

To: All Permanent Representatives to the United Nations in New York and in Geneva

Excellencies,

In an unprecedented move, the Burundian Government is attempting to block the Commission of Inquiry (CoI) on Burundi from briefing the General Assembly on its findings, despite its mandate, the practice of investigating mechanisms set up by the Human Rights Council (HRC), and relevant provisions of HRC resolutions, including operative paragraph 4 of HRC resolution 36/19 (2017).

A vote is scheduled to take place in the Third Committee of the General Assembly on the morning of Tuesday 16 October 2018 on whether the CoI will be allowed present its report to the Committee. We urge your delegation to support the right of the CoI to present its report.

The CoI [was established by the Human Rights Council in September 2016](#). Its mandate was [renewed in September 2017](#), and [renewed again in September 2018](#). The CoI is mandated, inter alia, 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.

The resolution creating the CoI, and the two subsequent resolutions renewing it, include an explicit mandate to present its report to the General Assembly. Despite this, on 10 October 2018, the African Group won a vote in the Third Committee of the General Assembly allowing the Committee to seek a legal opinion from the UN Office of Legal Affairs, asking to clarify the legal basis for including the CoI on the Third Committee list of mandate holders presenting reports and participating in a related dialogue.¹ The [legal advice](#) clarified that there is a legal basis for the Third Committee to hold an interactive dialogue with the CoI, which is supported by established practice. In addition, program budget implications allowing CoI members and staff to travel to New York to present the CoI's findings to the General Assembly were approved in 2017 after the adoption of HRC resolution 36/19.

This is the first time a mandate established by the Human Rights Council is being attacked in this way. It represents a very dangerous precedent, evidenced by the immediate echoes made by Somalia in the context of this debate, asking for the Independent Expert on the situation of human rights in Somalia's presentation to the Third Committee also be blocked.²

This further attempt by Burundi to avoid accountability by thwarting the CoI comes in the context of a series of attacks by Burundi against the CoI, including denying access to the country, personal attacks, declaring them *personae non gratae*, as well as threatening its members with prosecution, including for 'defamation' and for 'destabilising' the country.³

¹ The vote was won 91 in favour, 1 against, with 66 abstentions
http://www.un.org/en/ga/third/73/docs/voting_sheets/proposal_legal_opinion.pdf

² <https://www.un.org/press/en/2018/gashc4226.doc.htm>

³ <https://www.ishr.ch/news/unga72-states-fail-defend-commission-inquiry-threatened-burundi>

The CoI is the only independent investigating mechanism that is mandated to publicly report on the serious human rights violations and abuses committed in the country, including killings, beatings, sexual violence, arbitrary imprisonment, and intimidation.

We consider this move an unprecedented, unwarranted, and severe attack on an expert mandate and on the integrity of the Human Rights Council as the UN body creating and mandating the CoI. We urge your Government to demonstrate its respect for the integrity of the Human Rights Council and the ability of the CoI to do its crucial work, by rejecting efforts by Burundi to block the presentation of its report.

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African Centre for Democracy and Human Rights Studies (ACDHRS)
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Centro de Estudios Legales y Sociales (CELS)
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Defend Defenders
Egyptian Initiative for Personal Rights (EIPR)
Forum Asia
Human Rights Watch
International Service for Human Rights (ISHR)
Southern African Human Rights Defenders Network (SAHRDN)
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