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Mr. Michael Levitt

Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

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• (1305)

[Translation]

The Vice-Chair (Mr. David Sweet (Flamborough—Glanbrook, CPC)): Good afternoon, colleagues.

[English]

Welcome to the ongoing study on the human rights violations in Burundi.

We have three expert witnesses in front of us. Two are from Amnesty International: Ketty Nivyabandi and Jacqueline Hansen. We also have a law professor from the University of Ottawa who is testifying as an individual, Pacifique Manirakiza.

I understand that the clerk has given you some instructions in regard to your opening remarks and the amount of time that you have.

I understand that, Jacqueline, you'll begin. Ms. Hansen, please go ahead. Begin your opening remarks.

Ms. Jacqueline Hansen (Major Campaigns and Women's Rights Campaigner, Amnesty International Canada): We're honoured today to have an expert on the human rights situation in Burundi with us. I will briefly introduce Ketty, and then I'll leave the rest of our intervention to her.

Good afternoon, and thank you for this opportunity to address the Subcommittee on International Human Rights, as part of its study on the human rights situation in Burundi.

Following a period of overt repression in the second half of 2015, associated with the discovery of dead bodies in the streets of Bujumbura on a near-daily basis, the crisis in Burundi has moved into a new, less overtly violent phase, with a climate of fear taking hold in the capital and elsewhere in the country.

With serious human rights violations ongoing, Amnesty International calls on Canada to maintain and strengthen its scrutiny of the situation in Burundi.

We are honoured today to have Burundian women's human rights defender, former journalist, and poet Ketty Nivyabandi present today to speak on behalf of Amnesty International. Ketty recently arrived in Canada as a refugee. She is now living here with her daughters in Ottawa, and she can speak first-hand about the human rights situation in Burundi and about its particular impacts on women and girls.

I'll pass this over to you, Ketty.

Ms. Ketty Nivyabandi (Human Rights Defender, Amnesty International Canada): Thank you, Jackie.

Thank you, Mr. Chair, for this opportunity to address the committee on a very serious matter and that is Burundi.

I'll start with an overview of the human rights situation.

Amnesty International continues to receive regular reports of serious human rights violations, including targeted killings, enforced disappearances, arbitrary arrests, unlawful detention, torture, and other ill treatment. People are continuing to flee Burundi, with more than 300,000 refugees now seeking protection in neighbouring countries.

As the Office of the High Commission for Human Rights has reported, there has been a considerable increase in the use of torture and other cruel, inhuman, or degrading treatments or punishment in Burundi in connection with the current political crisis.

Amnesty International has documented acts of torture and other ill-treatments perpetrated by the national intelligence services and the police, as well as abuses committed by members of the Imbonerakure, which is the youth wing of the ruling party. Methods documented have included verbal abuse; beating with branches, iron bars, and police batons; stamping on victims; hanging weights from their testicles; making them sit in acid; threatening them with death; and denying medical care. Victims have also described the use of electric shocks and having water poured into their ears.

The Imbonerakure continue to carry out serious abuses, and Amnesty International still receives testimony of the Imbonerakure's presence during arrests, as well as of campaigns of intimidation carried out by them against those who refuse to join the ruling party, beatings, killings, and attempted killings. Refugees report that the Imbonerakure have beaten people fleeing from Burundi into Tanzania. Many refugees who Amnesty International has spoken with have cited fear of, and intimidation by, the Imbonerakure among their reasons for leaving the country.

Civil society and the independent media, once counterweights to government, have been decimated and continue to come under attack. Over the last few months, Burundian journalists, members of social media groups, and schoolchildren have been arrested for exercising their right to freedom of expression. Even those outside the country continue to be targeted for reprisals. In July, a Burundian prosecutor requested that four lawyers who contributed to the civil society report to the UN committee against torture in advance of its review of Burundi be struck off the professional register.

I have experienced this crackdown on peaceful civil society activism. In May 2015, I led hundreds of women into the streets of Bujumbura in a peaceful march against the president's third term. Women, young and old, walked peacefully with white handkerchiefs in hand presenting no threat and exercising our constitutional and human right to assemble freely. The national police used tear gas and water cannons—ordinarily reserved for massive, violent crowds—against us. Some of the women were injured and collapsed on the street as the police continued to harass us for hours.

Shortly after the march, when the police began to systematically arrest and silence all leading dissenting voices, I was forced to go into hiding and flee Burundi. Many of the women I peacefully protested with were not as fortunate. Christa Bénigne Irakoze, mother of a five-year-old boy, has been missing since December 29. She was last seen being arrested in Bujumbura by a member of the armed forces. Although her whereabouts remain unknown, witness accounts report that she was detained and endured torture, including rape, and then executed. Women and girls continue to be subjected to abductions and sexual violence, including gang rapes, both in Burundi and as they flee the country.

Victims of human rights violations in Burundi continue to face serious challenges in accessing justice. The journalist Esdras Ndikumana was detained for several hours and tortured in August 2015 after he was arrested at the scene of the killing of General Adolphe Nshimirimana where he had gone to report. Despite a press release from the president's office promising an investigation, there has been little progress in the case.

● (1310)

In October 2015, Esdras Ndikumana introduced a formal complaint at the supreme court against unnamed intelligence service agents, but the prosecutor asked him to provide the names of those who beat him before starting the investigation.

Esdras Ndikumana's case is illustrative of the obstacles to obtaining justice for torture in Burundi, even where the victim is proactively seeking justice and has stated commitments from the highest level of government.

In this context of a lack of truth, justice, and reparation for serious human rights violations, monitoring and public reporting by international and regional observers is essential. In addition to ongoing monitoring by the UN and African Union observers, of which roughly one-third of the agreed 200 human rights monitors and military experts are so far in place, several other investigative missions have taken place. These include the recent UN independent investigation on Burundi and the fact-finding mission of the African Commission on Human and Peoples' Rights that visited the country

in December 2015. These initiatives are important and must be built upon.

Measures taken to date unfortunately appear to have displaced, rather than deterred, the commission of human rights violations. This is illustrated clearly by the disturbing new trend of enforced disappearance building on extrajudicial killings and the associated regular discovery of bodies in the streets. A strengthened response is required to confront the current trend of violations. This should include increased documentation capacity on the ground with a view to ensuring justice for victims. Last week's UN Human Rights Council adoption of a resolution creating a commission of inquiry to investigate human rights abuses in Burundi since April 2015, with all necessary resources—including ballistics, forensics, sexual violence, and gender-based violence expertise—is a concrete example of the initiatives needed as part of a strengthened response to human rights violations in Burundi.

I'll now just conclude with a few recommendations from Amnesty.

As the subcommittee moves forward with its study of the human rights situation in Burundi, Amnesty International urges Canada to press the following recommendations with Burundian authorities: respect the rights to freedom of expression, assembly, and association; ratify and fully implement the International Convention for the Protection of All Persons from Enforced Disappearance; implement the optional protocol to the convention against torture, including establishment of an independent, effective, and well-resourced national mechanism to prevent torture; conduct impartial and independent investigations into all incidents of targeted killings, enforced disappearances, arbitrary arrests, unlawful detention, torture, and other ill-treatment, and ensure that those found responsible for these acts are held to account in fair trials; and cooperate fully with the commission of inquiry, which will thoroughly investigate human rights violations in Burundi since April 2015, allowing its members full and unhindered access.

Finally, we encourage Canada to work with other governments to ensure the rights of peaceful civil society activists in Burundi are respected, protected, and fulfilled. That should include providing active support to civil society, including publicly when activists request it; seeking access to prisons; monitoring trials; providing financial support to human rights defenders; and responding quickly when activists require urgent evacuation from the country.

● (1315)

Measures taken should include strong support for activities of particularly marginalized activists, including women and lesbian, gay, bisexual, transgender, and intersex rights defenders.

Thank you for your interest in addressing the grave human rights situation in Burundi.

[Translation]

The Vice-Chair (Mr. David Sweet): Thank you, Ms. Nivyabandi.

We'll now turn the floor over to Mr. Manirakiza.

[English]

Go ahead with your remarks, please.

[Translation]

Mr. Pacifique Manirakiza (Professor, Faculty of Law, Common Law Section, As an Individual): Thank you, Mr. Chair.

First, I want to thank the members of the Subcommittee on International Human Rights for inviting me to appear before them. I also want to thank you for taking the time to focus on the human rights situation in Burundi. I think the initiative is very worthwhile and it may help resolve the current crisis in Burundi.

First, the human rights situation in Burundi is a major concern. Nevertheless, before I start speaking at length about the current situation, I think it's very important—in order to give the committee an in-depth understanding of the situation and information to make it easier to read—to provide context.

Since becoming independent in 1962, Burundi has faced cyclical crises that have resulted in widespread and systematic human rights violations. This was the case in 1965, 1969, 1972, 1988, 1993 and during the years that followed. Some of these episodes were characterized by crimes so serious that certain authorities described them as crimes against humanity, genocide or war crimes. The negotiators of the Arusha peace accords reached that conclusion, and I had the honour of being one of the negotiators at the time.

All these episodes resulted in victims from both major segments of the Burundi population, the Hutus and the Tutsis. However, it's widely accepted that most victims of the various atrocities, which reached a climax in 1972, were Hutus. Despite the extensive human rights violations in Burundi during the various episodes listed earlier, it should be noted that the crimes remain completely unpunished. The victims have never received justice, and their resentment, grief and frustration have never been appeased. The reason is that, essentially, the institutions responsible for protecting human rights abandoned their mission and were exploited by those in power.

It's important to note that, up until today, this impunity for past crimes has become an incentive to commit crimes. The perpetrators know they won't need to worry about facing justice. It's therefore very important to keep the impunity phenomenon in perspective. I think it constitutes a major determining factor that justifies what is happening right now, despite, of course, the reporting and condemnation of the crimes being committed.

In August 2000, the political protagonists adopted the Arusha Peace and Reconciliation Agreement for Burundi. The agreement served to establish shared power between the major segments of the population, the Hutus and the Tutsis. However, it should also be noted that the agreement established the principle of inclusion for groups that had been marginalized, namely, women and the Batwa community. In addition, the agreement set the stage for transitional justice that would have enabled those responsible for past crimes to be held accountable. Unfortunately, it's apparent that the transitional justice system is broken and is moving slowly.

As a result of the agreement and other agreements subsequently signed with the armed groups, elections were organized in 2005 and

again in 2010. In addition, the security organs have been reformed and restructured based on the terms of the Arusha agreement, and each ethnic group is represented equally. Also, balance has been established at the administration level. Hutus hold 60% of positions, and Tutsis hold 40% of positions. That balance is being mostly maintained today, although the current government wants to challenge the Arusha agreement as it stands. So, what is the current situation?

• (1320)

As I said, it is very worrisome. Several corroborating sources, including Amnesty International, other intergovernmental organizations such as the African Union, particularly the African Commission on Human Rights and Peoples, and the United Nations, conducted investigations that have led to the same conclusion. Serious and systematic violations of human rights are happening today. People are summarily executed without any semblance of justice. They are tortured—Ms. Nivyabandi has already talked about this at great length. People are abducted and disappear.

At the same time, we must go beyond the issue of civil and political rights to also look at the issue of socio-economic rights. Socio-economic rights are non-existent. For example, recently, almost 80,000 schoolchildren were expelled from the education system because they failed the test to move up to the next level of basic education. They don't have the opportunity to repeat the year. This is a significant violation of those children's right to education.

It is important to note that the current human rights situation is actually the result of people challenging the third term of the President of the Republic, Pierre Nkurunziza. As soon as his candidacy was announced in April 2015, people, mainly in Bujumbura, the capital, took to the streets to protest against that decision. In response to this sudden and certainly unusual uprising regarding democratic learning in Burundi, the police sometimes used excessive force against the protesters. Some of the protesters' actions and blunders can also be denounced.

Furthermore, things basically got complicated on May 13, 2015, with the attempted coup that failed. From then on, the government took a tougher stand and began to suppress all those involved in some way in the protests. It conflated the failed coup with the protests that had taken place before. The government cleverly tried to demonstrate that there was actually a connection between the protests and the failed coup, but the connection has not been established, in my opinion.

The government's approach—as in the case of most governments acting in that way—is to use the paradigm of law and order to go after the protesters. They were treated like insurgents or terrorists. This is very important because the government provided a sort of legal justification to take action against those people. Sometimes, the government does not hesitate to give the example of what happens elsewhere, saying that even elsewhere, extreme measures against terrorists are justified.

● (1325)

However, on closer examination, the manhunt was essentially targeting political opponents and members of civil society, who were openly opposed to the third term plan.

[English]

The Vice-Chair (Mr. David Sweet): You're over a bit already, but I see that your remarks are coming to a close pretty quickly.

[Translation]

Mr. Pacifique Manirakiza: I submitted a written text to the subcommittee, but I would be remiss if I did not go over a few aspects that, in my opinion, are very important to this study. I would especially urge you to err on the side of caution when addressing the Burundian issue.

Let's talk about the nature of the Burundian issue. There are simplistic analyses that present the Burundian problem as an ethnic problem, basically between the Hutus and the Tutsis. Well, that is not the case. The situation in Burundi is more complex than that.

Many Tutsis are associated with the government in place. In the opposition and in civil society, there are Hutus and Tutsis who have joined together in the common cause of opposing the third term and its consequences. So the situation is more complex than that.

I would have liked to talk about Canada's possible actions, but as I just said, I submitted a brief to the attention of the subcommittee. I will probably have the opportunity to elaborate on that when I answer questions.

● (1330)

The Vice-Chair (Mr. David Sweet): Thank you, Mr. Manirakiza.

[English]

I think you'll find that you'll be able to mention some of what you wanted to say when the questions begin.

We'll begin with Mr. Anderson for seven minutes.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): Thank you, Mr. Chair.

Generally people think this crisis started in April of 2015, but I think there were indications as early as 2013 that the government was trying to change the references to the Arusha accord in the constitution, trying to strengthen the power of the executive.

This is a question for both of you. Should we have seen this coming, and if so, what could have been done? What can we learn for future times? There are other places in the area where this has happened. Should we have known this was coming and then worked more aggressively from the beginning?

Ms. Ketty Nivyabandi: Absolutely. I think this crisis could have been averted much earlier. As you mentioned, there were attempts before 2015 to change the constitution. As well, the government that had been in power for the past 10 years had a pattern already of human rights violations, and showed no intention of respecting political diversity. I think there was a lot of pressure from the international community, just before April 2015, on the government to convince President Nkurunziza not to present himself for another term. Diplomatically a lot of efforts were made. Perhaps they could have been stronger.

As well, the reaction seems late. We are beginning to see a reaction right now, but in my opinion there isn't enough attention paid to the crisis. If this had happened right as the attempts to change the constitution were made, perhaps we could have had a different scenario. For instance, right after the president was announced as a candidate, this was put to the constitutional court for examination. The vice-chair of the constitutional court actually fled the country—it's in the UN report, which you should be able to see—and mentioned the extreme pressure put on the judges to allow the president to run. I think that was a huge alarm bell that should have brought action at that moment.

So the short answer is yes.

Mr. David Anderson: Thank you.

A short response, please, I have a couple of other questions.

Mr. Pacifique Manirakiza: A short response. Yes.

[Translation]

Yes, we saw the crisis coming. There were warning signs, particularly in the statements made by the officials of the governing party specifically about behaviours related to human rights. What could have been done to avoid the situation or what could be done to avoid other crises in the future?

I mentioned the Arusha accord, which is in fact the foundation or the pizza dough of Burundian peace, if you will. If the provisions of the accord had been implemented as set out, with the assistance of the international community that made a commitment to oversee the ethical implementation of the accord, we would not be in the current situation.

All this is to say that, regardless of the decision you will be making and regardless of the other steps the UN or the African Union will take, if the international community does not provide ongoing oversight, the risks remain.

● (1335)

[English]

Mr. David Anderson: Thank you.

We're in a situation now. The UN has done a report and the Human Rights Council has now voted to establish a commission of inquiry. The Burundi government is not agreeing with that. Their spokesman said that the report was put together only "to destabilize the Burundian nation", but then he added that the government will "continue its cooperation with the international community, particularly the United Nations".

I'm wondering if you have any reflections on that. Can this commission of inquiry be successful? If not, will they even allow it to do its work? What is it going to take to effectively pressure this government to reverse its course?

Ms. Ketty Nivyabandi: I think this only further testifies to the difficulty in engaging with the Burundian government, which is in a defensive position. It positions itself as a victim of an international conspiracy theory and has rejected that investigation and many others. That poses a challenge to the commission of inquiry, but I do not believe that it is entirely impossible to still manage to have credible reports and a credible investigation carried out. I think pressure should continue to be exerted on the government to comply with that commission of inquiry, and I believe there are many avenues to do so.

It is bewildering that the same government is still sitting on the Human Rights Council in Geneva after clear evidence it is perpetrating these violations against its people.

I think more pressure needs to be done, and particularly we should not rest on the feeling that with the adoption of that commission of inquiry things are now settled. I think more than ever pressure must be exerted against that government, and perhaps this is where Canada can lead the way as well.

Mr. David Anderson: I want to recognize your bravery for your participation in the protest. The committee recognizes that and we want to honour you for that.

Ms. Ketty Nivyabandi: Thank you very much, and that of so many other women.

Mr. David Anderson: You suggested we need increased documentation. Do you have some suggestions how that might occur?

Ms. Ketty Nivyabandi: Yes. I think a lot of support must be made. Of course, most of the civil society members have fled the country, making it very difficult to have credible reports from the ground, but there are still a few local organizations working in difficult ways. There are also a few journalists who are working underground.

There is the office of the UN human rights commissioner in Burundi, and I believe more support is needed to that office and to the few remaining civil society organizations in order to enable them to carry out their work. That would be a critical area in my view.

The Vice-Chair (Mr. David Sweet): Thank you very much. That's all the time we have in that round.

Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you very much, and thank you to our witnesses for coming in and presenting your testimony.

Ms. Nivyabandi, your bravery is commendable. Thank you for that.

Ms. Ketty Nivyabandi: Thank you.

Ms. Iqra Khalid: I want to start by talking a little bit about the International Criminal Court. We know that they've started a preliminary examination of the human rights violations in Burundi. I'm wondering how Canada could help with that investigation, if at all.

[*Translation*]

Mr. Pacifique Manirakiza: We should look at this question in relation to the previous question about the commission of inquiry, which has just been set up by the Office of the United Nations High Commissioner for Human Rights.

The attitude of the current government is not unusual on the world stage. Remember that the same council had set up a commission of inquiry on Syria and a commission of inquiry on Eritrea. Those governments have never bothered to co-operate with the commissions of inquiry. But those commissions of inquiry remained in operation, relying on information from the diaspora and the UN agencies in place for Burundi. So it is not at all impossible for a commission of inquiry to do its work.

Of course, the ideal would be for governments to co-operate. I say this from experience because I was part of an international commission of inquiry on South Sudan. We were fortunate that the government co-operated. We went in, we went out, and we had access to some government services. But even without that, I think it is still possible to come to conclusions that are relevant in the circumstances.

• (1340)

[*English*]

Ms. Iqra Khalid: Is there access on the ground to really delve deep and find those facts on the violations of human rights that are occurring in Burundi right now?

Ms. Ketty Nivyabandi: Go ahead.

[*Translation*]

Mr. Pacifique Manirakiza: Definitely, because information circulates now more than ever. Information flows thanks to social media. Everything that happens to the second in Burundi becomes known around the world. In addition, as I said, the international community is still present in Burundi. It's not that Burundi is closed off. There are representatives from the Office of the United Nations High Commissioner for Human Rights and human rights monitors from the African Union on the ground. In my view, those are all sources of information about human rights violations.

[*English*]

Ms. Iqra Khalid: Thank you.

It was suggested in previous testimony that an intra-Burundian dialogue would help resolve, at least in part, some of the tension that's occurring, and to really bring accountability to the human rights violations. I want to talk a little bit about the intra-Burundian dialogue. Who are the parties to this dialogue, and what are the prospects for success?

Ms. Ketty Nivyabandi: There are two dialogue efforts that are ongoing in Burundi. One is the internally led effort to bring all the parties together, including the government, the members of the opposition—most of whom are in exile—civil society, women, youth, and basically the whole spectrum of the Burundian society, to begin to talk and find a common solution to this issue. Of course, this is with the challenge of dealing with a government that has no intention to do so or shows no intention to do so.

This initiative is being led by the African Union, and it was happening in Arusha with the leadership of the President of Uganda and the former president of Tanzania. It has stalled because the government is not showing enough determination to go forward with the process.

At the same time, a parallel intra-Burundian dialogue is happening that is led by the government. It is, I would say, a semblance of a dialogue. It is happening within Burundi, and it brings in actors that are supposed to be representing various groups in Burundi, but in reality they are mostly government supporters. It is, I am afraid, a masquerade.

I believe efforts should be made to continue to support the internationally led initiative and put pressure on the Government of Burundi to go forward with these talks as an internationally led dialogue. It's very critical. In the event that this doesn't work, what we are looking at is a civil war.

As I am sure you are already aware, there are groups that are beginning to arm themselves. The other thing is that we cannot watch our people being killed every day without reacting. There are various groups that are amorphous. They are still not well organized, but they are there. We are watching a civil war that's coming and that's in the making if we do not act now.

• (1345)

[Translation]

Mr. Pacifique Manirakiza: Yes, I think the dialogue is essential given that, as I said in my presentation, the crisis is, above all, political. Dialogue is precisely the best way to resolve political crises. We have experience in that area. The experience has led to the Arusha accord, which is now being challenged by the current government.

One of the solutions I'm suggesting in my document is for Canada to support the efforts of the East African Community, which seeks to end the Burundian crisis through negotiations. Canada has experienced it first hand. I remember that Carolyn McAskie was there in the 2000s. She followed all the rounds of negotiations that took place at the time.

[English]

The Vice-Chair (Mr. David Sweet): Thank you very much. That's all the time for that round.

Now on to Ms. Hardcastle.

Ms. Cheryl Hardcastle (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

I want to thank both of our witnesses here for their candid comments. I understand that the request and the purpose for your being here is about raising awareness for maintaining and

strengthening scrutiny. As for Canada's role in that scrutiny, what would that mean for us in speaking out about torture? Can you talk a bit more about the UN commission report and the torture that Canada could be doing its part to respond to?

Ms. Ketty Nivyabandi: Absolutely.

Unfortunately, what is happening in Burundi is a crisis of enormous proportions. The kind of torture that is happening right now, as is documented in the UN reports, is very vicious and very targeted. It keeps increasing in its cruelty. We're seeing an evolution from the beginning, where people would be incarcerated and beaten, to now very vicious forms of torture, including sexual and gender-based abuse.

I think Canada has a very important role to play in ensuring that human rights violations remain a top priority. Just speaking as a human being, really, it seems as though our tolerance for violence has risen. This tolerance is becoming intolerable. I think a lot more can be done in terms of leading global efforts toward holding people accountable. One of the reasons this torture keeps taking deeper and more vicious forms is that the perpetrators are very much aware that they are in power and they have total impunity.

I think Canada needs to join OPCAT to urge Burundi to implement the torture prevention treaty. Amnesty—my colleague from Amnesty is here—welcomes Minister Dion's commitment to join OPCAT, and we look forward to updates.

You're very right that it's a very crucial and important matter.

[Translation]

Mr. Pacifique Manirakiza: I would like to add to Ms. Nivyabandi's answer because the issue of torture is also extremely troubling. To avoid repeating the answer that she gave, I would say that Canada could do more to document the cases of torture and possibly to bring to justice those found responsible. Sometimes, people are required to travel here and in countries with which you have co-operative relationships under criminal law. It is always very useful to show people that crimes cannot go unpunished. While they may go unpunished in Burundi, impunity is not welcome once outside the borders of Burundi. That is very important.

• (1350)

[English]

The Vice-Chair (Mr. David Sweet): Thank you very much, Ms. Hardcastle.

Mr. Miller.

[Translation]

Mr. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Sœurs, Lib.): Thank you, Ms. Nivyabandi and Mr. Manirakiza.

First, thank you for your courage. I hope the next time you come here, it will be to share your poetry with us.

Ms. Ketty Nivyabandi: It would be a pleasure.

Mr. Marc Miller: I want to go back to what Mr. Anderson said about those responsible. Those people must be named. There are several international resolutions, commissions of inquiry, denunciations by western countries, so to speak, for lack of a better word.

Without international intervention, how interested is the government in making a change, in rectifying the situation and in following the rule of law? To that end, I would like you to name the state entities that are involved. We have talked about the ministry of the interior and the intelligence service. The youth group, which I assume has quasi-state status, is left to its own devices by political institutions. I would especially like to give you the opportunity to name the state entities that are involved.

Ms. Ketty Nivyabandi: Thank you for the question.

The Burundian government shows no intention of changing things. Therein lies the danger. The government uses the state apparatus to oppress the people. This apparatus includes, as you just mentioned, the ministry of the interior and public security, starting with the minister of the interior himself, who is responsible for the national police, whose abuses are well documented. There are also the abuses of the national intelligence service. People are often abducted by the officers from that service. It is usually in those rooms that people are tortured or they disappear and never return. We see vans with the plates of the national intelligence service abduct people in broad daylight, and we never see them again.

The serious part is that bodies are no longer found in the streets like before, because there was a lot of pressure from the international community, which suggests that people are often buried in mass graves, for instance.

There are the national police and the national intelligence service. The ministry of justice does not bring those responsible to justice and is often in cahoots with the Burundian government. As I said earlier, the prosecutor general asked that four lawyers who are against torture be eliminated. There is also the president's office and communications service. Basically, those are the major institutions that are involved.

You must understand that there is total control over the entire state apparatus. Even those who initially do not agree are basically forced to follow the government's instructions out of fear of being repudiated or of reprisals. This trend applies right across the government.

Mr. Pacifique Manirakiza: In addition to the institutions that are responsible, we must also say that there are state institutions that could contribute. It's very important that Canada also has this version of things.

International intervention is very important, but at the same time it is secondary. The state is the one that has the primary role of protecting the citizens. So how can we ensure that the government puts an end to these abuses and mistakes to, as you said, follow the rule of law?

Some institutions were put in place and are working in extremely tough conditions. With support, those institutions could help in one way or another. It's the same thing with the Truth and Reconciliation Commission. The commission is hard at work, but the current political and economic situation does not allow it to continue to fulfill its mandate.

It must be pointed out that, until recently, the Independent National Commission on Human Rights had an "A status" accreditation, which is granted to the most successful national

human rights organizations. We could look at how to support these institutions and see whether they can help address the issue of human rights.

•(1355)

[English]

The Vice-Chair (Mr. David Sweet): Thank you.

There's time for one more question.

Mr. Tabbara.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you for being here.

I'll be quick.

My question is about the judicial system prior to 2015 and before the third term of the president's election. Was there any accountability? I know we've talked a lot about impunity within your testimony, but prior to 2015 were there checks and balances with the judicial system? Were individuals held accountable? Can you elaborate on that fairly quickly?

[Translation]

Mr. Pacifique Manirakiza: As I said, the issue of impunity is really a key factor that explains what is happening today. We refer to impunity in relation to crimes committed in the past. I have listed the major events that were actually recorded as having the most serious crimes, including crimes against humanity, war crimes and even crimes of genocide.

All those crimes have gone unpunished because the judiciary, which is embedded in the executive, did not fulfill its mission. The same situation can be applied today. Today's judiciary is like the one of yesterday. There have not really been any substantial changes. That is why—and I must stress this—there is an inherent relationship between the current crisis and previous crises. We cannot resolve the current crisis without looking at past crises.

Of course, the current crisis is very worrisome. Of course, it is urgent to stop the bleeding, as they say, but at the same time, finding a solution to the current crisis would be only a partial solution. If we want to solve the problem of impunity once and for all, we must also develop the solution with the previous crises in mind.

That is why I'm asking Canada to look at how it could become more involved from the outset in determining the mandate of the commission of inquiry that has just been set up by the United Nations. It should not be involved only in determining the mandate of the commission, but also in its operations, while keeping in mind, of course, the inherent and close relationship between the crisis of today and those of the past.

Thank you.

[English]

Ms. Ketty Nivyabandi: I fully agree with what Mr. Manirakiza is saying regarding the impunity prevailing in Burundi for many years. I wanted to still bring...it's true that we must find a holistic solution to the question of impunity and resolve the crimes that have been committed over the decades, as this is a cycle that keeps going on.

Right now we are faced with an incredible crisis, and that is the protection of civilians. Even though we've looked for a solution that is holistic, we must keep the focus on this. It is true that a commission of inquiry has been set up, but you know how it works. It will probably take a year or more in order to determine who the perpetrators are. What do we do in the meantime? What do we do about the human lives that are being lost today? How do we ensure that no more lives are lost, so that no more reports must be done in the future? What can we do today?

That is the urgency of the situation, and that's where I hope Canada can take leadership in ensuring that this crisis does not slip off the radar. We have so many crises happening around the world, but this ought to be a global one.

• (1400)

The Vice-Chair (Mr. David Sweet): Thank you very much.

Just for clarification, Mr. Manirakiza spent some significant time in his testimony mentioning the complexity of the situation on the ground and that this isn't a Hutu-Tutsi ethnic problem; it's a political problem. Human Rights Watch was here last time and made that clear. Would you agree with that as well?

Ms. Ketty Nivyabandi: I agree that it's primarily a political problem, and those who are dying today are both Tutsis and Hutus.

There is a nuance that I want to bring in. There is a historical antecedent of ethnic cleavages, and because the current government,

or at least its leadership, is issued from victims of a former genocide in 1972, you begin to sense the politics of revenge, and that revenge can take ethnic forms.

Unlike Rwanda, where the population participated in a genocide, I don't think that scenario is possible in Burundi. When you hear the hate speech—and that is a clear indication of something we should be careful of—that is made by leading officials of this government, then there could be incitements to have ethnic-based violence. Although it is primarily a political problem, it has possibilities of deteriorating into an ethnic aspect, as well.

The Vice-Chair (Mr. David Sweet): Thank you.

Ms. Ketty Nivyabandi: I agree with the general assessment.

The Vice-Chair (Mr. David Sweet): Thank you.

Colleagues, I ask for a quick unanimous consent to have Mr. Manirakiza's comments as documented rather than as read because he shortened his opening statement. Very good.

To both of our witnesses, on behalf of the entire committee, thank you very much for your expertise, and again to, Ms. Nivyabandi, for your great bravery.

Ms. Ketty Nivyabandi: Thank you very much.

The Vice-Chair (Mr. David Sweet): We're adjourned, colleagues.

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**Subcommittee on International Human Rights of the Standing Committee
on Foreign Affairs and International Development**

Analysis of the Human Rights Situation in Burundi

Witness:

Professor Pacifique Manirakiza, University of Ottawa
Former Commissioner, African Commission on Human and Peoples'
Rights

Ottawa (Parliament of Canada), October 4, 2016

I. Introduction

Mr. Chair,

Honourable members of the Subcommittee on Human Rights,

I would first like to thank you for your invitation to appear before this subcommittee to talk about human rights in Burundi. I would also like to thank you for taking the time to study the human rights situation in Burundi; this is a commendable initiative that will eventually contribute to finding solutions to the crisis that Burundi is going through.

Mr. Chair, Honourable members of the subcommittee,

I must begin by noting that the present human rights situation in Burundi is a matter of great concern. Nonetheless, before going into it at length, and out of a desire to provide the members of this subcommittee with a thorough understanding of the situation, we have to consider some background and offer some information that will assist in reading it.

II. Background and context of the violations

“Today's human rights violations are the causes of tomorrow's conflicts.”

Mary Robinson, former President of Ireland and
former UN High Commissioner for Human Rights

Since gaining independence in 1962, Burundi has experienced very significant cyclical crises that have led to massive and systematic human rights violations. That was the case in 1965, 1969, 1972, 1988, 1993, and the years that followed. Some of those episodes were marked by the commission of crimes that were so serious that they have been characterized, or in any event may be characterized, as crimes against humanity, war crimes or crimes of genocide. In fact, that is the conclusion that the negotiators of the Arusha Peace Accord reached. Although all these episodes created victims among the two large components of the Burundian population (Hutu and Tutsi), it is generally acknowledged that the Hutu accounted for a large majority of the victims of those various atrocities, the height of which was the 1972 genocide.

In spite of the extent of the human rights violations Burundi has experienced over the course of those various episodes, I have to point out that the crimes they led to have gone entirely unpunished. The victims have not obtained justice, and their bitterness, grievances and frustrations have never been appeased, essentially because the very institutions charged with protecting human rights had virtually abandoned their mission and been instrumentalized by the executive authority.

It is important to note that the impunity for past crimes, from that time right up to today, has become an incentive for the commission of crimes, since the perpetrators know they will never be held to account. Impunity is thus a determining factor that justifies what is happening today, in spite of the denunciation and condemnation of these crimes by the international community.

In August 2000, the political protagonists adopted a peace accord, the Arusha Peace and Reconciliation Agreement. That accord, which formalized power-sharing between the two large ethnic groups in the country, also organized a system of political inclusion for marginalized and vulnerable groups such as women, the Batwa, and so on. In addition, the accord laid the groundwork for a transitional justice system, the goal of which was to be holding the people responsible for the various crimes of the past accountable, and also national reconciliation. The accord also advocated institutional reforms that meant that Burundi should set an example of a successful transition.

Thanks to that accord and the supplementary agreements that were signed with various armed movements, it was possible to hold elections in 2005 and 2010; the security services were reformed and reorganized under the terms of the accord, with parity (50-50) in terms of ethnic representation in those bodies; in addition, balances

were struck within the government administration, with 60% of positions reserved for the Hutu and 40% for the Tutsi. Those balances have been largely adhered to, even today. All these reforms were possible through the assistance of the regional and international community, which facilitated talks, but also was the moral force behind the implementation of the accord.

III. Present human rights situation

As I said earlier in my introduction, the general human rights situation in Burundi is a matter of concern. A number of consistent information sources report serious human rights violations, such as infringements of life and physical security (extrajudicial executions, torture, rape and sexual violence, kidnapping, forced disappearance, forced exile, mistreatment, infringements of freedom of the press, and so on). Nor have social and economic rights escaped notice: violations of the right to an education (nearly 80,000 schoolchildren were thrown out of school because they had not passed the test for entering the second level of basic education, and denied the chance to repeat the year), the right to food, and so on. The reports of the commissions of inquiry or fact-finding missions organized by regional bodies (African Commission on Human and Peoples' Rights) international bodies (United Nations Commission of Inquiry), or

international human rights organizations (Amnesty International, Human Rights Watch) agree that most of the violations are committed by organs of the state, in particular the security services. Nonetheless, the idea that other, non-state actors are also responsible for human rights violations is not ruled out; however, they are less well-documented.

The present human rights situation is, in reality, a result of the challenge to the third term of the President of the Republic, Pierre Nkurunziza. Immediately after he announced his candidacy, in April 2015, people, essentially from the capital, Bujumbura, went out into the streets to demonstrate in public against that decision. Reacting to this sudden uprising, which was unheard of, to say the least, in the Burundian democratic learning process, the police used sometimes excessive force against the demonstrators, but they too were responsible for a number of abuses. Things became complicated with the attempted coup d'état on May 13, 2015. Since then, the government has taken a hard line and has started to take action against people associated with the demonstrations, whether closely or more distantly, with a skillfully constructed conflation achieved by connecting the demonstrations with the failed coup. On the government side, the law and order paradigm is invoked for hunting

down individuals who are sometimes accused of being insurgents, or simply terrorists. In so doing, the Burundian government provided itself with a legal justification for its aggressive actions, sometimes by citing the fact that even in other places, taking extreme measures against terrorists is justified. If we look at it closely, we see that the manhunt targeted political opponents or members of civil society who had openly opposed the plan for a third term. This political intolerance still exists today.

I also want to draw your attention to a few facts that I consider to be important in connection with this exercise and recommend caution when addressing the question of Burundi:

- **The nature of the crisis:** The situation in Burundi is very complex; simplistic or politically motivated analyses present it as a conflict between the Hutu and the Tutsi, with the one being the villains and the other the victims, depending on who is talking. Nonetheless, the crisis is not ethnic, although some acts have specifically targeted members of the Tutsi ethnic group. In the government personified by the Hutu, there are Tutsi who share power with them in accordance with the Arusha accords, or who are members of the party in power. In the opposition and civil society, there are Hutu and Tutsi, including former members of the party in power (commonly called “trouble-makers”) whose common cause is the battle against the third term and its consequences.

The crisis is political, and it affects both ethnic groups, indiscriminately; the dead are found among both Hutu and Tutsi. As mentioned earlier, people are targeted for political motives, not ethnic motives.

- **The political instrumentalization of the genocide**, referring to the genocide of the Tutsi in Rwanda: The instrumentalization of the term “genocide”, which is connected with the first aspect, is meant to present the Tutsi as being the only victims of the current atrocities and capitalize on the moral blaming of the international community, which failed to intervene in time to prevent or stop the genocide in Rwanda. In my humble opinion, and given what I said in describing the complexity of the situation in Burundi, there is nothing, to date, that could persuade me to conclude that a genocide against the Tutsi (within the meaning of the Convention on Genocide) is underway in Burundi. Nonetheless, I still cannot minimize the gravity of the crimes and other human rights violations against members of the Tutsi ethnic group. We could, however, describe them in other terms, and the international commission of inquiry can probably help to clarify this, if its members do a rigorous and serious job of analyzing the facts.

- The final point is that while **the immediate causes of the current crisis** are connected with the third term and the violation of foundational instruments, the crisis has deep and distant causes, as I described in part II of my presentation. As a result, a resolution of the current crisis, taken in isolation, would, of course, be a good step in the right direction; however, that kind of solution, without regard for earlier episodes of criminal acts, would be only partial. That is why I recommend a holistic approach to the subject, given the intrinsic connection between the current crisis and the earlier crises.

IV. Opportunities for involvement by Canada

Last, it seems to me that the government of Canada can play a leading role in finding a permanent solution to the Burundian puzzle. This case offers the perfect opportunity for this government to put its “Canada is back” policy into action on the international stage. In a few lines here, I suggest several possibilities for involvement that I think are appropriate, given the situation as I described it earlier.

1. **Support for international efforts:** a number of efforts have been made and are still being made at the regional level and the international level to put an end to the crisis in Burundi. I think the government of Canada should support the efforts of the

peace process initiated by the East African Community, facilitated by the former president of Tanzania, W. Mkapa. Canada should also get involved in deciding the mandate and methodology of the future International Commission of Inquiry for Burundi, after the resolution establishing the Commission was just adopted last week by the Human Rights Council. My comment concerning the connection between the current crisis and the earlier crises should be taken into consideration if a permanent solution to the crisis is to be found; otherwise, the legitimacy of the findings of an international commission with a limited mandate will be severely tested, and that would jeopardize public appropriation – which is essential.

2. Support for the efforts of the Burundian state (and I say “state” advisedly, regardless of the government in place; ultimately, it is the government that has the primary responsibility to protect). My small experience with African governments leads me to say that it is not sufficient to require that international obligations be honoured; we also have to think about giving them technical assistance in order to strengthen capacities. On that point, given that the current government has created institutions whose role is fundamental to respect for human rights (Truth and Reconciliation Commission; National Independent Human Rights Commission; Commission on Land and Other Property; etc), support for those institutions would be appropriate.

It also seems to me to be important to invest in future generations, whose survival is jeopardized by current generations (for example, in collaboration with the University of Ottawa, train future leaders in democratic practices and rules). In reference to the current situation, people have left the rebel group and moved directly into positions in the political management of the affairs of state without any transition or adequate training. That jeopardizes the chances of establishing the rule of law.

3. Support for the Burundian diaspora: The Burundian diaspora could be an important source of information and pool of consultants on any projects undertaken concerning Burundi. But certainly, the goal has to be an ethnically balanced team of individuals who could keep you up to date and provide you with information or expert opinions, in an independent and nonpartisan way. Otherwise, it must be recognized that the diaspora is not a homogeneous group and it has been apparent that it moves to the rhythm of the situation in Burundi to such a point that if the government sneezes, it catches cold.

V. Conclusion

Despite the importance of the question of the third term issue, it seems to me that what is pressing and urgent today is to stop the haemorrhage; too much Burundian blood has been shed. What is needed is to put an end to political intolerance and human rights violations. If the government of Burundi wanted to, it could do it – because Burundi is not a bankrupt state; there are institutions in place and they function, just not in accordance with the rule of law. In reality, the government has a hard time taking human rights from the ideological stage to the practical level. As a final point, the regional context has to be taken into account: the democratic deficit in Burundi needs to be placed in context with the governments in the region that are trying to cling to power, some of which are smarter than others, but ultimately it makes no difference. Canada should also take on this question from a global and regional perspective.