

HUMAN RIGHTS WITHOUT SUPPORT OF THE CONCERNED STATE

**A COMPARATIVE ANALYSIS OF
SUCCESSIVE HUMAN RIGHTS
COUNCIL MECHANISMS ESTABLISHED
FOR BURUNDI AND MYANMAR**

NOVEMBER 2020

IHRLC Working Paper Series No. 6

International
Human Rights
Law Clinic

BerkeleyLaw
UNIVERSITY OF CALIFORNIA

ACKNOWLEDGEMENTS

This working paper was prepared by Ashleigh Lussenden '21, Blaire Lee-Nakayama '22, and Helena von Nagy '22, under the supervision of Laurel E. Fletcher, Co-Director of the International Human Rights Law Clinic and Clinical Professor of Law, Berkeley Law. The Sri Lankan human rights defenders who collaborated on this effort wish to remain anonymous.

We thank Olivia Layug Balbarin, Legal Case Manager for Berkeley Law's Clinical Program, for her invaluable assistance in preparing the manuscript. The research librarians at Berkeley Law offered research support for which we are grateful.

We also wish to thank Dean Erwin Chemerinksy for his support for the project as well as the donors to the IHRLC without whom this work would not be possible.

**International Human Rights Law Clinic
University of California, Berkeley, School of Law
353 Law Building, Berkeley, CA 94720-7200
Phone: (510) 643-4800 / www.humanrightsclinic.org**

The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. The IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. The IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day.

CONTENTS

INTRODUCTION AND EXECUTIVE SUMMARY	1
REFLECTIONS AND LESSONS	5
A. Contextual Political Factors	5
B. Voting Patterns	7
C. Scope of the Mandates.....	10
D. Summary Conclusion.....	12
METHODOLOGY.....	13
COMPARATIVE ANALYSIS.....	14
A. Comparative Analysis of Voting Patterns	14
B. Comparative Analysis of Substantive Mandates	21
1. Opposition by the Country Concerned.....	24
2. Relationship with the ICC.....	24
BURUNDI.....	25
A. Overview: Analysis of Voting Patterns.....	25
B. Analysis of State Support for Mechanisms	26
1. Asia Pacific Region (thirteen votes)	26
2. Latin America and Caribbean Region (eight votes)	28
3. African Region (thirteen votes)	29
C. Overview: Analysis of Mandate	31
D. Development of Mandate and Findings of Mechanisms.....	33
1. The United Nations Independent Investigation on Burundi.....	33
2. The Commission of Inquiry on Burundi.....	34

MYANMAR.....	36
A. Overview: Analysis of Voting Patterns.....	36
B. Analysis of State Support for Mechanisms.....	37
1. Asia Pacific Region (thirteen votes).....	38
2. Latin America and Caribbean Region (eight votes)	40
3. African Region (thirteen votes)	41
C. Overview: Analysis of Mandates	43
D. Development of Mandate and Findings of Mechanisms.....	45
1. International Independent Fact-Finding Mission in Myanmar	45
2. Independent Investigative Mechanism for Myanmar	46
CONCLUSION	48
APPENDIX A: Summary of Report Findings and Statements at HRC Sessions for Burundi	50
APPENDIX B: Summary of Report Findings and Statements at HRC Sessions for Myanmar	58
APPENDIX C: Full Voting Record	66
APPENDIX D: Full List of Mechanisms.....	71
NOTES AND REFERENCES.....	76

INTRODUCTION AND EXECUTIVE SUMMARY

The United Nations Human Rights Council (HRC) is the central United Nations institution charged with protecting and promoting human rights globally. In response to human rights violations in specific countries, the HRC may exercise its authority to establish fact-finding missions and commissions of inquiry to help bring wrongdoers to justice. As an inter-governmental body, the HRC favors cooperative arrangements with states in which human rights violations have occurred. Nevertheless, the HRC has acted over the objections of governments to establish human rights mechanisms. This report examines four occasions on which the HRC has done so: when it established successive fact-finding and investigative bodies for Burundi and for Myanmar, respectively. To gain insight into the conditions under which the HRC will proceed to establish fact-finding missions and commissions of inquiry without the cooperation of the country in question, the report identifies the public explanations HRC member states offered of their votes on the resolutions creating or extended these international mandates. To gain insight into the consequences of creating human rights interventions under these circumstances, the report also reviews the substantive findings and operational challenges of each mechanism.

Like Burundi and Myanmar, the government of Sri Lanka at times has resisted U.N. human rights interventions and has announced its intent to withdraw from the current processes conducted under the auspices of the HRC. Thus, this analysis assists stakeholders that seek to establish HRC mechanisms to promote accountability for gross human rights violations over the objections of the state in question such as Sri Lanka, or in other similar contexts.

In 2015, the HRC created the United Nations Independent Investigation on Burundi (UNIIB), a fact-finding mission to investigate allegations of atrocities and human rights violations in the aftermath of a 2015 failed coup d'état attempt.¹ The UNIIB found evidence of gross human rights violations that may amount to crimes against

humanity.² In 2016, the HRC acted upon the recommendation in the final report of UNIIB and created a Commission of Inquiry (COI).³ The COI is mandated to investigate international crimes and recommend measures to hold perpetrators accountable.⁴

In 2017, the HRC created the International Independent Fact-Finding Mission to Myanmar (IIFMM) to investigate the allegations of atrocities and human rights violations against the Rohingya minority in Myanmar since 2012.⁵ The IIFMM found there was a reasonable basis to find that military authorities, police, and nonstate actors had committed genocide, crimes against humanity, and war crimes.⁶ These violations took place against a backdrop of impunity and decades of institutionalized oppression and persecution against the Rohingya.⁷ In 2018, the HRC created the Independent Investigative Mechanism for Myanmar (IIMM). The IIMM is mandated to “collect, consolidate, preserve and analyze evidence” of the most serious international crimes and prepare case files for future criminal proceedings.⁸

This analysis examines the annual votes and interactive dialogues that the HRC held regarding the fact-finding and investigative mechanisms in Burundi and Myanmar. For Burundi, this report analyzes five (5) annual HRC votes between 2016-2020 regarding the two consecutive mandates. For Myanmar, this report examines three (3) annual votes between 2018-2020 the HRC held regarding the two consecutive human rights mandates for the country.

The data suggest that the unique situation in each country shaped the HRC voting patterns. The severity of violence and the degree to which the state directed attacks on minority ethnic or religious communities, as was the case in Myanmar, contributes to the HRC mandating investigative mechanisms to support criminal prosecutions. In the case of Burundi, many African nations opposed both the fact-finding mission and the commission of inquiry and criticized the United Nations for lack of deference to regional efforts to address the situation. In contrast, for the votes on the Myanmar mechanisms, there was overwhelming support, especially among Muslim-majority states and

members of the Organization for Islamic Cooperation (OIC). States in the Global North consistently supported the use of international human rights mechanisms to address gross human rights violations. Approval among states in the Global South varied, with Latin American and Caribbean countries being the most reliable. There is a core group of four (4) to nine (9) countries that vote against country-specific mechanisms on principle: Bolivia, China, Cuba, Iran, North Korea, the Philippines, Russia, and Venezuela.

The fact-findings missions for Burundi and Myanmar laid the empirical and normative groundwork for the subsequent investigative mechanisms for each country. Once international experts determine there is a reasonable basis to conclude that international crimes may have been committed, their recommendations to establish investigative mechanisms prove conclusive. The HRC mandated the Burundi COI and the IIMM for Myanmar to gather evidence with the aim of supporting criminal accountability, and each has engaged with the International Criminal Court (ICC), in particular.

Burundi and Myanmar opposed the mechanisms the HRC created, and each country denied international experts entry to conduct their work. This lack of access forced the experts to request mandate extensions, and shaped their evidence gathering. The fact-finding and investigative mechanisms in each country interviewed victims and witnesses in neighboring countries. Since the Covid-19 pandemic, interviews for the investigative mechanism in Myanmar have sought to gather evidence remotely with some virtual contact with refugee populations. Open-source investigation techniques have featured prominently in the work of the IIMM.

International deployment of human rights interventions is an important form of multi-lateral engagement to end impunity and provide a measure of justice for international crimes. Such interventions assume greater significance when the HRC acts in the face of opposition from the government concerned, where the success of proposals to create investigative mechanisms is uncertain. Review of HRC debates and discussion

on the resolutions for the relevant resolutions for Burundi and Myanmar suggest that successful draft resolutions contain several features that reflect broad, multi-dimensional, multi-lateral engagement. Engagement of regional bodies in addressing the human rights situation, including fact-finding, facilitation of dialogue, and efforts at preventing further violence is important. Draft HRC resolutions establishing mechanisms that include a role for relevant regional bodies such as receiving reports, or naming a member to the HRC expert body, garner support. Multi-lateral cooperation and respect for state sovereignty are strong undercurrents in debates and therefore measures to provide governments with opportunities for dialogue and technical assistance are well-received. Human rights interventions appear more successful when framed to respond to humanitarian crises (as opposed to political crises), and when interventions are time-limited, and focused on grave violence and anti-impunity.

This working paper proceeds as follows: The next section, Reflections and Lessons, offers a summary analysis of the study data, and key observations for stakeholders seeking to replicate the establishment of HRC mechanisms in face of opposition by the concerned state. Then, the Methodology describes the research techniques employed. Next, the Comparative Analysis presents the voting patterns for relevant HRC resolutions for Burundi, Myanmar, and Sri Lanka, along with a comparison of the development of the mandates for Burundi and Myanmar and their findings. Next, the paper analyzes the mechanisms for Burundi and Myanmar, respectively. The voting patterns among the regional groups comprised of countries in the Global South are analyzed and observations from their vote statements are offered. The substantive work and findings of the mandates are presented, and the challenges each faced are identified. A brief Conclusion, follows.

REFLECTIONS AND LESSONS

International deployment of human rights interventions is an important form of multi-lateral engagement to end impunity and provide a measure of justice for international crimes. Such interventions assume greater significance when the HRC acts in the face of opposition from the government concerned, where the success of proposals to create investigative mechanisms is uncertain. Review of HRC debates and discussion on the resolutions for the relevant resolutions for Burundi and Myanmar suggest that successful draft resolutions contain several features that reflect broad, multi-dimensional, multi-lateral engagement. Voting patterns indicate concerns unique to the context of violence in concerned countries. So too do the mandates. This summary analysis captures key observations on factors that contributed to successful resolutions establishing HRC mechanisms in face of the objections of the concerned states.

A. Contextual Political Factors

Based on review of HRC debates and primary edits on the resolutions for the fact-finding missions and investigative mechanisms for Burundi and Myanmar, the following comprise recommendations for stakeholders proposing resolutions to establish similar mechanisms over the objections of the state of interest. Draft resolutions that tend to succeed include several features that reflect broad, multi-dimensional, multi-lateral engagement:

1. Resolutions acknowledging efforts by the country⁹ and region/regional bodies¹⁰ to address human rights. Many states note the necessity of acknowledging the concerned country for any steps it has taken to address its human rights situation.¹¹ Vote explanations and mandates include sections acknowledging general “steps taken” as well as specific measures that have been implemented.¹² Steps taken by regional bodies are often also included in this acknowledgement.¹³ Regional bodies are also often recognized for any dialogue facilitation that may have taken place,¹⁴ any investigative

mechanisms or reports generated by the body,¹⁵ and any role regional bodies may play in helping to stave off further violence in the concerned country.¹⁶

2. Mechanisms that include regional bodies within the mandate appear to garner support.¹⁷ Regional bodies are often explicitly included in the reporting requirements in the mandate,¹⁸ and any reports regional bodies may have produced are often referenced.¹⁹ If these reports included any recommendations, there is often state support for including those recommendations in the mandate as requirements for the concerned country to implement.²⁰ For example, states lauded the inclusion of a representative from the African Union in the Burundi UNIIB mandate, which appeared to increase support for the UNIIB.²¹
3. Discussion of regional politics or regional impacts of the situation of concern is also often used as a way to emphasize the importance of establishing or continuing a mechanism without explicitly shaming the concerned country.²² States often refer to the need to maintain stability of the region and note the impact the violence has on the rest of the region as reasons to support a mechanism.²³ This is especially true if there is a concern of continuing violence that may spread, at which point many countries express the sentiment that the international community has a duty to intervene.²⁴
4. Dialogue with the concerned country is often cited as a preferred intervention for states not fully in support of mechanisms.²⁵ Many states opine that sustainable change to the human rights situation will not occur without the support from the concerned country. These states often argue that international intervention should aim to promote dialogue within the concerned country to enable the government in question to take measures to address the human rights situation.²⁶ In the same vein, there is often a call for the concerned country to consider accepting assistance to enhance the capacity of domestic investigative or legal bodies,²⁷ and for member states to support

the concerned country by providing this support.²⁸ To that end, references to the ICC or any other international accountability mechanism prior to an official case being opened is often a cause for debate. In some cases, the possibility of international accountability appears tied to reticence to support a mandate among states that worry about overreach of mandates.²⁹ Similarly, references to individual sanctions are often removed from resolution drafts.³⁰

5. Finally, the framing of the situation in the concerned country is often a point of discussion and revision. Referring to the situation as a humanitarian crisis rather than a political crisis appears to be more successful in gaining support.³¹ Further, confining the investigation to a specific time period appears to be more favorable than an open-ended investigation.³² If an investigation intends to examine both past and present violence, the mandate often references specific contemporaneous events to justify an ongoing investigation.³³ Gaining broad state support, especially in Africa and Asia, seems to correlate with having a targeted mandate that does not suggest indefinite intervention in the concerned country and is focused specifically on stopping further violence, ending impunity, or both.³⁴

B. Voting Patterns

The data suggest that the unique situation in each country shaped the HRC voting patterns. The severity of violence and the degree to which the state directed attacks on minority ethnic or religious communities, as was the case in Myanmar, contributes to the HRC mandating investigative mechanisms to support criminal prosecutions. In the case of Burundi, many African nations opposed both the fact-finding mission and the commission of inquiry and criticized the United Nations for lack of deference to regional efforts to address the situation. In contrast, for the votes on the Myanmar mechanisms, there was overwhelming support, especially among Muslim-majority states and members of the Organization for Islamic Cooperation (OIC).

The fact-findings missions for Burundi and Myanmar laid the empirical and normative groundwork for the subsequent investigative mechanisms for each country. Once international experts determine there is a reasonable basis to conclude that international crimes may have been committed, their recommendations to establish investigative mechanisms prove conclusive. The HRC mandated the Burundi COI and the IIMM for Myanmar gather evidence with the aim of supporting criminal accountability and each has engaged with the International Criminal Court (ICC), in particular. The COI recommended the ICC Office of the Prosecutor open an investigation into Burundi, which it did. The latest renewal of the IIMM specifically mandated it to coordinate with current proceedings at the ICC. The focus on international criminal investigations has shaped the work of the IIMM. The mechanism conducts verification process and preserves evidence to meet international standards.

Burundi and Myanmar opposed the mechanisms the HRC created, and each country denied international experts entry to conduct their work. This lack of access forced the experts to request mandate extensions, and shaped their evidence gathering. The fact-finding and investigative mechanisms in each country interviewed victims and witnesses in neighboring countries. Since the Covid-19 pandemic, interviews for the investigative mechanism in Myanmar have sought to gather evidence remotely with some virtual contact with refugee populations. Open-source investigation techniques have featured prominently in the work of the IIMM.

A comparison between Burundi and Myanmar reveals five observations in voting patterns:

1. The countries in the Global North overwhelmingly support fact-finding and investigative mechanisms (Figures 3 and 5).
2. The majority of countries in Latin America and the Caribbean also support fact-finding and investigative mechanisms (Figure 4).

3. The more grave and widespread the human rights violations, the more likely countries are to support more intrusive investigative mechanisms. For example, the UNIIB found that “gross and systemic” human rights violations including arbitrary deprivations of life, enforced disappearances, torture, other forms of ill-treatment, massive arbitrary detention, and deprivation of freedoms of expression, association and assembly occurred in Burundi.³⁵ The experts “could not rule out” that these violations amounted to crimes against humanity.³⁶ In the vote to establish the COI to continue investigations, the resolution passed by nineteen (19) to seven (7) with twenty-one (21) abstentions.³⁷

Similarly, the IIFFMM found evidence that genocide, ethnic cleansing, war crimes, and crimes against humanity occurred in Myanmar.³⁸ In the vote establishing the IIMM, the resolution passed by thirty-five (35) to three (3) with seven (7) abstentions.³⁹

4. Countries and regions may vote in solidarity with regional, ethnic, and/or religious affiliations. In the case of Burundi, many African states abstained noting concern that the HRC did not sufficiently defer to regional efforts to address the situation.⁴⁰ Similarly, in the case of Myanmar, many Muslim-majority countries supported the mechanisms because citing the need for accountability for international crimes perpetrated against Muslims.⁴¹
5. Finally, there is a core block of four (4) to nine (9) countries that vote consistently against country-specific mechanisms on principle: Bolivia, China, Cuba, Iran, North Korea, the Philippines, Russia, and Venezuela. (Figures 2-4).

The current HRC members that voted yes across all resolutions for all three countries are as follows:

Africa: N/A

Asia Pacific: Fiji, Marshall Islands, South Korea

Eastern Europe: Armenia, Bulgaria, Poland, Slovakia

Latin America/Caribbean: Argentina, Bahamas, Brazil, Chile, Mexico, Peru, Uruguay

WEOG: Australia, Austria, Denmark, Germany, Italy, Netherlands, Spain

C. Scope of the Mandates

A substantive comparison of mandates of the Burundi and Myanmar mechanisms suggests the following key distinctions:

1. The approaches to accountability may be explained by the distinct patterns of state-sanctioned violence in each case. The response to targeted violence against ethnic or religious groups is focused on ending impunity for international crimes and generalized political repression received broader interventions. The UNIIB and the IIFFMM focused on fact-finding in Burundi and Myanmar, respectively.⁴² The HRC directed the UNIIB to investigate gross human rights violations with “a view to preventing further deterioration of the human rights situation.”⁴³ Furthermore, the HRC mandated the UNIIB to work closely with regional authorities and other stakeholders to ensure complementarity and coordination in regional and international efforts.⁴⁴

In Myanmar, the military and security forces conducted grave and targeted violence against the Rohingya minority. The Myanmar fact-finding mission was tailored more narrowly to promoting criminal accountability for international violations committed against the ethnic and religious minority group. The mandate of the IIFFMM focused on investigating these violations, with the aim of ensuring “full accountability for perpetrators and justice for victims.”⁴⁵ The HRC created the subsequent mechanism, the IIMM,

specifically to expand the evidence collection capacity of the fact-finding mission,⁴⁶ thus enabling further support for criminal prosecutions.⁴⁷

2. Like the fact-finding missions, the mandates of the investigative mechanisms for Burundi and Myanmar had different emphases on accountability. Initially the Burundi COI had a specific focus on accountability for international crimes that may have been committed.⁴⁸ It deepened the work of the UNIIB by shifting focus from the discovery of atrocities and prevention of further violence to accountability and addressing impunity. The first report of the Burundi COI (published on August 11, 2017) suggested that the ICC Office of the Prosecutor open an investigation into Burundi; and the pre-trial chamber approved the request to open an investigation on October 25, 2017.⁴⁹ The COI was expansive. It looked to leverage its work across multi-lateral organizations. It recommended that its findings be shared with the Security Council to support targeted sanctions as well.⁵⁰ Also, the commission recommended that the African Union work towards resolving the crisis, and that international donors refrain from funding the government of Burundi.⁵¹

In contrast, the HRC created the investigative mechanism for Myanmar, the IIMM, specifically to expand the evidence collection capacity of the fact-finding mission⁵² and, thus, enable criminal prosecutions.⁵³ It has confined the mandate to this purpose. The HRC tasked the IIMM with collaborating with the ICC and any other domestic, regional, or international courts or tribunals that may exercise jurisdiction over alleged perpetrators.⁵⁴ The investigative mechanism is preparing files with the aim “to facilitate and expedite fair and independent criminal proceedings ... in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes.”⁵⁵ The focus on international criminal investigations has shaped the work of the IIMM. The mechanism conducts verification process and preserves evidence to meet international standards.⁵⁶ The latest renewal of the IIMM specifically mandated it to coordinate with current proceedings at the

ICC and the International Court of Justice (ICJ) involving the international crimes committed in Myanmar.⁵⁷

3. In both Burundi and Myanmar, lack of the opportunity for accountability in domestic judicial systems featured prominently as a justification for the HRC to follow the fact-finding missions by creating more focused investigative mechanisms.⁵⁸ The UNIIB recommended the creation of the COI in light of the lack of judicial independence.⁵⁹ Similarly, the IFFMM found very little domestic accountability and noted the significant investment of the Myanmar government in its military (the Tatmadaw).⁶⁰

D. Summary Conclusion

This working paper offers an in-depth, comparative analysis of human rights mechanisms for Burundi and Myanmar established by the Human Rights Council over the objections of the concerned states. Examination of the voting patterns of HRC member states by regional groups indicates that countries in the Global North (the WEOG group, primarily) consistently champion these mechanisms. The three regional groups consisting of countries in the Global South—Asia Pacific, Latin America, and Africa—play a decisive role. Reluctance among some states to authorize a mandate in the face of opposition by the concerned state may be overcome. Indeed, without support among states in the Global South, there would not be sufficient votes to move forward in these circumstances. With support from states in the Global South, the HRC created fact-finding missions for each country, which subsequently led to the creation of investigative mandates. Thus, the recommendations of the fact-finding missions to create further mechanisms with mandates to support criminal prosecutions, proved a significant development. In each country, there is an on-going process of evidence gathering. In the case of Myanmar, the mandate to prepare portfolios of evidence that may be used in domestic, regional, or international judicial processes may prove an effective way to provide justice to victims. The model of progressive HRC mechanisms, capable of gathering evidence that meets international standards, creates an important

avenue to combat impunity in contexts where concerned governments are not able or willing to do so. Stakeholders should take note of this development and consider how best to utilize it in similar contexts.

METHODOLOGY

This analysis examines the annual votes and interactive dialogues that the HRC held regarding the fact-finding and investigative mechanisms in Burundi and Myanmar. For Burundi, this report analyzes five (5) annual votes between 2016-2020 the HRC held regarding the two consecutive human rights mandates it created. The HRC created the UNHCR in a special session in 2015 without a vote. In 2016, the HRC voted to create a COI for Burundi, the renewal of which was put to a vote four times, annually from 2017-2020. For Myanmar, this report examines three (3) annual votes between 2018-2020, the HRC held regarding the two consecutive human rights mandates it created for the country. The HRC established the IFFMM at the 57th regular meeting in 2017, without a vote. In 2018, the HRC voted to create the IIMM, an evidence collection mechanism, but it did not begin operations until 2019.⁶¹ The IIMM has been renewed once, in 2020.

For each vote, researchers reviewed the written statements that representatives of governments issued in conjunction with HRC votes. In instances in which a state representative issued oral remarks only, researchers transcribed recordings of statements using Amazon Transcribe. Not every state offered a public statement explaining its vote. For Burundi's mechanisms, of the 265 votes cast over the five resolutions at issue, twenty-three votes were accompanied by a written or verbal statement. For Myanmar, of the 159 votes cast across the three annual votes, forty-three votes were accompanied by a written or verbal statement. Researchers reviewed secondary literature to supplement the public record, although for many states there is no publicly available explanation for their vote. Observations from these data suggest common themes that are summarized.

To provide greater context, the mandates for each mechanism also are reviewed and their differences noted. The successive investigations are summarized. Implementation of each mandate is described, with attention to how evidence was collected and preserved. The challenges attributed to the opposition of Burundi and Myanmar to the mandates are identified. Secondary literature supplemented analysis of the primary documents.

Finally, the voting patterns for Burundi, Myanmar, and Sri Lanka are compared in a summary fashion (Figures 12–16) to illustrate the extent to which countries voted consistently across HRC-created mechanisms for each country.

COMPARATIVE ANALYSIS

The data suggest that in Burundi and Myanmar, the unique situation in each country shaped the voting patterns. In the case of Burundi, many African nations opposed both the fact-finding mission and the commission of inquiry and criticized the United Nations for lack of deference to regional efforts to address the situation. States cited these concerns as the mandate of the Commission of Inquiry expanded beyond its original purpose.⁶² In contrast, for the votes on the Myanmar mechanisms, there was overwhelming support, especially among Muslim-majority states and members of the Organization for Islamic Cooperation (OIC) (Figure 1 and 2).⁶³ It is reasonable to assume that the severity of the violations and their perpetration against a Muslim-majority population contributed to support for the Myanmar mechanisms.⁶⁴

A. Comparative Analysis of Voting Patterns

A comparison between Burundi and Myanmar reveals five observations in voting patterns:

1. The countries in the Global North overwhelmingly support fact-finding and investigative mechanisms (Figures 3 and 5).

2. The majority of countries in Latin America and the Caribbean also support fact-finding and investigative mechanisms (Figure 4).
3. The more grave and widespread the human rights violations, the more likely countries are to support more intrusive investigative mechanisms. For example, the UNHCR found that “gross and systemic” human rights violations including arbitrary deprivations of life, enforced disappearances, torture, other forms of ill-treatment, massive arbitrary detention, and deprivation of freedoms of expression, association and assembly occurred in Burundi.⁶⁵ The experts “could not rule out” that these violations amounted to crimes against humanity.⁶⁶ In the vote to establish the COI to continue investigations, the resolution passed by nineteen (19) to seven (7) with twenty-one (21) abstentions.⁶⁷

Similarly, the IFFMM found evidence that genocide, ethnic cleansing, war crimes, and crimes against humanity occurred in Myanmar.⁶⁸ In the vote establishing the IIMM, the resolution passed by thirty-five (35) to three (3) with seven (7) abstentions.⁶⁹

4. Countries and regions may vote in solidarity with regional, ethnic, and/or religious affiliations. In the case of Burundi, many African states abstained noting concern that the HRC did not sufficiently defer to regional efforts to address the situation.⁷⁰ Similarly, in the case of Myanmar, many Muslim-majority countries supported the mechanisms because citing the need for accountability for international crimes perpetrated against Muslims.⁷¹
5. Finally, there is a core block of four (4) to nine (9) countries that vote consistently against country-specific mechanisms on principle: Bolivia, China, Cuba, Iran, North Korea, the Philippines, Russia, and Venezuela. (Figures 2-4).

Figures 1-5 illustrate these trends by comparing the voting records of HRC members on the relevant votes on the Burundi (33/24, 2016; 36/19, 2017; 39/14, 2018; 42/26, 2019;

45/L.36, 2020) and Myanmar (39/2, 2018; 42/3, 2019; 43/26, 2020) resolutions as well as the HRC votes on various resolutions on Sri Lankan mechanisms.⁷² Unless a state is identified as “switched,” it voted as indicated across all relevant country-specific resolutions. The current HRC members that voted yes across all resolutions for all three countries are as follows:

Africa: N/A

Asia Pacific: Fiji, Marshall Islands, South Korea

Eastern Europe: Armenia, Bulgaria, Poland, Slovakia

Latin America/Caribbean: Argentina, Bahamas, Brazil, Chile, Mexico, Peru, Uruguay

WEOG: Australia, Austria, Denmark, Germany, Italy, Netherlands, Spain

All figures within this report will be using the following key:

KEY	
	Not a member of the council at the time of the vote
	Voted in favor
	Abstained
	Voted Against
SWITCH	Country changed vote from one session to another
**	Current member of HRC

Figure 1 - African Countries Summarized Voting Pattern

Country	Burundi	Myanmar	Sri Lanka
Algeria	A		N
Angola**	A	A	A
Benin			Y
Botswana	SWITCH		SWITCH
Burkina Faso**	A	Y	A
Burundi	N	N	
Cameroon**	N	A	Y
Congo**	SWITCH	SWITCH	N
Côte d'Ivoire	A	Y	Y
Djibouti			A
Egypt	N	Y	
Eritrea	SWITCH	Y	
Ethiopia	A	A	A
Gabon			A
Ghana	SWITCH		
Kenya	A	A	SWITCH
Libya**	A	Y	Y
Mauritania**	A	Y	N
Mauritius			Y
Morocco	N		A
Namibia **	A	Y	A
Nigeria**	A	Y	Y
Rwanda	Y	Y	
Senegal**	A	SWITCH	A
Sierra Leone			Y
Somalia**	N	Y	
South Africa	SWITCH	SWITCH	A
Sudan**	A	Y	
Togo**	SWITCH	Y	
Tunisia	A	Y	
Uganda			N

Figure 2 - Asia Pacific Countries Summarized Voting Pattern

Country	Burundi	Myanmar	Sri Lanka
Afghanistan**	A	Y	
Bahrain**	A	Y	
Bangladesh**	A	Y	N
China	N	N	N
Fiji**	Y	Y	
India**	A	A	SWITCH
Indonesia**	A	A	SWITCH
Iraq	A	Y	
Japan**	Y	A	A
Jordan			A
Kazakhstan			A
Kuwait			SWITCH
Kyrgyzstan	A	Y	A
Malaysia			A
Maldives	A		N
Marshall Islands*	Y	Y	
Mongolia	Y	A	
Nepal**	A	A	
Pakistan**	SWITCH	Y	N
Philippines**	SWITCH	N	SWITCH
Qatar**	A	Y	N
Saudi Arabia	SWITCH	Y	N
South Korea**	Y	Y	Y
Thailand			N
U.A.E	SWITCH	Y	N
Viet Nam	A		N

Figure 3 - Eastern European Countries Summarized Voting Pattern

Country	Burundi	Myanmar	Sri Lanka
Albania	Y		
Armenia**	Y	Y	
Bulgaria**	Y	Y	
Croatia	Y	Y	
Czechia**	Y	Y	Y
Estonia			Y
Georgia	SWITCH	Y	
Hungary	Y	Y	Y
Latvia	Y		
Moldova			Y
Montenegro			Y
North Macedonia	Y		Y
Poland**	Y	Y	Y
Romania			Y
Russia	N		N
Slovakia**	Y	Y	
Slovenia	Y	Y	
Ukraine**	Y	SWITCH	

Figure 4 - Latin American and Caribbean Countries Summarized Voting Pattern

Country	Burundi	Myanmar	Sri Lanka
Argentina**	Y	Y	Y
Bahamas**	Y	Y	
Bolivia	N		
Brazil**	Y	Y	Y
Chile**	Y	Y	Y
Costa Rica			Y
Cuba	N	No Vote	N
Ecuador	SWITCH	Y	N
El Salvador	Y		
Guatemala			Y
Mexico**	Y	Y	Y
Panama	Y	Y	
Paraguay	Y		
Peru**	Y	Y	Y
Uruguay**	Y	Y	Y
Venezuela**	N	N	N

Figure 5 - WEOG Countries Summarized Voting Pattern

Country	Burundi	Myanmar	Sri Lanka
Australia**	Y	Y	
Austria**	Y	Y	Y
Belgium	Y	Y	Y
Denmark**	Y	Y	
France	Y		Y
Germany**	Y	Y	Y
Iceland	Y	Y	
Ireland			Y
Italy**	Y	Y	Y
Netherlands**	Y	Y	
Norway			Y
Portugal	Y		
Spain**	Y	Y	Y
Switzerland	Y	Y	Y
U.K.	Y	Y	Y
U.S.A	Y		Y

B. Comparative Analysis of Substantive Mandates

A comparison of mandates of the Burundi and Myanmar mechanisms suggests the following key distinctions:

1. The approaches to accountability may be explained by the distinct patterns of state-sanctioned violence in each case. The response to targeted violence against ethnic or religious groups is focused on ending impunity for international crimes and generalized political repression received broader interventions. The UNIIB and the IIFFMM focused on fact-finding in Burundi and Myanmar, respectively.⁷³ In Burundi, the experts concluded that the government was responsible for “the vast majority” of violations, committed with the aim of quashing all political dissent.⁷⁴ The HRC directed the UNIIB to investigate gross human rights violations with “a view to preventing further deterioration of the human rights situation.”⁷⁵ Furthermore, the HRC mandated

the UNIIB to work closely with regional authorities and other stakeholders, including the African Union, the African Commission on Human and People's Rights (ACHPR), and others to ensure complementarity and coordination in regional and international efforts.⁷⁶ Thus the fact-finding mission for Burundi had a broad mandate that contemplated multiple solutions for the human rights situation and included prevention as well as accountability for past wrongs.

In Myanmar, the military and security forces conducted grave and targeted violence against the Rohingya minority. The Myanmar fact-finding mission was tailored more narrowly to promoting criminal accountability for international violations committed against the ethnic and religious minority group. The mandate of the IIFFMM focused on investigating these violations, with the aim of ensuring "full accountability for perpetrators and justice for victims."⁷⁷ The HRC created the subsequent mechanism, the IIMM, specifically to expand the evidence collection capacity of the fact-finding mission,⁷⁸ thus enabling further support for criminal prosecutions.⁷⁹

2. Like the fact-finding missions, the mandates of the investigative mechanisms for Burundi and Myanmar had different emphases on accountability. Initially the Burundi COI had a specific focus on accountability for international crimes that may have been committed.⁸⁰ It deepened the work of the UNIIB by shifting focus from the discovery of atrocities and prevention of further violence to accountability and addressing impunity. The first report of the Burundi COI (published on August 11, 2017) suggested that the ICC Office of the Prosecutor open an investigation into Burundi; and, on September 5, 2017, the Prosecutor submitted a request to the pre-trial chamber to do so. The pre-trial chamber approved the request on October 25, 2017.⁸¹ However, the COI did not recommend that any national jurisdiction seek to prosecute international crimes (under universal jurisdiction or otherwise). The COI was expansive. It looked to leverage its work across multi-lateral organizations. It

recommended that its findings should be shared with the Security Council to support targeted sanctions as well.⁸² Also, the commission recommended that the government of Burundi take specific steps to resolve the human rights violations, the African Union work towards resolving the crisis, and that international donors refrain from funding the government of Burundi.⁸³ In turn, the HRC used the mechanism to advance additional goals. The body expanded the COI's mandate beyond the human rights violations connected to the 2015 coup.⁸⁴ The HRC directed the COI to investigate contemporaneous human rights violations connected to political processes and the underlying factors contributing to the more general conditions of impunity and inequality in the country.⁸⁵

In contrast, the HRC created the investigative mechanism for Myanmar, the IIMM, specifically to expand the evidence collection capacity of the fact-finding mission⁸⁶ and, thus, enable criminal prosecutions.⁸⁷ It has confined the mandate to this purpose. The HRC tasked the IIMM with collaborating with the ICC and any other domestic, regional, or international courts or tribunals that may exercise jurisdiction over alleged perpetrators.⁸⁸ The investigative mechanism is preparing files with the aim "to facilitate and expedite fair and independent criminal proceedings ... in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes."⁸⁹ The focus on international criminal investigations has shaped the work of the IIMM. The mechanism conducts verification process and preserves evidence to meet international standards.⁹⁰ The latest renewal of the IIMM specifically mandated it to coordinate with current proceedings at the ICC and the International Court of Justice (ICJ) involving the international crimes committed in Myanmar.⁹¹

2. In both Burundi and Myanmar, lack of the opportunity for accountability in domestic judicial systems featured prominently as a justification for the HRC to follow the fact-finding missions by creating more focused investigative

mechanisms.⁹² The UNIIB recommended the creation of the COI in light of the lack of judicial independence.⁹³ Similarly, the IIFFMM found very little domestic accountability and noted the significant investment of the Myanmar government in its military (the Tatmadaw).⁹⁴

1. Opposition by the Country Concerned

Burundi and Myanmar opposed the mechanisms the HRC created, and the countries denied the international experts' entry for the fact-finding mission and the investigative mechanisms. This lack of access forced the experts to request mandate extensions, and shaped their evidence gathering.⁹⁵ The Burundi COI staff collected testimonial evidence through interviews with Burundian refugees in the surrounding region.⁹⁶ Similarly, the IIFFMM and the IIMM are limited to interviewing victims and refugees in neighboring countries, especially Bangladesh.⁹⁷ Since the Covid-19 pandemic, interviewers have attempted to gather evidence remotely with some virtual contact with refugee populations.⁹⁸ The IIMM has also conducted the majority of the investigation via open-source documents available on-line including photos and videos, a process which requires substantial verification of images and videos.⁹⁹ This type of open-source investigations has been a powerful tool to investigate war crimes without access to countries.¹⁰⁰

2. Relationship with the ICC

The evidence suggests that countries in the Global North and Global South at times diverge in their support for international criminal accountability. In general, Global North countries are more likely to recommend engagement of the country in question with the International Criminal Court (ICC) than countries in the Global South. In their comments in HRC sessions regarding the Burundi COI, members of the European Union called on Burundi to cooperate with an ongoing ICC investigation.¹⁰¹ Similarly, EU and WEOG countries encouraged Myanmar to cooperate with an ICC investigation into the Rohingya crisis.¹⁰² Conversely, the Democratic Republic of the Congo (DRC) switched

from abstaining to voting against the Burundi COI when the commission recommended the ICC bring charges against Burundi.¹⁰³

However, some Global South states did support criminal accountability. In a statement about the IIMM, Bangladesh commended the ICC, and seconded the IIFFMM's suggestion that the Security Council create an ad hoc international tribunal "without delay" to bring perpetrators of the "genocide" to justice.¹⁰⁴ Furthermore, although Latin American and Caribbean countries did not make any statements about the ICC in their comments regarding the Burundi COI, they strongly supported the intervention of the ICC or other criminal prosecutions in response to the human rights violations in Myanmar.¹⁰⁵ Furthermore, Argentina brought cases in its domestic courts against perpetrators in Myanmar under universal jurisdiction.¹⁰⁶

BURUNDI

A. Overview: Analysis of Voting Patterns

There is a clear global divide in support for the Burundi mechanisms: states in the Global North (WEOG and Eastern Europe) formed the majority of states that voted in favor of fact-finding mission and the COI (Figures 15 and 16). Of states in the Global South, the majority of states in the Latin America regional group voted in favor of the mechanisms, arguing that the U.N. had to intervene before human rights violations escalated (Figure 7).¹⁰⁷ In the Asia-Pacific region, none of the countries that voted in favor of the COI resolutions offered public comments.¹⁰⁸ In the African region, the overwhelming majority of states abstained (Figure 8). Rwanda was the only African country that voted in favor of the mechanism and provided comments, citing its concern for the flood of Burundian refugees into the country.¹⁰⁹

A block of approximately eight (8) countries consistently oppose country-specific mandates (principally Bolivia, China, Cuba, Iran, North Korea, Russia, and Venezuela)

(Figures 13 and 15). Beyond these, few states voted against the COI mandate although many that abstained cited concern with country-specific mandates.¹¹⁰ Some states noted concern about the competing resolutions.¹¹¹ Other factors cited as important to states that voted against the mandate at any time since 2016 were: (1) lack of dialogue with Burundi;¹¹² (2) illegitimate expansions of the mandate;¹¹³ and (3) the opening of an ICC investigation.¹¹⁴ Many Global North countries faulted Burundi for the lack of dialogue.¹¹⁵ Conversely, many Global South countries faulted the EU for failing to compromise to meet the needs of Burundi and of African states.¹¹⁶ They cited this lack of dialogue as the reason they could not support the mandate despite evidence of crimes against humanity.¹¹⁷

B. Analysis of State Support for Mechanisms

The voting records for the HRC votes regarding the Burundi COI are presented below. To provide greater insight into the voting record of countries in the Global South, narrative observations of the voting patterns of the Asia, Latin America, and Africa Regional Groups are provided.

1. Asia Pacific Region (thirteen votes)

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Votes in favor:</u>	2	3	3	2	4
<u>Votes against:</u>	1	3	3	4	2
<u>Abstentions:</u>	10	7	7	7	7

Observations: The majority of countries in the Asia Pacific regional block consistently abstained from voting on the Burundi HRC resolutions, with the remaining votes evenly split between those favoring and opposing the mechanisms (Figure 6). The exception is the 2020 vote, where only Pakistan and the Philippines voted against the resolution.¹¹⁸ Japan supported the resolutions.¹¹⁹ In its only vote statement given at the discussion of the UNIIB report, Japan called for regional dialogue and scrutiny of the efficacy of the HRC's country-specific mandates.¹²⁰ China voted consistently against the resolutions on

the grounds that dialogue, economic development, and non-intervention were preferable methods to address human rights violations (non-HRC members Iran, Myanmar, and North Korea expressed similar views).¹²¹ For states that explained their abstentions (Bahrain, Saudi Arabia, and the United Arab Emirates), their representatives objected to expansion of the mandate and the scope of the reporting.¹²² The Philippines and Pakistan did not provide explanations regarding their change of vote from abstention to against.¹²³

Figure 6 - Asia Pacific Countries Voting Pattern on Burundi Mechanisms

Country	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36
Initially Voted In Favor					
Mongolia	Y	Y	Y		
South Korea**	Y	Y	Y		Y
Japan**		Y	Y	Y	Y
Fiji**				Y	Y
Marshall Islands**					Y
Initially Abstained					
Bangladesh**	A	A		A	A
India**	A	A		A	A
Indonesia**	A	A			A
Kyrgyzstan	A	A	A		
Maldives	A				
Philippines**	A	A	A	N	N
Qatar**	A	A	A	A	A
Saudi Arabia	A	N	N	N	
U.A.E	A	N	N		
Viet Nam	A				
Iraq		A	A	A	
Afghanistan**			A	A	A
Nepal**			A	A	A
Pakistan**			A	N	N
Bahrain**				A	A
Initially Voted Against					
China	N	N	N	N	

2. Latin America and Caribbean Region (eight votes)

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Votes in favor:</u>	4	4	6	7	7
<u>Votes against:</u>	3	3	2	1	1
<u>Abstentions:</u>	1	1	0	0	0

Observations: There are almost no abstentions within this regional block (Figure 7). For its first two years, the votes were split closely between those in favor and those opposed to the COI (Figure 7). Support for the mechanism increased over time and increased substantially in the last two votes (Figure 7).¹²⁴ Voting trends in this region may be explained partially by its historic commitment to human rights, particularly since the restoration of democratic rule in the late 1980s.¹²⁵ Argentina, the Bahamas, Brazil, Chile, Peru and Uruguay supported the resolution, but stressed the importance of cooperation and dialogue with Burundi.¹²⁶ Uruguay's statement at the special session creating the UNHCR emphasized that "it was the international community's responsibility to protect the Burundian population."¹²⁷ Bolivia, Cuba, and Venezuela voted against the resolutions citing principled objections to country-specific mandates.¹²⁸ Cuba, Nicaragua, and Venezuela joined a Saudi Arabian statement criticizing the COI for "overreach" in recommending charges be brought to the ICC.¹²⁹ Ecuador changed its vote from abstain to "yes" in 2018, but did not explain its decision.¹³⁰

Figure 7 - Latin American and Caribbean Countries Voting Pattern on Burundi Mechanisms

Country	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36
Initially Voted In Favor					
El Salvador	Y	Y			
Mexico**	Y		Y	Y	Y
Panama	Y	Y	Y		
Paraguay	Y	Y			
Brazil**		Y	Y	Y	Y
Chile**			Y	Y	Y
Peru**			Y	Y	Y
Argentina**				Y	Y
Bahamas**				Y	Y
Uruguay**				Y	Y
Initially Abstained					
Ecuador	A	A	Y		
Initially Voted Against					
Bolivia	N	N			
Cuba	N	N	N	N	
Venezuela**	N	N	N		N

3. African Region (thirteen votes)

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Votes in favor:</u>	1	2	1	1	0
<u>Votes against:</u>	2	5	3	6	3
<u>Abstentions:</u>	10	6	9	6	10

Observations: African states voted as a block, with the overwhelming majority making statements condemning the COI but abstaining (Figure 8).¹³¹ Rwanda voted in favor of the resolutions, citing the surge in Burundian refugees in Rwanda.¹³² Tanzania also made several statements about its struggles to support refugees from Burundi, but was not a voting member at the time.¹³³ African states were especially concerned after the COI requested that the ICC open an investigation into the situation in Burundi in 2017, which led the Congo and South Africa to switch from abstaining to voting against the

COI mandate resolutions.¹³⁴ South Africa did not explain its votes;¹³⁵ however, according to the South African Institute of International Affairs, the government opposes country-specific mandates that do not have the approval of the country in question.¹³⁶ Ghana also changed its vote from in favor to against in 2017; and Togo changed its vote from an abstention to against in 2019.¹³⁷ Neither state gave an explanation of its vote. Furthermore, Botswana changed its vote from an abstention to in favor in 2017, but it did not give an explanation.¹³⁸ Eritrea also changed from voting against to an abstention in 2020 without an explanation.¹³⁹ The countries that abstained often mentioned the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI.¹⁴⁰

Figure 8 - African Countries Voting Pattern on Burundi Mechanisms

Country	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36
Initially Voted In Favor					
Ghana	Y	N			
Rwanda		Y	Y	Y	
Initially Abstained					
Algeria	A				
Botswana	A	Y			
Congo**	A	N	N	N	A
Côte d'Ivoire	A	A	A		
Ethiopia	A	A	A		
Kenya	A	A	A		
Namibia **	A				A
Nigeria**	A	A	A	A	A
South Africa	A	N	A	A	
Togo**	A	A	A	N	N
Tunisia		A	A	A	
Angola**			A	A	A
Senegal**			A	A	A
Burkina Faso**				A	A
Libya**					A
Mauritania**					A
Sudan**					A
Initially Voted Against					
Burundi	N	N	N		
Morocco	N				
Egypt		N	N	N	
Cameroon**				N	N
Eritrea				N	A
Somalia**				N	N

C. Overview: Analysis of Mandate

The UNIIB mandate focused on fact-finding. The HRC directed the mechanism to investigate alleged gross human rights violations with “a view to preventing further deterioration of the human rights situation.”¹⁴¹ Its report concluded that possible crimes against humanity had been committed.¹⁴² In contrast, the COI mandate directed the

mechanism to investigate these gross human rights violations, determine if they constituted international crimes, identify alleged perpetrators, and recommend measures to hold wrongdoers accountable.¹⁴³ In other words, the UNIIB gathered evidence of violations while the COI mandate deepened this investigation by concentrating on evidence collection and recommending methods for international accountability for international crimes.¹⁴⁴

Both mandates directed their commissioners to engage with Burundian authorities, the Burundi field office the U.N. Office of the High Commissioner, the African Union, the African Commission on Human and People's Rights, and all other "relevant stakeholders."¹⁴⁵ However, the role of the UN mechanism relative to these stakeholders differed and reflects a more assertive role for the COI. Where the HRC instructed the UNIIB to support regional and domestic entities such that these might ensure accountability, the HRC positioned the COI as taking the lead in the "fight against impunity;" thus directing the COI to engage with domestic and international entities such that the latter might provide the "support and expertise" to assist the COI in carrying out its goal.¹⁴⁶

In examining the mandate, structure, and findings of the COI, key features should be noted. The COI faced two key challenges that shaped its later mandates and the structure of its work. First, Burundi did not allow members of the Commission to enter the country thus limiting the evidence gathering to interviews with refugees, victims, and witnesses residing in the surrounding region, many of whom were afraid to speak to the COI.¹⁴⁷ The inability to enter Burundi delayed evidence gathering and required extensions in order for the COI to conclude its initial mandate.¹⁴⁸ Second, given a troubling constitutional amendment and subsequent election violence and intimidation, the HRC expanded the COI's mandate beyond the human rights violations connected to the 2015 coup.¹⁴⁹ The HRC directed the COI to investigate contemporaneous human rights violations connected to political processes and the underlying factors contributing to the more general conditions of impunity and inequality in the country.¹⁵⁰

D. Development of Mandate and Findings of Mechanisms

1. The United Nations Independent Investigation on Burundi

The HRC established the UNIIB in a special session on 17 December 2015.¹⁵¹ The United States, supported by seventeen other states, called for the session in response to reports of atrocities after a failed coup d'état in May 2015.¹⁵² (See Appendix A) The trigger for the conflict was President Pierre Nkurunziza announcing his intention to run for a third term, which prompted the military to launch a failed attempt to prevent the president from returning to Burundi.¹⁵³ The African Commission of Human and People's Rights (ACHPR) created a fact-finding mission to investigate the escalating violence in December 2015, and subsequently called for the creation of a joint international/regional investigative mechanism.¹⁵⁴

Burundi opposed the special session but stated its intent to request international aid and police presence at a future date.¹⁵⁵ The HRC proceeded with the session and created the UNIIB without a vote.¹⁵⁶ Several countries voiced their reservations about the UN intervening in what they characterized as a political, rather than humanitarian situation, and requested that the mechanism be structured to promote and facilitate cooperation and dialogue within Burundi.¹⁵⁷

The mandate of the UNIIB established an investigative mission of independent experts to examine human rights violations "with a view towards preventing further deterioration of the situation and making recommendations to improve the situation and further implement the Arusha Accords" (which ended Burundi's civil war in 2000).¹⁵⁸ The mandate also requested that the commission engage with Burundian authorities and stakeholders, the African Union, the ACHPR, and other regional and domestic actors to ensure complementarity and coordination in regional and international efforts.¹⁵⁹ The council appointed two UN experts and one from the AU to the mandate, underscoring its international-regional collaborative structure.¹⁶⁰

The UNIIB report detailed gross violations of human rights by the government and found a gross failure of domestic accountability mechanisms, which the report links to a finding that the government was unable to prevent further violence.¹⁶¹ It calls for criminal accountability under unspecified international judicial processes.¹⁶² Additionally, the UNIIB found that these violations and lack of accountability were patterns within Burundi.¹⁶³ It found that abatement of violence and increased accountability was unlikely given how deeply entrenched these patterns were in Burundian society and government.¹⁶⁴ Accordingly, the UNIIB recommended the immediate establishment of an international commission of inquiry to continue the work of the UNIIB.¹⁶⁵ In light of the lack of judicial independence in Burundi, the UNIIB suggested a commission be mandated to “ensure individual accountability” and that its findings should be shared with the Security Council to support targeted sanctions as well as any international criminal proceedings.¹⁶⁶ Moreover, the UNIIB conclusion that the evidence it gathered supported the need for accountability for crimes against humanity was a significant impetus for not only the creation of the COI (discussed below), but also the opening of an ICC preliminary investigation into Burundi on 25 April 2016.¹⁶⁷

2. The Commission of Inquiry on Burundi

The HRC acted upon the recommendation of the UNIIB and created the Commission of Inquiry (COI) in September 2016.¹⁶⁸ Of relevance to this analysis, the mandate for the COI includes an investigation into all events since April 2015 and is ongoing. In other words, the COI mandate overlaps with the same period as its predecessor mechanism, but with a specific focus on accountability for international crimes that may have been committed.¹⁶⁹ The HRC has extended the COI four times.¹⁷⁰ Initially, the HRC extended the mandate due to the COI’s inability to access Burundi or conduct any on-site investigation.¹⁷¹ Beginning in 2018, the HRC extended the mandate to respond to the deteriorating political and social situations within Burundi.¹⁷² The COI’s mandates require annual reporting to the HRC and the UN General Assembly, which has enabled greater international involvement in the scope and direction of the COI.¹⁷³ This

intervention is especially evident in the 2019 and 2020 renewals where states pressed for inclusion of election monitoring and corruption investigations in the mandate.¹⁷⁴ As a result, a fuller record of human rights violations has developed over time. However, the expansion of the investigation has also led to disagreement within the HRC about the role of the council in national political affairs and the propriety of amendments to the mandate in this manner.

In its original mandate, the HRC directed the COI to:

- a) determine if any of the findings in the UNIIB report constitute international crimes,
- b) identify alleged perpetrators with a view of ensuring full accountability,
- c) formulate recommendations on how to ensure accountability for all authors of these violations and abuses, and
- d) engage with Burundian government and relevant actors, the AU, and the ACHPR to support improvement of the situation and accountability for all involved.¹⁷⁵

The COI deepened the work of the UNIIB by shifting the focus of international intervention from the discovery of atrocities and prevention of further violence to accountability for atrocities committed and addressing impunity within Burundi. For an overview of the findings of the COI over time, please see Appendix A.

The COI intended to conduct an on-site investigation in Burundi as well as throughout the region.¹⁷⁶ However, Burundi denied entry to the COI members.¹⁷⁷ Thus, COI staff collected testimonial evidence through interviews with Burundian refugees in the surrounding region.¹⁷⁸ Although the COI conducted more than 500 interviews in its first year, many victims and witnesses were too afraid to be interviewed.¹⁷⁹ These challenges did not permit the commission to investigate all violations and abuses in its first year.¹⁸⁰ Therefore, the COI recommended, and the HRC passed, a one-year continuation of the mechanism to enable it to conduct further and more thorough investigations, and to continue investigating any new violations that occurred since it issued its first report.¹⁸¹

This marked the first expansion of the mandate of the COI from one focused on the human rights violations and crimes against humanity in the aftermath of the coup to a broader scope that encompassed contemporaneous political developments in Burundi. Teams from subsequent extensions have also been excluded from Burundi and have continued investigation mainly through interviews in neighboring countries.¹⁸²

The COI is currently made up of the thirteen members: one coordinator, one chief investigator, one reporting officer/legal advisor, one media advisor, one financial investigator, two human rights investigators, one sexual and gender-based violence investigator/gender advisor, two interpreters, one security officer, one archivist, and one administrative assistant.¹⁸³ The financial investigator position was added in 2019, in response to concerns about corruption and the economic underpinnings of human rights violations.¹⁸⁴ The initial budget for the COI included positions for one forensic anthropologist and one forensic pathologist, however those positions have been cut due to lack of access to Burundi.¹⁸⁵

MYANMAR

A. Overview: Analysis of Voting Patterns

There was broad support across regions for the Myanmar mechanisms (Figures 12–16). States in the Global North (WEOG and Eastern Europe) had the fewest abstentions or votes in opposition to the mandates (Figures 15 and 16). The Latin America and the Caribbean regional bloc and the Africa regional bloc also voted overwhelmingly in support of the two mechanisms (Figures 12 and 14). Based on an analysis of voting statements, the global support for the mechanisms may be attributed to the gravity of international crimes at issue: crimes against humanity and genocide.¹⁸⁶ Additionally, many Muslim-majority countries (supported by the Organization for Islamic Cooperation, or OIC) strongly supported the mechanisms because the Rohingya were majority-Muslim.¹⁸⁷ In the Asia-Pacific region, many states noted the egregiousness of the crimes and the failure of Myanmar to convincingly attempt to address them.¹⁸⁸ Among the Africa

regional group, the only state to explain its vote was Egypt, which also emphasized the gravity of the crimes and the need for the international community to protect the Rohingya as a religious minority.¹⁸⁹ Latin American and Caribbean countries generally supported the mechanisms.¹⁹⁰ Countries across all regions welcomed the intervention of the International Criminal Court (ICC) or other criminal prosecutions.¹⁹¹

A block of approximately four (4) countries consistently oppose country-specific mandates (principally China, Cuba, the Philippines, and Venezuela) (Figures 9 and 10).¹⁹² Bolivia, Iran, and Russia also expressed their opposition to country-specific mandates, but these states were not voting members of the HRC at the time.¹⁹³ Principled opposition to country-specific mandates appeared to be the key factor cited by state representatives in opposition to the mechanisms.¹⁹⁴ Other factors included (1) the complexity of the democratic transition in Myanmar;¹⁹⁵ (2) the need to foster dialogue with Myanmar;¹⁹⁶ and (3) the expansion of the mechanism beyond the mandate of the HRC.¹⁹⁷

Burundi was the only African nation to vote against the mechanisms. Its opposition is not surprising in light of Burundi's strenuous objection to the HRC-sponsored commission of inquiry to investigate international crimes committed in Burundi.¹⁹⁸

B. Analysis of State Support for Mechanisms

The voting records for the HRC votes regarding the Myanmar IFFMM and IIMM are presented below. To provide greater insight into the voting record of countries in the Global South, narrative observations of the voting patterns of the Asia, Latin America, and Africa Regional Groups are provided.

Additionally, the OIC advocated for HRC mechanisms in Myanmar, including introducing the initial IIMM resolution to the council.¹⁹⁹ Its membership includes states from the Asia Pacific, Africa, Europe, and South America.²⁰⁰ Pakistan issued statements on behalf of the OIC before the HRC.²⁰¹ These interventions stressed the need for international engagement because of the evidence of crimes against humanity, the structural

discrimination and persecution of the Rohingya as a Muslim minority, the refusal of the Myanmar government to implement U.N. recommendations, and the refugee crisis.²⁰²

1. Asia Pacific Region (thirteen votes)

	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Votes in favor:</u>	8	8	8
<u>Votes against:</u>	2	2	1
<u>Abstentions:</u>	3	3	4

Observations: The Asia Pacific region had the most diverse voting patterns among the three regions in the Global South and there were no observable changes in how a state voted over time.²⁰³ The states that supported the mechanisms generally emphasized the refugee crisis,²⁰⁴ the persecution of a Muslim minority,²⁰⁵ and the gravity of gross human rights violations and potential genocide.²⁰⁶ Afghanistan, the Maldives, and Saudi Arabia also emphasized sexual violence in their comments as a specifically egregious crime against humanity.²⁰⁷ Afghanistan and Pakistan expressed their concern about the structural discrimination against and persecution of the Rohingya for decades in Myanmar.²⁰⁸ Afghanistan, Malaysia, the Maldives, and South Korea also stated that a mechanism was necessary because the government had failed to convincingly address the crisis, change the policies, or take steps towards ending the violations.²⁰⁹ Finally, Bangladesh, Malaysia, and Saudi Arabia celebrated the ICJ decision that imposed interim measures against Myanmar.²¹⁰ Many countries also thanked Bangladesh for its hospitality and support of the refugees and noted the positive efforts by the Association of Southeast Asian Nations (ASEAN).

Four of the five abstaining countries offered remarks: India, Indonesia, Japan, and Nepal.²¹¹ Japan and India stated that the U.N. should give Myanmar more time to resolve the crisis on its own, and only then establish a mechanism.²¹² India and Indonesia also stated that the U.N. failed to appreciate the complex nature of building a democracy in Myanmar and that the U.N. should exert greater effort to cooperate with

the government.²¹³ Similarly, Nepal noted a “lack of meaningful dialogue” between the U.N. and Myanmar.²¹⁴

Only China and the Philippines voted against the IIFFMM and the IIMM, stating that country-specific mandates were a violation of sovereignty.²¹⁵ The Philippines also suggested that the U.N. should give Myanmar time to resolve the crisis internally.²¹⁶ China chastised the U.N. for failing to note in draft resolutions the positives steps Myanmar had taken and suggesting that “capacity building” would be a better method of fostering rights than investigative mechanisms.²¹⁷

Figure 9 - Asia Pacific Countries Voting Pattern on Myanmar Mechanisms

Country	2018 39/2	2019 42/3	2020 43/26
Initially Voted In Favor			
Afghanistan**	Y	Y	Y
Iraq	Y	Y	
Kyrgyzstan	Y		
Pakistan**	Y	Y	Y
Qatar**	Y	Y	Y
Republic of Korea	Y		Y
Saudi Arabia	Y	Y	
U.A.E	Y		
Bahrain**		Y	Y
Bangladesh**		Y	Y
Fiji**		Y	Y
Marshall Islands**			Y
Initially Abstained			
Japan**	A	A	A
Mongolia	A		
Nepal**	A	A	A
India**		A	A
Indonesia**			A
Initially Voted Against			
China	N	N	
Philippines**	N	N	N

2. Latin America and Caribbean Region (eight votes)

	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Votes in favor:</u>	6	7	7
<u>Votes against:</u>	0	0	1
<u>Abstentions:</u>	0	0	0
<u>Did Not Vote:</u>	2	1	0

Observations: Except for Cuba and Venezuela, states that traditionally oppose state-specific mandates on principle,²¹⁸ all Latin American and Caribbean countries voted in favor of the IIFFMM and the IIMM (Figure 10). Costa Rica stressed the importance of establishing mechanisms to pursue accountability.²¹⁹ Ecuador and Peru noted their concern about possible crimes against humanity and genocide and welcomed the participation of the ICC or other organizations that could bring criminal charges.²²⁰ Brazil urged Myanmar to cooperate with the mechanisms, but also suggested that the international mechanisms cooperate with Myanmar.²²¹ Mexico echoed this view, noting that changes could not be made until this “trust” had been established.²²²

Cuba and Venezuela stated that it was the role of the international community to promote dialogue and that UPR was the only correct monitoring mechanism.²²³ Bolivia, though it was not a voting party, also stated that it opposed state-specific resolutions.²²⁴

Figure 10 - Latin American and Caribbean Countries Voting Pattern on Myanmar Mechanisms

Country	2018 39/2	2019 42/3	2020 43/26
Initially Voted In Favor			
Brazil**	Y	Y	Y
Chile**	Y	Y	Y
Ecuador	Y		
Mexico**	Y	Y	Y
Panama	Y		
Peru**	Y	Y	Y
Argentina**		Y	Y
Bahamas**		Y	Y
Uruguay**		Y	Y
Initially Abstained			
None			
Initially Voted Against			
None			
Initially Did Not Vote			
Cuba	No Vote	No Vote	
Venezuela**	No Vote		N

3. African Region (thirteen votes)

	<u>2018</u>	<u>2019</u>	<u>2020</u>
<u>Votes in favor:</u>	8	10	9
<u>Votes against:</u>	1	0	0
<u>Abstentions:</u>	4	3	4

Observations: Most of the states in the African region expressed support for the mechanisms, and there were very few changes in how states voted over time (Figure 11). Generally, African states that supported the IIFFMM and the IIMM did not explain their votes. Algeria, though not a voting member, expressed its “deep concern” for the possible crimes against humanity in Myanmar and urged the government to “pursue dialogue” with the U.N. and cooperate with the mechanisms.²²⁵

There were four states that changed their vote (the Democratic Republic of the Congo, Egypt (voted yes with reservations), Senegal, and South Africa).²²⁶ Egypt initially supported the IIFFMM and the IIMM, citing the refugee crisis and its concern for the Muslim religious minority.²²⁷ It supported the 2018 and 2019 resolutions with reservations because it rejected the references to the ICC and believed that the collection of evidence was beyond the mandate of the HRC.²²⁸ Senegal expressed its approval of the ICJ decision, stating that the court's provisional measures were a "huge step forward towards justice for these people."²²⁹ It also called upon the Security Council to address the crisis, stating it had a "moral obligation to respond."²³⁰ Nonetheless, Senegal switched its vote from supporting to abstaining in 2020.²³¹ The Democratic Republic of Congo and South Africa did not provide any vote explanations.²³²

Burundi was the only state to oppose the mandate and it did not explain its vote. Its opposition is not surprising in light of Burundi's strenuous objection to the HRC-sponsored commission of inquiry to investigate international crimes committed in Burundi.²³³

Figure 11 - African Countries Voting Pattern on Myanmar Mechanisms

Country	2018 39/2	2019 42/3	2020 43/26
Initially Voted In Favor			
Congo**	Y	A	A
Côte d'Ivoire	Y		
Egypt	Y	Y	
Nigeria**	Y	Y	Y
Rwanda	Y	Y	
Senegal**	Y	Y	A
Togo**	Y	Y	Y
Tunisia	Y	Y	
Burkina Faso**		Y	Y
Eritrea		Y	Y
Somalia**		Y	Y
Libya**			Y
Mauritania**			Y
Namibia**			Y
Sudan**			Y
Initially Abstained			
Angola**	A	A	A
Ethiopia	A		
Kenya	A		
South Africa	A	Y	
Cameroon**		A	A
Initially Voted Against			
Burundi	N		

C. Overview: Analysis of Mandates

The mandate of the IIFFMM directed the mechanism to investigate human rights violations.²³⁴ The purpose of the fact-finding mission was to establish the facts and circumstances surrounding alleged violations committed by government forces with the aim of securing “full accountability for perpetrators and justice for victims.”²³⁵ The IIMM mandate advances the work of the fact-finding mission by focusing on the preservation of the evidence collected by the IIFFMM in addition to collecting new evidence, cooperating the ICC in its investigations, and calling on civil society and relevant stakeholders to provide the mandate with information and assistance.²³⁶ Essentially, the

IIMM mandate directed the mechanism to document evidence in a manner consistent with international standards to support future criminal prosecutions in national, regional, or international courts or tribunals.²³⁷ In addition to potential prosecution before the ICC, presumably evidence could be shared with national prosecutors pursuing accountability under universal jurisdiction.²³⁸

The government of Myanmar did not allow IIFFMM to enter the country to investigate.²³⁹ Thus, the mandate conducted the majority of its investigation via open-source documents available on-line including photos and videos.²⁴⁰ It also interviewed refugees and victims in neighboring countries.²⁴¹ The IIFFMM report detailed findings of war crimes and gross human rights violations and recommended the HRC to continue its investigations into Myanmar.²⁴² It also requested additional support to ensure preservation of evidence already collected and enable further evidence collection.²⁴³ The HRC acted on the fact-finding mission's recommendation when it established the IIMM.²⁴⁴

The IIMM mandate, method of investigation, and structure of investigation have been shaped by three factors: 1) the ongoing support of the Myanmar civilian government with the military and other state actors that have perpetrated these atrocities;²⁴⁵ 2) the continued denial of international investigative access to Myanmar;²⁴⁶ and 3) the investigation opened by the ICC and the charges filed in the International Court of Justice against Myanmar.²⁴⁷ These three factors have forced the IIMM to collect evidence in collaboration with, and admissible in, international criminal proceedings remotely and without assistance from the Myanmar government. The latest renewal of the IIMM mandate specifically required it to coordinate its work with the current proceedings in the ICC and ICJ involving international crimes committed in Myanmar.²⁴⁸

D. Development of Mandate and Findings of Mechanisms

1. International Independent Fact-Finding Mission in Myanmar

The HRC created the IFFM in Myanmar on 24 March 2017, after the Special Rapporteur on the situation of human rights in Myanmar and the United Nations High Commissioner for Human Rights on the situation of human rights of Rohingya Muslims and other minorities in Myanmar issued several reports detailing atrocities committed in the Rakhine state and against the Rohingya Muslims.²⁴⁹ The resolution creating the IFFMM mandate was supported by thirty-four states and was adopted without a vote.²⁵⁰ Myanmar voiced its opposition to the IFFMM and urged the U.N. to allow Myanmar to continue with the several state-sponsored or multi-national commissions already in place to address the issues in the Rakhine state.²⁵¹ Several countries acknowledged these commissions as a showing of Myanmar's commitment to resolving this crisis and pointed to the recent elections in 2015 as a sign that Myanmar should be left to handle this conflict without international interference.²⁵² Many of participating countries, however, viewed the new government in Myanmar as creating a pivotal opportunity for addressing the human rights issues in the Rakhine state and pointed to the IFFMM as a supplemental mission meant to support and formalize the work already being done by the existing commissions.²⁵³

The mandate of the IFFMM directed the commission to “establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in [the] Rakhine State ... with a view to ensuring full accountability for perpetrators and justice for victims.”²⁵⁴ The mandate also strongly encouraged the government of Myanmar to share any information gathered from the independent commissions with the IFFMM and required oral and written updates from the commission to be presented to the HRC.²⁵⁵

In September 2017, during the IFFMM's oral update, the chair of the IFFMM requested a six-month extension (extending the mandate from March 2018 to September 2018).

The chair cited several reasons for the request including, Myanmar's lack of cooperation with the IIFFMM, the escalating situation in the Rakhine state which expanded the workload significantly, and the initial delay in getting the IIFFMM operational.²⁵⁶ This extension was co-sponsored by sixty-one states and was adopted without a vote.²⁵⁷ The HRC renewed the IIFFMM mandate again in September 2018, this time by vote.²⁵⁸ The IIMMFF continued its operations until the IIMM became operational, at which point the IIMMFF transferred all of the evidence collected to the IIMM.²⁵⁹

The September 2018 IIFFMM report detailed findings of genocide, ethnic cleansing, and gross violations of human rights.²⁶⁰ It also submitted two supplementary papers, one focusing on the sexual and gender-based violence in the conflict and one detailing the economic interests of the Myanmar military (the Tatmadaw).²⁶¹ The IIFFMM found that there was very little domestic accountability available and noted the significant investment by the Myanmar government in the Tatmadaw, discussing the entrenched loyalty between the two bodies and the clear impunity as a result of this relationship.²⁶²

The IIFFMM conducted more than 1275 interviews between March 2017 and June 2019 with victims and eyewitnesses, both targeted by the IIFFMM and randomly selected in refugee camps.²⁶³ It obtained and analyzed satellite imagery, photographs and videos, and a range of documents.²⁶⁴ It cross-checked the information against secondary information assessed as credible and reliable, including organizations' raw data or notes, expert interviews, submissions and open-source material.²⁶⁵ All of the findings and evidence were turned over to the Independent Investigative Mechanism for Myanmar (IIMM) such that the IIMM could focus on evidence gathering and preservation for use in criminal trials.²⁶⁶

2. Independent Investigative Mechanism for Myanmar

The HRC established the IIMM as an ongoing independent mechanism in the same 27 September 2018 HRC resolution that extended the IIFFMM. The mandate directed the IIMM to "collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since

2011, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings ... in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes.”²⁶⁷ The HRC also directed the IIMM to make use of and preserve the evidence collected by the IIFFMM, in addition to continuing the investigation and gathering further evidence that may be used in future criminal trials.²⁶⁸ This is especially relevant in light of the September 8, 2018, decision by the ICC to exercise jurisdiction over the situation in Bangladesh pertaining to the deportation of the Rohingya people and significant lobbying during this same period by the OIC, Gambia, and several other states to begin pursuit of a case against Myanmar in the ICJ.²⁶⁹ The IIMM became operational in August 2019, and was extended twice: the first time in September 2019²⁷⁰ and again in June 2020.²⁷¹ The resolution extending the mandate in June 2019, explicitly required “close and timely cooperation between the Mechanism and any future investigations ... by the International Criminal Court or the International Court of Justice,” furthering the emphasis on evidence gathering and preservation that would later be used in criminal trials.²⁷²

The IIMM deepened the work of the IIFFMM by preserving evidence already collected as well as engaging in substantial further investigation.²⁷³ It also extended the reach of the prior investigation by directing the mechanism to cooperate with other international and domestic criminal accountability mechanisms to develop evidence to be used in criminal proceedings.²⁷⁴ The substantial focus of developing evidence admissible in international criminal proceedings has shaped the trajectory of the work of the IIMM by creating a need for in-depth verification and preservation of evidence in addition to general evidence collection and initial investigation.²⁷⁵

The IIMM became operational in August 2019, months before the outbreak of Covid-19. Most of the work of the IIMM has been hampered by the Covid-19 pandemic, however the investigators have engaged in substantial open-source investigation and have laid the groundwork for interviews of refugees and victims.²⁷⁶ As the mechanism’s activities increase, the IIMM plans on identifying priority cases and conducting missions to collect

information and evidence relevant to these cases to turn over to relevant prosecutorial bodies.²⁷⁷

The IIMM is currently made up of sixty-two staff members in five core groups: the executive office (7 positions), the collection, analysis, and sharing section (31 positions), the information system management section (12 positions), the language support services section (6 positions), and the administrative services section (6 positions).²⁷⁸ The budget for the IIMM has grown from \$11,588,300 for 2018-2019²⁷⁹ to 15,145,500 for 2020.²⁸⁰ Yet many of the reports from the IIFFMM and the IIMM detail the need for additional funding, especially for continued preservation of evidence.²⁸¹ In fact, the mandate points to budgetary concerns as one of the main impeding factors in advancing the work of the IIMM (aside from lack of access to Myanmar at large).²⁸²

CONCLUSION

This working paper offers an in-depth, comparative analysis of human rights mechanisms for Burundi and Myanmar established by the Human Rights Council over the objections of the concerned states. Examination of the voting patterns of HRC member states by regional groups indicates that countries in the Global North (the WEOG group, primarily) consistently champion these mechanisms. The three regional groups consisting of countries in the Global South—Asia Pacific, Latin America, and Africa—play a decisive role. Reluctance among some states to authorize a mandate in the face of opposition by the concerned state may be overcome. Indeed, without support among states in the Global South, there would not be sufficient votes to move forward in these circumstances. With support from states in the Global South, the HRC created fact-finding missions for each country, which subsequently led to the creation of investigative mandates. Thus, the recommendations of the fact-finding missions to create further mechanisms with mandates to support criminal prosecutions, proved a significant development. In each country, there is an on-going process of evidence gathering. In the case of Myanmar, the mandate to prepare portfolios of evidence that

may be used in domestic, regional, or international judicial processes may prove an effective way to provide justice to victims. The model of progressive HRC mechanisms, capable of gathering evidence that meets international standards, creates an important avenue to combat impunity in contexts where concerned governments are not able or willing to do so. Stakeholders should take note of this development and consider how best to utilize it in similar contexts.

APPENDIX A:

Summary of Report Findings and Statements at HRC Sessions for Burundi

This Appendix summarizes the findings of the UNIIB and each of the COI annual reports. Details regarding the sponsoring states for each resolution are found here as well. This appendix highlights the significant points of debate within the HRC meetings regarding the mandates and evolution of the COI. More detailed observations about state comments regarding the mandates have been included along with a comparison of voting justifications across regions per session.

HRC Created the UNIIB – 24th Special Session, December 2015

The UNIIB was adopted without a vote at special session, convened by the United States and supported by Albania, Argentina, El Salvador, Estonia, France, Germany, Ghana, Ireland, Japan, Latvia, Mexico, Montenegro, the Netherlands, Portugal, South Korea, Northern Macedonia, and the U.K.²⁸³

Most countries acknowledged the need for intervention in Burundi and referenced regional stability as a concern. Russia stated that it was the Burundian government's responsibility to maintain security, but that it would be impossible to do so without the cessation of external support for warring parties.²⁸⁴ Bolivia did not support the UNIIB, but would have supported dialogue which led to peace in the region.²⁸⁵ Egypt and North Korea were against the UNIIB.²⁸⁶

Discussion of the UNIIB Report – 33rd Session, September 2016

The UNIIB report found that systematic and patterned gross human rights violations had been committed and continued to be committed.²⁸⁷ These gross violations primarily were committed by agents of the state or those linked to them and were committed with impunity.²⁸⁸ These violations included arbitrary deprivations of life, enforced

disappearances, torture, other forms of ill-treatment, massive arbitrary detention, and deprivation of freedoms of expression, association and assembly.²⁸⁹ While the report noted that overt violence had declined, “[t]he experts [could not] exclude that some instances of these gross human rights violations amount[ed] to crimes against humanity.”²⁹⁰

The UNIIB report recommended the creation of a commission of inquiry, which the HRC established in the 2016 session.²⁹¹ This COI resolution was introduced by Slovakia on behalf of the EU.²⁹²

HRC Created the COI – 33rd Session, September 2016

WEOG and other EU states began calls for international judicial processes, while acknowledging the dialogue between the UN, AU, and Burundi to address the human rights violations, and maintaining this dialogue was not enough to combat impunity.²⁹³ Countries that voted for the COI generally referenced the violations and atrocities found by the UNIIB, especially violence against human rights defenders²⁹⁴ and sexual and gender-based violence.²⁹⁵ The UNIIB report recommended that Burundi be removed from the council, and this recommendation was vehemently opposed by Bahrain, Bolivia, Cuba, Egypt, Morocco, Nicaragua, Nigeria, Saudi Arabia, Sudan, United Arab Emirates, Uganda and Venezuela on the grounds that this call exceeded the mandate of the UNIIB.²⁹⁶ Russia joined with these countries to state that the COI was beyond the mandate of the HRC.²⁹⁷

Discussion of the First COI Report – 36th Session, September 2017

The HRC discussed the first COI report at the 2017 session²⁹⁸ In it, the commission found “the persistence of extrajudicial executions, arbitrary arrests and detentions, enforced disappearances, torture and cruel, inhuman or degrading treatment and sexual violence in Burundi since April 2015.”²⁹⁹ The report further reiterated that violations primarily were carried out by state agents, including members of the National

Intelligence Service, police, army, and Imbonerakure (the youth wing of the ruling party).³⁰⁰ It also noted that some human rights abuses were committed by armed opposition groups, but found these difficult to document.³⁰¹ Perpetrators of these violations generally operated with impunity.³⁰²

First Renewal of the COI – 36th Session, September 2017

There were two competing resolutions introduced at this session regarding the extension of the COI.³⁰³ One was introduced by Austria on behalf of the EU and focused the mandate on international investigation and accountability.³⁰⁴ Tunisia introduced the other on behalf of the Group of African States and focused attention on capacity building, technical assistance, regional peacekeeping talks, and domestic accountability.³⁰⁵

Brazil, Botswana, and Switzerland were particularly concerned by the existence of competing resolutions.³⁰⁶ Countries supporting the final resolution were generally concerned with the findings of the report, making specific reference to violations of women's and children's human rights.³⁰⁷ Many WEOG and Eastern European countries, and Mexico voiced displeasure at Burundi's non-cooperation and expressed concern regarding how the COI could continue its work.³⁰⁸ The United States was especially concerned about the perceived legitimacy and credibility of the Human Rights Council if the COI could not continue.³⁰⁹ Many countries, including Rwanda (which voted "yes"), expressed great concern about the refugees fleeing Burundi, many of which were in Tanzania and Rwanda.³¹⁰ Burundi and the Congo voiced their opposition to the COI recommending the ICC open an investigation into the situation in Burundi;³¹¹ and, many EU countries were concerned about Burundi's withdrawal from the Rome Statute.³¹² There was a general acknowledgement of the efforts of the AU and the EAC in fostering a dialogue with Burundi.³¹³ Russia was the only country that voted in opposition to the resolution to make a statement.³¹⁴ The Russian representative condemned the "politicization" of the mandate but did not reject the findings of the COI's report.³¹⁵

Discussion of the Second COI Report – 39th Session, September 2018

The second COI report, released in 2018, “found that the serious human rights violations documented in the first year of its mandate, including crimes against humanity, have persisted in 2017 and 2018.”³¹⁶ These violations included summary executions, enforced disappearances, arbitrary arrests, arbitrary detentions, cases of torture and other cruel, inhuman or degrading treatment, sexual violence, and violations of civil liberties.³¹⁷ The report reiterated that violations were often carried out by state agents with impunity that was safeguarded by the lack of an independent judiciary.³¹⁸ However, the report also noted an increasing concern of the growing role of the Imbonerakure.³¹⁹ It further noted the impact of the political crisis on the country’s economic and social situation.³²⁰ The imposition of additional taxes and contributions in addition to the lack of resources allocated towards benefiting the economic and social rights of Burundian citizens led to increased poverty levels.³²¹

Second Renewal of the COI – 39th Session, September 2018

Following the release of the 2018 COI report, the HRC again renewed the COI.³²² The resolution for renewal was sponsored by Austria on behalf of the EU.³²³ This renewal mandate directed investigation into the unraveling political situation in Burundi after a constitutional referendum.³²⁴ Approved in an environment of intimidation and repression, the constitutional amendment extended the term of the president from five to seven years.³²⁵ This referendum brought with it increased concern about the potential for political repression that would continue to compromise the economic and social conditions within Burundi.³²⁶ The COI renewal also addressed the continued struggles of the investigation, condemning Burundi for declaring the commissioners *personae non grata* and using threats, intimidation, and personal attacks to harass members of the COI in retaliation for its previous report.³²⁷

During the HRC meeting, states made several references to the constitutional amendment that could negatively impact the Arusha Accords.³²⁸ The EU and WEOG

countries “deplored” Burundi’s continued lack of cooperation with the COI.³²⁹ Numerous states called for accountability by international judicial processes in response to the COI report’s findings that the Burundian judicial system was “unwilling and unable” to prosecute those responsible.³³⁰ Croatia condemned Burundi for leaving the Rome Statute,³³¹ while Russia defended Burundi’s action.³³² Many statements alluded to protecting the upcoming election in Burundi.³³³ Many statements referenced the report’s conclusions about the Burundian state’s support for the Imbonerakure who, with the security forces, were responsible for most of the atrocities.³³⁴ Venezuela and Russia, however, rejected the report, calling it false.³³⁵ They were the only countries to question the accuracy of the COI’s findings.³³⁶

Discussion of the Third COI Report – 42nd Session, September 2019

The 2019 COI report highlighted the human rights violations that had continued since May 2018, some of which constituted international crimes, and found that these violations were politically motivated.³³⁷ In contrast to previous reports, the 2019 report named the Imbonerakure as the main perpetrator, rather than state agents at large, although the report also identified officers of the National Intelligence Service, the police, and local administrative officials as perpetrators of violations.³³⁸ These violations continued to be perpetrated in a climate of impunity.³³⁹ Further, the report found that “the suppression of civil liberties [was] intensifying in the run-up to the 2020 presidential and legislative elections.”³⁴⁰ Consequently, the commission utilized the Framework of Analysis for Atrocity Crimes developed by the Office on Genocide Prevention and Responsibility to Protect and found that eight of the risk factors were “clearly present.”³⁴¹ The eight risk factors identified included an unstable situation (risk factor 1), record of serious violations of international human rights violations (risk factor 2), weakness of state structures (risk factor 3), motives/incentives (risk factor 4), capacity to commit atrocity crimes (risk factor 5), absence of mitigating factors (risk factor 6), enabling circumstances or preparatory actions (risk factor 7), and triggering factors (risk factor 8).³⁴²

Third Renewal of the COI – 42nd Session, September 2019

Given the upcoming 2020 presidential elections, the 2019 session renewed the COI for another year.³⁴³ Finland sponsored the resolution on behalf of the EU.³⁴⁴ The HRC renewed the COI with a special focus on “respect for and observance of political, civil, economic and social rights in the electoral context, with particular reference to the economic underpinnings of the State.”³⁴⁵ This 2019 renewal marked a significant change in the focus of the COI, from investigating gross human rights violations to investigating the structural causes of the violations, including a greater focus on suppression of civil liberties and identification of risk factors that may lead to further political or social unrest.³⁴⁶

WEOG and EU countries continued to express their displeasure about Burundi’s non-cooperation with the COI;³⁴⁷ they also echoed their previous concern about the government’s complicity in the atrocities and general impunity afforded to the perpetrators.³⁴⁸ Many countries, including WEOG and EU states, but also Tanzania (previously concerned about the refugees, but not a voting member of the Council) expressed concern over the human rights situation in light of the upcoming 2020 election.³⁴⁹ EU countries were also particularly concerned about persecution against NGOs and the media.³⁵⁰

Egypt and Cameroon condemned the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest.³⁵¹ Many countries voting “no” or opposed the renewal mentioned one or more of the following concerns: Burundi had not consented to the mechanism;³⁵² there was no attempt to address Burundi’s concerns;³⁵³ states had a preference for a “non-politicized” process outside of the mandate of the HRC;³⁵⁴ and a preference for technical assistance rather than investigation.³⁵⁵ China and Russia also supported the role of other African nations and organizations in working towards peace.³⁵⁶

Discussion of the Fourth COI Report – 45th Session, September - October 2020

In 2020, the COI identified in its report significant corruption and violence related to the elections that had taken place earlier in the year.³⁵⁷ It noted these problems deprived the main opposition party of any chance of winning the election.³⁵⁸ The commission pointed to the Imbonerakure and local officials as the main perpetrators who were enabled by the officers of the National Intelligence Service and police who often participated in and/or supported violations or failed to act to prevent violations.³⁵⁹ The report continued to find that the judiciary was implicated in political repression by violating due process, and enabled impunity of the perpetrators by failing to investigate and prosecute wrongdoers.³⁶⁰ The report also highlighted the negative impact of corruption and illicit financial flows on the human rights situation and confirmed that the risk factors named in the previous report remained in effect.³⁶¹

Fourth Renewal of the COI – 45th Session, September - October 2020

The lack of free and fair elections, in combination with the continuing and increasing human rights violations occurring in Burundi, led the HRC to again renew the COI mandate for a fourth time.³⁶² This renewal resolution was sponsored by Germany on behalf of the EU and places emphasis on the deteriorating political situation and investigations surrounding corruption and political manipulation in addition to the human rights violations that have been a focus of previous mandates.³⁶³

In their voting comments, EU and WEOG countries pointed to the continuing references to possible war crimes, lack of improvements, violations of freedom of expression/assembly/association, politically motivated arrests following the elections, and government support of the Imbonerakure and security forces violating human rights.³⁶⁴ EU countries and the UK “deplored” Burundi’s non-cooperation;³⁶⁵ but, Egypt celebrated Burundi for cooperating with the Council.³⁶⁶ Australia, Croatia, the Netherlands, and Tanzania continued their calls for a solution to the refugee flow and

improved voluntary repatriation.³⁶⁷ Nordic/Baltic countries called for the reopening of the OHCHR office in Burundi.³⁶⁸ France called on Burundi to cooperate with the ICC.³⁶⁹

Countries that did not vote in favor of the mechanism, including Belarus, Cameroon, and Venezuela, questioned the information contained in the report regarding the elections.³⁷⁰

Other countries that did not vote in favor stated that they would prefer a mechanism that “respected sovereignty,” was non-selective, and provided technical assistance.³⁷¹

Russia requested that the Council’s efforts focus more on solving socio-economic problems;³⁷² Myanmar and Venezuela stated that Universal Periodic Review would be a better process to address these concerns.³⁷³ Cameroon, China, Egypt, Russia, South Sudan, Tanzania, and Venezuela celebrated Burundi’s willingness to cooperate with regional bodies and other mechanisms and work towards national stability/reconciliation.³⁷⁴

APPENDIX B:

Summary of Report Findings and Statements at HRC Sessions for Myanmar

This Appendix summarizes the findings of the IIFFMM and each of the IIMM annual reports. It highlights the significant points of debate within the relevant HRC meetings documenting the evolution of both mechanisms. More detailed observations about state comments regarding the mandates have been included, along with a comparison of voting justifications across regions for each session.

HRC Created the IIFFMM – 34th Session, March 2017

The HRC adopted the IIFFMM without a vote during its 34th regular session.³⁷⁵ The resolution was sponsored by Malta and supported by Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the U.K., and the U.S.³⁷⁶

Most countries commended Myanmar for the establishment of a new government and a further transition to democracy.³⁷⁷ Many countries noted the need for the U.N. to be conservative in its approach to Myanmar and to avoid interfering unnecessarily.³⁷⁸ State representatives cautioned that international involvement would disrupt the transition and interfere with the national attempt to tackle the challenges the new government inherited.³⁷⁹

Several states mentioned the National Investigation Commission and the Advisory Committee on Rakhine State led by Kofi Annan, commending Myanmar for participating in these mechanisms.³⁸⁰ There was a block of states (Bolivia, China, Cuba, India, Philippines, and Venezuela) that did not support either the resolution as a whole or the

specific paragraphs that created the IIFFMM.³⁸¹ These states cited the need to respect Myanmar sovereignty, allow the two commissions already established to complete their work, and allow the government of Myanmar the chance to implement their suggestions before the U.N. created another mechanism.³⁸² Indonesia and Japan shared these sentiments but did not remove their support for the creation of the IIFFMM.³⁸³

All states, even those that did not support the resolution, noted the need for the international community to support Myanmar's government. The EU noted: "The adoption of this resolution by consensus will send a strong signal of support from this Council to the transition underway in Myanmar/Burma."³⁸⁴

Discussion of the First IIFFMM Report – 39th Session, September 2018

The 2018 session introduced the first IIFFMM report. In it, the mission found "consistent patterns of serious human rights violations and abuses...in addition to serious violations of international humanitarian law."³⁸⁵ These violations included genocide, crimes against humanity, and war crimes.³⁸⁶ The report noted that the violations were principally committed by Myanmar security forces and that there was a "pervasive culture of impunity" within Myanmar.³⁸⁷ The mission found that any accountability "must come from the international community."³⁸⁸

The report called for the Security Council to refer the situation to the ICC or create an ad hoc international tribunal to ensure accountability for these violations.³⁸⁹ The report also urged the Security Council to impose targeted individual sanctions and an arms embargo.³⁹⁰ Additionally, the report suggests member states "exercise jurisdiction to investigate and prosecute alleged perpetrators of serious crimes under international law committed in Myanmar."³⁹¹

Finally, the report calls the HRC to create an independent investigative body to "collect, consolidate, preserve and analyse evidence ... and to prepare files to facilitate and expedite fair and independent criminal proceedings in national, regional or international

courts or tribunals.”³⁹² The report urges the HRC to keep the IIFFMM operational until the new mechanism is established, and underscored the urgency of the situation and the need for prompt intervention and international assistance in an effort to reinforce democracy in Myanmar.³⁹³

Almost every state mentioned the mass exodus of Rohingya in August 2017, and the refugee population in Bangladesh, and thanked Bangladesh for opening their borders to the Rohingya.³⁹⁴ Many states condemned Myanmar for not acting on the repatriation agreement between itself and Bangladesh and for not working to create an atmosphere where the Rohingya feel safe returning.³⁹⁵

HRC Extended the IIFFMM and Created the IIMM – 39th Session, September 2018

The resolution extending the IIFFMM and creating the IIMM was introduced by Austria on behalf of the EU and Pakistan on behalf of the OIC.³⁹⁶ It was adopted with a vote of 35 to 3, with 7 abstentions.³⁹⁷ The resolution calls for the IIFFMM mandate to be extended and remain operational until the IIMM is operational, as requested in the IIFFMM report, to avoid an investigative gap and ensure evidence collection, verification, and preservation is continued seamlessly. The mandate also calls for all evidence collected by the IIFFMM to be turned over to the IIMM, once the latter is established.

Most states voting in support of the new mandate cited the “unprecedented” and “harrowing” crimes detailed in the report, stating that they were “appalled,” “deeply concerned,” and “shocked” at the report’s conclusions of genocide, ethnic cleansing, war crimes, and crimes against humanity.³⁹⁸ Several states acknowledged the reports of Myanmar’s domestic investigation and Annan’s independent investigative mechanism and condemned Myanmar for not adopting their recommendations.³⁹⁹ Canada pressed for more action from the international community, stating “the humanitarian appeal is grossly underfunded; more must be done.”⁴⁰⁰

States abstaining or voting against did so for three main reasons – a general disagreement with state-specific mandates,⁴⁰¹ the lack of cooperation and dialogue with Myanmar,⁴⁰² and the complexity of the situation given Myanmar's transition to democracy.⁴⁰³

Further, the ICC ruled on September 6, 2018, that the Court may exercise jurisdiction over the deportation of the Rohingya from Myanmar.⁴⁰⁴ The mandate for the IIMM requested the mechanism cooperate closely with this and any future investigations.⁴⁰⁵ Many states strongly supported the ICC decision and the cooperation requirements in the mandate.⁴⁰⁶ The EU notes the importance of these mechanisms in “tak[ing] concrete steps to ensure that evidence of the most serious international crimes and violations of international law can be collected, consolidated, preserved and analyzed, and case files be prepared, to facilitate fair and independent criminal proceedings in national, regional or international courts.”⁴⁰⁷ However, some states saw this ICC decision and references to the ICC and other international criminal accountability mechanisms as coercive and outside the scope of the HRC.⁴⁰⁸

Discussion of the Second IIFFMM Report – 42nd Session, September 2019

The IIFFMM issued its second and final report of the in August 2019. This document focused on the inaction of the Myanmar government in transitioning to democracy and combatting impunity for the violations detailed in the first IIFFMM report. The report also includes updates on the status of the violations and summaries of two conference room papers produced in conjunction with the report (detailing the economic interests of the Myanmar military and the sexual and gender-based violence and the gendered impact of ethnic conflicts).⁴⁰⁹ The report also detailed the handover of its materials to the IIMM, outlining the guidelines used for evidence storage and preservation.⁴¹⁰

Many countries were “troubled” by the ongoing violations of human rights and the inaction by the Government of Myanmar to seek accountability.⁴¹¹ The EU strongly supported a role for the ICC in investigating and holding perpetrators accountable.⁴¹²

Bangladesh also commended the ICC, and seconded the IIFFMM's suggestion that the Security Council create an ad hoc international tribunal "without delay" to bring perpetrators of the "genocide" to justice.⁴¹³ Other countries that supported the mechanisms discussed the findings of structural discrimination and prejudice against the Muslim minority.⁴¹⁴ Australia acknowledged the difficulty of the democratic transition in Myanmar,⁴¹⁵ as did Indonesia and India, which did not support the mechanisms.⁴¹⁶ Many countries that did not support the mechanism supported the repatriation of Rohingya refugees to Myanmar, expressing that regional or bilateral mechanisms of cooperation would be more appropriate to address the violations.⁴¹⁷ Most of these countries do not support country-specific mandates on principle.⁴¹⁸

Discussion of the First IIMM Report – 42nd Session, September 2019

The first report of the IIMM was released in August 2019, one month after the mechanism became operational.⁴¹⁹ As such, the report outlined the priorities for the IIMM, identified key challenges the mechanism would face, and defined steps that needed to be taken to enable the mechanism to function fully. The report notes the need to balance expediency with thoroughness, stating that "continued impunity for such crimes is only likely to lead to further violence and suffering"⁴²⁰ but that "such investigations are complex, and that it can take time for such information, documentation and evidence to be shaped into strong case files ready for prosecution."⁴²¹ There was no interactive dialogue for this report, and no country statements were given.

First Renewal of the IIMM – 42nd Session, September 2019

At the 42nd session, sponsors Pakistan (on behalf of the OIC), and Finland (on behalf of the EU) introduced the resolution to extend the IIMM, which was passed with a vote of thirty-seven to two, with seven abstentions.⁴²² The resolution was co-sponsored by Australia, Canada, Iceland, Monaco, Montenegro, New Zealand, North Macedonia, Norway and Peru, and subsequently joined by Argentina, Bosnia and Herzegovina, Botswana, Ecuador, Georgia, South Korea and Switzerland.⁴²³ The mandate dictates a

flow of information, requesting that the High Commissioner for Human Rights present a report to the Human Rights Council on the implementation of recommendations made by the IIFFMM and human rights situation in Myanmar.⁴²⁴ The resolution also directs the mandate to share IIFFMM reports to the General Assembly, which will then transmit them to other relevant U.N. bodies.⁴²⁵

EU countries demonstrated support of the ICC's efforts to address alleged international crimes, including crimes against humanity, and urged the IIMM to support the ICC in its work.⁴²⁶ ASEAN countries "oppose[d] the provisions of [a] large amount of resources to the independent mechanism of inquiry that does not have the consent of the country concerned and cannot obtain cooperation of the country."⁴²⁷ China also continued to urge the international community to provide assistance to promote dialogue between Myanmar and Bangladesh to foster safe repatriation.⁴²⁸ It further stated that the resolution exceeded its mandate, a view shared by Egypt, as well as declared the information on Myanmar to be false.⁴²⁹

Discussion on the Secretary-General Oral Update on the Involvement of the U.N. in Myanmar – 43rd Session, March 2020

Three months prior to the passing of the 2020 IIMM renewal, the United Nations Assistant Secretary-General for Strategic Coordination, Volker Turk, provided an oral update on the involvement of the United Nations in Myanmar.⁴³⁰ This update (known as the "Rosenthal Report") "highlighted the need for better engagement with Member States...and stronger internal coordination within the United Nations system."⁴³¹ While noting the systemic failures of the Myanmar government that led to a history of atrocities, the report concludes that "if there is one single action that might have altered the course of events in Myanmar it would have been the timely and impartial presence in Rakhine State of some type of United Nations observatory that would offer a measure of confidence to the oppressed minorities that their basic human rights would be respected, and that the root causes that led to their forced emigration would be addressed."⁴³²

In response, Malaysia and OIC countries noted that “the key” to fostering the required environment would be by encouraging U.N. bodies to work together while additionally urging Myanmar to cooperate with the U.N. mechanisms, including the IIMM.⁴³³

Similarly, Bangladesh and EU countries echoed the call for a “system-wide approach” to the situation in Myanmar.⁴³⁴

Second Renewal of the IIMM – 43rd Session, March 2020

The resolution to extend the IIMM was adopted during the 43rd session with a vote of thirty-seven to two, with eight abstentions.⁴³⁵ Sponsored by Croatia on behalf of the European Union, the resolution extended the mechanism for one year.⁴³⁶ Along with welcoming the IIMM to update the Human Rights Council and General Assembly of the mechanism’s progress via reports, it further “request[ed] that the Special Rapporteur undertake thematic research with the view to monitor the implementation of the recommendation made by the” IIFFMM.⁴³⁷ The resolution was co-sponsored by Albania, Australia, Canada, Iceland, Liechtenstein, Maldives, Monaco, Montenegro, New Zealand, North Macedonia, Norway, San Marino, Switzerland, Turkey and the United Kingdom, and joined by Argentina, Bangladesh, Botswana, Ecuador, the Gambia, Georgia, Malaysia, the Marshall Islands, Mexico and South Korea.⁴³⁸

OIC countries were primarily concerned with the repatriation of Rohingya refugees.⁴³⁹ Bangladesh additionally lauded the interest of the ICJ as well as the well “balanced” draft resolution.⁴⁴⁰ ASEAN, EU, and OIC countries, along with Ecuador, Lithuania and Russia (none of which were members of the Human Rights Council), were primarily concerned with the safe repatriation and return of refugees and ICJ and ICC proceedings.⁴⁴¹ The Philippines, which voted not to extend the mechanism, favored domestic accountability measures, highlighting that cooperation was a two-way street and questioning the worth of the economic cost due to recent U.N. budget restrictions.⁴⁴² EU countries were hopeful that the upcoming elections would serve as a turning point for human rights in Myanmar and set the stage for comprehensive state reform, including military accountability to elected civilians.⁴⁴³

Discussion of the Second IIMM Report – 45th Session, September - October 2020

In its 2020 report, the IIMM highlighted the progress it had made in setting up operations.⁴⁴⁴ It outlined its evidence collection strategies for the purpose of sharing information to be used by courts and tribunals, including the ICJ, with the aim to “enable perpetrators of serious international crimes in Myanmar to be brought to justice.”⁴⁴⁵ The report confirmed that the IIMM had received copies of relevant documentation and evidence from the IIFFMM.⁴⁴⁶ The emergence of the coronavirus disease impacted the IIMM’s hiring and operational activities and largely forced mechanism work to be done remotely.⁴⁴⁷ It also forced the mechanism to shift focus towards identifying potential information sources that could be securely contacted remotely, and using open-source investigation processes.⁴⁴⁸ The report confirmed that the IIMM had written communications to Myanmar government officials, but had yet to receive a response indicating that the state would enable the IIMM to gain access to the territory.⁴⁴⁹ While the IIMM plans to continue to request access to Myanmar, it will also continue conducting missions in and engaging with other states.⁴⁵⁰

Unlike previous years, in 2020, the Human Rights Council heard the report after voting to renew the underlying mandate.⁴⁵¹ Indonesia expressed concern regarding the U.N.’s “cash flow crisis,” and recommended prioritizing efforts towards “strengthen[ing] the capacity of the Member States to comply with their human rights obligations.”⁴⁵² Conversely, Bangladesh stressed the need for states and private actors to cooperate with the IIMM, especially social media companies.⁴⁵³ Bangladesh, EU members, and WEOG countries highlighted their own cooperation with the IIMM and encouraged support of the mechanism.⁴⁵⁴

APPENDIX C: Full Voting Record

Figure 12 - African Countries Full Voting Record

Country	BURUNDI					MYANMAR			SRI LANKA		
	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36	2018 39/2	2019 42/3	2020 43/26	2012 19/2	2013 22/1	2014 25/1
Algeria	A										N
Angola**			A	A	A	A	A	A	A	A	
Benin									Y	Y	Y
Botswana	A	Y							A	A	Y
Burkina Faso**				A	A		Y	Y	A	A	A
Burundi	N	N	N			N					
Cameroon**				N	N		A	A	Y		
Congo**	A	N	N	N	A	Y	A	A	N	N	N
Côte d'Ivoire	A	A	A			Y				Y	Y
Djibouti									A		
Egypt		N	N	N		Y	Y				
Eritrea				N	A		Y	Y			
Ethiopia	A	A	A			A				A	A
Gabon											A
Ghana	Y	N									
Kenya	A	A	A			A				A	N
Libya**					A			Y	Y	Y	
Mauritania**					A			Y	N	N	
Mauritius									Y		
Morocco	N										A
Namibia **	A				A			Y			A
Nigeria**	A	A	A	A	A	Y	Y	Y	Y		
Rwanda		Y	Y	Y		Y	Y				
Senegal**			A	A	A	Y	Y	A	A		
Sierra Leone										Y	Y
Somalia**				N	N		Y	Y			
South Africa	A	N	A	A		A	Y				A
Sudan**					A			Y			
Togo**	A	A	A	N	N	Y	Y	Y			
Tunisia		A	A	A		Y	Y				
Uganda									N	N	

Figure 13 - Asia Pacific Countries Full Voting Record

Country	BURUNDI					MYANMAR			SRI LANKA		
	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36	2018 39/2	2019 42/3	2020 43/26	2012 19/2	2013 22/1	2014 25/1
Afghanistan**			A	A	A	Y	Y	Y			
Bahrain**				A	A		Y	Y			
Bangladesh**	A	A		A	A		Y	Y	N		
China	N	N	N	N		N	N		N		N
Fiji**				Y	Y		Y	Y			
India**	A	A		A	A		A	A	Y	Y	A
Indonesia**	A	A			A			A	N	N	A
Iraq		A	A	A		Y	Y				
Japan**		Y	Y	Y	Y	A	A	A		A	A
Jordan									A		
Kazakhstan										A	A
Kuwait									N	N	A
Kyrgyzstan	A	A	A			Y			A		
Malaysia									A	A	
Maldives	A								N	N	N
Marshall Islands**					Y			Y			
Mongolia	Y	Y	Y			A					
Nepal**			A	A	A	A	A	A			
Pakistan**			A	N	N	Y	Y	Y		N	N
Philippines**	A	A	A	N		N	N	N	N	N	A
Qatar**	A	A	A	A	A	Y	Y	Y	N	N	
Saudi Arabia	A	N	N	N		Y	Y		N		N
South Korea**	Y	Y	Y		Y	Y		Y		Y	Y
Thailand									N	N	
U.A.E	A	N	Y (intd. N)			Y				N	N
Viet Nam	A										N

Figure 14 - Latin American and Caribbean Countries Full Voting Record

	BURUNDI					MYANMAR			SRI LANKA		
Country	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36	2018 39/2	2019 42/3	2020 43/26	2012 19/2	2013 22/1	2014 25/1
Argentina**				Y	Y		Y	Y		Y	Y
Bahamas**				Y	Y		Y	Y			
Bolivia	N	N									
Brazil**		Y	Y	Y	Y	Y	Y	Y		Y	Y
Chile**			Y	Y	Y	Y	Y	Y	Y	Y	Y
Costa Rica									Y	Y	Y
Cuba	N	N	N	N		No Vote	No Vote		N		N
Ecuador	A	A	Y			Y			N	N	
El Salvador	Y	Y									
Guatemala									Y	Y	
Mexico**	Y		Y	Y	Y	Y	Y	Y	Y		Y
Panama	Y	Y	Y			Y					
Paraguay	Y	Y									
Peru**			Y	Y	Y	Y	Y	Y	Y	Y	Y
Uruguay**				Y	Y		Y	Y	Y		
Venezuela**	N	N	N		N	No Vote		N		N	N

Figure 15 - Eastern European Countries Full Voting Record

Country	BURUNDI					MYANMAR			SRI LANKA		
	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36	2018 39/2	2019 42/3	2020 43/26	2012 19/2	2013 22/1	2014 25/1
Albania	Y	Y									
Armenia**					Y			Y			
Bulgaria**				Y	Y		Y	Y			
Croatia		Y	Y	Y		Y	Y				
Czechia**				Y	Y		Y	Y	Y	Y	Y
Estonia										Y	Y
Georgia	Y	Y	A			Y					
Hungary		Y	Y	Y		Y	Y		Y		
Latvia	Y	Y									
Moldova									Y	Y	
Montenegro										Y	Y
North Macedonia	Y										Y
Poland**					Y			Y	Y	Y	
Romania									Y	Y	Y
Russia	N								N		N
Slovakia**			Y	Y	Y	Y	Y	Y			
Slovenia	Y	Y	Y			Y					
Ukraine**			Y	Y	Y	Y	A	Y			

Figure 16 - WEOG Countries Full Voting Record

	BURUNDI					MYANMAR			SRI LANKA		
Country	2016 33/24	2017 36/19	2018 39/14	2019 42/26	2020 45/L.36	2018 39/2	2019 42/3	2020 43/26	2012 19/2	2013 22/1	2014 25/1
Australia**			Y	Y	Y	Y	Y	Y			
Austria**				Y	Y		Y	Y	Y	Y	Y
Belgium	Y	Y	Y			Y			Y		
Denmark**				Y	Y		Y	Y			
France	Y										Y
Germany**	Y	Y	Y		Y	Y		Y		Y	Y
Iceland			Y	Y		Y	Y				
Ireland										Y	Y
Italy**				Y	Y		Y	Y	Y	Y	Y
Netherlands**	Y	Y			Y			Y			
Norway									Y		
Portugal	Y	Y									
Spain**			Y	Y	Y	Y	Y	Y	Y	Y	
Switzerland	Y	Y	Y			Y			Y	Y	
U.K.	Y	Y	Y	Y		Y	Y				Y
U.S.A		Y							Y	Y	Y

APPENDIX D: Full List of Mechanisms

TABLE LEGEND

Institution: Which international institution established the mandate? (UN Security Council, UN Human Rights Council, Organization of American States, European Union, etc.)

Mandate: Investigation of war crimes/atrocities in conflict situations (“AC”), single-incident investigation (“I”), or corruption investigations (“C”).

Staffing: International (I) or Hybrid (H). International staffing indicates that the mechanism was staffed by international experts. Hybrid staffing indicates that the mechanism worked in tandem with local authorities, usually prosecution offices.

Prosecutions: Did the mandate include prosecutions?

Government objection: Was the mechanism established over the objection of the state in question?

Evidence collection: Does the mechanism collect evidence for a prosecution or to the standards of criminal prosecutions? Those marked with “X” are ones we know collect evidence at prosecutorial standards; a “/” denotes that it is unclear from the documentation whether evidence is collected at this standard.

The table is grouped by country and where countries had multiple mechanisms, they are shaded in the same color. We used two different colors in the shading to differentiate between countries when groupings fall in a sequence.

Name/location/dates	Institution	Mandate	Gov't. objection	Staffing	Conduct crim. Invest.	Conduct trials
UN Independent Investigation on Burundi (17/12/2015 - 1/9/2016)	UNHRC	AC		I		
Commission of Inquiry on Human Rights (Burundi) (30/9/2016-ongoing)	UNHRC	AC	X	I		
OHCHR Fact-finding mission to Central African Republic (1/6/2013-1/7/2013)	UNHRC	AC		I		
International Commission of Inquiry to investigate events in the Central African Republic since 1 January 2013 (1/12/2013-16/12/2016)	UNSC	AC		I		
International Independent Commission of Inquiry on the Situation of Human Rights (Cote D'Ivoire) (1/4/2011-1/7/2011)	UNHRC	AC		I		
Team of international experts on the situation in Kasai (DRC, Kasai region) (23/7/2017-ongoing)	UNHRC	AC		I		
International Team of Experts on the Kasai region (DRC) (6/7/2018-ongoing)	UNHRC	AC		I		
CICIES (Comisión Internacional contra la impunidad en El Salvador) (9/6/2019-ongoing)	OAS	C		H	X	X
Commission of Inquiry on Human Rights (Eritrea) (27/6/2014-1/6/2016)	UNHRC	AC	X	I		
[Nine Israel/Palestine mechanisms that were specific to that geopolitical situation; they have been removed because of their specific context]						

Name/location/dates	Institution	Mandate	Gov't. objection	Staffing	Conduct crim. Invest.	Conduct trials
CICIG (Comisión Internacional Contra la Impunidad en Guatemala) (12/12/2006-3/9/2019)	UNDP	C		H	X	X
UN International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea (2009 - 2010) (28/10/2009-18/12/2009)	UNSC	I		I		
MACCIH (Misión de Apoyo contra la Corrupción y la Impunidad en Honduras) (19/1/2016-19/1/2020)	OAS	C		H	X	X
OHCHR Investigation Mission to Iraq (ISIL) (Iraq)(1/9/2015-13/3/2015)	UNHRC	AC		I		
UNITAD (Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ ISIL (Iraq) (20/8/2018-ongoing)	UNSC	AC		I	X	X
Comission of Inquiry for Lebanon (11/8/2006-1/11/2006)	UNHRC	AC		I	?	
International Commission of Inquiry on Libya (1/2/2011-1/1/2014)	UNHRC	AC		I		
OHCHR Investigation on Libya (HC Fact Finding Mission with UNSMI (27/3/2015-1/3/2016)	UNHRC	AC		I		
International Commission of Inquiry for Mali (19/1/2018-ongoing)	UNSC	AC		I		

Name/location/dates	Institution	Mandate	Gov't. objection	Staffing	Conduct crim. Invest.	Conduct trials
Independent International Fact-Finding Mission on Myanmar (24/3/2017-10/2019)	UNHRC	AC	X	I		
Independent Investigative Mechanism for Myanmar (9/30/2019-ongoing)	UNHRC	AC	X	I	X	
Independent International Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (1/7/2013-7/2/2014)	UNHRC	AC/C	X	I		
Commission of Inquiry for Darfur (Sudan) (25/10/2004-25/1/2005)	UNSC	AC		I	?	
OHCHR Fact-finding Mission to the Syrian Arab Republic (1/4/2011-28/9/2011)	UNHRC	AC	X	I		
Independent International Commission of Inquiry on the Syrian Arab Republic (22/8/2011-ongoing)	UNHRC	AC	X	I		
IIIM (International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011 (21/12/2016-ongoing)	UNGA	AC	X	I	X	
Independent special commission of Inquiry for Timor-Leste (20/6/2006-2/10/2006)	OHCHR	I		I	?	

Name/location/dates	Institution	Mandate	Gov't. objection	Staffing	Conduct crlm. Invest.	Conduct trials
The Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (27/9/2019-16/9/2020)	UNHRC	AC	X	I		
Group of Eminent Experts on Yemen (29/9/2017-ongoing)	UNHRC	AC		I		

NOTES AND REFERENCES

INTRODUCTION AND EXECUTIVE SUMMARY

¹ See Human Rights Council Res. S-24/1, U.N. Doc. A/HRC/RES/S-24/1, ¶¶ 10, 18, Main ¶ 4 (Dec. 22, 2015) [hereinafter HRC Res. S-24/1]; see *Burundi President Nkurunziza Faces Attempted Coup*, BBC NEWS (May 13, 2015), <https://www.bbc.com/news/world-africa-32724083>.

² See Hum. Rts. Council, Rep. of the United Nations Indep. Investigation on Burundi (UNIIB) Established Pursuant to Hum. Rts. Council Res. S-24/1, ¶¶ 123-25, 137, U.N. Doc. A/HRC/33/37 (Sept. 20, 2016) [hereinafter Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016)].

³ See *id.* ¶ 156; Human Rights Council Res. 33/24, U.N. Doc. A/HRC/Res/33/24, ¶ 23(a) (Oct. 5, 2016) [hereinafter HRC Res. 33/24].

⁴ See *id.* ¶ 23(b).

⁵ See Human Rights Council Res. 34/22, U.N. Doc. A/HRC/RES/34/22, ¶ 11 (Apr. 3, 2017) [hereinafter HRC Res. 34/22]; see also *Rohingya Crisis in Myanmar*, COUNCIL ON FOREIGN RELATIONS: GLOB. CONFLICT TRACKER (Nov. 12, 2020), <https://www.cfr.org/global-conflict-tracker/conflict/rohingya-crisis-myanmar>.

⁶ See Hum. Rts. Council, Rep. of the United Nations Indep. Int'l Fact-Finding Mission on Myanmar, ¶¶ 6, 52-55, 58-70, 83-89, 90, U.N. Doc. A/HRC/39/64 (Sept. 12, 2018) [hereinafter HRC, IIFFMM Rep. (Sept. 12, 2018)].

⁷ *Id.* ¶¶ 20-23, 95-99.

⁸ Human Rights Council Res. 39/2, U.N. Doc. A/HRC/RES/39/2, ¶ 22 (Oct. 3, 2018) [hereinafter HRC Res. 39/2].

REFLECTIONS AND LESSONS

⁹ See, e.g., for *Burundi*, HRC Res. 33/24, *supra* note 3, ¶ 14; Human Rights Council Res. 39/14, U.N. Doc. A/HRC/RES/39/14, ¶ 9 (Oct. 5, 2018) [hereinafter HRC Res. 39/14]; Human Rights Council Res. 42/26, U.N. Doc. A/HRC/RES/42/26, ¶ 12 (Oct. 8, 2019) [hereinafter HRC Res. 42/26]; Human Rights Council Draft Res. L.36/Rev.1, U.N. Doc. A/HRC/45/L.36/Rev.1, Pmb. ¶ 14 (Oct. 1, 2020) [hereinafter HRC Draft Res. L.36/Rev.1]; see, e.g., for *Myanmar*, HRC Res. 34/22, *supra* note 5, ¶¶ 1-4; HRC Res. 39/2, *supra* note 8, Pmb. ¶ 11; Human Rights Council Res. 42/3, U.N. Doc. A/HRC/RES/42/3, ¶ 10 (Oct. 3, 2019) [hereinafter HRC Res. 42/3].

¹⁰ See, e.g., for *recognition of the African regional bodies*, HRC Res. S-24/1, *supra* note 1, Pmb. ¶ 13, Main ¶¶ 12, 14; HRC Res. 33/24, *supra* note 3, Pmb. ¶ 14, Main ¶¶ 20-21; HRC Res. 39/14, *supra* note 9, Pmb. ¶ 14, Main ¶ 16; HRC Res. 42/26, *supra* note 9, Pmb. ¶ 13, Main ¶ 18; HRC Draft Res. L.36/Rev.1, *supra* note 9, ¶ 20; see, e.g., for *recognition of ASEAN and OIC*, HRC Res. 42/3, *supra* note 9, Pmb. ¶¶ 13-14; Human Rights Council Res. 43/26, U.N. Doc. A/HRC/RES/43/26, ¶ 20 (July 3, 2020) [hereinafter HRC Res. 43/26].

¹¹ See, e.g., Speech by Christopher Lomax, Delegate from the Permanent Mission of UK. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) (We note the steps taken by the Government of Burundi...); Speech by Lisa Marie Gittos, Delegate from the Permanent Mission of Austl. in Geneva, Statement on Draft Resolution A/HRC/45/L.36/Rev.1 "Situation of human rights in Burundi" of the Hum. Rts. Council 45th Session (Sept. 23, 2020) (We welcome steps taken by Burundi...); Speech by Elizabeth Wilde, Delegate from the Permanent Mission of Austl. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Elizabeth Wilde, Delegate from Astrl. (Sept. 17, 2019)] ("We take note of the steps taken by the Government of Myanmar..."); Speech by Maria Teresa T. Almojuela, Delegate from the Permanent Mission of Phil. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) ("We thank the High

Commissioner for the report which acknowledged Myanmar's efforts."). Transcripts of speeches cited in this report are on file with the authors. Researchers reviewed all written comments and videos of oral statements offered by state representatives in conjunction with casting their vote on resolutions regarding the Burundi and Myanmar mandates. Researchers tabulated written statements and transcripts of oral statements for analysis. When research did not indicate a state had issued any statement, this conclusion will be noted with the following reference: "Data on file with author."

¹² See, e.g., for general "steps taken", HRC Res. 34/22, *supra* note 5, ¶¶ 1, 4; HRC Res. 39/2, *supra* note 8, Pmb. ¶ 11; HRC Res. 42/3, *supra* note 9, ¶ 10; see, e.g., for specific steps, HRC Res. 33/24, *supra* note 3, ¶ 14; HRC Res. 39/14, *supra* note 9, ¶ 9; HRC Res. 42/26, *supra* note 9, ¶ 12; HRC Draft Res. L.36/Rev.1, *supra* note 9, Pmb. ¶ 14.

¹³ See, e.g., Speech by Shameem Ahsan, Delegate from the Permanent Mission of Bangl. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 17, 2019)] ("It acknowledges the international and regional efforts including by the OIC and the ASEAN."); Speech by Karl Dhaene, Delegate from the Permanent Mission of Belg. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Karl Dhaene, Delegate from Belg. (Sept. 30, 2016)] ("We welcome the commitment of the international community, including the efforts of the East African Community..."); Speech by Marta Maurás, Delegate from the Permanent Mission of Chile in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015) ("The contribution of the East African Community and the African Union was vital in achieving peace as regional bodies had great knowledge of the area and were directly affected by events in the region.").

¹⁴ See, e.g., Speech by Hans-Joachim Daerr, Delegate from the Permanent Mission of Ger. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Hans-Joachim Daerr, Delegate from Ger. (Sept. 30, 2016)] ("Germany calls upon the government to urgently engage in a constructive and inclusive inter-Burundian dialogue with all relevant actors. In this regard Germany welcomes and supports the efforts of the East African Community"); Speech by Wang Yi, Delegate from the Permanent Mission of China in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Wang Yi, Delegate from China (Sept. 19, 2017)] ("China supports the Burundian people in their choice, and its supports the Burundian government and the opposition in reaching agreement through dialogue and consultation and supports the East African communities in its mediation role."); Speech by Syed Edwan Anwar, Delegate from the Permanent Mission of Malay. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) ("As Myanmar's neighbour and fellow member in ASEAN, Malaysia has stated its readiness to assist Myanmar in handling the complex situation and in finding expeditious, just and durable solution.").

¹⁵ See, e.g., Speech by Márcia Canário De Oliveira, Delegate from the Permanent Mission of Braz. to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Márcia Canário De Oliveira, Delegate from Braz. (Mar. 24, 2017)] ("We welcome ... the establishment of a National Investigation Commission and the institution of an independent commission headed by former U.N. Secretary, Kofi Annan, to assist the government in finding long term solutions."); Speech by Hans-Joachim Daerr, Delegate from Ger. (Sept. 30, 2016), *supra* note 14 ("Germany would like to commend the Members of the African Union as well as the African Commission on Human and Peoples' Rights for their work and encourages its African partners to continue with their efforts."); see also HRC Res. S-24/1, *supra* note 1, Pmb. ¶ 15.

¹⁶ See, e.g., Speech by Marianne Odette Bibalou Bounda, Delegate from the Permanent Mission of Gabon in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015) ("Gabon welcomed efforts by the international community, the United Nations, the African Union and others to bring an end to the violence"); Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt in Geneva Explanation of Vote on Draft Resolution A/HRC/42/L.10/Rev.1 "Situation of human rights in Burundi" of the Hum. Rts. Council 42d Session (Sept. 27, 2019) ("The draft resolution does not take into account the

initiatives or efforts made at the regional level by the African Union and the community of western African states aimed at achieving stability in Burundi.”); Speech by Anniken Enersen, Delegate from the Permanent Mission of Nor. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) (“Myanmar and Bangladesh, the UN and regional actors like ASEAN must work together to ensure the safe, voluntary and dignified return of all refugees.”).

¹⁷ See discussion of AU inclusion in UNIIB *infra* Burundi.

¹⁸ HRC Res. 39/14, *supra* note 9, ¶ 21 (“Requests the Commission of Inquiry on Burundi to share its report and recommendations with the African Union...”); HRC Res. 42/3, *supra* note 9, ¶¶ 19-23 (discussing the partnership between Myanmar, Bangladesh, and the U.N.).

¹⁹ HRC Res. S-24/1, *supra* note 1, ¶ 14 (“[T]he final communique of 13 December 2015 of the fact-finding Mission of the African Commission of Human and People’s Rights.”); HRC Res. 34/22, *supra* note 5, ¶ 4 (“[R]ecommendations of the interim report of the advisory commission [on Rakhine State].”).

²⁰ HRC Res. 39/14, *supra* note 9, Pmb. ¶ 17; HRC Res. 42/26, *supra* note 9, Pmb. ¶ 18.

²¹ See text accompanying notes *infra* 159-160.

²² See discussion of refugee impact in Africa *infra* Burundi (B)(3). See also discussion of refugee impact in Asia *infra* Myanmar (B)(2).

²³ See, e.g., Speech by Ebenezer Appreku, Delegate from the Permanent Mission of Ghana in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015) (“The decision of Ghana to support the Special Session was partly inspired by the fact that the situation had consequences for violence in the entire region.”); Speech by François Xavier Ngarambé, Delegate from the Permanent Mission of Rwanda. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016) (“Rwanda remains committed to contributing to a sustainable solution to the crisis in Burundi including through supporting regional and sub-regional efforts.”); Speech by Amran Mohamed Zin, Delegate from the Permanent Mission of Malay. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Amran Mohamed Zin, Delegate from Malay. (Sept. 18, 2018)] (“the widespread movement of the Rohingyas creates instability in the region, and could easily become a rallying-call for violent extremism in the region. All these potentially have deep implications for Malaysia and the region.”).

²⁴ Speech by Amran Mohamed Zin, Delegate from Malay. (Sept. 18, 2018), *supra* note 23.

²⁵ See, e.g., Speech by Deepak Dhital, Delegate from the Permanent Mission of Nepal to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Deepak Dhital, Delegate from Nepal (Sept. 18, 2018)] (“The long term solution to the crisis lies in meaningful dialogue and inclusive development of all communities living in the Rakhine state of Myanmar.”); Speech by Salomon Eheth, Delegate from the Permanent Mission of Cameroon in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Salomon Eheth, Delegate from Cameroon (Sept. 23, 2020)] (“Cooperation should take the center stage over a confrontation.”).

²⁶ See, e.g., Speech by Ken Okaniwa, Delegate from the Permanent Mission of Japan to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) (“From the standpoint of realizing lasting peace and reconciliation between local communities, it is vital that Myanmar itself with the involvement of the international community carry out a credible and transparent investigation and take necessary measures.”); Speech by Maria Nazareth Farani Azevêdo, Delegate from the Permanent Mission of Braz. in Geneva, Explanation of Vote on Draft Resolution A/HRC/36/L.9/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 36th Session (Sept. 29, 2017) (“...convinced of the need to actively seek engagement with the concerned country with a view to ensure effective, durable, and sustainable outcomes on the ground”).

²⁷ See, e.g., Speech by Côme Damien Georges Awoumou, Delegate from the Permanent Mission of Cameroon in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum.

Rts. Council 39th Session (Sept. 17, 2018) (“it would be better to always favour ways that favour the consolidation of the legitimate and legal institutions of those states.”).

²⁸ See, e.g., Speech by Nguyen Vu Minh, Delegate from the Permanent Mission of Viet. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015) [hereinafter Speech by Nguyen Vu Minh, Delegate from Viet. (Dec. 17, 2015)] (“It was a prerequisite that international and regional assistance was received with the consensus of the Burundian authorities and all relevant actors.”).

²⁹ See discussion of ICC *infra* Comparative Analysis (B)(2).

³⁰ See discussion of ICC *infra* Comparative Analysis (B)(2).

³¹ See, e.g., Speech by Carsten Staur, Delegate from the Permanent Mission of Den. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Carsten Staur, Delegate from Den. (Sept. 19, 2017)] (“...responsibility to address the humanitarian crisis and respect human rights of all of its citizens.”); Speech by Evan P. Garcia, Delegate from the Permanent Mission of Phil. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) (“We share the belief that the international community has an important role to play in addressing the grave humanitarian crisis”).

³² See discussion of overreach of mandates *infra* Burundi (B).

³³ HRC Res. 39/2, *supra* note 8, ¶ 2 (discussing of a mass exodus of Rohingya in August 2017); HRC Draft Res. L.36/Rev.1, *supra* note 9, Pmb. ¶¶13, Main ¶¶ 2-3 (discussing the political oppression and violation of human rights of the opposition party in 2020 elections.)

³⁴ See discussion on Myanmar and Burundi voting analysis re impunity *infra* Burundi (B), *infra* Myanmar (B), *infra* Appendix A-B.

³⁵ See Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶¶ 38–100.

³⁶ See *id.* ¶ 123.

³⁷ HRC Res. 33/24, *supra* note 3, at 5.

³⁸ See HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶¶ 84-89.

³⁹ See HRC Res. 39/2, *supra* note 8, at 7.

⁴⁰ See, e.g., Speech by Lucy N. Kiruthu, Delegate from the Permanent Mission of Kenya in Geneva, Interactive dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Lucy N. Kiruthu, Delegate from Kenya (Sept. 23, 2020)] (mentioning the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI); Speech by Ziena Elswi, Delegate from the Permanent Mission of Sudan in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Ziena Elswi, Delegate from Sudan (Sept. 17, 2018)] (mentioning the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI); Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt in Geneva, Explanation of Vote on Draft Resolution A/HRC/42/L.10/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 42d Session (Sept. 27, 2019) [hereinafter Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019)] (condemning the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest); Speech by Côme Damien Georges Awoumou, Delegate from the Permanent Mission of Cameroon in Geneva, Explanation of Vote on Draft Resolution A/HRC/42/L.10/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 42d Session (Sept. 27, 2019) [hereinafter Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019)] (condemning the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest).

⁴¹ See, e.g., Speech by Elaha Ebadi, Delegate from the Permanent Mission of Afg. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Elaha Ebadi, Delegate from Afg. (Sept. 18, 2018)]; Speech by Bushra Al-Nussairy, Delegate from the Permanent Mission of Iraq to Geneva, Interactive Dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Bushra Al-Nussairy, Delegate from Iraq (Sept. 18, 2018)]; Speech by Mr. Zolfaghuri, Delegate from the Permanent Mission of Iran to Geneva, Interactive dialogue with

the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Mr. Zolfaghuri, Delegate from Iran (Sept. 18, 2018)]; Speech by Mohsen Ghanei, Delegate from the Permanent Mission of Iran to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Mohsen Ghanei, Delegate from Iran (Sept. 17, 2019)]; Speech by Saja S. Majali, Delegate from the Permanent Mission of Jordan to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Saja S. Majali, Delegate from Jordan (Sept. 18, 2018)]; Speech by Aishath Shahula, Delegate from the Permanent Mission of Maldives to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Aishath Shahula, Delegate from Maldives (Sept. 18, 2018)]; Speech by Abdulaziz Alwasil, Delegate from the Permanent Mission of Saudi Arabia to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Abdulaziz Alwasil, Delegate from Saudi Arabia (Sept. 18, 2018)] ("terrorist massacres and brutal genocide of Rohingya Muslims in Burma"); Speech by Meshal Alblawi, Delegate from the Permanent Mission of Saudi Arabia to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) [hereinafter Speech by Meshal Alblawi, Delegate from Saudi Arabia (Feb. 27, 2020)].

⁴² See HRC Res. S-24/1, *supra* note 1, ¶ 17; HRC Res. 34/22, *supra* note 5, ¶ 11.

⁴³ HRC Res. S-24/1, *supra* note 1, ¶ 17(a).

⁴⁴ See *id.* ¶¶ 16, 17(c)–(d).

⁴⁵ HRC Res. 34/22, *supra* note 5, ¶ 11.

⁴⁶ HRC Res. 42/3, *supra* note 9, Prmb. ¶ 6; HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁴⁷ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁴⁸ See HRC Res. 33/24, *supra* note 3, ¶ 23(a)–(c).

⁴⁹ See Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Established Pursuant to Hum. Rts. Council Res. 33/24, ¶ 99, U.N. Doc. A/HRC/36/54 (Aug. 11, 2017) [hereinafter HRC, COI Report (Aug. 11, 2017)]; Statement by Fatou Bensouda, Chief Prosecutor of the Int'l Crim. Court (Nov. 9, 2017), https://www.icc-cpi.int/Pages/item.aspx?name=171109_otp_statement.

⁵⁰ See HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 102.

⁵¹ Hum. Rts. Council, Rep. of the Commission of Inquiry on Burundi, U.N. Doc A/HRC/39/63, ¶¶ 83–94 (Aug. 8, 2018) [hereinafter HRC, COI Rep. (Aug. 8, 2018)].

⁵² HRC Res. 42/3, *supra* note 9, Prmb. ¶ 6; HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁵³ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁵⁴ HRC Res. 39/2, *supra* note 8, ¶ 22.

⁵⁵ *Id.*

⁵⁶ Hum. Rts. Council, Rep. of the United Nations Indep. Investigative Mechanism for Myan. (IIMM) Established Pursuant to Hum. Rts. Council Res. 39/2, Summ. ¶ 1, U.N. Doc. A/HRC/42/66 (Aug. 7, 2019) [hereinafter HRC, IIFFMM Rep. (Aug. 7, 2019)].

⁵⁷ HRC Res. 42/3, *supra* note 9, ¶ 12. The resolution extending the mandate in June 2019 explicitly required "close and timely cooperation between the Mechanism and any future investigations ... by the International Criminal Court or the International Court of Justice," furthering the emphasis on evidence gathering and preservation that would later be used in criminal trials. HRC Res. 43/26, *supra* note 10, ¶ 9.

⁵⁸ This is consistent with the principle of complementarity in international law. See, e.g., *What Is Complementarity*, INT'L CTR. FOR TRUTH & JUST., <https://www.ictj.org/sites/default/files/subsites/complementarity-icc/>.

⁵⁹ Hum. Rts. Council, UNHCR Rep. (Sept. 20, 2016), *supra* note 2, ¶¶ 132, 154–56.

⁶⁰ See Hum. Rts. Council, Rep. of the United Nations Indep. Int'l. Fact-Finding Mission on Myan. (IIFFMM) Established Pursuant to Hum. Rts. Council Res. 39/2, ¶ 95, U.N. Doc. A/HRC/42/50 (Aug. 8, 2019) [hereinafter HRC IIFFMM Rep. (Aug. 8, 2019)]; Hum. Rts. Council, Rep. of the Indep. Int'l Fact-

Finding Mission on Myan. on the Econ. Interests of the Myan. Military, ¶¶ 2-4, U. N. Doc. A/HRC/42/CRP.3 (Sept. 12, 2019) [hereinafter HRC, IIFFMM Rep. (Sept. 12, 2019)].

METHODOLOGY

⁶¹ See HRC Res. 39/2, *supra* note 8, ¶¶ 22-23; HRC Res. 42/3, *supra* note 9, ¶ 12.

COMPARATIVE ANALYSIS

⁶² See, e.g., Speech by Lucy N. Kiruthu, Delegate from Kenya (Sept. 23, 2020), *supra* note 40 (mentioning the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI); Speech by Ziena Elsayi, Delegate from Sudan (Sept. 17, 2018), *supra* note 40 (mentioning the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI); Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019), *supra* note 40 (condemning the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest); Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019), *supra* note 40 (condemning the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest).

⁶³ See also *Member States*, ORG. FOR ISLAMIC COOP, <https://www.oic-oci.org/states/?lan=en> (last updated Nov. 12, 2020).

⁶⁴ See, e.g., Speech by Elaha Ebadi, Delegate from Afg. (Sept. 18, 2018), *supra* note 41; Speech by Bushra Al-Nussairy, Delegate from Iraq (Sept. 18, 2018), *supra* note 41; Speech by Mr. Zolfaghuri, Delegate from Iran (Sept. 18, 2018), *supra* note 41; Speech by Mohsen Ghanei, Delegate from Iran (Sept. 17, 2019), *supra* note 41; Speech by Saja S. Majali, Delegate from Jordan (Sept. 18, 2018), *supra* note 41; Speech by Aishath Shahula, Delegate from Maldives (Sept. 18, 2018), *supra* note 41; Speech by Abdulaziz Alwasil, Delegate from Saudi Arabia (Sept. 18, 2018), *supra* note 41 (“terrorist massacres and brutal genocide of Rohingya Muslims in Burma”); Speech by Meshal Alblawi, Delegate from Saudi Arabia (Feb. 27, 2020), *supra* note 41; Speech by Shameem Ahsan, Delegate from the Permanent Mission of Bangl. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 18, 2018)]; Speech by Shameem Ahsan, Delegate from the Permanent Mission of Bangl. to Geneva, Discussion on the Update by the Secretary Gen. on the Involvement of the United Nations in Myan. of the Hum. Rts. Council 43d Session (Mar. 9, 2020) [hereinafter Speech by Shameem Ahsan, Delegate from Bangl. (Mar. 9, 2020)]; Speech by Hasan Kleib, Delegate from the Permanent Mission of Indon. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Hasan Kleib, Delegate from Indon. (Sept. 18, 2018)].

⁶⁵ See Hum. Rts. Council, UNHCR Rep. (Sept. 20, 2016), *supra* note 2, ¶¶ 38–100.

⁶⁶ See *id.* ¶ 123.

⁶⁷ HRC Res. 33/24, *supra* note 3, at 5.

⁶⁸ See HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶¶ 84-89.

⁶⁹ See HRC Res. 39/2, *supra* note 8, at 7.

⁷⁰ See, e.g., Speech by Lucy N. Kiruthu, Delegate from Kenya (Sept. 23, 2020), *supra* note 40 (mentioning the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI); Speech by Ziena Elsayi, Delegate from Sudan (Sept. 17, 2018), *supra* note 40 (mentioning the importance of cooperation and dialogue with Burundi, respect for the African Union and regional peacekeeping efforts, and technical support instead of a COI); Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019), *supra* note 40 (condemning the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest); Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019), *supra* note 40 (condemning the mechanism for not taking into account efforts made by the AU or ECOWAS to resolve the unrest).

⁷¹ See, e.g., Speech by Elaha Ebadi, Delegate from Afg. (Sept. 18, 2018), *supra* note 41; Speech by Bushra Al-Nussairy, Delegate from Iraq (Sept. 18, 2018), *supra* note 41; Speech by Mr. Zolfaghuri, Delegate from Iran (Sept. 18, 2018), *supra* note 41; Speech by Mohsen Ghanei, Delegate from Iran (Sept. 17, 2019), *supra* note 41; Speech by Saja S. Majali, Delegate from Jordan (Sept. 18, 2018), *supra* note 41; Speech by Aishath Shahula, Delegate from Maldives (Sept. 18, 2018), *supra* note 41; Speech by Abdulaziz Alwasil, Delegate from Saudi Arabia (Sept. 18, 2018), *supra* note 41 (“terrorist massacres and brutal genocide of Rohingya Muslims in Burma”); Speech by Meshal Alblawi, Delegate from Saudi Arabia (Feb. 27, 2020), *supra* note 41.

⁷² See generally Human Rts. Council Res. 19/2, U.N. Doc. A/HRC/19/2 (Apr. 3, 2012); Human Rts. Council Res. 22/1, U.N. Doc. A/HRC/22/1 (Apr. 9, 2013); Human Rts. Council Res. 25/1, U.N. Doc. A/HRC/19/2 (Apr. 9, 2014).

⁷³ See HRC Res. S-24/1, *supra* note 1, ¶ 17; HRC Res. 34/22, *supra* note 5, ¶ 11.

⁷⁴ Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶¶ 125–29.

⁷⁵ HRC Res. S-24/1, *supra* note 1, ¶ 17(a).

⁷⁶ See *id.* ¶¶ 16, 17(c)–(d).

⁷⁷ HRC Res. 34/22, *supra* note 5, ¶ 11.

⁷⁸ HRC Res. 42/3, *supra* note 9, Prmb. ¶ 6; HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁷⁹ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁸⁰ See HRC Res. 33/24, *supra* note 3, ¶ 23(a)–(c).

⁸¹ See HRC, COI Report (Aug. 11, 2017), *supra* note 49; Statement by Fatou Bensouda, *supra* note 49.

⁸² See HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 102.

⁸³ HRC, COI Rep. (Aug. 8, 2018), *supra* note 51, ¶¶ 83–94.

⁸⁴ See HRC Res. 42/26, *supra* note 9, ¶ 22 (“Decides to extend the mandate...including into respect for and in observance of political, civil, and economic and social rights in the electoral context.”).

⁸⁵ See *id.* In addition to the requirement to report all findings to the HRC, the COI mandates include General Assembly reporting requirements, as well as recommendations to share findings with the AU. *For reporting to the General Assembly and AU, see* HRC Res. 39/14, *supra* note 9, ¶ 21; *for reporting by the General Assembly, see* HRC Res. 42/26, *supra* note 9, ¶ 21. Since 2019, the mandates also suggest that the UN General Assembly submit the reports to “relevant United Nations bodies for their consideration and appropriate action,” which is a departure from prior reports that encourage the COI itself to share its report with all relevant bodies within the UN, the AU, and other regional players. *Compare* HRC Res. 39/14, *supra* note 9, ¶ 21 (requesting that the COI share the report with relevant U.N. bodies and the AU), *with* HRC Res. 42/26, *supra* note 9, ¶ 21 (recommending that the COI report be submitted to relevant U.N. bodies by the General Assembly).

⁸⁶ HRC Res. 42/3, *supra* note 9, Prmb. ¶ 6; HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁸⁷ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 106.

⁸⁸ HRC Res. 39/2, *supra* note 8, ¶ 22.

⁸⁹ *Id.*

⁹⁰ HRC, IIFFMM Rep. (Aug. 7, 2019), *supra* note 56, Summ. ¶ 1.

⁹¹ HRC Res. 42/3, *supra* note 9, ¶ 12. The resolution extending the mandate in June 2019 explicitly required “close and timely cooperation between the Mechanism and any future investigations ... by the International Criminal Court or the International Court of Justice,” furthering the emphasis on evidence gathering and preservation that would later be used in criminal trials. HRC Res. 43/26, *supra* note 10, ¶ 9.

⁹² This is consistent with the principle of complementarity in international law. See, e.g., *What Is Complementarity*, *supra* note 58.

⁹³ Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶ 132, 154–56.

⁹⁴ HRC IIFFMM Rep. (Aug. 8, 2019), *supra* note 60, ¶ 95; HRC, IIFFMM Rep. (Sept. 12, 2019), *supra* note 60, ¶¶ 2–4.

⁹⁵ See HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 97; see also Human Rights Council Res. 36/19, U.N. Doc. A/HRC/RES/36/19, ¶¶ 4–5 (Oct. 4, 2017) [hereinafter HRC Res. 36/19].

⁹⁶ See HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 6; Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Extended Pursuant to Hum. Rts. Council Res. 36/19,

¶ 6, U.N. Doc. A/HRC/39/63 (Sept. 28, 2018) [hereinafter HRC, COI Rep. (Sept. 28, 2018)]; Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Extended Pursuant to Hum. Rts. Council Res. 43/26, ¶¶ 6–7, U.N. Doc. A/HRC/45/32 (Sept. 27, 2019).

⁹⁷ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 8.

⁹⁸ See Hum. Rts. Council, Rep. of the United Nations Indep. Investigative Mechanism for Myan. (IIMM) Established Pursuant to Hum. Rts. Council Res. 42/3, ¶¶ 46–47, 52, U.N. Doc. A/HRC/45/60 (July 7, 2020) [hereinafter HRC, IIMM Rep. (July 7, 2020)].

⁹⁹ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 7.

¹⁰⁰ See Nikita Mehndru & Alexa Koenig, *Open Source Evidence and the International Criminal Court*, HARV. HUM. RTS. J.: ONLINE J. (Apr. 15, 2019), <https://harvardhrj.com/2019/04/open-source-evidence-and-the-international-criminal-court/> (“Evidence derived from open sources—especially publicly accessible, online platforms such as Facebook, Twitter, and YouTube—is becoming increasingly important for international criminal investigations and prosecutions.”).

¹⁰¹ See, e.g., Speech by François Gave, Delegate from the Permanent Mission of Fr. in Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); see also Fatou Bensouda, Prosecutor of the International Criminal Court, Statement on the Opening a Preliminary Examination into the Situation in Burundi (Apr. 25, 2016), <https://www.icc-cpi.int/Pages/item.aspx?name=otp-stat-25-04-2016>. The ICC investigation is ongoing and focuses on alleged crimes against humanity committed in Burundi or by nationals of Burundi outside Burundi since 26 April 2015 until 26 October 2017. See Office of the Prosecutor of the Int’l Crim. Court, Rep. on Preliminary Examination Activities, at 67 (Dec. 4, 2017). The preliminary investigation concluded on Dec. 3, 2017. *Id.* On Aug. 25, 2017, the Pre-Trial Chamber (PTC) authorized a full investigation. *Id.* Burundi subsequently withdrew from the Rome Statute, but the PTC ruled that this withdrawal had no effect on the jurisdiction of the Court over the events under investigation; other Global North countries condemned Burundi for withdrawing from the Rome Statute. See, e.g., Speech by Vesna Batistic Kos, Delegate from the Permanent Mission of Croat. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Vesna Batistic Kos, Delegate from Croat. (Sept. 17, 2018)]; Speech by Yannis Fotakis, Delegate from the Permanent Mission of the Austria in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Yannis Fotakis, Delegate from Austria (Sept. 19, 2017)]; Speech by Claudio Nardi, Delegate from the Permanent Mission of the Liech. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Claudio Nardi, Delegate from Liech. (Sept. 19, 2017)]; Speech by Sonia Melo E. Castro, Delegate from the Permanent Mission of the Port. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Sonia Melo E. Castro, Delegate from Port. (Sept. 19, 2017)].

¹⁰² See, e.g., Speech by Sally Mansfield, Delegate from the Permanent Mission of Austl. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech on behalf of the European Union by Elisabeth Tichy-Fisslberger, Delegate from the Permanent Mission of Austria to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) [hereinafter Speech by Elisabeth Tichy-Fisslberger, Delegate from Austria on behalf of EU (Sept. 27, 2018)]; Speech by Elisabeth Tichy-Fisslberger, Delegate from the Permanent Mission of Austria to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Elisabeth Tichy-Fisslberger, Delegate from the Permanent Mission of Austria (Sept. 18, 2018)]; Speech by Tomaz Mencin, Delegate from the Permanent Mission of Slovn. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018).

¹⁰³ See Speech by Robert K.V. Kahendaguza, Delegate from the Permanent Mission of the Dem. Rep. Congo in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Robert K.V. Kahendaguza, Delegate from Dem. Rep. Congo (Sept. 19, 2017)].

¹⁰⁴ See Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 17, 2019), *supra* note 13; see also HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 105 (recommending the ad hoc tribunal).

¹⁰⁵ See, e.g., Speech by Ana Teresa Lecaros Terry, Delegate from the Permanent Mission of Peru to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) [hereinafter Speech by Ana Teresa Lecaros Terry, Delegate from Peru (Sept. 27, 2018)]; Speech by Alejandro Dávalos Dávalos, Delegate from the Permanent Mission of Ecuador to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) [hereinafter Speech by Alejandro Dávalos Dávalos, Delegate from Ecuador (Feb. 27, 2020)].

¹⁰⁶ See Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 17, 2019), *supra* note 13; see also Agence France-Presse, *Myanmar's Aung San Suu Kyi Faces First Legal Action over Rohingya Crisis*, GUARDIAN (Nov. 13, 2019), <https://www.theguardian.com/world/2019/nov/14/myanmars-aung-san-suukyi-faces-first-legal-action-over-rohingya-crisis>.

BURUNDI

¹⁰⁷ See, e.g., Speech by Regina Maria Cordeiro Dunlop, Delegate from the Permanent Mission of Braz. to Geneva, 24th Special Session of the Hum. Rts. Council (Dec. 17, 2015) [hereinafter Speech by Regina Maria Cordeiro Dunlop, Delegate from Braz. (Dec. 17, 2015)]; Speech by Jorge Lomónaco, Delegate from the Permanent Mission of Mex. to Geneva, 24th Special Session of the Hum. Rts. Council (Dec. 17, 2015) [hereinafter Speech by Jorge Lomónaco, Delegate from Mex. (Dec. 17, 2015)]; Speech by Grisselle del Carmen Rodriguez Ramirez, Delegate from the Permanent Mission of Pan. to Geneva, 24th Special Session of the Hum. Rts. Council (Dec. 17, 2015); Speech by Daniela PI Cedrés, Delegate from the Permanent Mission of Uru. to Geneva, 24th Special Session of the Hum. Rts. Council (Dec. 17, 2015).

¹⁰⁸ Researchers reviewed all written comments and videos of oral statements offered by state representatives in conjunction with casting their vote on resolutions regarding the Burundi mandates. Researchers tabulated written statements and transcripts of oral statements for analysis. When research did not indicate a state had issued any statement, this conclusion will be noted with the following reference: “Data on file with author.”

¹⁰⁹ See Speech by Moses Rugema, Delegate from the Permanent Mission of Rwanda to Geneva, the Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Moses Rugema, Delegate from Rwanda (Sept. 19, 2017)].

¹¹⁰ See, e.g., Speech by Ziena Elsayi, Delegate from Sudan (Sept. 17, 2018), *supra* note 40; see also Speech by Zohreh Sheihbeik, Delegate from the Permanent Mission of Iran in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Zohreh Sheihbeik, Delegate from Iran (Sept. 17, 2018)]. Iran was not a voting member but spoke against the country-specific mandates.

¹¹¹ See Speech by Athaliah Lesiba Molokomme, Delegate from the Permanent Mission of Bots. in Geneva, Explanation of Vote on Draft Resolution A/HRC/36/L.9/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 36th Session (Sept. 27, 2017) [hereinafter Speech by Athaliah Lesiba Molokomme, Delegate from Bots. (Sept. 27, 2017)].

¹¹² See Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019), *supra* note 40.

¹¹³ See, e.g., Speech by Faisal Bin Hassan Trad, Delegate from the Permanent Mission of Saudi Arabia in Geneva, Explanation of Vote and Statement on behalf of Bah., Bol., Cuba, Egypt, Morocco, Nicar., Nigeria, Sudan, U.A.E., Uganda, and Venez. on Draft Resolution A/HRC/33/L.31 “Situation of human

rights in Burundi” of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Faisal Bin Hassan Trad, Delegate from Saudi Arabia, on behalf of Bah., Bol., Cuba, Egypt, Morocco, Nicar., Nigeria, Sudan, U.A.E., Uganda, and Venez. (Sept. 30, 2016)].

¹¹⁴ See, e.g., Speech by Robert K.V. Kahendaguza, Delegate from Dem. Rep. Congo (Sept. 19, 2017), *supra* note 103.

¹¹⁵ See, e.g., Speech by Elisabeth Laurin, Delegate from the Permanent Mission of Fr. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Elisabeth Laurin, Delegate from Fr. (Sept. 30, 2016)]; Speech by Quirine Van De Linde, Delegate from the Permanent Mission of Neth. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Quirine Van De Linde, Delegate from Neth. (Sept. 30, 2016)]; Speech by Peter Sørensen, Delegate from the Permanent Mission of the European Union in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016).

¹¹⁶ See, e.g., Speech by Mehmet Ferden Çarıkçı, Delegate from the Permanent Mission of Turk. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015); Speech by Zahra Ershadi, Delegate from the Permanent Mission of Iran in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015); Speech by Nguyen Vu Minh, Delegate from Viet. (Dec. 17, 2015), *supra* note 28; Speech by Moses Rugema, Delegate from Rwanda (Sept. 19, 2017), *supra* note 109; Zohreh Sheihbeik, Delegate from Iran (Sept. 17, 2018), *supra* note 110; Speech by Olga Chekrizova, Delegate from the Permanent Mission of Russ. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Olga Chekrizova, Delegate from Russ. (Sept. 17, 2018)].

¹¹⁷ See, e.g., Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019), *supra* note 40; Speech by Robert K.V. Kahendaguza, Delegate from Dem. Rep. Congo (Sept. 19, 2017), *supra* note 103; Speech by Olga Chekrizova, Delegate from Russ. (Sept. 17, 2018), *supra* note 116.

¹¹⁸ Hum. Rts. Council, Result of the 2020 Renewal Vote for A/HRC/45/L.36/Rev.1 - Situation of Hum. Rts. in Burundi (Oct. 6, 2020) [hereinafter HRC, Result of 2020 Vote for A/HRC/45/L.36/Rev.1].

¹¹⁹ *Id.*

¹²⁰ See Speech by Kansuke Nagaoka, Minister of the Permanent Mission of Jap. in Geneva, Enhanced Interactive Dialogue on Burundi of the Hum. Rts. Council 33d Session (Sept. 27, 2016) (transcript available on the H.R.C. Extranet).

¹²¹ See, e.g., *for China*, Speech by Wang Yi, Delegate from China (Sept. 19, 2017), *supra* note 14; Speech by Jiang Dun, Delegate from the Permanent Mission of China in Geneva, Explanation of Vote on Draft Resolution A/HRC/42/L.10/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 42d Session (Sept. 27, 2019) [hereinafter Speech by Jiang Dun, Delegate from China (Sept. 27, 2019)]; Speech by Dai Dong, Delegate from the Permanent Mission of China in Geneva, Interactive dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Dai Dong, Delegate from China (Sept. 23, 2020)]; *for Iran*, Speech by Mahsen Gnaenei, Delegate from the Permanent Mission of Iran in Geneva, Enhanced Interactive Dialogue on Burundi of the Hum. Rts. Council 33d Session (Sept. 27, 2016); Zohreh Sheihbeik, Delegate from Iran (Sept. 17, 2018), *supra* note 110; Speech by Seyed Mohammad Sadati Nejad, Delegate from the Permanent Mission of Iran in Geneva, Interactive dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020); *for Myanmar*, Speech by Zen Sian Hung, Delegate from the Permanent Mission of Myan. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 39th Session (Sept. 17, 2018); *for North Korea*, Speech by Choe Myong Nam, Delegate from the Permanent Mission of N. Kor. in Geneva, Enhanced Interactive Dialogue on Burundi of the Hum. Rts. Council 33d Session (Sept. 27, 2016).

¹²² See Speech by Faisal Bin Hassan Trad, Delegate from Saudi Arabia, on behalf of Bah., Bol., Cuba, Egypt, Morocco, Nicar., Nigeria, Sudan, U.A.E., Uganda, and Venez. (Sept. 30, 2016), *supra* note 113.

¹²³ Data on file with author.

¹²⁴ See Appendix A.

¹²⁵ KATHRYN SIKKINK, EVIDENCE FOR HOPE: MAKING HUMAN RIGHTS WORK IN THE 21ST CENTURY 56-62, 71-72 (2017).

¹²⁶ Letter dated 17 Dec. 2015 from the Representative of the Republic of Arg. to the Hum. Rts. Council addressed to the President of the Council, U.N. Doc. A/HRC/S-24/1 (Dec. 17, 2015); Letter dated 17 Dec. 2015 from the Representative of the Permanent Mission of Uru. to the Off. of the United Nations and Int'l Based Orgs. to the Hum. Rts. Council addressed to the President of the Council, U.N. Doc. A/HRC/S-24/1 (Dec. 17, 2015); see also Hum. Rts. Council, Result of the 2017 Renewal Vote for A/HRC/36/L.9/Rev.1 - Situation of Hum. Rts. in Burundi (Oct. 4, 2017) [hereinafter HRC, Result of the 2017 Renewal Vote for A/HRC/36/L.9/Rev.1]; Hum. Rts. Council, Result of the 2018 Renewal Vote for A/HRC/39/L.15/Rev.1 - Situation of Hum. Rts. in Burundi (Oct. 5, 2018) [hereinafter HRC, Result of the 2018 Renewal Vote for A/HRC/39/L.15/Rev.1]; Hum. Rts. Council, Result of the 2019 Renewal Vote for A/HRC/42/L.10/Rev.1 - Situation of Hum. Rts. in Burundi (Sept. 27, 2019) [hereinafter HRC, Result of the 2019 Renewal Vote for A/HRC/42/L.10/Rev.1]; HRC, Result of 2020 Vote for A/HRC/45/L.36/Rev.1, *supra* note 118.

¹²⁷ Speech by Daniela P.I. Cedrés, Delegate from the Permanent Mission of Uru. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015).

¹²⁸ See Speech by Ana del Rosario Durán Ruiz, Delegate from the Permanent Mission of Bol. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015) [hereinafter Speech by Ana del Rosario Durán Ruiz, Delegate from Bol. (Dec. 17, 2015)]; Speech by Faisal Bin Hassan Trad, Delegate from Saudi Arabia, on behalf of Bah., Bol., Cuba, Egypt, Morocco, Nicar., Nigeria, Sudan, U.A.E., Uganda, and Venez. (Sept. 30, 2016), *supra* note 113; Speech by Jorge Valero, Delegate from the Permanent Mission of Venez. in Geneva, Interactive dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Jorge Valero, Delegate from Venez. (Sept. 23, 2020)].

¹²⁹ Speech by Faisal Bin Hassan Trad, Delegate from Saudi Arabia, on behalf of Bah., Bol., Cuba, Egypt, Morocco, Nicar., Nigeria, Sudan, U.A.E., Uganda, and Venez. (Sept. 30, 2016), *supra* note 113;

¹³⁰ See HRC, Result of the 2018 Renewal Vote for A/HRC/39/L.15/Rev.1, *supra* note 126.

¹³¹ See Appendix A.

¹³² See Speech by Moses Rugema, Delegate from Rwanda (Sept. 19, 2017), *supra* note 109; see also HRC, Result of the 2017 Renewal Vote for A/HRC/36/L.9/Rev.1, *supra* note 126; HRC, Result of the 2018 Renewal Vote for A/HRC/39/L.15/Rev.1, *supra* note 126; HRC, Result of the 2019 Renewal Vote for A/HRC/42/L.10/Rev.1, *supra* note 126.

¹³³ See Speech by James Alex Msekela, Delegate from the Permanent Mission of Tanz. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018); Speech by Robert K.V. Kahendaguza, Delegate from the Permanent Mission of Tanz. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Robert K.V. Kahendaguza, Delegate from Tanz. (Sept. 17, 2019)]; Speech by Maimuna Kibenga Tarishi, Delegate from the Permanent Mission of Tanz. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Maimuna Kibenga Tarishi, Delegate from Tanz. (Sept. 23, 2020)].

¹³⁴ See Speech by Robert K.V. Kahendaguza, Delegate from Dem. Rep. Congo (Sept. 19, 2017), *supra* note 103.

¹³⁵ Data on file with author.

¹³⁶ S. AFR. INST. OF INT'L AFFS., SPECIAL REPORT: AFRICAN STATES AT THE UN HUMAN RIGHTS COUNCIL IN 2017 (Eduard Jordaan ed., 2019).

¹³⁷ Data on file with author.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ See, e.g., Speech by Lucy N. Kiruthu, Delegate from Kenya (Sept. 23, 2020), *supra* note 40; Speech by Ziena Elsayi, Delegate from Sudan (Sept. 17, 2018), *supra* note 40.

¹⁴¹ HRC Res. S-24/1, *supra* note 1, ¶ 17(a)-(c) (“to ensure accountability for human rights violations and abuses, including by identifying alleged perpetrators...”).

¹⁴² Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶ 125.

¹⁴³ HRC Res. 33/24, *supra* note 3, ¶ 23(a)-(c).

¹⁴⁴ *Compare* HRC Res. S-24/1, *supra* note 1, ¶ 17(a) (“To undertake swiftly an investigation into violations and abuses of human rights with a view to preventing further deterioration of the human rights situation.”), *with* HRC Res. 33/24, *supra* note 3, ¶ 23(a)-(c) (“To conduct a thorough investigation ...including on their extent and whether they may constitute international crimes, with a view to contributing to the fight against impunity; (b) To identify alleged perpetrators of human rights violations and abuses in Burundi with a view to ensuring full accountability; (c) To formulate recommendations on steps to be taken with a view to guaranteeing that the authors of these violations and abuses, regardless of their affiliation, are held accountable for their acts”).

¹⁴⁵ HRC Res. S-24/1, *supra* note 1, ¶ 17(c)-(d); HRC Res. 33/24, *supra* note 3, ¶ 23(d).

¹⁴⁶ *Compare* HRC Res. S-24/1, *supra* note 1, ¶ 17(c)-(d) (“in particular with a view to help the State to fulfil its human rights obligations, to ensure accountability for human rights violations and abuses, including by identifying alleged perpetrators, to adopt appropriate transitional justice measures and to maintain the spirit of the Arusha Agreement”), *with* HRC Res. 33/24, *supra* note 3, ¶ 23(d) (“in order to provide the support and expertise for the immediate improvement of the situation of human rights and the fight against impunity”).

¹⁴⁷ *See* HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 5; HRC, COI Rep. (Sept. 28, 2018), *supra* note 96, ¶ 5–6; Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Extended Pursuant to Hum. Rts. Council Res. 39/14, ¶¶ 6–8, U.N. Doc. A/HRC/42/49 (Aug. 6, 2019) [hereinafter HRC, COI Rep. (Aug. 6, 2019)].

¹⁴⁸ *See* HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 97; *see also* HRC Res. 36/19, *supra* note 95, ¶¶ 4–5.

¹⁴⁹ HRC Res. 39/14, *supra* note 9, Pmb. ¶ 11, Main ¶ 19; HRC Res. 42/26, *supra* note 9, ¶¶ 3, 22 (“Calls upon all parties to the electoral process to refrain from acts of violence....Decides to extend the mandate...including into respect for and observance of political, civil, economic and social rights in the electoral context.”).

¹⁵⁰ HRC Res. 42/26, *supra* note 9, ¶ 22. In addition to the requirement to report all findings to the HRC, the COI mandates include General Assembly reporting requirements, as well as recommendations to share findings with the AU. *For reporting to the General Assembly and AU, see* HRC Res. 39/14, *supra* note 9, ¶ 21; *for reporting by the General Assembly, see* HRC Res. 42/26, *supra* note 9, ¶ 21. Since 2019, the mandates also suggest that the UN General Assembly submit the reports to “relevant United Nations bodies for their consideration and appropriate action,” which is a departure from prior reports that encourage the COI itself to share its report with all relevant bodies within the UN, the AU, and other regional players. *Compare* HRC Res. 39/14, *supra* note 9, ¶ 21 (requesting that the COI share the report with relevant U.N. bodies and the AU), *with* HRC Res. 42/26, *supra* note 9, ¶ 21 (recommending that the COI report be submitted to relevant U.N. bodies by the General Assembly).

¹⁵¹ HRC Res. S-24/1, *supra* note 1, ¶ 17.

¹⁵² Letter dated 11 December 2015 from the Representative of the United States of America to the Human Rights Council addressed to the President of the Council, U.N. Doc. A/HRC/S-24/1 (Dec. 17, 2015).

¹⁵³ *Burundi President Nkurunziza Faces Attempted Coup, supra* note 1.

¹⁵⁴ *See* Rep. of the Delegation of the African Commission on Human and People’s Rights on its Fact-Finding Mission to Burundi, African Commission of Human and People’s Rights, ¶ 172(a) (Dec. 13, 2015); *see also* Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶¶ 28–29.

¹⁵⁵ *See* Speech by E. Nkerabirori, Delegate from Burundi, 24th Special Session of the Hum. Rts. Council (Dec. 17 2015).

¹⁵⁶ *See generally* HRC Res. S-24/1, *supra* note 1.

¹⁵⁷ *See, e.g.,* Speech by Kátia Marizia da Cunha Cardoso, Delegate from the Permanent Mission of Angl. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015); Speech by Se Pyong So, Delegate from the Permanent Mission of N. Kor. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17,

2015) [hereinafter Speech by Se Pyong So, Delegate from the Permanent Mission of N. Kor. (Dec. 17, 2015)]; Speech by Ana del Rosario Durán Ruiz, Delegate from Bol. (Dec. 17, 2015), *supra* note 128; Speech by Regina Maria Cordeiro Dunlop, Delegate from Braz. (Dec. 17, 2015), *supra* note 107; Speech by Ren Yisheng, Delegate from the Permanent Mission of China in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015); Speech by Mohamed Negm, Delegate from the Permanent Mission of Egypt in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015) [hereinafter Speech by Mohamed Negm, Delegate from Egypt (Dec. 17, 2015)]; Speech by Felix Pena Ramos, Delegate from the Permanent Mission of Venez. in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015); Speech by Jorge Lomónaco, Delegate from Mex. (Dec. 17, 2015), *supra* note 107.

¹⁵⁸ Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶ 1; *see generally* Paul Nantulya, *Burundi: Why the Arusha Accords Are Central*, AFR. CTR. FOR STRATEGIC STUDIES: SPOTLIGHT (Aug. 5, 2015), <https://africacenter.org/spotlight/burundi-why-the-arusha-accords-are-central/>.

¹⁵⁹ *See* HRC Res. S-24/1, *supra* note 1, ¶¶ 16, 17(c)–(d).

¹⁶⁰ Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶¶ 3–4.

¹⁶¹ *See generally id.*

¹⁶² *Id.* ¶ 154.

¹⁶³ *Id.* ¶ 132.

¹⁶⁴ *See id.* ¶ 132.

¹⁶⁵ *See id.* ¶ 156.

¹⁶⁶ *Id.* ¶ 132.

¹⁶⁷ *See id.* ¶¶ 119, 132; Fatou Bensouda, *supra* note 101. The ICC investigation is ongoing and focuses on alleged crimes against humanity committed in Burundi or by nationals of Burundi outside Burundi since April 26, 2015 until October 26, 2017. *See* Press Release, Int'l Crim. Ct., ICC Judges Authorise Opening of an Investigation Regarding Burundi Situation (Nov. 9, 2017), <https://www.icc-cpi.int/Pages/item.aspx?name=pr1342>. The preliminary investigation concluded on Dec. 4, 2017. Int'l Crim. Court, Rep. on Preliminary Examination Activities (2017) - Burundi (Dec. 4, 2017). On Nov. 9, 2017, the Pre-Trial Chamber (PTC) authorized a full investigation. Press Release, *supra*. Burundi subsequently withdrew from the Rome Statute, but the PTC ruled that this withdrawal had no effect on the jurisdiction of the Court over the events under investigation. *See* OTP ICC, *supra* note 101, at 62, 67.

¹⁶⁸ *See* HRC Res. 33/24, *supra* note 3, ¶ 23.

¹⁶⁹ *See id.* ¶ 23(a)–(c).

¹⁷⁰ *See generally*, HRC Res. 36/19, *supra* note 95; HRC Res. 39/14, *supra* note 9; HRC Res. 42/26, *supra* note 9; HRC, Result of 2020 Vote for A/HRC/45/L.36/Rev.1, *supra* note 118.

¹⁷¹ *See* HRC Res. 36/19, *supra* note 95, ¶¶ 4–5; HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 6.

¹⁷² *See* HRC Res. 39/14, *supra* note 9, ¶¶ 2–4.

¹⁷³ HRC Res. 33/24, *supra* note 3, ¶ 23(e)–(f); HRC Res. 36/19, *supra* note 95, ¶ 4; HRC Res. 39/14, *supra* note 9, ¶ 22; HRC Res. 42/26, *supra* note 9, ¶ 22; HRC Draft Res. L.36/Rev.1, *supra* note 9, ¶ 25. Some of this involvement has included the U.N. Security Council (UNSC), which authorized a U.N. police force in Burundi in 2016 for one year to assist in preventing violence. Since then, they have required quarterly updates from the U.N. Secretary General. The most recent briefing was October 2019. The U.N. Secretary General transmits the report of the COI from the HRC to the UNSC. *February 2020 Monthly Forecast: Burundi*, Monthly Forecast, SEC. COUNCIL REPORT (Jan. 31, 2020), <https://www.securitycouncilreport.org/monthly-forecast/2020-02/burundi-5.php>.

¹⁷⁴ *See* HRC Res. 42/26, *supra* note 9, ¶ 22 (election issues); *see generally* HRC Draft Res. L.36/Rev.1, *supra* note 9, ¶ 25 (“economic underpinnings of the state”).

¹⁷⁵ HRC Res. 33/24, *supra* note 3, ¶ 23(a)–(d).

¹⁷⁶ *See* HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶¶ 4–5.

¹⁷⁷ *See id.* ¶ 5; HRC, COI Rep. (Sept. 28, 2018), *supra* note 96, ¶¶ 5–6; HRC, COI Rep. (Aug. 6, 2019), *supra* note 147, ¶¶ 6–8.

¹⁷⁸ *See* HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 6; HRC, COI Rep. (Sept. 28, 2018), *supra* note 96, ¶¶ 5–6; HRC, COI Rep. (Aug. 6, 2019), *supra* note 147, ¶¶ 6–8.

¹⁷⁹ See HRC, COI Report (Aug. 11, 2017), *supra* note 49, ¶ 8; Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶ 127.

¹⁸⁰ See generally HRC, COI Report (Aug. 11, 2017), *supra* note 49.

¹⁸¹ See *id.* ¶ 156; HRC Res. 36/19, *supra* note 95, ¶ 4.

¹⁸² See Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Established Pursuant to Hum. Rts. Council Res. 36/19, ¶¶ 5-6, U.N. Doc. A/HRC/39/63 (Aug. 8, 2018) [hereinafter HRC, COI Report (Aug. 8, 2018)]; Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Established Pursuant to Hum. Rts. Council Res. 39/14, ¶¶ 7-8, U.N. Doc. A/HRC/42/49 (Aug. 6, 2019) [hereinafter HRC, COI Report (Aug. 6, 2019)].

¹⁸³ See Director of Programme Planning and Budget Division, OPPFB, Memorandum dated Sept. 26, 2019 from the Director of Programme Planning and Budget Division, OPPFB, to the Secretary of the Hum. Rts. Council, at 1-2 (Sept. 26, 2019).

¹⁸⁴ See *id.* at 1.

¹⁸⁵ The 2020 COI report provides information from more than 1,300 interviews conducted since the beginning of the inquiry in 2016. Members of the COI have been barred from entering Burundi for the entirety of the investigation, requiring the investigation to be completed from outside of Burundi for all five years. As such, the reports are all based almost exclusively on interviews from witnesses, victims, and refugees in neighboring countries. Due to Covid-19 travel restrictions, most of the recent investigation and interviewing has been done remotely. Hum. Rts. Council, Rep. of the United Nations Commission of Inquiry on Burundi (COI) Established Pursuant to Hum. Rts. Council Res. 42/26, ¶¶ 3-4, U.N. Doc. A/HRC/45/32 (Aug. 13, 2020) [hereinafter HRC, COI Rep. (Aug. 13, 2020)].

MYANMAR

¹⁸⁶ See, e.g., Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 18, 2018), *supra* note 64; Speech by Bob Rae, Delegate from the Permanent Mission of Can. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Bob Rae, Delegate from Can. (Sept. 18, 2018)] ("The extent of the human rights violations alleged in Rakhine State has shocked the international community. The allegations of political mass killings, gang rapes and sexual violence, and the burning of Rohingya villages, along with the evidence supporting genocidal intent, warrant an investigation"); Speech by Peter Sørensen, Delegate from the Permanent Mission of the European Union to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) ("It is crucial that the Human Rights Council - the UN's primary and specialized body to address human rights - today acts on its responsibility to adequately address these extremely grave findings.... The international community cannot remain silent when faced with such devastating reports of human rights violations and blatant disregard for human life."); Speech by Ana Teresa Lecaros Terry, Delegate from Peru (Sept. 27, 2018), *supra* note 105 ("The findings of this Mission are unprecedented and present us with a devastating scenario of human rights violations, pointing out the results of a possible genocide in Rakhine State. This is a call for a strong response from this Council. The mechanism proposed in this draft resolution is Analysis of evidence of the most serious crimes and violations in international law in Myanmar and which seeks to facilitate a fair penalty procedure in national, regional and international criminal courts. From our point of view this is the clear response that the Council must give."); Speech on behalf of the Org. for Islamic Cooperation by Fareena Arshad, Delegate from the Permanent Mission of Pak. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech on behalf of the Org. for Islamic Cooperation by Fareena Arshad, Delegate from Pak. (Sept. 17, 2019)] ("OIC is gravely concerned over the FFM's appalling findings like reasonable evidences of commission of crimes under international law, including genocide, crimes against humanity and war crimes").

¹⁸⁷ See, e.g., Speech by Abdulaziz Alwasil, Delegate from Saudi Arabia (Sept. 18, 2018), *supra* note 41 ("My country condemns in the strongest terms the terrorist massacres and brutal genocide of Rohingya Muslims in Burma, and the systematic and systematic destruction of many villages and homes, which represents one of the most brutal and bloody forms of terrorism against the Muslim minority and

other minorities. My country calls for urgent action to stop the violence, to stop these brutal practices and to give Myanmar's Rohingya Muslim minority their rights without discrimination or ethnic classification.”); Speech by Fatou Gaye, Delegate from the Permanent Mission of Sen. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) (“The Rohingyas are a Muslim minority in a country with a Buddhist majority. They are considered by the U.N. as one of the most persecuted minorities in the world.”); Speech on behalf of the Org. for Islamic Cooperation by Farukh Amil, Delegate from the Permanent Mission of Pak. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Farukh Amil on behalf of the OIC, Delegate from Pakistan (Sept. 18, 2018)] (“Such inhumane treatment of a minority population, because of their faith and ethnicity is unimaginable.”).

¹⁸⁸ See, e.g., Speech by Elaha Ebadi, Delegate from Afg. (Sept. 18, 2018), *supra* note 41 (“Seeing little evidence of progress and the government’s intent to resolve the crisis, we believe starting a genuine accountability process and ensuring justice for the victims of violations requires the continuance of independent investigations and intensified international action.”); Speech by Yoon Sangkuk, Delegate from the Permanent Mission of S. Korea to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) [hereinafter Speech by Yoon Sangkuk, Delegate from S. Korea (Sept. 18, 2018)] (“it is regrettable that the government of Myanmar has not cooperated.”).

¹⁸⁹ See Speech by Amr Ramadan, Delegate from the Permanent Mission of Egypt to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Amr Ramadan, Delegate from Egypt (Mar. 24, 2017)].

¹⁹⁰ See, e.g., Speech by Alejandro Dávalos Dávalos, Delegate from Ecuador (Feb. 27, 2020), *supra* note 105 (“Calls for the immediate cessation of violations of human rights and international humanitarian law and for the State of Myanmar to ensure rapid, independent, impartial and thorough investigations”); Speech by Maria Nazareth Farani Azevêdo, Delegate from the Permanent Mission of Braz. to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) [hereinafter Speech by Maria Nazareth Farani Azevêdo, Delegate from Braz. (Sept. 27, 2018)]; Speech by Socorro Flores Liera, Delegate from the Permanent Mission of Mex. to Geneva, Vote on Draft Res. A/HRC/42/L.21/Rev.1 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myan.” of the Hum. Rts. Council 42d Session (Sept. 26, 2019) [hereinafter Speech by Socorro Flores Liera, Delegate from Mex. (Sept. 26, 2019)].

¹⁹¹ See, e.g., Speech by Alejandro Dávalos Dávalos, Delegate from Ecuador (Feb. 27, 2020), *supra* note 105 (“Ecuador agrees with the recommendations made by the High Commissioner, especially accountability, including internationally through the International Criminal Court”); Speech by Carl Hallergard, Delegate from the Permanent Mission of the European Union to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Carl Hallergard, Delegate from European Union (Sept. 17, 2019)] (“The EU also remains convinced that the Independent Investigative Mechanism for Myanmar should work in full recognition of the jurisdiction of the International Criminal Court and we take this opportunity to reiterate our strong support for the International Criminal Court. We welcome continuing efforts by the ICC to address the alleged crimes against humanity, namely deportation, other inhumane acts and persecution committed against the Rohingya people from Myanmar.”); Speech by Shameem Ahsan, Delegate from Bangl. (Mar. 9, 2020), *supra* note 64 (“several judicial proceedings are underway, including in the ICC, ICJ and a court in Argentina under the principle of universal jurisdiction. We believe these judicial activities related to Myanmar would increase the relevance of the Mechanism and its mandate. In the similar vein, we hope that IIMM would be able to ensure that no single perpetrator remains unregistered and unrecorded.”).

¹⁹² See also Figures 13-14.

¹⁹³ See, e.g., Speech by Olmer Torrejón Alcoba, Delegate from the Permanent Mission of Bol. to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session

(Mar. 24, 2017) [hereinafter Speech by Olmer Torrejón Alcoba, Delegate from Bol. (Mar. 24, 2017)] (“[R]esolutions that do not involve the party concerned, on the contrary, promote stigmatization and distort the objective of protecting human rights.”); Speech by Mr. Zolfaghuri, Delegate from Iran (Sept. 18, 2018), *supra* note 41 (“[T]he Islamic Republic of Iran based on experience fully opposes any approach to human rights stemming from double standards, selectivity, and politicization, which are cornerstone of country-specific resolutions under item 4.”); Speech by Kristina Sukacheva, Delegate from the Permanent Mission of Russ. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) (“We would like to remind you that there is a Universal Periodic Review mechanism in place to discuss the human rights situation in all UN member states. Politically motivated country resolutions, as we have seen many times, are useless and counterproductive.”).

¹⁹⁴ See, e.g., Speech by Alina Revilla Alcazar, Delegate from the Permanent Mission of Cuba to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Alina Revilla Alcazar, Delegate from Cuba (Mar. 24, 2017)] (“Cuba reiterates its position of principle regarding resolutions against countries and the need to avoid politicization and selectivity in the work of the council.”); Speech by Manuel Enrique García Andueza, Delegate from the Permanent Mission of Venez. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Manuel Enrique García Andueza, Delegate from Venez. (Sept. 18, 2018)] (“But politicized mandates do not facilitate the necessary climate for the...protection of human rights. The UPR is most suitable mechanism for addressing human rights situations in the world on an equal footing.”); Speech by Jiang Dun, Delegate from the Permanent Mission of China to Geneva, Vote on Draft Res. A/HRC/42/L.21/Rev.1 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myan.” of the Hum. Rts. Council 42d Session (Sept. 26, 2019) [hereinafter Speech by Jiang Dun, Delegate from China (Sept. 26, 2019)] (“And also it contains controversial content concerning international body of criminal justice on independent mechanism of inquiry.”); Speech by Maria Teresa T. Almojuela, Delegate from the Permanent Mission of Phil. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Maria Teresa T. Almojuela, Delegate of Phil. (Sept. 17, 2019)] (“[W]e reiterate our serious concerns on the increasing use of and resort to unilateral measures in the Council which do not enjoy the support of the concerned country.”); Speech by Evan P. Garcia, Delegate from the Permanent Mission of Phil. to Geneva, Interactive dialogue on the report of the Indep. Investigative Mechanism for Myan. of the Hum. Rts. Council 45th Session (Sept. 14, 2020) (“We reiterate our position that unilateral mandates do not serve the objectives of broadening dialogue and cooperation with the concerned countries nor do they generate concrete and positive impacts on the ground.”).

¹⁹⁵ See, e.g., Speech by Robert Matheus Michael Tene, Delegate from the Permanent Mission of Indon. to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Robert Matheus Michael Tene, Delegate from Indon. (Mar. 24, 2017)] (“the international community should also take into consideration the complexity of the outstanding challenges that the new democratically elected government of Myanmar has to confront.”); Speech by Sudhakara Reddy, Delegate from the Permanent Mission of India to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Sudhakara Reddy, Delegate from India (Sept. 17, 2019)] (“Our position has been very clear that the international community should engage more constructively to support reforms that are taking place in Myanmar. The support and appreciation of the ongoing changes and reforms will encourage Myanmar to stay steadfast on its path of democratic reforms. A genuine attempt at rendering all necessary assistance to strengthen its democratic journey is essential.”); Speech by Mitsuko Shino, Delegate from the Permanent Mission of Japan to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017)] (“Japan fully understands and welcomes the fact that the democratically elected new Myanmar government places importance on improving Myanmar’s human rights situation and achieving national reconciliation.”).

¹⁹⁶ See, e.g., Speech by Deepak Dhital, Delegate from Nepal (Sept. 18, 2018), *supra* note 25 (“The long-term solution to the crisis lies in meaningful dialogue and inclusive development of all communities living in the Rakhine State of Myanmar. We request all parties to engage in a constructive way to end any further suffering of the displaced persons and ensure justice for all.”); Speech by Enrico T. Fos, Delegate from the Permanent Mission of Phil. to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Enrico T. Fos, Delegate from Phil. (Mar. 24, 2017)] (“It is our experience that sustained constructive dialogue and engagement work better than confrontation and outside imposition.”); Speech by Jorge Valero, Delegate from the Permanent Mission of Venez. to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Jorge Valero, Delegate from Venez. (Mar. 24, 2017)] (“Mr. President, constructive dialogue, technical assistance, and cooperation with the agreement of the concerned country are the ways forward towards promotion and protection of human rights in any part of the world.”).

¹⁹⁷ See, e.g., Speech by Dai Demao, Delegate from the Permanent Mission of China to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Dai Demao, Delegate from China (Sept. 17, 2019)] (“is concerned that the fact-finding mission has exceeded the mandate of the council”); Speech by Maria Teresa T. Almojuela, Delegate of Phil. (Sept. 17, 2019), *supra* note 194 (“The Philippines is seriously concerned that the FFM may have exceeded its mandate with the report on the economic interests of Tatmadaw and its recommendations.”); Speech by Jorge Valero, Delegate from Venez. (Mar. 24, 2017), *supra* note 196 (“continue to insist on imposing measures which do not enjoy the consent of the country, a violation of the principle of sovereignty, noninterference in domestic affairs enshrined in the United Nations Charter.”); Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) (“we firmly believe that ... the council by deciding to establish this mechanism is acting ultra-biased and is superceding the rule of the General Assembly despite being its subsidiary body as stipulated in Resolution 60/251.”). Egypt voted in favor of the resolution, but voiced concerns about the scope of the mandate.

¹⁹⁸ See HRC Res. 33/24, *supra* note 3, ¶ 23.

¹⁹⁹ Data on file with authors.

²⁰⁰ See *Member States*, *supra* note 63.

²⁰¹ See Speech by Farukh Amil on behalf of the OIC, Delegate from Pakistan (Sept. 18, 2018), *supra* note 187; Speech on behalf of the Org. for Islamic Cooperation by Farukh Amil, Delegate from the Permanent Mission of Pakistan to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) [hereinafter Speech by Farukh Amil on behalf of the OIC, Delegate from Pakistan (Sept. 27, 2018)].

²⁰² See Speech by Farukh Amil on behalf of the OIC, Delegate from Pakistan (Sept. 18, 2018), *supra* note 187; Speech by Farukh Amil on behalf of the OIC, Delegate from Pakistan (Sept. 27, 2018), *supra* note 201.

²⁰³ Compare Figures 9-11.

²⁰⁴ See, e.g., Speech by Saja S. Majali, Delegate from Jordan (Sept. 18, 2018), *supra* note 41 (“We welcome Bangladesh’s efforts in hosting refugees and call for efforts to be stepped up internationally to end the suffering of the Muslim Rohingya and ensure security and peace in Myanmar.”) (not a voting party, but supported the mechanism); Speech by Kham-Inh Khitchadeth, Delegate from the Permanent Mission of Laos to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) (Not a voting party, but supported the mechanism: “We share our concern of the international community ... including the displacement and suffering of all communities affected by escalation of violation ignited by the act of terrorism committed.”); Speech by Khalil-Ur-Rahman Hashmi, Delegate from the Permanent Mission of Pak. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) (“[W]e appreciate the efforts of Government of Bangladesh in providing

shelter and relief to the Rohingya refugees and urge the international community for greater assistance and support.”).

²⁰⁵ See, e.g., Speech by Bushra Al-Nussairy, Delegate from Iraq (Sept. 18, 2018), *supra* note 41 (“...call to the Myanmar government to shoulder its burdens and responsibilities in protecting all its citizens without discrimination, regardless of their ethnic, social and religious backgrounds, and to pursue a more comprehensive, just and transparent policy towards ethnic and religious groups.”); Speech by Aishath Shahula, Delegate from Maldives (Sept. 18, 2018), *supra* note 41 (Not a voting party, but supported the mechanism: “My delegation is appalled by the nature of the systematic and oppressive conduct against the Rohingya people in Myanmar.”); Speech by Abdulaziz Alwasil, Delegate from Saudi Arabia (Sept. 18, 2018), *supra* note 41 (“terrorist massacres and brutal genocide of Rohingya Muslims in Burma.”).

²⁰⁶ See, e.g., Speech by Bushra Al-Nussairy, Delegate from Iraq (Sept. 18, 2018), *supra* note 41 (“Iraq affirms its steadfast position and its strong condemnation of the crimes and violations committed against the peaceful Rohingya Muslim minority, which the report classified as genocide, crimes against humanity and war crimes.”); Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 17, 2019), *supra* note 13 (“Myanmar has failed in its obligation to prevent and investigate this genocide, and enact effective legislation criminalizing and punishing committers. These crimes of the powerful are emblematic of the pervasive domestic impunity.”).

²⁰⁷ See Speech by Hamid Abdulhai Formuli, Delegate from the Permanent Mission of Afg. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Hamid Abdulhai Formuli, Delegate from Afg. (Sept. 17, 2019)] (“We are alarmed by the findings of the FFM report and condemn the systematic and gross violations and abuses of human rights including arbitrary and unlawful detention, torture, forced labour and the brutal acts of sexual and gender-based violence.”); Speech by Hala Hameed, Delegate from the Permanent Mission of Maldives to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Hala Hameed, Delegate from Maldives (Sept. 17, 2019)] (“We would especially like to note the troubling reports on sexual and gender-based violence committed by the Myanmar military; and the multiple and intersectional discrimination against children, women and ethnic minority groups in the country.”); Speech by Abdulaziz Alwasil, Delegate from Saudi Arabia (Sept. 18, 2018), *supra* note 41 (“... numerous cases of indiscriminate killings and gang rape of women, child abuse, cases of enforced disappearances, and other forms of sexual violence, persecution and enslavement of minorities in Myanmar, which the report described as a rise in genocide.”).

²⁰⁸ See Speech by Elaha Ebadi, Delegate from Afg. (Sept. 18, 2018), *supra* note 41 (“Any solution for the Rohingya situation should be built on the need to address the systematic discrimination and injustice toward people in Rakhine state, which has been in place for a few decades.”); Speech by Fareena Arshad, Delegate from the Permanent Mission of Pak. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) (“Rohingya Muslims have been victims of a systemic persecution spanning decades. Unfortunately, vitriolic anti-Muslim hatred continues to remain a common feature in the Myanmar public discourse. This only serves to isolate and criminalize the Muslim Rohingya Population.”).

²⁰⁹ See Speech by Hamid Abdulhai Formuli, Delegate from Afg. (Sept. 17, 2019), *supra* note 207 (“Seeing little evidence of progress and the government’s intent to resolve the crisis...”); Speech by Amran Mohamed Zin, Delegate from Malay. (Sept. 18, 2018), *supra* note 23 (“the Myanmar military and government were given ample opportunity to provide their side of the story – opportunities that they repeatedly did not avail themselves of.”); Speech by Yoon Sangkuk, Delegate from S. Korea (Sept. 18, 2018), *supra* note 188 (“However lack of the tangible processes on the ground in the repatriation process remains a major concern.”); Speech by Hala Hameed, Delegate from Maldives (Sept. 17, 2019), *supra* note 207 (“As human rights in Myanmar remains incomplete...”).

²¹⁰ See Speech by Shameem Ahsan, Delegate from the Permanent Mission of Bangl. to Geneva, Vote on Draft Res. A/HRC/43/L.23 “Situation of Hum. Rts. in Myan.” of the Hum. Rts. Council 43d Session (June 22, 2020) [hereinafter Speech by Shameem Ahsan, Delegate from Bangl. (June 22, 2020)] (“It also highlights the progress made on the international justice front, including in the ICC and ICJ.”); Speech by Syed Edwan Anwar, Delegate from the Permanent Mission of Malay. to Geneva, Discussion on the

Update by the Secretary Gen. on the Involvement of the United Nations in Myan. of the Hum. Rts. Council 43d Session (Mar. 9, 2020) [hereinafter Speech by Syed Edwan Anwar, Delegate from the Permanent Mission of Malay. (Mar. 9, 2020)] (“In this regard, Malaysia welcomes the decision of the ICJ in support of the provisional measures requested by the Gambia as an initial step to address the situation of the Rohingya.”); Speech by Meshal Alblawi, Delegate from Saudi Arabia (Feb. 27, 2020), *supra* note 41 (“My government appreciates the decision of the International Court of Justice last month to impose interim measures against the Government of Myanmar obliging it to ensure the protection of the Rohingya minority.”)

²¹¹ See Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195; Speech by Sudhakara Reddy, Delegate from India (Sept. 17, 2019), *supra* note 195; Speech by Andreano Erwin, Delegate from the Permanent Mission of Indon. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Andreano Erwin, Delegate from Indon. (Sept. 17, 2019)]; Speech by Deepak Dhital, Delegate from Nepal (Sept. 18, 2018), *supra* note 25.

²¹² See Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195; Speech by Ken Okaniwa, Delegate from the Permanent Mission of Japan to Geneva, Vote on Draft Res. A/HRC/42/L.21/Rev.1 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myan.” of the Hum. Rts. Council 42d Session (Sept. 26, 2019); Speech by Ajit Kumar, Delegate from the Permanent Mission of India to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017)].

²¹³ See Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017), *supra* note 212; Speech by Sudhakara Reddy, Delegate from India (Sept. 17, 2019), *supra* note 195; Speech by Robert Matheus Michael Tene, Delegate from Indon. (Mar. 24, 2017), *supra* note 195.

²¹⁴ See Speech by Deepak Dhital, Delegate from the Permanent Mission of Nepal (Sept. 18, 2018), *supra* note 25.

²¹⁵ See Speech by Jiang Dun, Delegate from China (Sept. 26, 2019), *supra* note 194; Speech by Maria Teresa T. Almojuela, Delegate from the Permanent Mission of Phil. to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) [hereinafter Speech by Maria Teresa T. Almojuela, Delegate from Phil. (Sept. 27, 2018)].

²¹⁶ See Speech by Maria Teresa T. Almojuela, Delegate from Phil. (Sept. 27, 2018), *supra* note 215 (“Modern democracies are not built overnight; they must be given the chance and time to build the necessary institutions for the establishment of the rule of law.”).

²¹⁷ Speech by Dahai Q, Delegate from the Permanent Mission of China to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018).

²¹⁸ See *infra* Appendix A; Appendix B; see also *infra* Burundi (B)(2).

²¹⁹ See Speech by Elayne Whyte Gomez, Delegate from the Permanent Mission of Costa Rica to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018) (“This council ... must ensure the establishment of accountability and accountability mechanisms to end impunity and work to ensure conditions for voluntary safe return and human rights protections including nationality.”).

²²⁰ See Speech by Victor Arturo Cabrera, Delegate from the Permanent Mission of Ecuador to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017); Speech by Ana Teresa Lecaros Terry, Delegate from Peru (Sept. 27, 2018), *supra* note 105.

²²¹ See Speech by Márcia Canário De Oliveira, Delegate from Braz. (Mar. 24, 2017), *supra* note 15.

²²² See Speech by Socorro Flores Liera, Delegate from Mex. (Sept. 26, 2019), *supra* note 190.

²²³ See Speech by Alina Revilla Alcazar, Delegate from Cuba (Mar. 24, 2017), *supra* note 194; Speech by Manuel Enrique García Andueza, Delegate from Venez. (Sept. 17, 2018), *supra* note 194.

²²⁴ See Speech by Olmer Torrejón Alcoba, Delegate from Bol. (Mar. 24, 2017), *supra* note 193.

²²⁵ Speech by Mehdi Litim, Delegate from the Permanent Mission of Alg. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018).

²²⁶ Compare HRC Res. 39/2, *supra* note 8, at 7; with HRC Res. 42/3, *supra* note 9, at 6; and HRC Res. 43/26, *supra* note 10, at 8.

²²⁷ See Speech by Amr Ramadan, Delegate from Egypt (Mar. 24, 2017), *supra* note 189 (“we remain seriously concerned about the situation in northern Rakhine, including the recent violence that has resulted in the loss of innocent lives and in the displacement of tens of thousands of Rohingya people. We call upon the government of Myanmar to continue efforts to eliminate discrimination and violence against members of ethnic and religious minorities, including the root causes of discrimination, in particular relating to the Rohingya Muslim minority”). However, in HRC meetings on Myanmar, Egypt offered a mixed message. It called upon the government of Myanmar to strengthen its cooperation with the IIMM even as it expressed its concern that the IIMM had gone beyond its mandate to gather evidence by investigating. Compare Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt to Geneva, Vote on Draft Res. A/HRC/42/L.21/Rev.1 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myan.” of the Hum. Rts. Council 42d Session (Sept. 26, 2019) [hereinafter Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt (Sept. 26, 2019)] (“Egypt firmly believed that the creation of this mechanism does not fall within the mandate of the Human Rights Council as stipulated in its institutional building package.”); with Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020) (“We in Egypt are following with great concern the situation of the Rohingya Muslim minority in Myanmar.... We also stress the need for the Myanmar government to cooperate with the Human Rights Council and its mechanisms to help it deal with the challenges it faces.”).

²²⁸ See Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2018), *supra* note 197. Egypt objected to the references in the resolution to the ICC and believed that the collection of evidence was beyond the mandate of the HRC. It supported the resolutions, however, because of the reports of atrocities. *Id.*

²²⁹ See Speech by Fatou Gaye, Delegate from the Permanent Mission of Sen. to Geneva, Discussion on the Update by the Secretary Gen. on the Involvement of the United Nations in Myan. of the Hum. Rts. Council 43d Session (Mar. 9, 2020).

²³⁰ *Id.*

²³¹ Compare HRC Res. 42/3, *supra* note 9, at 6, with HRC Res. 43/26, *supra* note 10, at 8.

²³² Data on file with author.

²³³ See above discussion of Burundi; see also HRC Res. 33/24, *supra* note 3, ¶ 23 (creation of the COI).

²³⁴ See HRC Res. 34/22, *supra* note 5, ¶ 11.

²³⁵ *Id.* ¶ 11.

²³⁶ See HRC Res. 39/2, *supra* note 8, ¶¶ 22-24.

²³⁷ See *id.* ¶ 22.

²³⁸ See *id.*

²³⁹ See HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 3.

²⁴⁰ See *id.* ¶ 7.

²⁴¹ See *id.* ¶ 8.

²⁴² See *id.* ¶¶ 100, 106.

²⁴³ See *id.* ¶¶ 107-109.

²⁴⁴ See *id.* ¶ 106; HRC Res. 39/2, *supra* note 8, ¶ 23(a).

²⁴⁵ See HRC Res. 39/2, *supra* note 8, ¶ 1.

²⁴⁶ See *id.* ¶ 6.

²⁴⁷ See *id.* ¶ 24; HRC Res. 43/26, *supra* note 10, ¶ 9.

²⁴⁸ See HRC Res. 43/26, *supra* note 10, ¶ 9.

²⁴⁹ See generally, Hum. Rts. Council, Rep. of the Special Rapporteur on the situation of Hum. Rts. in Myan., U.N. Doc. A/HRC/31/71 (Mar. 18, 2016); United Nations High Commission for Hum. Rts., Rep. on the Situation of human rights of Rohingya Muslims and other minorities in Myan., U.N. Doc. A/HRC/32/18 (June 29, 2016).

²⁵⁰ Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia,

Liechtenstein, Lithuania, Luxembourg, Malta (on behalf of the European Union), Monaco, Montenegro, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, Subsequently, Australia, Costa Rica, Norway, the Republic of Korea, San Marino, Switzerland, and the former Yugoslav Republic of Macedonia (now Northern Macedonia).

²⁵¹ HUM. RTS. WATCH, MYANMAR'S INVESTIGATIVE COMMISSIONS: A HISTORY OF SHIELDING ABUSERS 1, 2-8 (2018), https://www.hrw.org/sites/default/files/supporting_resources/201809myanmar_commissions.pdf.

²⁵² See, e.g., Speech by Jiang Yingfeng, Delegate from the Permanent Mission of China to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech by Jiang Yingfeng, Delegate from China (Mar. 24, 2017)] ("The international community should speak positively of the efforts the government has been undertaking and work to create a favorable external environment for the parties concerned to resolve their conflict through dialogue."); Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017), *supra* note 212 ("We are of the firm belief that the international community, including U.N. agencies, needs to continue to engage constructively with the people and government of Myanmar, especially in the wake of the successful general elections on November 2015."); Robert Matheus Michael Tene, Delegate from Indon. (Mar. 24, 2017), *supra* note 195 ("In this regard the international community should render the necessary opportunity and space for the government of Myanmar to address the challenges and to conclude the ongoing national processes, including through the National Investigation Commission and the Advisory Commission on Rakhine State led by the former U.N. Secretary, General Kofi Annan."); Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195 ("Japan believes that only after the results of the investigation have been evaluated should a fact finding mission be sent to Myanmar as necessary, and in cooperation with the Government of Myanmar. As such, Japan is not supportive of the content of the concerned paragraphs.").

²⁵³ See, e.g., Speech on behalf of the European Union by Olaph J. Terribile, Delegate from the Permanent Mission of Malta to Geneva, Discussion of Draft Resolution A/HRC/34/L.8/Rev.1 of the Hum. Rts. Council 34th Session (Mar. 24, 2017) [hereinafter Speech on behalf of the European Union by Olaph J. Terribile, Delegate from Malta (Mar. 24, 2017)] ("The adoption of this resolution by consensus will send a strong signal of support from this Council to the transition underway in Myanmar/Burma."); Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195 ("Japan fully understands and welcomes the fact that the democratically elected new Myanmar government places importance on improving Myanmar's human rights situation and achieving national reconciliation.").

²⁵⁴ HRC Res. 34/22, *supra* note 5, ¶ 11.

²⁵⁵ *Id.* ¶¶ 11, 12

²⁵⁶ See Speech by Marzuki Darusman, Chair of the Fact-Finding Mission, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 36th Session (Sept. 19, 2017).

²⁵⁷ See generally Human Rights Council Res. 36/L.31/Rev.1, U.N. Doc. A/HRC/RES/36/L.31/Rev.1 (Sept. 29, 2017).

²⁵⁸ See generally HRC Res. 39/2, *supra* note 8.

²⁵⁹ *Id.* ¶ 30.

²⁶⁰ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶¶ 83-89.

²⁶¹ HRC IIFFMM Rep. (Aug. 8, 2019), *supra* note 60, ¶¶ 7-9.

²⁶² See generally Hum. Rts. Council, Rep. on the economic interests of the Myan. Military from the United Nations Indep. Int'l. Fact-Finding Mission on Myan. (IIFFMM) Established Pursuant to Hum. Rts. Council Res. 39/2, U.N. Doc. A/HRC/42/CRP.3 (Aug. 5, 2019).

²⁶³ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, ¶ 7; HRC IIFFMM Rep. (Aug. 8, 2019), *supra* note 60, ¶ 36.

²⁶⁴ HRC IIFFMM Rep. (Aug. 8, 2019), *supra* note 60, ¶ 36.

²⁶⁵ *Id.*

²⁶⁶ *Id.* ¶¶ 14-17.

²⁶⁷ HRC Res. 39/2, *supra* note 8, ¶ 22.

²⁶⁸ HRC Res. 42/3, *supra* note 9, Pmbl. ¶ 6.

²⁶⁹ HRC Res. 39/2, *supra* note 8, ¶ 24.

²⁷⁰ See *id.* ¶ 22; HRC Res. 42/3, *supra* note 9, ¶ 12; Human Rights Council Draft Res. 43/L.23, U.N. Doc. A/HRC/43/L.23, ¶ 9 (Mar. 30, 2020) [hereinafter HRC Draft Res. 43/L.23].

²⁷¹ HRC Res. 43/26, *supra* note 10, ¶ 9.

²⁷² *Id.*

²⁷³ HRC Res. 39/2, *supra* note 8, ¶ 23.

²⁷⁴ *Id.* ¶ 22.

²⁷⁵ HRC Res. 42/3, *supra* note 9, ¶ 12; HRC Res. 43/26, *supra* note 10, ¶ 10.

²⁷⁶ HRC, IIMM Rep. (July 7, 2020), *supra* note 98, ¶¶ 46–47, 52.

²⁷⁷ *Id.* ¶¶ 52–63.

²⁷⁸ Director of Programme Planning and Budget Division, OPPFB, Memorandum dated Sept. 26, 2018 from the Director of Programme Planning and Budget Division, OPPFB, to the Secretary of the Hum. Rts. Council, ¶ 7 (Sept. 26, 2018).

²⁷⁹ *Id.* ¶ 9.

²⁸⁰ *Id.*

²⁸¹ HRC, IIMM Rep. (July 7, 2020), *supra* note 98, ¶¶ 13–15.

²⁸² HRC Res. 43/26, *supra* note 10, ¶¶ 10, 40.

APPENDIX A: SUMMARY OF REPORT FINDINGS AND STATEMENTS AT HRC SESSIONS FOR BURUNDI

²⁸³ See Secretariat of the Hum. Rts. Council, Memorandum dated Dec. 17, 2015 from the Secretariat of the Hum. Rts. Council to all Permanent Missions to the U.N. Office at Geneva, U.N. Entities, Specialized Agencies and Related Orgs., Int'l Orgs., Nat'l Hum. Rts. Institutions, and Non-Governmental Orgs. in Consultative Status with the Econ. and Soc. Council (Dec. 17, 2015).

²⁸⁴ See Speech by Andrey Nikiforov, Delegate from the Permanent Mission of Russia in Geneva, Hum. Rts. Council 24th Special Session (Dec. 17, 2015).

²⁸⁵ See Speech by Ana del Rosario Durán Ruiz, Delegate from Bol. (Dec. 17, 2015), *supra* note 128.

²⁸⁶ See Speech by Mohamed Negm, Delegate from Egypt (Dec. 17, 2015), *supra* note 157; Speech by Se Pyong So, Delegate from the Permanent Mission of N. Kor. (Dec. 17, 2015), *supra* note 157.

²⁸⁷ See *generally* Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2.

²⁸⁸ See *id.* ¶¶ 125, 130–132.

²⁸⁹ See *id.* ¶¶ 38–100.

²⁹⁰ *Id.* ¶ 1.

²⁹¹ *Id.*; HRC Res. 33/24, *supra* note 3, ¶ 23.

²⁹² See Speech by Martin Kabác, Delegate from the Permanent Mission of Slov. in Geneva, Explanation of Vote on Draft Resolution A/HRC/33/L.31 “Situation of human rights in Burundi” of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Martin Kabác, Delegate Slov. (Sept. 30, 2016)].

²⁹³ See *generally*, Speech by Filloreta Kodra, Delegate from the Permanent Mission of Alb. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016) [hereinafter Speech by Filloreta Kodra, Delegate from Alb. (Sept. 30, 2016)]; Speech by Karl Dhaene, Delegate from Belg. (Sept. 30, 2016), *supra* note 13; Speech by Rosemary McCarney, Delegate from the Permanent Mission of Can. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016); Speech by Lukas Heinzer, Delegate from the Permanent Mission of Switz. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016); Speech by Martin Kabác, Delegate from Slov. (Sept. 30, 2016), *supra* note 292.

²⁹⁴ See, e.g., Speech by Thomas Hajnoczi, Delegate from the Permanent Mission of Austria in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016); Speech by Triinu Kallas, Delegate from the Permanent Mission of Est. in Geneva, Interactive Dialogue: Commission of Inquiry on the

Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016); Speech by Elisabeth Laurin, Delegate from Fr. (Sept. 30, 2016), *supra* note 115; Speech by Anna Korka, Delegate from the Permanent Mission of Greece. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016)

²⁹⁵ See, e.g., Speech by Filloreta Kodra, Delegate from Alb. (Sept. 30, 2016), *supra* note 293; Speech by Quirine Van De Linde, Delegate from Neth. (Sept. 30, 2016), *supra* note 115; Speech by Marius Mikkell Kolstad, Delegate from the Permanent Mission of Nor. in Geneva, Interactive Dialogue: Commission of Inquiry on the Implementation of Hum. Rts. Council Resolution A/HRC/33/37 of the Hum. Rts. Council 33d Session (Sept. 30, 2016).

²⁹⁶ Hum. Rts. Council, UNIIB Rep. (Sept. 20, 2016), *supra* note 2, ¶ 164; See Speech by Faisal Bin Hassan Trad, Delegate from Saudi Arabia, on behalf of Bah., Bol., Cuba, Egypt, Morocco, Nicar., Nigeria, Sudan, U.A.E., Uganda, and Venez. (Sept. 30, 2016), *supra* note 113.

²⁹⁷ See Speech by Aleksei Goltiaev, Delegate from the Permanent Mission of Russ. in Geneva, Explanation of Vote on Draft Resolution A/HRC/33/L.31 “Situation of human rights in Burundi” of the Hum. Rts. Council 33d Session (Sept. 30, 2016).

²⁹⁸ See generally HRC, COI Report (Aug. 11, 2017), *supra* note 49.

²⁹⁹ *Id.* Summ. ¶ 2.

³⁰⁰ See *id.* ¶¶ 17–27.

³⁰¹ See *id.* ¶ 28.

³⁰² See *id.* Summ. ¶ 4, ¶¶ 25–27.

³⁰³ See generally HRC Res. 36/19, *supra* note 95; Human Rights Council Draft Res. 36/L.33, U.N. Doc A/HRC/36/L.33 (Sept. 26, 2017) [hereinafter HRC Draft Res. 36/L.33].

³⁰⁴ See generally HRC Res. 36/19, *supra* note 95.

³⁰⁵ See generally HRC Draft Res. 36/L.33, *supra* note 303.

³⁰⁶ See Speech by Maria Nazareth Farani Azevêdo, Delegate from Braz. (Sept. 29, 2017), *supra* note 26; Speech by Athaliah Lesiba Molokomme, Delegate from Bots. (Sept. 27, 2017), *supra* note 111; Speech by Valentin Zellweger, Delegate from the Permanent Mission of Switz. in Geneva, Explanation of Vote on Draft Resolution A/HRC/36/L.9/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 36th Session (Sept. 29, 2017).

³⁰⁷ See, e.g., Speech by Carsten Staur, Delegate from Den. (Sept. 19, 2017), *supra* note 31; Speech by Michail Manousakis, Delegate from the Permanent Mission of Greece in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017); Speech by Zoltán Bányász, Delegate from the Permanent Mission of Hung. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017).

³⁰⁸ See, e.g., Speech by Geert Muylle, Delegate from the Permanent Mission of Belg. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017); Speech by Dorina Xhixho, Delegate from the Permanent Mission of Alb. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017) [hereinafter Speech by Dorina Xhixho, Delegate from Alb. (Sept. 19, 2017)]; Speech by Jimena Leyva, Delegate from the Permanent Mission of Mex. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017).

³⁰⁹ See Speech by Jason Mack, Delegate from the Permanent Mission of the U.S. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017).

³¹⁰ See, e.g., Speech by Moses Rugema, Delegate from Rwanda (Sept. 19, 2017), *supra* note 109; Speech by Edda Björk Ragnarsdóttir, Delegate from the Permanent Mission of Ice. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017); Speech by Anne Goedert, Delegate from the Permanent Mission of Lux. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017).

- ³¹¹ See Speech by Tabu Rénovat, Delegate from the Permanent Mission of Burundi in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017); see also Speech by Robert K.V. Kahendaguza, Delegate from Dem. Rep. Congo (Sept. 19, 2017), *supra* note 103.
- ³¹² See, e.g., Yannis Fotakis, Delegate from Austria (Sept. 19, 2017), *supra* note 101; Speech by Claudio Nardi, Delegate from Liech. (Sept. 19, 2017), *supra* note 101; Speech by Sonia Melo E. Castro, Delegate from Port. (Sept. 19, 2017), *supra* note 101.
- ³¹³ See, e.g., Speech by Dorina Xhixho, Delegate from Alb. (Sept. 19, 2017), *supra* note 308; Speech by Susanne Fries-Gaier, Delegate from the Permanent Mission of Ger. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017); Speech by Agathe Hurchinson, Delegate from the Permanent Mission of Ir. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017).
- ³¹⁴ See Speech by Kristina Sukacheva, Delegate from the Permanent Mission of Alb. in Geneva, Interactive Dialogue: Commission of Inquiry on the Situation of Hum. Rts. in Burundi of the Hum. Rts. Council 36th Session (Sept. 19, 2017).
- ³¹⁵ See *id.*
- ³¹⁶ HRC, COI Report (Aug. 8, 2018), *supra* note 182, Summ. ¶ 1.
- ³¹⁷ See *id.* ¶¶ 32-54.
- ³¹⁸ See *id.*, Summ. ¶¶ 2, 62-65.
- ³¹⁹ See *id.*, ¶¶ 20-27.
- ³²⁰ See *id.* ¶¶ 55-61.
- ³²¹ See *id.* ¶¶ 57-60.
- ³²² See *id.* ¶ 83; HRC Res. 39/14, *supra* note 9, ¶ 22.
- ³²³ See Human Rights Council Draft Res. 39/L.15, U.N. Doc. A/HRC/RES/39/L.15 (Sept. 24, 2018).
- ³²⁴ See HRC Res. 39/14, *supra* note 9, Prmb. ¶ 12.
- ³²⁵ See *id.*; BURUNDI'S CONSTITUTION OF 2018, May 17, 2018, art. 97 (Burundi); *Burundi Backs New Constitution Extending Presidential Term Limits*, ALJAZEERA NEWS (May 22, 2018), <https://www.aljazeera.com/news/2018/5/22/burundi-backs-new-constitution-extending-presidential-term-limits>.
- ³²⁶ See HRC, COI Report (Aug. 8, 2018), *supra* note 182, ¶¶ 55-61.
- ³²⁷ HRC Res. 39/14, *supra* note 9, Prmb. ¶¶ 19-21.
- ³²⁸ See, e.g., Speech by Elisabeth Tichy-Fisslberger, Delegate from the Permanent Mission of Austria in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Elisabeth Tichy-Fisslberger, Delegate from Austria (Sept. 17, 2018)]; Speech by Carlos Dominguez, Delegate from the Permanent Mission of Spain in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018); Speech by Miriam Shearman, Delegate from the Permanent Mission of U.K. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018).
- ³²⁹ See Speech by Geert Muylle, Delegate from the Permanent Mission of Belg. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Geert Muylle, Delegate from Belg. (Sept. 17, 2018)]; see also Speech by Ralf Schroer, Delegate from the Permanent Mission of Ger. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018); Speech by Pierre-Louis Lorenz, Delegate from the Permanent Mission of Lux. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018).
- ³³⁰ HRC, COI Report (Aug. 8, 2018), *supra* note 182, ¶ 79; see also Speech by Elisabeth Tichy-Fisslberger, Delegate from Austria (Sept. 17, 2018), *supra* note 328 (quoting the language directly in her statement); Speech by Michal Dvorák, Delegate from the Permanent Mission of Czech. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by Michal Dvorák, Delegate from Czech. (Sept. 17, 2018)];

Speech by François Gave, Delegate from the Permanent Mission of Fr. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018) [hereinafter Speech by François Gave, Delegate from Fr. (Sept. 17, 2018)]; Speech by Triinu Kallas, Delegate from the Permanent Mission of Est. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018).

³³¹ See Speech by Vesna Batistic Kos, Delegate from Croat. (Sept. 17, 2018), *supra* note 101.

³³² See Speech by Olga Chekrizova, Delegate from Russ. (Sept. 17, 2018), *supra* note 116.

³³³ See, e.g., Speech by Tamara Mawhinney, Delegate from the Permanent Mission of Can. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018); Speech by François Gave, Delegate from Fr. (Sept. 17, 2018), *supra* note 330; Speech by Herbord F. Alvsaker, Delegate from the Permanent Mission of Nor. in Geneva, Interactive Dialogue Commission of Inquiry on Burundi A/HRC/39/63 of the Hum. Rts. Council 39th Session (Sept. 17, 2018); c.f. Speech by Olga Chekrizova, Delegate from Russ. (Sept. 17, 2018), *supra* note 116 (citing the need for a free and fair democratic election protected by “mediation actions by the UN, the African Union and the East African Community”).

³³⁴ See HRC, COI Report (Aug. 8, 2018), *supra* note 182, Summ. ¶¶ 3, 22; See, e.g., Speech by Geert Muylle, Delegate from Belg. (Sept. 17, 2018), *supra* note 329; Speech by Vesna Batistic Kos, Delegate from Croat. (Sept. 17, 2018), *supra* note 101; Speech by Michal Dvorák, Delegate from Czech. (Sept. 17, 2018), *supra* note 330.

³³⁵ See Speech by Olga Chekrizova, Delegate from Russ. (Sept. 17, 2018), *supra* note 116; see also Speech by Manuel Enrique García Andueza, Delegate from Venez. (Sept. 17, 2018), *supra* note 194.

³³⁶ Data on file with author.

³³⁷ See HRC, COI Report (Aug. 6, 2019), *supra* note 182, Summ. ¶ 2, ¶¶ 20, 34, 38–39, 47–49, 52.

³³⁸ *Id.* ¶¶ 21, 25–26.

³³⁹ See *id.* Summ. ¶ 1, ¶¶ 66, 82, 90, 93(r).

³⁴⁰ *Id.* Summ. ¶ 2.

³⁴¹ *Id.* ¶ 89.

³⁴² *Id.* ¶¶ 80–89.

³⁴³ See HRC Res. 42/26, *supra* note 9, ¶ 22.

³⁴⁴ See Human Rights Council Draft Res. 42/L.10, U.N. Doc. A/HRC/RES/42/L.10 (Sept. 23, 2019).

³⁴⁵ HRC Res. 42/26, *supra* note 9, ¶ 22.

³⁴⁶ Compare HRC Res. 39/14, *supra* note 9, Prmb. ¶ 15 (requests that the COI generally “deepen its investigations”), with HRC Res. 42/26, *supra* note 9, ¶ 22 (“welcoming ... the analysis of risk factors for atrocity crimes” and “decid[ing] to extend the mandate of the [COI] in order for it to deepen its investigations, including into respect for and observance of political, civil, economic and social rights in the electoral context”).

³⁴⁷ See, e.g., Speech by Terhi Hakala, Delegate from the Permanent Mission of Fin. in Geneva on behalf of the Eur. Union, E.U. Introductory Statement on Draft Resolution A/HRC/42/L.10/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 42d Session (Sept. 27, 2019) [hereinafter Speech on behalf of the Eur. Union by Terhi Hakala, Delegate from Fin. (Sept. 27, 2019)]; Speech by Elizabeth Wilde, Delegate from the Permanent Mission of Austl. in Geneva, Explanation of Vote on Draft Resolution A/HRC/42/L.10/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 42d Session (Sept. 27, 2019) [hereinafter Speech by Elizabeth Wilde, Delegate from Astrl. (Sept. 27, 2019)].

³⁴⁸ See, e.g., Speech on behalf of the Eur. Union by Terhi Hakala, Delegate from Fin. (Sept. 27, 2019), *supra* note 347; Speech by Elizabeth Wilde, Delegate from Astrl. (Sept. 27, 2019), *supra* note 347.

³⁴⁹ See, e.g., Speech on behalf of the Eur. Union by Terhi Hakala, Delegate from Fin. (Sept. 27, 2019), *supra* note 347; Speech by Elizabeth Wilde, Delegate from Astrl. (Sept. 27, 2019), *supra* note 347; Speech by Rita French, Delegate from the Permanent Mission of the U.K. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Robert K.V. Kahendaguza, Delegate from Tanz. (Sept. 17, 2019), *supra* note 133.

³⁵⁰ See, e.g., Speech by Tom Neijens, Delegate from the Permanent Mission of Belg. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council

42d Session (Sept. 17, 2019); Speech by Morten Jespersen, Delegate from the Permanent Mission of Den. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Cara Pronk Jordan, Delegate from the Permanent Mission of Neth. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019).

³⁵¹ See Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019), *supra* note 40; Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019), *supra* note 40.

³⁵² See, e.g., Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019), *supra* note 40; Speech by Jiang Dun, Delegate from China (Sept. 27, 2019), *supra* note 121; Speech by Côme Damien Georges Awoumou, Delegate from Cameroon (Sept. 27, 2019), *supra* note 40.

³⁵³ See, e.g., Speech by Jiang Dun, Delegate from China (Sept. 27, 2019), *supra* note 121; Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019), *supra* note 40.

³⁵⁴ See, e.g., Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2019), *supra* note 40; Speech by Jiang Dun, Delegate from China (Sept. 27, 2019), *supra* note 121; Speech by Côme Damien Georges Awoumou, Delegate from the Permanent Mission of Cameroon in Geneva, Speech at the Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Manuel Jose Hernandez Bustamante, Delegate from the Permanent Mission of Venez. in Geneva, Speech at the Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019).

³⁵⁵ See, e.g., Speech by Mukabenora Aysa, Delegate from the Permanent Mission of Russ. in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019).

³⁵⁶ See for Russia, *id.*; for China, Speech by Jiang Dun, Delegate from the Permanent Mission of China in Geneva, Interactive Dialogue with: The Commission of Inquiry on Burundi A/HRC/42/49 of the Hum. Rts. Council 42d Session (Sept. 17, 2019).

³⁵⁷ HRC, COI Rep. (Aug. 13, 2020), *supra* note 185, ¶¶ 16-20, 31-42, 53-55.

³⁵⁸ *Id.* ¶ 31.

³⁵⁹ *Id.* ¶¶ 34, 46-48.

³⁶⁰ See generally *id.* ¶¶ 16-20, 31-42, 53-55.

³⁶¹ *Id.* ¶¶ 64-80.

³⁶² See HRC Draft Res. L.36/Rev.1, *supra* note 9.

³⁶³ HRC Draft Res. L.36/Rev.1, *supra* note 9, at 1.

³⁶⁴ See, e.g., Speech by Lisa Marie Gittos, Delegate from the Permanent Mission of Austl. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) (“Postelection reports of politically motivated arrests and detentions concerning”); Speech by Vesna Batistic Kos, Delegate from the Permanent Mission of Croat. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Vesna Batistic Kos, Delegate from Croat. (Sept. 23, 2020)] (“Croatia strongly regrets and condemns ongoing violations of women rights, especially in form of rape and female genital mutilations”); Speech by Monique T.G. Van Daalen, Delegate from the Permanent Mission of Neth. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Monique T.G. Van Daalen, Delegate from Neth. (Sept. 23, 2020)] (“numerous cases of arbitrary arrest and detention, torture and ill-treatment, cases of rape and sexual violence, and violations of fundamental civil liberties”).

³⁶⁵ See Speech by Matthew James Puttick, Delegate from the Permanent Mission of U.K. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020); see also Speech by Michael Freiherr von Ungern-Sternberg, Delegate from the Permanent Mission of Ger. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020).

³⁶⁶ See Speech by Ahmend Moharam Ahmed Soliman, Delegate from the Permanent Mission of Egypt in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts.

Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Ahmend Moharam Ahmed Soliman, Delegate from Egypt (Sept. 23, 2020)].

³⁶⁷ See Speech by Lisa Marie Gittos, Delegate from the Permanent Mission of Austl. in Geneva, Explanation of Vote on Draft Resolution A/HRC/42/L.10/Rev.1 “Situation of human rights in Burundi” of the Hum. Rts. Council 42d Session (Sept. 27, 2019); Speech by Vesna Batistic Kos, Delegate from Croat. (Sept. 23, 2020), *supra* note 364; Speech by Monique T.G. Van Daalen, Delegate from Neth. (Sept. 23, 2020), *supra* note 364; Speech by Maimuna Kibenga Tarishi, Delegate from Tanz. (Sept. 23, 2020), *supra* note 133.

³⁶⁸ See Speech on Behalf of the Group of Nordic/Baltic Countries by Tine Mørch Smith, Delegate from the Permanent Mission of Nor. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020).

³⁶⁹ See Speech by François Gave, Delegate from the Permanent Mission of Fr. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020).

³⁷⁰ See Speech by Andrei Taranda, Delegate from the Permanent Mission of Belr. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020); Speech by Salomon Eheth, Delegate from Cameroon (Sept. 23, 2020), *supra* note 25; Speech by Jorge Valero, Delegate from Venez. (Sept. 23, 2020), *supra* note 128.

³⁷¹ See, e.g., Speech by Dai Dong, Delegate from China (Sept. 23, 2020), *supra* note 121; Jorge Valero, Delegate from Venez. (Sept. 23, 2020), *supra* note 128; Speech by Salomon Eheth, Delegate from Cameroon (Sept. 23, 2020), *supra* note 25.

³⁷² See Speech by Kristina Sukacheva, Delegate from the Permanent Mission of Rus. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020) [hereinafter Speech by Kristina Sukacheva, Delegate from Rus. (Sept. 23, 2020)].

³⁷³ See Speech by Zen Sian Hung, Delegate from the Permanent Mission of Myan. in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020); Jorge Valero, Delegate from Venez. (Sept. 23, 2020), *supra* note 128.

³⁷⁴ See Speech by Salomon Eheth, Delegate from Cameroon (Sept. 23, 2020), *supra* note 25; Speech by Dai Dong, Delegate from China (Sept. 23, 2020), *supra* note 121; Speech by Ahmend Moharam Ahmed Soliman, Delegate from Egypt (Sept. 23, 2020), *supra* note 366; Speech by Mawien Makol Ariik, Delegate from the Permanent Mission of S. Sudan in Geneva, Interactive Dialogue with: Commission of Inquiry on Burundi A/HRC/45/32 of the Hum. Rts. Council 45th Session (Sept. 23, 2020); Speech by Kristina Sukacheva, Delegate from Rus. (Sept. 23, 2020), *supra* note 372; Speech by Maimuna Kibenga Tarishi, Delegate from Tanz. (Sept. 23, 2020), *supra* note 133; Jorge Valero, Delegate from Venez. (Sept. 23, 2020), *supra* note 128.

APPENDIX B: SUMMARY OF REPORT FINDINGS AND STATEMENTS AT HRC SESSIONS FOR MYANMAR

³⁷⁵ HRC Res. 34/22, *supra* note 5.

³⁷⁶ See Human Rights Council Draft Res. 34/L.8/Rev.1, U.N. Doc. A/HRC/RES/34/L.8/Rev.1 (March 22, 2017)

³⁷⁷ See, e.g., Speech by Amr Ramadan, Delegate from Egypt (Mar. 24, 2017), *supra* note 189; Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017), *supra* note 212; Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195.

³⁷⁸ See, e.g., Speech by Jiang Yingfeng, Delegate from China (Mar. 24, 2017), *supra* note 252; Speech by Enrico T. Fos, Delegate from Phil. (Mar. 24, 2017), *supra* note 196; Speech by Jorge Valero, Delegate from Venez. (Mar. 24, 2017), *supra* note 196.

³⁷⁹ See Speech by Enrico T. Fos, Delegate from Phil. (Mar. 24, 2017), *supra* note 196; see also Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017), *supra* note 212; Robert Matheus Michael Tene, Delegate from Indon. (Mar. 24, 2017), *supra* note 195.

³⁸⁰ See, e.g., Speech by Márcia Canário De Oliveira, Delegate from Braz. (Mar. 24, 2017), *supra* note 15; Robert Matheus Michael Tene, Delegate from Indon. (Mar. 24, 2017), *supra* note 195; Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195; Speech by Enrico T. Fos, Delegate from Phil. (Mar. 24, 2017), *supra* note 196.

³⁸¹ See Speech by Olmer Torrejón Alcoba, Delegate from Bol. (Mar. 24, 2017), *supra* note 193; Speech by Jiang Yingfeng, Delegate from China (Mar. 24, 2017), *supra* note 252; Speech by Alina Revilla Alcazar, Delegate from Cuba (Mar. 24, 2017), *supra* note 194; Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017), *supra* note 212; Speech by Enrico T. Fos, Delegate from Phil. (Mar. 24, 2017), *supra* note 196; Speech by Jorge Valero, Delegate from Venez. (Mar. 24, 2017), *supra* note 196.

³⁸² See, e.g., Speech by Olmer Torrejón Alcoba, Delegate from Bol. (Mar. 24, 2017), *supra* note 193; Speech by Jiang Yingfeng, Delegate from China (Mar. 24, 2017), *supra* note 252; Speech by Alina Revilla Alcazar, Delegate from Cuba (Mar. 24, 2017), *supra* note 194; Speech by Ajit Kumar, Delegate from India (Mar. 24, 2017), *supra* note 212; Speech by Enrico T. Fos, Delegate from Phil. (Mar. 24, 2017), *supra* note 196; Speech by Jorge Valero, Delegate from Venez. (Mar. 24, 2017), *supra* note 196.

³⁸³ See Robert Matheus Michael Tene, Delegate from Indon. (Mar. 24, 2017), *supra* note 195; Speech by Mitsuko Shino, Delegate from Japan (Mar. 24, 2017), *supra* note 195.

³⁸⁴ Speech on behalf of the European Union by Olaph J. Terribile, Delegate from Malta (Mar. 24, 2017), *supra* note 253.

³⁸⁵ HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, Summ. ¶ 2.

³⁸⁶ The crimes against humanity include murder, imprisonment, enforced disappearance, torture, rape, sexual slavery and other forms of sexual violence, persecution, enslavement, extermination, deportation, and possibly apartheid. See *id.* ¶ 88. The war crimes include murder, torture, cruel treatment, outrages upon personal dignity, attacking civilians, displacing civilians, pillaging, attacking protected objects, taking hostages, sentencing or execution without due process, as well as rape, sexual slavery and sexual violence. See *id.* ¶ 89.

³⁸⁷ *Id.* at Summ. ¶ 2.

³⁸⁸ *Id.*

³⁸⁹ *Id.* ¶ 105.

³⁹⁰ *Id.*

³⁹¹ *Id.* ¶ 116.

³⁹² *Id.* ¶ 106.

³⁹³ See *id.* ¶¶ 111-13.

³⁹⁴ See, e.g., Speech by Elaha Ebadi, Delegate from Afg. (Sept. 18, 2018), *supra* note 41; Speech by Ralf Schroer, Delegate from the Permanent Mission of Ger. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018); Speech by Abdullah Alkhubaizi, Delegate from the Permanent Mission of Kuwait to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018).

³⁹⁵ See, e.g., Speech by Hasan Kleib, Delegate from Indon. (Sept. 18, 2018), *supra* note 64; Speech by Saja S. Majali, Delegate from Jordan (Sept. 18, 2018), *supra* note 41; Speech by Kurkh Amil, Delegate from the Permanent Mission of Pak. on behalf of the Org. of Islamic Cooperation to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018).

³⁹⁶ Human Rights Council Draft Res. 39/L.22, U.N. Doc. A/HRC/RES/39/L.22 (Oct. 3, 2018).

³⁹⁷ HRC Res. 39/2, *supra* note 8, at 7.

³⁹⁸ Speech by Elisabeth Tichy-Fisslberger, Delegate from Austria (Sept. 18, 2018), *supra* note 102; Speech by Bob Rae, Delegate from Can. (Sept. 18, 2018), *supra* note 186; Speech by Triinu Kallas, Delegate from the Permanent Mission of Est. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018); Speech by Igo Kucer, Delegate from the Permanent Mission of Slovk. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018); Speech by Harald Aspelund, Delegate from the Permanent Mission of Ice. to Geneva, Vote on Draft Res.

A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018).

³⁹⁹ See, e.g., Speech by Maria Nazareth Farani Azevêdo, Delegate from Braz. (Sept. 27, 2018), *supra* note 190; Speech by Hans Brattskar, Delegate from the Permanent Mission of Nor. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myanmar of the Hum. Rts. Council 39th Session (Sept. 18, 2018); Speech by Farukh Amil on behalf of the OIC, Delegate from Pakistan (Sept. 18, 2018), *supra* note 187.

⁴⁰⁰ Speech by Bob Rae, Delegate from Can. (Sept. 18, 2018), *supra* note 186.

⁴⁰¹ See Speech by Jiang Duan, Delegate from the Permanent Mission of China to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018) [hereinafter Speech by Jiang Duan, Delegate from China (Sept. 27, 2018)].

⁴⁰² See Speech by Ken Okaniwa, Delegate from the Permanent Mission of Japan to Geneva, Vote on Draft Res. A/HRC/39/L.22 “Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myanmar” of the Hum. Rts. Council 39th Session (Sept. 27, 2018).

⁴⁰³ See Speech by Maria Teresa T. Almojuela, Delegate from Phil. (Sept. 27, 2018), *supra* note 215.

⁴⁰⁴ See Request Under Regulation 46(3) of the Regulations of the Court, ICC-RoC46(3)-01/18, (Sept. 6, 2018), https://www.icc-cpi.int/CourtRecords/CR2018_04203.PDF.

⁴⁰⁵ See HRC Res. 39/2, *supra* note 8, ¶ 24.

⁴⁰⁶ See, e.g., Speech by Elisabeth Tichy-Fisslberger, Delegate from Austria on behalf of EU (Sept. 27, 2018), *supra* note 102; Speech by Ana Teresa Lecaros Terry, Delegate from Peru (Sept. 27, 2018), *supra* note 105.

⁴⁰⁷ Speech by Elisabeth Tichy-Fisslberger, Delegate from Austria (Sept. 27, 2018), *supra* note 102.

⁴⁰⁸ See, e.g., Speech by Jiang Duan, Delegate from China (Sept. 27, 2018), *supra* note 401; Speech by Alaa Youssef, Delegate from Egypt (Sept. 27, 2018), *supra* note 197.

⁴⁰⁹ See HRC IIFFMM Rep. (Aug. 8, 2019), *supra* note 60, ¶¶ 8–9.

⁴¹⁰ See *id.* ¶¶ 14–17.

⁴¹¹ See, e.g., Speech by Peter Matt, Delegate from the Permanent Mission of Liech. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Andrius Krivas, Delegate from the Permanent Mission of Lith. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Hala Hameed, Delegate from Maldives (Sept. 17, 2019), *supra* note 207; Speech on behalf of the Org. for Islamic Cooperation by Fareena Arshad, Delegate from Pak. (Sept. 17, 2019), *supra* note 186 (The “OIC is gravely concerned over the FFM’s appalling findings like reasonable evidences of commission of crimes under international law, including genocide, crimes against humanity and war crimes in Rakhine State....[The] OIC calls on the Government of Myanmar to immediately end all violence against them.”).

⁴¹² See Speech by Carl Hallergard, Delegate from European Union (Sept. 17, 2019), *supra* note 191; see also, Speech by Annika Talmar, Delegate from the Permanent Mission of Est. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Hans-Peter Jugel, Delegate from the Permanent Mission of Ger. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Thiseas Fragkiskos Poullos, Delegate from the Permanent Mission of Greece to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019); Speech by Harald Aspelund, Delegate from the Permanent Mission of Ice. to Geneva, Interactive dialogue with the Indep. Int’l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019).

⁴¹³ Speech by Shameem Ahsan, Delegate from Bangl. (Sept. 17, 2019), *supra* note 13; see also, HRC IIFFMM Rep. (Aug. 8, 2019), *supra* note 60, ¶ 106 (“[T]he mission strongly encourages the Council to adopt a resolution, under Chapter VII, to create an ad hoc international criminal tribunal without delay.”).

⁴¹⁴ See Speech by Hamid Abdulhai Formuli, Delegate from Afg. (Sept. 17, 2019), *supra* note 207; Speech by Elizabeth Wilde, Delegate from Astrl. (Sept. 17, 2019), *supra* note 11. Cf. Speech by Mohsen Ghanei, Delegate from Iran (Sept. 17, 2019), *supra* note 41 (Iran did not support the mechanism because

it does not support country-specific mandates but abstained from the vote because of its concern about the situation).

⁴¹⁵ See Speech by Elizabeth Wilde, Delegate from Astrl. (Sept. 17, 2019), *supra* note 11.

⁴¹⁶ See Speech by Sudhakara Reddy, Delegate from India (Sept. 17, 2019), *supra* note 195; Speech by Andreano Erwin, Delegate from Indon. (Sept. 17, 2019), *supra* note 211.

⁴¹⁷ See, e.g., Speech by Andrei Taranda, Delegate from the Permanent Mission of Belr. to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Andrei Taranda, Delegate from Belr. (Sept. 17, 2019)]; Speech by Dai Demao, Delegate from China (Sept. 17, 2019), *supra* note 197; Speech by Andreano Erwin, Delegate from Indon. (Sept. 17, 2019), *supra* note 211; Speech by Kham-Inh Khitchadeth, Delegate from the Permanent Mission of Laos to Geneva, Interactive dialogue with the Indep. Int'l Fact-Finding Mission on Myan. of the Hum. Rts. Council 42d Session (Sept. 17, 2019) [hereinafter Speech by Kham-Inh Khitchadeth, Delegate from Laos (Sept. 17, 2019)].

⁴¹⁸ See, e.g., Speech by Andrei Taranda, Delegate from Belr. (Sept. 17, 2019), *supra* note 417; Speech by Dai Demao, Delegate from China (Sept. 17, 2019), *supra* note 197; Speech by Kham-Inh Khitchadeth, Delegate from Laos (Sept. 17, 2019), *supra* note 417.

⁴¹⁹ The IIMM became operational on July 1, 2019, and the first report was released on August 7, 2019. HRC, IIFFMM Rep. (Aug. 7, 2019), *supra* note 56, at 1.

⁴²⁰ *Id.* ¶ 60.

⁴²¹ *Id.* ¶ 57.

⁴²² HRC Res. 42/3, *supra* note 9; Hum. Rts. Council, Rep. of the Human Rights Council on Its Forty-Second Session, ¶ 79, U.N. Doc. A/HRC/42/2 (Nov. 27, 2019) [hereinafter HRC Rep. (Nov. 27, 2019)].

⁴²³ HRC Rep. (Nov. 27, 2019), *supra* note 422, ¶ 79.

⁴²⁴ See Director of Programme Planning and Budget Division, OPPFB, Memorandum dated Sept. 25, 2019 from the Director of Programme Planning and Budget Division, OPPFB, to the Secretary of the Hum. Rts. Council, ¶ 2(a) (Sept. 25, 2019) [hereinafter OPPFB Memorandum (Sept. 25, 2019)]; see also HRC Res. 42/3, *supra* note 9, ¶¶ 25-27.

⁴²⁵ See hereinafter OPPFB Memorandum (Sept. 25, 2019), *supra* note 424, ¶ 2(b).

⁴²⁶ See Speech by Terhi Hakala, Delegate from the Permanent Mission of Fin. on behalf of the European Union to Geneva, Vote on Draft Res. A/HRC/42/L.21/Rev.1 "Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myan." of the Hum. Rts. Council 42d Session (Sept. 26, 2019).

⁴²⁷ Speech by Jiang Dun, Delegate from China (Sept. 26, 2019), *supra* note 194; *accord* Speech by Maria Teresa T. Almojuela, Delegate from the Permanent Mission of Phil. to Geneva, Vote on Draft Res. A/HRC/42/L.21/Rev.1 "Situation of Hum. Rts. of Rohingya Muslims and Other Minorities in Myan." of the Hum. Rts. Council 42d Session (Sept. 26, 2019).

⁴²⁸ See Speech by Jiang Dun, Delegate from China (Sept. 26, 2019), *supra* note 194.

⁴²⁹ See *id.*; Speech by Alaa Youssef, Delegate from the Permanent Mission of Egypt (Sept. 26, 2019), *supra* note 227.

⁴³⁰ See Press Release, Human Rights Council, Human Rights Council Discusses the Situation of Human Rights in the Democratic People's Republic of Korea and South Sudan, and the United Nations' Involvement in Myanmar (Mar. 9, 2020).

⁴³¹ *Id.*

⁴³² Gert Rosenthal (Chair of the Advisory Group of Experts on the Review of the United Nations Peacebuilding Architecture), *A Brief and Independent Inquiry into the Involvement of the United Nations in Myanmar from 2010 to 2018*, at 24 (May 29, 2019), <https://digitallibrary.un.org/record/3809543?ln=en>.

⁴³³ Speech by Tahir Hussain Andrabi, Delegate from the Permanent Mission of Pak. on behalf of the Org. of Islamic Cooperation to Geneva, Discussion on the Update by the Secretary Gen. on the Involvement of the United Nations in Myan. of the Hum. Rts. Council 43d Session (Mar. 9, 2020); *accord* Speech by Syed Edwan Anwar, Delegate from the Permanent Mission of Malay. (Mar. 9, 2020), *supra* note 210.

⁴³⁴ Speech by Walter Stevens, Delegate from the Permanent Mission of the European Union to Geneva, Discussion on the Update by the Secretary Gen. on the Involvement of the United Nations in Myan. of the Hum. Rts. Council 43d Session (Mar. 9, 2020); *accord* Speech by Shameem Ahsan, Delegate from Bangl. (Mar. 9, 2020), *supra* note 64.

⁴³⁵ HRC Res. 43/26, *supra* note 10, at 8.

⁴³⁶ HRC Draft Res. 43/L.23, *supra* note 270, at 1; HRC Res. 43/26, *supra* note 10, ¶ 9; Hum. Rts. Council, Rep. of the Human Rights Council on Its Forty-Third Session, ¶ 332, U.N. Doc. A/HRC/43/2 (Sept. 2, 2020) [hereinafter HRC Rep. (Sept. 2, 2020)].

⁴³⁷ Director of Programme Planning and Budget Division, OPPFB, Memorandum dated June 15, 2020 from the Director of Programme Planning and Budget Division, OPPFB, to the Secretary of the Hum. Rts. Council, ¶ 2(b) (June 15, 2020); *accord* HRC Res. 43/26, *supra* note 10, ¶ 36.

⁴³⁸ HRC Rep. (Sept. 2, 2020), *supra* note 436, ¶ 332.

⁴³⁹ *See, e.g.*, Speech by Shameem Ahsan, Delegate from Bangl. (June 22, 2020), *supra* note 210; Speech by Tahir Hussain Andrabi, Delegate from the Permanent Mission of Pak. to Geneva, Vote on Draft Res. A/HRC/43/L.23 “Situation of Hum. Rts. in Myan.” of the Hum. Rts. Council 43d Session (June 22, 2020).

⁴⁴⁰ Speech by Shameem Ahsan, Delegate from Bangl. (June 22, 2020), *supra* note 210.

⁴⁴¹ *See, e.g.*, Speech by Bujar Bala, Delegate from the Permanent Mission of Alb. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Shameem Ahsan, Delegate from the Permanent Mission of Bangl. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Adlan Mohd Shaffieq, Delegate from the Permanent Mission of Malay. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Tahir Hussain Andrabi, Delegate from the Permanent Mission of Pak. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Khalil-Ur-Rahman Hashmi, Delegate from the Permanent Mission of Pak. on Behalf of the Organization of Islamic Cooperation to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Meshal Alblawi, Delegate from Saudi Arabia (Feb. 27, 2020), *supra* note 41.

⁴⁴² *See* Speech by Maria Teresa T. Almojuela, Delegate from the Permanent Mission of Phil. to Geneva, Vote on Draft Res. A/HRC/43/L.23 “Situation of Hum. Rts. in Myan.” of the Hum. Rts. Council 43d Session (June 22, 2020).

⁴⁴³ *See, e.g.*, Speech by Carl Hallergard, Delegate from the Permanent Mission of the European Union to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Hans-Peter Jugel, Delegate from the Permanent Mission of Ger. to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020); Speech by Thiseas Fragkiskos Poullos, Delegate from the Permanent Mission of Greece to Geneva, Interactive Dialogue on the Rep. of the High Commissioner on the Root Causes of the Hum. Rts. Violations and Abuses Faced by the Rohingya Muslim Minority and Other Minorities in Myan. of the Hum. Rts. Council 43d Session (Feb. 27, 2020).

⁴⁴⁴ HRC, IIMM Rep. (July 7, 2020), *supra* note 98, Summ. ¶ 1, Main ¶¶ 11, 13-21.

⁴⁴⁵ *Id.* Summ. ¶¶ 1, 4, Main ¶¶ 49, 62.

⁴⁴⁶ *See id.* ¶ 38.

⁴⁴⁷ *See id.* ¶ 46.

⁴⁴⁸ *See id.* at 46-51.

⁴⁴⁹ *See id.* ¶ 31.

⁴⁵⁰ *See id.* ¶¶ 58-59.

⁴⁵¹ During the 39th session, the 2018 IIFFMM report was published almost a month before the 2018 resolution to extend the IIFFMM and create the IIMM. HRC, IIFFMM Rep. (Sept. 12, 2018), *supra* note 6, at 1; HRC Res. 39/2, *supra* note 8, at 1. During the 42nd session, the 2019 IIMM report was published approximately two months prior to the 2019 resolution to extend the IIMM. HRC, IIFFMM Rep. (Aug. 7, 2019), *supra* note 56; HRC Res. 42/3, *supra* note 9, at 1. Conversely, the resolution to extend the IIMM in 2020 was passed four days prior to the publication of the report. HRC Res. 43/26, *supra* note 10, at 1; HRC, IIMM Rep. (July 7, 2020), *supra* note 98, at 1.

⁴⁵² Speech by Agustinus Anindityo Adi Primasto, Delegate from the Permanent Mission of Indon. to Geneva, Interactive dialogue on the report of the Indep. Investigative Mechanism for Myan. of the Hum. Rts. Council 45th Session (Sept. 14, 2020).

⁴⁵³ Speech on behalf of the Org. for Islamic Cooperation by Tahir Hussain Andrabi, Delegate from the Permanent Mission of Pak. to Geneva, Interactive dialogue on the report of the Indep. Investigative Mechanism for Myan. of the Hum. Rts. Council 45th Session (Sept. 14, 2020) (“It is pivotal that the Mechanism engages with and receives cooperation of other relevant entities for the provision of information. We thank the Facebook for sharing information recently concerning Myanmar’s atrocities against the Rohingya. We urge all social media platforms to share evidence with the Mechanism, as and when approached.”).

⁴⁵⁴ See Speech by Shanchita Haque, Delegate from the Permanent Mission of Bangl. to Geneva, Interactive dialogue on the report of the Indep. Investigative Mechanism for Myan. of the Hum. Rts. Council 45th Session (Sept. 14, 2020) (“The Government of Bangladesh is pleased to host IIMM’s first visit to Bangladesh and committed to cooperate with the Mechanism in order to serve the noble cause of advancing justice for the Rohingya.”); see, e.g., Speech by Robert Müller, Delegate from the Permanent Mission of Austria to Geneva, Interactive dialogue on the report of the Indep. Investigative Mechanism for Myan. of the Hum. Rts. Council 45th Session (Sept. 14, 2020) (“In March 2020, an amendment to the Austrian Federal Act on Cooperation with International Courts entered into force providing the basis for legal assistance and close cooperation between the IIMM and the Austrian authorities. For that purpose, the act equates the IIMM to a large extent to international criminal courts and tribunals.”); Speech by Charlotte Darlow, Delegate from the Permanent Mission of N.Z. to Geneva, Interactive dialogue on the report of the Indep. Investigative Mechanism for Myan. of the Hum. Rts. Council 45th Session (Sept. 14, 2020).