

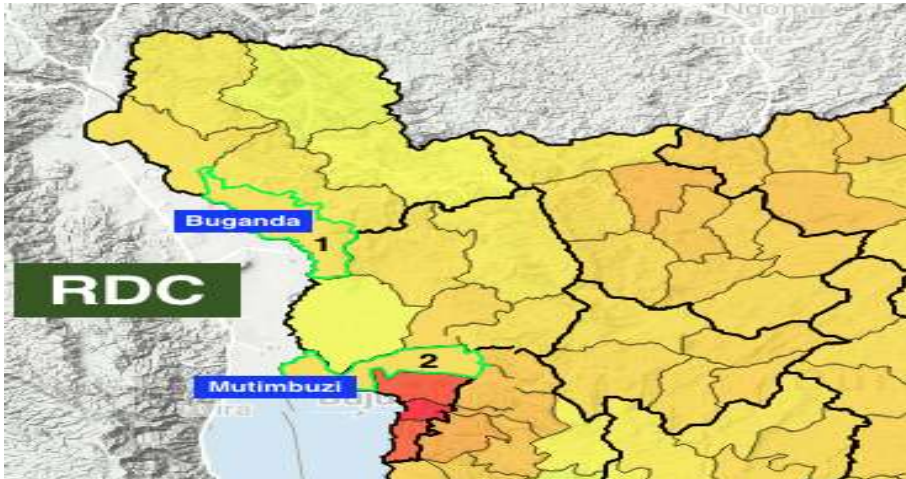
Ruhagarika's Killings of May 2018: to avoid the bias of the investigation and the judicial parody of Gatumba

Analysis of SOS-TORTURE / BURUNDI after one month given to the Commission of Inquiry to investigate on the Ruhagarika mass killings

13 June 2018

On June 14, 2018, the Attorney general Sylvestre Nyandwi is supposed to receive the report of a commission of inquiry he set up on May 14 to investigate the mass killings committed during the night of 11 to 12 May 2018 in Ruhagarika, Buganda Commune, Cibitoke province where 26 persons, including 5 women and 12 children were killed. This barbarism looks like mistaken, as for the selective emotion manifested by the authorities and the immediate appointment of the guilty, to another of sad memory, which occurred 7 years ago, which has claimed the lives of about 40 persons in the night 18 to 19 September 2011 at a bistro called "Chez les Amis" in Gatumba, Mutimbuzi commune, Bujumbura province. A commission of inquiry was set up by the Attorney General of the time, Valentin Bagorikunda, but the truth of the facts is still awaited following the malfunctioning of the judicial system and the impunity guaranteed to crimes ordered by the State.

Investigative commissions to shed light on attacks committed from the DRC in Ruhagarika and Gatumba



Buganda Commune (1) and Mutimbuzi (2) on the map of Burundi

Geographically located on the border with DRC, localities of Ruhagarika and Gatumba are respectively in the administrative districts of Buganda communes, Cibitoke province and Mutimbuzi in Bujumbura province. They are presumed to have been the object of attacks by Burundian armed groups operating from DR Congo.

After the tragedy of Ruhagarika, the Attorney General of the Republic, Sylvestre Nyandwi made a press release, on Monday, May 14, 2018, where he brought to the attention of national and international community "that the first elements of the investigation reveal that the criminals came from the Democratic Republic of Congo (DRC) and that they went back after the crime. He said a judicial commission of inquiry was set up to *"identify the instigators of this barbarity and their accomplices to be punished in accordance with the law."* The commission was given one month to conduct the investigation and to fix the case before a competent court.

Also after the killings of Gatumba, the Attorney General of the Republic of the time, Valentin Bagorikunda, had set up, on September 21, 2011, a commission to investigate the massacres of the night of September 18 to 19, 2011. Then, as in Ruhagarika, the deadline of one month was given to the commission of inquiry to present its report on crimes "*committed by a group of people among them one part them came from Democratic Republic of Congo and another resident of the place*" according to the Secretary General and Spokesman of the Government, Philippe Nzobonariba¹

- **Two crimes perpetrated in contexts of socio-political and security crisis**

In May 2010, the opposition parties challenged the results of 2010 communal elections won by the ruling party CNDD-FDD to 64%. They subsequently decided to boycott the electoral process by withdrawing from the presidential election in June and the parliamentary elections in July, thus opening the CNDD-FDD an easy victory due to the lack of combatants. As of September, insecurity and criminality have intensified in the regions corresponding to the former FNL rebellion² led by Agathon Rwasa. It is this climate of violence that prevailed at the time of the attack on Gatumba.

Ruhagarika mass killings was also perpetrated in the context of a crisis following President Nkurunziza's third term, which has been disputed by opposition political parties and civil society since April 2015. Since then, around 1,200 persons have been killed in the violence that followed and more than 430,000 people made their way to exile mainly to Burundi's neighboring countries Tanzania, Rwanda, DRC, Uganda and Kenya. In addition, Ruhagarika mass killings took place a week before the constitutional referendum of May 17, 2018, characterized by numerous acts of intimidation of members of the opposition by the Imbonerakure militiamen mainly and especially by numerous diversionary maneuvers announcing regularly impending attacks prepared outside the country.

¹ Xinhua

² <https://levisionnaire-infos.blogspot.com/2011/05/rapport-2011-amnesty-international.html>

- **Circles close to CNDD-FDD regime every time precede the judicial investigations by indexing the opponents as authors of the crimes**

On May 12, 2018, the day after the crime of Ruhagarika, the president of FNL pro-government wing, Jacques Bigirimana stepped in to take the responsibility of the crime to protesters of President Nkurunziza's third term. In a statement in Kirundi posted on the website "Burundi News"³ and the social networks, Jacques Bigirimana affirmed that it is the putschists who were responsible for this attack. He even asked the donors who finance NGOs intervening on behalf of Burundian refugees to reassure themselves that their money is not used for the purchase of arms.

De façon similaire, dans le cas de Gatumba, l'Administrateur Général du Service National de Renseignement (SNR) d'alors, Adolphe Nshimirimana adressa, en date du 27 septembre 2011, un document confidentiel aux services secrets des pays de la région en demandant leur appui pour arrêter le chef des FNL qui se cacherait en République démocratique du Congo sous la protection de rebelles rwandais et de la milice mai-mai. Selon lui, le massacre de Gatumba avait été « *planifié par Agathon Rwasa et exécuté par un groupe terroriste sous les ordres de Antoine Bariyanka alias Shuti (commandant des FNL)* ». Selon ce document, l'insécurité qui prévalait était « *orchestrée et entretenue par Agathon Rwasa et la coalition ADC-IKIBIRI, qui depuis leur échec aux élections communales de 2010, prônaient la guerre en pensant qu'ils pouvaient avoir des gains politiques qui proviendraient des négociations avec le pouvoir issu des urnes* ».

- **Attempt to instrumentalize the international community: victims who are worth more than others ...**

On May 15, 2018, during the burial of the victims in Ruhagarika, high dignitaries of the country, including members of the government, deputies and senators, the Apostolic Nuncio, diplomats, representatives of UN organizations and various officials and friends of the province had been invited to this burrial ceremony. The Russian ambassador to Burundi, who spoke on behalf of other diplomats, condemned the killings of innocent people, stressing that this black phase must be overcome. "*No one has the right to take away the life of his fellow,*" he said it, while offering his condolences to the families of the victims and the government of

³ <https://soundcloud.com/2018-radio-bujumbura-inter/avec-jacques-bigirimana-president-du-fnl>



Burundi.⁴

Some sources have directly pointed to the motive behind the crime, stating that the attack on Ruhagarika had only the sole purpose of revenge: the family of a security agent belonging to API (Institution Protection Unit) nicknamed Mutwa was the target of this attack. According to these sources, the latter was reportedly targeted for taking part in the operation that killed the family of RTNB cameraman, Christophe Nkezabahizi, his wife and two children at his home in Ngagara commune, on October 13, 2015.⁵

On the other hand, many civilian victims massacred before 2015 and after, especially during the repression following the attack on three military camps in Bujumbura and Mujejuru Brigade in Bujumbura province, on December 11, 2015 were not entitled to the the compassion of the country's top authorities and representatives of the international community in Burundi: a selective treatment that raises questions. We are reminded about 100 civilians that were killed mainly in Musaga, Nyakabiga, Jabe, Cibitoke and Mutakura zone. These executions carried out by the state security forces including the police and military targeted quarters that most demonstrated against the third term of the Burundian President Pierre Nkurunziza.⁶

Instead of calling the same government authorities and representatives of the international community to make the facts as in Ruhagarika, the bodies were rather buried on the sly by state agents so that we cannot estimate the number of victims, according to Amnesty International, which published on 29 January 2016, images confirming the existence of mass graves to conceal the extent of killings perpetrated by security forces.⁷

The same selective scenario of victims by CNDD-FDD Government was observed a few years ago. In Gatumba, in 2011, the victims were treated with the compassion of President Nkurunziza who mobilized representatives of international community to take them as witness. Indeed, the day after the tragedy of September 19, 2011, the Head of State went himself to the scene and declared three days of national mourning by promising that those responsible for the massacre, which he called " *killers, genociders who have committed an unspeakable crime* " would be arrested and brought to justice.

Members of the diplomatic corps were also present in Gatumba and the French Ambassador of the time, Jean Lamy denounced " *an unspeakable terrorist act* " and recalled that the international community " *strongly condemned these acts of violence* ". Recall that the bar " *Chez les amis* " where the victims were surprised by the horde of killers belonged to a

⁴ <https://burundi24.wordpress.com/2018/05/21/inhumation-de-24-corps-des-victimes-de-lattaque-de-ruhagarika-en-commune-buganda>

⁵ <https://abisezerano.com/2018/05/12/igitero-co-ku-ruhagarika-cari-gifise-intumbero-yo-kwihora-gusa>

⁶ <http://sostortureburundi.over-blog.com/2016/01/sos-torture-burundi-n-1.html>

⁷ <http://www.france24.com/fr/20160130-amnesty-international-images-charniers-potentiels-burundi-fosses-communes-nkurunziza>

member of the presidential party and received this Sunday evening, September 18, a football team whose members would be affiliated to the league of the ruling party.⁸

But five years earlier, in August 2006, about 30 FNL members had been coldly executed by National Defense Forces (NDFs) in Ruvubu National Park and their bodies were thrown into the rivers, especially RUVUBU. These victims did not have the right to presidential compassion. It is the discovery of the bodies in the river as well as the searches of the victims' families, which drew the national and international attention on the scale of massacre.

Even more worrying, the investigations into this massacre established the responsibility of Colonel Vital Bangirinama, commander of the 4th military region of that period and main defendant in Muyinga mass killings. However, the President of the Republic suspended his arrest arguing that this could cause trouble in the country, through an armed confrontation between the police and the military⁹. Following numerous pressure, this colonel was removed from the army, but according to concordant sources, the President himself would have facilitated his escape to the outside, where he would have continued to benefit from the financial support of the government.

▪ **Avoid the judicial parody of Gatumba massacres**

The national and international community expects the light to be shed on Ruhagarika massacre "to identify authors of this barbarism and their accomplices to be punished according to the law" as promised by the Attorney General, Sylvestre Nyandwi in his statement. He will soon receive the report of the commission of inquiry and everything should be implemented to avoid the judicial parody that prevailed on Gatumba 2011 file whose few illustrative elements are the following:

- During the hearing of 13 December 2011, the main defendant, Innocent Ngendakuriyo, aka "Nzarabu", accused senior security officials of having ordered the operation, which killed 37 persons. The latter had instructed him to set a trap for Claver Nduwayezu aka "Mukono", a rebel leader who roperated in the region, now accused of being the main brain of mass killings. The trap would have badly planned¹⁰ but these high-ranking

⁸https://www.rtbf.be/info/monde/detail_burundi-36-victimes-dans-l-attaque-d-un-bar-pres-de-bujumbura?id=677783

⁹ <https://burundi-megainfo.blogspot.com/2010/07/vital-bangirinama-vient-detre-revoque.html?m=1>

¹⁰ https://www.thiesvision.com/Burundi-Coup-de-theatre-dans-le-proces-des-auteurs-presumes-de-l-attaque-de-Gatumba_a2646.html

officials have never appeared. It was Maurice Mbonimpa, (Chief of Staff in the Minister of Public Security at the time of the incident, General Gervais Ndirakobuca, aka Ndakugarika (Deputy Director General of the National Police at the time of the facts), Commissioner Desire Uwamahoro (Commander Rapid Intervention Group -GMIR in Kanyosha. Also added are the intelligence agents Mathias Niyonzima, aka Kazungu, Dieudonné, Bibona and Stanislas.¹¹

- The same main accused Innocent Ngendakuriyo will be exfiltrated from Rumonge prison on December 28, 2012 by police agents, simulating an escape. According to his testimony collected by radio Isanganiro, he will be taken "to Bujumbura to the presidential quarter of Kiriri to a so called (Mutama or Mzee) not otherwise identified ..." *Then arrived in this house, Nzarabu was "forced to return complaints about the massacres of Gatumba against certain actors of the life of the country in order to be able to benefit from a liberation ". He was forced to say that some RPA and Isanganiro journalists were aware of Gatumba massacres of September 2011, but did nothing to prevent them. Nzarabu also had to say that the massacres of Gatumba were the work of some leaders of Burundian political opposition including Chauvineau Mugwengezo of UDP Zigamibanga, Manasse Nzobonimpa former member of the CNDD-FDD today in exile and Alexis Sinduhije of MSD and the complicit eye of some leaders of civil society like the president of APRODH.*¹²

On appeal, the defense also raised many irregularities. According to Mr. Raphaël Horumpende, Defense Counsel: *"The court gave the defense only two minutes of oral argument. This is not expected anywhere"*. Then, the high personalities of the national police or intelligence service cited by the defendants Nzarabu and Mabele were not called to the bar. Moreover, according to this lawyer, the defendants were tortured or threatened to be being killed by agents of the national intelligence service. Whereas according to Article 52 of the Code of Criminal Procedure¹³ : « Extorted confessions have no value ».

In conclusion, the mass killings of Gatumba and Rahagarika have many similarities. Among these similar elements, one can quote, besides the proximity of the theater of the facts on the border with Congo, the compassion shown selectively by the highest authorities and the consequent mobilization of the representatives of the international community in

¹¹ (http://fr.igihe.com/spip.php?page=mv2_article&id_article=7243)

¹² (<http://www.isanganiro.org/spip.php?article3389>)

¹³ http://fr.igihe.com/spip.php?page=mv2_article&id_article=7243

Burundi to participate in the burial of the victims and take a speech. There is also the immediate designation of perpetrators and motives behind the crime followed by the appointment of a commission of inquiry to which a deadline of one month is given to establish the facts and responsibilities in these mass killings. In a country where impunity has become the rule¹⁴, this sudden eagerness could make fear of a witch-hunt, in a country characterized by an authoritarian drift increasingly strong.

Of all the above, SOS-TORTURE / Burundi Organization recommends:

I. To the Government

- Make every effort to ensure the protection of civilian population potentially threatened by criminal acts, particularly those in border areas with the pockets of armed groups in DR Congo;
- To refrain from any interference in the judicial files on Ruhagarika mass killings in view of an unfortunate antecedent in the similar case of Gatumba and other highly sensitive court cases.
- Ensure the same dignified and respectful treatment of all families and victims of human barbarity, regardless of the perpetrators and their positions in state institutions or armed groups.

II. To Magistrates

- To seek and prosecute perpetrators of Ruhagarika mass killings independently and in accordance with the law.
- To draw concrete lessons from the 2011 Gatumba case to ensure a fair trial for all citizens in Ruhagarika case.

¹⁴ Human Rights Watch, Climat d'impunité au Burundi, <https://www.hrw.org/fr.news/2016/10/13.climat-dimpunite-au-burundi/>

III. To political leaders

- To avoid a language of manipulation and misinformation that accentuates hatred, suspicion, violence and revenge following painful events such as Ruhagarika massacre.
- Promote in their speeches democratic values and principles of separation of powers, in particular by sensitizing their activists on the role of sole institutions authorized to seek and prosecute criminals such as the Police, the Courts and tribunals

IV. To the International Community

- To closely monitor Ruhagarika mass killings files and to request an international inquiry to avoid the judicial parody that characterized Gatumba mass killings record
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