

**STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF BURUNDI
FOR THE 43RD SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in the Republic of Burundi (Burundi) for the 43rd Session of the Universal Periodic Review (UPR).

Background

2. Burundi is located in central Africa and has an estimated population of 12.6 million people.¹ The country is predominately Christian with approximately 58% of the population identifying as Roman Catholic, 35% as Protestant, 3% as Muslim, 1% as none, and 1% as other.²

3. Burundi's previous UPR was held on January 18, 2018.³ As a result of the review, Burundi received 242 recommendations, 125 of which were supported by Burundi.⁴ One of the recommendations, which was made by Spain and supported by Burundi, was that the government "[a]dopt effective measures to curtail violence against women and girls, thus enforcing the Law on the prevention and punishment of gender-based violence, repeal legal provisions that discriminate against women and end practices such as forced marriage and child marriage."⁵ On the issue of human trafficking, it was recommended by Turkmenistan, and supported by Burundi, that the government "[c]ontinue efforts to enable tangible progress in combatting trafficking in persons."⁶ There were no recommendations made regarding religious freedom.

Legal Framework

Child Marriage

4. According to Article 29 of the Constitution of Burundi, the "[f]reedom of marriage is guaranteed, as is the right to choose one's partner. Marriage cannot take place without the free and full consent of the future spouses."⁷ Furthermore, under Article 30, "[e]very child has the right, from their family, society, and State, to special protective measures necessitated by their status as minors."⁸

5. Article 88 of the Code of Persons and Family prescribes the minimum age for marriage for men to be 21 and for women to be 18.⁹ However, the law also notes that "the provincial governor may grant exemption for serious reasons."¹⁰

6. Burundi is also a party to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which also expressly prohibits the marriage of children.¹¹ Under Article 16 sec. 2 of the CEDAW, "[t]he betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage"¹² While Burundi has a legislation to that effect, it is not being fully implemented.

Human Trafficking

7. Article 26 of the Constitution of Burundi prohibits all forms of slavery: “No one may be slaved or held in servitude. Slavery and the traffic of slaves is forbidden in all forms.”¹³

8. Human trafficking is defined under Article 4 of Law No. 1/28 of 29 October 2014 on the Prevention and Punishment of Trafficking in Persons and the Protection of Traffic Victims. This law defines human trafficking as the “recruitment, transportation, transfer, accommodation or receipt of persons” through means such as coercion, kidnapping, deception, and financial compensation for purposes such as sexual exploitation or forced labor.¹⁴ This law also prescribes a penalty of up to ten years in prison and a fine of up to 500,000 Burundian francs.¹⁵ This same crime if committed against a child can result in a prison sentence of up to 20 years and a fine of up to 10,000,000 Burundian francs.¹⁶

9. Additionally, under Article 242 of the Penal Code of Burundi, an offender who enslaves another individual, shall be sentenced to prison for a period of 5 to 10 years.¹⁷ The same penalties are prescribed when the offense is committed “for purpose of sexual exploitation or domestic exploitation.”¹⁸

10. Furthermore, under Article 8 of the International Covenant on Civil and Political Rights (ICCPR), to which Burundi is a party,¹⁹ “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”²⁰

Child Marriage

11. Despite child marriages being illegal in Burundi, approximately 3% of girls are married before their 15th birthday and 19% of girls are married before they turn 18.²¹ One of the reasons for these high rates is engrained gender norms as there is a belief that “girls are meant to get married, give birth to children and undertake home activities.” As a result, many families view education as unimportant for girls and instead teach them how to do housework in preparation for their roles as wives.²² Many of these girls come from poor families who rely on a “bride price,” a price paid by the groom to the family of the bride, to improve their financial situation.²³ These norms and practices pressure young girls to marry early in order to be supported and accepted by society.²⁴ Further, adolescent pregnancy also plays a role in childhood marriage as many parents would prefer to “marry off their daughters before they reach the legal age rather than see them become single mothers.”

12. One victim recalled how she was forced to marry a 25-year-old man when she was only 15 and was abused by her in-laws.²⁵ Another victim shared her tragic story of how she was forced to drop out of school at the age of 15 to marry a man who was 12 years older than her because her parents wanted her “to marry a rich man” in order to financially support her family.

I loved studying. I grew up into a poor family and I had a dream of becoming an engineer at the end of my studies. At home, I often played with my little brothers building small houses using mud. Unfortunately, my big dream was shattered. My family never stopped asking me to quit school as they expected to improve their economic survival from my marriage. One day, early in the morning, my father threatened me while preparing myself to go to school. He burned my school uniforms and materials and beat me terribly. I cried the tears of agony and ended up leaving school so as to make peace with my family.

One year later, things turned upside down. I was not happy in my marriage. My husband was twelve years older than me. Not only did he severely abuse me every day, he oftentimes told me that I didn't deserve to be his wife. Numerous ideas about school and studies flashed through my mind. Never had I stopped blaming my family. Loneliness, despair and regret won my heart. I felt depressed. In the end, my husband kicked me out, which plunged me into unbearable life conditions.²⁶

13. Child marriage is a harmful practice that can result in lasting consequences for girls:

Child marriage robs girls of their childhood and threatens their lives and health. Girls who marry before 18 are more likely to experience domestic violence and less likely to remain in school. They have worse economic and health outcomes than their unmarried peers, which are eventually passed down to their own children, further straining a country's capacity to provide quality health and education services.

Child brides often become pregnant during adolescence, when the risk of complications during pregnancy and childbirth increases – for themselves and their infants. The practice can also isolate girls from family and friends and exclude them from participating in their communities, taking a heavy toll on their physical and psychological well-being.

Because child marriage impacts a girl's health, future and family, it imposes substantial economic costs at the national level, too, with major implications for development and prosperity.

Human Trafficking

14. Trafficking of children and adults in Burundi is a serious issue, and, since 2017, more than 1,000 human trafficking victims have been identified in Burundi. Burundi largely serves as a “source country for trafficked persons, where traffickers exploit domestic and foreign victims.” These human traffickers “prey on the vulnerability of victims” and they target adults and children to be used for “forced labour, domestic servitude, prostitution, and other forms of sexual exploitation throughout the region and globally.”

15. In May 2022, 90 victims were rescued from human trafficking at a refugee camp in Malawi. Some of the victims rescued were women and girls from Burundi between the ages of 12 and 24. At that camp, victims are trafficked from “Ethiopia, DRC [Democratic Republic of Congo] and Burundi by agents of the trafficking network offering work opportunities in South Africa [T]hey are told they need to pay off the debts incurred from being smuggled into Malawi. They are exploited there or transported to other countries in the region for forced labour.”

16. In August 2021, Ugandan authorities rescued 8 Burundian women between the ages of 18 and 30 who were being trafficked to an unknown country.²⁷ The victims were “brought into Uganda, taken to Kenya, and then brought back to Uganda” in an effort to avoid detection by police.²⁸ Uganda has increasingly become a “transit route” for traffickers looking to take women and girls from Burundi.²⁹ This example demonstrates the transnational problem of human trafficking in the region. Furthermore, it demonstrates that, in order to effectively combat human trafficking, countries must cooperate and work with each other.

17. Just a few months prior, in April 2021, Ugandan police intercepted a human trafficking ring carrying 29 Burundian women.³⁰ A police spokesperson stated that these girls were most likely destined for sexual exploitation or forced labor.³¹ Fortunately, these women were rescued.³²

18. In March 2019, Kenyan officials rescued 25 Burundian women between the ages of 24 and 33 who were being held in a compound waiting to be trafficked to various Asian countries.³³ The authorities arrested three Kenyan women.³⁴ While it is unknown where the rescued women would have eventually ended up, it is believed that they would have been subjected to forced labor and sexual exploitation.³⁵

19. Since Burundi's last UPR, the government has taken tangible steps to combat human trafficking. For example, the government partnered with the International Organization for Migration (IOM) to create a program known as Burundi Counter-Trafficking 2019-2022.³⁶ This program involves creating "an integrated approach based on respect for human rights and taking into account the national, regional and global nature of the phenomenon."³⁷ This partnership also involves the IOM "supporting the Government to improve the capacity of the law enforcement and justice agencies and raise awareness on effective prevention and suppression of trafficking in persons." Furthermore, the government created a new Consultation and Monitoring Commission on the Prevention and Suppression of Human Trafficking for the purposes of spearheading and overseeing Burundi's efforts to combat human trafficking.³⁸

20. We have already seen one case in particular reported in July 2022 of how Burundi's partnership with the IOM is making a difference and providing assistance to victims in human trafficking. For example, one IOM case worker recalls receiving a phone call from a Burundian woman who was lured to Kuwait on the belief that she would be employed and be able to financially support her family. The case worker was then able to work with the Burundian embassy in Kuwait to rescue the woman and return her safely to Burundi. This partnership is important not only in stopping human trafficking but providing aid to the victims after they have been rescued as "some victims have very deep psychological disorders, or sometimes huge scars." This one example shows that this partnership is critical in stopping human trafficking and provide aid to victims.

Recommendations

21. While Burundi's law currently prohibits under age marriage, the government must do a better job spreading awareness of the dangers of this practice and the harmful impact it can have on young girls. Because this practice is ingrained in the society, it will take a coordinated education and awareness campaign to effectively stop this practice in order to change the hearts and minds of the people.

22. Furthermore, Burundi must also enforce its laws on human trafficking. Because many victims of human trafficking originate from Burundi to be taken to foreign countries, resources and training must be allocated particularly to border agents, so they are equipped with the tools necessary to identify and stop human trafficking before the victims leave the country. Burundi must also work with other countries to help the victims come back to Burundi after they have been rescued in other countries. Further, aid must be provided to the victims of human trafficking.

¹ *Burundi*, THE WORLD FACTBOOK (Jul. 27, 2022), <https://www.cia.gov/the-world-factbook/countries/burundi/>.

² *Id.*

³ *Universal Periodic Review – Burundi*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/bi-index> (last visited Aug 3, 2022).

⁴ *UPR of Burundi – Thematic List of Recommendations*, OHCHR, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/BI/MatriceRecommendationsBurundi.docx> (last visited Aug. 3, 2022).

⁵ *Id.* at A/HRC/38/10/Add.1 – Para. 7.

⁶ *Id.*

⁷ CONSTITUTION OF BURUNDI (2018), art. 29, https://www.constituteproject.org/constitution/Burundi_2018.pdf?lang=en.

⁸ *Id.* art. 30.

⁹ CODE OF PERSONS AND FAMILY art. 88 (Burundi), <https://www.girlsnotbrides.org/documents/1197/Minimum-age-of-marriage-in-Africa-June-2013.pdf> (unofficial translation).

¹⁰ *Id.*

¹¹ *Status of Ratification Burundi*, OHCHR, <https://indicators.ohchr.org/> (last visited Aug. 3, 2022).

¹² Convention on the Elimination of All Forms of Discrimination against Women art. 16 sec. 2, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹³ CONSTITUTION OF BURUNDI (2018), art. 26, https://www.constituteproject.org/constitution/Burundi_2018.pdf?lang=en.

¹⁴ Law No. 1/28 of 29 October 2014 on the Prevention and Punishment of Trafficking in Persons and the Protection of Traffic Victims art. 4, <https://antislaverylaw.ac.uk/country/burundi/> (unofficial translation).

¹⁵ Law No. 1/28 of 29 October 2014 on the Prevention and Punishment of Trafficking in Persons and the Protection of Traffic Victims art. 10, <https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Burundi-Trafficking-in-Persons-Law.pdf>.

¹⁶ *Id.* art. 19.

¹⁷ Penal Code (Rev. 2009) art. 242, <https://antislaverylaw.ac.uk/country/burundi/> (unofficial translation).

¹⁸ *Id.*

¹⁹ *Ratification Status for Burundi*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=28&Lang=EN (last visited Aug. 16, 2022).

²⁰ International Covenant on Civil and Political Rights art. 8, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

²¹ *Burundi*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/burundi/> (last visited Aug. 7, 2022).

²² *Burundi*, *supra* note 21.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Ugandan Authorities Rescue 8 Burundian Women from Traffickers*, XINHUANET (Sep. 1, 2021), http://www.news.cn/english/africa/2021-09/01/c_1310160160.htm.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Xinhua, *Uganda Rescues 29 Burundi Girls, Arrests 5 in Human-Trafficking Racket*, CGTN AFRICA (Apr. 8, 2021), <https://africa.cgtn.com/2021/04/08/uganda-rescues-29-burundian-girls-arrests-5-in-human-trafficking-racket/>.

³¹ *Id.*

³² *Id.*

³³ Aggrey Omboki, *Kenya Police Rescue 25 Women from Suspected Human Trafficking Ring*, THE EAST AFRICAN (Mar. 28, 2019), <https://www.theeastafrican.co.ke/news/ea/25-Burundian-women-rescue-Kenya-human-trafficking/4552908-5045982-r5tsygz/index.html>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Burundi Signs Deal to Fight Human Trafficking*, CGTN AFRICA (Aug. 19, 2019), <https://africa.cgtn.com/2019/08/19/burundi-signs-deal-to-fight-human-trafficking/>.

³⁷ *Id.*

³⁸ *Celebrating International Day Against Human Trafficking*, FOREIGN POLICY WATCHDOG (Aug. 3, 2022), <https://foreignpolicywatchdog.com/burundi/celebrating-international-day-against-human-trafficking>.