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Human rights situations that require the Council's attention

Andorra,* Australia,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Croatia,* Cyprus,* Czechia,* Denmark* Estonia,* Finland,* France, Germany, Greece,* Hungary,* Iceland,* Ireland,* Italy,* Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands, Poland,* Portugal, Romania,* Slovakia,*Slovenia, Spain,* Sweden,* United Kingdom of Great Britain and Northern Ireland, United States of America:* draft resolution

33/... Human rights situation in Burundi

The Human Rights Council,

Guided by the principles and purposes of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling also General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolution 5/1 of 18 June 2007,

Recalling further Human Rights Council resolutions 30/27 of 2 October 2015, on technical assistance and capacity-building for Burundi in the field of human rights, and S-24/1 of 17 December 2015, on the prevention of the deterioration of the human rights situation in Burundi,

Recalling also Security Council resolutions 2248 (2015) of 12 November 2015, 2279 (2016) of 1 April 2016 and 2303 (2016) of 29 July 2016,

Reaffirming that States have the primary responsibility for the promotion and protection of all human rights and fundamental freedoms,

Stressing the primary responsibility of the Government of Burundi for ensuring security in its territory and protecting its population with respect for the rule of law, human rights and international humanitarian law, as applicable,

Reaffirming its strong commitment to the sovereignty, political independence, territorial integrity and unity of Burundi,

* State not a member of the Human Rights Council.



Reaffirming also the Arusha Agreement, which has been the basis for the Constitution of Burundi, provides the foundation for peacebuilding, national reconciliation and the strengthening of democracy and the rule of law,

Considering that the international community, including the Human Rights Council, can play an important and helpful role in preventing the further deterioration of the human rights situation in Burundi by highlighting the human rights violations and abuses and the risk of escalation of the conflict,

Recognizing the importance of the prevention of human rights violations and abuses in Burundi, especially in the context of past mass atrocities in the region,

Expressing grave concern about the increase in violence and the serious human rights violations and abuses in Burundi since the beginning of the crisis in April 2015,

Stressing the urgency of convening a genuine and inclusive inter-Burundian dialogue, based on respect for the Constitution and the Arusha Agreement, and welcoming in this regard the meetings recently organized in the framework of the political dialogue for Burundi under the auspices of the Facilitator of the East African Community, Benjamin William Mkapa, and the conclusion on Burundi adopted by the Heads of State at the Summit of the East African Community on 8 September 2016, in Dar es-Salaam,

Noting with appreciation the support of the international community for the search for a peaceful solution to the crisis facing Burundi, including, inter alia, the efforts of the African Union, the East African Community, the African Commission on Human and Peoples' Rights, previous independent experts on Burundi and the Peacebuilding Commission,

Noting decision 1 (90) adopted by the Committee on the Elimination of Racial Discrimination, at its ninetieth session under its early warning and urgent action procedures, on Burundi,

Noting the statement of 24 August 2016 on Burundi, made by the Special Adviser on the Prevention of Genocide, in which he expressed his concerns about inflammatory statements by public officials that could constitute an incitement to violence,

Noting positively the cooperation of the Government of Burundi with the United Nations High Commissioner for Human Rights and with the group of independent experts established by the Human Rights Council in its resolution S-24/1,

Welcoming the work of the group of independent experts, and expressing deep concern about the content of their final report,¹

Alarmed by the conclusions made by the independent experts that gross violations are systematic and patterned and that impunity is pervasive, and that without determined action by the Government of Burundi and robust and renewed engagement by the international community, including the United Nations and the African Union, the downward spiral of the country will be difficult to stop,

Reaffirming the expectations of cooperation by States Members of the Human Rights Council with international human rights mechanisms, and giving due consideration to the recommendation of the independent experts in this regard,

1. *Expresses its deep concern* about the continuous and accelerated deterioration of the human rights, economic and humanitarian situation in Burundi, in particular the situation of women and children;

¹ A/HRC/33/37.

2. *Strongly condemns* all violations and abuses of human rights in Burundi by all actors, particularly those involving mass arbitrary arrests and detentions, including cases involving children, cases of torture and other cruel, inhuman and/or degrading treatment, extrajudicial killings, enforced disappearances, sexual and gender-based violence, persecutions of and threats against members of civil society, journalists, members of the opposition and demonstrators, including young demonstrators, and restrictions on the freedoms of expression, peaceful assembly and association, creating a climate of intimidation and fear that paralyses the whole of society;

3. *Expresses grave concern* that the independent experts cannot exclude that some of these serious human rights violations and abuses constitute crimes against humanity;

4. *Alarmed* by information about the existence of unacknowledged places of detention, which include secret cells within national intelligence service (SNR) compounds, and the private residences of high-level officials;

5. *Expresses grave concern* about the reports that most of the violations and abuses are being committed by the Burundian security forces and the Imbonerakure in a climate of impunity;

6. *Deplores* the fact that, although in certain cases investigations into serious human rights violations and abuses have been launched, they have not yielded credible results;

7. *Denounces* all parties whose actions contribute to the persistence of violence and hinder the promotion of a peaceful solution to the crisis, including armed groups, such as the Imbonerakure;

8. *Expresses concern* about the situation of Burundian human rights defenders, many of whom are forced into exile, and calls upon the Government of Burundi to allow human rights defenders to work in Burundi and to protect their human rights;

9. *Strongly condemns* all public statements coming from inside or outside the country that incite violence or hatred towards different groups in Burundian society, and demands that the Government of Burundi and other parties refrain from any statements or actions that could exacerbate tensions and publicly condemn any such statements, so as to take into account the best interests of the country and to respect fully the letter and the spirit of the Arusha Agreement, a backbone for peace and democracy;

10. *Calls upon* the Government of Burundi to respect, protect and guarantee all human rights and fundamental freedoms for all, in line with the State's international obligations, to adhere to the rule of law and to undertake transparent accountability for acts of violence;

11. *Also calls upon* the Government of Burundi to comply fully with its responsibilities and to ensure the safety and the protection of its population in full respect of international law;

12. *Reaffirms its call* on the Burundian authorities to conduct thorough and independent investigations of crimes involving serious violations and abuses of human rights so that all perpetrators, regardless of their affiliation, are held to account before a court;

13. *Notes* the opening by the Prosecutor of the International Criminal Court in April 2016 of a preliminary examination into the situation in Burundi since April 2015, and recalls the obligations of Burundi as a State party to the Rome Statute of the International Criminal Court, including its obligations to fight impunity for crimes falling within the jurisdiction of the Court;

14. *Also notes* the reports of a decrease in the number of extrajudicial killings, and the steps taken by the Government of Burundi to withdraw some bans on media and civil society organizations, to cancel some arrest warrants and to release a number of detainees, calls for the immediate end to all extrajudicial killings and all other human rights violations and abuses, and urges the Government to authorize all media outlets to resume freely their activities, and to release all political prisoners;

15. *Deplores* the unprecedented non-cooperation of the Government of Burundi with the Committee against Torture during the review of the State on 29 July 2016, and the retaliatory threat to disbar Burundian lawyers participating in the review;

16. *Recalls* that all States Members of the Human Rights Council should uphold the highest standards in the promotion and protection of human rights, reiterates its urgent call to the Government of Burundi to be mindful of these standards; and notes the importance of cooperation with international human rights mechanisms as part of those efforts;

17. *Encourages* the Government of Burundi to cooperate with the regionally led mediation to enable it to immediately convene an inclusive and genuine inter-Burundian dialogue involving all concerned and peaceful stakeholders, both those who are in Burundi and those outside the country, including the meaningful participation of women, in order to reach a consensual and nationally owned solution that would aim to preserve peace, strengthen democracy and ensure the enjoyment of human rights for all in Burundi;

18. *Invites* the Government of Burundi to respect its commitment, expressed in its letter to the President of the Security Council on 15 July 2016, to facilitate without delay the deployment of a United Nations police component, including 228 United Nations police officers, as foreseen by the Security Council in its resolution 2303 (2016), and urges the Government to guarantee unhindered access by United Nations staff to detention centres and detainees;

19. *Calls upon* the Burundian authorities to ensure equitable political processes and to enable the holding of free, fair and transparent democratic elections;

20. *Welcomes and supports* the ongoing efforts made at the regional and subregional levels, including by the East African Community and the Peace and Security Commission of the African Union, to monitor the situation of human rights in Burundi and to contribute to its improvement;

21. *Welcomes* the work of the African Union human rights observers deployed in Burundi, and encourages a full deployment of all observers as soon as possible;

22. *Expresses its deep concern* about the difficult situation of the more than 295,000 Burundians who have fled to neighbouring countries and of some 100,000 internally displaced persons, and welcomes the efforts of host countries;

23. *Decides* to create for a period of one year a commission of inquiry:

(a) To conduct a thorough investigation into human rights violations and abuses in Burundi since April 2015, including on their extent and whether they may constitute international crimes, with a view to contributing to the fight against impunity;

(b) To identify alleged perpetrators of human rights violations and abuses in Burundi with a view to ensuring full accountability;

(c) To formulate recommendations on steps to be taken with a view to guaranteeing that the authors of these violations and abuses, regardless of their affiliation, are held accountable for their acts;

(d) To engage with the Burundian authorities and all other stakeholders, in particular United Nations agencies, civil society, refugees, the field presence of the Office of the High Commissioner in Burundi, authorities of the African Union, and the African Commission on Human and Peoples' Rights, in order to provide the support and expertise for the immediate improvement of the situation of human rights and the fight against impunity;

(e) To present an oral briefing to the Human Rights Council at its thirty-fourth and thirty-fifth sessions, and a final report during an interactive dialogue at its thirty-sixth session;

(f) To present its report to the General Assembly and other relevant international bodies;

24. *Urges* the Government of Burundi to cooperate fully with the commission of inquiry, to authorize it to conduct visits to the country and to provide it with all the information necessary to fulfil its mandate;

25. *Requests* the immediate operationalization of the commission of inquiry, and also requests that the Office of the High Commissioner be provided with all the resources necessary, including in specialized ballistic and forensic expertise, and expertise in sexual and gender-based violence, to fulfil the mandate;

26. *Decides* to remain seized of the matter.
