

15 July 2013

To: Members of the Peacebuilding Commission, Burundi Configuration

Dear Colleagues,

In my capacity as Chair of the Burundi Configuration of the UN Peacebuilding Commission, I visited Burundi from 24 to 28 June 2013 as part of the PBC's regular engagement and more specifically to follow up on the Burundi Partners' Conference that took place on 29-30 October 2012 in Geneva, to discuss with the government the next steps of the PBC's engagement with Burundi and to prepare my briefing of the Security Council on July 22. My initial intention was to participate in the first sectoral conference which was subsequently postponed to 15-17 July. In addition, my visit came right after a PBSO/PBF mission to Burundi that explored the priority areas for the next PBF phase and discussed the process of developing the program document.

In Bujumbura I met with main governmental representatives – including the President of the Republic and the Second Vice President –, representatives of political parties, civil society, the President of the Independent National Electoral Commission (CENI), the President of the Independent National Human Rights Commission (CNIDH), the President of the National Council on Communication (CNC), the President of the National Commission on Land and other assets (CNTB), the Commissioner-General of the Burundian Revenue Authority (OBR), representatives of the international community and SRSG Parfait Onanga-Anyanga and his senior BNUB staff. [Please find attached to this letter my program of visit for an exhaustive list of all interlocutors I met with].

On 26 June, I undertook a field trip to the province of Gitega, where I visited one of the three regional centers of the CNIDH.

On this occasion, let me convey my gratitude to the government of Burundi for facilitating the visit and for an excellent cooperation. I also warmly thank the SRSG Parfait Onanga-Anyanga and the staff of BNUB and PBSO for the careful preparation and helpful accompaniment.

It is my pleasure to share hereby the main outcomes of my trip to Burundi.

Overall impression

My overall impression is that the country is making progress while continuing to face important challenges. While a number of interlocutors expressed optimism about the overall direction the country is taking, others seemed rather concerned by some recent developments which they see as a

setback. On the one hand I noted a new momentum generated by the outcomes and the spirit of the two workshops of March and May on the elections, on the other hand I felt signs of disappointment, stemming especially from the recently adopted law on the media and the consequences of the fragility of the economy. Additionally, my visit took place at a time where the work of the National Commission on Land and other Assets (CNTB) is provoking some controversy. The CNTB is mandated with settling land disputes which are mainly related to incidents in 1972 where a large part of the population, mainly Hutu, was forcefully evicted from their territories. I noticed that different stakeholders have divergent opinions on the way the current President of the CNTB is tackling this complex and politically sensible issue. Given the significance of land property in Burundi and its potential ethnic repercussions this matter is relevant from a peacebuilding perspective and deserves to be followed attentively by the international community.

I left Bujumbura with a feeling that the momentum created by the Geneva Conference needs to be reinvigorated to avoid the risk of a trust gap between the Government and some of its main partners. The Government believes that it is implementing the commitments and reforms agreed with partners and that, accordingly, partners should provide the resources pledged in Geneva. However, some of the main partners consider that stronger national leadership, vision and the capacity to implement the policy reforms Burundi committed to in Geneva are required. At the same time the increasing fragility of the economy is a major concern for all parties, which has to be addressed with a sense of urgency.

Key issues

Political:

On the political scene Burundi has already entered the pre-electoral phase which is characterized by somewhat contradicting developments. The two workshops of 11-13 March, organized by BNUB in Bujumbura, and 22-24 May, organized by the government in Kayanza, were mentioned by all interlocutors as positive steps in reviving the political dialogue and preparing for the 2015 elections. Besides a lessons learned exercise from 2010, the first workshop produced a roadmap aimed at a conducive atmosphere for the 2015 elections and saw the return of key political leaders from exile. The second workshop discussed the revision of the electoral code and participants reached a consensus on some main recommendations, including the combination of presidential, legislative and communal elections and the use of a single ballot system for the 2015 elections. There are also talks about the possible return of exiled FNL leader, Agathon Rwasa, which, in my opinion, would constitute an important step towards the creation of a genuine democratic and inclusive political process in Burundi. Representatives of the extra parliamentary opposition told me that they were committed to participate in the 2015 elections and were seeking to develop a common political agenda and present a single presidential candidate. The government and BNUB are preparing a

third workshop for September that will be dedicated to the political environment. Despite these encouraging signs, mistrust between the ruling party, CNDD-FDD, and the main opposition parties remains, and the culture of dialogue needs to be nurtured.

The issue of the Imbonerakure, the youth wing of the ruling party, was mentioned by many as requiring specific attention since at times they go as far as undermining the State's security institutions. I was told about acts of intimidation and harassment perpetrated by the Imbonerakure mostly against members of other political parties in April and May. Some observers are even concerned that the leadership of the CNDD-FDD might no longer be in full control of the activities of the Imbonerakure. If this issue is not properly addressed there is a risk that other political parties will in turn mobilize their own youth which could lead to a dangerous spiral of violence. In this light, I support the prospect of PBF support to civic education and dialogue initiatives and I recommend that the work with the youth considers the two angles, the political and social engagement with a particular attention to the danger of political manipulation of the youth as well as employment opportunities with a possible partnership with the World Bank and the African Development Bank.

The new media law which has caused concern among key international partners of Burundi, including the Secretary-General of the United Nations, was met with strong criticism from the media associations, the political opposition and the civil society. They see it as a step backwards compared to the former law. There are concerns that other laws in the pipeline, including a draft law governing nonprofit organizations and a draft law on public meetings and demonstrations, will further constrain civic liberties. The Government is of the view that the media law follows models from other countries, including some provisions copied from European legislations, and was therefore surprised by the international criticism it had provoked. I was consistently reassured by the Government that the new press law would be implemented responsibly and that the longstanding freedom of the press in Burundi would be preserved. I had a dedicated meeting with the President of the National Council on Communication, who promised that his body will remain engaged with journalists and others concerned by this law in order to ensure a fair and liberal implementation. Representatives of the media reiterated their skepticism about the media law. They are planning to challenge it at the level of the Constitutional Court while at the same time counting on the President's intuition regarding the implementation of the law. They also expressed their preoccupation regarding certain provisions of the draft law on nonprofit organizations. They feel directly targeted since most media organizations have been established as local nonprofit organizations.

Security:

Overall, the security situation has improved compared to 2011 and 2012, this holds especially true with regard to extra-judicial killings where a considerable decrease in incidents has been noted. However, the three incidents that took place in May (19 May in Gatumba, just outside Bujumbura; 29 May in Bubanza) and June (02 June, in Bubanza) are a serious warning and an indication that some armed elements still find refuge in eastern DRC from where they launch attacks on Burundi. The involvement of Burundi in the implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Great Lakes Region and the issue of Agathon Rwasa's return to Burundi are key to stabilize the country. I am encouraged by the fact that Burundi is committed to play an active role in the implementation of the regional framework by having hosted events organized by Mme Mary Robinson, UN Special Envoy for the Great Lakes Region. These events include the Women Leaders' Consultative Meeting on the Implementation of the Framework on 9 July and the 3rd Regional Consultation on the Implementation of the UNSCR 1325 (2000) in the Great Lakes Region on 10-11 July.

Socio-economic situation

Once again I was alerted about the continued fragility of the Burundian economy by both government representatives and main international partners. While the former see external price shocks and the floundering global economic situation as the main reasons, the latter also emphasize the need for reform of Burundi's economic policies. A teachers' strike has been dragging on for four months already and was mentioned to me on several occasions as a point in case for the existing social malaise regarding the difficult economic situation. Prior to my visit the IMF undertook a mission to Burundi from June 10–21 to conduct the third review of the government's economic and financial program supported by the IMF under the Extended Credit Facility (ECF). The findings of the IMF are rather critical. The press statement released at the conclusion of the mission encourages the authorities to "strengthen the fiscal position by accelerating revenue mobilization efforts, reprioritizing expenditures, and bolstering public financial and debt management" (see attachment). The President of the Republic and the Second Vice President support the recommendations of the IMF and they committed to pursuing the dialogue with the IMF on their implementation. The government's intentions though remain somewhat ambiguous. This shows for example in the work of the Burundian Revenue Authority (OBR) that is confronted with various obstacles in its endeavor to strengthen and broaden domestic revenue collection. It seems to me that the officials are still lingering in an expectant position placing a lot of hope in the pledges made by the international community in Geneva and thus in the first sectoral conference which is taking place from July 15-17. At the same time some of the main partners expressed their expectation that the Government should exercise a stronger leadership in implementing economic reforms which they consider as

integral part of the mutual engagements stemming from Geneva. They hope that the upcoming sectoral conferences will present an opportunity for frank and serious discussions on policy issues in Burundi's priority sectors. It is worth noting here that according to the Second Vice President over 40% of the pledges made in Geneva have already materialized.

Human Rights

As mentioned in my introductory remarks I visited the regional centre of the CNIDH in Gitega where I had the chance to interact with members, beneficiaries and main partners. Talking to a sample of beneficiaries, I was able to appreciate the type of services the Commission is providing to Burundians, the amplitude of issues covered that go beyond mere human rights and the challenges it faces. Once again I was reminded how valuable the Commission's contribution is to peacebuilding in Burundi. The presence of the CNIDH in Gitega has generated a lot of hope and expectations within the population. The Commission is responding very well so far and beneficiaries strongly pleaded that the Commission be given more resources and capacities to reach out to the most remote areas of the country. The leadership of the CNIDH, foremost its Director Frère Emmanuel, and the members I met in Gitega reinforced my positive opinion on their quality and potential and I support the prospect of further PBF engagement in this area. The CNIDH would like to expand its services in the provinces where it already is present by further reaching out to the population. At the same time, it also wishes to extend its activities to other provinces. To make this happen, it needs resources such as vehicles, localities, communications and personnel. A continued and increased support of this very valuable Commission by both the national authorities and international partners would be very useful and welcome from a peacebuilding perspective.

Dealing with the past

According to the authorities a draft law on the Truth and Reconciliation Commission (TRC) has been transmitted to parliament and will at first be discussed in the National Assembly. The official authorities I met with seemed to favor a process based on truth seeking and reconciliation, leaving the justice and accountability component (establishment of a Special Tribunal) aside for the moment to be discussed at a second stage. On the other hand, civil society representatives believe that a Special Tribunal must be an integral part of the dealing with the past process, based on the outcome of the national consultations that were carried out on this subject in 2009. They also feel that the time for Burundians has come to confront the past and get to know the truth in order to allow them to pardon each other. Given the difficulties encountered on the national level several NGOs have already kickstarted the process of dealing with the past on the local level with encouraging results. It would be advisable to build upon these experiences. Judging by the declarations of various authorities the government is willing to step up the process, the way forward though remains

somewhat unclear. Some already question the utility of establishing a TRC prior to the 2015 elections.

Dealing with the past is obviously a highly delicate issue and the Burundian people will have to find their own way address their painful history. Whatever the chosen path though the process should imperatively respond to the wishes of the Burundian society as a whole.

Land issue:

The recent controversy around the work of the National Commission on Lands and other Assets (CNTB) gives to land a pronounced political dimension, in addition to being a socio-economic issue. Established in 2006 the CNTB is mandated to settle disputes related to land and other assets in order to rehabilitate claimants who have been deprived of their assets since the independence of the Republic in 1962. While most cases are settled amicably some contentious ones remain. In these cases the Commission is called upon to take a decision in the spirit of the law, equity, reconciliation and peace. Overall, President Nkurunziza, other government officials and the ruling party expressed strong support for the work of the CNTB and its President. The latter's handling of the CNTB though is being met with criticism from civil society representatives and the political opposition. While there is general agreement across the board that land owners who were forcefully and/or illegally evicted from their grounds should be reinstated in their previous ownership, the controversy focuses mainly on the fate of the bona fide transferees (*acquéreurs de bonne foi*). I was repeatedly told about two "emblematic" cases of forceful eviction which stirred controversy in March and May and were broadly covered by the media and led to spontaneous, partly violent demonstrations in Ngagara and Nyakabiga, Bujumbura. The President of the CNTB whom I met on a bilateral basis clearly favors an approach that centers on reconciliation through justice, meaning he primarily aims to give back the lands to the claimants who had to flee. Although he acknowledges the need to compensate the bona fide transferees, the President of the CNTB minimizes their actual number. In addition, he clearly pleaded in favor of establishing a special tribunal for the land issue. Civil society representatives were more critical towards this question. Their main concerns were related to the independence of such a special tribunal. It is difficult for me to make an opinion on such a large and delicate issue after such a brief visit. However, I was able to appreciate the differences of opinions on the work of the CNTB and I take note of some concerns that point to the risks of politicization or even ethnicization of the land issue. The idea of helping to facilitate the establishment of a compensation fund to resolve the contentious cases could be explored within the Burundi Configuration of the PBC, a message that I conveyed to the government as well.

The way forward

Overall, the peacebuilding process is making headway but it has also reached a stage where it requires even more commitment from the Government and its partners. I warn on the risk of loosening the positive momentum.

My main message to the Burundian authorities is quite simple: “help the PBC to help you”. I believe they can show that the country is advancing in the right direction by showing strong leadership, improving communication and transparency with partners and avoiding ambiguous messages and behaviors on key policy and political issues that could lead to equally confused interpretations from partners or even discourage their determination to accompany Burundi. I specifically recommended the Burundian authorities to:

- Translate the consensus from Kayanza into the new electoral code as a sign of confidence towards creating a genuine democratic, open and fair political environment in view of the elections 2015.
- Implement the new media law in a liberal fashion upholding the fundamental liberty of expression at all times.
- See to it that the upcoming laws on public manifestation and on nonprofit organizations are equally liberal and uphold international human rights standards.
- Implement the PRSP-II in the Geneva spirit of mutual engagements and prioritize and concretize its main components especially in the framework of the follow-up conferences.
- Support the recommendations of the IMF in view of improving the State’s fiscal situation.

My main message to the Burundi Configuration and international partners in general is to stay engaged and to consistently communicate with the government, especially on issues that need clarification and policy action. More specifically I recommend to:

- Follow attentively the implementation of the press law and the elaboration of other laws that are in the pipeline.
- Keep a watchful eye on the developments regarding the land issue and the CNTB.
- Encourage the government to continue national efforts to deal with the past by taking into account the results of the national consultations.

- Continue to support Burundi in the spirit of the mutual engagements taken in Geneva and translate the pledges into concrete aid programs.
- Encourage government authorities to follow-up on the IMF recommendations.

My main message to other Burundian stakeholders is to continue to positively and constructively engage with the government.

And finally, my main message to all of us is that we should always appreciate where we come from, remind us of the trajectory completed so far and stay engaged, knowing that the journey to sustainable peace and development is never a straight one and addressing those challenges will require patience and constant dialogue.

I intend to return to Burundi this fall by the end of October on the occasion of the second sectoral conference which will focus, amongst other, on peacebuilding issues.

Paul R. Seger, Chair

Peacebuilding Commission – Burundi Configuration