

**STATEMENT BY H.E. BENJAMIN WILLIAM MKAPA, THE EAC FACILITATOR OF THE
INTER -BURUNDI DIALOGUE AND FORMER PRESIDENT OF THE UNITED REPUBLIC OF
TANZANIA TO THE EAC EXTRA ORDINARY SUMMIT, DAR ES SALAAM, TANZANIA, 8TH
SEPTEMBER 2016**

H.E. Dr. John Pombe Joseph Magufuli, Chairperson of the EAC Summit and President of the United Republic of Tanzania,

H.E. Yoweri Kaguta Museveni, President of the Republic of Uganda, and Mediator of the Inter - Burundi Dialogue,

H.E. Paul Kagame, President of the Republic of Rwanda,

H.E. Uhuru Kenyatta, President of the Republic of Kenya,

H.E. Pierre Nkurunziza, President of the Republic of Burundi,

Let me begin by thanking you for the confidence that you bestowed on me and appointed me to attempt to facilitate the Inter - Burundi Dialogue. You may be surprised why I have used the term "attempt", it is because of what I have gathered as to be the root cause of the crisis and the difficulties that I have encountered. These compel me to reach the conclusion that, though this crisis is not insurmountable, it is complicated and requires your concerted efforts to reach a permanent solution acceptable to all parties.

In my report to you today, I intend to appraise you on the progress so far attained. Having been out of active politics for more than ten years, I had to travel around the region and consult Your Excellencies to get your impressions on the nature and possible causes of the crisis you have asked me to help resolve. Then I travelled to Addis Ababa and met Her Excellency Nkosazana Dlamini - Zuma, Chairperson of the African Union for the same purpose. Thereafter, I extensively undertook consultations with various international stakeholders also to get their impressions on the crisis, report of any earlier efforts they undertook with similar objectives and to seek their support as well. In this regard, I met Ambassador Jamaal Benomar, Under-Secretary General and Special Advisor to the United Nations Secretary General on Great Lakes Region; various Ambassadors and High Commissioners, Special Envoys of various countries as well as Prof. Ibrahima Fall, AU's Special Representative for the Great Lakes Region and Head of the AU Liaison Office in Burundi. These consultations gave me an in-depth understanding of both the nature and scope of this crisis.

After these consultations, I felt informed enough to call the protagonists to listen to their points of view. So, I thence convened the first session of the dialogue on 21 – 24 May 2016, in Arusha, Tanzania. The invitees in this session were the Government of the Republic of Burundi, the ruling CNDD – FDD Party, both camps of the opposition parties e.g. those who participated in the 2015 elections and those who did not, civil society organizations, the National Commission for Internal Dialogue (CNDI), religious groups, Women and Youth groups. Owing to the difficulties of inviting the external opposition in the same session emanating from their conditions that they be invited as a coalition of political parties (CNARED), an organization which is not recognized by the Government of the Republic of Burundi, I had to travel to Brussels to meet them. I thought it was important to meet them because the group constitutes very important personalities who have held high positions in Burundi. So, their perspective would be very informing to my facilitation. I travelled to Brussels early in June and met them. In my meetings in Brussels, I met all the three former Presidents, four former Vice - Presidents, the former President of Parliament, the former Spokesperson to the President, the former Vice - President of the Constitutional Court, the Ombudsman of the Republic of Burundi and others.

In all these consultations, a lot of issues were raised. I can see some convergence on few issues like security, albeit with varying degrees. On the other hand, there is also a considerable divergence on many issues. It is my intention, therefore, to appraise you of the issues that I have been able to gather and that I

think will form the thrust of the Mediation that H.E. President Museveni will preside. These are the issues that I brought forward in the second session that I convened in Arusha on 12th to 15th July 2016 which I asked the parties to validate, prioritize and thence set the agenda for the Mediation.

In no particular order of importance, the contentious issues are as follows:

i. The status and implementation of the Arusha Peace and Reconciliation Agreement for Burundi of 2000;

- There are some who are saying that the Arusha Agreement is no longer relevant as it was externally-obtained and so exogenous to the will and wishes of majority of the Burundi and so it is devoid of legitimacy at home and that the Constitution of the Republic of Burundi is supreme over the Arusha Agreement. On the other hand, the argument by those purporting to protect the Arusha Agreement is that rather than concentrating on the Supremacy of the Constitution vis - a - vis the Arusha Agreement prudence compels us to consider upholding the spirit of the Arusha Agreement from which the current Constitution was born. It is the observation of the Arusha Agreement that has contributed to the relative peace and stability enjoyed in Burundi for at least one decade. In that regard, whatever remains to be implemented of that Agreement has to be implemented to the letter and spirit.

ii. The legality and Constitutionality of the “Third” term

- There are those who argue that the current third/second (depending on which angle you are looking at it) term of President Pierre Nkurunziza is the violation of the Constitution and the Arusha Agreement. On other hand, there are those who are saying the third term did not violate the Constitution and this was reaffirmed by the ruling of the Constitutional Court.
- There are others who say that the Arusha Agreement was violated and the Constitution was not followed and thus not fully implemented and the Constitutional Court was coerced and the flight of some judges out of the country is testimony to that.
- There are some who say the conduct of the 2015 Presidential elections was a mockery to democracy.
- There are those who are saying that the Arusha Agreement has been implemented to the letter and spirit and brought harmony amongst the communities in Burundi for the past decade.

iii. Politicization of the Security organs e.g the Army, police, intelligence and security services.

- There are some who are saying the security agents are involved in suppressing other political actors and freedom of expression through torture, arbitrary arrests, forced disappearance, targeted killings e.t.c

iv. Political space for the opposition in the exercise of democracy

- It has been reported by some, that political activities other than those of the ruling party are not tolerated.

v. The economy

- Some are saying that the economy is deteriorating astronomically while others are saying that the economy is picking up and there is relative stability conducive for socio-economic development.
- Others are saying sanctions imposed by the EU are having a negative impact on the lives of the ordinary people of Burundi while others are arguing that the sanctions are not detrimental and are politically motivated.

vi. Relations between Burundi and Rwanda

- There are allegations by some that the crisis is aided and abetted by Rwanda; others argue that Rwanda did not bring in the third term issue which is the cause of the current crisis and therefore it cannot be blamed.
- Others are of the opinion that there are personal misunderstandings between the leaders of the two countries and that diplomatic channels should be used to resolve their differences.

vii. Human rights and other humanitarian concerns

- There are those who are saying that there is rampant violation of human rights that has sparked off the exodus of refugees. Others are confirming that, the humanitarian situation is stable and therefore refugees should be repatriated back home.

viii. Security

- Some say security is adequate and that police and defence forces are sufficiently addressing issues of security. Therefore, there is no need to send external forces to Burundi. Others are saying an external force should be present in order to normalize the security situation in the country and protect civilians.
- There are those who are arguing that there is persistent targeted killings and assassinations while others say that the killings have considerably stopped or are random, and the country is stable to enable the Inter-Burundi Dialogue to take place in the country.
- Others have expressed their concern on the excessive use of force by security agents while on the other hand it has been argued that the security forces were compelled to use force to restore order and harmony in the country.
- Some are saying people have been disappearing and sometimes have been found dead.
- There are also allegations that the majority are suppressing the minority and are systematically quietly eliminating them.

In addition to these findings, I also asked the protagonists to reflect on two important points: First, to avoid the tendency of denial. I asserted that, Burundi belongs to all Burundi, it is not owned by any one person, one ethnic group, one party or one civil society institution. There must be a realization that there is a government and there is an opposition.

Second, the Arusha Agreement and the Constitution there from, are the property of all Burundi. It is not the entitlement of any one person, one party or one civil society institution.

As a Facilitator, I have formed the following impressions:

- There is a glaring lack of seriousness and willingness from all stakeholders in this crisis to engage in serious dialogue

- There is a tendency of denial of the crisis by the government and the allied parties and to the existence of a strong opposition.
- There is a tendency of denial by the opposition groups to the existence of a legitimate Government and related institutions.
- There are those who claim that they are the protectors of the Arusha Peace and Reconciliation Agreement out of the fear or suspicion that others do not necessarily want to abide by the provisions of the Agreement.
- There is an apparent apprehension of Arusha as a venue and that holding the meetings in Arusha would be a precursor to the dialogue leading to Arusha II.
- The lack of implementation of some of the provisions of the Arusha Agreement and lack of effective follow - up mechanism may be some of the causes to the current crisis.
- While it is evident that as the country would require the participation of the UN in the arrangements for 2020 elections, there is a feeling of uneasiness by the participants on the role and relationship with international stakeholders.

Despite the impressions that I have made out of these consultations, there are recent developments between the last session and now that I feel do not augur well with the objective of this mediation process.

- The closure of the border between Burundi and Rwanda negatively impact not only on the lives of the common citizenry but also contravenes the EAC Common Market Protocol.
- There are inflammatory statements from both parties that could constitute incitement to violence which obviously could exacerbate the already fragile situation even further.

PROPOSALS ON THE WAY FORWARD

After forming these impressions, I want to make the following proposals to the Summit on the way forward:

1. There is an imperative need for Your Excellencies' personal engagement in getting the parties to commit themselves to serious and inclusive dialogue without any precondition.
2. In view of the situation obtaining in Burundi, there is need for the speedy conclusion of this process, so that the country can move forward.
3. There is need for the international partners to give full and unequivocal support towards the success of this EAC-led process.
4. One of the nagging challenges that my facilitation is forced to grapple with every time I organize the session, is the issue of finance. We have been almost entirely depending on the generous support of the EU and China, and I feel the need for Your Excellencies to consider providing more reliable financial wherewithal now that we are going to the mediation phase. For, apart from credibility and independence of the facilitation, ownership of the process will revert to the region.
5. In view of the recent developments, the EAC Summit should pronounce itself in calling parties involved to desist from making such inflammatory statements.
6. The Summit should look into ways and means of pacifying any border tensions which do not help the mediation process.

I thank you for your kind attention.