



**Refugee Protection Division**

**Section de la protection des réfugiés**

**RPD File No. / N° de dossier de la SPR : MB7-01998  
MB7-01999**

**Client ID No. / N° ID client : XXXX XXXX XXXX  
XXXX XXXX XXXX**

**Private Proceeding / Huis clos**

**Reasons and Decision – Motifs et décision**

**Claimant(s)**

**Demandeur(e)(s) d'asile**

XXXX XXXX XXXXXXXXXXXX XXXX XXXX

**Date(s) of hearing**

**Date(s) de l'audience**

N/A

**Place of hearing**

**Lieu de l'audience**

In chambers  
(Expedited processing)

**Date of decision  
and reasons**

**Date de la décision  
et des motifs**

January 18, 2018

**Panel**

**Tribunal**

Hai-Yen Pham

**Counsel for the claimant(s)**

**Conseil(s) du (de la/des)  
demandeur(e)(s) d'asile**

M<sup>c</sup> Anabella Kananiye

**Designated representative**

**Représentant(e) désigné(e)**

XXXX XXXX

**Counsel for the Minister**

**Conseil du (de la) ministre**

N/A

## REASONS FOR DECISION

### INTRODUCTION

[1] The principal claimant (hereafter the claimant), **XXXX XXXX**, was born on August 19, 1992, in Burundi and alleges that she is a citizen of that country. She is accompanied by her daughter, **XXXX XXXX XXXX**, who was born on XXXX XXXX, 2013, in Burundi and is a citizen of that country.

[2] These claims for refugee protection are being made under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (IRPA). The principal claimant is the designated representative for her minor daughter.

### ALLEGATIONS

[3] In support of her refugee protection claim, the claimant alleges the following facts, as summarized in her written account attached to her Basis of Claim Form (BOC Form).

[4] The claimant and her daughter are Tutsi. The claimant is a member of a prayer group—Chrétiens de Businde [the Christians of Businde], which is led by Eusébie. The latter had a vision in which she saw that President Pierre Nkurunziza was going to seek an illegal third term, which was going to cause violence in the country. From that moment, the government did not want the group to meet for prayer.

[5] On March 12, 2013, while the claimant and her friends were going to a prayer meeting in Businde, they were arrested by the police and the Imbonerakure. The latter threatened the crowd and opened fire on them, resulting in casualties. The claimant was taken, along with some other Tutsi women, to a detention centre in the mountains of Kayanza, where she was beaten and raped.

[6] At the end of June, because the claimant was doing poorly and was visibly pregnant, one of the guards took her to the hospital where she was still watched. One of her mother's cousins, who was working at this hospital, helped her escape. She took the claimant to her home, where she took care of her and took photographs of her injuries.

[7] Her husband went to get her, and they went to Rwanda. The claimant stayed in Kigali for two months before returning to Burundi in September 2013, when her daughter was born. The latter was born when the claimant was in hiding at her parents' home. The claimant knew that a warrant had been issued for her arrest, so she remained in hiding.

[8] In May 2014 and in November 2014, the police went to the claimant's home with a search warrant. Because she was not in the house, the police took her husband. She has not heard from him since. The claimant decided to leave Burundi with her daughter. She obtained a visa to go to the United States.

[9] In February 2015, the police went to the home of the claimant's parents. Her mother was beaten when she refused to say where the claimant was. Her parents then sought refuge at her sister's home.

[10] After this incident, the claimant and her daughter left Burundi and arrived in the United States in XXXX 2015. They claimed asylum in September 2015.

[11] However, after the election of Donald Trump, the claimant was afraid of being deported to Burundi, so she withdrew her asylum claim in the United States and came to Canada to claim refugee protection in March 2017.

[12] The situation in Burundi continued to deteriorate, particularly with the closure of private media. The claimant's brother, XXXX, who was working for Renaissance radio/television, watched his car be set on fire on May 13, 2015. The claimant's sister was targeted by the Burundian authorities because of her membership in an opposition political party.

[13] In March 2017, her brother, who continued to post different articles on his Facebook site, was warned by one of his friends, who worked for the national intelligence service, that his family could face reprisals. The claimant's family therefore fled Burundi and sought refuge in Rwanda.

[14] The claimant is seeking protection for herself and her daughter by reason of their ethnicity, their religious convictions and because of the fact that the Burundian government considers her a political opponent.

## **DETERMINATION**

[15] These refugee protection claims were processed under the *Policy on the Expedited Processing of Refugee Claims by the Refugee Protection Division*. As a result, pursuant to paragraph 170(f) of the IRPA, the panel made a determination on these claims without holding a hearing and based on the documentary evidence on the record.

[16] The panel determines that the claimants are "Convention refugees" for the following reasons.

## **ANALYSIS**

### **Identity**

[17] The claimants' identities, including their citizenship, were established by the supporting documentation submitted, including a copies of their passports, provided by the Canada Border Services Agency (CBSA). Also on the record are copies of birth certificate excerpts for the claimant and her daughter.<sup>1</sup>

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<sup>1</sup> Document 2: Information package provided by the Canada Border Services Agency (CBSA) or Immigration, Refugees and Citizenship Canada (IRCC).

## Credibility

[18] The documentary evidence<sup>2</sup> indeed indicates that on March 12, 2013, police opened fire on a crowd of worshipers who are part of an informal spiritual movement that meets for prayer in Businde. Some worshipers were also beaten. The documentary evidence indicates that since 2012, the members of this movement have clashed with police and government representatives when the latter tried to stop them from gathering. On several occasions, police have arrested members of the movement, who have been denied due process.

[19] In addition, the claimant submitted copies of three notices to appear, dated July 2013,<sup>3</sup> and a copy of a warrant, dated November 2013.<sup>4</sup> These documents indicate that the claimant is wanted for participating in an insurrectional movement.

[20] It is also worth noting that the claimant submitted her claim for asylum in the United States, as well as a letter from the American authorities confirming that she had withdrawn this claim.

[21] The claimant's allegations in her claim for asylum in the United States, those in her interview at the Canadian border and those in her BOC Form have always been consistent.

[22] For these reasons the claimant was able to establish the facts alleged.

[23] Burundi has been in crisis since April 2015, when President Nkurunziza announced that he wanted to run for a third term. Peaceful protests against his candidacy took place, but the authorities violently suppressed them. After the failed coup, the Burundian government suppressed dissenters with even more bloodshed. Some protesters were arrested and tortured.<sup>5</sup>

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<sup>2</sup> Exhibits C, D and F: Article by Human Rights Watch, IRB's response, Article by Africa Review.

<sup>3</sup> Exhibits I, J and K.

<sup>4</sup> Exhibit L.

<sup>5</sup> Document 1: National Documentation Package on Burundi, March 31, 2017; Tab 13.6: *Treatment of Tutsis, in particular, young Tutsis, by the authorities; their treatment at the ports of entry (April 2015-*

[24] Since then, the repression of both opponents and presumed opponents has continued. There have been cases of intimidation, harassment, threats, torture, killings and forced disappearances of political opponents, protesters, human rights advocates and members of Burundian civil society.<sup>6</sup>

[25] The crisis in Burundi continues. According to the report by Human Rights Watch,<sup>7</sup> the political and human rights crisis that gripped Burundi in 2015 has deepened. Government forces have targeted perceived opponents with increased brutality. Security forces and intelligence services—often in collaboration with members of the ruling party’s militia, known as the Imbonerakure—have committed numerous killings, disappearances, abductions, acts of torture, rapes, and arbitrary arrests. Reports from 2017 indicate that these serious human rights violations in Burundi persist.

[26] According to the documentary evidence, women whose male family members were perceived government opponents were raped by the Imbonerakure and police officers. Many women and girls related to males who opposed the third term, or who were perceived as political dissidents, became the targets of physical and sexual violence by elements of the security forces.<sup>8</sup>

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*November 2015*). Immigration and Refugee Board of Canada. November 30, 2015. BDI105363.FE.; Tab 4.22: *Treatment of family members of those who oppose the third term of President Pierre Nkurunziza, especially of those who were associated with power (2014 August-2015)*. Immigration and Refugee Board of Canada. September 8, 2015. BDI105276.FE.

<sup>6</sup> Exhibit A-1 – National Documentation Package on Burundi, March 31, 2017, Tab 4.7: *The authorities’ treatment of political opponents; the authorities’ treatment of members of the political party known as Movement for Solidarity and Democracy (Mouvement pour la solidarité et la démocratie, MSD) (2015-February 2017)*. IRB. March 8, 2017. BDI105751.FE

Exhibit A-1: Tab 4.22: Response BDI105276.FE, September 8, 2015.

Tab 2.13: *Repression and genocidal dynamics in Burundi*, Fédération internationale des Ligues des droits de l’homme; Ligue burundaise des droits de l’homme, November 2016, page 58;

Exhibit A-1: Tab 2.2: *Burundi. Amnesty International Report 2016/17: The State of the World’s Human Rights*, Amnesty International.

<sup>7</sup> Exhibit A-1 – Tab 2.5: *Burundi. World Report 2017: Events of 2016*, Human Rights Watch, January 2017.

<sup>8</sup> Exhibit A-1 – Tab 4.7: *Response to Information Request BDI105751.FE*, IRB, March 8, 2017.

[27] In terms of the situation of Tutsis, in short, the documentary evidence<sup>9</sup> indicates that senior government officials have used inflammatory language against Tutsis. Some sources indicate that Tutsis are perceived as being political opponents and are more targeted than others and that most victims are Tutsis. Other sources, however, indicate that the crisis is strictly political and that both Hutus and Tutsis are being targeted: it is not just on the basis of ethnicity that Tutsis are targeted. One source indicates that although ethnicity is not always the primary motivation for crimes committed by the security forces, it tends to become an indicator of the violence exercised by the authorities against those they suspect of being opposed to the third term. Relying on testimony, an international observer told the FIDH and the Ligue Iteka that the Imbonerakure were encouraged to rape Tutsi women.

[28] Given the combination or accumulation of these grounds—that is, the current situation in Burundi and the claimant’s profile as a Tutsi woman who belongs to a religious movement that is targeted by Burundian authorities—the panel is of the opinion that if the claimant were to return to Burundi, she would face a reasonable chance of persecution.

### **State protection**

[29] Given that the Burundian authorities are the claimant’s agents of persecution, she would not obtain state protection if she had to return to Burundi.

### **Internal flight alternative**

[30] The Burundian authorities would have the means required to find the claimant anywhere in Burundi, a small country. The Imbonerakure are also present throughout Burundi.<sup>10</sup> Therefore, the claimant would have no reasonable internal flight alternative if she had to return to her country.

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<sup>9</sup> Exhibit A-1 – Tab 13.1: Response to Information Request BDI105750.FE, Immigration and Refugee Board of Canada, March 6, 2017.

<sup>10</sup> Exhibit A-1 – Tab 7.5: BDI104343.FE, March 22, 2013.

## CONCLUSION

[31] The panel concludes that there is a reasonable chance that she would be persecuted if she had to return to her country.

[32] Consequently, her refugee protection claim and that of her daughter are allowed.

*Hai-Yen Pham*

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**Hai-Yen Pham**

**January 18, 2018**

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**Date**

IRB translation

Original language: French