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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Burundi further crackdown on civil society unacceptable

In recent months the Government of Burundi has imposed further restrictions on civil society, on top of an already severe clampdown since the crisis began in April 2015. Amnesty International shares the concerns raised by a group of UN Special Procedures on 6 February in this regard.¹

Many journalists and human rights defenders have been forced to flee the country. For those that remain, their work has become more difficult and dangerous, with increased surveillance having a chilling effect and victims and witnesses of crimes under international law and human rights violations terrified to speak out. The whereabouts of human rights defender Marie-Claudette Kwizera and journalist Jean Bigirimana, who disappeared on 10 December 2015 and 22 July 2016 respectively, are still unknown. Combined with a recent string of repressive measures, including reprisals against human rights lawyers, closure of non-governmental organizations and introduction of new controls on NGOs, the Government of Burundi is creating an environment that is deeply hostile to human rights work.

Amnesty International calls on Burundi to stop stifling debate on issues critical to the future of the country, and allow independent experts, including the Human Rights Council (“the Council”) Commission of Inquiry, and civil society, to investigate and make recommendations to end the human rights crisis.

Reprisals against human rights defenders

On 16 January 2017, the Bujumbura Court of Appeal ruled to disbar Armel Niyongere (President of ACAT-Burundi), Vital Nshimirimana (President of FORSC) and Dieudonné Bashirahishize (Vice-President of the East African Law Society). Another lawyer, Lambert Nigarura, chair of the Burundian Coalition of the International Criminal Court, was suspended for one year and blocked from sitting on the lawyers’ disciplinary council for five years. In overturning the decision of the President of the Bar Association not to disbar the lawyers, the court referred to the cases pending against Armel Niyongere, Vital Nshimirimana and Dieudonné Bashirahishize for their role in organising the 2015 demonstrations (labelled as an ‘insurrectional movement’) and to Lambert Nigarura’s public statements calling for prosecutions by the International Criminal Court (ICC).

All four lawyers had contributed to a civil society report submitted to the UN Committee against Torture for its special review of Burundi in July 2016. The initial request for their disbarment was sent to the Burundi Bar Association during the review, at which the lawyers were present. The Committee wrote to the government to express concerns about potential reprisals, recalling that this was not the first time they had to raise such concerns with Burundi.² The Government of Burundi strongly denied the allegations.

Human rights groups shut down

On 19 October 2016, the Minister of Interior and Patriotic Training, Pascal Barandagiye, ordered the permanent closure of five of Burundi’s leading human rights organizations, which he accused of working to tarnish the image of the country and sow hatred and division among the Burundian population. The five non-governmental organizations – the Forum for the Strengthening of Civil Society (Forum pour le Renforcement de la Société Civile, FORSC), Forum for Consciousness and Development (Forum pour la Conscience et le Développement, FOCODE), Christian Action Against Torture (Action Chrétienne pour l’Abolition de la Torture, ACAT), Association for the Protection of Human Rights and Detained Persons (Association pour la Protection des Droits Humains et des Personnes Détenues, APRODH) and the Network of Honest Citizens (Réseau des Citoyens Probes, RCP) – had previously been suspended in November 2015. The organizations had all been named in the August 2015 report of a commission of inquiry instituted

¹ <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=21145&LangID=E>.

² http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fRLE%2fBDI%2f24879&Lang=en

by the Prosecutor General to look into the “insurrectional movement that began on 26 April 2015”, as the government has characterized the campaign against President Nkurunziza’s third term.³

The following week, on 24 October 2016, Minister Barandagiye announced the suspension of five other leading NGOs – the Civil Society Coalition for Electoral Monitoring (Coalition de Société Civile pour le Monitoring Electorale, COSOME), the Burundian Coalition for the International Criminal Court (Coalition Burundaise pour la Cour Penale Internationale, CB-CPI), the Burundian Union of Journalists (Union Burundaise des Journalistes, UBJ), the Burundian Human Rights League Iteka (Ligue Burundaise des Droits de l’Homme “ITEKA”) and SOS-Tortures/Burundi – on the grounds that their activities were not in line with their objectives and were of a nature to disturb state order and security. On 21 December 2016, one of the suspended organizations, Ligue Iteka, was banned following the publication of a major joint report with the International Federation for Human Rights (FIDH). In the ministerial order, made public in January, Ligue Iteka was accused of being a “repeat offender” in tarnishing the image of the country and sowing hatred and division among the Burundian population.⁴

New controls on NGOs

Two laws introducing new oversight measures and controls on national and international NGOs were adopted by the National Assembly and Senate in December 2016 and signed into law by President Nkurunziza in late January 2017. During consultations earlier in 2016, the media reported Minister Barandagiye explaining that the aim was to “end the anarchy” of civil society organizations.⁵ Similarly, in a public broadcast on 30 December, President Nkurunziza responded to concerns that the new legislation on international NGOs might cause some organizations to leave the country by indicating that organizations that are “devoted to destabilising the country” would be chased out if necessary.⁶

National NGOs now need the approval of the Ministry of Interior or the appropriate line ministry for all their activities or face sanctions, which could include closure of their offices and suspension of activities. Any foreign funding must be transferred through the Central Bank. National NGOs are required to renew their registration biannually. The law limits the formation of coalitions to NGOs working in the same sector, excluding other groups such as religious groups or trade unions.

The activities of international NGOs operating in Burundi must be aligned with the programmes and priorities set by the government. They are obliged to sign programme implementation agreements with the relevant ministerial departments and/or local partners. As well as having to transfer one-third of their budgets into their accounts before their cooperation agreement can be signed, the new law limits “general expenses” to 35% of the NGO’s annual budget.

Lack of cooperation with international bodies

The government’s latest restrictions on civil society at the national level mirror its persistent refusal to engage meaningfully with international bodies scrutinising the human rights situation in the country.

On 12 October 2016, both the National Assembly and the Senate approved a bill to withdraw Burundi from the ICC. The UN Secretary-General received official notification of Burundi’s withdrawal from the Rome Statute on 27 October. Burundi’s withdrawal does not affect its obligation to cooperate fully with the Court on any criminal investigations and proceedings, such as the ongoing preliminary examination, that begun before the withdrawal comes into effect on 27 October 2017.

³ République du Burundi, Ministère de la Justice, « Commission d’enquête chargée de faire la lumière sur le mouvement insurrectionnel déclenché le 26 avril 2015 : Rapport », August 2015

⁴ Ministry of Interior and Patriotic Training, Ministerial order no 530/2356 of 21/12/2016

⁵ Arib News, « Nouvelles locales du 11 mars 2016 », http://www.arib.info/index.php?option=com_content&task=view&id=14397 (accessed 10 February 2017)

⁶ <http://www.ppbd.com/index.php/extras/politique-cooperation-actualite-internationales/5759-province-de-rutana-emission-publique-animee-par-le-chef-de-l-etat>

This followed the Government of Burundi's decision to declare the three independent expert members of the UN Independent Investigation on Burundi (UNIIB) persona non grata on 10 October, and suspend cooperation with the Office of the UN High Commissioner for Human Rights (OHCHR), accusing it of "complicity in the preparation of the deceitful and controversial [UNIIB] report." The Government opposed the Council's creation of the Commission of Inquiry on Burundi in September 2016. It has since failed to cooperate with the investigation.

As a member of the Council, Burundi is required to "uphold the highest standards in the promotion and protection of human rights," and to "fully cooperate with the Council" and its mechanisms.⁷ Council members that commit "gross and systematic violations of human rights" may be suspended by the General Assembly.

If Burundi intends to remain a member of the Council, it must immediately demonstrate willingness to fully cooperate with the Council and its Commission of Inquiry. It must also put an end to the "gross [...] systematic and patterned"⁸ violations of human rights, identified by UNIIB in its report to the 33rd session of the Council. It must also fully cooperate with the Commission of Inquiry.

Amnesty International calls on the Council to call on the Government of Burundi to:

- Reverse the recent restrictive measures on civil society and take steps to ensure space for genuine and inclusive debate on issues of national importance;
- Allow international and regional human rights observers full and free access to investigate allegations of human rights violations in the country, including the members and staff of the Commission of Inquiry.
- Promptly reverse the withdrawal of the Rome Statute of the International Criminal Court.

Amnesty International also calls on the Council to:

- Highlight the important role neighbouring countries have to play in providing access to the Commission of Inquiry.

⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/502/66/PDF/N0550266.pdf?OpenElement>

⁸ http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Documents/A_HRC_33_37_E_AUV_.docx