



Situation Report

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Challenges to a durable peace in Burundi

Introduction

The people of Burundi fervently hope that the democratic election scheduled for 1 November will not lead to a repetition of the crisis that followed the first democratic elections, held in 1993. Their memories of that election and its aftermath remain extremely vivid. After a landslide victory by the Hutu party FRODEBU, the newly-elected Hutu President, Melchior Ndadaye, was assassinated by elements within the Burundian Army. This was followed by an orgy of ethnic slaughter in which tens of thousands of Burundian Tutsis and Hutus were killed in revenge and counter-revenge attacks. Most observers are of the opinion that the 1993 elections were held too soon – largely because of international pressure – and that neither the political class nor the electorate were yet prepared for an election outcome unfavorable to them.

Extreme care will have to be taken to ensure that Burundi's forthcoming election will strengthen and reinforce the progress that has been made thus far rather than reverse the gains that have been made. In short, elections should not merely be regarded as a necessary formality in a country that is again trying to democratise. Far more is at stake. Any contestation of the election outcome and the conflict it may precipitate will merely further weaken the fragile belief that the present process can actually deliver durable peace. Having tried so hard through more than four years of negotiations to find a workable solution, this second attempt at democratisation cannot be allowed to fail. If it does, this will have disastrous consequences for the country and its people.

It is for this reason that these elections should – as far as possible – take place in a calm and unemotional environment. The first requirement will therefore be that Burundian parties reach genuine consensus about the date on which these elections are to take place. The present dispute among parties about the date of 1 November, is already creating a dangerous degree of polarisation and division. If this issue is not dealt with, the election itself could become another source of conflict. In order for the elections to be seen by Burundians as having been successful, free and fair, a number of serious challenges will first have to be dealt with. These are discussed below.

Peace-making

Much progress has been made over the past few years in creating a more inclusive power-sharing government. The peace process, however, has not yet been completed. More will have to be done to convince Burundians that they have achieved a truly durable peace. The perception that the peace process has merely benefited a small political elite (on both ethnic sides), needs to be dealt with by ensuring that more reforms are introduced that produce improvements for the general population. This will also enhance the legitimacy of the Arusha Peace Accord among ordinary Burundians.

First, there is a need to further consolidate the different peace accords signed by Burundian parties. While a number of cease-fire accords have been negotiated, both at Arusha and subsequently, between the Transitional Government of Burundi (TgoB) and former rebellions, many parties complain that only the ceasefire between the TgoB and the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD) is being implemented. It would be advisable to resolve this issue first, before further steps are taken to improve on the present, slow, pace of implementation.

Serious military clashes have taken place between Mr Nkurunziza's CNDD-FDD and fighters belonging to Mr. Leonard Nyangoma's CNDD and Mr Karumba's FROLINA. It is important to note that both Nyangoma and Karumba signed the 2001 Arusha Peace Accord and have representatives within the transitional institutions. Their continuing complaints that although being signatories they are being marginalised and excluded, need to be taken more seriously to prevent a further escalation of conflict. Although presently seen as smaller rebel movements, small movements can – depending on developments – easily become bigger ones.

Second, for Burundi to achieve durable peace, it needs to try harder to include the Party for the Liberation of the Hutu-National Liberation Front (Palipehutu-FNL) of Agathon Rwasa. That the Burundian Army, together with the FDD (the former armed movement of Pierre Nkurunziza's CNDD-FDD) have been waging an intensive six-month war against the FNL, which is the second largest armed movement in Burundi, is a continuous reminder that the peace process has not yet been completed. While many Burundian – as well as external role-players – have been of the opinion that this problem could be resolved militarily, developments over the past few months would indicate yet again that there is no military solution.

However, and although there are a few initiatives in place to accommodate the FNL in a peace-making process (especially the one being managed by the Government of the Netherlands), it is highly unlikely that this will be achieved in time for the November elections. These initiatives are presently being hampered by the fact that parties who see the FNL as a potential political competitor during and after an election, instead of trying to bring the FNL into the peace process, are still opting for a military 'solution'. Only a political solution will end the war between the FNL and the TgoB.

Third, Burundians of all three ethnic groups need to engage in a process of justice and reconciliation. Without such a process it will be difficult for any power-sharing government, first, to develop the necessary trust, and second, to develop a common vision for a multi- or non-ethnic future for Burundi. Although it was agreed in the Arusha Accord that an International

Commission of Inquiry and an International Tribunal would be appointed to investigate past ethnically-motivated crimes, there has been no implementation of this decision.

Fourth, the Arusha Peace Accord – the founding document of the current dispensation – remains a highly contested document amongst Burundians. This in itself clearly demonstrates that much needs to be done to build a genuine national consensus about the way forward. It is unlikely that a sustainable and durable peace can be built on a founding document that divides Burundians so deeply. In fact, those parties who signed the accord in Arusha and those who ‘adopted’ it subsequently during cease-fire negotiations, did so largely as a result of the immense pressure exerted on them by the international community – those “Tutsi parties” that participated in the Arusha negotiations, publicly raised objections and reservations during the signing of the Arusha Accord while a significant number of Tutsi parties either boycotted the whole process or were never included. In addition, although the “Hutu parties” which were in Arusha did not raise their concerns at the time, they are now doing so during the pre-election period.

Moreover, while the peace process has made considerable progress in reducing the bloodshed (most parts of Burundi are now relatively peaceful), the root causes of violence between Hutu and Tutsi have yet to be addressed. Although the fragility of the peace accords has necessitated the presence of foreign troops, these can neither remain forever, nor substitute the need for Burundians to reach a genuine national consensus.

Electioneering

While it should be clear that Burundians still need to treat ongoing peace-making as their most important priority, the issue of the November elections has produced two contradictory demands: those of peace-making *and* those of electioneering. While peace-making requires a commitment to the principles of compromise, win-win, power-sharing, inclusivity, finding common ground and transforming enemies and opponents into partners, elections – by their very nature – require the exact opposite: competition, confrontation, win-lose, exclusion and demonisation. Parties that became one’s partners during the peace-making process, now again have to be treated as opponents and even enemies.

These conflicting demands made on political leaders and other role-players, make Burundi today more confusing than it has been for many years. This is partly because Burundians just do not know from day to day whether to adopt a peace-making or an electioneering mode, creating the impression that the whole process is either fraying at the edges or out of control. In this regard, the formation of a strong Burundi-based international coordinating structure which can assist the Burundians in managing this difficult and contradictory situation, would make a real difference.

In addition, although all Burundian parties are in favour of holding elections, they are totally divided about the appointed date – 1 November 2004. Unless they can reach a broader-based agreement on the date, it can become a new source of dispute and conflict, and affect the legitimacy of both the election process and the outcome.

When in 2001 the parties agreed in Arusha that elections would take place immediately after the completion of the transitional period on 31 October 2004, it was assumed that all the necessary conditions and pre-conditions would have been met by then and that the realities on the ground would make free and fair elections possible. This is obviously not the case at the moment.

Apart from the need to achieve a truly inclusive cease-fire, the following technical steps still need to be agreed upon and implemented before an election can take place on 1 November:

- A new post-transitional constitution (disagreements about which key aspects and compromises contained in the Arusha Accord should be included in the new constitution will require extensive negotiations);
- A national referendum to approve the new constitution;
- A new electoral law;
- A law on political parties;
- Local government and communal elections (to be held before 1 November);
- A national population census;
- Voter education;
- The return of refugees and internally displaced persons and the resolution of land disputes;
- Disarmament and demobilisation of armed movements, the return of the Army to barracks and the creation of a new Burundian National Army and other security services;
- Release of political prisoners; and,
- Material, logistical and financial preparations.

With regard to the security situation, a truly stable environment in which the population can feel free to vote, still needs to be created. The war currently being waged makes it impossible to hold elections in Bujumbura Rural Province – and its environs. While this war continues to create a sense of insecurity within the capital (with fears of an imminent attack by the FNL), it also gives the impression that the peace process has not yet succeeded in resolving the Burundian conflict. This contributes towards keeping the war logic – and the accompanying polarisation amongst parties – alive. In addition, and apart from Bujumbura Rural, sporadic insecurity is also prevalent to the south of this province, where smaller armed movements have clashed with Pierre Nkurunziza's CNDD-FDD and the Army, and to some extent in the northwest.

In an attempt to try and deal with all the outstanding issues pertaining to the elections, the Burundian President, Domitien Ndayizeye, has established a Forum of Political Parties/Movements, where parties can both negotiate, to reach consensus and put steps in place for ensuring that the necessary preparations are being made for the elections. While Burundi does need democratic elections, care needs to be taken that the process and the outcome will be considered legitimate by all parties and stakeholders.

The resurfacing of a 'win-lose' mentality

The tendency among Burundians to opt for "take power/keep power" or "win/lose" 'solutions', which had such a negative impact on the peace negotiations, is creating a serious obstacle to achieving an inclusive power-sharing post-transition dispensation. Because Burundians still have very

little trust in one another, it is unlikely that any other formula will presently ensure a long-term transfer to a more majoritarian-style democracy. At present, those parties who believe that they can benefit from an early election support the appointed date of 1 November, while those who believe that they may lose an early election (*and* consequently be excluded from a future government), are asking for a delay.

The two main partners within the TgoB, FRODEBU (Hutu) and UPRONA (Tutsi) – both the *fathers* of the Arusha Accord and the dominant players within government – are being targeted for defeat. That they will be opposed by parties that either did not participate in Arusha or were – under pressure – forced to subscribe to the accord, would indicate that the election may develop into a contest (in both ethnic communities) between, on the one hand, the Arusha parties and, on the other hand, the non-Arusha parties.

While the CNDD-FDD of Pierre Nkurunziza is determined to use the election to remove FRODEBU as the dominant Hutu party in government, UPRONA will be challenged by a whole range of non-Arusha parties. In fact, many of these parties competing for power pay lip-service to the Arusha Accord, and maintain (at best) a polite distance from the Arusha Accord/Process. Although the CNDD-FDD is now part of the TgoB, it goes out of its way to ensure that it is ‘not associated too closely’ with what is termed the ‘failure of the Transitional Government to reform Burundi’. Many of the smaller parties (both Hutu and Tutsi), who have claimed consistently that FRODEBU and UPRONA have excluded them from the decision-making process in the TgoB, will most likely support the ‘anti- or non-Arusha’ parties.

It is ironic that support for the Arusha Accord may constitute an electoral negative for those parties who negotiated, signed and implemented it. A further question also needs to be asked: what will the consequences be for the Arusha Accord if the historical partnership between UPRONA and FRODEBU is defeated in the elections?

Should the CNDD-FDD and an anti- or non-Arusha Tutsi party emerge from the elections as the winners (amongst the Hutu and Tutsi constituencies respectively), it would mean that the two new key parties in Government will – for diametrically opposite reasons – want to make substantive changes to the Arusha Accord. While any new dominant Tutsi party will be more conservative and pro-minority rights than UPRONA, the CNDD-FDD will be more militant pro-majority than FRODEBU. The fortunes of UPRONA will, of course, and to a large extent, be determined by the Burundian Army.

This ‘zero-sum’, ‘win-lose’ approach runs the serious risk of yet again introducing in Burundi exclusionary politics. The only difference will be that the formerly excluded will become today’s included – and vice versa. In a country where exclusion has played such a major negative role in promoting conflict, this would be a step backwards for the ideal of good governance. Burundi still needs an inclusive and co-operative power-sharing government – but one based on a common vision of the future.

Challenges to the fundamental ethnic compromises of the Arusha Accord

Since joining the TgoB at the end of last year, the CNDD-FDD seems to have decided to make opposition to the minority protections within the Arusha Accord one of its main election platforms. During the present negotiations

for a new post-transition constitution, it has suggested that all references to the minority quotas agreed upon in the Arusha Accord, as well as any references to ethnicity as such, should be left out of the new Constitution. If the Arusha Accord represented a historic compromise between the two conflicting ethnic groups, then this approach represents a serious challenge to this compromise. And while this challenge may be uncomfortable to many, it is preferable that it is out in the open, though it needs to be managed constructively.

It is not only the CNDD-FDD, however, that is adopting this position towards Arusha's ethnic quotas. Most Hutus have always felt that the Tutsi minority were given too large a slice of both military and political power in the accord. That the CNDD-FDD apparently is re-opening the issue of minority (Tutsi) quotas, is re-awakening Hutu solidarity in favour of a more majoritarian-style Constitution (similar to the 1992 Constitution), one with protections for minorities, but no quotas.

A growing number of key Hutu role-players from different parties increasingly are arguing that they have not yet been able to introduce the real reforms and transformation Burundi needs. They blame this on the claim that all Hutu parties who have shared power with Tutsis in the past have become 'toothless lions', either by being 'co-opted' or 'swallowed up' by the Tutsis. This also happens to be a key argument used by the Palipehutu-FNL.

As these issues touch on the essence of the Arusha ethnic compromise, massive resistance from within the Tutsi community should be expected. Lacking trust, they view these ethnic quotas and protections as a pre-condition for having agreed in Arusha to the present power-sharing dispensation, and therefore insist that these be incorporated into the new Constitution. This stand-off will need further constructive and urgent negotiations. If not, the temptation will be there to force this issue either during or after the elections.

A growing militarisation of political power

One of the most surprising developments in Burundi over the past five months has been the extremely close co-operation which has developed between the Burundian Army and the FDD. After all, these two parties were not only sworn enemies for the previous ten years, but until recently had waged a relentless and bloody war against one another.

At face value it would seem that this alliance of convenience was born of opposition to a 'common enemy' in the shape of Palipehutu-FNL, which had remained outside the process. Both parties therefore had a vested interest in militarily defeating or reducing the military threat the FNL posed to the capital. For the CNDD-FDD it was also important to defeat the FNL since its military operations undermined the undertaking made by the FDD that – once *they* signed the cease-fire agreement – the war in Burundi would be ended. Their common lack of confidence in the political class has also contributed towards this new relationship.

Burundians, however, believe that there is also a longer-term strategy at play. Knowing the crucial role the military play – or can play – during and after elections (as happened in 1993), both the Army and the FDD seem to want to remain armed and operational for as long as possible. That they jointly 'have to' fight against the FNL (which has not yet entered the peace

process), makes this option possible. Both are also aware that the Tutsi 'power', as represented by the Burundian Army and (presently) UPRONA, and the Hutu 'power' as represented by the CNDD and its military wing, the FDD, have opposing political objectives for Burundi. Though they are presently co-operating well does not imply that their different political objectives have merged – in fact, they find themselves in a kind of 'military stand-off', with each one watching the other. Since the 1993 election and the crisis immediately afterwards, Hutus have maintained that Tutsis were able to manipulate them in all the power-sharing governments that were created due to the fact that they (Hutus) did not have 'their own army'. The FDD has now filled this vacuum. This has resulted in the military (both the Army and the FDD) becoming an increasingly determining force within internal political power relationships and decision-making.

As a result of the above, the policy of Disarmament, Demobilisation and Re-integration seems to have changed fundamentally. Instead of FDD fighters being moved to cantonment sites (which would be monitored by the African Union's Mission in Burundi, AMIB), they are now informally grouped in (pre)assembly areas where there is no monitoring or control being exercised. Not only do they remain fully armed, they are also free to move among the local population. It is envisaged that disarmament will only take place once demobilisation sites have been created. Similarly, the Army has not – as specified in the cease-fire accords – started returning to barracks or handing in their heavy weapons.

It is most likely that by the time the elections take place, instead of there being a new Burundian national Army, the country will still have two separate armies co-operating for as long as they have common objectives. The wisdom of allowing both soldiers of the Burundian Army and armed combatants of the FDD (both obviously politically partisan), to retain their weapons during the pre-election period, is being seriously questioned. Parties who want to participate in the elections are raising concerns that those parties which will have their 'own armies' will have an unfair advantage. It is hoped that this problem will be further addressed once the AMIB forces are placed under a United Nations mandate.

Finally, while it is true that external players and the international community in general have invested much time, energy and funding in the Burundian peace process, it is not the time now for outsiders to withdraw from their commitment. For the Burundian process to become truly viable and result in a durable solution to the conflict, more time, energy and money needs to be devoted during this crucial period.

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