

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

Analysis of the Human Rights Situation in Burundi

Witness:

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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.