



**Submission to the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence
for his report to be presented at the 76th session of the General Assembly
by the International Observatory of Human Rights**

‘On the adoption of transitional justice to address the legacy of colonial crimes in Mauritius and Burundi’

This submission consists of two parts: Part One focuses on the Truth and Justice Commission set up in Mauritius to inquire the legacy of slavery, which is internationally recognized as a crime against humanity;¹ and Part Two presents the Burundian Truth and Reconciliation Commission, which investigates serious violations of human rights and of international humanitarian law committed between 1885 and 2008.

Truth Commissions can examine the impact of colonial occupation and colonial crimes in a historic context and make recommendations on how to deal with its impact today. For decades, countries were shying away from this in fear of having to compensate victims and their descendants. There is an emerging recognition of the need to address the legacy of colonialism not only in the former colonies, but also in the former colonising countries in a historical context.² By acknowledging colonial crimes and addressing the human cost on the colonised, versus the positive financial and social contribution that benefited the colonising countries, it may help to contribute to a more balanced and just future and society for all.

Part 1: Transitional justice in Mauritius

Q1: Accountability of Persons

Earlier attempts of establishing committees did have the objective of identifying institutions and individuals responsible,³ but the Mauritian Truth and Justice Commission (MTJC) was not tasked

¹ Universal Declaration of Human Rights (1948), Art 1 and 4; International Covenant on Civil and Political Rights (1966), Art 8; and Rome Statute of the International Criminal Court (1998), Art 7 (1) lit c.

² See for example UK National Trust, *‘Interim Report on the Connections between Colonialism and Properties now in the Care of the National Trust, Including Links with Historic Slavery’* (September 2020).

³ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 7-8. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

with identifying those responsible for slavery and did not focus on investigating companies benefitting from slavery.⁴

Q2: Inquire on and establish the truth

The MTJC was established in March 2009, based on the Truth and Justice Act No. 28 of 2008.⁵ Its mandate focused on the ‘consequences of slavery and indentured labour during the colonial period up to the present’.⁶ The Commissions’ functions are outlined in Section 3(2) and Section 4 of Act No. 28, which include making recommendations to the President on measures to be taken to achieve social justice and national unity, conducting inquiries into slavery and indentured labour during the colonial period, and preparing a report of its activities and findings. After more than two years, the MTJC published its final report of four Volumes in October and November 2011.⁷

The report mentions the treatment of female slaves separately, in particular maternal health and the work of women, as well as women labourers.⁸ It notes that section C4 in the French National Archives, the official records used by the Commission, was ‘unfortunately silent (...) on the situation of enslaved women’ unless they were documenting criminal cases of women refusing to bear children or when referencing them as wives or concubines, and that more ‘intense searches in archival records are required’.⁹

The MTJC ‘is unique in that it deals with socio-economic class abuses and attempts to cover more than 370 years (1638-present), the longest period that a truth commission has ever attempted

⁴ Richard Croucher, Mark Houssart and Didier Michel, ‘The Mauritian Truth and Justice Commission: Legitimacy, Political Negotiation and the Consequences of Slavery’ 25.3 *African Journal of International and Comparative Law* (2017) at p. 340. Available at: <https://www.eupublishing.com/doi/full/10.3366/ajicl.2017.0198>.

⁵ Government Gazette of Mauritius, No. 84 of 28 August 2008, Truth and Justice Commission Act No. 28 of 2008. Available at: https://www.usip.org/sites/default/files/ROL/Truth%20and%20Justice%20Act%2028%20No_%202008-2.pdf.

⁶ Ibid. Section 3 (1).

⁷ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011); *Volume II: Land Reform. Legal and Administrative Aspects* (2011); *Volume III: Contemporary History, Culture and Society. Research Reports, Technical Studies and Surveys* (2011); *Volume IV: History, Economy, Society and Memory. Research Reports, Technical Studies and Surveys* (2011).

⁸ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 110-111, 236-237. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

⁹ Ibid. p. 110.

to cover.’¹⁰ Moreover, it is the only truth commission so far to deal explicitly with a colonial past’.¹¹

It focused on the history of slavery and indentured labour and its consequences on society, as well as measures to achieve social justice. However, neither the establishment of the MTJC nor its reports have been adequately conveyed to the public. *Croucher/Houssart/Michel* demonstrate in their analysis of the MTJC’s work that the Commission was established by an ‘elite political process that limited any later efforts to involve the wider public or to effect attitudinal changes’.¹² As a result, the MTJC was not based on a popular movement and of 35 Creole interviewees in 2013 none were aware of the MTJC’s existence.¹³ Despite publishing brochures in English, French, Bhojpuri and Kreol, the low levels of literacy among the local Creole population prevented the information on the Commissions’ activities from achieving sufficient attention.¹⁴ Furthermore, the authors mention that they could not find ‘any local commentator arguing’ that the MTJC was a success and that the Commission’s recommendation had not yet been implemented in early 2015.¹⁵ Public pressure on implementation does not exist, since the findings of the MTJC have not been adequately disseminated or even translated to Kreol.¹⁶ Newspaper coverage of the Commissions’ public sessions was very limited.¹⁷ Despite the lack of governmental action, they still argue that the MTJC has achieved other important results, such as providing a ‘convincing version of Mauritian history’ that could ‘help resolve legal claims for “lost” land and memorialise slavery’s history’.¹⁸

Most importantly, the Commission’s academic approach failed to adapt to the affected communities, and some people even refused to participate in interviews as they did not see any benefit.¹⁹ Others had difficulties answering the academic questions, understanding the word

¹⁰ United States Institute of Peace, ‘*Truth Commission: Mauritius*’ (9 February 2012). Available at: <https://www.usip.org/publications/2012/02/truth-commission-mauritius>.

¹¹ Priya Pillai, ‘Truth Commissions and Colonial Atrocities: Moving the Needle Further Towards State Responsibility?’ (27 April 2019) *Opinio Juris*. Available at: <http://opiniojuris.org/2019/04/27/truth-commissions-and-colonial-atrocities-moving-the-needle-further-towards-state-responsibility/>.

¹² Richard Croucher, Mark Houssart and Didier Michel, ‘The Mauritian Truth and Justice Commission: Legitimacy, Political Negotiation and the Consequences of Slavery’ 25.3 *African Journal of International and Comparative Law* (2017) at p. 334. Available at: <https://www.eupublishing.com/doi/full/10.3366/ajicl.2017.0198>

¹³ *Ibid.* p. 336.

¹⁴ *Ibid.* p. 337.

¹⁵ *Ibid.* p. 331.

¹⁶ *Ibid.* p. 343-344.

¹⁷ *Ibid.* p. 333.

¹⁸ *Ibid.* p. 331.

¹⁹ Mauritius Truth and Justice Commission Report, *Volume III: Contemporary History, Culture and Society. Research Reports, Technical Studies and Surveys* (2011) at p. 5-6.

'descendants' or were uncomfortable with sharing information and their views with the Commission.²⁰

Rosabelle Boswell draws a similar conclusion in her article, arguing that greater participation of civil society is needed to achieve justice and decide upon reparations.²¹

Subsequently, an inter-ministerial committee was set up to look into the implementation of the MTJC's recommendations, but only very few of the 290 recommendations have been turned into action so far.²²

Q3: Reparation for victims

An attempt in 1999 to establish a 'committee on reparations for slavery' failed after bloody riots broke out in Mauritius.²³ It had specific areas of study on the capture and procurement of slaves, the sale and acquisition of slaves as chattels, as well as the question of whether any form of compensation should be granted and to whom.²⁴ However, the MJTC was not required to determine reparations to victims or their descendants or to undertake redistribution, but, according to Sections 4 (b) and (c) Act 28 of 2008, was tasked with determining 'appropriate measures to be extended to descendants of slaves and indentured labourers' and enquiring into complaints of dispossession. Since descendants of victims of slavery are often unaware of their ancestor's history and it appears to be difficult to identify people of slave descent, the recommendations preferred reforms for social justice over the payment of cash compensations.²⁵

Rosabelle Boswel draws attention to the fact that in the case of restorative justice, a defined group has to be selected of being in need of reparations. This is especially difficult in the Mauritius context, where segregation and racism are still deeply embedded in society and would result in that group as 'being forever inscribed as victims of slavery'.²⁶

²⁰ Ibid.

²¹ Rosabelle Boswell, 'Can Justice be achieved for slave descendants in Mauritius?' 42:2 *International Journal of Law, Crime and Justice* (2014) p. 160. Available at: <https://doi.org/10.1016/j.ijlci.2014.01.005>.

²² Mauritius Times, 'Truth and Justice & Land Division' (23 October 2020). Available at: <http://www.mauritiustimes.com/mt/truth-and-justice-land-division/>.

²³ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 7. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

²⁴ Ibid. p. 8.

²⁵ Ibid. p. 9.

²⁶ Rosabelle Boswell, 'Can Justice be achieved for slave descendants in Mauritius?' 42:2 *International Journal of Law, Crime and Justice* (2014) p. 159. Available at: <https://doi.org/10.1016/j.ijlci.2014.01.005>.

Regarding the victims of land dispossession, the Commission suggests establishing a Land Monitoring and Research Unit, to conduct enquiries, settle disputes or refer matters to Court. One of the biggest challenges observed by the MTJC is the lack of adequate documentation, and it recommends 'granting small parcels of land to deserving cases'.²⁷

Instead of the Land Monitoring Unit, a Mediation Unit was established. The Land Research and Mediation Unit was created in 2015, replacing the previous Land Research and Mediation Commission, to examine cases of land expropriation from descendants of slaves. The report of the MTJC mentioned 224 cases of land dispossession, of which 42 presented sufficient evidence of dispossession. No evidence was available for 91 cases, and the remaining 131 cases were not investigated by the MTJC and left for the Land Research and Mediation Unit.²⁸ In 2016 it investigated five cases of land dispossession by sugar companies.²⁹

In July 2020, the Land Division was set up within the Supreme Court of Mauritius to facilitate the 'just, expeditious and accessible resolution to land disputes'.³⁰ It has jurisdiction over any matters regarding ownership of land and property rights, other than matters falling under the jurisdiction of the Intermediate Court, District Court or connected therewith.³¹

Lastly, the MTJC recommended an apology to be issued by the Republic of Mauritius and private institutions connected to slavery, such as the Catholic Church, the Chamber of Commerce or the Mauritius Sugar Producers' Association, as well as approaching former Colonial Powers to accept their responsibilities for slave trade and its consequences today.³² Furthermore, it is the opinion of the MTJC that the costs for the implementation of recommendations made should be borne by Holland, France and the UK.³³

²⁷ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 12. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

²⁸ Le Mauricien, 'PMQT: Une Land Research and Mediation Unit pour des investigations en profondeur' (23 September 2015). Available at: <https://www.lemauricien.com/le-mauricien/pmqt-land-research-and-mediation-unit-des-investigations-en-profondeur/21126/>.

²⁹ Defi Media Group, 'Cinq Cas Devant La Land Research And Mediation Unit' (27 July 2016). Available at: <https://business.mega.mu/2016/07/27/cinq-cas-devant-la-land-research-and-mediation-unit/>.

³⁰ Government Gazette of Mauritius, No. 88 of 16 July 2020, *The Courts (Amendment) Bill*, para 4. Available at: [https://supremecourt.govmu.org/HighlightDoc/No%20%2010%20-%20THE%20COURTS%20\(AMENDMENT\)%20BILL.pdf](https://supremecourt.govmu.org/HighlightDoc/No%20%2010%20-%20THE%20COURTS%20(AMENDMENT)%20BILL.pdf).

³¹ Government Gazette of Mauritius, No. 113 of 5 September 2020, *Court (Amendment) Act 2020*, Section 41B. Available at: <https://mauritiusassembly.govmu.org/Documents/Acts/2020/act092020.pdf>.

³² Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 11 and 14. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

³³ Ibid.

Q4: Memorialize the violations

The main site commemorating the abolition and resistance to slavery in Mauritius is the Le Morne Cultural Landscape,³⁴ which has been on the UNESCO World Heritage List since 2008 and is managed by the Le Morne Heritage Trust Fund.³⁵ Since 2009 the “International Slave Route Monument” lies at the base of the Le Morne mountain, which is part of the UNESCO “Slave Route” project.³⁶

The 1st of February is a public holiday in commemoration of the fight of slaves for freedom because it is the anniversary of the abolition of slavery in Mauritius. Additionally, the Arrival of Indentured Labourers is a national holiday every 2nd November.

On 1 February 2020, the Open-Air Museum at Trou Chenille was inaugurated, which outlines the traditions and the way of living of slaves. According to the Minister of Arts and Culture, Avinash Teeluck, Trou Chenille was ‘the first village to be inhabited by freed slaves and is an emblematic symbol of resilience as they persevered to live in dignity despite the harsh conditions’.³⁷

Additionally, the MTJC recommended a museum honouring the memory of all slaves, the commemorating of the UNESCO Day of Remembrance of Abolition of Slave Trade and better memorialisation of the economic contribution of slaves to Mauritius.³⁸ The museum on slavery was approved by the government in 2011, but there was a lot of resistance against the museum itself, and the place of it in Port Louis, where a military hospital for slaves and sailors used to be.³⁹ It was further delayed by the state of environmental emergency after the oil spill in August 2020.⁴⁰ Finally, in October 2020, the first phase of the Intercontinental Slavery Museum and the temporary exhibition ‘Breaking the Silence’ were launched. Until January 2021, visitors were

³⁴ Le Morne was proclaimed a National Heritage on 24.01.2006.

³⁵ See the Website of the *Le Morne Heritage Trust Fund*. Available at: <http://www.lemorneheritage.org>.

³⁶ CIPDH International Center for the Promotion of Human Rights, ‘*Le Morne*’. Available at: <https://www.cipdh.gob.ar/memorias-situadas/en/lugar-de-memoria/le-morne/>.

³⁷ Mauritian Government Information Service, ‘*Open Air and Intercontinental Slavery Museums to safeguard memories and struggle of our slave ancestry, says PM*’ (3 February 2020) News release. Available at: <http://www.govmu.org/English/News/Pages/Open-Air-and-Intercontinental-Slavery-Museums-to-safeguard-memories-and-struggle-of-our-slave-ancestors,-says-PM.aspx>.

³⁸ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 11 and 19. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

³⁹ Allegra Chen-Carrel, ‘*How the Intercontinental Slavery Museum in Mauritius promotes Peace and Justice*’ (2 February 2021) Columbia climate School. Available at: <https://news.climate.columbia.edu/2021/02/02/intercontinental-slavery-museum/>.

⁴⁰ UNESCO, ‘*Mauritius establishes an International Slavery Musuem*’ (27 October 2020). Available at: <https://en.unesco.org/news/mauritius-establishes-international-slavery-museum>.

invited to make recommendations and suggestions on what they want to see at the International Slavery Museum.⁴¹ The new museum is designed to study slavery and slave trade in the Indian Ocean, to collect, persevere and produce material on slavery, and to create a catalogue of slavery related artefacts.⁴²

Q5: Guarantee non-recurrence

To promote national reconciliation, the MTJS recommended measures for 1) memorializing slavery; 2) a better understanding and more inclusive account of Mauritian history and culture; 3) a better and increased protections of Mauritian heritage; 4) a less racist and elitist society; 5) a more democratic public life; 6) empowerment of Mauritians of African and Malagasy origin, as well as other measures to increase economic and social equality and justice, particularly related to land issues, education and equitable and judicious use of the environment.⁴³

In 2012, Mauritian Creole (Kreol Morisien), which is the native language of 86% of the Mauritian population,⁴⁴ was introduced as an optional language subject in primary schools. Since 2018, it is also offered in some secondary schools, and was extended to Grade 9 in 2020.⁴⁵ A fieldwork study carried out in 2018 showed that Kreol is being accepted as a subject in school by around half of the students, but that two thirds prefer English and French as the instruction language since they offer more advantages for university education or the job market.⁴⁶ Nevertheless, the number of students taking Kreol has been steadily increasing over the years from 17,305 in 2017 to 18,903 in 2019.⁴⁷

⁴¹ Rajmeela Seetamonee, 'Musée intercontinental de l'esclavage: Réconcilier avec le passé' (7 November 2020) Defimedia. Available at: <https://defimedia.info/musee-intercontinental-de-lesclavage-reconcilier-avec-le-passe>.

⁴² UNESCO, 'Mauritius establishes an International Slavery Museum' (27 October 2020). Available at: <https://en.unesco.org/news/mauritius-establishes-international-slavery-museum>.

⁴³ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 19-48; 394-454. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

⁴⁴ Mauritian Ministry of Finance and Economic Development, Housing And Population Census from 2011.

⁴⁵ Mauritian Government Information Service, 'The mastery of the Kreol language a prerequisite for its introduction into the National Assembly' (7 July 2020) News Release. Available at: <http://www.govmu.org/English/News/Pages/The-mastery-of-the-Kreol-language-a-prerequisite-for-its-introduction-into-the-National-Assembly.aspx>.

⁴⁶ Anu Bissoonauth, 'Language and attitude shift of young Mauritians in secondary education, Journal of Multilingual and Multicultural Development' 42 *Journal of Multilingual and Multicultural Development* 2021, 64-78. DOI: 10.1080/01434632.2019.1677675.

⁴⁷ Mauritian Government Information Service, 'The mastery of the Kreol language a prerequisite for its introduction into the National Assembly' (7 July 2020) News Release. Available at: <http://www.govmu.org/English/News/Pages/The-mastery-of-the-Kreol-language-a-prerequisite-for-its-introduction-into-the-National-Assembly.aspx>.

The MTJC has also called for the Equal Opportunities Act 2008 to be implemented in order to battle underrepresentation of creoles at the level of Government institutions and ‘to ensure more transparency in the selection of employees both in the public and private sectors.’⁴⁸ The Equal Opportunities Commission (EOC) was finally set up in April 2012. The EOC investigates discrimination complaints, works to prevent discrimination through sensitisation campaigns and reviews the working of the Act. The 12 grounds of discrimination include, inter alia, ‘age, caste, colour, creed, ethnic origin, place of origin, race and sex’.⁴⁹ In the first two years of its operation it has received 1058 complaints, mainly based on ethnic origin and political opinion.⁵⁰ Between May 2016 and May 2019, it has received 593 complaints and completed the investigation in 462 cases.⁵¹ In the majority of cases the grounds of discrimination were not specified, but 70 complaints were based on multiple grounds and 41 on ethnic origin.⁵²

Further documents and articles on the MTJC and its findings:

- Richard Croucher, Mark Houssart and Didier Michel, ‘The Mauritian Truth and Justice Commission: Legitimacy, Political Negotiation and the Consequences of Slavery’ 25.3 *African Journal of International and Comparative Law* (2017) 326–346. Available at: <https://www.eupublishing.com/doi/full/10.3366/ajicl.2017.0198>
- Rosabelle Boswell, ‘Can Justice be achieved for slave descendants in Mauritius?’ 42:2 *International Journal of Law, Crime and Justice* (2014) 146-161. Available at: <https://doi.org/10.1016/j.ijlcrj.2014.01.005>
- Vijayalakshmi Teelock, ‘The Mauritius Truth and Justice Commission: “Eyewash”, “storm in a teacup” or promise of a new future for Mauritians?’ in *Emancipation and the remaking of the British imperial world* (Manchester 2015). Available at: <https://doi.org/10.7765/9781526103017.00024>
- Vijayalakshmi Teelock, ‘The Legacy of Indentured Labour and the Mauritius Truth and Justice Commission: A Missed Opportunity?’ in *The Legacy of Indian Indenture* (2016). Available at: <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315272023-10/legacy-indentured-labour-mauritius-truth-justice-commission-missed-opportunity-vijayalakshmi-teelock>

⁴⁸ Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (2011) at p. 387. Available at: https://www.usip.org/sites/default/files/ROL/TJC_Vol1.pdf.

⁴⁹ See Website of EOC, ‘Discrimination’. Available at: https://eoc.govmu.org/eoc/?page_id=1355.

⁵⁰ EOC, Report 2014 at 22-23. Available at: https://eoc.govmu.org/eoc/?page_id=1451#.

⁵¹ EOC, Report May 2016-May 2019 at p. 31. Available at: https://eoc.govmu.org/eoc/?page_id=1451#.

⁵² Ibid. p. 32.

Part 2: Transitional justice in Burundi

Introduction

The second part focuses on the Truth and Reconciliation Commission in Burundi (*La Commission Vérité et Réconciliation* - CVR) which, according to its current mandate, will investigate colonial crimes committed since 1885, when the Berlin Conference divided the African continent between the colonial powers.

The CVR was initially set up by the Truth and Reconciliation Act of 25 May 2014, following the Arusha Agreement of 2000,⁵³ and was given a four-year mandate to establish the truth about mass atrocities between 1962 and 2008, in particular to identify and map mass graves, to publish a list of victims, to promote reconciliation and forgiveness, and to propose a reparation programme.⁵⁴

Q1: Accountability of Persons

Even though the Arusha Agreement has also called for a criminal tribunal, no judicial mechanism has been established yet to hold those responsible for crimes under international law and other serious violations of international human rights law accountable. The CVR is not judicial but intends to propose forgiveness and reconciliation.⁵⁵

Q2: Inquire on and establish the truth

With a law adopted on 6 November 2018, the CVR mandate was not only prolonged by four years, but also extended to investigate and establish the truth about 'serious violations of human rights

⁵³ *Arusha Peace And Reconciliation Agreement For Burundi*, Protocol I, Article 8 requires the National Truth and Reconciliation Commission to be established, which should investigate the serious acts of violence committed since 1 July 1962 and propose measures to promote reconciliation and forgiveness. Moreover, the Commission should also clarify 'the entire history of Burundi, going as far back as possible in order to inform Burundians about their past' (Article 8 lit c).

⁵⁴ *Loi N°1/18 du 15 Mai 2014 portant création, mandat, composition, organisation et fonctionnement de la Commission Verite et Reconciliation*. Available at: https://medialibrary.uantwerpen.be/oldcontent/container2143/files/DPP%20Burundi/Justice%20Transitionnelle/CVR%20et%20Tribunal%20Spécial/processus%20législatif/Loi%20du%2015%20mai%202014%20portant%20CVR.pdf?_ga=2.227338973.1508665186.1619605215-310175522.1619605215.

⁵⁵ CVR, 'Bururi: La mission de la CVR n'est pas judiciaire' (25 March 2021). Available at: <http://www.cvr.bi/2021/03/25/bururi-la-mission-de-la-cvr-nest-pas-judicaire/>.

and of international humanitarian law committed between 26 February 1885 and 4 December 2008', in particular to establish the 'individual responsibilities and those of state institutions, legal persons and private groups' and to 'determine the role of the colonizer in the cyclical violence that has grieved Burundi'.⁵⁶

According to Justice Minister Aimée-Laurentine Kanyana, the cycles of violence 'that have scarred Burundi have their origin in colonial times'.⁵⁷ Hence, the impact of German (until 1916) and Belgian colonial rule (1916-1961) will be investigated. The decision to investigate the responsibility of the colonizers and other foreigners was made based on the consultation and suggestions of 3,887 citizens in 2009-2010.⁵⁸ The CVR is yet to publish results on its inquiry on the legacy of colonialism in Burundi. In July 2020, the CVR participated in a seminar on the administrative reforms of 1925, and Commissioner Aloys Batungwanayo recommended to create a Burundi-Belgium discussion framework and requested Belgium to provide the exact figures of Burundis who died during the First World War as carriers, to cooperate with the CVR, to contribute financially to school textbooks that include colonial history, as well to ask for forgiveness from the Burundis.⁵⁹

Since the CVR has to be 'representative and inclusive',⁶⁰ the CRV is made up of seven Hutus, including one woman, five Tutsis, including two women, and one Twa woman, which represent the current constitutional balances.⁶¹

Belgium

Belgium is the first country to conduct an inquiry into the role of its institutions in the colonial administration of other countries. Instead of a Commission of Inquiry or Truth, the Belgian parliament decided to establish a Special Parliamentary Commission ('Commission') made up of

⁵⁶ Loi N°1/022 du 6 Novembre 2018, portant modification de la Loi N°1/18 du 15 Mai 2014, *Droit, Pouvoir et Paix au Burundi*, Article 6. Available at: http://www.cvr.bi/wp-content/uploads/2021/01/CVR-Loi-du-6-Novembre-2018-vraie-version_compressed.pdf

⁵⁷ Ephrem Rugiririza, 'Burundi: A Truth Commission as Political Diversion' (1 November 2018) *Justice Info*. Available at: <https://www.justiceinfo.net/en/39395-burundi-a-truth-commission-as-political-diversion.html>.

⁵⁸ 'Contre la CVR du Burundi. Une certaine société civile dans l'erreur ou dans le mensonge' (2021) at p. 32. Available at: https://medialibrary.uantwerpen.be/files/4739/a02589d1-9580-4292-ac09-1f7e6f79e10b.pdf?_ga=2.173516643.1508665186.1619605215-310175522.1619605215.

⁵⁹ Ukuri Kunywanisha, 'Bulletin mensuel de la Commission Vérité et Réconciliation' N°10 Août 2020. Available at: https://medialibrary.uantwerpen.be/oldcontent/container49546/files/Burundi/JT/CVR/0820.pdf?_ga=2.17037091.2.1508665186.1619605215-310175522.1619605215.

⁶⁰ Loi N°1/022 du 6 Novembre 2018, portant modification de la Loi N°1/18 du 15 Mai 2014, *Droit, Pouvoir et Paix au Burundi*, Article 10. Available at: http://www.cvr.bi/wp-content/uploads/2021/01/CVR-Loi-du-6-Novembre-2018-vraie-version_compressed.pdf

⁶¹ Assemblée Nationale du Burundi, 'Election des 13 Membres de la Commission Vérité et Réconciliation, CVR en sigle'. Available at: <https://www.assemblee.bi/spip.php?article1900>.

19 members of parliament. It was set up in July 2020 to examine Belgium's colonial past in the Congo (1908-1960), Rwanda and Burundi (1919-1962) and 'to draw lessons for the future'.⁶²

This includes examining the role of non-state actors, such as the Church or operators of colonial economies, as well as the economic impact of colonization on Belgium and the colonized countries, in particular how the profits from the exploitation were transferred to Belgium. Moreover, the Commission will formulate recommendations on how to 1) deal with the past, 2) reconcile between Belgians, 3) optimize relations between Belgians and Congolese, Rwandans and Burundians, 4) stimulate university research on (post-)colonialism, and to 5) protect archives on colonization. The Commission is expected to present its conclusion to the Chamber of Representatives in July 2021.⁶³

So far, the Commission has received criticism from 58 historians for not including historians or colonial experts from the former colonies.⁶⁴ Furthermore, two NGOs out of four NGOs representing the victim communities have refused to cooperate due to the membership of one of the experts in the Jambo association, which is accused of denying the Rwandan genocide.⁶⁵

Q3: Reparation for victims

The CVR's mandate includes suggesting a reparation programme, which should include both individual and collective measures, as well as both material and symbolic ones.⁶⁶

⁶² Chambre des Représentants de Belgique, '*Commission spéciale chargée d'examiner l'état indépendant du Congo (1885-1908) et le passé colonial de la Belgique au Congo (1908-1960), au Rwanda et au Burundi (1919-1962), ses conséquences et les suites qu'il convient d'y réserver*' (17 July 2020) DOC 55 1462/001. Available at: https://www.lachambre.be/kvvcr/pdf_sections/pri/congo/55K1462001.pdf.

⁶³ Ibid.

⁶⁴ *The Brussels Times*, 'Historians slam Belgium's new committee on colonial past' (17 August 2020). Available at: <https://www.brusselstimes.com/news/belgium-all-news/127138/historians-slam-belgiums-new-committee-to-revise-colonial-past/>.

⁶⁵ Gaëlle Ponselet, 'Commission on Belgium's Colonial Past: "It's important, but will it succeed?"' (8 October 2020) *Justice Info*. Available at: <https://www.justiceinfo.net/en/45612-commission-belgium-colonial-past-important-but-will-it-succeed.html>.

⁶⁶ Loi N°1/022 du 6 Novembre 2018, portant modification de la Loi N°1/18 du 15 Mai 2014, *Droit, Pouvoir et Paix au Burundi*, Article 6. Available at: http://www.cvr.bi/wp-content/uploads/2021/01/CVR-Loi-du-6-Novembre-2018-vraie-version_compressed.pdf

Q4: Memorialize the violations

The CVR is mandated to suggest a date for the ‘National Day of Remembrance of Victims of Human Rights Violations’ as well as to erect monuments of reconciliation and commemoration. Moreover, one of the main functions of the Commission is to ‘rewrite the history of Burundi’ during 1885-2008 in order to provide the country with a ‘widely shared and accepted version of events’.⁶⁷

Q5: Guarantee non-recurrence

Lastly, the CVR is mandated to suggest ‘a program of actions to promote forgiveness and reconciliation’ as well as ‘institutional reforms to ensure the non-repetition of past events’.⁶⁸

Criticism of the CVR for being an instrument of the regime

The Burundian government has received a lot of criticism for using the CVR and its focus on the (colonial) past purely for political gains and to divert attention from their own authoritarian rule and ongoing human rights violations.⁶⁹ The UN Commission of Inquiry on Burundi⁷⁰ condemns the CVR as being not independent,⁷¹ and is asking why the Government is willing to establish the truth about crimes committed in the 19th century but refuses to investigate crimes committed since 2015.⁷²

The selective investigations carried out so far by the CVR on the events of 1972, 1988 and 1993 have been criticised as exacerbating ethnic divisions and resentment, consequently stirring up inter-ethnic tension.⁷³ In 2020, the work has mainly focused on mass graves linked to the 1972

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ See for example the critique by Charles Nditije, former president of Burundi’s oldest political party, the Union for National Progress (Uprona), or human rights activist Pierre-Claver Mbonimpa in: Ephrem Rugiririza, ‘Burundi: The Commission of divided truths’ (25 November 2019) *Justice Info*. Available at: <https://www.justiceinfo.net/en/43042-burundi-the-commission-of-divided-truths.html>.

⁷⁰ Established by Human Rights Council Resolution 33/24 of 30 September 2016 and tasked with conducting a thorough investigation into human rights violations and abuses in Burundi since April 2015.

⁷¹ Report of the Commission of Inquiry on Burundi (6 August 2019) A/HRC/42/49, at paras. 74-75.

⁷² Oral briefing of the Commission of Inquiry on Burundi on 12 March 2019 in Geneva. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24311>.

⁷³ Ephrem Rugiririza, ‘Burundi: The Commission of divided truths’ (25 November 2019) *Justice Info*. Available at: <https://www.justiceinfo.net/en/43042-burundi-the-commission-of-divided-truths.html>.

massacres.⁷⁴ Amnesty International has called out the political manipulation and notes how the exhumations have been used by public officials to ‘impose a single narrative and to manipulate public sentiment’.⁷⁵ Likewise, the Forum for Strengthening of Civil Society (FORSC)⁷⁶ and the Forum for Consciousness and Development (FOCODE) accused the CVR of serving the propaganda of the regime by only looking into massacres of the Hutus, but not into the massacre of Tutsis in 1972.⁷⁷

The lack of independence of the CVR,⁷⁸ and its continuous political misuse make it questionable whether the work carried out by the CVR on the colonial past of Burundi⁷⁹ will be able to analyse the colonial legacy without using it for political ends. In this way, the truth commission inquiring about colonial crimes might counteract required transitional justice by taking away attention and resources from reconciliation work on the most recent events.

⁷⁴ Ukuri Kunywanisha, ‘*Bulletin mensuel de la Commission Vérité et Réconciliation*’ N°11 Septembre 2020. Available at:

https://medialibrary.uantwerpen.be/oldcontent/container49546/files/Burundi/JT/CVR/0920.pdf?_ga=2.170370912.1508665186.1619605215-310175522.1619605215. CVR, ‘*Rapport d’étape exercice 2020*’ (Décembre 2020). Available at: https://medialibrary.uantwerpen.be/files/4739/a41f625a-ea27-468e-8f08-65c968f55372.pdf?_ga=2.173516643.1508665186.1619605215-310175522.1619605215.

⁷⁵ Amnesty International, ‘*Burundi: Human Rights Priorities for New Government*’ (11 August 2020) Public Statement, AFR 16/2777/2020. Available at: <https://www.amnesty.org/download/Documents/AFR1627772020ENGLISH.pdf>.

⁷⁶ Forum pour le renforcement de la société civile (FORSC) ‘*Déclaration relative à la présentation du rapport d’étape par la CVR*’ (2021). Available at: https://medialibrary.uantwerpen.be/files/4739/f0944971-1f0d-4094-aefb-5eb2e1f10f6f.pdf?_ga=2.173516643.1508665186.1619605215-310175522.1619605215.

⁷⁷ Ephrem Rugiririza, ‘*Commission Vérité au Burundi: Le Rapport de la Discorde*’ (4 March 2021) *Justice Info*. Available at: <https://www.justiceinfo.net/fr/74509-commission-verite-burundi-rapport-discorde.html>.

⁷⁸ The vast majority of CVR-members appear to be affiliated with the presidential party. See Ephrem Rugiririza, ‘*The Commission of divided truths*’ (25 November 2019) *Justice Info*. Available at: <https://www.justiceinfo.net/en/43042-burundi-the-commission-of-divided-truths.html>.

⁷⁹ In its progress report 2020, the CVR said that ‘*Commission will later attack the period of 1988 and that of 1993*’ and that no period of the mandate from 1885 to 2008 ‘*will be forgotten*’. See CVR, ‘*Rapport d’étape exercice 2020*’ (Décembre 2020), p. 2. Available at: https://medialibrary.uantwerpen.be/files/4739/a41f625a-ea27-468e-8f08-65c968f55372.pdf?_ga=2.173516643.1508665186.1619605215-310175522.1619605215.