



Centre d'Alerte et de Prévention des Conflits

## **SELECTIVE MEMORY OF FORGOTTEN VICTIMS** **What collective mechanisms to break the silence?**

### **Summary**

In partnership with:



Bujumbura, Burundi, March 2010

*“Selective memory or forgotten victims: What mechanisms to break silence? “*

## **1. Introduction**

After the first report, issued in 2008, on the challenges to lasting peace in Burundi, the National Group recommended that thorough research should be carried out that would contribute to the reconstruction process and to the truth about the painful past of Burundi, and the divides that exist that are preventing the transitional justice process from making progress. The research carried out focused on the areas likely to lead to the facts necessary for the truth, a truth that unites rather than divides and supports the reconciliation process. Audio and written archives, testimonies, traces of human remains such as places of massacres and mass graves have been included. From this research, recommendations likely to help to reconstruct the truth have been made. These are the recommendations, once adopted by the National Group that will guide the next steps that the CENAP, the Interpeace local partner in Burundi, will follow as they seek to address this issue.

## **2. Situation**

### **2.1. Divergences on the facts and the problem of truth**

The years such as 1965, 1972, 1988, 1993, are the periods about which the Hutus and Tutsis disagree in their writings and testimonies. There is divergence around the areas of the origin of the crisis and the number of victims. Both groups continue accusing each other without being able to collectively establish the truth. Each group continues maintaining a selective sensibility and partial knowledge on what happened, and the crimes committed have never been clarified or punished.

Divergences between Burundians do not stop at how they deal differently with the past. Some support the idea to reconstruct the truth in order to build national reconciliation on a solid basis as it was done in other countries.

Others, however favour oblivion and amnesty. There are also those who, in addition to the truth, favour trial and punishment, and others who prefer oblivion combined with reconciliation.

## 2.2. Progress achieved

Efforts have already been made to know the truth and reconcile Burundians. These include:

- The National Unity Charter adopted in 1991 after consultation of the origin of ethnic divisions;
- The Arusha Accord where political players agreed on the implementation of NTRC (National Truth and Reconciliation Commission), and ICJI (International Commission of Judicial Inquiry);
- A tripartite steering committee in charge of implementing the Accord and the national consultations on transitional justice has been created and will soon publish the results of the consultations;
- The project "Writing the history of Burundi" which was launched in 1997 with the support of UNESCO;
- The set up of a scientific committee for the rewriting of history which was implemented in 2003 but whose work did not go far; and
- Many informal efforts by NGOs and associations.

## 3. Conclusions and recommendations for possible solutions

The research conducted has allowed bringing out recommendations that, once implemented will help to reconstruct the truth and thus, contribute to reconciliation and the whole process of the transitional justice. The next phase should focus on the implementation of the recommendations that have come from the consultation of Burundians and foreigners as well as analysis of experiences from elsewhere in the world on how to reconstruct the truth.

### RECOMMENDATIONS

- # 1. Collect and protect the traces of past events
- # 2. Identification and protection of common graves
- # 3. Identify and institutionalize a commemoration day for all victims and common memorials

### Recommendation 1: Collect and protect the traces of past events

*a) Collect and protect the archives not only to get information about the past, but also to avoid their destruction in the future.*

The archives are an important source of truth, but the few archives on the history of Burundi's conflict that exist are in very poor condition. They are currently held in the central repository of archives housed in the basement of the Finance Ministry. The documents are not classified and are covered with dust. The collection and protection began with the creation of the registration of copyright by Decree No. 100/49 of March 14, 1979. Offences are punishable but by a sentence of penal servitude of two months maximum and a 2 000-francs fine (roughly U.S. \$ 2). The decree also does not distinguish between archives of conflicts from other types of archives, and contain no obligations or constraints on transparency and communication of administrative data.

This type of data is usually produced by the State administration as well as by private individuals and is kept at the National Archives Repository. The National Archives on the painful past do not exist in this repository, but some organisations or bodies such as the intelligence service, the military, prosecutor's offices, schools and universities, banks and insurance companies, are assumed to have written traces. Other archives are abroad including in Belgium, the UN headquarters, Germany, Italy, etc. In addition, the archives might still be in the hands of individuals, which also makes them vulnerable to destruction since the Presidential Decree No. 100/49 of March 14, 1979 on the registration of copyright of archives of the Republic of Burundi is outdated and does not allow their protection. Furthermore, if the archives are not physically protected and by appropriate legislation, the reconstruction of the truth about the unfortunate past of Burundi may be difficult to achieve.

The protection of archives has several other advantages:

- The ability to highlight the historical facts for which there is agreement;
- Identify the controversial events that require thorough research, namely through the consultation of written documents, so as to come to a common version and a common reading of history; and
- If the archives are protected, they will serve as basic documentation for further research.
- The protection of archives of oppression contributes to the preservation of the right to know. According to the United Nations Commission for Human Rights, this right

implies that archives should be protected against the removal, destruction and diversion. The establishment of an inventory of available archives is recommended, as is the adaptation to the new situation of the regulation on access to these archives and their consultation<sup>1</sup>.

It will be important to update the law so that it can distinguish between the archives relating to the conflict from other archives. Once the collection and protection of these archives is achieved, it will lead to creating a documentation centre on the Burundi conflict. These documents would be made available to researchers and any person or organization interested in the Burundi conflict.

*b) Recording testimonies of Burundian eyewitnesses of what happened during the conflict in order to contribute to the truth reconstruction process.*

In a society with oral tradition, testimonies are considered an important source to reconstruct the truth. In fact, there are still Burundian witnesses of different events who could be consulted as eyewitnesses or actors. Other witnesses are among foreigners who were on Burundian soil at the time of the events. These witnesses should be consulted/heard as soon as possible while they are still alive.

Many witnesses and actors are old, those of the 1960s and 1970s in particular, and their disappearance would mean the rewriting of history and the work of the Truth and Reconciliation Commission would be further complicated. Their testimonies would be a precious complement to the archives and would add to the information on the conflict and highlight certain historical facts. Furthermore, testimonies will address concerns that the archives alone will not be able to restore all facets of truth, and that the oldest crimes could remain unmentioned.

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<sup>1</sup> United Nations (Commission for Human Rights, Sub-Commission for fight against discriminatory measures and protection of minorities), « administration of justice and detainees' rights: Question of impunity of perpetrators of human rights violations (civil and political) », Revised final Rapport established by Mr. L. Joinet, applying decision 1996/119 of the Sub-Commission, October 2, 1997

## **Recommendation 2: Identification and protection of common graves**

The Arusha Agreement for Peace and Reconciliation places the identification of common graves and the burial of victims in dignity among the principles and political measures to fight against genocide and war crimes and other crimes against humanity<sup>2</sup>. During the research, the existence of common graves known, recent and old, have been reported repeatedly. Some of these places have been destroyed, and participants in the consultations requested that these places be identified and protected both physically and by law. The identification and protection of common graves is another way of restoring dignity to victims, comfort the bereaved families, reconstruct the truth and facilitate national reconciliation.

Although the Agreement refers to the burial in dignity of victims that have been buried in common graves and other places not yet known, the idea of exhumation was very controversial during consultations. On the other hand, consensus seems to exist on the identification of these places and their protection. But so far, the Burundian law is silent on this issue.

## **Recommendation 3: Identify and institutionalize memorials**

Hundreds of thousands of Burundians have been killed during the different crises of Burundi's recent history. The families could still not organise mourning ceremonies for their dead. In some cases like the 1972 crisis, families of victims had even no right to mourn their own dead who are considered criminals. Regarding the 1993 crisis, it was not practicable to organise such ceremonies due to civil war and insecurity that has lasted for 10 years.

Burundians consulted propose the officialization and organization of mourning and final rituals ceremonies, complemented by the institution of a national commemoration day for all victims regardless of ethnicity, as this is also provided for in the Arusha peace agreement<sup>3</sup>.

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<sup>2</sup> Republic of Burundi, « Arusha Agreement for peace and reconciliation », Article 6

<sup>3</sup> Idem

This day, to be celebrated each year, would bring together all Burundians, regardless of ethnicity, around the memory of all victims of the massacres that took place. The day in question would be characterized by festivities gathering Burundians and would include church services, parades etc. where representatives of the government, civil society, religious denominations and any other person or agency would take part to honour the memory of war victims. The government should take on this issue because it embodies one of the recommendations of the politicians who negotiated the Arusha Agreement.

The commemoration day should go hand in hand with the building of a single monument for all victims - this monument being another recommendation of the Arusha Agreement for Peace and Reconciliation. According to Jean-Pierre Chrétien, a French historian and a specialist in the Great Lakes Region of Africa, confirmed it is important to identify sites of memory and meditation, near sites where many Burundians have been killed and buried in order promote reconciliation<sup>4</sup>.

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<sup>4</sup> About Jean-Pierre Chrétien and Jean-François Dupaquier during the presentation of the book : « Burundi 72 : Au bord des génocides » at the Centre Culturel Français, Bujumbura, October 2008