



Geneva, 20 September 2016

Re: Commission of Inquiry on Burundi

Your Excellencies,

We are writing to you as a cross-regional group of NGOs to urge you to support the creation, at the Human Rights Council's 33rd session, of a **Commission of Inquiry, or similar international mechanism, to advance accountability for serious human rights abuses committed by all parties in Burundi** since the start of the current crisis in April 2015.

We welcome the Human Rights Council's increased attention to the deteriorating human rights situation in Burundi, particularly since its Special Session of December 2015. The gravity of the situation has also been recognized by many other regional and international actors, including a range of UN bodies and special procedures. Yet to date, these statements and initiatives have not succeeded in stemming the human rights crisis in Burundi, and serious abuses continue unabated. Extrajudicial killings, abductions, enforced disappearances, torture, sexual violence and other abuses by state agents and armed opposition groups are perpetrated with impunity. The report of the United Nations Independent Investigation on Burundi (UNIIB), published on 20 September, found that the experts could not exclude that "some instances of these gross human rights violations amount to crimes against humanity."¹ Furthermore, UNIIB recommended that:

A Commission of Inquiry should be established immediately to continue the work accomplished by UNIIB, giving due consideration to the continuation of the collaboration between the UN and the AU in this regard. The Inquiry should be mandated to ensure individual accountability and share the findings with the Security Council for targeted sanctions and with judicial processes, when established. This mandate must include investigating the allegations about cross-border armed groups operating in Burundi, including the possible involvement of other States. This investigation must have sufficient resources and warranties and access to specialized ballistic and forensic expertise.²

We strongly support this recommendation. While monitoring and documenting these abuses through a dedicated mechanism remains of the utmost importance, the human rights situation in Burundi will not significantly improve until there is an end to impunity for these crimes. Given the gravity and persistence of the abuses, it is vital to set up an independent investigation and produce an objective record as quickly as possible, with a public report laying out the evidence of serious abuses and crimes by all parties. We therefore urge the Human Rights Council to create a Commission of Inquiry to investigate abuses committed by all parties since the crisis started in April 2015.

¹ Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1, 20 September 2016, p. 1.

² Report of UNIIB, 2016, p. 22.

The attached briefing note explains the rationale for this proposal. Among other elements, it outlines the scope and main functions of such a mechanism and its relation to existing UN and African Union initiatives on Burundi. We would like to stress that the mechanism, as we envisage it, would complement but not duplicate existing initiatives. In particular, it would build on the work of the OHCHR and of UNIIB, whose mandate will expire in September.

Similarly, the creation of an accountability mechanism would not replace or exclude other options under consideration. Indeed, the human rights situation in Burundi has become so serious that no single mechanism will be able to solve all the problems. The entrenched nature of the abuses and the intransigence of many Burundian political actors mean that several approaches should be pursued in parallel, and in coordination. An accountability mechanism would be a much needed step towards ensuring that perpetrators of serious abuses are held to account and addressing the impunity that lies at the heart of the crisis in Burundi.

In addition, the Burundian authorities' blatant disregard for human rights seriously calls into question Burundi's membership in the Council. Indeed, UNIIB has recommended that the Council "consider whether Burundi can remain a member of the Council in terms of paragraph 8 of General Assembly Resolution 60/251."³

We urge the Human Rights Council to create an independent, international Commission of Inquiry, or similar accountability mechanism, on Burundi at its September 2016 session in order to avoid a prolonged gap after the independent experts present their report and ensure follow-up action to advance accountability as soon as possible.

We hope we can count on your support for this proposal.

Yours sincerely,

Asian Forum for Human Rights and Development (FORUM-ASIA)
Asian Legal Resource Centre
East and Horn of Africa Human Rights Defenders Project
Human Rights Watch
International Service for Human Rights

³ Report of UNIIB, 2016, p. 23.