



Convention on the Rights of the Child

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Committee on the Rights of the Child Fifty-fifth session

Summary record of the 1553rd (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Thursday, 16 September 2010, at 10 a.m.

Chairperson: Mr. Zermatten (Vice-Chairperson)

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties (*continued*)

Second periodic report of Burundi on the implementation of the Convention on the Rights of the Child (CRC/C/BDI/2; CRC/C/BDI/Q/2; CRC/C/BDI/2/Add.1 and additional material distributed in the meeting room without a symbol)

1. *At the invitation of the Chairperson, the delegation of Burundi took places at the Committee table.*
2. **Ms. Nahayo** (Burundi) said that in April 2009 Burundi had adopted a new Criminal Code in which the age of criminal responsibility was raised from 13 to 15 years. It had also launched a national juvenile justice strategy under which prosecutors had been instructed to effect the immediate release of all children under 15 years of age who were imprisoned in the country.
3. A new national policy for orphans and other vulnerable children had been adopted in September 2008. As part of the implementation of the policy, a plan of action for the period 2007–2011 had been drawn up. The plan was being revised before being renewed and would be the subject of an annual report covering the year 2010. A monitoring committee with a secretariat provided by UNICEF had been set up under the auspices of the Ministry of National Solidarity.
4. Primary education had been made free of charge in August 2005 and that had led to a significant increase in school enrolment. Furthermore, under a 2006 Presidential Decree, birth registration for all children up to the age of 5 had been made free of charge, and a late registration drive had recently been launched in three provinces and had then been extended to the entire country. Health care had been free for children under 5 since 2005.
5. A pilot centre had very recently been set up in the province of Gitega, under the auspices of the Ministry of Human Rights and Gender and in cooperation with United Nations agencies, for the purpose of caring for victims of sexual violence. The experiment would then be extended to the entire country.
6. The new Ministry of National Solidarity, Human Rights and Gender, lately created under the Government that had taken office on 27 August 2010, was responsible, in particular, for developing and implementing a national child protection policy. There were plans to set up a directorate to deal with child-related issues.
7. The organization of presidential elections and the formation of a new Government were positive developments, but the country remained scarred by years of armed conflict that had adversely affected basic social services for children. Moreover, widespread poverty would for a long time hamper the development and implementation of national policies in a number of areas affecting vulnerable groups such as children and women.
8. Structures for coordinating the protection of children had yet to be put in place, and family development centres were expected to perform that function.
9. Various steering committees had been set up to carry out thorough research into emerging problems such as child labour, the economic and sexual exploitation of children, and street children with a view to finding suitable solutions.
10. **Ms. Herczog** (Country Rapporteur) said that the Committee was aware of the exceptionally difficult situation Burundi was experiencing as a result of the war, which had caused not only losses and grief but also the destruction of infrastructure including schools and health-care facilities, and a drastic decline in human resources. Reduction of Government funding, particularly in the social sector, and the decline in international aid and development programmes had exacerbated the situation.

11. Burundi was one of the world's poorest countries. The poverty reduction strategy had led to increased expenditure on health care, but spending had remained the same in the education sector and had been reduced in the area of social protection. The political situation still seemed fragile and there had been many reports of human rights violations.

12. Over the previous 10 years, there had been major political, legislative and social changes. With help from UNICEF, the situation of orphans and other groups of vulnerable children had considerably improved. The Committee congratulated Burundi on its incorporation of the main human rights instruments into its Constitution even though enforcement of the Constitution was not easy in a context where customary law was still pre-eminent and after the troubles of the previous few years.

13. The "BurundInfo" programme, launched to gather and publish essential data and information about children, would make it possible to gauge the changes that had occurred and contribute to policy development.

14. In spite of the Government's efforts, the recruitment and use of child soldiers, child labour, child prostitution and sexual exploitation, trafficking in children, and children living on the streets remained serious problems.

15. Noting that a bill on the establishment of a human rights commission had been drafted but not yet adopted, she wished to know whether there was an independent mechanism responsible for monitoring the exercise of children's rights, when the State party planned to adopt legislation on the Ombudsman, and what the Ombudsman's mandate would be.

16. The Committee was concerned about the absence of a coordinating mechanism and the lack of harmonization between the various levels of governance. It would like further information on coordination of the measures taken.

17. The 2007 National Plan of Action for Orphans and Vulnerable Children did not address the need for a comprehensive children's rights policy, and appeared merely to cover children with special needs. The delegation might wish to indicate whether a revision of the Plan of Action and a broadening of its scope were scheduled.

18. **Ms. Varmah** (Country Rapporteur) welcomed the legislative and social progress achieved by Burundi, as well as the country's accession to various international instruments, including the Optional Protocols to the Convention on the Rights of the Child, the International Labour Organization (ILO) Convention concerning the Worst Forms of Child Labour (Convention No. 182) and the Convention concerning the Minimum Age for Admission to Employment (Convention No. 138), and the International Conference on the Great Lakes Region Protocol on the Prevention and Suppression of Sexual Violence against Women and Children.

19. She would like information on the current status of the bill on sexual and gender-based violence and on the national strategy and its plan of action for the establishment of a system for the administration of juvenile justice for the period 2009–2010.

20. She also wished to have further information on the Children's Act and the Code of Personal and Family Affairs and regretted the absence of specific legislation aimed at children, which made it difficult to enforce the provisions currently in the various Acts. The delegation was invited to indicate the current status of the bill amending the Code of Personal and Family Affairs, which was expected to prohibit marriage before the age of 18 for girls as well as boys. The minimum age for recruitment into the armed forces should also be specified.

21. Noting with concern that over half of all births were not registered, she asked what measures the Government had taken to ensure that all newborns were registered at birth.

She also wanted to know whether there were mobile registry offices and whether the lack of a birth certificate made it an issue for children to get admitted to schools and for job applications. Lastly, she would like to know whether the armed conflict had in any way affected the birth registration process.

22. **Ms. Maurás Pérez** asked for information on the development of a comprehensive policy for coordinating the various activities concerning children. She would like to know particularly how such a policy would be funded, who would contribute and what the expected results were. She inquired about the results of the implementation of the policy and the plan of action for children orphaned by war and asked how the plan would be integrated into the new comprehensive policy on children and how it would be funded. She expressed surprise at the Government's decision to close orphanages and asked what had happened to the children under 15 who had been accommodated there.

23. She would like details of the operations and objectives of the pilot centre caring for victims of gender-based violence.

24. In conclusion, she expressed an interest in hearing about the measures taken by the Government to facilitate the social integration of the Batwa people and encourage girls' school enrolment.

25. **Mr. Pollar** asked whether the principle of the best interests of the child was taken into account in bills currently being drafted, whether it was invoked by the courts, and whether the decision to hear children's statements was left to the judge's discretion or established in judicial procedures.

26. With reference to paragraphs 149 to 153 of the report, he asked whether the provisions relating to the preservation of identity also protected foreign nationals residing in Burundi and Burundians living abroad. Lastly, he wished to have further clarification of the statement in paragraph 158 that "Burundian children exercise their right to freedom of expression through parental authority".

27. **Mr. Filali** asked whether the State party intended to ratify a number of international instruments directly linked to the Convention, namely the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Hague Conventions No. 28 on the Civil Aspects of International Child Abduction, and No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

28. The delegation might indicate whether the National Human Rights Commission had been established, whether it had started work and what its mandate was. Did the institution comply with the Paris Principles? Was it authorized to receive complaints, demand information, take up matters on its own initiative and bring prosecutions? The delegation might also indicate whether bills had been adopted on the protection of children in difficulty and child offenders, and whether the bill amending the family code had been adopted and if not, the reason for the delay.

29. Further details concerning efforts to strengthen the independence of the judiciary and the extent to which the provisions of the Convention were cited by judges would be welcome. Lastly, he wished to know what measures had been taken to prevent corporal punishment. He would be particularly interested to learn whether cases of corporal punishment had already been brought before the courts, and whether it was obligatory for physicians and teachers in particular to report incidents of abuse.

30. **Ms. El-Ashmawy** requested more information on measures taken to improve the health of children under 5 years of age. She emphasized the need to act, particularly in

schools, to prevent malnutrition and make the population aware of the importance of vaccination. It was also imperative to reduce disparities in the quality of care between urban and rural areas. In conclusion, she would like to know what the State party was doing to protect albinos, who continued to be discriminated against.

31. **Mr. Koompraphant** called on the State party to combat sexual violence against women and girls. He underscored his acute concern that, according to some sources of information, rape victims who filed complaints were abused by police officers and some were forced to marry their assailants.

32. **The Chairperson** expressed surprise at the content of paragraph 171 of the report, according to which “the law of 18 April 1992 (...) prohibits any person under 21 years of age from joining a non-profit organization” but “children may join youth movements of a cultural, sports, social or religious nature”, and requested clarification. Noting that Burundi comprised numerous religious groups, some of them sectarian, and could recruit and manipulate children, he requested additional information on the current situation and the measures taken.

33. Degrading treatment was prohibited within the family but there were fears that corporal punishment might not be considered degrading and that that protection might not be sufficient. There was also a danger that corporal punishment might occur in places of detention, especially since minors were not segregated from adults.

34. Laudable efforts had been made to raise awareness of the rights of the child, but it remained to be seen whether such activities had reached all children and all professionals working with children, even in the remotest parts of the country.

The meeting was suspended at 11.05 a.m. and resumed at 11.30 a.m.

35. **Ms. Nahayo** (Burundi) said that the bill on a national human rights commission had already been approved by the Council of Ministers and was awaiting consideration by Parliament, which was expected to take up the matter at the beginning of the next parliamentary session in October 2010, whereafter it would merely require adoption by the Senate before being promulgated. The bill had been drafted with the assistance of civil society organizations and the Office of the United Nations High Commissioner for Human Rights. The commission thus established would fully comply with the Paris Principles and would include a unit specifically devoted to children. Its operating budget had already been passed for the 2010 financial year. Consequently, if the bill was adopted in October the commission would be able to start work immediately. In the meantime, the transitional mechanism remained in place. An Act had already been adopted and a budget passed for the establishment of an ombudsman’s office. All that remained was to submit a list of candidates, one of whom would be appointed by Parliament. That would certainly be possible when Parliament returned.

36. **Ms. Maurás Pérez** asked how the various child-related measures were coordinated.

37. **Ms. Nahayo** (Burundi) said that the Ministry of Human Rights and Gender had a directorate responsible for the rights of the child. Furthermore, an inter-ministerial committee was monitoring and assessing all of child rights activities taking place in Burundi. Activities geared towards the promotion of the rights of the child in the provinces, communes and *collines* (hills) were organized by family development centres, which fell within the province of the Ministry of Human Rights and Gender.

38. **Ms. Maurás Pérez** asked whether the family development centres existed throughout the country and whether they possessed sufficient material and human resources.

39. **Ms. Nahayo** (Burundi) said that the staff of those centres was on the State payroll. Various partners were currently paying for the operation of the centres, which were

gradually beginning to organize income-generating activities with a view to becoming financially autonomous. The centres were found in 99 per cent of Burundian communes. In some communes in the provinces of Bujumbura Rural, Bubanza and Cibitoke, where the civil war had lasted longer than elsewhere, they had not yet been set up, but it was expected that they would be by the end of 2010.

40. The centre in Gitega providing care for the victims of gender-based violence was a pilot centre providing psychosocial, medical and legal assistance to the victims and helping them to reintegrate in their communities. Similar centres would soon be opened in all provinces in the country.

41. **Ms. Maurás Pérez**, noting that sexual and gender-based violence was widespread in Burundi, said that efforts to control the problem required multisectoral action and mobilization of the entire nation. She would like to know whether the pilot centre and the plan to extend the experiment to the entire country were a one-off project or part of a broader policy geared towards preventing and stamping out sexual violence.

42. **Ms. Nahayo** (Burundi) said that the Government was determined to put in place a comprehensive policy against sexual and gender-based violence but that it required time; however, the centres were able to deal with emergencies.

43. In 2010, 92 per cent of children were attending school, compared with 56 per cent in 2005. Many primary and secondary schools had been built, refurbished or enlarged through cooperation between the Government and parents.

44. **Mr. Filali** asked whether there were enough schools in rural areas, whether there were enough teachers, whether they provided high-quality education and whether children had the school books they needed.

45. **Ms. Nahayo** (Burundi) said that schools had previously been concentrated in the large towns but that, thanks to parents, many schools had been built in rural areas. In March 2010, primary and secondary teachers had organized a major strike which had adversely affected the quality of teaching. However, following mediation involving the Government, civil society organizations and trade unions, the teachers had returned to work and the end-of-year examinations had gone ahead as planned.

46. Burundi lacked teaching materials and was not yet able to purchase them for all pupils. UNICEF had recently supplied exercise books and would also provide books. The Government was counting on assistance from partners to help it equip its schools, and she appealed for help from everyone in a position to present Burundi's case in that area to potential donors.

47. **Ms. Ntakaburimvo** (Burundi) said that various legal texts protected the rights of the child, starting with the Constitution, of which the Convention on the Rights of the Child was an integral part, and the Criminal Code. The plan to revise the Code of Criminal Procedure would shortly be submitted to the Council of Ministers and contained provisions for protecting the rights of the child. She also drew attention to Ministerial Ordinance No. 550/993 of 23 June 2010 establishing a national unit for the judicial protection of children.

48. **Mr. Koompraphant** asked what services cared for child victims of sexual violence, whether child victims needed to lodge complaints at police stations in person, and whether child witnesses received assistance in judicial proceedings.

49. **Mr. Filali** asked why the promulgation of the revised Code of Criminal Procedure had been delayed, and expressed his concern that, until the Code entered into force, children might continue to be subjected to judicial proceedings intended for adults.

50. **Ms. Ntakaburimvo** (Burundi) said that, in principle, a child victim of sexual violence lodged a complaint with the authorities while accompanied by a parent or guardian.

In practice, the child's parents generally went to the police station on their own to be discreet, avoid diminishing the family's reputation, and spare the child further shame.

51. Free legal aid was still at the planning stage and children were not represented by a lawyer unless their parents could afford to pay or human rights advocates succeeded in finding them a lawyer.

52. The delay in the promulgation of the revised Code of Criminal Procedure was partly a result of the fact that the Government had given priority to examining the planned revision of the Criminal Code, as well as a lack of financial resources.

53. No Burundian legislation guaranteed the right of children to be heard in judicial proceedings. Pursuant to the best interests of the child, a judge could decide to hear the child's statement, taking into account his or her age and maturity, particularly in divorce cases where a custody ruling needed to be made.

54. Children were very often summoned before courts and heard in cases where the Code of Personal and Family Affairs was applicable. The best interests of the child were taken into account in numerous court judgements and new bills often reflected that principle. Under the terms of the Criminal Code and the revised plan relating to the Code of Criminal Procedure, an offence committed against a minor counted as an aggravating circumstance.

55. Judges generally did not refer explicitly to the Convention in their rulings. They did, however, systematically cite the Constitution, of which the Convention was an integral part.

56. The Code of Personal and Family Affairs was being revised, particularly with a view to setting the minimum age for marriage the same for both girls and boys.

57. **The Chairperson** asked whether the State party intended to draft a single child protection code containing all child-related laws and provisions.

58. **Ms. Ntakaburimvo** (Burundi) said that it would be advisable to set up a single child protection mechanism within the Ministry of Justice.

59. **Ms. Herczog** asked what measures had been taken to handle and prevent instances of domestic violence, and whether the transition from extended families to nuclear families had led to tensions arising from the loss of the assistance parents traditionally received and, if so, what the State party intended to do to remedy that problem. Given that over 60 per cent of families lived below the poverty line, she wondered what assistance they received in bringing up their children. She also wished to know how responsibility for childcare was shared between the central Government, local communities and parents in respect of preschool children and the organization of extra-curricular activities. To conclude, she questioned the effectiveness of financial penalties and prison terms imposed on parents who did not pay maintenance to their former spouse, and asked whether there were other means of settling such disputes.

60. The report contained no information on programmes for accommodating the large numbers of children who did not have families. What did the State party intend to do for those children?

61. She would also like to know how many children had been adopted in Burundi and what the adoption procedures were.

62. **Ms. Varmah** asked whether Burundi intended to ratify the Convention on the Rights of Persons with Disabilities, which it had signed in 2007, and whether sufficient resources were set aside for children with disabilities.

63. She noted with concern that even though health care was provided free of charge to pregnant women and their children under 5 years of age, the mortality and malnutrition

rates remained high, and wondered what was being done to promote hygiene, particularly in schools.

64. She wished to know what measures had been taken in schools to inform pupils about HIV/AIDS and what had been done to raise awareness among children who did not attend school. She would also like to learn what measures had been adopted to prevent mother-to-child transmission and make it easier to obtain contraceptives. Lastly, she would like information on breastfeeding and any harmful traditional practices.

65. **Mr. Filali**, pointing out that nearly 500 minors were incarcerated in July 2010, whereas under the Convention and the Constitution, placement in detention had to be the exception, asked whether separate areas for juvenile justice were being provided in court buildings. Given the delay in the promulgation of the revised Code of Criminal Procedure, minors were still subjected to the same procedures as adults. It would therefore be useful to know whether they were accompanied by their parents or a representative during questioning; whether they had the right to a lawyer, and, if so, whether the lawyer was officially appointed; and whether the privacy of hearings was guaranteed.

66. **Mr. Filali** asked for further information on the length of police custody and pretrial detention, which some sources alleged was excessively long, and on the intentions of the State party in the area of restorative justice and arrangements for dealing with cases out of court. Lastly, he noted with concern that incarcerated children were denied teaching and professional training and could not, therefore, prepare for their release back into society.

67. He would like to know what measures had been taken to ensure street children's access to education and health care.

68. **Mr. Koompraphant** asked what measures had been taken to prevent female detainees from being separated from their children.

69. Given that many children under 14 had to work in order to survive, he wondered what socio-economic measures had been taken to enable them to return to school, and what preventive measures had been put in place for their families.

70. Were the abduction, sale and trafficking of children, child prostitution and child pornography explicitly criminalized?

71. What kind of support did the State party need from the international community?

72. **Mr. Krappmann** (Country Rapporteur) congratulated the State party for providing free compulsory education, thereby considerably increasing the school enrolment in a few short years. However, the downside was that it was impossible to guarantee high-quality education in overcrowded classrooms. According to some sources, only about one third of enrolled children completed the primary cycle. He wondered whether the situation had changed, whether more girls went to school than before and whether they continued to be sexually harassed at school.

73. Primary education ended at 12 years and the age for admission to employment was set at 14 years. He asked whether the authorities intended to extend the period of compulsory education or build professional training centres. He also wished to know the State party's plans for the education budget, and whether human rights education and education on the rights of the child were compulsory subjects.

74. **Ms. Maurás Pérez**, deploring the absence of any explicit reference to the health of adolescents in the report, noted that there appeared to be no programme or policy in that area. She wished to know the State party's plans in that regard.

75. **Ms. El-Ashmawy** asked whether research had been carried out into the health of adolescents and whether Burundi was cooperating with specialized agencies of the United

Nations in that area. Concerning the recruitment of children in armed conflicts, she asked whether there were any measures other than the national programme for the disarming, demobilization, resettlement and reintegration of members of the armed forces and armed movements. Lastly, she asked whether the State party had or intended to set up one or more emergency hotlines for children.

The meeting rose at 1 p.m.