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Human rights situations that require the Council's attention

Albania,* Australia, Austria, Belgium,* Bulgaria, Canada,* Croatia,* Cyprus,* Czechia, Denmark, Estonia,* Finland,* France,* Germany, Greece,* Hungary,* Ireland,* Italy, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Montenegro,* Netherlands, New Zealand,* North Macedonia,* Norway,* Poland, Portugal,* Romania,* Slovakia, Slovenia,* Spain, Sweden* and United Kingdom of Great Britain and Northern Ireland*: draft resolution

45/... Situation of human rights 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, S-24/1 of 17 December 2015, 33/24 of 30 September 2016, 36/2 of 28 September 2017, 36/19 of 29 September 2017, 39/14 of 28 September 2018 and 42/26 of 27 September 2019,

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

Recalling also the recent report of the Secretary-General on the situation in Burundi submitted to the Security Council,¹ and taking into consideration the observations and recommendations contained therein, including the aspiration to see a transformed landscape in which all Burundians feel secure and protected, in which participation in the political process is freely accessible to all without restriction or fear, and in which political and social discourse is conducted with mutual respect, inclusive dialogue and accommodation, in the best interest of Burundi and its people,

Noting that the Secretary-General has been requested by the Security Council to make recommendations assessing the challenges facing Burundi and the scope and modalities of United Nations engagement in the country, alongside the African Union and the region, to support Burundi in achieving sustainable peace, reconciliation and development,² and in that regard also noting that a strategic assessment mission was conducted by the Assistant

* State not a member of the Human Rights Council.

¹ S/2019/837.

² S/2020/766.



Secretary-General for Africa and the Special Envoy of the Secretary-General for the Great Lakes Region from 14 to 19 September 2020,

Reaffirming full respect for the sovereignty, political independence, territorial integrity and national unity of Burundi,

Reaffirming also that States have the obligation to respect, protect and fulfil 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 in compliance with international human rights law and international humanitarian law, as applicable,

Recalling the Arusha Peace and Reconciliation Agreement for Burundi, which is rooted in the principles of human rights and transitional justice and provides the foundation for peace, justice, national reconciliation, security and stability in Burundi,

Considering that the international community and the United Nations system, including the Human Rights Council and its mechanisms, can play a critical role in strengthening the protection of human rights, preventing human rights violations and abuses and mitigating the risk of escalation of conflict and deterioration in humanitarian situations,

Noting that the Constitutional Court of Burundi has validated the results of the general elections of 20 May 2020, welcoming the high voter turnout and the lack of major incidents on election day, and taking note of statements regarding the lack of transparency and fairness made by national observers in the absence of international observer organizations,

Noting also the positive role played by the National Independent Commission on Human Rights in preventing violence, mainly between youth wings of the two main political parties engaged in the elections,

Underlining that the peaceful transfer of power is an opportunity for Burundi to commit to human rights, democratic principles and the rule of law, welcoming the fact that the priorities announced by the newly elected President of Burundi in his inauguration speech of 18 June 2020 included political reconciliation, the fight against corruption, reform of the judiciary and accountability for officials who committed offences, and reiterating its readiness to collaborate with the newly elected government on these issues,

Expressing utmost appreciation for the work of the Commission of Inquiry on Burundi, including its most recent report on the human rights situation in Burundi,³ while deploring the persistent refusal by the Government of Burundi to cooperate with the Commission, its regrettable decision to declare the three members of the Commission *personae non gratae* and its dismissal of the Commission's findings,

Deeply regretting the lack of follow-up to the recommendations made to the Government of Burundi contained in the previous reports of the Commission of Inquiry,

Regretting that, since the decision made by the Government of Burundi to close the Office of the United Nations High Commissioner for Human Rights in Burundi on 28 February 2019, the Government has only selectively cooperated with the Office and the United Nations human rights mechanisms,

1. *Condemns* in the strongest terms all human rights violations and abuses committed in Burundi, including in the context of the recent election process, and including extrajudicial killings, enforced disappearances, arbitrary arrests and detention, acts of torture and other cruel, inhuman or degrading treatment or punishment, acts of violence, including sexual and gender-based violence, intimidation, political intolerance, harassment, destruction and theft of property, notably against members of opposition political parties, civil society representatives, human rights defenders, demonstrators, journalists, bloggers and other media workers, and also condemns the severe restrictions on fundamental freedoms, in particular the freedoms of opinion and expression, peaceful assembly and association, thereby contributing to creating a climate of fear and intimidation among the population;

³ A/HRC/45/32.

2. *Deplores* that the campaign and the election took place without international observers, and notes with deep concern the statements made by national election observers, in particular the Catholic Church in Burundi and opposition parties, expressing grave concern over alleged serious irregularities during the electoral process, such as infringements of fundamental freedoms, political intolerance, violent clashes between members of the contending political parties, arrests of numerous political opponents and the lack of plurality and political independence of the Independent National Electoral Commission;

3. *Also deplores* the shrinking space for civil society and citizens' activism that prevailed during the pre-electoral period, as well as all acts of violence, harassment, intimidation and restrictions on civil and political rights and fundamental freedoms, and the tolerance of hate speech messages with political and ethnic dimensions that circulate unrestricted on social media, and expresses deep concern at the arbitrary arrest, detention and criminalization of human rights defenders, journalists, bloggers and civil society activists;

4. *Urges* the Government of Burundi to fight the impunity enjoyed by perpetrators of grave crimes, including members of the security forces and the youth league of the ruling party Conseil national pour la défense de la démocratie – Forces pour la défense de la démocratie, known as the Imbonerakure, who have been carrying out extrajudicial killings, arresting people arbitrarily and threatening and harassing perceived political opponents throughout the country;

5. *Condemns* the widespread impunity for all human rights violations and abuses and related crimes, while noting that two recent prosecutions have resulted in the conviction of members of the Imbonerakure, the Conseil national pour la défense de la démocratie – Forces pour la défense de la démocratie, the local administration and the police;

6. *Reaffirms* its call upon the Burundian authorities to guarantee equal access to justice for all, to conduct full, impartial, independent, effective and thorough investigations into all human rights violations and abuses, to hold perpetrators, regardless of their affiliation, accountable for their criminal actions before a court and to provide fair, effective and prompt remedies to victims, including adequate reparation;

7. *Reiterates* its urgent call upon the Government of Burundi to immediately put an end to all human rights violations and abuses and to ensure full respect for and protection and fulfilment of all human rights and fundamental freedoms for all, including the freedoms of opinion and expression, peaceful assembly and association, to ensure the safety, physical integrity and protection of its population, to strengthen the separation of powers with parliamentary oversight and the independence of the judiciary, the rule of law and good governance, and to end impunity for all violations and abuses, including sexual and gender-based violence, while acknowledging the first positive acts undertaken by the Government since the recent election;

8. *Expresses particular concern* about accounts of persistent sexual violence, including rape, affecting mostly women and girls but also men and boys and aimed at intimidating, controlling, repressing or punishing the victims of such violence for their supposed or actual political opinions or affiliation, and about the structural nature of such violence, and calls upon the Government of Burundi to prevent such violations and abuses and bring perpetrators to justice in order to fight impunity;

9. *Urges* the Government of Burundi to provide a political, legal and administrative environment in which fundamental freedoms can flourish, that is conducive to a free and functioning civil society and in which free and safe operations and access to funding are ensured, including through foreign sources;

10. *Also urges* the Government of Burundi to release all human rights defenders, journalists and prisoners of conscience who have been arbitrarily arrested, detained and arrested solely for the peaceful exercise of their human rights, and encourages the Government to consider releasing them on humanitarian grounds, notably as part of its response to the coronavirus disease (COVID-19) health crisis;

11. *Further urges* the Government of Burundi to promote and protect the right to freedom of opinion and expression and the freedom, pluralism and independence of the media and to foster a safe environment for all journalists and other media workers, enabling them

to carry out their work independently, without intimidation or undue interference and without fear of violence or persecution;

12. *Calls upon* the Government of Burundi to take the measures necessary to ensure that the National Independent Commission on Human Rights fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and provide it with all the means necessary to fulfil its mandate for the promotion and protection of human rights;

13. *Also calls upon* the Government of Burundi to implement the recommendations made by the Secretary-General in his recent report on the situation in Burundi to the Security Council;⁴

14. *Further calls upon* the Government of Burundi to implement the recommendations made by the Commission of Inquiry on Burundi in its reports and to build upon the early signs of positive change that have emerged since the establishment of the new government;

15. *Calls upon* the Government of Burundi to implement the recommendations it has accepted in the context of the universal periodic review, the most recent review having been held on 18 January 2018;

16. *Also calls upon* the Government of Burundi to fully cooperate with the International Criminal Court in relation to the investigation regarding crimes within the jurisdiction of the Court allegedly committed in Burundi or by nationals of Burundi outside of Burundi between 26 April 2015 and 26 October 2017, while Burundi was a State party to the Rome Statute of the International Criminal Court, and encourages the Government of Burundi to reconsider its decision to withdraw from the Rome Statute;

17. *Urges* the Government of Burundi to fully cooperate with the treaty bodies, to grant access to special procedure mandate holders to undertake country visits, to constructively engage with the regional office for Central Africa of the Office of the High Commissioner, to unconditionally and without delay reopen the United Nations human rights office in Burundi, and to finalize the status-of-mission agreement with the Office of the Special Envoy of the Secretary-General for Burundi;

18. *Calls upon* the Government of Burundi to refrain from all acts of intimidation or reprisal against human rights defenders, including those who are cooperating with international human rights mechanisms and the Human Rights Council;

19. *Encourages* the Government of Burundi to cooperate with the international community and regional organizations, including the African Union and the East African Community, to help achieve lasting peace and stability in Burundi;

20. *Welcomes* the work of the African Union human rights observers in Burundi, and calls upon the Government of Burundi to further facilitate their effective work and movement in the country and to engage in negotiations with the African Union on a memorandum of understanding thereon;

21. *Encourages* the Government of Burundi to engage, without preconditions, with all Burundian stakeholders, including civil society representatives, media workers and representatives of political parties, both inside and outside the country, to ensure the active and meaningful participation of women and girls and to address the multilayered challenges in the spheres of human rights, human development, the social fabric of society and the public health situation;

22. *Expresses concern* at the difficult situation of Burundians who have fled the country, including the 333,700 Burundians who are currently settled in five neighbouring countries, notes with appreciation the tripartite agreement of 29 November 2019 among Burundi, the United Republic of Tanzania and the Office of the United Nations High Commissioner for Refugees and the tripartite agreement of 13 August 2020 among Burundi, Rwanda and the Office of the United Nations High Commissioner for Refugees, urges all

⁴ S/2019/837.

parties to respect their commitment to voluntary, safe and dignified repatriation in accordance with the Convention relating to the Status of Refugees,⁵ calls upon the Government of Burundi and countries hosting refugees to ensure that the conditions for the safe return and the sustainable reintegration of returning refugees are met, and commends refugee-hosting countries, donors and other partners providing humanitarian support and international protection to refugees;

23. *Also expresses concern* at the humanitarian and socioeconomic situation that, despite signs of economic recovery, remains precarious, and calls upon the Government of Burundi to tackle the impact of the COVID-19 pandemic, in particular by ensuring full access to quality essential health services for all and allowing medical and humanitarian personnel to provide humanitarian assistance to persons in need;

24. *Recommends* that the General Assembly submit the report of the Commission of Inquiry on Burundi to the relevant United Nations bodies for their consideration and appropriate action, taking into account the relevant conclusions and recommendations of the Commission;

25. *Decides* to extend the mandate of the Commission of Inquiry on Burundi for a further period of one year in order for it to continue its investigations, including with regard to the economic underpinnings of the State;

26. *Requests* the Commission of Inquiry on Burundi to present to the Human Rights Council, at its forty-sixth session, an oral update on the human rights situation in Burundi, to be followed by an interactive dialogue, and also requests the Commission to present to the Council, at its forty-eighth session, and to the General Assembly, at its seventy-sixth session, a comprehensive written report to be followed by an interactive dialogue;

27. *Urges* the Government of Burundi to cooperate fully with the Commission of Inquiry on Burundi, to grant the Commission access to the country and to provide it with all the information necessary to properly fulfil its mandate;

28. *Requests* the Office of the High Commissioner for Human Rights to provide all the resources necessary to enable the Commission of Inquiry on Burundi to carry out its mandate;

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

⁵ United Nations, *Treaty Series*, vol. 189, No. 2545.