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**A LETTER TO THE SECRETARY GENERAL OF THE UNITED NATIONS CALLING FOR THE
RESPONSIBILITY TO PROTECT THE BANYAMULENGE COMMUNITY
IN SOUTH-KIVU DRC**

H.E. António Guterres,
Secretary General
United Nations
New York, NY
30 October 2021

RE: The situation of Banyamulenge in the Democratic Republic of Congo (DRC) and the Responsibility to Protect

Dear Secretary General,

Disheartened, we hereby would like to let you know you that the Banyamulenge situation in the Democratic Republic of Congo (DRC) has been deteriorating despite the existence of international legal instruments which underline the relevance of the responsibility to protect.¹ In 2005, Heads of States and

¹ In addition to the resolution A/RES/60/1, there are norms and mechanisms that reinforce the collective conviction to protect such as Implementing the Responsibility to Protect: A/63/677 (2009, § 49-51), Early warning, assessment and the responsibility to protect: A/64/864, (2010), Responsibility to protect: timely and decisive response : A/66/874-S/2012/578 (2012), *Mobilizing collective action: the next decade of the responsibility to protect*: A/70/999-S/2016/620 (2016), *Responsibility to protect: from*

Governments adopted the strategy (see the United Nations General Assembly resolution A/RES/60/1, §138-140) that calls for a collective responsibility aiming to protect populations against genocide, war crimes, ethnic cleansing, and crimes against humanity. Despite the existence of such instruments, we again stress that the Banyamulenge situation has not yet received the attention it deserves.

In our previous letters of April 27, 2020, June 29, 2020, April 26, 2021, and specifically that of August 24, 2021, we called upon for an urgent action intending to stop armed attacks targeting the Banyamulenge civilians leading to killings, forced displacement, destruction, and burning of villages, impoverishment due to systematic looting properties, and hate speech campaigns. Proofs and evidence show that the armed attacks, killings, looting, and hate speech fall within atrocities under the scope of the responsibility to protect. As a matter of fact, successive events from 1996 to the present day prove that the territories accessible to the Banyamulenge have worryingly shrunk. From 2017 onwards, armed attacks have destroyed approximately 95% of the Banyamulenge's homeland in the *Hauts-Plateaux* of Mwenga, Fizi and Uvira in South Kivu, now emptied of its inhabitants. Thousands of people were killed since then, hundreds of villages were destroyed, thousands of cattle were systematically looted when the national army, FARDC was present. The Banyamulenge civilians who have not fled to neighboring countries are currently besieged in tiny spaces of a few kilometers squared, reflecting the forms of "concentration ghettos" as they are regularly attacked by militias: Mai-Mai and Burundian rebels (Red- Tabara, FNL and FOREBU) backed by the national army (FARDC).

The recent attacks took place on October 14, 2021, when the same armed militias destroyed a dozen of villages in Bibokoboko, in Fizi territory. During these attacks, more than 12 people were murdered, 52 civilians taken hostage while thousands of cows raided, all homes and health and school facilities were destroyed. The hostages spent ten days in the hands of their abductors. Some of the hostages were murdered during their captivity. Due to the attack of October 14, 2021, thousands of civilians were forced to flee to different directions with no hope. This *modus operandi* has characterized the attacks of these militias and rebel groups since 2017. Militias' strategies include killing, set villages and food stocks on fire, plundering cattle, forcing civilians to live under siege coupled with regularly attacks.

It is obvious that for years, the Banyamulenge have been victims of deliberate violent and terror actions intending to annihilate members of this community in DRC. Militias or the national army' strategies and actions prove that the genocidal killings targeting the Banyamulenge occur through mass atrocities and other serious bodily injuries caused to civilians such as torture, rape, sexual abuses, extrajudicial killings, forced displacement of civilians, destruction of individual, public and cultural properties, raid and looting of properties and deliberate attacks or threats of attacks against civilian population. The *modus operandi* and the way these crimes are perpetrated demonstrate a continuous nature of systematic killings that fall within article II Convention on the Prevention and Punishment of the Crime of Genocide. The locations

early warning to early action : A/72/884-S/2018/525 (2018), *Advancing atrocity prevention: work of the Office on Genocide Prevention and the Responsibility to Protect*: A/74/863 - S/2021/424 (2021).

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where crimes take place reveal a well-organized and coordinated project backed by political leaders of the DRC.

Given the experience and conditions in which the Banyamulenge are constrained to live in, it is important to draw the following lessons:

- the Banyamulenge are intentionally and constantly subjected by their killers to unspeakable and heinous criminal atrocities that in end require the international community to resort to the collective responsibility to protect;
- the Congolese government has been characterized by the failure to prevent and contain the killings, rapes, armed attacks, forced displacement, looting, and hate speech inciting to genocide against the Banyamulenge;
- the complicity and logistical support, and sometimes a direct involvement of the national army (FARDC) behind the Mai-Mai and the Burundian rebels, RED-Tabara, in the preparation and execution of armed attacks against the Banyamulenge.

Following the provisions of the responsibility to protect, mostly in its 3rd pillar, we believe there is an urgent need of an urgent and special protection of the Banyamulenge. The responsibility of the international community is to take a collective action through the United Nations Security Council to protect victims of genocide, ethnic cleansing, crimes against humanity, and war crimes per Chapter VII of the UN Charter as stipulated in paragraph 139 of the 2005 Responsibility to Protect.

Mr. Secretary General,

In front of this tragic situation which threatens the existence of the Banyamulenge community, our request is in line with provisions and principles of the African Union Charter (article 4, h) and the Charter of United Nations:

- its preamble (para 1) aimed at preserving the victims of unutterable suffering caused by the genocide and its related crimes, which threatens them with total extermination in their motherland;
- its article 1 (1) aiming at restoring peace and security in favor of the community victim of genocide and;
- its article 39, including the measures of article 42 allowing for the use of force that intends to protect the victims. Measures stipulated in article 41 relating to economic sanctions and other sanctions do not fit the situation of violent attacks against Banyamulenge civilians in the *Hauts-Plateaux* of Fizi, Mwenga, and Uvira, in South Kivu in which the Mai-Mai militias and Burundian rebels operate on behalf of the Congolese government and its national army.

In a seemingly similar case, the United Nations General Assembly qualified as crimes of genocide characterized by “ethnic cleansing” in which the victims were under in conditions of being totally controlled by their killers while acknowledging that “ethnic cleansing” is premeditated as a goal than being

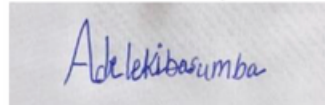
a consequence of war.² Genocide is a crime that encompasses a series of diverse acts to holistically be considered to understand its intent. Regarding the Banyamulenge situation, the killing intention is linked to the above-described acts and crimes which fall within genocidal processes. The discriminatory policy against the Banyamulenge has been established to dehumanize them so that the killers believe that they deserve such annihilation.

Given the failure of the Congolese government to protect its own population (see S/RES/2556 of 18 December 2020, S/RES/2502 of 19 December 2019, S/RES/2463 of 29 March 2019, S/RES/2439 of 30 October 2018...) and particularly the Banyamulenge and the complicity of its national army allied to MaiMai and Burundian rebels, we appeal to the international community through the United Nations, to take all measures aiming to protect the Banyamulenge from genocide and crimes against humanity of which they are victims of.

On behalf of the Mahoro peace Association, we thank you.

Yours Sincerely,

Adele Kibasumba, President of Mahoro Peace Association



CC/:

- H.E Joseph Biden, President of the United States of America;
- H.E Emmanuel Macron, President of France;
- H.E Boris Johnson, Prime Minister of the United Kingdom;
- H.E Xi Jinping, President of the Republic of China;
- H.E Vladimir Putin, President of the Russia;
- H.E Charles Michel, President of the EU Council;
- H.E Madame Ursula Von Der Leyen, President, EU Commission ;
- H.E Alexander De Croo, Prime Minister of the Kingdom of Belgium;
- H.E Angela Merkel, Chancellor of the Federal Republic of Germany;
- H.E Justin Trudeau, Prime Minister of Canada;

² United Nations, General Assembly, the situation in Bosnia-Herzegovina, Doc. ONU, AG/Res./47/121, 18 December 1992

- H.E Bintou Keita, SR in DRC and Head of MONUSCO;
- H.E Moussa Faki Mahamat, chairperson of the AU Commission;
- H.E Lazarus Chikwera, President of the SADC;
- H.E Félix Tshisekedi Tshilombo, President of the DRC and President of the African Union;
- H.E Cyril Ramphosa, President of South Africa;
- H.E Yoweri Kaguta Museveni, President of the Republic of Uganda;
- H.E Uhuru Kenyatta, President of Republic of Kenya;
- H.E Paul Kagame, President of the Republic of Rwanda;
- H.E Madame Samia Suluhu Hassan, President of the Public of Tanzania;
- H.E Evariste Ndayishimiye, President of the Republic of Burundi;
- H.E Denis Sassou Nguesso, President of the Republic of Congo and Chairperson of the ICGLR;
- H.E Michelle Bachelet, UN High Commissioner for Human Rights ;
- H.E Alice Wairumu Nderitu, Special Adviser of the Secretary General on the Prevention of Genocide;
- Ms. Fatou Bensouda, ICC Prosecutor.



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