**COMMISSION OF INQUIRY ON BURUNDI**

**QUESTIONS & ANSWERS**

5th September 2018

*The Commission of Inquiry on Burundi was established on the 30th of September 2016, by Resolution 33/24 of the United Nations Human Rights Council. Its mandate is to conduct an in-depth investigation into human rights violations and abuses committed in Burundi since April 2015, to determine if any of those violations and abuses are likely to fall under international criminal law, to identify the perpetrators of these crimes and to formulate recommendations. On 29th September 2017, the Human Rights Council renewed the mandate of the Commission for another year.*

*The Commission is composed of three members: Doudou Diène (Senegal), Lucy Asuagbor (Cameroon) and Françoise Hampson (United Kingdom).*

*The Commission of Inquiry will present its* [*report*](https://www.ohchr.org/EN/HRBodies/HRC/CoIBurundi/Pages/CoIBurundiReportHRC39.aspx) *to the Human Rights Council in an interactive dialogue, which will be held on 17th September 2018.*

1. **What were the investigative priorities of the Commission this year?**

Given the scope of its mandate, the Commission focused on the most serious human rights violations and abuses in its first year of activity, particularly violations of civil and political rights that might constitute crimes under international law.

This year, the Commission continued to document such violations in order, amongst other things, to establish responsibility for these acts. The Commission also decided to take a closer look at economic and social rights in Burundi. The judicial system was analysed in detail, with a view to contributing to the fight against impunity and bringing justice to victims.

Furthermore, the Commission approached its mandate under the perspective of prevention, in order to formulate recommendations to prevent the repetition of the recurring crises that the country has experienced for several decades.

1. **What was the rationale for broadening the Commission’s mandate to economic and social rights?**

The Commission's mission is to investigate human rights violations and abuses committed in Burundi since April 2015, and this includes all human rights: that is, both civil and political rights as well as economic and social rights. These two categories are closely intertwined. In Burundi, the political crisis that has shaken the country for three years now had socio-economic roots. It has also resulted in a significant deterioration of the living conditions of the population.

From being a developing country, Burundi has reverted to being a country in a humanitarian emergency. UN humanitarian agencies estimate that 3.6 million people - more than 30 percent of the population, mostly women and children - are in need of assistance today. There were 1 million in February 2016.

Burundi is now the second country most affected by chronic malnutrition in the world and one in four Burundians faces food insecurity. Just as many people suffer from limited access to safe drinking water and poor hygiene practices, increasing the risk of an epidemic in a country already affected by malaria and cholera. In addition, some medical treatments, such as those for AIDS patients, are now lacking in several hospitals and health services are inadequate.

The issue of economic and social rights is all the more important since the lack of basic needs for the population is one of the recurrent sources of political instability and violence that Burundi has experienced over the decades. This factor was highlighted in the Arusha Agreement (2000) which ended the civil war. The reason why the Commission was unable to analyse thoroughly this issue in its first report was only due to lack of time and resources.

1. **What are the main findings of the Commission?**

Since the renewal of its mandate in September 2017, the Commission has collected more than 400 testimonies, in addition to the 500 that were collected in its first year of existence. On this basis, the Commission concludes that serious human rights violations have continued in Burundi in 2017 and 2018. The Commission considers that some of these acts constitute crimes against humanity. This applies in particular to summary executions, arbitrary arrests and detention, acts of torture as well as cruel, inhuman and degrading treatment.

Specifically, the Commission has collected credible and consistent reports of summary executions, arbitrary arrests and detention, acts of torture and other cruel, inhuman or degrading treatment, sexual violence and enforced disappearances. It has also documented violations of civil liberties, such as freedom of expression, association, assembly and movement. The Commission has also determined that the political crisis in Burundi has had a very negative impact on the economic and social rights of Burundians and has contributed to the impoverishment of the population.

These violations are taking place in a general climate of impunity, made possible by the dysfunctions of the Burundian judicial system and its lack of independence. In addition, the violations have continued to be promoted through recurrent calls for hatred, hostility and violence by representatives of the Burundian State - including the President of the Republic - as well as members of the ruling party, the CNDD-FDD (National Council for the Defence of Democracy-Forces for the Defence of Democracy), and its youth league, the Imbonerakure.

1. **Who are the victims of human rights violations in Burundi?**

Most of the victims are alleged or actual opponents of the Government and / or ruling party, the CNDD-FDD. They are mainly members of opposition political parties, supporters of armed opposition groups, people trying to flee the country and thus suspected of wanting to join these groups, journalists and members of civil society organizations, in particular human rights defenders.

Some victims campaigned against the constitutional referendum of May 2018 or refused to register to vote. Others were targeted after refusing to join the ruling party or its youth league (Imbonerakure) or because of the alleged political affiliation of their family members. Finally, others claim to have neither demonstrated nor exercised any political activity and were merely "in the wrong place at the wrong time".

1. **Who are the main perpetrators of these acts?**

Most of the serious human rights violations documented by the Commission of Inquiry in 2017 and 2018 were committed by Burundian state agents or by individuals under their control. In particular, these individuals are agents, including senior officials, of the National Intelligence Service (SNR), which reports directly to the President of the Republic, and the Burundi National Police. Administrative authorities also committed or gave orders to commit human rights violations, including arbitrary arrests and detentions as well as ill-treatments.

In its first report, the Commission highlighted the role played by members of the ruling party’s youth league, the Imbonerakure. Today, the Commission notes and is concerned about their growing involvement in a context of coercion of the population aimed at silencing any form of opposition. The Imbonerakure cover the country, inform the state and / or CNDD-FDD of actual or alleged opponents, harass, control and intimidate the population. They carry out policing operations outside any legal framework and conduct forced recruitment campaigns into the CNDD-FDD, campaigns that often result in torture and ill-treatment. The Imbonerakure are also involved in extrajudicial executions, arbitrary arrests and detentions, and disappearances.

With regard to armed opposition groups, they have not claimed responsibility, to the best of the Commission’s knowledge, for attacking Burundian territory in 2017 and 2018. Information circulated on the involvement of an armed group in the massacre of at least 24 people on 11 May 2018 in the province of Cibitoke. However, the investigation conducted by the Burundian authorities has yet to yield any findings and the Commission has not been able to identify those responsible.

This can be explained in particular by the repeated refusals by the Government to provide information and the lack of access to victims. In most cases, the victims occupy functions in the government apparatus, within the CNDD-FDD or are close to them and did not wish, like the Burundian authorities, to get in touch with the Commission or to share information with it.

1. **Did the Government of Burundi cooperate with the Commission?**

The Government of Burundi has refused any dialogue and cooperation with the Commission, despite repeated requests and initiatives. Since the renewal of its mandate in September 2017, the Commission has reiterated its willingness to establish a constructive and inclusive dialogue with the Burundian authorities. Two letters to this effect were sent to the Permanent Mission of Burundi in Geneva and one to the Permanent Mission of Burundi in New York. A letter was also sent to the Burundian Minister for External Relations. In response, Burundian representatives to the United Nations in New York and Geneva threatened members of the Commission with legal proceedings for defamation on two occasions.

However, the lack of cooperation from the Burundian Government goes beyond our Commission. The headquarters agreement for the office of the High Commissioner for Human Rights in Burundi, suspended since October 2016, has yet to be renewed. The experts provided for in Resolution 36/2 of the Human Rights Council, a resolution approved by Burundi, had their visas withdrawn a few weeks after their arrival. In regards to the African Union observers, they have been waiting since 2015 to be fully operational in Burundi.

The Commission can only deplore the attitude of Burundi, a member State of the United Nations Human Rights Council, which as such, is required to uphold "the highest standards in the promotion and protection of human rights" and to cooperate fully with the mechanisms created by the same Council. However, the repeated refusal by the Government of Burundi to cooperate with the Commission has not prevented it from collecting numerous reliable and consistent reports from a wide range of sources, both in Burundi and abroad.

1. **How did the Commission investigate while not having access to the Burundian territory?**

Since its creation, the Commission has collected more than 900 testimonials, including over 400 during this past year. In that regard, members of the Commission visited Rwanda, Uganda, Tanzania, the Democratic Republic of Congo and Belgium on a number of occasions to interview victims, witnesses and alleged perpetrators of human rights violations and abuses. The members also conducted long distance interviews with individuals in several countries that they were not in a position to travel to, including Burundi.

The Commission also based itself on other reliable sources, such as reports from various institutions, including those of the United Nations and other international organizations, and legal documents (laws, regulations, directives, etc.). Finally, the Commission held discussions with representatives of various governments, the African Union and international organizations, particularly during a mission in Ethiopia in April 2018.

1. **People who fled Burundi are often opponents of the Government. In this situation, how do you ensure that their testimonies are objective and reliable?**

The conclusions reached by the Commission of Inquiry are based on numerous testimonies from a wide range of sources, and not only from opponents to the Government. Among the victims of human rights violations to which the Commission had access, there are many Burundians without any political affiliation, just like members of civil society, journalists, members of the ruling CNDD-FDD and other political parties.

Among those who have agreed to testify before the Commission, we also have alleged perpetrators of human rights violations and abuses, including members of the Burundian Defence and Security Forces and the Imbonerakure who were able to provide the Commission with information on the functioning of the system of repression.

The Commission took care to collect credible and reliable testimony, thoroughly checking and crosschecking to ensure that it was accurate. The Commission, in its analytical work, only retained and used concordant information collected from several sources.

1. **The Government of Burundi asserts that the situation has improved significantly and that security prevails in Burundi. Do you share this analysis?**

The testimonies collected prove that this is not the case. The Commission has received and continues to receive numerous and recent reports of arbitrary arrests and detentions, torture, summary executions or disappearances of members of opposition parties, persons refusing to join the ruling party, or suspected of not supporting Government projects, such as the May 2018 referendum and / or the 2020 elections. These cases are in addition to other human rights violations, including sexual violence, violations of the right to a fair trial and violations of civil liberties.

These violations, which take place in a climate of widespread fear, are also encouraged by the persistence of impunity and the lack of an independent judicial system.

1. **According to the Commission, the humanitarian and socio-economic situation has deteriorated significantly in Burundi. How does this relate to the political crisis?**

Since 2015, the living conditions of Burundians have steadily deteriorated. The United Nations Development Program, the World Bank, the International Monetary Fund and the African Development Bank have all noted a reversal of Burundi's economic growth starting in 2015. The situation is not expected to improve: for example, the IMF forecasts a decline in the real GDP per capita of 2.5% and an increase in consumer prices of 22.1% in 2019

Structural factors are the main cause of this situation, in a country plagued by a lack of diversification of its economy, and by the suspension of direct budgetary support from Burundi's international partners due to repeated human rights violations in the country. However, the Commission has noted that high-level corruption and misappropriation of public funds have reduced the resources that the State should be devoting to fulfilling the rights of Burundians, especially in the area of food and health.

The Commission has also documented an increase in the number of contributions demanded, willingly or by force, from the population, starting with those introduced for the 2020 elections. These contributions are in addition to taxes that were created and / or have been increased since 2015. The additional contributions further increase the burden on an already vulnerable population. All of these measures violate the right of a person to an adequate standard of living for themselves and their family.

Finally, the Commission has noted that since 2015, the State budget has been more oriented towards defence and security expenditure, at the expense of basic services. For instance, the budget of the SNR, which is involved in serious human rights violations in Burundi, increased by 12% between 2015 and 2018. The authorities have thus failed in their obligation to devote the maximum of their internal resources to the realization of economic and social rights of Burundians, in particular the rights to food, water and health, demand for which is constantly on the rise.

1. **What contributions are you referring to?**

Since 2015, in order to cope with the economic and budgetary challenges facing the country, the Government of Burundi has introduced new taxes or increased existing ones, such as taxes on sugar and fuel. New contributions, outside any legal framework, have also emerged. This is the case, for example, of the contribution for the May 2018 referendum or the 2020 elections. Other contributions are demanded under various pretexts: financing the activities of the CNDD-FDD, construction of a stadium, for development purposes, etc.

These contributions are often taken by force, especially by the Imbonerakure, thus resulting in ill-treatment, arbitrary arrests and detentions, threats, intimidation or persecution in case of refusal or inability to pay. The contributions are also a pretext for extortion and have a direct impact on the right of Burundians to enjoy their economic and social rights. As an example, teachers and students have been excluded from the education system because they refused to pay the contribution to the 2020 elections or to attend sensitization meetings on constitutional revision.

1. **Yet many refugees make the choice to return to Burundi.**

According to figures provided by the Office of the United Nations High Commissioner for Refugees, as of end of June 2018, 394,778 Burundians were refugees in neighbouring countries of Burundi. This corresponds to 3.7 per cent of the population. In addition to refugees outside Burundi, there are 178,000 internally displaced persons, 80% of whom are women and children.

These figures show a slight decrease in the number of Burundian refugees abroad, mainly in Tanzania, but they remain extremely high. It should also be noted that these returns are linked to the agreement between the Government of Burundi and the Tanzanian authorities to encourage some refugees settled in Tanzania to return home. In this regard, 37,000 people returned from Tanzania between 7 September 2017 and 15 July 2018.

However, Burundians continue to flee their country, mostly for political reasons, as the Commission has noted during the exchanges it has had with many of them in 2018. The Commission also collected additional information regarding border control to prevent departures. It also heard testimony from individuals who were arrested or abused upon their return from exile. Some had no other choice than to leave again.

In view of the persistence of serious human rights violations in Burundi, the Commission believes that the conditions for the return of all Burundian refugees are not in place and that the security risks for many of them are high. The Commission also notes that the living conditions for returnees, as well as the overall population, are not good.

For this reason, the Commission calls upon host countries to ensure strict compliance with the principle of non-refoulement. Returns should be genuinely voluntary, without any pressure from the host governments. The latter should also provide refugees with the protection and assistance that they need. In this framework, the Commission believes that the funding of humanitarian assistance programs for refugees and returnees is extremely important.

1. **What are the main recommendations by the Commission?**

The Commission renews its call to all Burundian parties concerned - the State or opposition groups that use violence - to cease immediately human rights violations and abuses. In particular, it calls on the Government of Burundi to investigate and prosecute human rights violations, to shed light on the disappearances reported since April 2015 and to take the necessary steps to ensure that victims of torture and sexual violence have access to appropriate care.

The Commission also calls on the Burundian authorities to put an end to arbitrary detention, to improve conditions of detention and to carry out an in-depth reform of the judicial system, in order to guarantee its independence, impartiality and effectiveness. The security sector also needs to be reformed and civil liberties restored. Generally speaking, the Commission expects the Government of Burundi to respect its international obligations and to comply with international standards, particularly with regard to the legal system.

The Commission of Inquiry calls on the other member States of the United Nations - and in particular the African Union and the East African Community - to intensify their efforts in finding a sustainable solution to the crisis, based on respect for human rights and rejection of impunity and to provide the Burundian authorities with the necessary support to achieve this. The Commission is also asking them to prosecute, under universal jurisdiction, alleged perpetrators responsible under international law for crimes committed in Burundi. The Commission also insisted that no alleged perpetrators of such crimes or human rights violations be recruited in peacekeeping missions, whether they are conducted under the auspices of the United Nations or the African Union.

1. **Have the Burundian authorities taken action to stop the crimes documented by the Commission and bring the perpetrators to justice?**

Not only are the acts denounced by the Commission in its first report still ongoing, but some have even intensified: the Imbonerakure have been given an increasingly active role and state agents have even given them new tasks.

Moreover, and despite statements by Burundian authorities, credible investigations and prosecutions of alleged perpetrators of human rights violations remain very rare, especially when they are State agents or members of the ruling party, including the Imbonerakure. On the contrary, information obtained by the Commission shows that State agents exert pressure to prevent such proceedings.

Given the circumstances, the Commission continues to believe that the Burundian State does not have the will or the capacity to carry out successfully credible investigations or prosecutions to put an end to human rights violations committed in Burundi.

1. **What can the victims hope for, since the Burundian Government does not implement your recommendations?**

Several people who testified before the Commission expressed their gratitude when its first report was published in September 2017. In a country undermined by impunity and in which the authorities consider that the situation has returned to normal, the Commission is often the only hope for the victims to be heard and to obtain justice one day. By documenting the crimes committed in Burundi, the Commission is, in a way, paving the way for the work of national or international judicial institutions, who will be tasked with prosecuting the alleged perpetrators of these crimes. However, this work is a long-term effort.

The Commission has established a list of alleged perpetrators of crimes against humanity. This list can be availed to any organ or jurisdiction tasked with carrying out independent and credible investigations on human rights violations and abuses committed in Burundi and who will guarantee the safety of the witnesses.

We should remember that the Commission of Inquiry on Burundi is, at present, the only international human rights mechanism that is independently and impartially investigating human rights violations and abuses committed in Burundi as well as identifying their alleged perpetrators. In these circumstances, it is essential that the Commission continue its investigations, especially in a context that will be characterized by preparations for the 2020 elections. The Commission therefore requests the United Nations Human Rights Council to extend its mandate for another year.

Nevertheless, the work done by the Commission does not absolve the Burundian authorities of their responsibility to put an immediate end to human rights violations, to effectively and decisively fight against impunity and ensure that victims receive fair compensation.

**For more information:**

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