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COMMISSION ON HUMAN RIGHTS  
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Agenda item 9

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
FREEDOMS IN ANY PART OF THE WORLD**

**South Africa (on behalf of the States members of the African Group): draft resolution**

**2002/... Situation of human rights in Burundi**

*The Commission on Human Rights,*

*Mindful* of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

*Reaffirming* its commitment to respect for the principles of the rule of law, which involve democracy, pluralism and respect for human rights and fundamental freedoms,

*Stressing* that States have the duty to promote and protect human rights and to fulfil their obligations under the various instruments to which they are parties,

*Recalling* its resolution 2002/12 of 19 April 2002,

*Considering* Security Council resolutions 1072 (1996) of 30 August 1996, 1286 (2000) of 19 January 2000 and 1375 (2001) of 29 October 2001, as well as the statements by the President of the Security Council of 12 November 1999 (S/PRST/1999/32), of 29 June 2001 (S/PRST/2001/17), of 26 September 2001 (S/PRST/2001/26), of 8 November 2001 (S/PRST/2001/33), of 15 November 2001 (S/PRST/2001/35), of 7 February 2002 (S/PRST/2002/3) and of 18 December 2002 (S/PRST/2002/40),

*Recalling* that the primary responsibility for peace lies with the Government and people of Burundi,

*Acknowledging* the efforts made by the United Nations, the Organization of African Unity and the European Union aimed at contributing to a peaceful settlement of the Burundi crisis,

*Mindful* of the need to ensure the safety of all humanitarian workers in accordance with the principles of international law,

*Welcoming* the signing of the Arusha Agreement on peace and reconciliation in Burundi on 28 August 2000, its ratification by the National Assembly and the adoption by the National Assembly of a transitional constitution, and the recent signing of a memorandum of understanding on 7 October 2002 between the Transitional Government of Burundi and the Conseil national pour la défense de la Démocratie-Forces pour la défense de la démocratie (CNND-FDD) of Jean-Bosco Ndayikenguru Kiye and the Palipehutu-Forces Nationales de Libération of Alain Mugabarabona, and the signing of the ceasefire agreement between the Government of Burundi and the CNDD-FDD of Pierre Nkuruziza on 2 December 2002,

*Recalling* the decision of the Organization of African Unity of July 2000 (CM/Dec.522 (LXXII) Rev.1), the statement by the President of the Security Council of 2 March 2001 (S/PRST/2001/6) and the statement issued by the Presidency of the European Union on 6 March 2001, all on Burundi,

*Hailing* the establishment of the Arusha Agreement Implementation Monitoring Committee, with headquarters in Burundi, as well as the initial implementation of some ceasefire-accompanying measures, such as the arrival of the team of observers,

*Recognizing* the personal contribution of the late Mr. Julius K. Nyerere to the Arusha negotiation process and the facilitation work by the former President of South Africa, Mr. Nelson Mandela, which has already yielded tangible results, including the signature of the Arusha Agreement on peace and reconciliation in Burundi,

*Considering* that effective action to prevent further violations of human rights and fundamental freedoms is essential to the stability and reconstruction of Burundi and the lasting restoration of the rule of law,

*Recognizing* the important role of women in the reconciliation process and the search for peace,

*Welcoming* the invitation extended by the Facilitator to Burundi women's representatives to participate as observers in the Arusha negotiation process,

1. *Takes note* of the report of the Special Rapporteur on the situation of human rights in Burundi (E/CN.4/2003/45);
2. *Supports* the transitional institutions set up in the context of the implementation of the Arusha Agreement, namely, the Transitional National Assembly, the Transitional Senate as well as the Transitional Government, and encourages the implementation of the reforms provided for in the Arusha Agreement in a spirit of national unity and mutual confidence;
3. *Encourages* the Transitional Government to continue its actions aimed at associating all sectors of society in the work of national reconciliation and at the restoration of an institutional order that is safe and reassuring for everyone so as to bring back democracy and peace in the interest of the Burundian population;
4. *Urges* the Transitional Government to pursue the goal of ensuring the equal participation of women in Burundian society and improving their living conditions, in particular by taking legislative initiatives with regard to succession and systems of matrimonial property;
5. *Remains concerned* at the ongoing violence and the violation of human rights and international humanitarian law as well as the security situation in parts of the country, inducing the displacement of many people within and outside the country, and notes the efforts by the Burundian authorities to ensure that established safeguards for human rights and international human rights standards are fully respected;
6. *Condemns* the intensifying violence, especially acts of rape committed against women and urges all parties to the conflict to end the cycle of violence and killings, especially blind violence against the civilian population;
7. *Enjoins* all parties, namely, the Transitional Government and the signatories of the Arusha Agreement and the ceasefire, to honour their commitments and urges all the armed groups which have still not joined the negotiations to do so without further delay in order to ensure a comprehensive and definitive ceasefire;

8. *Expresses its concern* at the situation of displaced persons, deplores in particular the unacceptable living conditions in the displaced persons sites and recommends that the Transitional Government, United Nations specialized agencies and non-governmental organizations provide humanitarian assistance;

9. *Notes* the continuing voluntary repatriation of refugees hosted in the United Republic of Tanzania, pursuant to the tripartite agreements between the Office of the United Nations High Commissioner for Refugees and the Governments of Tanzania and Burundi, and calls on the parties concerned to establish conditions for voluntary and permanent return in full security;

10. *Welcomes* the willingness of the Transitional Government to find agreed solutions to the sensitive problem of the persons affected by the war through the establishment of the Standing Consultation Machinery for the Protection of Displaced Persons and its technical monitoring group, which is composed of representatives of the Transitional Government and humanitarian organizations, as well as the establishment of a national commission for the rehabilitation of persons affected by the war;

11. *Invites* the Transitional Government to take more measures, including in the judicial sphere, to put an end to impunity, in particular by bringing to trial those responsible for violations of human rights and of international humanitarian law, in accordance with relevant international principles, and urges the Transitional Government to accelerate specific procedures for the investigation and prosecution of such violations;

12. *Welcomes* the signature by Burundi of the Rome Statute of the International Criminal Court (A/CONF.183/9) and encourages the Transitional Government to ratify it;

13. *Also welcomes* the entry into force, in January 2000, of the new Code of Criminal Procedure, exhorts the Transitional Government to continue to carry out the plan of legal reform better to protect individual freedoms and to make its judicial institutions more effective and transparent, and urges the authorities to address the questions of the length of pre-trial detention and conditions of detention;

14. *Further welcomes* the work carried out by the independent commission on questions relating to prisoners and urges the Transitional Government to ensure that the recommendations of that Commission are properly followed up;

15. *Welcomes* the continuing cooperation between the Transitional Government and the International Committee of the Red Cross with regard to access and visits to detainees held in central prisons and other places of detention;

16. *Condemns* all attacks on humanitarian workers and adjures the parties to the conflict to abstain rigorously from any action liable to hamper humanitarian assistance operations, in order to assure the population easy access to such assistance;

17. *Takes note* of the efforts in the struggle against impunity and for the promotion of human rights on the part of the Transitional Government, including the establishment of a government commission on human rights, and encourages the Transitional Government to strengthen its efforts in that area;

18. *Supports* the continuation by the Office of the United Nations High Commissioner for Human Rights of the programme of assistance for members of the armed forces and the police in the field of human rights and legal assistance;

19. *Urges* all parties to the conflict to end the use of children as soldiers, welcomes the commitment made in that regard by the Transitional Government and the signature of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and encourages the Transitional Government to ratify it;

20. *Commends* the parties to the conflict in Burundi which have worked constructively with the international mediators and supports the efforts by the President of Gabon, Mr. Bongo, and the Vice-President of South Africa, Mr. Zuma, which led to an agreement on a ceasefire between the Transitional Government and the armed groups;

21. *Expresses its appreciation* of the efforts by the mediators of the United Nations, the African Union and the European Union in the search for a lasting solution to the problems of Burundi;

22. *Encourages* the African Union in its efforts, particularly through its Mechanism for Conflict Prevention, Management and Resolution, to remain engaged in preventing any further deterioration of the situation;

23. *Reaffirms* that respect for human rights and international humanitarian law as well as development contribute to peace, and therefore calls upon the international community to

contribute towards the organization of an international conference on peace, security and stability in the Great Lakes region as recommended by the Security Council in its resolution 1234 (1999);

24. *Commends* the Office of the High Commissioner for Human Rights for the activities it is conducting in the field, welcomes the cooperation accorded it by the Transitional Government and calls for the strengthening of the office in Burundi through voluntary contributions;

25. *Condemns* the illegal sale and distribution of weapons and related materials, which disturb peace and security in the region;

26. *Requests* States not to allow their territories to be used as bases for incursions or attacks against another State in violation of the principles of international law, including the Charter of the United Nations;

27. *Urges* States and international, governmental and non-governmental organizations to coordinate planning initiatives so as to promote sustainable development with a view to encouraging reconstruction and reconciliation;

28. *Welcomes* the display of solidarity given by the international community at the Donors' Conference held in Paris in December 2000 at the initiative of the former President of South Africa, Mr. Mandela, backed by the President of France, Mr. Chirac, as well as that given at the round-table conferences for Burundi held in Geneva in December 2001 and November 2002;

29. *Urges* donors to continue to deliver on the commitments made at the Donors' Conference and at the Geneva round-table conferences in order to provide an impetus for the new peace process;

30. *Calls upon* the Transitional Government to take action to establish a security environment conducive to the work of aid organizations, and invites the United Nations and donors to augment the flow of humanitarian assistance to those in need;

31. *Decides* to extend the mandate of the Special Rapporteur by one year and to request her to submit an interim report on the human rights situation in Burundi to the General Assembly at its fifty-eighth session and a report to the Commission at its sixtieth session, giving her work a gender-specific dimension;

32. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2003/... of ... April 2003, endorses the Commission’s decision to extend the mandate of the Special Rapporteur by one year and its request to the Special Rapporteur to submit an interim report on the human rights situation in Burundi to the General Assembly at its fifty-eighth session and a report to the Commission at its sixtieth session, giving her work a gender-specific dimension.”

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