of violence against women.<sup>9</sup> It also recommended that Burundi engage in awareness raising efforts to train relevant authorities to ensure that perpetrators of violence against women are prosecuted and punished, and to provide victims with gender sensitive support. Access to justice for victims, including those of armed conflict, is recommended as well.<sup>10</sup>

### **Trafficking and prostitution**

Committee member Ms Churikul raised the issue of trafficking and prostitution by noting that very little has been written about these issues in the State report. She asked for the current situation of the phenomenon and whether the delegation had any information at hand. In lieu of reports that Burundian girls are being trafficked to Lebanon, Ms Churikul asked the delegation to what degree Burundi recognises State obligations under international law, particularly the *Convention in the Rights of the Child*, and enquired about plans to suppress trafficking both in Burundi and receiving States. Ms Gaspard also requested numbers and statistics on trafficking and measures to prosecute prostitution in the next report.

Ms Nduwayo responded that research on trafficking, in particular those reported instances of girls being trafficked for prostitution, had been undertaken with civil society. The study was not yet finished. In terms of international treaty recognition, the delegation stated that *ILO Convention 182* was enshrined in the national gender policy. A plan of action had also been set up under the national gender policy in 2004 to fight violence against women, and continued until 2006 under funds supplied by UNDP. The program had not been active as it should have, however, so a new program was been initiated at the end of 2007 as part of the '16 Days of Action' initiative. This new action plan focused on three main areas, namely prevention through awareness-raising and other training activities; care for victims through medical, legal, and psychological/social assistance; and coordination.

Commenting also on prostitution, Ms Nduwayo observed that the crisis affecting the country for over 12 years had changed people's morals. This was also being addressed in the 2004 plan of action, with all relevant parties engaged in the effort. To date, the police force has been reinforced with young recruits, and a contract has been financed by UNIFEM for relevant programs.

Although not mentioned in the plenary discussions, in its concluding observations the Committee requested that the State amend Article 539 of the draft revised Penal Code to ensure that prostitutes under 18 years of age and those who are victims of trafficking are not punished but can benefit from protection measures.<sup>11</sup>

### **Participation of women in political and public spheres**

Many Committee members inquired about the representation of women in provincial and municipal bodies, as there was limited information in the State report. They asked of concrete figures and of any temporal measures taken to ensure the political representation of women in all levels of Government. Committee member Ms Gaspard observed that the minimum 30% representation of women in political organs as prescribed by the Constitution seemed to function as a ceiling rather than a floor. Committee member Ms

<sup>9</sup> A/61/122/Add.1 and Corr.1

<sup>10</sup> CEDAW/C/BDI/CO/4, paragraph 24, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

<sup>11</sup> CEDAW/C/BDI/CO/4, paragraph 28, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

Dominguez also pointed out the women sitting in positions of responsibility had approached the 30% mark after the 2004 elections, but that as of 2007 every one of them had been replaced by a male. She asked for an explanation for this phenomenon.

Ms Dominguez also highlighted that no information had been given with regards to the registration of girls and young women in the civil register, which will ensure that they become fully involved in elections both as voters and as elected persons for positions of responsibility.

Committee member Ms Halperin-Kaddari referred to the participation of women in the formal judicial sphere. She emphasized that while it is alarming that the percentage of women in the Constitutional Court went down from 43% to 29%, the fact that there were no women at all in the National Department of Public Prosecution and only two in the Office of Appeals is a grave matter. Especially in light of the levels of violence against women in Burundi, the fact that there are no women in the legal system to initiate prosecution to violators made the prospects for change appear bleak.

Yet it was remarked that this was still relatively better than the status of women in the traditional justice system, or the 'Bashingantahe'. Committee member Ms Schopp-Schilling brought up this issue, asking about the legal basis and scope of the institution. If the institution is based on customary law, it may well be that it has gender discriminatory provisions, as is the case with many African countries. In such instances access to those institutions will be in violation with the Convention. Ms Schopp-Schilling asked how the people practising in these institutions are trained, while Ms Kaddari inquired if there were any female judges in these courts.

Ms Ntirampeba responded first by clarifying that the Bashingantahe is a traditional institution for conflict resolution and reconciliation with advisory functions that have been dominated by males. There is no judge handing down decisions; that is left to the justice system. Traditionally women could not attend these sessions that take place on the hill, but the situation has improved somewhat in that wives can take the floor and give their opinion on certain issues. She pointed out that there existed reluctance against women participating, however. Committee member Ms Simms suggested that women should 'leave the men on their hills and rally in the valleys' to make their own governance institution.

### **Marriage and family relations**

Committee member Shin raised the issue of the difference in the marriage age between genders, the legal age of marriage being 21 for male and 18 for female. This was an issue that has been addressed in the concluding comments from the initial 2001 report, and the rationale given at that point was that the gap existed to control procreation. The situation had not changed much since then. The delegation recognized that discrimination existed in this provision, and informed the Committee that a study in conjunction with civil society was underway to investigate this issue.

Another issue stressed by Committee members Ms Simms, Ms Shin, and Ms Schopp-Schilling was the issue of the husband being head of household, as explicitly provided by Article 1 (22) of the Family Code. The State report stated that despite patriarchal overtones this did not mean that the husband would abuse his wife and all she had to do was report such an occurrence. The Committee members all agreed that this was a myth; for one, the abused wife could report on her husband when she was not aware of the reporting procedure itself, and even if she was, Burundi culture prohibits women from denouncing their husbands. Ms Simms asked if there were any cases where the husband was stripped of his authority because his wife has reported him. If there are none, it would mean that there was an issue with this provision, as reports indicate that abuse does exist. Ms Shin added that even if no abuse actually occurs, legally placing the male as head of household places the women in a secondary and inferior position in society. The institution blames the victim, and this was unacceptable. Ms Schopp-Schilling also asked if property law allows for women to own material property. Ms Ntirampeba responded that she recognized the potential misuse of placing the husband as head of

household, and that it was one of the laws that needed to be revised. The Burundi Government does have plans to amend the Family Code, but it is difficult at the moment due to domestic political dynamics.

The fact that the penalization of adultery is more severe for women than for men has also been brought up. Committee member Ms Pimentel observed that Burundian culture dictates that women belong to the family, and so a male can sleep with anyone he wants. She therefore asked what measures have been taken to bring about change in this mentality, and also Burundi's plan of action to deal with the issue of incest. The delegation did not address this question in particular.

Committee member Gaspard was the only member to mention the Nationality Code of Burundi, which stipulates that a Burundian woman cannot bestow her nationality to her husband or even her child upon marriage. However there was no further discussion of this violation of Article 9 of the Convention, as the delegation chose to deal with other issues. This point was raised in the concluding observations.<sup>12</sup>

The concluding observation also recommended that Burundi adopt a uniform family code that ensures *de jure* and *de facto* equality for women with regard to inheritance, matrimonial regimes and gifts, and that it ensure its effective implementation in rural areas through awareness raising to educate rural chiefs of these new laws.

### **Education and positive action**

Committee member Xiaouiao inquired whether free primary education had been made available as announced by the Burundian president in 2005, including in rural areas. She also requested if there had been an improvement in the rate of girls staying in school, which had been a recommendation of the Committee from its previous session. The delegation stated that more girls are enrolling in schools because of this policy, although the relevant statistics were not available. In order to retain these girls, the Government was presenting models to people that show women with education receiving significant jobs. However this was only a temporary measure, and would have to be backed up with more concrete policies.

Committee member Xiaouiao also emphasized the disparity that exists between males and females in higher education; that females go on to public health and other traditional jobs instead of continuing education. She asked whether there were any policies to encourage or promote the increase of enrolment of women in universities and to study non-traditional subjects. The delegation did not respond to this query.

Ms Schopp-Schilling expressed that the Committee is eager to assist Burundi in moving ahead with gender equality as fast as possible. For this, such temporary positive action measures will be needed in the area of education in order to accelerate the achievement of substantive equality of girls and women *vis-a-vis* males. She pointed out that such measures can apply to older women as well as to young girls, as older women are especially vulnerable due to illiteracy. Regarding the funds necessary to implement this policy, Ms Schopp-Schilling advised Burundi to approach international donors in collaboration with civil society with concrete proposals towards temporary measures to close the gap between genders. The delegation responded that previously the gender efforts have been focused on the political elections of 2004, and that they will direct more attention to this aspect in the future. The Committee reaffirmed this recommendation in its concluding observations.<sup>13</sup>

### **Employment**

Mr Flinterman observed that Article 3 of the Constitution and section 73 of the Labour Code of Burundi do not comply with the principle of equal remuneration and respect of work of equal value under Article 1(d) of the Convention. He also commented that women are frequently being deprived of their rights of maternity

<sup>12</sup> CEDAW/C/BDI/CO/4, paragraph 30, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

<sup>13</sup> CEDAW/C/BDI/CO/4, paragraph 32, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

leave as mandated by section 122 of the Labour Code, and women who do go on maternity leave only receive half-pay. Ms Nduwayo responded that in the formal economy she wasn't aware of instances in which women are being paid less than males for the same amount of work, although things may be different in the informal economy. With regards to the latter, she observed that the situation is getting better as more people become aware of their rights. However there exists a hesitancy to apply this provision to the letter, as it is viewed to demonstrate a fault from the part of the employee. This is true for both the private and public sector.

Committee member Ms Patten drew attention to the informal economy, in which women unable to get jobs in the formal economy engage in economic activities that require no skills, pay less, and are situated at the lower end of the market. Hence the sector is associated with poverty and exclusion from social protection programs. Many Committee members inquired whether the Government is making any efforts to help women get out of this sector, efforts which would include regulation of agricultural work, social protection, and labour institution reform. They also asked how the Government is addressing the constraints faced by women entrepreneurs in the financial realm, including micro-financing.

Delegate Ms Nduwayo responded by first saying that they do not have the national statistics on the informal economy at hand. However studies show that 20% of women working in the informal economy in urban areas have opened small dress-making and hair-dressing shops. Women working in rural areas are engaged predominately in agriculture, and do not have access to micro-credits at the individual level. These points regarding maternity leave and gender equality in the informal economy are made in paragraph 34 and 35 of the concluding observations.

### **HIV/AIDS and health care**

Committee member Ms Coker-Appiah stressed that women are particularly vulnerable to HIV/AIDS due to a multiplicity of factors. This includes economic dependence on the male resulting in routine prostitution as a form of economic survival, and cultural practices that deprives the wife of the right to negotiate for safe sex even if she is aware that the male has multiple partners. Staying married under these circumstances is deemed to still be a better option than being single for financial reasons, however, which keeps them at this risk. She inquired of any measures to alleviate this situation. The delegation acknowledged this link between women's vulnerability to HIV/AIDS and sexual violence, and stated that they are seeking to combat this through education and the creation of a high profile ministry in charge of the issue. The delegation did not address the practice of polygamy substantively however, stating that it was a religious issue that needs to be dealt with carefully.

Committee member Ms Dominguez continued by stating that there is more emphasis put on treating AIDS than on its prevention. She also observed that maternal mortality is being relatively neglected in the report, and requested statistics and measures taken (e.g. training of midwives and basing them locally) to better the situation. The delegation stated that the new national policy provided midwives with basic training and medical kits, which had led to a great reduction in maternal mortality rates, although they were not able to supply statistics in this regard. Committee member Begum also inquired if women who have HIV/AIDS receive health insurance, although this was not addressed by the delegation.

Several Committee members requested more detailed information about Burundi's reproductive health programme and women's access to health facilities in general. They noted that the Government is trying to provide free health care to at-risk populations and children under five, but do not have the necessary infrastructure as of yet. The Committee members asked for concrete action plans on how the Government will proceed with this, while pointing out that gender sensitivity needs to be applied even within the boundaries of limited resources; indeed it needs to be an area of priority. The delegation didn't have a health specialist among them, and promised the Committee to provide them with details of Burundi's health care plan later. With regard to family planning, Ms Nduwayo stated that reproductive health education is given in schools, hospitals, and social work settings (family development centres) according to their levels from primary school

and up (they do not distribute condoms in schools). She stated that it was difficult to obtain accurate abortion rates as the act is illegal the Criminal Code of Burundi, and women do would not dare admit to it for fear of prosecution.

### **Special situation of rural women**

Several Committee members expressed concern regarding the situation of rural women in Burundi. They highlighted that this population is especially relevant to Burundi's national wellbeing, considering that the country's economy depends on agriculture that is run by these women. Committee members put forth that a comprehensive strategy which takes into consideration the vulnerability and importance of this population is in order. The importance placed on rural women is highlighted by the fact that mention of it is placed at the beginning of the concluding observations.<sup>14</sup>

With regard to property rights, Committee members Mr Flinterman and Ms Ali pointed out that current legislation stipulates that land is inherited by the male, who may also unilaterally sell family property. The delegation stated that it will supply the information related to this at a later time due to insufficient data, but did comment on the existence of programmes that supply micro-credits to fund economic projects by rural women, albeit only to collective groups.

Political participation is also worse for women in rural areas, as traditional mediatory institutions such as the Bashingantahe are the *de facto* justice system in those settings. This fact contributes to the fact that rural women are especially susceptible to domestic and sexual violence, and the fact that the authorities are predominately male makes it difficult for women to come forward, in addition to the taboo against the mentioning of sexual intercourse in public.

Education is also a particular concern for rural populations, as many mothers are not sending their daughters to school due to distance, lack of security, and economic opportunity costs. Hence the delegation was asked if there were any measures taken in this regard, along with strategies for the provision of food, health care, and other basic services.

### **Legal protection measures**

Committee member Ms Maiolo emphasized that it takes more than awareness-raising to deal with the challenges faced by Burundi women. Legal sanctions and punishments are needed, even to judicial officials and police officers when they encourage amicable settlements in incidents of rape. She recommended that such sanctions be implemented and training be given to these civil servants. The delegation did not respond to this point. The concluding observations further recommended that training programs be initiated for prosecutors, judges and lawyers so as to establish a legal culture supportive of gender equality and non-discrimination.

Committee member Ms Belmihoub-Zerdani went back to the issue of polygamy, which was abolished from the law in 1993, and asked if the position of Muslim law was integrated into the Family Law Code. Herself a Muslim, she observed that if this is not the case the Family Law Code should be applied to all populations regardless of their religious beliefs. The Family Code itself should make clear the financial rights of women upon divorce, making possible marriage contracts that stipulate division of property between husband and wife, including child custody. She also was curious how customary law and civil law can run parallel to each other when the CEDAW Convention is ingrained in the Constitution. The delegation acknowledged that the rise of polygamy among Muslims is a unique case, and that they have not yet started dealing with the issue. The practice itself is illegal under the current legal code.

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<sup>14</sup> CEDAW/C/BDI/CO/4, paragraph 10, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

Committee member Ms Tan voiced her concern specifically on the vulnerability of widows. Under customary law, a wife has no rights in the husband's family except through her son. Even if she is fortunate enough to have one, women do not have the final custody over him and widows are frequently chased out of their homes with no means of financial subsistence. Hence many Committee members requested the delegation to provide initiatives taken by the Government to secure the personal status, inheritance, and custody rights of widows. In response, the delegation stated that direct support to the most vulnerable widows, through means such as economic capacity-building projects, comes from the Ministry of National Solidarity in collaboration with the Gender Ministry. The children of widows are provided aid when classified them as orphans. However, inheritance rights are still regulated primarily by customary law.

### Conclusions and next steps

During the session there were some comments on what Burundi should do to move forward in enhancing the rights of women. In particular, Ms Belmihoub-Zerdani reminded the delegation that rich countries and the UN are obligated through the Beijing Declaration and Platform of Action to help countries such as Burundi. All Burundi would have to do is ask, and both financial and technical aid would be provided.

In her concluding statements, Ms Nduwayo expressed her satisfaction of the approach of the Committee, which enabled the delegation to engage in a frank and constructive dialogue. She mentioned for future reference that her delegation would have answered the Committee's questions with more detail if more time has been given to them to prepare for a response, especially with regards to specific statistical data. All in all the Burundi delegation acknowledged that there are discriminatory provisions in their legal system.

Ms Simonovic responded that she appreciated the dialogue as well, and commended Burundi's achievement of incorporating the Convention into the Constitution. She also mentioned that the participation of women in Parliament is among the highest in the world. However further legislative action needs to be made, including the ratification of CEDAW's Optional Protocol. This was echoed in the concluding observations as well, which requested priority be given to the recommendations in the document and that the text be widely distributed to all relevant ministries, to parliament, and the judiciary as well as the general population in order to ensure its effective implementation.<sup>15</sup>

The Committee invited Burundi to submit its fifth and sixth periodic reports in a single document by February 2013.

*Last revised and updated: 25 March 2008.*

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<sup>15</sup> CEDAW/C/BDI/CO/4, paragraph 46, available at: <http://www2.ohchr.org/english/bodies/cedaw/cedaws40.htm>

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## **ABOUT THE PUBLICATION**

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