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Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Burundi: Treatment of sexual minorities, including legislation, state protection and support services (2009-February 2013) [BDI104299.FE]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation and State Protection

Sources report that Burundi criminalized homosexual relations in 2009 (Human Rights Watch 30 Dec. 2012; *Xtra* 26 Oct. 2011; MUCO Burundi and ILGA [2012], 2). According to the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), sexual relations between women are also illegal (ILGA May 2012, 27). Article 567 of Burundi's Law No. 1/05 of 22 April 2009 relating to the review of the penal code (*Loi n° 1/05 du 22 avril 2009 portant révision du code pénal*) reads as follows:

Anyone who has sexual relations with a person of the same sex shall be sentenced to between three months and two years in prison and fined between fifty thousand francs [approximately C\$32 (XE 15 Feb. 2013a)] and one hundred thousand francs [approximately C\$65 (XE 15 Feb. 2013b)], or to only one of these penalties (Burundi 2009).

According to a 2011 news release, the President of Burundi, Pierre Nkurunziza, [translation] "steadfastly stated that his country is not ready to legalize homosexuality" (ibid. 27 Sept. 2011). The President also stated the following:

[translation]

[g]iven the Constitution of the Republic of Burundi (*Constitution de la République du Burundi*), our culture, the position of various African countries, not to mention the Holy Scriptures, we cannot allow homosexuality to be legally practised in Burundi (ibid.).

The *Country Reports on Human Rights Practices for 2011*, published by the United States (US) Department of State, reports that in 2011, no one was arrested or prosecuted under this law (US 24 May 2012, 25). In an interview with *Xtra*, a Canadian gay and lesbian news magazine (*Xtra* n.d.), a founding member of Humure, a Burundian organization initially established in 2003 as the Association for the Respect of Gay Rights (Association pour le respect des droits des homosexuels), stated, "theoretically, yes, we could go to jail for what we do.... Although the law is very hard to enforce; it only criminalizes a sexual act...but the law scares a lot of people" (26 Oct. 2011). Similarly, in correspondence sent to the Research Directorate, a representative of the Movement for Individual Freedoms (Mouvement pour les libertés individuelles, MOLI), a not-for-profit organization founded in Bujumbura in 2010 to promote the rights of marginalized groups (MOLI n.d.), stated that the government has taken "no action...to enforce this [provision]" of the penal code (ibid. 13 Feb. 2013).

The MOLI representative nevertheless indicated that a few LGBT people have been arrested and detained for several days without "clear" charges (ibid.). Human Rights Watch reports that "[a]rrests of persons suspected of homosexual conduct have been infrequent, and in the few cases documented by Human Rights Watch, those arrested have been released without charge" (30 Dec. 2012). A report prepared for the United Nations (UN) Universal Periodic Review on Burundi and submitted in partnership with ILGA by MUCO Burundi, an organization that campaigns for the rights of lesbian, gay, bisexual and transgender (LGBT) people in Burundi, indicates that the police and intelligence services summoned the founder of the organization twice in 2011 and questioned him about the presence of homosexual people in the province of Gitega; also that year, he was reportedly placed in detention for two hours for [translation] "promoting homosexuality" (MUCO Burundi and ILGA [2012], 2-3). Corroboration of the above could not be found among the sources consulted by the Research Directorate.

According to Human Rights Watch, "LGBT Burundians have reported that the existence of the law increases stigma and makes them less likely to seek assistance from the police when they are victims of crimes, and more vulnerable to extortion" (30 Dec. 2012). The MOLI representative also stated that "it's difficult, even impossible for sexual minorities to report an abuse to the police" (13 Feb. 2013).

2. Treatment of Sexual Minorities by Society

Xtra magazine reports that in Burundi, homosexuality is generally considered a "taboo" and a "curse" (26 Oct. 2011). Sources indicate that LGBT people have been forced from their homes because of their sexual orientation (MOLI 13 Feb. 2013; MUCO Burundi and ILGA [2012], 3). The report prepared by MUCO Burundi states that it is common for homosexuals to be threatened or insulted in the street (ibid.). According to MUCO Burundi, verbal attacks are [translation] "encouraged by a feeling of impunity created as a result of the homophobic legislation in place" (ibid.). MUCO also reports that [translation] "LGBT people in rural areas are subjected to much more discrimination and violence than in cities because of social pressure and stereotypes" (ibid.). Corroboration on the situation of LGBT people in rural areas or on MUCO could not be found among the sources consulted by the Research Directorate.

Under an education policy adopted in June 2011, students can be expelled from a school on the basis of homosexuality (Human Rights Watch 30 Dec. 2012; Coalition July 2012, para. 7; MOLI May 2012, 1). The Ministerial Order No. 620/613 of 7/6/2011 on setting school regulations (*Ordonnance ministérielle n° 620/613 du 7/6/2011 portant fixation du règlement scolaire*) states that homosexuality is one of [translation] "the faults for which a student may be expelled and denied admission into any institution during the current school year" (Burundi 2011, Article 9). As of May 2012, no cases of exclusion based on this order had been reported to MOLI, although [translation] "most LGBT students say that they are afraid of negative consequences they may face if their sexuality was known or suspected" (MOLI May 2012, 4). A report prepared by a coalition of approximately a dozen civil society organizations for the Universal Periodic Review on Burundi, led by the UN Human Rights Council, states that in August 2011, an adolescent was [translation] "tied to a pole" for several hours as punishment for being gay (Coalition July 2012, para. 7). Corroboration of the above could not be found among the sources consulted by the Research Directorate.

3. Support Services

The Remuruka Centre (Centre Remuruka), which provides services to LGBT people, opened in May 2011 (MOLI 9 Jan. 2012) in Bujumbura (US 24 May 2012, 25). According to the *Country Reports for 2011*, the government neither supported nor hindered the Centre's activities (ibid.). According to MOLI, the Remuruka Centre provides health care, assistance with social reintegration and psychological assistance, among other services (MOLI 9 Jan. 2012). The Centre reportedly brings together LGBT organizations in Burundi: Together for Women's Rights, Rainbow Candle Light (RCL), Humure and MOLI (ibid.).

According to a founding member of Humure, because of the law criminalizing homosexuality that was adopted in 2009, the Association for the Respect of Gay Rights changed its name to Humure in order to drop the French word "*homosexuel*" [homosexual] from its name; since then, the organization has focused primarily on health issues (*Xtra* 26 Oct. 2011).

RCL was founded in Bujumbura in 2009 (RCL n.d.). The organization advocates for the rights of LGBT people, notably their access to health care, and raises awareness of discrimination based on sexual orientation (ibid.).

Further information on support services, and information on Together for Women's Rights, could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Attempts to reach representatives of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, MUCO Burundi, and a professor at the University of Sudbury were unsuccessful.

Internet sites, including: AllAfrica; Amnesty International; Association de réflexion et d'information sur le Burundi; Burundi – Embassy of Burundi in Canada; Burundi Information; Factiva; Fédération internationale des ligues des droits de l'homme; *Le Figaro*; Freedom House; Global Gayz; International Gay and Lesbian Human Rights Commission; Jeune Afrique; Ligue burundaise des droits de l'homme; Ligue des droits de la personne dans la région des Grands Lacs; Minority Rights Group International; Organisation des médias d'Afrique Centrale; Panapress; PinkNews; Réseau documentaire international sur la région des Grands Lacs africains; Ritimo; United Nations – Human Rights Council, Integrated Regional Information Networks, United Nations Development Programme, Refworld.

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