



## COI QUERY

<b>Country of Origin</b>	<b>BURUNDI</b>
<b>Title</b>	<b>Situation of LGBTIQ persons in Burundi</b>
<b>Reference period</b>	1 January 2021 to 27 March 2023
<b>Topic(s)</b>	<ol style="list-style-type: none"><li>1. Legal framework on LGBTIQ issues</li><li>2. Implementation of the law and treatment by the state (2021-2023)</li><li>3. Treatment of LGBTIQ persons by society (2021-2023)</li><li>4. Access to state protection</li></ol>
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## COI QUERY RESPONSE – Burundi

### Situation of LGBTIQ persons in Burundi

#### 1. Legal framework on LGBTIQ issues

The 2005 Constitution of Burundi (as amended in 2018), in Article 13, states that:

[informal translation] ‘All Burundian people are equal in merit and in dignity. All citizens enjoy the same rights and have the same protection of the law. No Burundian will be excluded from the social, economic or political life of the country due to their race, language, religion, sex, or ethnic origin.’<sup>1</sup>

The Constitution, in Article 22, further states that:

[informal translation] ‘All citizens are equal before the law, which assures them equal protection. No one may be the target of discrimination based on, notably: origin, race, ethnicity, sex, color, language, social situation, religious, philosophical, or political beliefs, physical or mental handicap, the fact of having HIV/AIDS or any other incurable illness.’<sup>2</sup>

The Constitution, in Article 29 states that: [informal translation] ‘Marriage between two people of the same sex is forbidden.’<sup>3</sup>

There was no law criminalising same sex relations in Burundi until 2009, when the revision of the Penal Code was adopted, which introduced a provision concerning the criminalisation and punishment of same sex relations.<sup>4</sup>

Burundi’s 2017 Penal Code (Law No. 1/27 of 29 December 2017), as the latest amendment of the Penal Code, in Article 590, under the Section regarding ‘offenses against public morals, zoophilia and homosexuality’ states:

[informal translation] ‘Anyone who engages in sexual relations with a person of the same sex shall be punished by penal servitude for a period of three months to two years and a fine of fifty thousand to one hundred thousand Burundian francs [approximately 23 to 46 EUR], or by one of these penalties only.’<sup>5</sup>

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<sup>1</sup> Burundi, Constitution de la République du Burundi [Constitution of the Republic of Burundi], 2018, [url](#), p. 5

<sup>2</sup> Burundi, Constitution de la République du Burundi [Constitution of the Republic of Burundi], 2018, [url](#), p. 6

<sup>3</sup> Burundi, Constitution de la République du Burundi [Constitution of the Republic of Burundi], 2018, [url](#), p. 7

<sup>4</sup> France24, ‘Nowhere to hide’: Anti-gay crackdown grips East Africa, 15 March 2023, [url](#); Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 15; ILGA, State-Sponsored Homophobia, December 2020, [url](#), p. 114; HRW, Burundi: Repeal Law Criminalizing Homosexual Conduct, 24 April 2009, [url](#)

<sup>5</sup> Burundi, Loi N° 1/27 du 29 Décembre 2017 portant révision du code pénal [Law No. 1/27 of 29 December 2017 on the revision of the penal code], 29 December 2017, available at: [url](#), p. 115



The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) in a report, published in December 2021, noted that ‘the State has in more recent years made clear that decriminalisation is not a priority and that enforcement of the law remains the status quo, given that criminalising provisions remained after the adoption in 2017 of Law No. 1/27 concerning the revision of the Penal Code. The same year, as the revisions came into force, authorities reportedly announced a “hunt” for individuals with diverse sexual orientations and gender identities.’<sup>6</sup>

In the third periodic report submitted by Burundi to the UN Committee Against Torture (CAT) on 14 September 2020 and published on 14 February 2022, it is noted that same sex relations are criminalized as an offence in the 2017 Penal Code because according to the government of Burundi ‘such behaviour is contrary to Burundian customs and morals.’<sup>7</sup>

The Penal Code, at Article 587, further states that:

[informal translation] ‘Whoever has exhibited, sold or distributed songs, pamphlets or other writings, printed or not, figures, images, emblems or other objects contrary to public morals, is sentenced to a fine of fifty thousand francs to one hundred thousand Burundian francs [approximately 23 to 46 EUR]. [...]’<sup>8</sup>

The United States Department of State (USDOS) stated in its report on human rights practices in Burundi, covering 2022:

‘The law does not prohibit discrimination against LGBTQI+ persons in housing, employment, nationality laws, and access to government services such as health care.’<sup>9</sup>

## **2. Implementation of the law and treatment by the state (2021-2023)**

Information on the implementation of the law and treatment of LGBTQI persons by the state in Burundi in the period of 2021-2023 was scarce among the sources consulted by EUAA within time constraints. However, the following information may be relevant.

It was reported that on 23 February 2023, in the capital of the country, Gitega, police forces arrested 24 people, who were attending a seminar on HIV/AIDS, hosted in the office of a local non-profit organization that focuses on HIV/AIDS.<sup>10</sup> During this incident 17 men and 7 women were arrested, following neighbours calling the police concerning the alleged presence of teenagers at the MUCO Burundi NGO office.<sup>11</sup> The 24 people remained in detention since their

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<sup>6</sup> ILGA, Our Identities Under Arrest, A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions, December 2021, [url](#), p. 53

<sup>7</sup> UN CAT, Third periodic report submitted by Burundi under article 19 of the Convention, due in 2018 [date received: 14 September 2020], CAT/C/BDI/3, 14 February 2022, [url](#), para. 201

<sup>8</sup> Burundi, Loi N° 1/27 du 29 Décembre 2017 portant révision du code pénal [Law No. 1/27 of 29 December 2017 on the revision of the penal code], 29 December 2017, available at: [url](#), p. 115

<sup>9</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 43

<sup>10</sup> RFI, Burundi charges 24 people with 'homosexual practices' in anti-gay crackdown, 9 March 2023, [url](#); DW, Des personnes en prison pour homosexualité au Burundi, 6 March 2023, [url](#)

<sup>11</sup> RFI, Burundi charges 24 people with 'homosexual practices' in anti-gay crackdown, 9 March 2023, [url](#)



arrest.<sup>12</sup> It has been further reported that according to a Burundian activist and an anonymous judicial source, they have been charged with engaging in same-sex acts and inciting homosexuality.<sup>13</sup> In a statement released in March 2023 outlining concerns in over 40 countries, the UN High Commissioner for Human Rights, Volker Türk, expressed concern over the ‘growing agitation against the rights of LGBTIQ+ individuals in many countries, mostly recently in East Africa’, as well as about the above mentioned case of arrest of 24 people in Burundi.<sup>14</sup>

On 1 March 2023, during a national prayer breakfast organized by the Burundian Parliament, Burundi's president, Evariste Ndayishimiye, in his speech called the citizens to [informal translation] ‘curse any Burundian who indulges in homosexuality’<sup>15</sup>, characterizing it as ‘bad morals’ and ‘opposite to God's direction’<sup>16</sup>.

According to the USDOS report, covering 2022, ‘Antigay rhetoric was widespread, especially among politicians who condemned homosexuality in religious terms or declared it was imported from western countries.’<sup>17</sup>

According to USDOS, during 2021 and 2022 there were no reports ‘of prosecutions for same-sex sexual acts’.<sup>18</sup> However, the same sources noted that during the same time period [2021-2022] ‘there were reports that government agents incited, condoned, and tolerated violence against LGBTIQ+ persons’, while ‘LGBTIQ+ persons refrained from reporting such incidents to media or authorities because of stigma, a desire to protect their identities, and concern regarding prosecution of consensual same-sex sexual relations’.<sup>19</sup> The same sources further noted that during 2021 and 2022 there were no reports of ‘official actions to investigate or punish those complicit in violence and abuses’ including those committed by state actors.<sup>20</sup> Freedom House 2022 report covering 2021, mentioned that LGBTIQ+ persons were experiencing ‘official discrimination’, without further elaborating or providing any details on specific cases.<sup>21</sup>

A report, published by ILGA on December 2021, noted that ‘authorities have repeatedly summoned and arrested activists and forced the suspension of workshops on sexual health

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<sup>12</sup> DW, Des personnes en prison pour homosexualité au Burundi, 6 March 2023, [url](#)

<sup>13</sup> RFI, Burundi charges 24 people with 'homosexual practices' in anti-gay crackdown, 9 March 2023, [url](#)

<sup>14</sup> UN OHCHR, Global update: High Commissioner outlines concerns in over 40 countries, 07 March 2023, [url](#)

<sup>15</sup> Burundi, Présidence de la République, Les leaders du Burundi se sont rassemblés autour d'un Prayer Breakfast [Burundian leaders gathered for a Prayer Breakfast], 1 March 2023, [url](#); RFI, Burundi charges 24 people with 'homosexual practices' in anti-gay crackdown, 9 March 2023, [url](#); DW, Des personnes en prison pour homosexualité au Burundi, 6 March 2023, [url](#); Iwacu, National Prayer Breakfast : le président hausse le ton pour la bonne gouvernance, 2 March 2023, [url](#)

<sup>16</sup> Burundi, Présidence de la République, Les leaders du Burundi se sont rassemblés autour d'un Prayer Breakfast [Burundian leaders gathered for a Prayer Breakfast], 1 March 2023, [url](#)

<sup>17</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 44

<sup>18</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 43; USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#)

<sup>19</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 43; USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#)

<sup>20</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 43; USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#)

<sup>21</sup> Freedom House, Freedom in the World 2022 - Burundi, 24 February 2022, [url](#)



HIV/Aids under the pretence that such activities violate local criminal provisions against the “undermining of good morals”<sup>22</sup>.

Amnesty International in a report on the human rights situation in Burundi covering 2020 noted that President Ndayishimiye made homophobic remarks in his speeches on several occasions<sup>23</sup>, including during a speech in August 2020, when he ‘suggested a correlation between countries which accepted homosexuality and high COVID-19 rates’<sup>24</sup>.

### 3. Treatment of LGBTIQ persons by society (2021-2023)

#### Societal attitudes and treatment by society

Information on treatment of LGBTIQ persons by society in Burundi in the period of 2021-2023 was scarce among the sources consulted by EUAA within time constraints. However, the following information may be relevant.

A study published in November 2021 by the University of California, Los Angeles (UCLA) School of Law listed Burundi on the place 125 out of 175 countries in the category of an average LGBTIQ acceptance in the world in 2017-2020.<sup>25</sup>

According to a survey on acceptance of homosexuals as neighbors conducted in 2014-2016 by Afrobarometer, in Burundi, 86.09 % of respondents would not tolerate homosexual neighbors, while 10.7 % would tolerate homosexual neighbors.<sup>26</sup> A similar study conducted in 2017-2020 by World Values Survey did not include data on Burundi and a more recent study on the issue could not be found within the time constraints to respond to this query.<sup>27</sup>

According to a survey by Afrobarometer from 2014/2015, 10 % of respondents in Burundi indicated ‘tolerance for homosexuals’, while 82 % chose the option that they ‘Strongly dislike’ homosexuals. 5 % said that they ‘Would not care’ and 4 % selected the option ‘Strongly like’.<sup>28</sup>

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<sup>22</sup> ILGA, Our Identities Under Arrest, A global overview on the enforcement of laws criminalizing consensual same-sex sexual acts between adults and diverse gender expressions, December 2021, [url](#), pp. 53-54

<sup>23</sup> AI, Amnesty International Report 2020/21; The State of the World's Human Rights; Burundi 2020, 7 April 2021, [url](#), pp. 103-104

<sup>24</sup> AI, Amnesty International Report 2020/21; The State of the World's Human Rights; Burundi 2020, 7 April 2021, [url](#), p. 104; International Bar Association, IBAHRI Covid-19 Human Rights Monitor, Issue 19, 28 August 2020, [url](#)

<sup>25</sup> Flores, A. R., Social Acceptance of LGBTI People in 175 Countries And Locations, 1981 to 2020, in: The Williams Institute, UCLA School of Law, November 2021, [url](#), p. 34

<sup>26</sup> Equaldex, LGBT Rights in Burundi, n.d., [url](#)

<sup>27</sup> World Values Survey, Acceptance of homosexuals as neighbors | Surveys | Equaldex, 2017-2020, published by Equaldex, n.d., [url](#)

<sup>28</sup> Afrobarometer, Good neighbours? Africans express high levels of tolerance for many, but not for all, 1 March 2016, [url](#), pp. 12, 25



Different sources, ranging from February 2017 to December 2022, reported that LGBTIQ people in Burundi faced societal discrimination.<sup>29</sup> According to a 2020<sup>30</sup> report by German foundation Bertelsmann Stiftung, covering a period from 1 February 2017 to 31 January 2019, ‘few courageous openly gay and lesbian Burundians face severe discrimination at all levels of society’.<sup>31</sup> USDOS described discrimination against the LGBTIQ people in Burundi in 2022 as ‘common’.<sup>32</sup>

A February 2023 article by FrontPage Africa (FPA), a Liberian daily newspaper, about a community center helping LGBTIQI persons in Burundi, mentioned a case of a LGBTIQ man whose neighbors considered him as ‘demon-possessed’ because of his sexual orientation, and a case of a lesbian woman whose siblings called her ‘possessed’ and ‘branched off towards the path of Satan’.<sup>33</sup>

According to a 2022 report, family members and friends have subjected LGBTIQ persons to conversion therapies, which had negative impact on their mental health.<sup>34</sup> According to a USDOS report covering 2022, LGBTIQ persons in Burundi were frequently subjected to attempts to ‘convert’ them into heterosexuals by their family members and representatives of churches, and many either married an opposite-sex partner or moved abroad to escape the social pressure.<sup>35</sup> An older report by the same source, from 2010, mentioned a study of a local Burundian organization, Humure, that found that 90 % of homosexual men in Burundi were married to women.<sup>36</sup> More recent figure on this issue could not be found among the sources consulted by EUAA within the time constraints of this query.

According to different sources, LGBTIQ persons were reported as having difficulties accessing healthcare<sup>37</sup> and education.<sup>38</sup> According to Arcus Foundation, an international charitable organization supporting LGBTIQ rights, some health professionals made comments about LGBTIQ persons as transmitters of HIV, which further increased stigma and discrimination

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<sup>29</sup> Arc-En-Ciel International Rainbow, LGBTQIA+ Life Challenges In Burundi, n.d., [url](#); Bertelsmann Stiftung, BTI 2020 Country Report Burundi, 2020, [url](#), p. 25; Freedom House, Freedom in the World 2022 - Burundi, 24 February 2022, [url](#), accessed 22 March 2023; USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#), p. 43

<sup>30</sup> To be noted that the most recent version of the same report published in 2022 does not mention anything on the situation of homosexual persons in Burundi. See: Bertelsmann Stiftung, BTI 2022 Country Report Burundi, 2022, [url](#)

<sup>31</sup> Bertelsmann Stiftung, BTI 2020 Country Report Burundi, 2020, [url](#), p. 25

<sup>32</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 44

<sup>33</sup> FPA, Burundi’s LGBTIQ+ Community Finds Room to Breathe at “Community Center”, last updated 27 February 2023, [url](#)

<sup>34</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 18

<sup>35</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 44

<sup>36</sup> USDOS, Country Report on Human Rights Practices 2010 - Burundi, 8 April 2011, [url](#), p. 39

<sup>37</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 15; EATHAN, Legal Gender Recognition & Access to Trans-Affirming Healthcare in East Africa, 1 November 2021, [url](#), p. 27

<sup>38</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 15; USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 43



against them.<sup>39</sup> According to Arc-En-Ciel International Rainbow, a Belgium-based organization providing information for LGBTQIA+ migrants, reported in an undated article on LGBTQIA+ persons in Burundi ‘being fired from their jobs, beaten by family and neighbours, and evicted from their homes’.<sup>40</sup> Corroborating information regarding these findings by Arc-En-Ciel International Rainbow could not be found among the sources consulted by EUAA within the time constraints.

Regarding media coverage of LGBTIQ people in Burundi, Arcus Foundation found that the media at times both, perpetuated and countered anti-LGBTIQ speech, while noting that it has improved since 2013.<sup>41</sup> Nevertheless, homophobic rhetoric remained ‘widespread’ in 2022 in Burundi.<sup>42</sup> In a case of an incident against them, LGBTIQ persons were reportedly reluctant to report such cases to media due to stigma and fear of their orientation being made public.<sup>43</sup> Negative statements against LGBTIQ made publicly by politicians or priests are not considered hate speech in Burundi, according to a report published in April 2022 by Arcus Foundation.<sup>44</sup>

#### LGBTIQ NGOs and civil society organizations

According to a report by the UN Human Rights Council, published in August 2021, the civil society sector in Burundi has been subjected to increased governmental control in general.<sup>45</sup>

Sources indicated that LGBTIQ organizations in Burundi faced difficulties in their operation and were not always able to work openly.<sup>46</sup> According to USDOS, public expressions in favour of the LGBTIQ community were limited in practice because of the illegality of same-sex relationships, and LGBTIQ organizations did not identify as such to avoid arrest.<sup>47</sup> Arcus Foundation noted that the authorities may allow such organizations to register if they showed willingness to work with the National Anti-AIDS Council.<sup>48</sup> On the other hand, according to an undated article by Arc-En-Ciel International Rainbow, ‘[t]he government neither supported nor hindered the activities of local LGBTQIA+ organizations’.<sup>49</sup> Corroborating information regarding this statement by Arc-En-Ciel International Rainbow could not be found among the sources consulted by EUAA within the time constraints.

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<sup>39</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 29

<sup>40</sup> Arc-En-Ciel International Rainbow, LGBTQIA+ Life Challenges in Burundi, n.d., [url](#)

<sup>41</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 16

<sup>42</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 44

<sup>43</sup> USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#), p. 43

<sup>44</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 18

<sup>45</sup> UN Human Rights Council, Report of the Commission of Inquiry on Burundi [A/HRC/48/68], 12 August 2021, [url](#), p. 8

<sup>46</sup> Arc-En-Ciel International Rainbow, LGBTQIA+ Life Challenges In Burundi, n.d., [url](#); Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), pp. 6, 16-17; USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 44

<sup>47</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 44

<sup>48</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 6

<sup>49</sup> Arc-En-Ciel International Rainbow, LGBTQIA+ life challenges in Burundi, n.d., [url](#)





In an article updated in February 2023, Front Page Africa (FPA) mentioned a community center in Bujumbura that provides support to the LGBTQI+ people and intends to start providing also emergency housing and financial support.<sup>50</sup>

According to Arcus Foundation and Arc-En-Ciel International Rainbow, some of the LGBTQI+ organizations in Burundi include: Synergía – Initiatives for Human Rights, Rainbow Candle Light, Humure, National Anti-AIDS Council, The Global Fund, Urgent Action Fund<sup>51</sup>, APDEI, Centre Population et Développement Sanitaire au Burundi/Ceped-Burundi, Jeunes Actifs Développement des LGBT Burundim, MUCO, Mouvement pour les Libertés Individuelles – MOLI, and URUMURI<sup>52</sup>

#### 4. Access to state protection

Information on access to state protection in Burundi by LGBTIQ persons was scarce among the sources consulted by EUAA within time constraints. However, the following information may be relevant.

According to an annual report by Freedom House describing a situation in 2021, courts in Burundi were affected by corruption and constitutional guarantees in general were not respected.<sup>53</sup>

According to sources dated 2018 and 2022, LGBTIQ persons did not report incidents against them out of stigma and fear of prosecution or adverse treatment.<sup>54</sup> Concerning the period of 2021 - 2022, USDOS stated that there were no reports of authorities investigating abuses against LGBTIQ persons.<sup>55</sup> Data on crimes motivated by sexual orientation or gender identity of victims is reportedly not officially collected in Burundi, according to a 2018 report by Red Umbrella Fund, a global fund supporting the rights of sex workers.<sup>56</sup> Corroborating information on whether data on crimes motivated by sexual orientation of victims is collected in Burundi could not be found among the sources consulted by EUAA within the time constraints.

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<sup>50</sup> FPA, Burundi's LGBTQI+ Community Finds Room to Breathe at "Community Center", last updated 27 February 2023, [url](#)

<sup>51</sup> Arcus Foundation, Faith-Based Efforts in East Africa to Combat Discrimination Based on Sexual Orientation and Gender Identity, April 2022, [url](#), p. 18

<sup>52</sup> Arc-En-Ciel International Rainbow, LGBTQIA+ life challenges in Burundi, n.d., [url](#)

<sup>53</sup> Freedom House, Freedom in the World 2022 - Burundi, 24 February 2022, [url](#)

<sup>54</sup> Red Umbrella Fund, Defiant: Landscape Survey on Violence Against LBQ Women, Trans People, & Female Sex Workers in Burundi, Kenya, Tanzania & Uganda, 2018, [url](#), p. 19; USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#), p. 43

<sup>55</sup> USDOS, 2022 Country Report on Human Rights Practices: Burundi, 20 March 2023, [url](#), p. 43; USDOS, 2021 Country Report on Human Rights Practices: Burundi, 12 April 2022, [url](#), p. 43

<sup>56</sup> Red Umbrella Fund, Defiant: Landscape Survey on Violence Against LBQ Women, Trans People, & Female Sex Workers in Burundi, Kenya, Tanzania & Uganda, 2018, [url](#), p. 19



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