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**08 December, 2025**

**To the Attention of:**

- **H.E. Mr. Jürg Lauber**, President of the Human Rights Council Geneva, Switzerland
- **H.E. Mr. Michael Imran Kanu**, President of the Security Council United Nations, New York
- **H.E. Mr. António Guterres** Secretary-General of the United Nations, New York, USA

**CC:**

- **H.E. Ms. Elinor Hammarskjöld**  
Under-Secretary-General for Legal Affairs Legal Counsel of the United Nations, New York, USA
- **H.E. Mr. Chaloka Syatula Beyani**  
Under-Secretary-General and Special Adviser to the Secretary General on the Prevention of Genocide, New York, USA

**Subject: Memorandum of the Tutsi-Banyamulenge & Hema, communities living in the Eastern of the DRC, victims of persecution, hate speech, and discrimination – Mandate and competence of the Commission of Inquiry established by resolutions S-37/1 (7 February 2025) and 60/22 (9 October 2025)**

**Excellencies,**

On behalf of the Tutsi-Banyamulenge and Hema communities, we have the honour to submit this communication to you in accordance with Articles 55 and 56 of the Charter of the United Nations, General Assembly resolution 60/251 establishing the Human Rights Council, and paragraphs 85 to 89 of the institution-building package contained in resolutions 5/1 and 5/2.

This memorandum contains our contribution to the mandate and temporal scope of the Commission of Inquiry established by resolutions S-37/1 (7 February 2025) and 60/22 (9 October 2025).

### **1. Interpretation of Mandate and Territorial Scope**

Resolutions S-37/1 and 60/22 mandate the Commission of Inquiry to investigate serious violations of international human rights law and international humanitarian law in the eastern part of the "Democratic Republic of the Congo".

In accordance with Article 31 of the Vienna Convention on the Law of Treaties (1969), this geographical expression must be interpreted in good faith, in the light of the object and purpose of the resolutions.

Established precedents, including the Commission of Inquiry on Darfur (2004), the Independent International Fact-Finding Mission on Myanmar (2017), and the International Commission of Human Rights Experts on Ethiopia (2021), demonstrate that territorial references are interpreted functionally to encompass all areas where conflict-related violations occur.

Consequently, "Eastern DRC" must encompass the three provinces in the East of the Democratic Republic of Congo where armed violence and serious human rights violations are rife, including North



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Kivu, South Kivu, and Ituri, directly affected by the armed conflict and associated atrocities, in accordance with the actors involved in the conflict.

As mentioned in resolution 60/22, item 8, which lists the various armed groups involved in the resurgence of attacks against the civilian population, and among which the Cooperative for the Development of Congo (CODECO) is included, which carries out the most massive and atrocious massacres in Ituri in complicity with other actors.

Any more restrictive interpretation, as well referred to in resolution 60/22 on the situation of human rights violations in the eastern part of the Democratic Republic of the Congo, by expressly excluding the province of Ituri and cases or situations related to these three provinces, would be contrary to the principles of equality of victims and non-discrimination enshrined in article 26 of the International Covenant on Civil and Political Rights (ICCPR) and article 2 of the African Charter on Human and Peoples' Rights (ACHPR).

## **2. The Situation of the Tutsi-Banyamulenge in South Kivu, North Kivu, and the Hema Communities in Ituri**

Since 2017, the Tutsi-Banyamulenge and Hema populations have been subjected to systematic persecution, resulting in repeated massacres, forced displacement, looting of livestock, burning of houses, and the systematic destruction of villages. Ethnic violence has been perpetrated mainly by CODECO militiamen and the Mai-Mai Wazalendo, operating in close coordination with the Burundian army and armed groups such as Red Tabara, FNL, and FDLR. These persecutions occur with the complicity and coordination of the FARDC, which is supposed to protect its citizens.

Credible evidence, including reports by the UNJHRO and MONUSCO, establishes such active or tacit complicity, engaging State responsibility under Articles 4 and 16 of the International Law Commission's Articles on State Responsibility for Internationally Wrongful Acts (2001).

In the South Kivu Highlands (Uvira, Fizi and Mwenga territories): More than 2,000 Banyamulenge civilians have been killed, more than 450 villages destroyed, and more than 500,000 head of cattle looted since 2017 by MaiMai militias supported by the Burundian armed group Red Tabara, and the Armed Forces of the DRC (FARDC).

For the last four years, hundreds of Tutsi-Banyamulenge remain arbitrarily detained at the Ndolo military prison, the Makala central prison, the DEMIAP detention center, and the premises of the National Intelligence Agency (ANR).

In North Kivu (Masisi, Rutshuru and Nyiragongo territories) and Kalehe in South Kivu: Since 2022, hundreds of Tutsi villages have been razed, more than 1000 civilians killed, thousands of people forcibly displaced into exile and More than 250,000 head of cattle have been looted, and others shot, by Mai-Mai Wazalendo armed groups, Nyatura-FDLR, in collaboration with the Burundian armed forces, FARDC, Southern African Development Community (SADC) forces, and MONUSCO.

In October 2023, the villages of Nturo in Masisi territory were burnt down by the armed coalition composed of FARDC, Wazalendo, Nyatura, FDLR in coalition of Burundian Armed Forces\_FDNB, where more than 300 houses were reduced to ashes, dozens of Tutsi civilians kidnapped, others



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executed, hundreds of cows looted and others left beheaded. These genocidal acts, publicly claimed the militia, were part of the horrors suffered by the Tutsi of North Kivu.

Prior to the destruction of Nturo village, Nyatura and FDLR with the logistics and moral support from Burundians forces and FARDC attacked, killed Tutsi living Kitchanga, Bwiza, Burungu, and other places with no rescue from the Congolese government at the local and national level despite multiple alerts made by the leaders of the Tutsi Community in North Kivu. To forget this episode, among many others, is to violate once again the oath of "never again" in terms of the repression and prevention of crimes of genocide in the Great Lakes region.

In Ituri Province mostly in Djugu and Irumu territories, the Hema community has lost about 2050 members since 2017. Four administrative sectors, made up of several groups, saw entire villages burned, thousands of cattle looted and populations displaced. These atrocities are perpetrated by the militia of the Cooperative for the Development of Congo (CODECO), with the participation or documented acquiescence of some FARDC units.

Today, the CODECO militia is one of the Wazalendo (as re-named by Congolese government) active armed groups that have joined the RAD (Armed Defense Reserve) under the blessing of the Congolese government. This militia group continues to receive arms and munitions of war from the Congolese Government, while it continues to carry out systematic attacks against the Hema civilian population, including those who have fled their villages and who live in the sites for internally displaced persons, committing very serious human rights violations, as mentioned in resolution 60/22 on the situation of human rights violations.

The former director of the UNJHRO, Abdoul Aziz Thioye, confirmed "a resurgence and spread of hate speech, incitement to violence and discrimination through traditional media and social networks". In her report of 30 November 2022, the United Nations Special Adviser on the Prevention of Genocide, Ms Alice Wairimu Nderitu, identified these trends as early warning indicators of genocide. Hate speech and calls for violence against the Tutsi communities of North Kivu and Banyamulenge have intensified since mid-2021 and became central to the political discourse during the December 2023 general election campaign. On December 8, 2022, the European Union sanctioned several people, including current MP Justin Bitakwira, for inciting ethnic hatred and violence against Tutsi-Banyamulenge. Despite repeated calls, no protection was provided until today.

In the South Kivu province, this year only, the Banyamulenge community living in the Plateau of Uvira have been besieged by Burundian and Congolese armies with the active participation of Wazalendo militia, cutting off all supplies and creating a humanitarian catastrophe, genocide by starvation and suffocation, in flagrant violation of Article 7 of the Rome Statute.

These acts meet the criteria for crimes against humanity (persecution and extermination) under Article 7(1)(h) and (b) of the Rome Statute and, in some cases, constitute genocide under Article II of the 1948 Genocide Convention. In an interview with BBC Gahuza, Burundian army spokesman General Baratuza Gaspar said that Burundi's National Defence Forces are "besieging Minembwe" on the grounds that the civilian population living there is collaborating with "the enemy". This is a flagrant violation of international humanitarian law, which requires all parties to a conflict to strictly distinguish between civilians and military targets.



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The Burundian army, together with the FARDC and all the Wazalendo and FDLR armed groups that are members of this coalition, have organized a blockade that they claim, thus preventing the Banyamulenge population from having access to the market and all necessities such as food, sugar, salt, soap, medicines, not to mention the hospital. As much as there are deaths from malnutrition and kwashiorkor, there are many deaths due to lack of access to medicines, care and medical care.

### 3. Legal clarifications requested

In accordance with paragraph 11 of resolution S-37/1 on transparency and impartiality, we respectfully request the Council to clarify and confirm the following:

1. Equality and inclusiveness of victims that the Tutsi-Banyamulenge and Hema enjoy full parity in consultation, reporting, victim sensitization and evidence gathering, in accordance with Article 26 of the ICCPR, Article 2 of the ACHPR and Resolution 5/1 § 12(b).
2. Responsibility of State actors such as the Commission of Inquiry into the Conduct of State Officials and Security Forces when credible evidence points to participation, acquiescence in, or failure to prevent violations, in accordance with Common Article 1 of the Geneva Conventions (duty to ensure respect for international humanitarian law).
3. Coordination with African mechanisms: which IOC will coordinate with the African Commission on Human and Peoples' Rights and the East African Court of Justice, both of which are already seized of the communications filed by the undersigned platforms, to promote complementarity and avoid duplication.

### 4. Conclusion and Requests

- The credibility and legitimacy of the Commission are based on the inclusion, impartiality and equality of all victims. We therefore urge the Human Rights Council to: Formally interpret the term "eastern DRC" to include North Kivu, South Kivu and Ituri Provinces.
- Retroacting the temporal mandate to January 1, 2017.
- Integrate evidence and affidavits already before African regional mechanisms; and
- Allocate sufficient time, resources, and security guarantees for a credible on-the-ground investigation, including protected access to affected communities.

We reaffirm our confidence in the Human Rights Council's commitment to universality, equality and justice. We remain available to provide additional documentation, verified testimonials, and legal briefs through our designated representatives.

Kindly accept, Excellencies, the assurances of our highest consideration.

**ISÔKO**

**Gakondo**

**Hema Council Chamber platforms**

**Tutsi Community**

**Banyamulenge Community**

**Hema Community**

North Kivu Province

South Kivu Province

Ituri Province

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