

Bujumbura, 10 March 2015

Re : Mission of the United Nations Security Council to Burundi, the Central African Republic and the African Union – 9-13 March 2015

Excellency,

I have the honour of writing to you on behalf of the undersigning organisations in relation to the United Nations Security Council's mission to Burundi, the Central African Republic and the African Union (AU) from 9 to 13 March 2015. We welcome the visit to Burundi with satisfaction and strongly urge the members of the Council to use this opportunity in order to reaffirm the necessity to combat impunity for gross violations of international human rights law and serious violations of international humanitarian law that have blighted the country and in order to ensure the respect of victims' rights.

We welcome the decisiveness of the Security Council in including impunity for grave crimes on the Agenda of its visit to Burundi, in line with the UNSC's Presidential Statement on the Situation in Burundi of 18 February 2015. The PRST notes that "*The Security Council further expresses its concern about the insufficient progress on the fight against impunity and calls for the Government of Burundi to deploy greater efforts to ensure that all human rights violations and abuses are seriously investigated and that perpetrators are held accountable*".

The establishment of a Truth and Reconciliation Commission (TRC) in Burundi on 10 December 2014 is a step towards addressing these crimes in order to guarantee the Burundian population's right to truth, as defined in the Revised Final Report prepared by Mr. Joinet on the Question of Impunity and which deals with the "right to know".

Impunity in Burundi nevertheless remains past and present. While the creation of the TRC is to be welcomed, numerous challenges remain to be addressed for the rights of victims of human rights violations in Burundi to be guaranteed. A TRC is only one of the tools available among transitional justice mechanisms. The challenges it faces relate to its establishment, independence and neutrality while carrying out its difficult tasks,¹ as well as to the other approaches, which need to accompany and supplement the Commission's work.²

We therefore wish to underscore that the Joinet Principles guarantee not only the victims' "right to know", but also their rights to justice, to reparation and to guarantees of non-recurrence of violence. The Arusha Peace and Reconciliation Agreement of 2000 – the importance of which is regularly underlined during the current debates on the number of presidential mandates – foresaw the creation of judicial procedures aiming to sanction serious violations of international humanitarian law perpetrated during the different Burundian conflicts, at first through an international criminal tribunal, and subsequently through the creation of special chamber within the Burundian judicial system, as notified to the Security Council in 2005.³ Today, both are in a deadlock.

The undersigning organisations are convinced that impunity for past crimes is at the root of today's impunity. The right to justice for victims of grave violations is recognised by the

¹ Cf. [Sincerity of Burundi's Commitment to TJ under Scrutiny as TRC Commissioners Sworn In; Four-Year TRC Mandate Officially Begins](#), Impunity Watch, 2014. Disponible sur [http://www.impunitywatch.org/docs/IW_Policy_Brief_Election_of_TRC_Commissioners_\(Dec_2014\).pdf](http://www.impunitywatch.org/docs/IW_Policy_Brief_Election_of_TRC_Commissioners_(Dec_2014).pdf).

² [Les Victimes à la Une : Perceptions de victimes Burundaises vis-à-vis des Mécanismes de Justice Transitionnelle](#), Impunity Watch, 2013. Disponible sur http://www.impunitywatch.org/docs/IW_Rapport_Victimes_a_la_Une2.pdf.

³ [Rapport de la mission d'évaluation concernant la création d'une commission d'enquête judiciaire internationale pour le Burundi](#).

United Nations and by the Rome Statute, to which Burundi is a State Party. In the upcoming, tense, electoral context, the question of addressing past impunity must therefore be continuously reiterated, especially given the objective to prevent the repetition of such violence. The respect for democratic principles is also part of the fight against impunity and reinforces the rule of law.

In this regard, following the visit to Burundi by Pablo de Greiff, UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, he reminded *inter alia* that “*Burundi has already achieved a certain degree of stability which can serve as a foundation for the future development of the country, but this progress can easily be endangered. (...). Development is not only a matter of economic growth; indeed, justice and human rights are at its core*”.

The United Nations must be a key actor in this process and publicly state its official position – currently still pending – on the Burundian TRC in order to remind the Government of Burundi of its commitments and obligations regarding human rights, international humanitarian law and the fight against impunity for serious crimes, as well as of the wishes of the Burundian population, for instance as expressed during the 2009-2010 tripartite National Consultations held between the Burundian Government, the United Nations and Burundian civil society. In addition, it is fundamental to ensure that the necessary funds are available to the UN Office of the High Commissioner for Human Rights in Burundi for it to follow up on the establishment and functioning of the TRC. More broadly, the international community must ensure robust monitoring of the process by conditioning its support to a certain number of elementary criteria regarding independence and transparency, as well as minimum human rights standards, including the rights of victims, witnesses and the accused. The members of the Security Council should also exhort key personalities be appointed to the TRC’s International Advisory Body, which has been foreseen to accompany the Commission. Robust powers and necessary means must be provided for this Advisory Body to effectively carry out its work. The visit of the Council to Burundi therefore constitutes an opportunity to remind the Government of these obligations and commitments.

The work of the Commission for Land and other Properties (CNTB), which is regarded as a reparations mechanism for victims of Burundi’s successive crises, is also tainted by accusations of partiality, which is very alarming. The most sensitive cases handled by this Commission give rise to often buried resentment and underscore the necessity to tackle crimes of the past in a comprehensive manner so as to avoid the buildup of new frustrations.

In addition, the January 2015 attack in the Province of Cibitoke which originated from the Democratic Republic of the Congo and the grave accusation of extra-judicial killings carried out by the Burundi Defence and Security Forces which accompanied it (see Human Rights Watch Report), as well as the recruitment of Burundian youth into armed groups, but also the impunity currently faced by numerous victims of sexual and gender-based violence, combined with regular violations of human rights and other threats hanging over Burundian activists and journalists, are in part consequences of the lack of justice for past crimes. Indeed, at a time when Burundi should be seeking to consolidate democratic gains since the end of its civil war, dealing with impunity for grave crimes of the past must be a fundamental component of democratisation and transformation to the rule of law. Without this process, the impunity that is endemic in the judicial system and that prevents Burundians from obtaining redress will only continue.⁴

During this electoral period, it is important to reiterate these basic principles with which Burundi as a member State of the United Nations must comply, in order to highlight that the use of violence for political ends is not without consequences.

⁴ *La Prise en Compte des Violences Basées sur le Genre au Burundi : Analyse des Perceptions et Obstacles*, Impunity Watch, 2014. Disponible sur http://www.impunitywatch.org/docs/IW_Rapport_Final_Violence_basees_sur_le_genre_au_B1.pdf.

Finally, we would like to highlight the need to prioritise the initiatives of the Peace, Security and Cooperation Framework Agreement for the DRC and the Region, to which Burundi is a signatory. The Framework Agreement must permit the stabilisation of the African Great Lakes Region as a whole, and accountability for past crimes is key in order to achieve such a sustainable solution.

Excellency, it is our sincere hope that the Security Council stand behind ordinary Burundians at this pivotal moment in the country's history during its visit to Burundi and the African Union by endorsing the goal of ending impunity for the most serious crimes under international law and by urging the entire international community to hold the government of Burundi to account for its responsibilities with respect to ensuring truth, justice, reparations and guarantees of non-recurrence for crimes committed in Burundi's past.

Yours Sincerely,

Undersigning Organisations:

Impunity Watch (Burundi)

AMEPCI GIRA UBUNTU

Forum pour le Renforcement de la Société Civile (FORSC)

Avocats Sans Frontières – Burundi

H.E. Mr.François Delattre

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of France to the United Nations and President of the UN Security Council

CC. :

H.E. Mme. Samantha Power

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the United States to the United Nations

H.E. Sir Lyall Grant

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the United Kingdom to the United Nations

H.E.Vitaly Churkin

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the Russian Federation to the United Nations

H.E. Mr. Liu Jieyi

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the People's Republic of China to the United Nations

H.E. Mr. Cristián Barros Melet

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Chile to the United Nations

H.E. Mme. Dina Kawar

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Jordan to the United Nations

H.E. Mr. Gaspar Martins

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Angola to the United Nations

H.E. Mr. Mahamad Zene

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Chad to the United Nations

H.E. Datuk Hussein Haniff

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Malaysia to the United Nations

H.E. Mme. Raimonda Murmokaitė

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Lithuania to the United Nations

H.E. Mr. Jim McLay

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of New Zealand to the United Nations

H.E. Mr. Román Oyarzun Marchesi

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Spain to the United Nations

H.E. U. Joy Ogwu

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Nigeria to the United Nations

H.E. Mr. Rafael Dari Darío Ramírez Carreño

Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Venezuela to the United Nations

H.E. Mr. Gerrit Van Rossum

Ambassador Extraordinary and Plenipotentiary of France to Burundi

H.E. Mme. Dawn M.Liberi

Ambassador Extraordinary and Plenipotentiary of the United States to Burundi

H.E. William Gelling OBE

Ambassador Extraordinary et Plenipotentiary
High Commissioner of the United Kingdom and Ambassador to Burundi

H.E. Mr. Georgy Vladimirovich Todua

Ambassador Extraordinairy and Plenipotentiary of the Russian Federation to Burundi

H.E. Mr. Yu Xuzhong

Ambassador Extraordinairy and Plenipotentiary of the People's Republic of Chine to Burundi

H.E. Mr. Odi O. Mwosu

Ambassadeur Extraordinaire et Plénipotentiaire du Nigéria au Burundi