

BURUNDI

Mid-term Implementation Assessment



UPR-INFO.ORG
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by *UPR Info* to collect data and to calculate index is described at the end of this document.

Geneva, 18 October 2011

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/burundi>

We invite the reader to consult that webpage as all recommendations, as the full reports and the unedited comments can be found at that very internet address.

12 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. No domestic NHRI exists.

2 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

IRI: 12 recommendations are not implemented, 20 recommendations are partially implemented, and 6 recommendations are fully implemented. No answer was received for 66 out of 104 recommendations.

2. Feedbacks on recommendations

Recommendation n° 1: *Continue efforts in the sector of the judicial system with the support of the international community.* (Recommended by Algeria)

IRI: partially implemented

+

Recommendation n° 48: *Continue its efforts towards reforming the security sector institutions, with the support of OHCHR and the international community.* (Recommended by Egypt)

IRI: partially implemented

+

Recommendation n° 51: *Increase its efforts to contribute to the disarmament, demobilization and reintegration of children involved in armed conflict.* (Recommended by France)

IRI: partially implemented

+

Recommendation n° 80: *Ensure that training programmes focusing on human rights are mandatory for all judges, lawyers and police officers.* (Recommended by Netherlands)

IRI: not implemented

+

Recommendation n°83: *Reform the judicial system.* (Recommended by Nigeria)

IRI: partially implemented

+

Recommendation n° 95: *Intensify efforts to uphold the respect for the rule of law by ensuring an independent and well functioning judicial system.* (Recommended by Sweden)

IRI: not implemented

+

Recommendation n° 98: *Continue its efforts to integrate, without delay, the Palipehutu-FNL into the defence and security forces, as well as in the various executive, administrative and diplomatic areas.* (Recommended by Switzerland)

IRI: partially implemented

Franciscans International (FI) response:

- Des tribunaux ont été créés. Il est constaté le **manque d'indépendance des magistrats** et la **lenteur** dans l'examen des affaires traitées par la justice.
- Le **président de la République** assure la présidence du Conseil Supérieur de la Magistrature. Il dispose du pouvoir de nomination des magistrats et du droit de grâce. Le **Ministre de la justice et Garde des sceaux** a le pouvoir de recruter, muter et rétrograder les magistrats.
- Les magistrats ne sont pas recrutés sur concours. Leur salaire est dérisoire. La pratique **des pots-de-vin et de l'extorsion** est répandue(Egypte). **L'impunité prévaut toujours** notamment concernant les violences sexuelles et viols (Argentine, Japon).
- Certaines **ONG proposent un service de médiation** afin de régler les conflits à l'amiable.
- Les **conditions de détention** restent déplorables, les prisons sont surpeuplées. Selon l'expert indépendant, le **recours excessif à la détention avant jugement**, fait que les prisons sont surpeuplées et abritent aujourd'hui environ quatre fois plus de détenus et de prisonniers qu'elles devraient.
- Bien que le 21 avril 2011, le Procureur Général de la République ait ordonné qu'il soit **mis un terme aux détentions préventives prolongées** et aux détentions ne « justifiant pas la dangerosité du délinquant ». Certains restent toujours emprisonnés tel que **Maitre François Nyamoya**.
- **300 jeunes/enfants seraient toujours emprisonnés.**

- L'âge de **responsabilité pénale étant de 15 ans**, les jeunes sont souvent mêlés aux adultes en violation des normes internationales. Une seule prison a un régime spécial pour les femmes et les enfants. (Malaisie)
- On rapporte des cas de **prisonniers en grève** pour manque d'eau, de nourriture de soins et **d'exécutions sommaires de grévistes dans la prison de Ruyigi**.
- La **communauté internationale** apporte son soutien à la réforme pénitentiaire. Un plan d'urgence pour chaque prison semblerait en cours d'élaboration (?)
- Le Bureau Intégré des Nations Unies au Burundi (BINUB) a permis **la réhabilitation de certaines prisons**; des matelas, couvertures, tenues de prisonniers ont aussi été distribués.
- **La population est fatiguée** de la guerre, de la corruption notamment dans la magistrature et la police et de l'extrême lenteur prise pour établir une justice transitionnelle sujette à polémique. (Autriche)

Recommendation n° 2: *Recommended that the Government and armed groups that are signatories to the cease fire concluded pursuant to the agreement of 7 September 2006 continue efforts to implement it.* (Recommended by Algeria)

IRI: fully implemented

+

Recommendation n° 8: *Establish transitional justice mechanisms as a key element to the administration of justice and re-establishment of the rule of law.* (Recommended by Austria)

IRI: not implemented

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Recommendation n° 10: *Consolidate reconciliation.* (Recommended by Azerbaijan)

IRI: partially implemented

+

Recommendation n° 26: *Support the efforts made to establish the procedures for transitional justice under the 2000 Arusha agreements, in particular setting up methods for national consultations, as called for by the Security Council in its resolution 1606 2005.* (Recommended by Canada)

IRI: not implemented

+

Recommendation n° 37: *Increase the financial and human resources available to the judicial system.* (Recommended by Czech Republic)

IRI: partially implemented

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Recommendation n° 57: *Use consultations to ensure that a truth and reconciliation commission and a special tribunal be established as soon as possible.* (Recommended by Ireland)

IRI: fully implemented

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Recommendation n° 60: *Take all appropriate measures to address the issue of impunity and to implement adequate mechanisms of transitional justice.* (Recommended by Italy)

IRI: partially implemented

+

Recommendation n° 84: *Ensure that transitional justice mechanisms and reparations programmes fully integrate gender concerns and that justice for gender-based crimes during the conflict is realized.* (Recommended by Norway)

IRI: -

+

Recommendation n° 103: *Prioritize national consultations to establish transitional justice mechanisms to ensure that reconciliation and justice address allegations of the most serious crimes, including war crimes, crimes against humanity and genocide.* (Recommended by United Kingdom)

IRI: partially implemented

Franciscans International (FI) response:

Il n'y a **toujours pas de justice transitionnelle** au Burundi.

- Il a cependant fallut cinq ans pour que le Gouvernement burundais et ses partenaires internationaux terminent en décembre 2010 **les consultations nationales** (Italie, Cameroun)
- Une **Commission** a été créée par le gouvernement pour mettre en place les lignes directrices de la Commission Vérité et Réconciliation.
- Mis en place sans consultation préalable, l'indépendance et l'intégrité du **Comité** sont mises en doute. Les membres appartiennent exclusivement au parti au pouvoir et certains sont suspectés d'avoir participé aux massacres lors de la guerre civile. **Léonce SINDARUBAZA** est connu pour avoir participé aux massacres contre les tutsis en 1993
- Le 24 aout 2011, **50 experts** venus du Congo, Rwanda, Afrique du Sud, Pérou... sont venus aider à mettre en place la Commission.
- Les progrès pour le rétablissement de l'**Etat de droit** semblent **très très lents malgré tous les efforts du gouvernement.** Les violations de droits de l'homme sont constatées à tous les niveaux.

- Le programme de Démobilisation, Désarmement et Réinsertion (DDR) a été financé de 2005 à juillet 2010 par la Banque Mondiale. L'UNICEF poursuit l'effort financier, soutenant les ONG locales actives dans ce domaine.

Recommendation n° 3: *With the support and cooperation of the international community, continue to fight poverty.* (Recommended by Algeria)

IRI: partially implemented

+

Recommendation n° 12: *With the support and cooperation of the international community, continue to fight poverty.* (Recommended by Azerbaijan)

IRI: partially implemented

+

Recommendation n° 16: *With the support and cooperation of the international community, continue to fight poverty, particularly extreme poverty.* (Recommended by Bangladesh)

IRI: partially implemented

Franciscans International (FI) response:

- Le rapport 2010, présenté par le gouvernement, soutient qu'il sera difficile d'atteindre les objectifs relatifs à l'éradication de **l'extrême pauvreté et de la faim** au Burundi en 2015 (**OMD**)
- Selon ADISCO (Appui au développement Integral et à la Solidarité sur les Collines) : "**La riziculture burundaise est menacée d'extinction**"
- Un **Programme National de Nouvelle Intervention Prolongée de Secours et de Redressement (IPSR)** est en place ainsi qu'un programme de Cantines scolaires dans quelques écoles du pays.

Recommendation n° 14: *With international support, continue to promote education for all, with special attention to achieving gender parity in school enrolment.* (Recommended by Bangladesh)

IRI: not implemented

+

Recommendation n° 47: *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.* (Recommended by Egypt)

IRI: not implemented

+

Recommendation n° 62: *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.
(Recommended by Italy)

IRI: not implemented

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Recommendation n° 71: *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.* (Recommended by Malaysia)

IRI: not implemented

Franciscans International (FI) response:

- Selon le rapport 2010 du gouvernement, il semble **possible d'atteindre** les Objectifs du Millénaire (**OMD**) pour le développement en matière d'éducation primaire universelle...
- **Les réformes** se sont succédé depuis 2007. Ces dernières années les changements étant notamment : la gratuité à l'école primaire (même si fourniture scolaire et uniformes demandent une participation conséquente aux parents), l'apprentissage de 4 langues (langue maternelle, français, anglais et kiswahili), double vacation des salles et des maîtres l'après-midi...
- L'école primaire **est gratuite** et même les **adultes** suivent des cours d'alphabétisation
- Fin mai 2011 : Seul 1 écolier sur 5 des 150 000 écoliers burundais de la 6^{ème} primaire qui ont passé le concours national d'entrée à l'école secondaire a obtenu la note pour entrer au lycée public. En seulement trois ans, **le taux de réussite a baissé de moitié**. Les résultats sont **en chute libre**.

Manque d'enseignements, de manuels scolaires et de classes. Les effectifs sont passés de 40 à 100-200 élèves par classe. Les enseignants faisant face à des élèves de 7 à 20 ans.

Recommendation n° 15: *With the support and cooperation of the international community, continue to combat diseases such as HIV-AIDS, malaria and tuberculosis, with special attention to the vulnerable.* (Recommended by Bangladesh)

IRI: partially implemented

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Recommendation n° 22: *Consider strengthening programmes to fight and prevent HIV-AIDS, with special attention to women and children.* (Recommended by Brazil)

IRI: partially implemented

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Recommendation n° 67: *Progressively increase its budgetary allocations to health in order 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.* (Recommended by Luxembourg)

IRI: partially implemented

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Recommendation n° 68: *Set up hosting and reintegration structures for HIV-AIDS orphans.* (Recommended by Luxemburg)

IRI: partially implemented

Franciscans International (FI) response:

- L'accès aux services de santé reste **difficile** pour une grande partie de la population. De nombreux **professionnels** qualifiés sont partis pendant les années de conflit, les **infrastructures** sont délabrées.
- Des centres de santé, **des hôpitaux ont été créés.** On déplore **des maladies** comme la malaria, le sida et **le manque de campagne** pour lutter contre. De plus, on constate la difficulté pour la population d'accepter de se faire dépister. La maladie est ressentie comme une **honte** dont on ne veut pas parler/entendre parler.
- **L'assistance médicale est gratuite** aux femmes enceintes et aux enfants de moins de 5 ans.

Recommendation n° 19: *Continue its efforts to address the challenges it faces, with the support of the States members of the United Nations.* (Recommended by Benin)

IRI: fully implemented

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Recommendation n° 25: *Consolidate reconciliation and peace through scrupulous respect for projects developed in cooperation with the United Nations.* (Recommended by Cameroon)

IRI: fully implemented

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Recommendation n° 82: *Fully promote the protection of human rights in the country.* (Recommended by Nigeria)

IRI: fully implemented

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Recommendation n° 90: *Continue its efforts for the promotion and protection of human rights with the support of the international community, at the bilateral and multilateral levels.* (Recommended by Rwanda)

IRI: fully implemented

Franciscans International (FI) response:

- Le **Bureau Intégré des Nations Unies au Burundi** (BINUB) et **le Haut Commissariat aux droits de l'homme** (HCDH) maintiennent le contact régulier avec les autorités, établissent des plans, surveillent les violations commises dans les 17 provinces du Burundi et présentent des rapports.
- Des **formations sur la promotion et la protection des droits de l'homme** sont organisées en faveur des forces de sécurité et du personnel pénitencier.

- La communauté internationale apporte son **appui à la réforme** du système judiciaire et pénitentiaire, médical et scolaire dans le cadre d'accords bilatéraux et multilatéraux de coopération.
- Le portefeuille de la **Banque mondiale au Burundi** comprend 14 projets en cours dans des secteurs aussi variés que l'agriculture, la santé, l'éducation, l'énergie, l'eau, les transports, le développement communautaire et rural, la démobilisation et la réintégration, les travaux publics, le développement du secteur privé, la gestion économique et la gestion des finances publiques. En avril 2011, ces engagements s'élevaient au total à un peu moins de 440 millions de dollars.

Recommendation n° 21: *Consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.* (Recommended by Brazil)

IRI: not implemented

+

Recommendation n° 50: *Adopt legislation guaranteeing equality between men and women, particularly in the area of family and inheritance law.* (Recommended by France)

IRI: partially implemented

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Recommendation n° 76: *Recommended that all cases of rape and other forms of sexual violence be investigated in an expeditious, effective and impartial manner by an independent body and that all accused be prosecuted.* (Recommended by Mexico)

IRI: not implemented

+

Recommendation n° 87: *Implement the recommendations of the Committee on the Elimination of Discrimination against Women and take measures to eliminate discriminatory practices against women, also through education and awareness-raising programmes.* (Recommended by Portugal)

IRI: partially implemented

+

Recommendation n° 94: *Increase work on gender equality, sexual violence and empowerment of women, especially regarding women's rights to inheritance and access to land.* (Recommended by Sweden)

IRI: not implemented

+

Recommendation n° 96: *Take the necessary steps to amend the Code on Persons and the Family, the law governing inheritance, matrimonial regimes and bequests and the Criminal Code in order to bring them into conformity with the principle of non-discrimination as set out in the Convention on the Elimination of All Forms of Discrimination against Women.* (Recommended by Switzerland)

IRI: partially implemented

Franciscans International (FI) response:

- CEDAW : Le Protocol optionnel n'a toujours **pas été ratifié** (Brésil)
- Le taux de **représentation des femmes** est augmentation dans la société (Azerbaijan) : 30% aux conseils communaux, 31,4% des sièges au Parlement 46% au sénat (le Burundi détient le premier rang pour l'Afrique) et 28,6 % des portefeuilles ministériels.
- Selon les témoins consultés, si le pays est en arrière sur la question des femmes il a tout de même progressé.

Une **sensibilisation est faite** en faveur des femmes. Elles commencent tout juste à s'exprimer, des mouvements apparaissent, le gouvernement encourage la sensibilisation par des publicités, des programmes de télévision.... La **violence domestique** demeure ...

Recommendation n° 55: *Speedily implement the new Criminal Code, declaring sexual violence a crime, while guaranteeing the impartiality of investigation and questioning. (Recommended by Holy See)*

IRI: partially implemented

Franciscans International (FI) response:

- Un **haut niveau de violence persiste**, notamment sur **les mineurs**.
- Le **nouveau Code Pénal** révisé en avril 2009, contient des **définitions plus claires** du viol et des violences sexuelles. Il prévoit des **sanctions plus sévères**. Le **harcèlement sexuel est incriminé** par l'article spécifique 563. L'application effective fait encore défaut. La **charge de la preuve** incombe à la victime (Saint-Siège).
- Le viol est un **sujet tabou** dans la société burundaise. On ne déclare pas les cas, ce n'est pas dans les mentalités. **Accéder à la justice se serait s'exposer**.
- **Impunité** : le **crime de viol est considéré comme** sans importance par la population, la police et n'est pas pris au sérieux par le système judiciaire.
- On observe une **lenteur des progrès** pour lutter effectivement. Même si les auteurs sont poursuivis et si des sanctions existent, la population a plus confiance dans le recours au **règlement à l'amiable**. **L'impunité** prévaut et les victimes ne reçoivent évidemment aucune compensation.(Autriche, Danemark)
- L'appareil judiciaire, les autorités politiques, les parlementaires les forces de police, autorités douanières, ne reçoivent **aucune formation en la matière** (Allemagne)

- **Le gouvernement ne met pas en place des programmes de sensibilisation** de la population. Quelques ONG le font (exemple Fontaine Isoko) ainsi qu'offrir assistance aux victimes comme le centre Seruka (Luxembourg)
- **Le travail des enfants** est une pratique largement répandue au Burundi, notamment les petites filles employées comme travailleuses domestiques. Aucune loi n'existe pour protéger les travailleurs domestiques.

Recommendation n° 61: *Take appropriate measures to align the conditions of detainees with international standards.* (Recommended by Italy)

IRI: not implemented

Franciscans International (FI) response:

Bien que le Burundi ait **ratifié différentes conventions internationales spécifiques** aux catégories de personnes vulnérables (handicapés, migrants, réfugiés, déplacés...) aucun texte juridique national ne semble adopté pour concrétiser son engagement sur le plan interne.

3. Index

Hereby the issues which the MIA deals with:

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Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we consider positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, communication is split up among recommendations we think it belongs to. Since such a task opens the way of misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither the recommendation was “fully implemented” nor “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

While we do not mention recommendations which were not addressed, they can be accessed on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Contact

UPR Info

Avenue du Mail 14
CH - 1205 Geneva
Switzerland

Website: <http://www.upr-info.org>



Phone: + 41 (0) 22 321 77 70
Fax: + 41 (0) 22 321 77 71

General enquiries info@upr-info.org

Follow-up programme followup@upr-info.org

Newsletter "UPR Trax" uprtrax@upr-info.org