

BURUNDI

CERD A/35/18 (1980)

155. The initial report of Burundi (CERD/C/15/Add.3) was introduced by the representative of the reporting State, who informed the Committee that several important events had taken place in his country since the submission of the report, namely the first National Congress of the Party of Union for National Progress (UPRONA) and the introduction of a variety of measures to ensure social justice, including in particular the adoption of a new Code for Individuals and the Family which would enter into force on 1 April 1980. The First National Congress of the UPRONA Party had drawn up a National Charter for Economic and Social Development which had replaced the declaration mentioned in the report. The Congress had decided to prepare a constitution based on the principle of a single party system, under which the leader of the party would serve also as the head of State; the legislative, the executive and the control bodies would have separate roles; every citizen of Burundi would be able to take part in the running of the nation's affairs; and the right to own property, to receive education and to work, as well as freedom of worship and personal freedoms within the limits of the law and subject to respect for the rights of others would be guaranteed under the proposed constitution. At the international level, Burundi had ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid and provided diplomatic and material support for peoples struggling against colonialism and foreign or racist domination. In conclusion, the representative stated that the initial report should be regarded as a preface to the more detailed report which his Government intended to submit as soon as possible.

156. Members of the Committee thanked the representative of Burundi for his statement which supplemented the written report and noted with satisfaction that the initial report was an interesting and useful document which contained sufficient information to show that Burundi was endeavouring to initiate a fruitful dialogue with the Committee and to adopt measures which would ensure respect for the Convention. They noted that, although this country did not as yet have a constitution, its Civil and Penal Codes appeared to give adequate guarantees that acts of racial discrimination would be prevented.

157. The Committee was pleased to note that Burundi had severed all relations with the racist régime of South Africa and congratulated its Government on making regular financial contributions to the activities of national liberation movements.

158. With regard to article 4 of the Convention, some members of the Committee stated that the text of article 75 bis of the Penal Code did not correspond exactly to the requirements of the Convention which was more comprehensive. More information was also needed concerning the implementation of article 4 (b).

159. The Committee was of the view that information regarding the rights listed in article 5 of the Convention was fragmentary and should be supplemented in the second periodic report, in particular as regards the agrarian reform and its results, the demographic and religious composition of the

country and the position and the legal status of refugees and foreigners with respect to the enjoyment of those rights. The Committee would be in a better position to discuss the implementation of this article of the Convention once it had seen the texts of the Charter for Economic and Social Development and the Constitution. Several members asked for more information regarding the type of single-party system Burundi intended to introduce. They asked whether in this system a balance of power would be established; whether the independence of the judiciary would be assured; and whether it would be tolerated if persons critical of the party in power formed an association in order to oppose it.

160. The information concerning implementation of article 6 was also considered incomplete. Members wished to know what penal, administrative and civil procedures were open to individuals who claimed to be the victims of acts of racial discrimination, including acts of discrimination by public officials. Mention was made of the right to appeal against miscarriages of justice, since it was not clear from the report whether victims of discrimination had the right of recourse and the right to reparation.

161. As far as article 7 of the Convention was concerned, it was felt that the report provided ample information concerning the implementation of this article. Members of the Committee, however, wished to know how many students were actually receiving higher education, and what were the details of the campaign launched by the Government to make the public aware of the problems of racial discrimination.

162. In reply to questions raised by members of the Committee, the representative of Burundi stated that in the event of a violation of provisions of the Convention, Burundi citizens had had two remedies prescribed by law: at the first level, they could lodge a complaint against the officials who had abused their powers and, at the second level, they could appeal under the system of dual jurisdiction against an initial judgement. With respect to the minority question, the representative said that Burundi society was multiracial, but it was impossible to obtain statistics on its ethnic components because there was nothing to distinguish the different ethnic groups, of which it consisted: those groups did not live in separate areas and they had the same language, religion, culture, customs and physical appearance. He also pointed out that Burundi was a country of asylum and it received many refugees from neighbouring countries who were integrated into Burundi society and enjoyed the same rights as Burundi citizens. Burundi had ratified the 1951 Geneva Convention and the 1967 Protocol relating to the Status of Refugees, as well as the Organization of African Unity Convention on Refugees.

163. Replying to other questions, he stressed that, although Burundi had a single party system, it was a democratic one which allowed criticism and self-criticism. With regard to agrarian reform, the system of métayage had been abolished upon the advent of the Second Republic and the present Government was redistributing to poor peasants the land which had been appropriated by officials of the previous régimes.

164. He assured the Committee that his Government would take into account, in preparing its next report, the very pertinent observations made by members of the Committee and that it would provide the requested additional information.

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234. The second periodic report of Burundi (CERD/C/62/Add.1) was introduced by the representative of the reporting State who, supplementing the information given in the report on articles 5 and 6 of the Convention, stated that Burundi was studying the possibility of ratifying the International Covenants on Human Rights, whose provisions it was already implementing. Moreover, it was taking an active part in the preparation of an African charter of human rights and rights of peoples. In order to bring the courts closer to the people, Burundi had set up courts in all but two of its communes, and that shortcoming would soon be remedied. It had undertaken a systematic inspection of the courts and public prosecutors' departments in order to retain only those officers of the law who were politically and morally responsible. The Judicial Supervisory Commission was endeavouring to expedite judgements and their execution. In order to modernize and update the law of Burundi, several instruments had been adopted, among them a bill for the reform of the Criminal Code and a bill concerning the establishment of an administrative tribunal. Moreover the draft fundamental law of the Republic of Burundi would probably be submitted to the competent bodies in the course of the year. The representative also informed the Committee about various activities which had been organized in his country to make the population aware of the problem of racial discrimination.

235. Members of the Committee considered that the Government of Burundi had submitted a most conscientious report, drawn up in accordance with the Committee's guidelines, and had well set out the efforts it was making to meet the requirements of the Convention. In that connection, it was suggested that the attention of the Burundi Government should be drawn to the mandatory articles of the Convention so that they could be included in the draft constitution which was to be the subject of a referendum during the current year.

236. In connection with article 2, paragraph 2 of the Convention, members of the Committee stated that they were aware of the difficulties of national unity in the African countries caused by ethnic or tribal problems inherited from the colonial era, and expressed the opinion that it might be useful for the Committee to receive some information on the demographic composition of the population of Burundi in order to understand certain problems that the country was currently facing and the environment in which the convention was being implemented. They wished to know, in particular what was the distribution of Hutus and Tutsis in the population and how many refugees and stateless persons there were in Burundi. One member requested clarification on the information given in the report, according to which there were 2,000 students representing 10 nationalities at the University of Burundi, while it was also stated in the report that the population of Burundi was homogeneous. Another member asked what measures had been taken to enable the disadvantaged groups which had existed in Burundi to reach the average standard of living of the population.

237. With regard to article 3 of the Convention, it was asked what were the sanctions referred to in the report that Burundi applied to countries which made racial discrimination a constant of their national policy. The texts of the orders and Ministerial decisions referred to in that connection should be communicated to the Committee.

238. With reference to article 4 of the Convention, it was observed that article 75 bis of the Criminal

Code of Burundi did not appear to cover the financing of racist activities and it was suggested that, perhaps, the Government of Burundi could redraft that article and make it more consistent with the requirements of article 4 (a) of the Convention. It was also observed that under the Order of 8 May 1959, associations which occasioned or would be likely to occasion a breach of the peace or of public order could be disbanded, but the Order did not prohibit such associations in advance. The hope was therefore expressed that future reports would give an account of further legislation to implement, in particular, the provisions of article 4 (a) and (b) of the Convention.

239. In connection with the implementation of article 5 of the Convention, members of the Committee asked what were the components of the Burundi Government's humanitarian policy concerning refugees; where the refugees existing in the country came from; what their status was as foreigners, how they could acquire Burundi nationality; and what rights and benefits were recognized for refugees in practice, which might encourage them to adopt Burundi nationality. Furthermore, members wished to know what were the social conditions which had resulted not only in the factual existence of a single party but also in the exclusion of other parties in the Constitution. It was asked whether the population at large could determine its own political destiny or whether the single party had absolute authority. Information was requested concerning the conditions for equal access to the civil service, the procedures which enabled Burundi citizens to leave their country and the number of citizens who went to other countries to seek work or to join their families. With regard to the right to marriage, it was noted that the only impediments to marriage concerned conditions pertaining to age and degrees of kindred. Further information was requested on the latter point. In connection with the right to own property, it was observed that the report did not give sufficient information on the system of property-ownership in force, and it was asked exactly what was meant by "full and final liquidation of the institution known as 'Ubugererwa' " contained in the report. Members of the Committee also wished to know whether there was more than one newspaper in Burundi and if it was possible to publish newspapers which were not controlled by the Government; whether the Union of Workers of Burundi was the only trade union existing in the country and how it was constituted; whether it was possible to establish more than one trade union in Burundi; whether the law guaranteed the right of access to any place or service intended for use by the general public; and whether provisions to that effect would appear in the future constitution.

240. With reference to article 6 of the Convention, members of the Committee wondered whether the detailed rules established in order to bring the legislation into line with the principles of the Convention had been exactly followed in practice; whether there had been cases of infringement and whether justice had been set in motion to remedy any injury. In addition, it was asked what "other body", referred to in the report, than the ordinary courts and specialized courts, was competent to have before it cases of violation of the rights recognized in the Convention. Members of the Committee also wished to receive details concerning recourse procedures in the event of racial discrimination and to know whether there were in Burundi provisions for legal assistance for disadvantaged persons to enable them more effectively to assert their rights in the courts, and whether there was any provision for redress for any injury which might result from discrimination in civil or criminal Procedure.

241. With regard to article 7 of the Convention, it was asked whether programmes had been drawn up to familiarize Burundi citizens with the cultures and civilizations of neighbouring areas and other countries both developed and developing; what the content of the educational syllabuses was,

whether they embodied measures to combat the prejudices which might result in discrimination, whether they encouraged mutual understanding and tolerance between peoples and nations, and whether they sought to inculcate the purposes and principles of the United Nations. In addition, more information was requested on the way in which democratization was put into operation in the educational system of Burundi, and also on the introduction of the Kirundi language as the medium of primary schooling, especially taking into account the several dialects spoken in the country and the tribal system which had not entirely disappeared. It was asked specifically whether it implied that all lessons would be given in Kirundi or that Kirundi would be taught.

242. The representative of Burundi, replying to a number of questions, informed the Committee that the draft constitution of Burundi, which would cover all the provisions of the Convention, was at present under discussion at a high level, and would no doubt be considered at one of the forthcoming communal congresses.

243. Referring to questions regarding the implementation of article 2, paragraph 2 of the Convention, he stated that it was very difficult to obtain statistics concerning the ethnic composition of his country's population whose roots went back to time immemorial.

244. With reference to article 3 of the Convention, he explained that although Burundi had never maintained any diplomatic or economic relations with South Africa, it had provided for the imposition of sanctions under Chapter VII of the Charter of the United Nations.

245. Turning to questions under article 5 of the Convention, the representative informed the Committee that Burundi had been admitting the refugees from neighbouring countries ever since it had obtained its independence in 1962. As these refugees at present numbered 200,000, they created a difficult situation for a country faced with its own development problems, and the assistance of the competent international organizations and of friendly countries had therefore been sought. The fact that the refugees came from neighbouring countries and had the same culture as the local population facilitated their integration. They had the same rights as citizens of Burundi with respect to access to the labour market, health services and education. Many refugees had taken advantage of legislation enacted in 1971 to enable them to acquire the nationality of Burundi. Those who had done so were eligible for service in the highest offices of State. He also stated that all citizens were guaranteed the right to express their views within the single-party system, and provided information, in particular, about the participation of all sections of the population in the preparation, execution and monitoring of the five-year national plan. The code of personal and family law gave equal status to the spouses. It prohibited consanguineous, polygamous and bigamous marriages, marriages of minors and marriages without the consent of both spouses. The "Ubugererwa" system, which was a retrograde system of share-cropping, had been abolished by new acts promulgated for the purpose. With regard to freedom of the press, there was in his country a wide range of newspapers, including a semi-official publication, a French-language newspaper, trade union and youth movement publications, technical, scientific and legal journals and religious publications. The representative also explained that when Burundi had first emerged as an independent nation, it had had about 40 political parties and 10 trade unions. The UPRONA party had won more than 90 per cent of the votes in the elections that had been held under United Nations supervision. In 1967, the 10 trade unions had decided to amalgamate into a single union with 18 federal branches. Various opinions were represented and members could engage freely in criticism. The union was founded on legislation

which reflected the wishes of its members.

246. With reference to article 6 of the Convention, the representative stated that the State paid the legal costs of those not in a position to meet them and provided a lawyer for their defence. No complaint concerning violation of the Convention had so far been heard. The Convention had become part of the legal order of Burundi and the relevant remedies were therefore established by law. As regards the question concerning recourse to courts or other competent bodies, he explained that those bodies were the specialized courts referred to in the report.

247. In connection with article 7 of the Convention, the representative informed the Committee that there was in Burundi a ministry which was specifically responsible for providing information on the civilization of Burundi, that Burundi was a member of the linguistic centre which had been established for East African countries and that the national language, Kirundi, was being introduced throughout the primary school curriculum. Furthermore, every effort was being made to promote human rights particularly in schools, where teaching on international humanitarian law, the Charter of the United Nations and the United Nations system was given. Whenever a convention was ratified by the Government, the relevant provisions were quoted in newspapers and other publications.

248. The representative of Burundi finally assured the Committee that fuller replies to their questions would be provided by his Government in its next periodic report.

CERD A/44/18 (1989)

370. The third, fourth and fifth periodic reports of Burundi, submitted in one document (CERD/C/145/Add.1), were considered by the Committee at its 847th and 848th meetings, on 18 August 1989 (CERD/C/SR.847 and 848).

371. The report was introduced by the representative of the reporting State, who stated that the Constitution of the Republic of Burundi, adopted in 1981, confirmed its determination to ensure protection of the dignity of the human being and the recognition and protection of human beings and people's rights.

372. He stated that his Government remained convinced that apartheid was a negation of the universal principles of equality of all human beings. His Government did not maintain diplomatic, military, economic or other relations with the South African régime. He further explained that the Burundi Movement for Support to Southern Africa, set up in 1984, contributed to the international campaign against apartheid and informed public opinion about the crimes of apartheid and misdeeds of racial discrimination.

373. The representative of the reporting State said that through its regulatory and legislative system as well as in its administration and legal practice, his country showed its attachment to the universally recognized value of equality of all rights and obligations without distinction as to sex, origin, colour or race. The Penal Code of Burundi prescribed penalties against racial or ethnic aversion.

374. He stated that since 3 September 1987 Burundi had been living in an era of change with the commencement of the Third Republic. Among the many reasons for the change was the concern to ensure better respect and protection for the physical and moral integrity of the human being and for his property, and to establish social justice for all.

375. He said further that the events in the north of the country, which in August 1988 had resulted in massacres, had sprung from external aggression and were in no way a problem of the domination of one ethnic group over another. Since the events of Ntega and Marangana in August of last year, the Third Republic had broadened the Government to include persons from both major ethnic groups and had established a commission to study the question of national unity. The Commission had published its recommendations on 13 May 1989, and had advocated, in particular, the adoption of a new constitution and a charter of national unity as well as a more open access to public employment. In this regard, the representative of the reporting State informed the Committee that a more detailed explanation of the positive developments in his country would be presented in the sixth periodic report.

376. Members commended the reporting State and said that in spite of the major changes that had taken place since the report was prepared, the Government had not withdrawn the report that had been submitted by the previous régime, but had chosen to press ahead and to inform the members candidly and honestly about the developments since 1987. Members thanked the representatives of the reporting State for their honest and straightforward description of the current situation in their country. It was observed that the representative of Burundi had not concealed the ills of the past and

the fact that massacres had taken place.

377. The Committee pointed out that the reports had not provided further answers to questions raised by members when the second report was considered. In this respect, it was hoped that the sixth periodic report would contain a detailed account of actions taken as a result of the recommendations made by the National Commission. A member observed that if Burundi was to achieve reconciliation, it must at the very least ascertain whether in the massacres of August 1988 any soldiers were given unlawful orders and which soldiers were responsible for atrocities. Those apparently responsible should be brought before appropriate tribunals. A member wished to know if there had been any prosecutions in connection with the prohibition of incitement to racial hatred.

378. It was observed by several members that the most serious problem in Burundi would be to combat discrimination, particularly in the army, public administration and in education. One member maintained that, if Hutu confidence was to be gained, the Government would need to publish for the army, and for other State institutions, specific goals and monitoring procedures. Members requested that the next periodic report should provide information also on the demographic composition of the country.

379. Members noted that the previous Government had failed to pay its annual assessed contributions under the International Convention on the Elimination of All Forms of Racial Discrimination. The new Government could demonstrate its good intentions by rectifying that situation and also by making the declaration under article 14 of the Convention.

380. In response to questions raised and observations made by members of the Committee, the representative of Burundi stated that the fundamental objective of the Third Republic was the reconciliation of the people of Burundi. He said that in Burundi, the ethnic question was the subject of a debate at all levels and sectors of the society; it was no longer a taboo question. From top to bottom, dialogue was the keyword of the new régime.

381. He said that the events in August 1988 had been caused by extreme elements, mostly from outside, who had incited the people to commit atrocities. The army had intervened to restore order; without the intervention of the army, the representative asserted, the country would probably have been destroyed. He pointed out that the majority of those who had fled from the country had heeded the call of the Government and had voluntarily returned. He said that by May this year only about 956 persons out of 48,000 refugees had not yet returned. The returnees had returned to their villages, and regained their houses and employments.

382. He further stated that the composition of the Military Committee, to which members of the Committee had referred as being exclusively composed of Tutsis, was due to the fact that there were no senior Hutu officers in the army since 1972. He stated, however, that with the new policy of the Third Republic to include Hutus in all sectors of public life, the situation would soon be rectified. The Government of Burundi was fighting from several fronts: regionalism, tribalism, as well as the problems of a land-locked country. As long as these questions had not been regulated and the mistakes of the past had not been corrected, it could be difficult to achieve national unity.

383. The representative of the reporting State informed the Committee that the Government had

decided to take measures to ensure that such massacres would not happen again in the future. He said that the questions raised and observations made by the members would be transmitted to his Government and would be taken into account in the preparation of the next periodic report.

384. As regards the non-payment of its assessed contributions under the Convention, he said that the delay was not due to lack of will on the part of the Government, but probably to lack of means, since Burundi was a poor country. He assured the members, however, that all would be done to ensure that the assessed contributions were paid.

CERD A/46/18 (1991)

79. The sixth periodic report of Burundi (CERD/C/168/Add.1) was considered by the Committee at its 894th meeting, held on 7 March 1991 (see CERD/C/SR.894).

80. The report was introduced by the representative of the State party, who informed the Committee of the most important changes that had taken place in Burundi since the advent of the Third Republic on 3 September 1987. Foremost among them was the adoption by the Special Congress of the UPRONA (Union for National Progress) Party, in December 1990, of the Charter of National Unity, which was subsequently approved in a national referendum, with 89 per cent of the votes being cast in favour. The Charter of National Unity constituted a general platform for the full exercise of all human rights, including the elimination of racial discrimination. It rejected violence, upheld the right to life, proclaimed the equality of all citizens and the free exercise of public and individual freedoms, recognized the right of every citizen to education and training, guaranteed the right to own property and advocated the organization of society on a democratic basis. A new constitution, which would certainly not depart from the guidelines contained in the Charter of National Unity, was to be drawn up and put to a referendum by the end of 1991. Other important developments included the consolidation of national unity through the implementation of the Charter, an immediate analysis of the refugee question and of the question of compensation for the victims of the ethnic clashes that had occurred in Burundi and the establishment of permanent democratic institutions.

81. The representative of the reporting State also informed the Committee of some new developments that had occurred since the preparation of the report, indicating, in particular, that the Government of National Unity had taken further steps to give concrete form to universally recognized values, including the implementation of policies in keeping with the ethics of unity in such sensitive fields as education and employment, where everything was now being done with the greatest transparency and without any discrimination, and ensuring that human rights were guaranteed for all Burundi citizens without any discrimination, the only constraints being due to Burundi's status as a least developed country. Notwithstanding the progress made, much remained to be done. The support of the international community, particularly of the United Nations Centre for Human Rights through its programme of advisory services, in providing information and training at all levels and for all socio-professional groups, in both urban and rural areas, including training in the administration of justice and for the police and army, would be most valuable in ensuring the success of the Government's initiatives.

82. Members of the Committee welcomed the changes that had taken place in Burundi since 3 September 1987 and congratulated President Buyoya for initiating measures for national reconciliation. They noted with special satisfaction that the most flagrant measures of discrimination against the Hutus in schools had been eliminated and that leaders of both ethnic groups were involved in promoting national unity and, for the first time, had agreed to discuss common problems. At the same time, members expressed the view that there was as yet no concrete evidence to suggest that the conditions that had caused the events of 1988 had changed significantly. With regard specifically to those events, members wished to know what judicial proceedings had been taken following the violent disturbances in the north of the country in August 1988; whether the initial arrests and detentions had been followed by measures of clemency and liberalization; and whether penalties had

been imposed on military personnel guilty of violence at that time. They also noted that requests for details of action taken by Burundi on the Committee's recommendations had gone unheeded and that little factual information had been provided. Members also wished to receive demographic data on the Tutsi and Hutu and more information on the balance between the two ethnic groups in all areas of public life.

83. With reference to article 2 of the Convention, members of the Committee wished to know what effective measures had been taken by the Government of Burundi, pursuant to paragraph (c) of that article, to nullify discrimination and to ensure that there was no discriminatory application of texts such as those specified in paragraph 18 of the report, and whether any relevant supervisory procedure had been set up.

84. Regarding article 4 of the Convention, members of the Committee requested that the texts of national laws relevant to the implementation of provisions contained in paragraphs (a) and (b) of article 4 be provided to the Committee.

85. With respect to article 5 of the Convention, members of the Committee wished to know what assurance the Hutus had of equal treatment before the courts and whether any effort had been made to strike a more appropriate balance between Tutsi and Hutu elements in that regard; whether access to legal remedies was readily available; what specific measures had been taken to encourage Hutus to re-enter the educational system at all levels; whether any reforms of the educational system could be expected in the near future; what measures were being taken to reduce tension between Hutu clerics and the Tutsi elite, both secular and religious; whether the churches were being allowed to play a role in reconstruction and national reconciliation; and whether there was freedom of religion in Burundi and how such freedom was exercised. Noting that the army in Burundi continued to be 98 per cent Tutsi, members wished to know whether that situation would remain unchanged in the foreseeable future and how the ethnic balance was to be improved. They also wished to know what the role of the army would be in the future, if and when national reconciliation had been effected and whether the army would be disarmed to an appreciable extent. Members also sought more information on action to rectify the ethnic imbalance in civil service posts and in the labour market generally. If the UPRONA Party was monopolized by the Tutsi, the planned strengthening of that party or of any other institution might increase the difficulties. It was asked whether a multi-party system might be considered.

86. With respect to article 6 of the Convention, members of the Committee were of the view that, in general, more information was needed on the implementation of the provisions contained in that article, especially concerning the effectiveness of court proceedings against racial discrimination and access to legal remedies.

87. The representative of the State party, replying to the questions raised and comments made by the members of the Committee, explained that the ethnocentric concept had been introduced into the society and politics of Burundi by the colonial Power which, playing on the differences between the Tutsis and the Hutus, had laid the foundation of an administration based on privilege. After independence, a power vacuum left by the assassination of the Prince had exacerbated discord among the elites, leading to the bloody events of 1965. A policy of discrimination in the army and in education had further accentuated ethnic strife, which the Government of the Second Republic had

proved unable to curb. The Government of the Third Republic, which had taken office in September 1987, had had the great merit of recognizing the problem of inter-ethnic tension and launching a national debate on the issues involved at all levels of society and public life. Even an expert would find difficulty in providing information on the ethnic distribution of Hutus and Tutsis, since the distribution of population in Burundi was not based on ethnic considerations. With regard to the events of 1988, the representative said that justice had taken its course following the events of 1988 and that the President of the Republic had subsequently amnestied all those charged with offences in connection with those events. He also informed the Committee that the recently established human rights leagues were multi-ethnic in composition, that their function was to enhance and protect human rights, and that they were independent of the public authorities.

88. With regard to questions raised concerning article 2 of the Convention, the representative of the State party said that non-discrimination was amply provided for in legislation and other statutory instruments and that what was important in the actual situation was the political will to ensure their application in practice. Monitoring procedures now existed at the level of the party and the administration through various commissions. Although the Government was making efforts to improve the situation, some isolated cases of discrimination still occurred. Such cases were duly penalized according to the legislation in force.

89. Concerning article 4 of the Convention, the representative explained that the relevant article of the Penal Code provided for sanctions against anyone who manifested racial or ethnic aversion or hatred or committed an act likely to stir up such aversion or hatred, but a text of that nature could not be expected to contain specific details of such sanctions. So far no one had been convicted under that article, although certain persons had been held for questioning but later released on grounds of insufficient evidence.

90. With reference to article 5 of the Convention, the representative of the State party said that everyone in Burundi was equal before the law. The judiciary was independent and ensured equal treatment of all citizens. The Catholic Church of Burundi had been the first to denounce the violations committed under the Second Republic and was endeavouring to promote reconciliation, notably through its participation in human rights associations. The predominance of Tutsis in the army should not be seen as an obstacle to national reconciliation, since it was a national army and its purpose was not to defend the Tutsis. After the proclamation of the Third Republic in 1987, the Military Committee for National Redemption had been replaced by the Party Congress, which had elected the Central Committee of the UPRONA Party in which the Hutus and Tutsis were equally represented and which comprised representatives of all socio-political sectors. Both the Hutus and the Tutsis were represented in the civil service. The Government's policy was progressively to ensure fair representation at all levels of the administration, beginning with the Government, where the Hutus already outnumbered the Tutsis. The ever-present aim was to promote national unity.

91. With regard to recruitment for both the public and private sectors, a tripartite recruitment commission had been established in July 1988 with responsibility for all matters relating to recruitment, posting of vacancies, contacts between employers and employees, and other labour issues. At the beginning of 1990, a special commission had been established with wide powers concerning recruitment for the civil service. In education, a fellowships and training commission had been established, and the national examination for admission to secondary school had undergone a

thorough reform based on the principle of non-discrimination. A commission for the repatriation of refugees had also been set up and its role and financial resources had been substantially strengthened. Since Burundi was a country with a single culture and a single language, there were no distinctions between the two ethnic groups in regard to culture and language.

Concluding observations

92. Concluding the consideration of the report of Burundi, members expressed their appreciation of the responses given by the representative of Burundi to the questions raised. They expressed the hope that in the next report extracts from the country's legislation corresponding to specific provisions of articles 2 to 7 of the Convention would be provided, as well as information on the extent to which those articles had been implemented through judicial or administrative measures. They hoped that specific information could also be given on the representation of the Hutus in the army, the public service, the UPRONA party, the Parliament and the Government to measure progress in realizing national unity. The repatriation of refugees and the gradual elimination of institutionalized discrimination in education augured well for the future.

CERD A/49/18 (1994)

30. In view of reports of ethnic conflict in Burundi, the Committee decided at its forty-first session to request, in accordance with article 9, paragraph 1, of the Convention, further information from the Government of Burundi on that conflict and on its implications for the implementation of the Convention, in particular the provisions of article 5 (b). No written reply was received in response to that request. At its 1026th and 1027th meetings, on 9 March 1994, the Committee reviewed the implementation of the Convention in Burundi.

31. The representative of the State party indicated that the crisis which her country was currently undergoing was the most serious of the ethnic crises that had ravaged Burundi for more than 30 years; the latest crisis had claimed the life of the first democratically elected President of the Republic and had led to numerous massacres throughout the country. Between 30,000 and 50,000 people had been killed, 800,000 had taken refuge outside the country, mainly in Rwanda, and 300,000 had moved to other parts of Burundi. The representative of the State party said that she wished to provide all necessary clarifications on the ethnic problems and violations of human rights in Burundi, and was open to all questions. She emphasized that her country needed international assistance.

32. Members of the Committee thanked the representative of the State party for her frank account of the events that had occurred in her country and emphasized the seriousness of the crisis which Burundi was undergoing, a crisis that constituted a set-back for the incipient move towards democracy and respect for human rights. The members then examined the conformity of domestic legislation with the provisions of the Convention. The Constitution adopted in 1992 and approved by 90 per cent of the population in a referendum provided for equal status and equal protection for all without discrimination, but often the exercise of the human rights embodied in the Constitution was subordinated to public requirements which restricted them. In addition, many constitutional provisions for the protection of human rights, such as those prohibiting unlawful detention, had no laws to give them effect. The Charter of National Unity, which took pride of place over all legislation, including the Constitution, should be accepted by all political organizations; it would be useful to have fuller details of the content of that Charter. Members also asked who, at the present time, was effectively wielding power in Burundi.

33. Members of the Committee noted that the new constitutional rules regarding political rights and the exercise thereof were in conformity with article 5 (c) of the Convention. On the other hand, they pointed out that there was a failure to comply with article 5 (b) of the Convention, since numerous summary executions and cases of torture had occurred in November 1991 and April 1992. Similarly, numerous cases of brutal repression by Tutsi against Hutu suspected of belonging to the Palipehutu party had been mentioned by non-governmental organizations and by the Human Rights Committee. Were efforts being made to reform the army, to conclude agreements with the Palipehutu party, as well as with neighbouring countries on the question of refugees, and to curb, if not halt, the arms traffic?

34. Concerning article 6 of the Convention, it was noted that there was no effective remedy in Burundi for victims of human rights violations.

35. With regard to article 7 of the Convention, it was asked whether measures had been taken to teach human rights to judicial, police and prison personnel.

36. Members inquired about the emergency measures which the Government intended to take to remedy the crisis situation, and drew its attention to articles 4, 2 (1) (e) and 5 (e) of the Convention, which required States parties to take positive measures in accordance with the aims of the Convention. They also asked the representative of Burundi to give her opinion concerning the establishment of a tribunal which would put an end to the impunity enjoyed by those responsible for massacres and coups d'état.

37. Replying to the questions and comments of members of the Committee, the representative of Burundi stated that, following the assassination of President Ndadaye and his close associates, it had been decided that the process initiated by the first free elections in the country's history should not be interrupted and, in February 1994, a new President belonging to the same political party as the assassinated President had entered office. The new President had taken as Prime Minister a member of an opposition party, and 40 per cent of the Government was composed of members of opposition parties; the ethnic problems that existed in Burundi could only be resolved through the establishment of a balance in the exercise of power between all the ethnic groups - Hutu, Tutsi and Twa - that lived in Burundi. In order to prevent a recurrence of coups d'état such as that of October 1993, international assistance was needed to train the armed forces and the police in the area of human rights. International assistance was also needed to enable the Government to combat the impunity now enjoyed for over 30 years by persons responsible for coups and massacres. The dialogue that had taken place between all parties in Burundi had led to the elaboration of the Charter of National Unity, but insufficient account had been taken of the role and importance of the army.

Concluding observations

38. At its 1039th meeting, on 17 March 1994, the Committee adopted the following concluding observations.

Introduction

39. It is regretted that the Government of Burundi did not submit the further information which had been requested by the Committee. However, it is noted with satisfaction that a delegation was present to respond to the questions and comments of Committee members. Appreciation is expressed to that delegation for a most frank and useful dialogue.

Principal subjects of concern

40. Shock is expressed over the outbreak, once again, of massive ethnically motivated violence in Burundi and the subsequent systematic human rights violations to which members of both the Hutu and Tutsi communities have been subjected. Concern is expressed that the recurrent violence constitutes a serious impediment to peace, stability and respect for human rights in the region.

41. Concern is expressed over the cyclical nature of large-scale ethnic violence in Burundi and it is noted with alarm that there is no effective prohibition of incitement to such violence either in the

armed forces and the police or among the general public.

42. It is deeply regretted that the democratically elected Government of President Ndadaye was brutally attacked by military forces in the attempted coup d'état of 21 October 1993 and that the significant progress that had been made towards strengthening democratic institutions in Burundi has been jeopardized.

43. Concern is expressed, in particular, that major reform of the military remains to be undertaken with a view to bringing it under effective civilian control and to broaden its ethnic composition to reflect more adequately the composition of the population. Concern is also expressed that major reform needs to be undertaken with respect to the judiciary and the public service, which also do not reflect the ethnic composition of the population.

44. Deep concern is expressed that an atmosphere of impunity continues to prevail in Burundi. As in the past, the lack of effective investigation, prosecution and punishment of those guilty of human rights violations committed against both ethnic communities threatens to undermine efforts to strengthen the rule of law and build confidence in democratic institutions. Concern is expressed that the impunity of perpetrators of human rights violations is one of the factors contributing to the threat of renewed and unrestrained violence.

45. Concern is expressed over the inadequate response of the international community to assist Burundi in dealing with the serious and difficult problems confronting it.

Suggestions and recommendations

46. The Committee strongly recommends that decisive steps be taken immediately at the international, regional (through the Organization of African Unity) and national levels, and through the Secretary-General of the United Nations, to break the vicious cycle of ethnic violence and atrocities that continues to erupt regularly in Burundi. To that end, the Committee supports the call of the Government of Burundi for international cooperation to assist it in its efforts to restore stability and to strengthen democratic institutions. In that connection, the Committee emphasizes the need to restructure the military, the police and the public service in order to bring them under effective civilian control. The Committee also emphasizes the urgent need to take steps to foster, at all levels of society, a dialogue of reconciliation which includes the military and other security forces.

47. The ethnic conflict in Burundi is paralleled by a conflict in Rwanda involving members of the same two groups. It is doubtful whether one State can resolve the conflict within its borders unless the conflict in the subregion is resolved.

48. The Committee recommends that major reform of the judiciary be undertaken and stresses that adequate legal safeguards must be put in place to ensure the security of members of all ethnic communities and their access to effective judicial recourse.

49. The Committee strongly urges the Government of Burundi to make a determined effort to bring an end to the impunity of the perpetrators of the ethnically motivated massacres and other racially based human rights violations that have ravaged the country. In this connection, the Committee

emphasizes the need for the investigation, prosecution and punishment of perpetrators by the Government of Burundi in order to restore confidence in the rule of law and also as an indication of resolve that a recurrence of those crimes will not be tolerated. To that end, steps should be taken immediately at the international level to lend more support and assistance to the Government of Burundi with a view to ending the violence, to help in finding a lasting solution to the ethnic tension and to create conditions to encourage the return of the refugees.

50. The Committee recommends that the Government of Burundi request technical assistance from the Centre for Human Rights in all aspects of strengthening democratic institutions and promoting respect for human rights, with the possible assistance of one or more members of the Committee. Such assistance would be useful particularly with respect to legislative and judicial reform, the training of law enforcement officials, the establishment of a national institution for the protection of human rights and the development of education programmes aimed at encouraging inter-ethnic tolerance and understanding.

Further action

51. In accordance with article 9, paragraph 1, of the Convention, the Committee requests further information from the State party on measures taken to implement the provisions of the Convention in the light of the concluding observations adopted by the Committee at its forty-fourth session. The State party is requested to provide that information by 30 June 1994 so that it may be considered by the Committee at its forty-fifth session.

52. At its 1063rd meeting (forty-fifth session), held on 16 August 1994, the Committee gave further consideration to the situation in Burundi (see sect. B below).

562. At its 1238th and 1239th meetings, held on 19 and 20 August 1997, the Committee considered the seventh to tenth periodic reports of Burundi (CERD/C/295/Add.1), and at its 1242nd meeting, held on 21 August 1997, adopted the following concluding observations.

Introduction

563. The Committee welcomes the resumption of the dialogue with the State party and the presence of a delegation from the capital to present the report. While noting that the report fails to provide concrete information on the implementation of the Convention in Burundi, the Committee expresses its satisfaction to the delegation for answering the many questions raised by members of the Committee during the course of the dialogue.

Factors and difficulties impeding the implementation of the Convention

564. The Committee recognizes that Burundi is facing many difficulties that have an impact on the implementation of the Convention. In this regard, the Committee refers in particular to the violent ethnic conflict in the States of the Great Lakes region, including Burundi; the civil conflict plaguing the country; the massive displacements of populations and flows of refugees within the region, as well as the numerous internally displaced persons; the political instability; and the very difficult economic and social situation, aggravated by the imposition of an economic embargo against the State party since 31 July 1996.

Positive aspects

565. The Committee warmly appreciates the efforts of the State party to submit and present its report under adverse circumstances. The Committee welcomes the declared willingness of the State party to restore peace and security in Burundi through political dialogue, to be held in September 1997 in the United Republic of Tanzania, which could, hopeful, produce a government satisfactory to all parties. The declared policy of the Government to end impunity for perpetrators of human rights violations is also welcomed by the Committee.

566. The establishment of a ministry responsible for human rights and of a national centre for human rights is welcomed. The fact that the Government encourages the establishment of independent leagues and associations for the promotion and protection of human rights is viewed as a positive factor.

567. The fact that the Penal Code, in its article 180, penalizes racial or ethnic discrimination and hatred, and that the Political Parties Act prohibits discrimination based on ethnic grounds and makes it an offence under its articles 5 and 63, respectively, is noted with satisfaction.

568. Note is taken with appreciation of the oral invitation to send members of the Committee into Burundi to assess the situation with respect of the implementation of the Convention in practice. This is viewed as a constructive means of pursuing the dialogue with the State party and shows the latter's

willingness to improve implementation of provisions of the Convention.

Principal subjects of concern

569. The main concern of the Committee is with the continuation of acts of violence and killings between people of different ethnic background in Burundi.

570. The understanding of the notions of “race” and “ethnic origin” by the State party, as expressed in paragraphs 5, 6 and 23 of the report, and reiterated by the delegation in its oral statement, is a matter of concern. The Committee emphasizes that article 1, paragraph 1, of the Convention defines as racial discrimination any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has either the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life. Moreover, the attention of the State party is called to the Committee’s General Recommendation VIII, which provides that the identification of individuals as members of a particular racial or ethnic group shall be based upon self-identification by the individual himself. In the present case, it is believed that an important part of the population of the State party identifies itself as being member of one of the three ethnic groups living in the country, either the Tutsis, the Hutus or the Twas, and that important parts of the population are living in conditions which do not guarantee the exercise of human rights under equal terms.

571. It is regretted that concerns expressed and recommendations made by the Committee in its concluding observations of 17 March 1994, and in its decision 1 (47) of 1995 and resolution 1 (49) of 1996 on the situation in Burundi, adopted under the Committee’s agenda item on prevention of racial discrimination, including early warning and urgent procedures, have not been addressed in the present report.

572. It is regretted that the status of Decree-Law No. 1/001 of 13 September 1996, which regulates the transitional institutional system and the current powers and activities of the National Assembly, as well as the functions and powers of the National Centre for Human Rights and the Abashingantahe Council, has not been fully clarified.

573. The insufficiency of information in the report in connection with article 3 of the Convention is regretted. In this respect, the Committee calls the attention of the State party to its General Recommendation XIX.

574. The Committee expresses concern over reports of delays in the process of prosecuting those responsible for the assassination of President Ndadaye. It is equally concerned over the slow process of prosecuting and punishing perpetrators of mass killings and disappearances. The delays cast doubts on the effective implementation of the Government’s policy of ending the pattern of impunity.

575. It is noted with concern that no specific legislation has been adopted to fully implement the provisions of article 4 of the Convention and that no information was provided in the report on the implementation of that article in practice.

576. The lack of information on the enjoyment by the various groups within the population of all the rights laid down in article 5 of the Convention is regretted, all the more so since numerous reports make reference to discrimination against the Hutus and the Twas in the enjoyment of certain rights, such as the rights incorporated in article 5 (a), (b), (d) (i), (e) (i), (iv), (v), and (f) of the Convention.

577. The insufficiency of information received on regroupment camps in general and, in particular, on the ethnic composition of the people in the camps and the situation and conditions of life prevailing therein, is regretted. Concern is expressed over reports that people, mostly of Hutu origin, are forced by the police to leave their homes and settle in regroupment camps, which are kept under the control of the army, in violation of article 5 (d) (i) of the Convention.

578. While the statement made by the delegation that an appeal was sent to Burundi refugees in neighbouring countries to return to Burundi is welcomed, the lack of information on measures taken to ensure their repatriation and their safe return is regretted. Similarly, the lack of information on the situation of refugees living in Burundi is regretted, all the more so since reports state that their right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual or group or institution, under article 5 (b) of the Convention, is not always guaranteed.

579. With respect to article 6 of the Convention, concern is expressed over the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of complaints against acts of racial discrimination raises doubts as to the extent of the publicity given to, and the effectiveness of, available remedies for victims of racial discrimination.

580. In connection with article 7 of the Convention, while the statements of policy and the programmes launched by ministerial departments cited in the report are welcomed, the lack of information on concrete steps undertaken to comply with its provisions is regretted.

Suggestions and recommendations

581. The Committee recommends that the next periodic report provide information on the representation of members of the Tutsi, Hutu and Twa ethnic groups in the government, the administration, the judiciary, the police and the army. It further recommends that the Government, while restructuring the country, take into consideration the Committee's concluding observations of 17 March 1994, its decision 1 (47) of 1995 and its resolution 1 (49) of 1996.

582. The Committee also recommends that information be provided by the State party in its next periodic report on the place of Decree-Law No. 1/001/96 within the domestic legal order and on the situation with respect to the current powers and activities of the National Assembly, as well as on the respective powers and functions of the National Centre for Human Rights and the Abashingantahe Council.

583. In connection with the implementation of article 3 of the Convention, the Committee recommends that, in the light of its General Recommendation XIX, comprehensive information be provided by the State party in its next periodic report on measures taken to prevent, prohibit and

eradicate all practices of racial segregation in Burundi.

584. The Committee urges the Government to further its efforts to bring to an end the impunity of the perpetrators of human rights violations and to accelerate the procedures currently under way. In this respect, the Committee emphasizes the need for the investigation, prosecution and punishment of those found guilty of such crimes, in order to restore confidence in the rule of law and as an indication that their recurrence will not be tolerated by the authorities.

585. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII (32). The Committee stresses in this regard that the State party should fulfil all its obligations under this article and that, in doing so, it take fully into account its General Recommendation XV (42).

586. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to enjoy their right under article 5 of the Convention, especially the right to equal treatment before the courts and all other organs administering justice; to security of person and protection by the State against violence or bodily harm; to freedom of movement and residence within the borders of the State; to work; to public health and medical care; and to education and training; and the right of access to any place or service intended for use by the general public. It further recommends that comprehensive information on the implementation of articles be provided in the State party's next periodic report.

587. Further information on the situation prevailing in the regroupment camps, as well as on the ethnic composition of people settled therein and the possibility for the latter to freely leave or settle in the camps, is requested.

588. The Committee also requests information in the next periodic report on measures taken to ensure the safe repatriation of refugees to Burundi and to protect from violence refugees living within Burundi.

589. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of acts of racial discrimination be guaranteed in law and practice.

590. In connection with the implementation of article 7 of the Convention, the Committee recommends that all necessary measures be taken to provide training and education of law enforcement officers, civil servants, magistrates and lawyers, as well as teachers and students, at all levels of education, in the field of human rights and prevention of racial discrimination.

591. The Committee, being aware that the resolution of the ethnic conflict in Burundi cannot be achieved without a resolution of the conflict in the Great Lakes region, urges the Burundi authorities to take all necessary measures, in cooperation with neighbouring countries, to find ways and means to restore peace and security in Burundi.

592. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

593. The Committee recommends that the State party's next periodic report, due on 26 November 1998, be a comprehensive report and that it address all the points raised in the present observations.