

# Open Letter to Koffi Annan

Dear Mr Koffi Annan,

## Concern: the recent massacre of Congolese Tutsi in Burundi

Following the massacre of more than one hundred and sixty Congolese Tutsi at Gatumba in Burundi by the extremist Burundi rebel group- the Hutu FNL on the night of Saturday 14th August 2004, we are writing this open letter to express our deep concern and outraged feeling over the horrible killing of innocent women and children who had fled their own country to find themselves victims of the coalition of Hutu extremists at a particular time when the United Nations has two peacekeeping missions based in Burundi and in Democratic Republic of Congo.

### The Facts

Once again, the Palipehutu-FLN which has claimed the massacres with the support of the "genocidaires" like the so-called INTERAHAMWE and EX-FAR have stricken again in the presence of the UN peacekeeping missions not only in Burundi but also in the Democratic Republic of Congo. Therefore, nothing should deter the Tutsi population to strike a parallel between the genocide in Rwanda and that in Burundi. They believe that the International Community embodied in the Organisation you chaired has done little to stop the genocide of Tutsi in Rwanda in 1994 and worst has failed to learn from what happened there to solve the issue of the Tutsi genocide in Burundi which started in October 1993 and is still being committed on a rather different scale.

The current "creeping genocide" or the "genocide by stealth" is being pursued as part of a deliberate strategy. Having attracted the attention of the international community in Rwanda, the "armed political groups" together with the "genocidaires" decided to pursue their goal in Burundi at a slower rate. But their goal remained the same: **the extermination of the Tutsi people in Burundi, in Congo and ultimately in Rwanda !!!** Reports from the major human rights organisations all acknowledge that armed political groups continue to carry out serious human rights abuses in Burundi, including the unlawful killing of civilians, torture and rape. The current death toll stands at more than 300,000 people.

The Tutsi population in the Great Lake Region is at risk of being wiped out of the entire world population and each individual death should be deeply resented as a deep failure to address the real issue in order to stop the genocide to be pursued in the Great Lake Region.

The UN has learned nothing from its previous mistake

We can not review in detail what went wrong in the manner in which the United Nations handle the situation in Rwanda prior to the Genocide between 1992 and 1994 and in Sierra Leone between 1997 and 1999 two African countries where extreme atrocities in violation of basics human rights have taken place.

In Rwanda, your Organisation, which was present at the time of the genocide and had gathered enough intelligence to know the scale of what was being prepared, did nothing to prevent the inevitable. Instead of protecting the population the UN peacekeeping mission facilitated the evacuation of foreign officials and diplomats and left the entire Tutsi Community behind at the mercy of the "genocidaires."

In the case of Sierra Leone, at the Lome Agreement, which was signed in July 1999 under intense pressure, you instructed your representative to make one reservation, as you were feeling queasy about the amnesty, to the effect that it would not cover "grave breaches" of the Geneva Conventions.

Indeed in Burundi, your Organisation, which has been present since 1994 through your Special Representative, has now since the hand over of the OAU Military Mission to your Organisation a peacekeeping mission of more than 3000 soldiers. In Burundi, as in Rwanda in 1994, your Organisation can only afford protection to Political personalities who should be accountable for the crimes against humanity they have instigated and are for the current time enjoying protection from prosecution, taking advantage of a legislation on provisional immunity they have passed when it should be the utmost duty of your Organisation to investigate those grave allegations and prosecute anyone suspected of having committed any of the crimes that amounts to crime against humanity.

By the same token, your Organisation is denying protection to vulnerable people who have fled their country as a result of the war and has done nothing to protect the population who are more in need of protection as a result of their status (being a minority victim of genocide in the region and refugees) and ignoring international obligations for which your Organisation has to abide.

Geoffrey Robertson, Q.C., currently President of the UN Special Court for Sierra Leone, in his book, "Crimes against Humanity: The struggle for global justice" states: "*Sierra Leone provides an awkward postscript to the human rights advances at the end of the twentieth century: a warning of **how easily retribution for crimes against humanity can be overlooked by diplomats and UN careerists who want "a deal at any cost!***"

Contrary to Sierra Leone where you instructed your representative to make one reservation to the effect that it would not cover "grave breaches" of Geneva Convention, you refused in the case of Burundi to take any positive step in instructing your representative to make any reservation in connection with alleged grave breaches of Geneva Convention which amount to crime against humanity and which had been

already recognised by an International Commission sent by your Organisation in their report N. S/1996/682.

Indeed in Burundi, your Organisation through your Special Representative has overlooked the issue of genocide and impunity by attempting by any means to reach a peace agreement, which was obtained under too much international pressure at Arusha in 2001, as it was the case for Sierra Leone in Lome.

Far more, you have done little to acknowledge the reservations expressed in the Arusha Peace Agreement by the Political Parties from the Tutsi minorities.

May we refer you to the report produced, within the department called "Lessons Learned Unit" in your Organisation, for the millennium summit by a panel of experts chaired by Lakhdar Brahimi: It concluded that the UN's fundamental peacekeeping failure had been its "**reluctance to distinguish victim from aggressor**": adherence to the traditional principles of impartiality and use of force only in self-defence had resulted in the UN's "**complicity with evil**."

This, Dear Mr Annan, referred to the Lome Agreement, which set free the RUF leader and gave him a half share in the nation political power and resource wealth. Henceforth, said Brahimi, Security Council mandates **must permit military action by bigger and better forces, directed against "spoilers"**- parties like the RUF which break peace agreements- and include as targets their accomplice arms suppliers, drug and gem traders and parasitic crime syndicates.

The Answer

We feel the duty to take this opportunity to address the real issue faced by the International Community in relation to the return of the peace in Burundi as we said and continue to proclaim that these killings are the result of the failure of your Organisation to ascertain the real issues and assess the real problem and to provide the real response in order to find the appropriate solution in accordance with international law.

To our consternation, unfortunately, we are concerned that the lessons of what happened in Rwanda in 1994 and in Sierra Leone from 1997 to 1999 have not yet been learned.

### **1. The issue of Justice and punishment: Facing UN international obligations.**

To many on the ground when the genocide erupted in Burundi in 1993, there was little doubt about what was occurring. Yet, the situation in Burundi has largely been described by your Organisation as constituting civil war or tribal violence. The "armed political groups" and Rwanda militia who systematically slaughtered Tutsi men, women and children are described as fighting for democracy against the "Tutsi dominated army." Were the civilian women, men or children Tutsi killed since October 1993 and those Tutsi Congolese recently massacred members of any military groups or members of the Burundian Army?

In 1996, the United Nations International Commission of Enquiry made a Report to the UN General Secretary [N. S/1996/682]. The Report recommended that international jurisdiction be asserted with respect to the genocide. Unfortunately, no action has been taken so far. What are you waiting for to take any action?

In December 2003, the Human Right Watch Report of which undoubtedly your Special Representative in Burundi received a copy, states at page 55 as follow : *“Responsible leaders inside and outside Burundi must seek to narrow as far as possible the effective immunity from prosecution granted by the protocol, **both by restricting its duration and by insisting that it must not apply to serious violation of international humanitarian and human right.** Should there be no effective action to limit this grant of immunity, combatants engaged in the ongoing war, whether government soldiers or rebels, will be encouraged to disregard international law whenever they find it useful to do so. Not only will the crimes detailed in this report go unpunished, but **more such crimes will be committed.**”*

We call upon you personally as a genuine and true son of the African Continent in order to avoid the issue of genocide of the Tutsi in the African Great Lake Region being a scar on your conscience to take a positive step in the right direction and acknowledge the Tutsi genocide in Burundi.

## **2. Individual Accountability**

As Gregory Stanton said : *“ the beast of genocide lurks in the dark. While this includes darkness of murderous ignorance, lethal discrimination and bloodthirsty arrogance, genocide largely lurks **in the darkness of irresponsibility and non-accountability.**”*

As in international law, individual responsibility is intrinsic to the crime of genocide. Such an emphasis is especially important for Burundi, as it undermines the belief that all Tutsi act in the same way and can be held responsible for each other's actions, a belief central to the ideology of genocide. Equally, an emphasis on individual responsibility will prevent any suggestion that each and every Hutu is responsible for the genocide.

Geoffrey Robertson, said: *“Kosovo and East Timor were both depicted in the media as “ethnic conflicts” underlain by blood hatreds between races and religions: the Catholic Serbs against the Muslim Albanians, the Catholic East Timorese against the Muslim Indonesians. **This analysis is simplistic, and essentially false.** As historian Noel Malcolm points out in respect to Kosovo, “it ignored the primary role of politicians in creating conflict at a political level” between low-level prejudices on the one hand and a military conflict, concentration camps, and mass murder on the other, there lies a very long road: it was the political leaders who propelled the people down that road, and not vice-versa.” What emerges starkly from both **situations is the criminal responsibility of political and military leaders for perpetrating and permitting crimes against humanity.** The actual killers were soldiers and mad-dog militias, but **criminal responsibility lay indelibly with commanders** who had long before built their power upon racism and nationalism, in the course of which they offered impunity to the killers*

*they inspired.j*"

In that respect, **Agathon Rwasa and his commanders, the leader of the extremist Hutu rebel group FNL who claimed the recent massacre should bear criminal responsibility for all the crimes his movement has committed since 1993 and deserve to be captured and put on trial !!** No negotiation whatsoever should be envisaged with his movement if you want to restore the credibility of the UN in the region and in Africa, your own continent, as a whole.

And indeed, Geoffrey Robertson states: *"So much for hindsight: a warring faction guilty of atrocities on a scale that amounts to crime against humanity must never again be forgiven sufficiently to be accorded a slice of power: on the contrary, **its leaders deserve to be captured and put on trial. Foday Sankoh embodies that proposition.**"*

We call upon you personally to exercise your influence to either extend the International Criminal Tribunal's jurisdiction in Rwanda to Burundi or to create a similar Tribunal for Burundi as the one created for Sierra Leone. Unless individual responsibility displaces the idea of collective responsibility once and for all, we risk granting the perpetrators of the genocide a final, post-facto victory.

Respectfully yours,

Pacelli Ndikumana,  
**Executive Director**

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Cc:

- Chairman of the Security Council,
- President of the General Assembly,
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