

Press Release

Burundi: TRC Law Passed

On Thursday 17th April 2014, the Burundian National Assembly voted (81 for, 0 abstentions, 1 against, and 26 absentees in the plenary) in favour of the law on the establishment, mandate, composition, organisation and functioning of the Truth and Reconciliation Commission (TRC). On Monday 28 April 2014, the Senate in turn adopted the bill on the TRC by 35 votes for, 0 against and 1 abstention. After validation of certain amendments by the Senate, the text was sent by the President of the National Assembly to the President of the Republic, Pierre Nkurunziza on 30 April 2014. Today, the law is in the hands of the President of the Republic, who has 30 days to promulgate the law, or if necessary refer it back to Parliament for a second reading as stipulated in Article 197 of the Constitution of the Republic of Burundi.

Victims, transitional justice actors, and human rights practitioners have awaited a law on the TRC in Burundi for fourteen years since it was first stipulated under the Arusha Agreement of 2000. Impunity Watch (IW) regrets that the content of the law does not take into account the recommendations of the 2009 National Consultations, but also the many recommendations given by the United Nations and national and international civil society.¹

In particular, it is regrettable that the law does not take into consideration the following:

- The reinsertion of reference to a judicial procedure and thus the establishment of a Special Tribunal to deal with the serious crimes that Burundi has experienced since its independence, in accordance with international commitments made between Burundi and the United Nations, and with reference to the Arusha Peace and Reconciliation Agreement 2000;
- The establishment of an inclusive procedure for selection of the TRC commissioners with the involvement of a tripartite committee composed of representatives of the government, United Nations and civil society;
- The desire expressed by the Burundian population during the 2009 National Consultations on the establishment of transitional justice mechanisms in Burundi that the TRC should be composed of a minimal presence of political actors and should include an international presence on the Commission; and
- The specific inclusion of a gender dimension through the creation of a special gender unit specified in the law.

According to IW, it is also crucial to implement safeguards to guarantee the participation of all victims of past conflicts in Burundi, particularly women and other marginalised people and groups. However, the present law fails to fully guarantee these safeguards. As noted, the recommendations repeatedly given by the aforementioned actors on the various drafts of the law before its adoption remain largely overlooked and are thus still relevant today.

Impunity Watch moreover regrets that a text of this magnitude failed to attain consensus between the different parliamentary groups in the Burundian National Assembly. Indeed, both UPRONA and

¹ See for example Impunity Watch's analysis in our January 2013 Policy Brief, *Burundi's Draft Law on the Proposed TRC*. Available at: http://www.impunitywatch.org/docs/Policy_Brief_Burundi_TRC1.pdf.

FRODEBU Nyakuri abstained from voting in the belief that their respective concerns and recommendations had not been taken into consideration.

In addition, the present law does not provide any timetable for the appointment of commissioners; nor does it contain a timetable for the commencement of the work of the TRC, aside from a reference to the future adoption of a law for the protection of victims and witnesses, before which the TRC will not be authorised to begin its investigations. By making the commencement of the work of the TRC contingent upon a law that has yet to be passed and that is not yet in the parliamentary agenda, and considering the lack of political consensus on the TRC law and the lack of trust on the part of national civil society in this law, one can legitimately question the political motivations and the application of the law passed by the National Assembly and the Senate.

In the current, otherwise tense, political context, IW questions the timing of the passage of this law and its possible implementation before the 2015 electoral process. This context and the lack of consensus around the law is perturbing, especially for the future process of seeking the truth.

To conclude, we recall that the law is still in the hands of the President of the Republic. Despite the short remaining time period before the President will likely promulgate the law, Mr. Nkurunziza can still return the law to Parliament for a second reading in accordance with the Constitution. With this in mind, IW urges the international community to advise the President to return the law to Parliament, instructing that the above amendments be made. IW reiterates the analysis and recommendations on what was then only a draft law contained in our January 2013 Policy Brief:

Impunity Watch strongly recommends that the international community, in particular the United Nations and the donor community, unequivocally reminds the government of its obligations towards its population with respect to their rights to truth, justice, reparations and guarantees of the non-recurrence of violence. The international community should (i) pressure the government of Burundi to guarantee the independence and impartiality of any TRC process; (ii) ensure the inclusive participation of victims and survivors through the measures outlined above, including those for ensuring the full participation of women; and (iii) underscore the absolute prohibition on amnesty for war crimes, crimes against humanity and genocide in any form, urging the government to clarify the relationship between the TRC and the Special Tribunal or any other proposed judicial body competent to prosecute international crimes.

These recommendations remain valid today and should be fully considered so that Burundi can calmly face its painful past by ensuring the participation of the Burundian population in an independent and impartial process that does not curtail their rights to truth and justice.

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