



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Held at the Palais Wilson, Geneva, on Wednesday, 1 November 2023, at 3 p.m.

Chair: Mr. Touzé (Vice-Chair)

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In the absence of Mr. Heller, Mr. Touzé (Vice-Chair) took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third periodic report of Burundi (continued) (CAT/C/BDI/3; CAT/C/BDI/Q/3; CAT/C/BDI/RQ/3)

1. *At the invitation of the Chair, the delegation of Burundi joined the meeting.*
2. **Ms. Sabushimike** (Burundi), referring to questions put at the Committee's 2039th meeting, said that she had found it regrettable to hear Committee members repeat allegations based on misinformation and spread by a small group of people seeking to destabilize the country's democratically elected institutions.
3. **A representative of Burundi** said that the reports submitted to the Committee by civil society organizations and United Nations agencies concerned events that had occurred eight years earlier. No one was above the law in Burundi, however, and anyone committing a crime would be prosecuted. Investigations into reported cases of torture and enforced disappearance were carried out in accordance with the law. Eight cases of torture were currently being investigated by the judiciary. The difficulty in finding people willing to cooperate with prosecutors and provide them with information made it hard to investigate cases of enforced disappearance, and the country's lack of forensic doctors posed a challenge in investigations into allegations of torture.
4. Judicial officials who sought bribes were systematically punished in accordance with the law, once sufficient evidence was gathered against them. Twenty-seven such officials and three ministerial advisers had been imprisoned for corruption.
5. The budget of the Ministry of Justice had increased from 25 billion to 50 billion Burundi francs (F Bu) between the 2020/21 and 2023/24 fiscal years. The professional training centre for the judiciary, in cooperation with the Ministry of National Solidarity, Social Affairs, Human Rights and Gender and other partners, provided continuing education courses for judicial officials. During the period under review, all 1,818 judges and prosecutors, at all levels of the justice system, had received training.
6. The Government found it unnecessary to become a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, as the death penalty had been abolished in Burundi in 2009.
7. **A representative of Burundi** said that a statute of limitations had been applied to the offence of torture in Burundi because that had been the will of the country's lawmakers. Although the Government was committed to eradicating the practice of torture, the removal of the statute of limitations would not ensure the achievement of that goal. Attempts to commit torture and complicity in torture had been criminalized under various articles of the Criminal Code.
8. In the Government's view, the establishment of a compensation fund for victims of torture would remove a disincentive to the commission of torture, as perpetrators would be relieved of the associated costs. The Government had wished to place responsibility for the payment of compensation on the perpetrators and would step in only if the perpetrators could not be found. In such cases, however, the provision of compensation was hindered by the lack of financial resources.
9. Where the provisions of international human rights treaties were incorporated into domestic law, courts cited the relevant domestic laws rather than the treaties themselves in their judgments.
10. The public prosecutors' offices in Bubanza, Cibitoke, Gitega, Karuzi, Makamba and Rumonge had opened cases involving allegations of torture, and one such case was before a court in Karuzi. Criminal investigation officers were required to report any offences that they became aware of to the public prosecutor. With respect to certain serious offences, any person could bring suspected perpetrators before the nearest competent authorities, who would then

notify the public prosecutor. Judicial officials who violated the rules regarding pretrial detention faced disciplinary and criminal penalties.

11. **A representative of Burundi** said that, in the 2023 Trafficking in Persons Report of the Department of State of the United States of America, Burundi had advanced to a position in tier 2, thanks to a series of efforts that had begun in 2018. The Government had set up an ad hoc committee to combat trafficking in persons in 2018; put in place a network of judicial, police and community liaisons or focal points; held a number of awareness-raising and training activities for diplomats and judicial officials under a comprehensive action plan for the period 2019–2022; launched a national action plan for the period 2023–2027; translated the country’s anti-trafficking law into Kirundi; prepared a guide to standard operating procedures for the fight against trafficking in persons; and put in place a system to collect data on trafficking. With support from the International Organization for Migration, over 40 tablet computers had been distributed to police and judicial focal points, and laptop computers had been provided to a commission established under the anti-trafficking law to coordinate and follow up on efforts to prevent trafficking in persons. The Government had created a department under the Ministry of Foreign Affairs and Development Cooperation to promote the employment of migrants, and Burundi had entered into bilateral agreements with Saudi Arabia and Qatar to facilitate and regulate the migration of Burundian workers to those countries. In 2022 and 2023, prosecutors’ offices had opened 121 investigations into cases of trafficking in persons, eight cases of sex trafficking had been investigated and 90 individuals had been brought to trial. Convictions had been handed down, with defendants being sentenced to prison terms of 3 months to 10 years and the payment of fines from F Bu 100,000 to F Bu 500,000 and of damages from F Bu 100,000 to F Bu 1,200,000.

12. **A representative of Burundi** said that amendments to the prison regulations, which currently did not allow prisoners to appeal decisions regarding solitary confinement, transfers or the restriction of visits, had been submitted to the ministry responsible for the prison system for approval. Of the country’s 13,389 prisoners, 0.9 per cent were foreigners, 1.38 per cent were minors and 7.48 per cent were women. There were 123 infants living in prisons. The prison system was operating at 311 per cent capacity.

13. Female prisoners in mixed prisons were housed in separate areas. A separate women’s prison, with a special area for girls in conflict with the law, had been built in Ngozi and had 204 inmates. The prisoners could participate in cultural activities and were offered vocational training in sewing, knitting and animal husbandry. Burundi worked with national and international development partners to improve female prisoners’ living conditions.

14. Two rehabilitation centres had been built for minors in conflict with the law, in Rumonge and Ruyigi. There, minors learned how to work with machines and raise large and small animals, and girls were offered courses in sewing. Nineteen minors had been released on parole to continue their studies.

15. Visits to Floriane Irangabiye and Dr. Christophe Sahabo had not, as reported, been restricted. Both prisoners had been transferred for disciplinary reasons. After Ms. Irangabiye’s behaviour had improved, she had been transferred to a facility 300 kilometres from her home.

16. Burundi had implemented preventive measures, including handwashing and the use of masks, to stop the spread of coronavirus disease (COVID-19) in prisons. Isolation rooms had been set up, and treatment had been provided free of charge. None of the 300 cases of COVID-19 among prisoners had resulted in death. The prison system budget had been increased to F Bu 13 billion.

17. Incorrect information was circulating about the prison system. A contagious disease reportedly caused by poor hygiene at Mpimba prison had actually been measles, and all the prisoners who had contracted it had since recovered. Hospital records showed that the cause of Mr. Déo Havyarimana’s death at Bubanza prison on 15 August 2022 had been liver disease and not, as reported, a lack of food. A prisoner who had died after allegedly being negligently returned to Gitega prison from the hospital had, according to the medical records, been sent back because the hospital’s medical staff had determined that there was nothing more that they could do for him.

18. Muramvya, Mpimba and Gitega prisons did not have high occupancy rates because they were used to detain political opponents, as alleged, but because each received prisoners from multiple judicial districts. The Government was introducing measures to shorten sentences in order to reduce prison overcrowding.

19. **A representative of Burundi** said that the 2018 Constitution stated that the right to asylum was recognized under the conditions defined by law. Access to the rights of refugees was guaranteed by Act No. 1/25 of 5 November 2021. A department of the National Office for the Protection of Refugees and Stateless Persons dealt with persons with special needs, such as children, persons with disabilities and older persons. Generally speaking, Burundi considered asylum seekers' cases without discrimination and processed them in accordance with the law. By way of illustration, fewer than 1,000 of nearly 25,000 asylum applications had been rejected.

20. **A representative of Burundi** said that the Government categorically rejected allegations of assassinations attributable to State authorities. In criminal matters, the principle of individual responsibility for one's actions also applied to public officials. For example, two police officers and two officer candidates had been arrested and brought to justice in August 2023 for the murder of a woman one month earlier.

21. The aim of grenade attacks in markets, cabarets and bus stations when children were returning from school was to provoke a climate of terror and panic in the general public, hence the labelling of the perpetrators of such attacks as terrorists.

22. Two corporals had recently been sentenced by military court to 3 years in prison and a fine of F Bu 500,000 on charges of sexual harassment committed in 2017 while they were deployed as part of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic. Soldiers were given training in ethics and professional conduct prior to any deployment, with a particular focus on international humanitarian law, the Convention against Torture and the roles and responsibilities of commanding officers.

23. Public officials, including law enforcement officers, could not invoke an order from a superior or a public authority to justify torture; once again, the principle of individual responsibility applied, and the Code of Ethics of the Burundian National Police stated that a manifestly illegal order must not be carried out. However, cases of torture involving a provincial head of the National Intelligence Service and a provincial police commissioner were currently before the public prosecutor, demonstrating how seriously acts of torture committed by members of those bodies were dealt with.

24. Tripartite agreements on the voluntary repatriation of Burundian refugees living in the United Republic of Tanzania had been signed by representatives of the Governments of that country and Burundi and the Office of the United Nations High Commissioner for Refugees, and awareness-raising sessions had also been held on the subject, most recently in July and August 2023. Thousands of refugees had voluntarily returned, among them political opponents and members of civil society.

25. Measures to support internally displaced persons included State aid in the form of cooking utensils and food provided to persons returning to their original place of residence, as well as support from the local authorities in the building of homes. Returnees did so voluntarily, peacefully and without threat or fear of torture, whenever farming activities required. Some stayed with neighbours temporarily and returned to camps after completing their planned activities.

26. With respect to the use of force by the authorities in events in 2015, a situation that had initially been believed to be a peaceful demonstration had turned out to be a putschist-influenced insurrectionary movement, in which 78 police officers had died and 179 had been injured. The defence and security forces had needed to adapt their response to the situation and had not made excessive use of force.

27. Searches were conducted by the police to help safeguard security in urban areas. Women were always searched by a female officer and men by a male officer. House searches by the security forces must be approved by the public prosecutor and carried out in the presence of an officer of the criminal investigation police and a representative of the local

administrative authority. It was doubtful whether any examples could be given supporting the allegations made on the subject.

28. The absolute priority given to respect for human rights in the legal texts that governed the defence and security forces was at odds with allegations of abductions and extrajudicial executions committed by those bodies. Nevertheless, such allegations that were brought to the attention of the police were investigated; some subsequently turned out to be unfounded, as in the recent cases of Didier Niyongabo and Jérémie Misago.

29. **A representative of Burundi** said that measures taken to combat gender-based violence included Act No. 1/13 of 22 September 2016 on the protection of victims and the prevention and punishment of gender-based violence, which had increased penalties for certain gender-based violence offences, and improvements made to the legal framework by revising the Criminal Code in 2017.

30. At an institutional level, a department responsible for preventing sexual and gender-based violence and providing holistic care to victims had been created in the Ministry of Human Rights, Social Affairs and Gender in 2021. The facilities and human resources of the decentralized services of that Ministry had also been strengthened; State and private-sector centres for the holistic care of victims of gender-based violence had been opened; and a centre for training, information and research on the subject had been created in 2019. Focal points to combat gender-based violence were also being established in public prosecutor offices and district courts.

31. At the operational level, an early warning system had been set up, enabling real-time reporting of gender-based violence. Service providers involved in the response were obliged to take effective action to help survivors, both independently and in coordination with other actors. It was hoped that those measures would result in cases being processed more quickly, survivors provided with better follow-up and support, out-of-court settlements avoided and fewer legal proceedings dropped.

32. Marital rape and spousal abuse, including domestic violence and emotional abuse, were all punishable by law, yet spousal abuse was one of the least reported forms of violence. To help address that situation, community forums had been established to combat gender-based violence, and a series of community meetings had been launched in order for local challenges, including domestic issues, to be aired. The intention was to restore the family as the cornerstone of a harmonious society, in line with the Vision 2040–2060 project.

33. Cases of gender-based violence were dealt with in accordance with the law, regardless of the perpetrator's status or position. More than half of the 2,660 such cases registered by the courts in 2022 had been resolved and the appropriate sentences handed down. It would not be logical for the Government to order its own agents to commit violence against the country's population, which it was dedicated to protecting. A police officer had recently been sentenced to 12 years in prison and dismissed from the force for raping a woman held at Rumonge police station.

34. Efforts to support the economic empowerment of women as a means of shielding them from gender-based violence included the setting up, in 2020 and 2021, respectively, of an investment bank for young people and an investment and development bank for women, and the introduction of a cash transfer programme to support the poorest families, including those headed by women.

35. In order to assist survivors of gender-based violence who did not receive reparation in the form of financial compensation, for example if the perpetrator was unable to pay damages, the Government provided a range of services, including accommodation, food, protection, health care, counselling, legal counsel, support in returning to the community and socioeconomic reintegration.

36. **A representative of Burundi** said that article 44 of the Constitution provided that all children had the right to special measures to ensure or improve the care they needed for their well-being, health, physical safety and protection against ill-treatment, abuse or exploitation. Corporal punishment was prohibited in schools, and article 298 of the Individual and Family Code allowed for parental authority to be revoked in the event of that authority, or the needs of the child, being abused. Specific articles of the Criminal Code punished domestic violence

against children, incitement to debauchery and child prostitution, and the facilitation of prostitution and child rape.

37. A free telephone helpline allowed for any kind of violence against children, including corporal punishment, to be reported. A national campaign had been launched to combat violence against children, exploitation, trafficking, abuse and neglect; child protection committees were in place nationwide; and a national children's forum gave children an active role in combating violence against them.

38. Standards at residential centres, such as orphanages and facilities for elderly or disabled persons or those with a mental impairment, were continuously monitored. The approach adopted by the Government was that the best place for everyone was in the family or the community. A process was under way to deinstitutionalize children residing in orphanages by keeping them in their biological families, whenever possible, or placing them in foster families, for whom training was provided. A document setting out the minimum standards required of residential centres for children had been adopted, and regular checks were carried out to ensure that no exploitation, abuse, violence or neglect was taking place. Any abuses were prosecuted and punished in accordance with the law.

39. Awareness-raising activities had been conducted to help protect persons with albinism and to combat beliefs that placed their lives in danger. Local organizations set up to promote and protect them had received support from the Ministry of Human Rights, Social Affairs and Gender. Persons with albinism were also represented on the National Committee for the Rights of Persons with Disabilities, which was responsible for monitoring the implementation of the 2018 national policy for persons with disabilities and its action plan. Partly as a result of those efforts, and collaboration with the neighbouring United Republic of Tanzania, there had been no recent murders of persons with albinism; all alleged perpetrators had been brought to justice and the guilty parties had been sentenced in accordance with the law.

40. The Imbonerakure were simply persons under the age of 39 years who were members of the ruling party, which had a youth league like all the country's registered political parties. The party's roots were in the movement formed to fight against the faction of the military that had seized power following the assassination of the first democratically elected President in 1993. It had become a political party following the final ceasefire in 2003 and had held power since the democratic elections of 2005. The youth league was represented at the local and national levels and conducted development-oriented activities through cooperatives and associations. It worked to help achieve the ruling party's goals, including to help Burundi become an emerging State by 2040 and a developed country by 2060. Its achievements had led to the President's appointment as African Union Champion on Youth, Peace and Security.

41. The Imbonerakure were not armed or provided with military training. Indeed, the ruling party, like all other political parties, would face deregistration if it had an armed militia. Moreover, as a major contributor of peacekeeping troops, Burundi clearly had sufficient defence and security personnel without recourse to unofficial forces. Of course, as the country's population was very young and the Imbonerakure were the youth league of its largest party, individual members sometimes committed crimes. When they did so, they were held accountable as individuals, as demonstrated by the recent prosecutions of several communal and provincial Imbonerakure leaders. Persons who demonized the youth league by calling it a militia that was implicated in human rights violations, including torture and ill-treatment, were opponents of the ruling party, working against democracy and development.

42. **The Chair** (Country Rapporteur) said that he welcomed the delegation's detailed replies, despite the late submission of the State party's periodic report, and hoped that the constructive dialogue would mark the beginning of a new era of cooperation with United Nations entities, including all treaty bodies, in view of the recent failure to cooperate with the Human Rights Committee. He wished to know whether the State party would resume cooperation with the Committee regarding individual communications submitted by its nationals. He wondered whether the State party would consider accepting a visit from the Special Rapporteur on the situation of human rights in Burundi, whose report, like that of the

Commission of Inquiry on Burundi, contained information that merited verification on the ground and discussion with the Burundian authorities.

43. He would like to hear about any plans to facilitate the return of the remaining political opponents in exile and an amnesty for those who had received harsh sentences. He would be interested to learn about measures taken to allow those who had served their sentences to reintegrate into society, and particularly to allow lawyers to reregister with the Bar Association.

44. It would be useful to receive in writing the statistical data already provided by the delegation. He would like to know whether the State party would reconsider its decision not to revoke the statute of limitations for torture. He wondered whether alternatives to pretrial detention were provided for in domestic law. He would appreciate information on any assessment that had been made of the mechanisms put in place to combat trafficking in persons.

45. He wished to understand the delegation's references to "improved behaviour" in relation to Ms. Irangabiye and Dr. Sahabo, which could imply that they were required to stop speaking out. He would like to know the definition of "offences against State security", given that harsh sentences had recently been handed down against a number of persons who appeared simply to have exercised their right to freedom of expression. He would appreciate clarification of the delegation's denial of the existence of political prisoners, in view of its references to political offences and political violence. Lastly, while acknowledging the delegation's explanations regarding the Imbonerakure, he would appreciate further clarifications in response to the numerous allegations regarding its members' links to national intelligence services and their role in human rights abuses.

46. **Mr. Rouwane** (Country Rapporteur) said that the Committee was obliged to raise issues concerning the entire reporting period. He wished to know the time frame for establishing the national preventive mechanism, bearing in mind that the national human rights institution could fulfil the role but must be officially designated as such. He would like to hear about the content of any specialized anti-torture training for judges, especially on the revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), and the number of persons trained.

47. He would appreciate clarification of the delegation's statement that the establishment of a compensation fund for victims of torture could incentivize torture. He would like to receive further information, including statistical data, on the sanctions imposed on judges who did not observe the law on pretrial detention.

48. It would be useful to have information on the systems in place to identify victims of trafficking at border crossings, including among asylum-seekers and returning refugees. He wished to have more detailed information about training on trafficking in persons, including the categories of officials trained, the number of courses provided and their content.

49. He would appreciate further information on the disciplinary breaches that had led Ms. Irangabiye and Dr. Sahabo to be transferred to other prisons. He wished to reiterate his questions concerning food, health and sanitary conditions in prison. It would be useful to have detailed information about any investigations carried out into deaths in custody and the outcomes. He would like to know whether prisoners had access to complaints mechanisms for violations of their rights, particularly torture and ill-treatment.

50. He wished to hear about any measures taken to protect internally displaced persons from violence, particularly to protect women and girls from sexual violence and exploitation. Lastly, he wondered whether the State party would consider amending its legislation to recognize the status of victims.

51. **Mr. Tuzmukhamedov** said that he would welcome a response to his earlier question on the inconsistencies in the voting record of the Burundi delegation, including the two instances in which the State party had not participated in the vote on the United Nations General Assembly resolution on the moratorium on the use of the death penalty.

The meeting was suspended at 16.55 p.m. and resumed at 17:30 p.m.

52. **A representative of Burundi** said that the President of the Republic had agreed that convicted individuals in exile could return to the country and receive a presidential pardon on the condition that they acknowledged the offences committed and asked to be pardoned. The 16 lawyers disbarred by the Burundi Bar Association could also be reinstated by the Bar if they requested a pardon.

53. The State party had made a firm commitment to cooperate and be in regular contact with the Permanent Mission of the Republic of Burundi in Geneva to ensure that all communications submitted in Geneva received a reply within the appropriate time frame.

54. A specialized module on torture for judges had been developed by the professional training centre for the judiciary. The State party would provide information about the Convention to the public without delay and intended to have it translated into Kirundi.

55. **A representative of Burundi** said that torture was already criminalized in the Criminal Code. There were currently no plans to revise the Criminal Code to remove the statute of limitations on torture, but the issue would be revisited if necessary, such as if the number of cases of torture recorded in the territory were to increase.

56. Alternative measures to prison sentences, such as fines and community service, had been included in the Criminal Code in order to avoid a disproportionate number of prison sentences. Judges had to decide whether imprisonment was necessary, for example based on evidence of the defendant's guilt and whether they believed the defendant was likely to try to escape justice. The Government had issued statements encouraging judges to make use of alternative disciplinary measures, and inspections were conducted to ensure that prisons were not overcrowded.

57. Creating a compensation fund for victims of torture could lead to an increase in the number of cases of torture. Such a fund was not provided by law. The Government was trying to find a solution to compensating individuals who were victims of acts of torture.

58. **A representative of Burundi** said that the visit made to the south of the country to conduct a midterm impact assessment of measures to combat trafficking in persons in January to February 2021 had been very informative. At that time, only 102 cases of trafficking had been investigated over the previous seven years and 43 cases had been in progress. However, following efforts to raise awareness of trafficking among public prosecutors and judges, and to clarify the difference between the offence of trafficking in persons and the offence of migrant smuggling in the Criminal Code, the number of cases investigated had increased significantly.

59. A set of standard operating procedures had recently been introduced to facilitate the identification of cases of trafficking. Judges, public prosecutors and police officers had also been made aware of the need to avoid treating victims as criminals, in order to avoid their double victimization, and had received training on the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Protocol against the Smuggling of Migrants by Land, Sea and Air and the prosecution of trafficking in domestic law. As of February 2023, training had been given to 544 public prosecutors and judges out of a total of 994, namely 56.4 per cent, and to 751 magistrates out of a total 824, namely 91.14 per cent.

60. **A representative of Burundi** said that freedom of expression could not be invoked in cases where demonstrators resorted to lethal violence, such as in the case of the individuals who had been convicted for breaching State security.

61. **A representative of Burundi** said that it was difficult for him to comment on the decision to transfer Ms. Irangabiye and Dr. Sahabo to another prison, as the decision had been made by the relevant commission in accordance with internal rules of procedure. Individuals might be transferred for reasons such as refusal of community service, disorderly conduct within the prison, or physical or mental abuse of fellow prisoners.

62. A joint ordinance from the ministry responsible for health matters and the Ministry of Justice and Civil Protection stipulated how individuals should be cared for, and prisoners received care accordingly. Potential challenges were taken into account to avoid supply shortages, such as of food. The number of deaths in prisons had been updated to 59, of which

44 resulted from the fire in Gitega prison and the remaining 15 were due to natural causes. With regard to complaint mechanisms for prisoners, inspectorates such as the prosecutor-general's office or national and international bodies such as the National Independent Human Rights Commission were generally responsible for receiving complaints from prisoners.

63. **Ms. Sabushimike** (Burundi) said that it had been a surprise to hear that Burundi was considered to be uncooperative with the United Nations institutions and its human rights mechanisms. Burundi actively participated in the Human Rights Council, of which it would be a member from January 2024, had recently completed its fourth cycle of the universal periodic review and had engaged in interactive dialogues with the International Covenant on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women.

64. However, her country had refused to cooperate with the country mandate imposed since 2016 on the pretext of preventing imminent genocide. Many other States were also opposed to the politicization of the work of the Human Rights Council. In July 2023, it had not been possible for the Burundi delegation to participate in the constructive dialogue with the Human Rights Committee owing to the presence of an individual who had been convicted for multiple offences, such as attempting to incite civil violence against the State, killing soldiers, police officers and civilians, and damaging and defacing buildings. Given that the Committee had decided to continue with the meeting in the absence of the delegation, she wondered what obligations treaty body committees had towards the State parties in such a context.

65. The Burundi Government was currently considering whether it was necessary to establish a national preventive mechanism. To help it to catch up on its delay in submitting reports to the treaty bodies, the Government had set up a department within the Ministry of National Solidarity, Social Affairs, Human Rights and Gender tasked with dealing with the treaty bodies, universal periodic reviews and other mechanisms. The delegation reiterated its commitment to the human rights treaty bodies and asked that its members refrain from all politicization of their work, particularly regarding technical recommendations.

66. **The Chair** said that the Committee was pleased to have been able to have a constructive dialogue with the State party and looked forward to receiving further clarifications in writing.

The meeting rose at 6.05 p.m.