

JUMUIYA YAAFRIKA MASHARIKI**OFFICE OF THE FACILITATOR****COMPREHENSIVE REPORT BY THE FACILITATOR OF THE EAST AFRICAN
COMMUNITY - LED INTER — BURUNDI DIALOGUE PROCESS****NOVEMBER 2018****1.0 INTRODUCTION**

This report is submitted Pursuant to the Decision of the 17 Ordinary Summit of the East African Community (EAC) Heads of State held on 2nd March 2016 in Arusha, Tanzania, which appointed me to facilitate the East African Community (EAC)-led Inter-Burundi Dialogue on behalf of the Mediator, the President of the Republic of Uganda, HE. Yoweri Kaguta Museveni.

It provides a comprehensive overview Of the entire Inter-Burundi Dialogue process from my appointment as Facilitator until the last session of the dialogue that 1 convened from 24-29 October 2018, at Ngurdoto Mountain Lodge, Arusha, Tanzania.

In this regard, I have outlined Steps that 1 undertook to consult with all the stakeholders to understand the root causes of the political crisis, positions and interests of the parties with the objective of creating a process design that would be inclusive and comprehensive enough to arrive at a sustainable solution to the crisis.

The report includes insi ghts of the extensive consultations undertook and highlights of he five dialogue sessions that were held over the past two years. Subsequent to my appointment, 1 consulted with the EAC Heads of State, the AU Chairperson, AU Special Representative to Burundi and the Great Lakes Region, UN Special Envoy for Burundi, Special Envoys accredited to Burundi and Great Lakes Region and development partners who pledged to support the dialogue process. See the list attached as Annex 1.

During this period, I held five dialogue sessions, which brought together the participants from varied political persuasions with a view to narrowing the gaps among the Burundians and agree on the way forward. The report also highlights the challenges 1 encountered in the course of my work and my recommendations on the way forward.

2.0 BACKGROUND

On 25 April 2015, the ruling party in the Republic of Burundi, the Conseil National pour la Défense de la Démocratie — Forces pour la Défense de la Démocratie (CNDD-FDD) nominated HE. President Pierre Nkurunziza as its presidential candidate for 2015 elections. This led to the subsequent political unrest and violent protest by a section of the population that deemed the nomination as an unconstitutional third mandate.

The failed coup attempt in May 2015, led to further political polarization, mass exodus of refugees to neighboring countries, strained relations with neighboring countries, political exiles, closure of media houses and targeted assassinations among others. The socio - economic and humanitarian situation grew increasingly dire and some 400,000 Burundians were reported to have fled the country at the beginning of the crisis.

Prior to the events above, in early 2015, the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA) formed a team of five eminent persons under the chairmanship of Hon. Justice (Rtd) Joseph Warioba, Former Prime Minister of the United Republic of Tanzania, and tasked the team with deceleration of political tensions through broad - based consultations with stakeholders in Burundi ahead of the elections. The team handed over its report to the 17 Ordinary Summit held on the 2nd of March 2016, in Arusha, Tanzania.

The Summit, vide paragraph 24 of its Communiqué confirmed HE. Yoweri Kaguta Museveni, President of the Republic of Uganda as the EAC-appointed Mediator of the Inter-Burundi Dialogue and tasked me to facilitate the dialogue.

The African Union, through its Peace and Security Council Decisions 523 of 9 July 2015 and 581 of 9 March 2016 endorsing the decision of the EAC Summit which appointed H.E. Yoweri Kaguta Museveni as Mediator and noted with satisfaction my appointment respectively; and reiterated its full support to both the Mediator and myself and requested us to expedite consultations to fix the problem as early as possible.

In addition, the United Nations Security Council in its Resolutions 2248 (2015) and 2279 (2016) expressed support to the process. Further, in its Resolution 2303 (2016), the Security Council requested the Secretary-General, through the good offices of his Special Envoy, to continue to support the EAC-led, AU endorsed Inter-Burundi Dialogue. In this regard, the Council pledged to continue to coordinate and work with the EAC, the Mediator and his Facilitator, and to provide all necessary technical and substantive support to the mediation. The two instruments further strengthened the normative framework for the resolution of the crisis under the auspices of the East African Community.

In order to concretize this partnership with the AU and the UN, I decided to set up a Joint Technical Working Group (JTWG) comprising my facilitation team and representatives from the AU and the UN to support my work. I commend the team for its work in assisting me to facilitate the entire dialogue process. The terms of reference and

schedule of activities undertaken are hereby attached as Annexes II (a) and (b) 3.0 THE DIALOGUE PROCESS

3.1 The first Dialogue Session held from 21— 24 May 2016, Arusha International Conference Centre (AICC).

From my consultations, I gathered sufficient information necessary to identify the main stakeholders, as well as substantive issues for dialogue and other contextual ISSUES.

In this regard, I convened the First Session from 21-23 May 2016, at the AICC in Arusha, Tanzania. In order to ensure sufficient inclusivity, I invited representatives of the Government of Burundi, including three Ministers (Foreign Affairs, Interior and Minister for EAC Affairs), three former Burundi Heads of State, political parties that participated in the May 2015 elections in Burundi, political parties that did not participate in the May 2015 elections and religious groups. I also invited women groups, youth groups, representatives of civil society organizations, the Federal Chamber of Commerce and the Commission Nationale de Dialogue Inter-Burundais (CNDI).

This Session was mainly consultative, and my objective was to provide a platform for the stakeholders to express their views regarding the root causes of the crisis and the agenda for dialogue moving forward. In this regard, I urged all the parties in the conflict to renounce violence and seek a peaceful solution to the conflict. I also promised to accord ample time and space to all stakeholders to express their views on the way forward.

The session was well attended and received strong support from the international community represented by the EU, the UN and the AU and the EAC Secretariat. The list of participants is hereto attached as Annex II (a).

In his opening remarks, the Head of Delegation of the European Union to the Great Lakes Region who spoke on behalf of the diplomatic community, expressed the gratitude of the European Union in being a part of the process and stressed that this is an international and historic effort in supporting the Republic of Burundi, and by extension the Great Lakes Region - as part of strong interlinked relationship with Europe and the Region.

On his part, the Special Adviser to the United Nations Secretary General, advised that only a genuine and inclusive dialogue could enable Burundian stakeholders to find a way out of the current crisis facing the country. He expressed confidence and hoped that the talks would mark the beginning of the journey towards a more peaceful, stable and prosperous Burundi. The African Union Representative regretted that Burundi had witnessed a cycle of peace and violence, adding that the dialogue was an opportunity for the country to put an end to this vicious history. He pointed out the political, economic and humanitarian concerns that need to be urgently resolved through the dialogue. He advised that it was critical to resolve the situation in Burundi expeditiously given the plight of refugees occasioned by the political instability in the country.

The Secretary General of the East African Community expressed optimism that the dialogue would bring all Burundians to a common understanding that will result in peace, democracy and prosperity in the country.

Following the first session, I decided to convene the Second Session in order to discuss with the stakeholders my findings from the First Session as well as to establish an agenda for the next dialogue sessions.

3.2 The Second Dialogue Session held from 12 - 14 July 2016, Arusha International Conference Centre (AICC).

Having achieved the objective of the First Session, I was able to outline the issues for dialogue that required further refinement and prioritization. My objective was to present these issues for validation and reaffirmation by the parties at the Second Session and develop a feasible agenda for the dialogue.

The Second Session was attended by the representatives of the Government of Burundi, the former Burundi Heads of State, internal and external political parties and actors, religious groups, women groups, youth groups and representatives of the civil society organizations. I also invited a cross section of externally-based political actors whom I consulted separately to seek their views on the way forward. The list of participants is hereto attached as Annex in (b).

From the consultations, I deduced an Eight-Point Agenda comprising:

- 1) The Status and Implementation of the Arusha Peace and Reconciliation Agreement for Burundi 2000;
- ii) Legality and Constitutionality of the Third Term;
- iii) Politicization of Security Organs;
- iiii) Political Space for the Opposition in the exercise of democracy;
- lv) Economic situation and the impact of the economic crisis;
- lv) Relations between the Republics of Burundi and Rwanda and other partners;
- lvi) Human Rights and Humanitarian concerns and
- vii) Security situation and commitment to the rule of law.

The participants reflected on the Eight-Point Agenda and concurred with my categorization of the major issues.

In my report to the EAC Extra Ordinary Summit of 8th September 2016 held in Dar es Salaam, I presented the issues as raised by the participants during the Second Session. In my recommendations among other issues, I urged for Your Excellencies' personal engagement in getting the parties to commit themselves to serious and inclusive dialogue without any preconditions.

3.3 The Third Dialogue Session held from 16— 19 February 2017, Arusha International Conference Centre (AICC).

After the Second Session and my subsequent report to the Summit, I convened the Third Session. The list of Participants is hereto attached as Annex LI (c).

The issues comprising the Eight-Point Agenda were further refined as follows:

- i) The Security situation and the commitment to put an end to all forms of violence; ü) Commitment to the rule of law and end of impunity;
- ii) Status and implementation of the Arusha Peace and Reconciliation Agreement for Burundi;
- iii) Strengthening of the democratic culture and the opening up of the political space;
- iv) Social and humanitarian issues:
- v) Impact of the crisis on the economy;
- vi) Implementation of the decisions of the EAC Summit of 6th July 2015 on the formation of a Government of National Unity and;
- vii) Relations between the Republic of Burundi and its neighbors and partners.

This Eight-Point Agenda was further clustered into four thematic categories under the following sub-headings:

- 1) Political issues;
- ii) Constitutional, Legislative and electoral conditions;
- iii) Socio-Economic situation and Humanitarian issues and;
- iv) Security situation.

During this Session, there was a desire by the participants to embrace a forward-looking agenda towards 2020 elections. Furthermore, from the written responses to the proposals, I developed an impression that there was a general agreement on the substantive issues and some disagreements on the modalities of implementation. Therefore, the four thematic areas became the basis for the next dialogue session.

The Fourth Dialogue Session held from 27 November to 8 December 2017, Ngurdoto Mountain Lodge, Arusha, Tanzania.

Having developed the eight-point agenda and consolidated them into four thematic areas was of the impression that the parties would be able to meet for the first time directly to try and agree on the four thematic areas. My conviction was buttressed by the Burundi Government express request, in writing, that I should convene the Session as soon as possible and that they would be ready to meet and dialogue. In this Session, I urged the parties to try and extract important converging issues that would at least enable them to focus on the preparations of 2020 elections that would be credible and which would help Burundi avoid the hiatus of 2015.

In terms of participation, I still wanted the Session to be as inclusive as possible. I thus invited all the stakeholders with the exception of some of the individuals that the

Government of Burundi has placed under arrest warrants. However, some invited participants, especially the externally based opposition, did not honour the invitation citing, among other reasons, lack of prior consultations, ignorance on the parameters of the dialogue and what was alleged to be lack of inclusivity and security. The list of participants is hereto attached as Annex II (a).

To my dismay, the Burundi Government and the ruling party sent low-level representatives contrary to what they had promised. The Secretary General of the ruling party (CNDD-FDD) who personally handed over the request to convene the Session and promised to attend in person did not attend.

In the Session, I urged the participants to form groups representing political actors on one hand and civil society organizations on the other side. Two groups were formed but due to sharp differences amongst the participants, they immediately broke down into four groups which were: Government and allied political parties, the opposition, religious groups and civil society organizations allied to Government and civil society organizations allied to the opposition. The Former Presidents and the Ombudsman remained to play a moderating role.

The various groups produced positional papers that were presented to me. The groups maintained divergent positions in their presentations and the informal consultations they had with me. This trend continued despite my efforts to help them engage directly.

Thus, the primary objective of the session, namely direct exchange between the parties was not realized. However, from the documents produced by the groups, I developed a summary in which I identified issues of convergence, which I believed could form the basis of an agreement and issues of divergence, which I was of the view that could be the subject for further dialogue and negotiations.

3.4.1 The participants attained convergence on the following issues:

Confidence in the Mediator, HE Yoweri Kaguta Museveni, and President of the Republic of Uganda and in the facilitator, HE Benjamin William MKkapa, Former President of the United Republic of Tanzania;

The sovereignty of the Republic of Burundi and the political, economic and social rights of all Burundians;

The commitment to the Arusha Peace and Reconciliation Agreement for Burundi and the Constitution as the foundation for sustainable peace, security and stability;

The political nature of the Burundi crisis and the need for a political solution: The negative impact of the crisis on the social and economic well-being of the people of Burundi;

End of impunity and rejection of all forms of violence, including the use of hate speech, as a means of settling political disputes;

Need for a roadmap towards peaceful, credible, transparent, free and fair elections in 2020;

Respect for the rule of law and promotion of good governance:

Observance and adherence to the tenets of human rights;

Inclusion and participation of women and Youth in national politics, peace building and national development;

The independence of the Electoral Management Body: Commission Electorale Nationale Indépendante (CENI) and inclusion of political parties and other stakeholders in the composition of its management in order to build confidence in its neutrality and credibility:

Promotion of unity, national reconciliation and peaceful co-existence among all Burundians;

xiii) The need for legislative, regulatory and institutional reforms touching on

electoral management to guarantee free, fair, transparent and credible elections;

Strengthening political parties, including re-unifying and rehabilitating those disenfranchised, to enable them carry out their functions freely;

Establishment of a political party development fund so as to strengthen the political parties and entrenching the culture of democracy: XVI) Government to work towards improving relations with neighbours and the international community;

Maintaining the ethnic balance in the public service and security organs as

provided for under the Provisions of the Arusha Peace and Reconciliation Agreement for Burundi of 28 August 2000:

Develop a post-conflict reconstruction and development roadmap for Burundi with the aid of development partners to address the negative impact the crisis has had on the socio-economic and humanitarian situation and;

Creating a secure and enabling environment for the return and reintegration of refugees and exiled political actors as well as resettlement of [nternally Displaced Persons (IDPs), with the support of other stakeholders and the international community.

3.4.2 The participants held divergent views on the following issues:

- i) De-politicization and promotion of professionalism in the public service including the security organs;
- ii) Guaranteeing and upholding basic freedoms for individuals and legally organized groups such as: freedom of association, assembly, speech and movement;
- iii) Encouraging the Justice System to expeditiously identify political prisoners and facilitating their release;
- iv) Respect the sovereign right of Burundians to amend the Constitution. However, such amendments should be inclusive and a product of consensus;

- v) Amendment of laws in parliament to provide for a simple or qualified majority rule in passing laws instead of the two-thirds majority as provided for by the Arusha Peace and Reconciliation Agreement for Burundi, 2000;
- vi) Improving the security situation and promote the disarmament of illegal armed civilians and groups;
- vii) Guarantee personal security and protection of property belonging to returning exiled political actors:
- viü) The need for continued security sector reforms including training and professionalization of security agencies;
- ix) Engagement with armed groups, which are ready to renounce violence and pursue a peaceful settlement;
- x) Opening up of the political space and;
- xi) Lifting of arrest warrants and amnesty to political detainees. After this Session, I presented my report to Your Excellencies at the 19 Ordinary Summit held on 23 February 2018 in Kampala, Uganda in which I shared with you my impressions on the points of convergence and divergence. I also impressed upon you the imperative need to directly engage with the Government of Burundi after the refusal, yet again, to participate at a decision-making level. I also requested the Summit to set aside funds to facilitate one more Session that would bring together the parties and try and help them to agree on the points of divergence. The Summit in its Joint Communiqué undertook to, as far as possible, fund the process and directed me to expeditiously conclude the dialogue.

3.5 The Fifth Dialogue Session held from 24-29 October 2018 at Ngurdoto Mountain Lodge, Arusha, Tanzania.

Following the directives of the 19 Ordinary Session of the EAC Summit on 23 February 2018, Kampala, Uganda that expeditiously conclude the Inter-Burundi Dialogue, I promptly made plans to hold the Fifth Session. My intention was, however, affected by the decision of the Government of Burundi to postpone any activity related to the Dialogue until after the Constitutional Referendum. Taking into consideration the changed political context in Burundi brought about by the results of the Constitutional referendum and the announcement by President Pierre Nkurunziza not to seek another term, I began consultations with the Government of Burundi, political parties, external Opposition, civil society organizations, youth, women, religious groups and media on the necessity and agenda for holding the Fifth Session. The list of participants is hereto attached as Annex II (e).

From the consultations, there was general consensus amongst the stakeholders on the need to hold the Fifth Session so as to provide a platform for the Burundi to discuss pending issues and prepare a Roadmap towards the 2020 elections.

I therefore, scheduled the Session to take place from 19th to 24 October 2018. However, the Government of Burundi requested for postponement of the Session to begin from 24

October 2018 onwards to allow for the commemoration of the 25 anniversary of the assassination of President Melchior Ndadaye that was to be held on 21 October 2018. I accepted the request and accordingly rescheduled the Dialogue Session to 24-29 October 2018.

After all arrangements had been made and invitations sent out, the Government of Burundi, yet again, requested for postponement to the month of November 2018, arguing that the month of October was a mourning period. The Government further suggested that the agenda for the Dialogue should be restricted to the Kayanza Roadmap 02018 regarding the holding of 2020 elections that had been prepared by the Government and endorsed by the ruling party and its allies. The Government also requested that I share before hand, the list of participants to the Fifth Session. On the basis of the above, it became clear to me that the Government was not interested in participating in the Fifth Session of the Dialogue and therefore I proceeded with arrangements for the Session and continued to urge the Government, the ruling party and allies to attend.

Despite the absence of the Government of Burundi and the ruling and allied parties, the dialogue Session was well attended by opposition political parties and key political actors from within and outside Burundi. During the Session, I encouraged the participants to consider the roadmaps that had been proposed by various Stakeholders and also recommendations made by the civil society Organization, women, youth, media and religious groups.

Provided the participants with working documents which included the Kayanza Roadmap of 2013 that had been agreed by all political parties prior to the 2015 elections, the Kayanza Roadmap of 2018 agreed upon by the Government of Burundi and allied parties, the Entebbe Roadmap of 2018 proposed by the internal and external opposition and a report of the civil society Organizations, women, youth, media and religious groups agreed in their consultative meeting that was held from 20-22 October 20] 8, at Neurdoto Mountain Lodge, Arusha prior to the dialogue session. The participants subsequently worked out a Roadmap drawn from the above working documents. The roadmaps are hereto attached as Annexes IV

(a), (b), (c), (4) and (e)

After the Session, I made a synthesis of the Working documents and the Roadmap that was produced by the participants during the Fifth Session.

I have now come up with a proposed consensual roadmap that could be considered by all stakeholders. The roadmap is hereto attached as Annex V. I am strongly convinced that this proposed roadmap, if endorsed by the EAC Summit and accepted by the parties, could bring stability to Burundi.

4.0 OBSERVATIONS AND RECOMMENDATIONS ON THE WAY FORWARD

The political situation in the Republic of Burundi remains **a matter of concern**, especially as the country prepares for elections in 2020. The **lack of an agreement** following the Fifth Dialogue Session of the Inter-Burundi Dialogue, leading to a lasting resolution of the 2015 crisis is also a matter of concern. The Government and the opposition, with the support of the region and the international community, **should discuss and agree on the legal framework and mechanisms for holding these elections**.

Given your instructions that I expeditiously conclude the dialogue, I was **deeply disappointed** by the decision of the Government of the Republic of Burundi, the ruling party, and allied parties, not to attend the Fifth Session. This was a missed opportunity for the parties to arrive at a consensual agreement on the way forward.

The setup of the CNDI that aimed at conducting an internal dialogue process in parallel to that of the EAC process is indicative **of the lack of commitment** by the Government to the efforts of the facilitation team.

The outcome of the internal dialogue seems to have presented the EAC-led process with a **fait accompli**. The **facilitation was almost ignored** as the Burundi Government went ahead to hold a referendum to amend the Constitution and review of elements of the Arusha Agreement for Peace and Reconciliation for Burundi. This confirmed a **long-standing reluctance** by the Government to engage in an inclusive and comprehensive dialogue.

The process was further undermined by hardliners from both sides. There were those within the Government of Burundi and the ruling party who called for the repatriation of the process and support for the internal dialogue. On the other hand, those within the external opposition with some of their international supporters had little trust in the EAC process and wanted more UN and AU involvement. Following my consultations with the Government of the Republic of Burundi in December 2016 some of the externally based opposition blamed my Facilitation and thereafter boycotted the third and fourth dialogue sessions and further **gave unacceptable pre conditions** for their participation.

On the part of the region, the **lack of a dedicated EAC Summit** on the Crisis in Burundi denied me the much-needed regional support. In addition, there were no clear mechanisms for financing the activities of the Facilitation Team, nor a dedicated budget for the planned activities.

At the regional and international level, **lack of coherence and coordination** amongst the many players involved in the Burundi process in one way or another did not present a common front necessary for effective support to the process.

Notwithstanding the challenges encountered, the political and security situation has greatly changed for better since 2016 when I commenced my facilitation process. It may appear that any forces that could have been bent on escalating some violence got restrained in the hope that a negotiated settlement would be arrived at. Clearly my appeal for cessation of hostilities seems to have been heeded to by all parties. Moreover, my continued engagements with the Mediator seem to have persuaded the radical opposition to make reasonable concessions and were increasingly ready to engage in a meaningful dialogue.

I still believe that dialogue continues to be the only genuine and sustainable Way that could enable Burundian stakeholders to find à way out of the current situation. In this regard, I encourage the concerned parties to meet their obligations in putting an end to the political crisis in the country.

The outcome of the Fifth Session reflected the desire of stakeholders to move forward and produce à **consensual roadmap** that will enable their full participation in credible, free and fair elections. The Roadmap proposals from the stakeholders during the previous consultations and at the 5 Session present an opportunity for the contentious issues **to be discussed and agreed** prior to the next elections.

I commend the East African Community Mediator, H.E. President Yoweri Kaguta Museveni, for his tireless efforts to guide the Inter-Burundi Dialogue process. I appeal to the EAC and to all the leaders of the region to redouble their efforts in order to ensure that stability is restored in Burundi **while preserving the gains of the historic Arusha Peace** and Reconciliation Agreement for Burundi.

The EAC may wish to remain seized of the regional security implications as a consequence of the prevailing situation in Burundi and its concomitant humanitarian impact. In this regard, the Summit May wish to consider my proposal of a **consensual Roadmap for 2020 elections**. The EAC Summit at that level may also wish to demonstrate collective leadership, unity of purpose and coherence to prevent the resurgence of violence in Burundi.

Upon being satisfied that conditions for credible elections exist within the Republic of Burundi, the Summit may consider directing the EAC Secretariat to commence Préparations towards providing support to the electoral process in the Republic of Burundi in compliance with the provisions **of Article 123 of the** Treaty for the Establishment of the East African Community.