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Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 24 April – 3 May 2019

Opinion No. 24/2019 concerning Ms. Diane Shima Rwigara and Mrs. Adeline Rwigara (Rwanda)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed that mandate and most recently extended it for a three-year period in its resolution 33/30 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/36/38), on 2 November 2018 the Working Group transmitted to the Government of Rwanda a communication concerning Diane Shima Rwigara and Adeline Rwigara. The Government replied to the communication on 8 January 2019.

3. The State is a party to the International Covenant on Civil and Political Rights.

4. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

5. Diane Shima Rwigara, 36 years old, is a Rwandan national. She is the daughter of Adeline Rwigara and of a man who was one of the wealthiest businessmen in Rwanda before his death in 2015. Ms. Diane Rwigara is a businesswoman, who has also helped lead her family's real estate business. She ran for president of Rwanda in 2017 before her disqualification and subsequent arrest. Her usual place of residence is Kigali, Rwanda.

6. Adeline Rwigara, 58 years old, is a Rwandan national. She is a widow and has four children. She is a businesswoman, who has also helped lead her family's real estate business. Her usual place of residence is Kigali, Rwanda.

Context

7. The source explains that the late husband and father of the two above-mentioned individuals was a Rwandan businessman, particularly a Tutsi entrepreneur who built a fortune in industry and real estate and who backed the Rwandan Patriotic Front ("RPF") during its campaign to end the genocide of 1994. He was once an ally of the current President but became the subject to government scrutiny in 2007 when reports linked him with certain some opponents of the President. Subsequently, in February 2015, he was killed in a roadside accident in Kigali. According to the source, the police claimed that he was killed when his car was hit by a truck and refused to conduct an investigation, though the evidence instead suggested he was murdered, likely for political reasons.

8. The source submits that, in late 2016, Ms. Diane Rwigara emerged as one of the most prominent critics of the authorities in place, commenting on issues of poverty, lack of due process, and restrictions on freedom of expression. In May 2017, Ms. Diane Rwigara announced her intention to run in the presidential election. She immediately faced a campaign of harassment and intimidation. For example, two days after she announced her campaign, digitally altered intimate photographs of her appeared online, for which Diane and others believe the Government is responsible. In the following weeks, her supporters faced harassment and intimidation while collecting signatures necessary to qualify her for the presidential ballot.

9. The source informs that in July 2017, the Government announced that Ms. Diane Rwigara was barred from appearing on the ballot because she had allegedly failed to submit sufficient signatures to qualify despite the fact that she had submitted nearly twice the requisite number. The following week, the Government raided the offices of the Rwigaras' company, the Premier Tobacco Co., ordered the closing of its factory, and requested the payment of more than RWF7 billion (7 million USD) in back taxes, despite presenting no evidence of the alleged debt.

10. The source recalls that, on 5 August 2017, the current President was re-elected to a third term in office (after having successfully campaigned in 2015 to lift the Rwandan Constitution's term limits, which, if not lifted, would have prevented him from running for a third term), allegedly with more than 98% of the vote.

11. The source further alleges that, since the President was elected in 2003, his administration has achieved socioeconomic gains but has failed to guarantee civil liberties for the public, routinely silencing opposition in the media, politics, and civil society.

Arrest and detention

12. The source submits that, on 29 August 2017, a troop of police officers and members of the Presidential Guard raided the Rwigara compound in Kigali. The police officers were violent, breaking Mrs. Adeline Rwigara's leg and back and ransacking the compound. They searched the home for several hours, ultimately confiscating money, jewellery, phones, computers, and documents. They did not provide any reason nor presented any official documents. Over the following weeks, it was announced that Ms. Diane Rwigara was being investigated for allegedly forging voters' signatures and that her family was facing charges

related to tax evasion. The police held Ms. Diane Rwigara and Mrs. Adeline Rwigara, as well as another family member under house arrest.

13. The source reports that Ms. Diane Rwigara and Mrs. Adeline Rwigara, as well as the third family member faced prolonged interrogation, as the police interrogated them most days for approximately 16 hours per day without food. They spent the first three days of their house arrest handcuffed. They were not allowed to speak with their lawyers over the following three weeks, even after Ms. Diane Rwigara requested to have her counsel present during the interrogations. Meanwhile, the President publicly accused Ms. Diane Rwigara and her family of misconduct and threatened in one speech by saying that "[e]ven if you have been or wanted to become president of the country, you are not immune from prosecution. Those who are listening had better be hearing me."

14. According to the source, on 27 September 2017, the police forces formally arrested Ms. Diane Rwigara and Mrs. Adeline Rwigara, as well as a third family member. That month, their family businesses and personal bank accounts were closed and their money confiscated. They spent the first five days after the arrest in solitary confinement, where they were denied visits, were deprived of food or medicine, and often held in handcuffs. They were also denied access to legal counsel for the first seven days of their detention, in violation of Rwandan law. When prosecutors finally announced the charges against them, they did not include tax evasion; rather, Ms. Diane Rwigara was charged with forgery and Mrs. Adeline Rwigara with discrimination and sectarian practices, and all three with inciting insurrection. The incitement charges against Ms. Diane Rwigara reportedly stemmed from her criticism of the current Administration. Mrs. Adeline Rwigara and the other member of the family were charged on the basis of private conversations that had taken place over WhatsApp (without public dissemination) and did not include any incitement to violence.

15. The source submits that when Ms. Diane Rwigara, Mrs. Adeline Rwigara, and the third family member appeared before a judge at their bail hearing on 23 October 2017, the court denied bail to Ms. Diane Rwigara and Mrs. Adeline Rwigara but dropped the charges against the third family member. The court concluded that Ms. Diane Rwigara and Mrs. Adeline Rwigara were a flight risk (despite the Government keeping their passports and watching their home) and alleged that they might tamper with evidence (which the government had already collected). Their bail appeal was denied by the High Court on 16 November 2017, and they have remained in maximum security prison since then. In the following months, the President continued to tell the public that Ms. Diane Rwigara deserved to be in prison, and the Government auctioned off the family tobacco company for approximately half of its fair market value.

Trial proceedings

16. The source submits that on 7 May 2018, the date of the first hearing for Ms. Diane Rwigara and Mrs. Adeline Rwigara, as well as for four co-defendants who live abroad, the High Court demanded that the co-defendants be tried in person, offering no indication of how they might be forcibly returned to Rwanda—despite the fact that the case had already sat dormant for months. Two subsequent hearings were adjourned, with the prosecution asking for time to gather more information on the co-defendants, and the trial has been delayed until at least 24 September 2018. Despite these continual and prolonged delays, Diane and Adeline have not had an opportunity to review their case file or the evidence against them, and they have remained in a maximum security prison. Ms. Diane Rwigara and Mrs. Adeline Rwigara were housed in small, filthy cells and allowed visitation for only 15 minutes per week. They had to rely on family members to provide their food.

17. The source informs that on 5 October 2018, Ms. Diane Rwigara and Mrs. Adeline Rwigara were granted provisional release pending trial. The release occurred more than one year after their initial arrest and 11 months after the High Court first denied them bail. In reversing its earlier decision, the High Court cited the prosecution's failure to provide credible reason for their detention pending trial.

Legal analysis

18. According to the source, Ms. Diane Rwigara and Mrs. Adeline Rwigara's detention constitutes an arbitrary deprivation of liberty under categories II and III as defined by the Working Group. Additionally, Ms. Diane Rwigara's detention constitutes an arbitrary deprivation of liberty under category V.

Category II

19. The source submits that the detention of the two individuals is arbitrary under category II because they were arrested and detained for exercising their freedom of opinion and expression and freedom of association. Additionally, Ms. Diane Rwigara was arrested and detained for exercising her freedom of political participation. The authorities violated Ms. Diane Rwigara and Mrs. Adeline Rwigara'a freedom of opinion and expression, guaranteed by article 19 of the International Covenant on Civil and Political Rights (the "Covenant"), and article 19 of the Universal Declaration of Human Rights. The Human Rights Committee has recognized this right to grant people the ability to criticize or openly and publicly evaluate their Governments without fear of interference or punishment. None of the exceptions set in article 19 (3) of the Covenant is applicable in this matter. Instead, the authorities violated Ms. Diane Rwigara and Mrs. Adeline Rwigara's rights by arresting and detaining them on the basis of their criticism of the Government, including in private conversations.

20. According to the source, the authorities also violated their right to freedom of association, in violation of article 22(1) of the Covenant and article 20 of the Universal Declaration of Human Rights. The Human Rights Committee has noted that the right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the right to participate in public affairs. In this case, the Administration has sought to criminalize association with and support of Ms. Diane Rwigara and her political campaign. In addition, targeting her family and her supporters constitutes a violation of the right to freedom of association.

21. The source submits that Ms. Diane Rwigara's right to freedom of political participation was also violated, contrary to article 25(a) of the Covenant and article 21(1) of the Universal Declaration of Human Rights. Article 55 of the Rwandan Constitution also recognizes each Rwandan's "right to join a political organization of his or her choice". The Human Rights Committee has further emphasized the right of each person to engage in political activity by debating public affairs, advertising political ideas, publishing political material, and campaigning for election. Ms. Diane' Rwigara's detention was a direct response to her attempts to run for office and to lead a human rights' campaign. The Government created false claims against her to end her political campaign and, after she initiated the People Salvation Movement, to remove her from civic life entirely. According to the source, these charges sent the message that any opposition to the President would not be tolerated.

Category III

22. The source submits that the two individuals' detention is arbitrary under category III of the Working Group, because the authorities denied their due process rights under articles 7, 9, 10, 14, and 17 of the Covenant; Articles 5, 9, 10, and 12 of the Universal Declaration of Human Rights; Rules 43 and 119 of the Mandela Rules; and Principles 2, 4, 6, 10, 11, 18, 21, 32, 36, 37, 38, and 39 of the Body of Principles. Furthermore, their right not to be subjected to torture, as prescribed in article 7 of the Covenant, has been violated. The source alleges that they were both tortured both physically and mentally. In fact, the police forces broke Mrs. Adeline Rwigara's back and leg during their initial house search, made threats of violence toward both of them, and forced them to sit in detention for 16 hours a day without food. After taking the two individuals to jail, the police denied them food and locked each woman up in small cells under unsanitary conditions. Furthermore, the authorities denied medical care to Mrs. Adeline Rwigara despite her repeated requests for health care.

23. The source informs that in violation of articles 9(1) and 9(2) of the Covenant, article 9 of the Universal Declaration of Human Rights and Principles 2 and 36(2) of the Body of Principles, the authorities also denied Diane and Adeline their right not to be subjected to arbitrary arrest. Diane and Adeline were never presented with an arrest warrant, and they

were not informed of the charges against them for several days after their arrest. Then, at the time of their bail hearing, the Government changed those charges without previously notifying them.

24. According to the source, the authorities further violated article 9(3) and 9(4) of the Covenant and Principles 4, 11, 32(a), and 37 of the Body of Principles by denying Diane and Adeline their right to *habeas corpus*. Those provisions require that detainees "be brought promptly before a judge." The Human Rights Committee has interpreted "promptly" to mean within 48 hours, other than in exceptional circumstances. The two individuals were initially detained on 28 August 2017, and formally arrested on 23 September 2017. This deliberate delay ensured that they would be punished, harassed, and silenced before appearing before the court. They were not allowed before a judge until 23 October 2017, 30 days after their arrest and nearly two months after their initial detention.

25. The source informs that in violation of article 9(3) of the Covenant and Principles 38 and 39 of the Body of Principles, the right of the two individuals to release pending trial was also violated. The Government waited one month after their formal arrest to bring them before a judge. At that hearing, the Court maintained their detention, reiterating the Government's claims that the two individuals would leave the country (despite the fact that the Government had confiscated their passports and their home was under surveillance) and would tamper with evidence (which the Government had already collected). In light of such an insufficient justification, the denial of bail in this case amounted to a violation of their rights under international law.

26. The source submits that the authorities further violated the two individuals' right to be tried without undue delay, contrary to article 14(3)(c) of the Covenant and Principle 38 of the Body of Principles. The Human Rights Committee has emphasized that "in cases where the accused are denied bail by the court, they must be tried as expeditiously as possible." However, the initial hearing was set after nearly six months after their bail hearing, and since May 2018, the Court has repeatedly agreed to postpone the trial at the prosecution's request.

27. According to the source, in violation of article 14(3)(b) and (d) of the Covenant, Principles 18(1) and (3) of the Body of Principles, and Rule 119 of the Mandela Rules, the two individuals were denied their right to defence and to communicate with counsel. The Government has also refused to allow their attorneys to be present during interrogations, and the two individuals have been denied any access to counsel for portions of their detention. Despite the repeated trial delays, the Government continues to deny their counsel an adequate opportunity to review evidence and prepare a defence.

28. The source informs that the authorities has also denied the two individuals' right not to be subjected to unlawful searches of their house, in violation of article 17 of the Covenant and article 12 of the Universal Declaration for Human Rights. The Rwandan police never presented a search warrant, but instead ransacked their house and confiscated personal items without justification.

Category V

29. The source submits that Ms. Diane Rwigara's detention is also arbitrary under category V of the Working Group, because the authorities discriminated against her because of her gender in violation of articles 2 and 3 of the Covenant. Article 3 of the Covenant guarantees the right to equality between men and women in the enjoyment of their civil and political rights, while article 2 ensures that rights recognized in the Covenant will be respected and will be available to all people in the states that have ratified the Covenant. A significant component of Ms. Diane Rwigara's political work was her support of women's rights in Rwanda, and she sought to become the first woman elected President of Rwanda. Immediately after she announced her campaign, digitally altered intimate photos of her appeared on the internet, likely posted by Government actors seeking to threaten, harass, and retaliate against her. This smear campaign has never been used against male opponents, and it suggests that the Government targeted Diane in part because she is a woman who campaign on behalf of women's rights.

Response from the Government

30. On 2 November 2018, the Working Group transmitted the allegations from the source to the Government of Rwanda under its regular communications procedure. The Working Group requested the Government to provide, by 2 January 2019, detailed information about Ms. Diane Rwigara and Mrs. Adeline Rwigara's situations.

31. However, the Government responded only on 8 January 2019. This response is therefore late.

Further comments from the source

32. The response from the Government was transmitted to the source who provided some further comments on 13 March 2019, reiterating its submissions and challenging the response of the Government.

Discussion

33. The Working Group thanks the source and the Government for their submissions, and regrets that the Government did not submit its response within the timeframe.

34. The Working Group takes note of the submissions by both parties that Ms. Diane Rwigara and Mrs. Adeline Rwigara have been released on bail first, and then acquitted of all charges. However, they spent about one year in detention while the circumstances of their arrest and detention are alleged to fit in a pattern. For those reasons, the Working Group is of the view that rendering an opinion despite their release is necessary in conformity with paragraph 17(a) of the Methods of Work.

35. The allegations were detailed and coherent while the Government confirmed the basic facts in its late response. In addition, the source has provided evidence in support to its account. The Working Group finds the overall set of allegations credible.

36. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations (see A/HRC/19/57, para. 68). In the present case, the Government has chosen to submit its response late knowing the consequences of such late submission. In addition, the Government, in its late response, has chosen not to provide any supporting evidence.

37. The Working Group notes that, according to the information provided by the source, Ms. Diane Rwigara and Mrs. Adeline Rwigara were arrested on 23 September 2017, without being informed of the reasons for their arrest, without being presented with an arrest warrant or informed of the reasons of such an arrest. In addition, they were not brought before a judge until 23 October 2017, preventing them from challenging the arrest and the subsequent detention but also preventing the judiciary from overseeing their deprivation of liberty. The Government had an opportunity to challenge the allegations but chose not to do so in a manner that would uphold the refutation. As a result, the Working Group finds the arrest and detention lack legal basis in violation of article 9 of the Universal Declaration of Human Rights and article 9 of the Covenant. The arrest and detention are therefore arbitrary under category I.

38. The Working Group recalls its opinions No. 25/2012 and No. 85/2017 concerning Rwanda, in which it found that journalists and former members of the Rwandan armed forces have been arbitrarily detained for having peacefully exercised their right to freedom of opinion and expression. The Working Group also notes that the Human Rights Committee, in its latest concluding observations on the fourth periodic report of Rwanda, expressed concern at allegations of torture and ill-treatment being practiced in detention centers as a means of eliciting confessions (cf. CCPR/C/RWA/CO/4 19, para. 19). The Committee also highlighted the vague nature of the definitions of certain offences, which makes them susceptible to abuse, and expressed concern about the chilling effect they may have on freedom of expression. It noted that opposition politicians, journalists and human rights

defenders have been prosecuted on the basis of such vague charges in order to prevent them from expressing their opinions freely (cf. CCPR/C/RWA/CO/4 19, para. 39). Furthermore, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his report, stressed his "concern on the fates of unregistered opposition parties whose leaders have been imprisoned in recent years" (see A/HRC/26/29/Add.2, para. 39). Finally, the Working Group notes the judgment of the African Court on Human and Peoples' Rights in the *case of Ingabire* who the Special Rapporteur specifically referred to in his report. In that case, the Court found that the State violated her freedom of opinion and expression in prosecuting her for public statements that she made through the law on genocide denial, overruling all domestic courts that had been seized of the alleged crimes.[1]

39. With that background, the Working Group recalls that the source also reports that Ms. Diane Rwigara and Mrs. Adeline Rwigara were charged with inciting insurrection, for having made comments deemed critical of the Government. The charges against Mrs. Adeline Rwigara focused on private conversations that had taken place over WhatsApp and seemed to have never been disseminated publicly by her.

40. The Working Group notes that article 19 (2) of the Covenant requires States parties to guarantee the right to freedom of expression, and that the Human Rights Committee has specified that limitations to freedom of expression cannot "be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights".[2] The Working Group recalls that the criticism of a Government is permissible in a democratic society and protected by the freedom of opinion and expression. Thus, the Working Group concludes that the charges on the basis of which Ms. Diane Rwigara and Mrs. Adeline Rwigara were arrested and detained, stem directly from the peaceful and legitimate exercise of their freedom of opinion and expression, as guaranteed under article 19 of the Covenant, article 19 of the Universal Declaration of Human Rights, and article 9 of the African Charter on Human and Peoples' Rights.

41. The Working Group notes the connection made by the source between the arrest and detention on one hand, and her plan to run for the presidential elections. Indeed, in its late response, the Government claims that she forged signatures. The Working Group further notes that she was later acquitted after 12 months of detention. Bearing in mind the repression of political opposition in the country through different means, the Working Group is convinced that the attempt by Ms. Rwigara to participate in public affairs was the key reason for her to be deprived of liberty, even though that is a right provided for in article 21 of the Universal Declaration of Human Rights and article 25 of the Covenant, and furthered by the right to freedom of association under article 20(1) of the Universal declaration and article 22(1) of the Covenant.

42. And, in the absence of any justification to limit the enjoyment of those rights, the Working Group concludes that the arrest and detention of Ms. Diane Rwigara and Mrs. Adeline Rwigara, in those circumstances, were arbitrary under category II. As a result, there should not be any trial. However, there was a trial and the Working Group will now assess the circumstances of that trial.

43. Regarding the alleged violation of the right to a fair trial, the Working Group notes that the Human Rights Committee has clarified that, for persons awaiting for trial, detention should be the exception and not the rule.[3] The Working Group further notes that the Committee has clarified that detainees have the right to meet and communicate with counsel in private, in conditions that respect the confidentiality of such meeting, and also that the

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[1] African Court on Human and Peoples' Rights, In the matter of Ingabire Victoire Umuhoza v. Republic of Rwanda, Application No. 003/2014, Judgment, 24 November 2017, paras. 120-163 (http://en.african-court.org/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhoza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf).

[2] Human Rights Committee General Comment No. 34, *supra* note 94, at para. 23.

[3] Human Rights Committee General Comment No. 35 (2014) on liberty and security of person, para. 38.

right to equality before the courts implies equality of arms as well as the absence of discrimination for the parties to the proceedings.[4]

44. The Working Group holds the view that those rights have been violated because Ms. Diane Rwigara and Mrs. Adeline Rwigara were not provided with the appropriate conditions for the preparation of their defence, infringing the equality of arms in the trial. The two ladies were also unlawfully subject to solitary confinement for the first few days after their arrest, further affecting their right. And the Working Group considers that articles 5, 9 and 12 of the Universal Declaration of the Human Rights; articles 7, 9, 10, 14 and 17 of the Covenant; rules 43 and 119 of the Nelson Mandela Rules; and principles 2, 4, 6, 11, 18, 32, 36, 37, 38 and 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment have been violated. The Working Group finds that these violations affected the right to fair trial in such serious manner that the deprivation of liberty has become arbitrary in accordance with category III.

45. The Working Group is particularly concerned about the allegations of torture and ill-treatment that Ms. Diane Rwigara and Mrs. Adeline Rwigara have allegedly suffered from during certain interrogations. In accordance with its established practice, the Working Group will refer the matter to the Special Rapporteur on torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for further consideration of the circumstances of the case and, if necessary, appropriate action.

46. Finally, the source also submits that Ms. Diane Rwigara faced a campaign of harassment through the divulgation of digital altered intimate photos and the intimidation of her supporters. Those incidents certainly support a targeting of Ms. Rwigara but the Working Group cannot conclude on the connection to the State. Moreover, the positive conclusion on category II already provided a remedy for instance where the responsibility of the State is clearly established. The Working Group therefore declines to conclude on category V but emphasizes that the State has an obligation to protect Ms. Rwigara against such violation of her privacy.

Disposition

47. In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Diane Shima Rwigara and Adeline Rwigara, being in contravention of articles 5, 9, 12, 19, 20 and 21 of the Universal Declaration of Human Rights and of articles 7, 9, 10, 14, 17, 19, 22, 25 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, II and III.

48. The Working Group requests the Government of Rwanda to take the steps necessary to remedy the situation of Diane Shima Rwigara and Adeline Rwigara without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

49. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Diane Shima Rwigara and Adeline Rwigara and their acquittal already serves such a purpose. But the Working Group also considers that, in addition, the Government of Rwanda shall accord them an enforceable right to compensation and other reparations, in accordance with international law, and ensure that they do not face similar prosecution in the future.

50. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Diane Shima Rwigara and Adeline Rwigara and to take appropriate measures against those responsible for the violation of their rights.

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[4] Human Rights Committee General Comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 8.

51. The Working Group requests the Government to disseminate through all available means the present opinion among all stakeholders.

52. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for appropriate action

Follow-up procedure

53. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether compensation or other reparations have been made to Diane Shima Rwigara and Adeline Rwigara;

(b) Whether an investigation has been conducted into the violation of Diane Shima Rwigara and Adeline Rwigara's rights and, if so, the outcome of the investigation;

(c) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Rwanda with its international obligations in line with the present opinion;

(d) Whether any other action has been taken to implement the present opinion.

54. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

55. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

56. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.[5]

[*Adopted on 2 May 2019*]

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[5] See: Human Rights Council resolution 33/30, paras. 3 and 7.