

**REPUBLIC OF BURUNDI**  
**MINISTRY OF JUSTICE**  
**OFFICE OF THE PROSECUTOR GENERAL OF**  
**THE REPUBLIC**

**Challenges of Cooperation in Africa:**  
**The Great Lakes Region**

Distinguished guests,  
Ladies and Gentlemen,

On the this memorable day, as legal experts and human rights activists from various backgrounds are brought together to discuss partnership between Offices of the Prosecutors of the United Nations ad hoc Criminal Tribunals and National Prosecuting Authorities to fight against impunity, I wish to express my profound gratitude to the organisers of this forum, which indeed is very important to the various institutions that we represent.

Certainly, this occasion comes just at the right moment, because on the one hand, it meets the global concern for an effective fight against impunity, and on the other hand, it will allow to harmonise practices through sharing of information and experience.

Indeed, the fundamental principles of fight against impunity, particularly the punishment of crimes considered by all humanity as the most serious, are set out in various international instruments.

However, pursuant to its principles, every country has a system adapted to its social realities, which system allows it to ensure better prevention and/or punishment of crimes.

A summary of Burundian legislation relating to fight against impunity in respect of serious crimes will now be presented. The aspect of judicial cooperation where it concerns impunity will also be treated. It should be noted that, today, Burundi is in a post-conflict context where on the fringe of ordinary justice, discussions on transitional justice mechanisms dominate inter-Burundian debates.

Distinguished guests,  
Ladies and Gentlemen,

By Law No. 1/004 of 8 May 2003, the Burundian legislator introduced an important innovation by providing for punishment of the crime of genocide, crime against humanity and war crime such

as provided for and defined respectively in the Rome Statute of the International Criminal Court, the Geneva Convention of 12 August 1949 as well as in the Laws and Customs Applicable to Armed Conflicts.

Although innovative, nevertheless, Law 1/1004 encounters application difficulties because by virtue of its Article 33, “investigation and characterisation of such acts are entrusted to an International Judicial Commission.” Said Commission, which was agreed on among Burundians in the Arusha Peace and Reconciliation Agreement, was never set up. Following a mission carried out by United Nations... it was agreed to create a double mechanism comprising, on the one hand, a Truth Commission to investigate, establish facts and characterise crimes and offences linked to various crises which prevailed in Burundi since its independence and on the other hand, a Special Court to try persons responsible for this kind of crime.

The fact that the procedure for setting up these mechanisms is taking its course, it is worth believing that impunity in respect of serious crimes (falling under international law) remains a reality. Whilst at present, there are yet internal difficulties with regard to characterisation, prosecution and trial of serious crimes such as

described above, such situation does not imply any apathy on the part of Burundian judicial system.

Burundian penal lawmakers are organising a system of punishment of crimes other than those falling under international law, through Criminal Code as well as other texts which are invested with a special character.

Indeed, no penal legislation, be it effective, is sufficient without the assistance of neighbouring countries, the region or even the international community.

In fact, based on the doctrine of territoriality of criminal law, each national prosecuting authority has one jurisdiction which it exercises within the territorial limits of its country. Suspects who cross the borders of a country theoretically escape the criminal jurisdiction of that country.

Such a situation can only be resolved through judicial cooperation, particularly by resorting to Interpol of which our country is a member.

Interpol constitutes an effective channel of sharing judicial information and reciprocal handing over of suspects between Member States.

However, the system has limits.

On the one hand, all countries of the world are members of Interpol.

On the other hand, even within Member States, the system often comes up against lack of extradition treaty between the countries concerned when there is need to extradite a suspect.

Specifically, in the Great Lakes Region, one of the major challenges of judicial cooperation is the often unhealthy or unfavourable political context between the States. Cooperation can only be conceived between allies and not between belligerents or political enemies.

That said, maintenance of good relations constitute an absolute prerequisite for any cooperation between States, be it judicial.

Distinguished guests,

Ladies and Gentlemen,

I cannot conclude without acknowledging once again the organisers of this forum which will certainly lead to the adoption of best practices in judicial cooperation and support.

Long live justice,

Long live judicial cooperation in the Great Lakes Region, in Africa and the world over.

For and on behalf of Burundian delegation

**Pascal Barandagiye**

**Deputy Prosecutor General, Supreme Court**