

Exécutive Summary



SOS - TORTURE / BURUNDI

"Celui qui sauve une vie sauve l'humanité toute entière"

Quarterly report on the human rights situation in Burundi from 1 October to 31 December 2018



Bodies found and never identified: one of the signs of impunity in Burundi

February 2019

Socio-political context: ethnicisation and rejection of dialogue

The report on the human rights situation, presented by the UN Commission of Inquiry on Burundi in September 2018, prompted the Burundian authorities to react not only in terms of denials and condemnation of the UN's "biased report" but also by opening another new chapter in the repression of past crimes in Burundi.

It is in this context that we must place the reopening of the file on the Assassination of president Melchior Ndadaye and his close collaborators, who was assassinated on 21 October 1993 by a group of soldiers in an attempted coup d'état. During the commemoration of the 25th anniversary of this event last October, it is first the Frodebu party of Ndadaye, which became close to power after its exit from the opposition platform CNARED¹ on October 19, 2018, who stepped up to demand the prosecution of those involved in this case. The same speech was echoed by the ruling party CNDD-FDD.

In the aftermath, the Prosecutor General's Office announced the reopening of the case and the arrest of four retired officers. Also, a list of Seventeen (17) names on arrest warrants has been published, which includes that of the former President of the Republic, Pierre Buyoya. The latter was described by the CNDD-FDD as "the leader of the torpedo boats of democracy" who accused the African Union and the United Nations to offer him a forum "shameful² ».

However, the Public Prosecutor's Office has remained silent on the massacres of the Tutsi in various provinces of the country following the assassination of President Ndadaye, whose perpetrators are not always prosecuted. And yet, a United Nations Commission of inquiry had described the massacres as "acts of genocide" perpetrated by members of Frodebu to "avenge" the assassinated President.

Another issue that is resurfacing is that of Prince Louis Rwagasore, hero of the independence, assassinated by his opponents on October 13, 1961. This was announced in a statement made public on October 13 during the commemoration of the death of prince Rwagasore. On that occasion, the government spokesman described Belgium as the "real sponsor" of the Prince's assassination and accused it of not having "yet given an account" in this case. The government has also announced plans to set up a "technical commission" to investigate the assassination³.

As a result, the law on truth and Reconciliation Commission (TRC), whose new members are close to CNDD-FDD⁴, was revised with a view to extending its temporal jurisdiction (ratione

¹ National Council for the restoration of the Arusha Agreement for peace and Reconciliation in Burundi, the 2005 Constitution and the rule of law.

² http://www.arib.info/index.php?option=com_content&task=view&id=18747

³ <http://www.rfi.fr/afrique/20181015-burundi-accuse-belgique-assassinat-rwagasore-figure-independance>

⁴ The new commissioners were sworn in on 3 December 2018

temporis) from 1 July 1962, the day of the independence of the country, to 26 February 1885, the date of the holding of the Berlin Conference.⁵

These belated and selective initiatives to reopen "colonial" files and others handled by the TRC within the framework of the Arusha Agreement, contribute to the strategy of the power to "divide and rule" through the manipulation of past crimes and incitement to ethnic hatred.

Regarding the inter-Burundian dialogue, the fourth quarter of 2018 was marked by the confirmation of the government's refusal to participate in the fifth round of the Arusha talks, convened by the facilitator Benjamin Mkapa for the end of October 2018, and announced as the last. After requesting and obtaining the postponement of the date initially scheduled, the government of Burundi withdrew, after a waltz of contradictory remarks. The final position of the government is that these negotiations were without object once the internal dialogue had been concluded and its conclusions drawn in the new constitution. According to the government, the only valid agenda should therefore be the preparation of the 2020 elections.

While the government refuses to engage in dialogue, claiming that peace is complete, in September and October respectively, armed attacks, albeit of limited scope, were carried out at Gatumba border crossing and at Nyamitanga in Cibitoke province⁶. These attacks show that without dialogue, violence is likely to emerge as the only option for political change. Following these attacks, Burundi, has unofficially sent elements of the Burundian army to track the rebels based in DR Congo, and according to several sources, the clashes between the two groups have caused dozens of victims⁷.

In addition, tension between Burundi and Rwanda continues to grow since armed groups, supposedly backed by Burundi, carried out attacks in the south of Rwanda, the latest of which date back to December 2018⁸. This situation has caused a war of words between the two countries and its impacts even affect the functioning of the East African Community.

At the domestic level, the government of Burundi has taken a highly controversial decision to suspend international NGOs for three months, making their new approval conditional on the submission of four documents. It is a cooperation agreement with the Ministry of Foreign Affairs, a protocol for the implementation of each NGO's operational plan and the National Development plan, and an act of commitment to the Ministry of Finance on compliance with financial regulations. And finally, a plan for the gradual correction of ethnic imbalances among the staff of these organizations, which runs for three years to respect ethnic balances in the recruitment of national staff⁹.

The socio-economic situation has been marked by the shortage of fuel, with consequences for all other products, and has significantly affected the purchasing power of citizens, who have

⁵ *The Berlin Conference, held from November 1884 to February 1885, was organized by Chancellor Bismarck to establish the rules that were to govern the colonization of Africa.*

⁶ The Gatumba attack occurred on September 15, 2018 while that of Nyamitanga, in Buganda commune, took place on October 20, 2018.

⁷ <https://theburundian.com/2018/11/04/beaucoup-de-morts-dans-des-combats-a-uvira-en-rdc/>

⁸ http://www.arib.info/index.php?option=com_content&task=view&id=18919

⁹ <https://reliefweb.int/report/burundi/burundi-la-suspension-des-ong-va-d-organiser-le-fonctionnement-de-services>

also suffered from forced, untimely contributions for the 2020 elections and imposed on all social strata, including students.

It is in this context that trends in human rights violations have remained the same as in previous quarters, with killings, enforced disappearances, rapes and arbitrary arrests. A total of 59 killings, 75 arbitrary arrests, 12 cases of torture, 5 enforced disappearances and 3 cases of rape were recorded. In the majority of cases, these various crimes are committed by members of the police, the intelligence service and elements of the imbonerakure militia. To a lesser extent, agents of the local administration and the ruling party have had their share of responsibility for human rights violations, in particular arbitrary arrests

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Recommendations

To the Government of Burundi:

1. Stop procrastinating and accept an inclusive dialogue with all the protagonists in the Burundian conflict, without preconditions.
2. Stop funding the population through forced contributions for the 2020 elections, especially for vulnerable people and students.
3. Cancel all arrest warrants issued against political opponents, civil society actors and journalists in exile
4. To abandon the selective repression of past crimes (assassination of President Melchior Ndadaye followed by the massacre of the Tutsi) until fair and reassuring judicial mechanisms are put in place for all victims.
5. Cancel the decision taken with regard to the NGOs, in particular the decision on ethnic balances, and allow the NGOs that were in order in Burundi to continue their interventions.
6. Cooperate fully with human rights mechanisms at the national, regional and international levels in the implementation of human Rights Council resolutions and collaborate with the International Criminal Court (ICC).

To the East African Community:

1. To learn from the failures of the inter-Burundian dialogue to organize itself as a sponsor of the Arusha Peace Agreement and the inter-Burundian dialogue, and to involve other multilateral partners in an effective inclusive dialogue among all Burundian actors with a view to reviving the fundamental principles of the peace and reconciliation agreement signed in Arusha in 2000 and the 2005 constitution.
2. Take appropriate measures, including the use of an embargo, to ensure that the Burundian government accepts inclusive negotiations without preconditions, as the stubbornness of Pierre Nkurunziza constitutes a threat to peace not only in Burundi but also in the region, and entails risks to the stability of the East African Community (ECA).

To the international community:

1. Take the necessary economic, political and diplomatic measures to ensure that the government of Burundi complies with its international commitments and make a concrete and verifiable commitment to the return of the rule of law and to the Arusha agreement.
 2. Support the work of the International Criminal Court to complete the investigations begun on Burundi with a view to prosecuting without delay the perpetrators of serious crimes committed since the outbreak of the crisis in Burundi in 2015.
 3. Take appropriate measures to urge the Burundian authorities to cooperate fully with the United Nations mechanisms and the ICC.
 4. Demand that the Burundian government remove the conditions imposed on NGOs, in particular with regard to ethnic balances.
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