Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Burundi – 3rd Session – 2008
Tuesday 2 December 2008 - 10.00 a.m. - 1.00 p.m

National Report

10. Burundi has ratified and/or acceded to a number of regional and international human rights instruments. Some of these instruments form an integral part of the Burundian Constitution of 18 March 2005 through article 19, which stipulates: “The rights and duties proclaimed and guaranteed, inter alia, by the Universal Declaration of Human Rights, the International Covenants on human rights and the rights of peoples, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi. These fundamental rights may not be the subject of any restriction or derogation, except in certain circumstances justifiable by the general interest of the protection of a fundamental right.”

11. Burundi has already ratified a number of instruments. The following may be mentioned by way of example:

(i). The Convention on the Rights of the Child, which was adopted on 20 November 1989 and entered into force on 2 September 1990. The initial report was produced in 1997 and presented to the Committee on the Rights of the Child. Burundi’s follow-up to the Committee’s conclusions, recommendations and observations is described in the first periodic report, which has been available since 2005 and already been transmitted to the Committee;

(x). The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was adopted in New York by the General Assembly of the United Nations in resolution 54/263 of 25 May 2000 and entered into force on 18 January 2002. It was ratified by Burundi by Act No. 1/15 of 18 January 2005. No report relating thereto has so far been produced;

(y) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, which was adopted in New York by the General Assembly in its resolution 54/263 of 20 May 2000 and entered into force on 12 February 2002. It was ratified by Burundi by Act No. 115 of 18 January 2005.

27. As a member of the United Nations and the African Union, Burundi associates itself with global progress in the areas of human rights in general and the rights of children in particular. It has endorsed the conclusions and recommendations emerging from the recent special session of the General Assembly on children, and notably the report of the conference on “A world fit for children”.

28. At the international level, article 19 of the Convention on the Rights of the Child stipulates that “States parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse ...”.  

29. Article 44 of the Burundian Constitution of 2005 states that “Every child is entitled to specific measures to provide or improve the care necessary for his well-being, health and physical security and to be protected against ill-treatment, abuse or exploitation”. 

30. The Code of Individuals and the Family, as amended in 1993, devotes particular attention to the protection of children, especially with regard to recognition, filiation and, importantly, parental obligations. It also contains clauses intended to protect the child.

31. Even so, the situation of children is continuing to deteriorate. Three phenomena - HIV/AIDS, war and poverty - are the main factors in generating orphans and vulnerable children. The latter were estimated to number 650,000 at the end of 2004 and totalled 835,996 in 2005. in other words, about 11 per cent of the population. Of these children, some 250,000 are infected or affected by HIV/AIDS and 30,346 are orphans and heads of households. According to UNICEF data, 65,400
children are under-age workers and 5,000 are street children.

32. In 2005 and 2006, Burundi, with the support of various national participants, made great progress along the path to creating an environment conducive to the promotion and protection of children’s rights:

(a) In the area of public education, abolition of school fees. Following this measure at the beginning of the 2005-2006 school year, there was an increase in primary school admission and enrolment rates;
(b) In the area of health, health care was made free for children under the age of 5 years and maternity charges were abolished. Many women now give birth in an assisted environment.

33. Certain international instruments protecting the rights of the child invite States to establish a special justice system for juvenile detainees. Although Burundi has ratified several of these instruments, however, it does not yet have a specific legal instrument relating to justice for juveniles.

37. It should be noted that, because of cultural prejudice, several cases of rape are not reported or are settled between families, especially in rural areas. Children are not spared this crime.

49. Decree-Law No. 1/037 of 7 July 1993 reforming the Labour Code improved the right to work, and notably the duration of the working week, weekly rest, the work of women and children, trade union freedom, the right to strike, etc. The various provisions of Act No. 1/28 of 23 August 2006 establishing the general statutes relating to civil servants ensure greater respect for the right to work. At the institutional level, a labour tribunal settles disputes between employers and workers.

68. Burundi has already produced and presented to the competent committees:

(a) Its initial reports relating to the rights of the child, torture and discrimination against women. All three reports have been the subject of conclusions, observations and recommendations by the committee concerned;
(b) Two periodic reports on the rights of the child and discrimination against women have been produced and constitute follow-up to the committees’ conclusions and recommendations on the initial reports;
(i) In the case of the Committee on the Rights of the Child, the first periodic report has not yet been presented; it constitutes a follow-up to the Committee’s conclusions and recommendations. The Government had been recommended to: continue efforts to effect legislative reform with a view to ensuring conformity between the national legislative provisions and principles, and the provisions of the Convention; ensure that customary law and traditional principles fully respect the provisions of the Convention; and continue to adopt framework laws on the rights and duties of the child. The Government has continued efforts to harmonize national legislation with the Convention, as evidenced by the ratification of a number of ILO Conventions (cf. report, I.3.2.1; Constitution, art. 19, etc.);
(ii) In the case of the Committee on the Elimination of Discrimination against Women (CEDAW) 7; OP-CAT by the Committee against Torture (CAT);8 and OP-CRC-AC by the Committee and the Rights of the Child (CRC) (which it did in June 2008).9

69. Burundi has already been the subject of a number of mandates namely, those held by the Special Rapporteur and the Independent Expert. The most recent mandate is that of the Independent Expert, Mr. Akich Okola. Pursuant to General Assembly resolution 60/250 of 15 March 2006 entitled “Human Rights Council”, the Independent Expert has produced an interim report, which was the subject of agenda item 2 of the fourth session of the Human Rights Council. The report related to the sixth and seventh visits made by the Independent Expert from 7 to 14 October 2006 and from 14 to 27 January 2007 respectively. He addressed the general situation in Burundi and focused specifically on the following points:

(a) The implementation by the Government of programmes aimed at providing free primary education and free access to health care for children under five years of age and expectant mothers;

UN Compilation

1. Burundi was encouraged to ratify OP-CEDAW, ICRMW, CPD and CED by the Committee on the Elimination of Discrimination against Women (CEDAW) 7; OP-CAT by the Committee against Torture (CAT);8 and OP-CRC-AC by the Committee and the Rights of the Child (CRC) (which it did in June 2008).9

6. UNIMT indicated that the Government did not adopt yet a national human rights plan of action but developed sectoral plans, for example on justice and on orphans and vulnerable children.18

12. In 2000, CRC was deeply concerned at gross violations of the right to be protected from discrimination in Burundi, and noted that discrimination takes different forms, including by ethnic origin, gender, geographical origin (within the country) and social status. It noted that killings and other acts committed in the armed conflict, and which have affected children, have frequently been perpetrated on the basis of ethnic origin.39

26. In 2006, the independent expert noted that the situation of children remains extremely worrying.80 Violations particularly affect children victims of war, children living and/or working in the street, child soldiers, minors in prison and AIDS orphans.81 Specific legislation guaranteeing child rights is needed.82

27. UNIMT indicated that between 2004 and 2006, 3,013 child soldiers recruited by the signatory armed forces or groups were demobilized and reintegrated into families. In 2007, 220 additional children were separated from the alleged Palipehutu-FNL dissidents. The Government is ready to demobilize any child, who may still be in the ranks of the Palipehutu-FNL, although there is no available list or estimates.83

28. In 2007, the Secretary General indicated that the PNB, the FDN and the SNR continued to be the main perpetrators of child rights violations such as torture, physical abuse, arbitrary arrest and illegal detention. A significant increase in violations by members of national security forces and of Palipehutu-FNL was observed. Reports of ongoing child recruitment by FNL were submitted.84 The
31. CAT was deeply concerned about widespread sexual violence against women and children in detention.91 Burundi should ensure that minors and women are segregated from adults and men respectively, and that those in pre-trial detention are segregated from convicted prisoners.92 CEDAW, the independent expert, the Special Rapporteur on the question of torture and CRC expressed concern in this regard.93

33. The Secretary-General, UNIMT, CAT and the Special Rapporteur on the question of torture shared their concerns about the absence of a juvenile justice system.96 CAT recommended that Burundi raise the minimum age of criminal responsibility (currently 13 years), and guarantee the proper functioning of a juvenile justice system in conformity with the United Nations standards.97 The Special Rapporteur on the question of torture and UNIMT noted that about 400 children are detained in jails.98 More than 75 per cent of them are reportedly held in pretrial detention for months, or even for years.99 According to UNIMT, a few hundreds more are kept in police cells.100

55. The independent expert noted major concerns in the area of health care: Limited access to services, poor quality of service delivery, and the Government’s reduced capacities for monitoring and early warning. Response to epidemic cycles of malaria, cholera and meningitis depends heavily on resources of United Nations agencies and NGOs.132 In 2006, the Government started a programme to provide free health care for expectant mothers and children under five years of age.133 In 2008 however, hospitals and health centres were waiting for the allowance from the Government.134

57. CRC requested Burundi to review the situation of children with disabilities, in relation to health care, education services and employment opportunities and to establish a programme of action.144

58. The independent expert noted that the primary education sector faces important problems, mostly related to insufficient or poorly maintained infrastructure and acute shortages of teachers.145 He commended the Government for putting in place a programme of free primary education,146 as did CEDAW.147 UNIMT stressed, however, that many people cannot afford secondary education for their children.148

59. According to UNIMT, measures were adopted to almost reach net enrolment parity between boys and girls in primary education. However, in secondary and higher education, significant disparities remain.149 as also stressed by CEDAW.150

68. Recommendations of UNIMT relate to legal reform (Burundi should adopt the draft revised criminal and criminal procedure codes; a new law on inheritance, matrimonial regimes and gifts; a Children’s Act; and amend the Code of the Person and Family); institutions (Burundi should adopt the law on the Independent National Human Rights Commission; ensure better coordination on sexual gender based violence, orphans and vulnerable children, and justice; reinforce the National Commission on Land and Other Properties); human rights policies (Burundi should adopt a national human rights plan of action; and a land national policy and reform); transitional justice (Burundi should organize national consultations to establish transitional justice mechanisms; ensure special protection measures for children); sexual violence (Burundi should adopt an integrated national policy and plan of action), child soldiers (Burundi should ensure close follow up, monitoring and support to reintegrated child soldiers; ensure that demobilization centres and implementing partners respect international standards relating to disarmament, demobilization and reintegration and child protection rules and that relevant staff is appropriately trained and skilled).168

70. CEDAW encouraged Burundi to seek support from the international community and donors with regard to equal access for girls and women to education.171 UNIMT indicated that UNESCO runs a programme for the education of street children, and that UNICEF rehabilitated, equipped, and built new classrooms.172

Stakeholders Compilation

2. The NGO Coalition also said that Burundi has ratified the Convention on the Rights of the Child (1990), the African Charter on the Rights and Welfare of the Child (2000) and other instruments protecting the rights of the child. The incorporation of these standards into domestic law and their implementation are open to criticism.4

4. According to the NGO Coalition, Burundi has a number of obligations to international and regional bodies such as the Committee on the Elimination of All Forms of Discrimination against Women, the Committee against Torture and the Committee on the Rights of the Child. However, the daily reality on the ground shows, according to the Coalition, that Burundi has not met and continues not to meet its international obligations and commitments.6

14. For the International Center for Transitional Justice (ICTJ), mechanisms to address human rights violations must adequately respond to the widespread sexual violence perpetrated against women and the rampant victimization of children during the conflict. Many women continue to endure gross, gender-based human rights violations, which are likely to continue while impunity persists for crimes committed during the conflict.24

15. According to Amnesty International (AI),25 and FI,26 the most commonly reported form of sexual violence in Burundi is rape, committed by both state and non-state actors, including law enforcement officials and military officers. Rape of women and girls is...
20. According to the NGO Coalition, many children are not entered in the civil registry and cannot therefore benefit from free education and health care. In prisons, juveniles are not separated from adults and children are no exception to abuse of preventive detention. Thousands of children, especially orphans, are raped, killed, tortured, beaten, abandoned, starved, humiliated, stripped of their property, driven to despair, drug-dependent and can have no hope of a happy future. Violations of children’s rights in the family, at school, etc. have multiple consequences, including on school dropout rates, which are very high. The perpetrators of these offences are not worried, especially when they are close relatives who can plead parental prerogatives stemming from the duty to bring the child up. The judiciary and the police, who are responsible for prosecuting, appear not very sensitive to violations of children’s rights. The Coalition recommended the adoption of a national policy and specific legislation on the protection of children’s rights and especially the rights of orphans and vulnerable children.

21. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment is unlawful in the home, in schools, and in alternative care settings. In the penal system, corporal punishment is unlawful as a sentence for crime, but it is not prohibited as a disciplinary measure in penal institutions. Many children have been beaten while in detention, according to GIEACPC.

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

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

24. Italy recommends d) continue its national policy to improve access to education for all children and to include in the school system, at all levels, appropriate measures in the field of human rights education in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education.

25. Denmark noted with satisfaction the continuing improvement in the human rights situation, but noted a rise in sexual violence against women and children in detention facilities and enquired about measures to end impunity for such crimes. Denmark recommended that all reports of rape and sexual violence by law enforcement officials be promptly and impartially investigated and that the perpetrators be brought to justice. It further recommended that the practice of torture and other ill treatment by law enforcement officials be condemned and brought to an end, that immediate independent and impartial investigations into all allegations of such acts be undertaken, and that alleged perpetrators be brought to justice. China welcomed the efforts made in gender equality, children's rights and international human rights cooperation. Regarding the current international food and financial crises, China asked what specific difficulties Burundi encounters in guaranteeing the right to food, how it will prevent any related potential social uncertainties, and what assistance it expects from the international community. Furthermore, China asked how Burundi is balancing national reconciliation and punishment of criminals and how it assesses the work and the role of the national consultative tripartite commission.
during the transitional period.

Switzerland (c) adopt the necessary additional measures to effectively prevent and combat sexual violence against women, particularly minors;

40. S’agissant des viols et autres violences sexuelles, le Gouvernement fait face à ce défi et des lois sont en préparation pour juguler ce problème. Dans chaque province, il y a un Centre de développement familial qui relève du ministère de la Solidarité nationale, des droits de la personne humaine et du genre pour aider les victimes à dénoncer les crimes et à bénéficier d’un suivi médical. Il y a aussi des centres et des ONG pour la prise en charge psychologique.

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

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

With regard to violations of women’s and children’s rights, Slovenia asked about preventive measures envisaged to prevent and end violations, and measures to help and protect victims. Slovenia recommended (b) the development and implementation of policies and measures to address the inequality between boys and girls regarding access to education and the reported widespread child labour.

Malaysia noted the great progress made in promoting and protecting children’s rights. It recommended that Burundi continue to take further appropriate measures to improve the situation of children, in particular children victims of war, children living and/or working in the streets, minors in prison and AIDS orphans.

72. Une politique nationale pour les orphelins et enfants vulnérables a été adoptée par le Conseil des ministres qui doit être mise en œuvre par un plan national.

Conclusion and Recommendations

18. Increase its efforts to contribute to the disarmament, demobilization and reintegration of children involved in armed conflict (France);

29. Set up hosting and reintegration structures for HIV/AIDS orphans (Luxembourg);

30. Consider strengthening programmes to fight and prevent HIV/AIDS, with special attention to women and children (Brazil);

34. With international support, continue to promote education for all, with special attention to achieving gender parity in school enrolment (Bangladesh);

35. Continue the national policy for greater access to education for all children and to include in the school system, at all levels, appropriate measures in the field of human rights education, in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education (Italy);

36. With international support, undertake further programmes for human rights training and capacity-building to train relevant institutions of law enforcement and justice in the area of human rights, and introduce human rights in the education system at all levels (Egypt);

37. Take further appropriate measures to improve the situation of children, in particular children victims of war, children living and/or working in the streets, minors in prison and AIDS orphans (Malaysia);

38. Strengthen efforts to ensure that all newborn children are officially registered (Czech Republic);

3. Develop and implement policies and measures to address inequality between boys and girls in access to education and reported widespread child labour (Sweden);

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

Programmes related to awareness- raising and education on human rights in general and on women’s and children’s rights in particular, including rape and violence against women and children, are ongoing.