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RESOLUTION OF THE SENATE OF THE REPUBLIC OF BURUNDI FOLLOWING THE ADOPTION OF THE RESOLUTION OF THE HUMAN RIGHTS COUNCIL DECIDING, FOR A PERIOD OF ONE YEAR, THE SETTING UP OF A COMMISSION OF INQUIRY RESPONSIBLE FOR CONDUCTING A THOROUGH INVESTIGATION ON VIOLATIONS OF HUMAN RIGHTS AND ATTEMPTS ON THOSE RIGHTS IN BURUNDI SINCE APRIL 2015

The Senate of the Republic of Burundi, in a plenary session of October 6, 2016;

In view of the Constitution of the Republic of Burundi, particularly in Article 19;

Considering the resolution adopted by the Council of Human Rights, on September 30, 2016, establishing a Commission of Inquiry for a period of one year;

Deeply concerned by groundless allegations contained in the report of the United Nations Independent Investigation on Burundi made in compliance with the resolution S-24/1 of the Human Rights Council, on which the resolution adopted by the Human Rights Council on September 30, 2016 is based;

Deploring the used methodology and relevance of the sample which was taken by investigating experts ;

Knowing that investigating experts recognize that they did not conduct the last visit though scheduled by themselves for September, pleading security considerations as pretext whereas the whole country was peaceful during that month of September ;



Recognizing also that a report of an independent investigation is always based on quantifiable, verifiable and universally recognized indicators so that all concerned parts can adhere to the investigation results and unfortunately those indicators are lacking in the report ;

Convinced that United Nations investigating experts present a biased and incomplete work ;

Given the judgment delivered by the East African Community Court of Justice on September 29, 2016 regarding the respect of the Arusha Agreement for Peace and Reconciliation in Burundi and the Constitution of the Republic of Burundi in the organization and participation of candidates for presidential elections organized during the year 2015 ;

Given the decision RCCB 302 of May 4, 2015 issued by the Constitutional Court of the Republic of Burundi concerning the legality of the appointment of Pierre Nkurunziza for the 2015 presidential election ;

Considering the conclusions and recommendations of meetings organized by the Senate of the Republic of Burundi in all provinces of the country and in one hundred and eighteen out of one hundred and nineteen communes of Burundi, which means 99.1%, under the theme "**the role of local representatives of the population in strengthening peace and security in Burundi**";

Furthermore, **considering** that during those meetings, the Burundian population was satisfied with the performance achieved by the democratically established institutions ;

Aware that national sovereignty belongs to people exercising it, either directly by means of referendum, or indirectly through their representatives and that no part of the population or any individual may assume its exercise;

Taking into account the reports of fact-finding missions on the political and security situation conducted by the Heads of State and Government who were commissioned by the African Union, a delegation from the Pan-African Parliament, a Peace and Security Council delegation of the African Union and by a joint delegation of member parliaments of the Inter-Parliamentary Union and the International Conference on the Great Lakes Region ;



Recalling that Their Excellencies the Heads of State and Government of the Republic of South Africa, the Republic of Gabon, the Republic of Senegal, the Islamic Republic of Mauritania and the Federal Republic of Ethiopia had talks with Burundian authorities, representatives of political parties and civil society organizations, former Heads of State and religious leaders ;

Recalling the conclusions of the fact-finding mission on the political and security situation which was conducted in the Republic of Burundi from 22 to 25 June, 2016 by a delegation of Peace and Security Council of the African Union stressing that the positive evolution of the political and security situation in the Republic of Burundi urges the African Union to abandon its plan to send MAPROBU in Burundi ;

Considering the recommendations adopted on May 12, 2016 in a plenary session of the Pan African Parliament in Midrand, South Africa and addressed to the Republic of Burundi, following a fact-finding mission on the political and security situation carried out from 23 to 27 November 2015 in Burundi by a delegation of that Parliament notably recommending that :

"The African Union and the United Nations support key national institutions created to find solutions to the consequences of conflicts, in particular the National Commission on Inter Burundian Dialogue, the Truth and Reconciliation Commission and the judiciary system of Burundi" ;

Insisting on the appreciation of the political and security situation in the Republic of Burundi by the Director representing Burundi to the World Bank, Louis René Peter Larose stating that "Burundi is a country which is worthy of being supported if we take into account its achievements and peace which is a reality";

Considering the progress of the inter Burundian dialogue, both inside and outside the country ;

After discussions and analysis of the United Nations independent investigation report on Burundi established in accordance with the resolution S-24/1 of the Human Rights Council and the resolution approved on September 30, 2016 by the Human Rights Council ;



Noting with satisfaction the positive progress of the political and security situation in Burundi reached thanks to, on one hand, the growing professionalism of the defense and security forces in the accomplishment of their tasks and, on the other hand, the achievements of democratically elected institutions ;

Always noting with satisfaction the significant progress of investigations carried out by the competent authorities following the crimes committed in the country ;

1. **Requests** the Human Rights Council to stand with the African Union and the East African Community Institutions to recognize that the setting up of an investigation commission is inappropriate, given the progress of the political and security situation, considered positive by all delegations that visited Burundi ;
2. **Thanks** all country members of the Human Rights Council that didn't vote for the resolution and those who abstained from the vote ;
3. **Rejects** the resolution approved on September 30, 2016, by the Human Rights Council, which established an investigation commission for a period of one year because it is based on a report which is more political rather than technical and is deliberately written on erroneous and not factual elements notably indicating that the experts appointed by the United Nations :
 - a) **verified** 564 cases of executions since April 26, 2015 without specifying their identity and circumstances in which they were killed ;
 - b) **assert** that a former member of Imbonerakure testified to the UN Independent Investigation Commission on Burundi (EINUB) that he participated in the killing of 20 (twenty) people in Bujumbura, including two Imbonerakure who warned people that there was a plan to kill them, **but do not reveal** the identity of their informant identified as being an Imbonerakure in order to check with the youth league Imbonerakure if the person they heard would belong to that league and if the acts related to allegations would have been committed on behalf of that league ;



hiding its identity so that prosecutions could be initiated against it and against all its co-perpetrators and / or accomplices ;

- c) **say** that attacks of December 11, 2015 by armed groups on four military camps, three in Bujumbura and one in Bujumbura Rural Province, were followed by operations in which security forces committed massive human rights violations, notably a high number of extrajudicial executions of young people, the official number of 87 persons who were killed in the two days is inferior to the reality, **but do not indicate**, after their investigation, the number and identity of killed persons and maintain only saying that the official number of 87 persons who were killed is inferior to the reality without providing any clarification to this reality ;
- d) **note** that a former senior officer of the National Defense Forces confirmed to a United Nations Independent Investigation commission on Burundi (EINUB) the existence of several lists of people, civilians and soldiers, to be eliminated by the security forces, but **hide** those "lists of persons to be eliminated by security forces "while the revelation of those lists could help protect them, which is qualified as non-assistance to a person in danger ;
- e) **Assert** that many people disappeared since the beginning of the crisis, often following arbitrary arrest by the security forces, notably the police and the Intelligence Service, but **did not approach** the Public Prosecution to be informed that it opened a criminal record related to forced disappearances and abductions under the criminal procedure code of Burundi under the RMP number 154051 / NTT / HL ;
- f) **indicate** that Marie Claudette Kwizera, treasurer of the organization League Iteka was arrested on December 10, 2015 by the Intelligence Service and has not been seen since then, **but they did not contact** the Public Prosecution to be informed that a criminal record was opened under number RMP 154370 / EB and that the person who ransomed the family entitled beneficiary of Marie Claudette Kwizera acting as an agent of the Intelligence Service was identified and is in the hands of the Justice ;



uttered by Burundian authorities to tarnish the image of the institutions that were democratically set up in areas that lend them good ear;

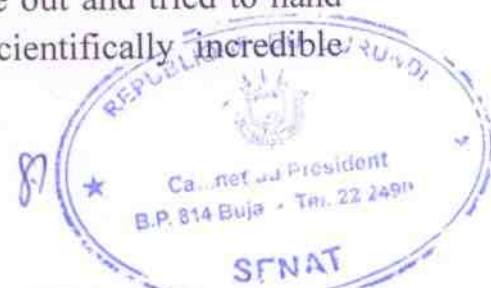
p) argue that the Burundian civil society actors, notably the human rights activists and journalists were the main targets of systematic repression by authorities and **go on** to say that activities of the 10 major organizations of the civil society were "temporarily" suspended by Ministerial Decree and bank accounts of some of them, and their executives, were frozen, believe, without any verification in terms of law or fact, that activities of ten associations were temporarily suspended by Ministerial Decree (in Burundi Ministers take decisions by Ordinance and not by Decree), but **seem to ignore** that those organizations are subject to prosecution for their role in organizing the insurrectional movement and participation in the coup of May 13, 2015 ;

q) note that on August 2nd , 2015, the correspondent of Radio France Internationale and Agence France-Presse to Burundi, Esdras Ndikumana, was arrested by the police while taking photos at the scene of the assassination of General Adolphe Nshimirimana, that he was taken to the headquarters of the National Intelligence Service where a Commander ordered his being given the "daily ration", which is 100 times with a stick, that he was eventually released and treated for a perforated eardrum, a broken finger, broken bones of the leg and toes, and internal bleeding, that no investigation on the incident was commissioned to date, but **do not know** that the file of the journalist Esdras Ndikumana is under investigation and is registered under number RMPG 11158 / NDR ;

r) assert the flow of refugees substantially increased during specific periods: after the coup attempt in May 2015; during the presidential elections in July 2015, but considering the attack on military camps in December 2015, but **do not present** figures that reflect the return movement of the population, **figures available** at the Ministry of Interior and civic Training attesting that until September 2016, about 100,000 people have already returned to Burundi out of approximately 265,000 Burundians who fled the country, that the Republic of Burundi hosts refugee camps whose total numbers are 52,465, that, as a result, the alleged insecurity is not compatible with the presence of the Congolese refugee camps on the Burundian territory and that the Republic of Burundi cannot succeed to ensure security of Congolese refugees and fail when it comes to protect its citizens ;



- g) **assert that** on July 22, 2016, Jean Bigirimana, a journalist of Iwacu newspaper, was arrested by the Intelligence Service and is missing, **but they didn't visit** the offices of the Attorney General of the Republic of Burundi to be informed that the journalist Jean BIGIRIMANA was kidnapped by unknown persons and that an investigation was opened under the file number D15 No. 28 / ML / NO to the public prosecutor's office of Muramvya ;
- h) **say** that the use of torture or other cruel, inhuman or degrading treatment against opponents of the third term and targeted members of the opposition or their relatives to extract information or as punishment was a feature of the crisis, **but do not reveal** the identity of victims of those tortures so that the justice could consider it and **fall** into a collective guilt which creates confusion and leads to a climate of suspicion and mistrust between the population and the security forces ;
- i) **assert** that many women who fled the country were subjected to sexual violence during their flight by Imbonerakure, unidentified armed men and border guards, but **do not mention** that Burundi took legislative and regulatory measures, notably the modification of the Criminal Code and the setting up of the Law No. 1/13 of September 22nd, 2016 on the prevention, protection of victims and punishment of gender-based violence, that Burundi works together with agencies of the United Nations system such as UNDP, UNICEF and ONU FEMMES which regularly organize awareness raising campaigns and special sessions for processing with rapidity judicial files related to gender-based sexual violence and that those organizations have not so far reported cases of rape used as a means of repression of political opponents or members of their families ;
- j) **note** that in August 2015, in Cibitoke, a woman was sexually mutilated by Imbonerakure who were looking for her husband and **go on** to assert that she said, when they did not find him, they tied her hands behind her back and beat her, that they put their hands into her vagina until the uterus gets out, that she was left alone to bleed and cry and until neighbors came out and tried to hand her uterus in place, **develop** an assertion which is scientifically **incredible**.



without **indicating** how the health of the woman whose uterus went out through the vagina is restored and only **believe** that people with no concept in gynecology replaced her uterus ;

k) assert that police used excessive force against demonstrators who chanted slogans against the President, throwing stones (...) and who were blocking intersections and that none of it deserved that police use firearms, but **seem to ignore** that Burundian police faced armed insurgents, as evidenced by the civilian, police and military casualties and the weapons seized during searches and **did not want** to know that police officers who misbehaved were prosecuted and available statistics show that 150 police officers were prosecuted. Fifty (50) are kept in jail and thirty eight (38) were dismissed ;

l) note that arbitrary arrest and detention were the cornerstone of repression in Burundi and opened the way for a wide range of other violations of human rights **without giving at least some examples** for illustration and **take refuge** behind the population in prison to support their arguments, even **refusing** to mention that a lot of measures in line of reducing overcrowding in prisons were taken notably the presidential pardon, parole and that various controls of detentions are made through organized inspections by the public prosecutors and the Ministry of Justice ;

m) say that Imbonerakure and the National Defense Forces chased opponents, especially during sealing off, searches and raids in the quarters of Bujumbura known as protesters, wrongly **use** the phrase "protesting quarters" that has no other purpose than grouping together with criminals the peaceful citizens living in the quarters in question while protesting quarters do not exist in Burundi, but protesting individuals and knowingly **ignore** that the illegal possession of firearms is a crime under Burundian Criminal Code and Law No. 1/14 of August 28th, 2009 on Regime of light weapons and small arms;

n) assert that there are reasonable causes to believe that the police and Imbonerakure set up several unrecognized places of detention without making a slightest verification, preferring only to be limited to what they called "the reasonable causes to believe " ;

o) assert that UN Independent Investigation on Burundi documented several implications of words likely to create ethnic divisions, but **seem to ignore** that critics **make a deliberate misinterpretation** of the content of the messages



