

Burundian Civil Society Organizations

Subject: Call for the United Nations involvement in the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity and in transitional justice mechanisms in Burundi

CC to:

- H.E Félix Tshisekedi, President of the Republic of the Democratic Republic of Congo and Chair of the African Union;
- H.E Uhuru Kenyatta, President of the Republic of Kenya et President of the East African Community;
- H.E Evariste NDAYISHIMIYE, President of the Republic of Burundi;
- H.E Yoweri Kaguta Museveni, President of the Republic of Uganda;
- H.E Paul Kagame, President of the Republic of Rwanda;

- H.E Salva Kiir, President of the Republic of South Sudan;

- H.E Samia Suluhu, President of the United Republic Tanzania

To: His Excellency Mr. Antonio Guterres,
Secretary General of the United Nations
New York, NY 10017

Your Excellency,

The undersigned, Burundian Civil Society Organizations committed to the rule of law, justice, truth and the end of impunity in Burundi, have decided to alert the United Nations (UN) on the potentially high risk of repetition of serious crimes in Burundi. This danger is exacerbated by the ongoing process initiated by the CNDD-FDD Government through the Truth and Reconciliation Commission (CVR), meant to establish the historical truth on the painful past in order to eradicate forever the horrible crimes that have crippled Burundi since its independence as a way to reconciliation.

Indeed, Your Excellency, the Government of Burundi has just taken a stand against resolution AG / 12324 of 18.05.2021 of the United Nations on "the Responsibility to protect and prevent genocide, war crimes, ethnic cleansing and crimes against humanity". The undersigned organizations consider such an attitude as a bad omen of the risk of imminent genocide in

Burundi, without any possibility of intervention as it unfortunately happened in Rwanda in April 1994. Instead of acting to preventing the international crimes that can happen, the Burundian authorities are part of the prospects of exonerating themselves from their responsibility in the event of a genocide and other crimes against humanity, the same way they did by withdrawing from the Treaty of Rome in October 2017, in order to escape from prosecution by the ICC, which is investigating the violence committed in Burundi since 2015.

The undersigned organizations seize also this opportunity to draw your attention on the ongoing work of the Truth and Reconciliation Commission (CVR) which, instead of establishing the truth and reconciling, risks increasing ethnic divisions in Burundi by proposing a biased reading of the recent history through the distorting prisms of certain alleged sponsors of the mass killings and war crimes as underlined in the S / 1996/686 Report.

The worst is all the more to be feared as these debates add to hate speeches, pronounced by no other than Senior Officials of the Government, the CNDD-FDD ruling party and the Senate, the Upper Chamber of the Burundi Parliament, which has been organizing conferences since April 29, 2021, sowing and exacerbating discord over the events of 1972.

It is worth remembering that the CVR is the outcome of the Arusha negotiations in which the United Nations played a leading role. Burundian negotiators agreed to set up a transitional justice mechanism comprising an International commission of inquiry and a Truth and reconciliation commission with a mission to investigate on human rights violations, promote reconciliation and deal with claims arising from past practices relating to the Burundian conflict (Arusha Agreement, ch. 2, Art. 18.). These Arusha negotiations concluded with the signing of an Agreement which was sponsored by the International Community, including eminent personalities like Mwalimu Julius Nyerere and Nelson Mandela.

Subsequently, an assessment mission sent by the Secretary General of the United Nations, in his report S / 2005/158 known as the “Kalomoh Report”, proposed the establishment of a transitional justice mechanism made up of a Truth Commission and a Special mixed Tribunal, comprising Burundian and a majority of international members. In October 2005, the newly established CNDD-FDD Government began talks with the United Nations, which revealed the need to organize national consultations on transitional justice and to entrust its design and implementation to a Tripartite Steering Committee (CPT). The report of these consultations jointly organized with the United Nations recommended the establishment of an independent truth and reconciliation commission and criminal tribunal. The first was to be mandated in particular to investigate the serious violations committed from independence until 2008, to arbitrate and to reconcile.

Ignoring all these recommendations, the Burundian government established a Truth and Reconciliation Commission in December 2014. Since then, the work of this commission has focused exclusively on the exhumation of remains from mass graves, said to be those of Hutus executed in 1972, though no prior scientific verification established with certainty the date of these killings, specifically as several waves of crimes have bereaved Burundi, committed by different actors, at different times. From the beginning of 2021, the results of the investigations and the findings of this commission are the subject of debate. It is becoming clear that the ultimate objective is to rekindle ethnic hatred by qualifying the serious violations committed in 1972 as genocide against the Hutus while concealing all the crimes that targeted the Tutsis.

Since the beginning, this truth process initiated by the Government of Burundi has raised many questions, particularly concerning the lack of independence of this CVR, which works under the command of the Government. It should be recalled here that many reports issued among others by the International Commission of Inquiry on Burundi, have pointed to several officials, who are part of the current Government, as having played a role in the serious crimes committed in Burundi, some of which could be crimes against humanity. As underlined earlier, the result is that instead of establishing the truth and moving towards reconciliation, the current report and debates tend to worsen ethnic divisions in Burundi, to make a biased reading of recent history through distorting prisms of certain alleged sponsors of the mass killings and war crimes as noted in the Report (S / 1996/686).

As mentioned above, the conferences currently organized by the Burundian Senate are chaired exclusively by President Sylvestre Ntibantunganya, former member of the FRODEBU Government and President of the Republic at the very time when the United Nations investigation was being carried out and who came to the conclusion that a genocide had been committed against the Tutsis in 1993. Very surprisingly, the speaker raised the voice to ask the government to "properly qualify the events of 1972" which he already qualifies himself as genocide of the Hutus. Debates are pouring in to deny the existence of an armed movement that decimated tens of thousands of Tutsi in the South of the country, whose acts might have justified the repression of the military regime under Micombero against the Hutus. The CVR itself is headed by Pierre Claver Ndayicariye, a former member of the Government. It looks obvious that the mechanism of truth is held hostage by people seeking auto-amnesty, while criminalizing another category of the population. Objectively, people who were member of Government during the period covered by the mandate of the CVR should be excluded from this commission so as not to be judge and party.

The worst can indeed possibly happen looking at the way these debates occur while high officials of the Government or the ruling party are delivering hate speeches. The current system in place in Burundi, which has repeatedly been singled out by an international commission of inquiry on Burundi as committing serious crimes against its people, is not well placed to conduct a credible investigation likely to mend the social fabric of Burundi, after having been severely damaged by intolerance and repression, still experienced to this day. Instead of reconciling the Burundians, the falsification of history which would be motivated by a desire to polarize society for political motives, risks delaying the restoration of national cohesion. In view of this very worrying situation, we appeal to the United Nations to use its good offices to urgently initiate actions to prevent this possible escalation that we see coming and which deserves to be taken seriously before it gets too late.

Considering the past and traditional role the United Nations always played in the prevention of international crimes and in the processes of dealing with the painful past of countries affected by violent crises such as in Burundi and taking note of the will of the current leaders to establish the facts and to qualify them, the undersigned organizations urge the United Nations:

- To follow up closely the worrisome situation in Burundi which is characterized by the persistence of risk factors established by the United Nations Commission of Inquiry on Burundi, including *"a general climate of impunity for serious violations of human rights, recent and older"*; *"A weakness of state structures to prevent or put an end to possible violations, in particular the judicial system"* and *"The existence of intentions and motives to resort to violence, in particular the will of the CNDD-FDD Ruling Party to remain in*

power, including by instrumentalizing for political purposes, grievances and cases of impunity from the past ”.

- To use its influence to get the Government of Burundi to put in place a genuinely independent truth and justice mechanisms, in the spirit of the Arusha Peace and Reconciliation Agreement, and whose conclusions and actions would aim at the real reconciliation of Burundians and the end of impunity in Burundi.

Counting on your diligent attention, please accept, Your Excellency Mr. Secretary General, the assurance of our highest consideration.

The undersigned Organizations:

1. Action des Chrétiens pour l'Abolition de la torture (ACAT-Burundi)
2. Association Burundaise pour la protection des Droits Humains et des personnes Détenues (APRODH)
3. Association Burundaise des Journalistes en Exil (ABJE)
4. Coalition Burundaise des Défenseurs des Droits Humains (CBDDH)
5. Coalition burundaise pour la Cour pénale internationale (CB-CPI)
6. Coalition de la Société Civile pour le Monitoring Electoral (COSOME)
7. Collectif des Avocats des Victimes des crimes de droit international commis au Burundi (CAVIB)
8. Forum pour la Conscience et le Développement (FOCODE)
9. Forum pour le Renforcement de la Société civile (FORSC)
10. Ligue Iteka
11. Mouvement des Femmes et Filles pour la Paix et la Sécurité au Burundi (MFFPS)
12. Mouvement Inamahoro
13. Réseau des Citoyens Probes (RCP)
14. SOS Torture Burundi
15. Tournons la page Burundi (TLP-Burundi)
16. Union Burundaise des Journalistes (UBJ).
17. Observatoire de la Presse au Burundi (OPB).