

Central Africa Report

Analysing post-transition violence in Burundi

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Summary

The current crisis has turned out to be the most serious since the end of the transition, but its evolution is by no means unique in Burundian history, either in the scale of the violence or the mode of repression. In fact, since the end of the country's political transition, Burundi's political and security trajectory has continued to exhibit the cyclical patterns of repression and political violence that have plagued the country since independence.

WHILE THE TRANSFORMATION of the National Forces for Liberation (FNL) from armed group to political actor in 2009 indicated the end of full-scale war, Burundi has continued to experience some sort of violence since the end of the transition. In each episode, state security forces have engaged in low-intensity violence and have perpetrated abuses against the population and armed opponents. Nevertheless, while violence has continued to be a part of the political landscape in Burundi, the dynamics of that violence have evolved over time.

Most discussions about the legacy of violence focus on its ethno-political dimension, which often pitted Hutu against Tutsi. What is less explored is the fact that, since the end of transition, most of the competition for power and violence has been intra-ethnic amongst Hutu. For instance, there was violence in 2005-2006 between the Hutu-led government and the FNL. During those years the state engaged in human rights violations to neutralise the FNL but also engaged in violence against the party's civilian supporters.

The violence in 2010-2011 was also mostly intra-ethnic. Following the opposition's boycott of the 2010 election on the grounds of the ruling party's harassment of opposing parties, and the subsequent rebellion attempt initiated by the FNL and by the Front National pour la Révolution au Burundi – Tabara (Fronabu-Tabara),¹ the government crushed the FNL in Bujumbura rural, engaging in torture, disappearances, extrajudicial killings, and other massacres of FNL members and their supporters. The United Nations accounted for

approximately 90 cases of extrajudicial and/or politically motivated killings between 2010 and 2011, but former insiders of the ruling National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD) argue that this number should be multiplied.²

While the struggle between the Hutu-led CNDD-FDD and the FNL continued through the 2010 election cycle, the Movement for Solidarity and Democracy (MSD) also emerged as a target of brutal retaliation at the hands of government security agents and some elements of the 'Imbonerakure,' the CNDD-FDD's youth militia. Given the Tutsi predominance in the MSD, many of the youth targeted by government violence were Tutsi.

The changing face of violence

The violence of the current crisis started in the middle of 2015 after the CNDD-FDD announced that President Pierre Nkurunziza would stand for a controversial third term. This time the violence has remained principally political but the dynamics have changed as some actors have realigned their political priorities and the political and security situation has evolved.

The armed opposition includes police and army deserters, youth and former combatants from both sides of the ethnic divide

In 2005 and 2010 the government was responding to a rebellion organised by armed groups, whereas in 2015 the violence started as a brutal crackdown on peaceful protesters. Although confrontations eventually ensued among young protestors, violent elements of the Imbonerakure and security forces, it was only after the political space had been completely closed that an insurgency emerged.

Another distinguishing element in the current crisis is that the insurgency is taking place in a context where the political actors and their positions have changed from where they were in 2005 and 2010. Firstly, veteran opposition leader Agathon Rwasa did not make public calls for his FNL partisans to join the protests. While many FNL members joined demonstrators in the various neighbourhoods, along with youth from other long-established parties, the target of the government crackdown during this recent episode of violence became the MSD.

Some close observers have suggested that Rwasa was advised by foreign actors to set aside open confrontation with the CNDD-FDD and to enter government institutions – which he did, taking his followers into the National Assembly.³ Others believe he might have avoided involving his supporters in order not to bear once again the full brunt of government repression, which would have effectively destroyed what is left of his base. This has not stopped many of his supporters from participating in the armed rebellion. There are reports that FNL members and supporters have lent assistance to predominantly Tutsi MSD youth who fled their neighbourhoods and sought shelter in FNL strongholds in Bujumbura rural.

While both Hutu and Tutsi youth have been arrested, tortured and executed by government forces, with a stronger participation from MSD youth and a lower profile from the FNL, the number of Tutsi victims has increased. The armed opposition, now



THE 2015 VIOLENCE STARTED AS A BRUTAL CRACKDOWN ON PEACEFUL PROTESTERS

composed of three main groups, includes police and army deserters, youth and former combatants from both sides of the ethnic divide. However, with evidence emerging about recruitment efforts in refugee camps in Rwanda, which are mostly Tutsi, there is a clear sense that the participation of young Tutsi has increased.

For this reason, while the risk of the situation turning into popular violence against the Tutsi remains slim, as the crisis drags on concerns are rising about increased targeting of Tutsi dissidents by security forces, thereby turning early warnings of ethnic violence into a self-fulfilling prophecy.

Escalation of violence and armed opposition

On 2 August 2015, General Adolphe Nshimirimana, a close associate of Nkurunziza and former head of the National Intelligence Services (SNR), was assassinated in Bujumbura. While the government suggested that former Burundi Armed Forces (FAB) officers were responsible, the true culprits remain unknown. However, paradoxically, this incident reinforced cleavages within the CNDD-FDD, as some supporters of the general believe the assassination was ordered by elements loyal to the regime.

Insiders add to these suspicions by relating rumours that Nshimirimana's excesses had become too much of a liability for Nkurunziza. The fact that some of the Imbonerakure who were close to Nshimirimana and his supporters have since been marginalised has raised many questions. Indeed, some members of his personal security lost their position of privilege and people in key posts like the public prosecutor of Bujumbura – Mairie, Arcade Nimubona, were replaced.

Esdras Ndikumana, a journalist working for Agence France Presse, was tortured by SNR agents on the day of the assassination after he attempted to photograph the scene of the crime. He now lives in exile in Kenya, where he continues to cover Burundi. The day after Nshimirimana's death, veteran human rights activist Pierre Claver Mbonimpa was shot and seriously injured. He was evacuated to Belgium for medical care and has remained in exile.

Nshimirimana's death was quickly followed by the assassination of former chief of staff Colonel Jean Bikomagu, who was ambushed outside his home in Bujumbura. Bikomagu was army chief of staff at the beginning of the civil war, when the Tutsi minority dominated the army. The murder of this retired officer was believed by some to be retaliation for Nshimirimana's assassination.

The following month, an army chief of staff, Prime Niyongabo, escaped an ambush in the centre of town. These events fuelled

speculation about internal tensions among former members of the Forces for the Defence of Democracy (FDD). Indeed, former minister of defence General Cyrille Ndayirukiye, the second in command in the coup attempt, has accused Niyongabo and another former defence minister, Pontien Gacyubwenge, of having participated in the planning of the failed putsch.⁴ Nevertheless, Niyongabo remained in his post for months, prompting some to accuse him of betraying coup plotters.

Women have not escaped violence at the hands of the state. In May 2015, 200 women defied a ban on public demonstrations against the third-term bid.⁵ Unlike previous protestors they succeeded in reaching the city centre, but they were quickly dispersed with water cannons.

As the crisis progressed, women were also assassinated or disappeared. Two notable cases captured international attention. The first was that of Charlotte Umugwaneza, vice-president of the MSD in the urban area of Cibitoke, who disappeared on 16 October 2015. Her battered body was found the day after.⁶

In December 2015 Marie-Claudette Kwizera, treasurer of ITEKA, one of the leading human rights organisations, went missing. Witnesses say that she was accosted and arrested by SNR agents.⁷ At the time of the writing of this report, she was still missing.

The decision to keep suspected plotters close to the regime is probably due to the support these individuals have among former FDD soldiers

Unable to neutralise the armed opposition, the state strengthened its repressive mechanisms and increased security personnel in Bujumbura. It kept a number of security sector leaders and members under surveillance, most of them Tutsi. On the other hand, some Hutu and CNDD-FDD members suspected to have collaborated with the coup were brought back into the fold.

The decision to keep suspected plotters close to the regime is probably due to the strength and support these individuals have among former FDD soldiers in the army, dating back to the rebellion. By bringing them back into the fold the government minimises the risks of increased defections.

Paradoxically, despite Nshimirimana having been a key player in maintaining Nkurunziza in power, his assassination consolidated the president's power – prior to his assassination, he had been

one of the few individuals who dared to openly defy Nkurunziza. For example in 2011, Nkurunziza nominated Gaudence Ndayizeye for the post of attorney general. However, CNDD-FDD senators voted against his confirmation because of pressures from some generals, including Nshimirimana.

Protests turn to insurrection

While Nkurunziza's entourage became increasingly militarised, the demonstrations and confrontations in some neighbourhoods of Bujumbura took the form of insurrection, with the emergence of armed groups defying security forces and ambushing them at night. These groups have since mostly moved out of Bujumbura and have migrated to rural parts of the country where they are reportedly reorganising. At this point, the emerging armed rebels can be divided into two main groups. The first is the Forces Républicaines du Burundi (Forebu), which came into existence shortly after the botched coup of May 2015. The group includes several high-ranking officers and generals of the army and the police, some of whom were part of the CNDD-FDD rebellion during the war and others who were formerly FAB.

In January 2016, Forebu officially announced that General Godefroid Niyombare, the general who led the May 13 coup and fled into exile, was now part of the group's leadership. Its spokesperson, Edouard Nibigira, a Tutsi, was previously a high-ranking officer in the Public Safety ministry. The group's leadership is believed to be based in Rwanda.

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Another group, Résistance pour un État de Droit au Burundi (RED-Tabara), is believed to be partly located in eastern Congo. Composed of army and police deserters, former FNL rebels, and youth who were part of the 2015 protests, notably members of the MSD, the group is believed to be the reincarnation of Fronabu-Tabara, which was linked in 2011 to MSD leader Alexis Sinduhije, former director of the RPA radio station closed down by the government.⁸ Sinduhije has been accused by the government and members of the international community of leading RED-Tabara. Despite his denial, on 18 December 2015, the United States government added Sinduhije to the list of those targeted by sanctions for his presumed role in the increasing violence in Burundi.

At present the official face of the RED-Tabara is Melchiage Birembe, a Hutu from Cankuzo in eastern Burundi, and a close ally of Sinduhije. While RED-Tabara officially emerged after Forebu, it has quickly made a name for itself with its multiple incursions and attacks on government institutions. For example, in January 2016, the organisation exchanged fire with the police and the army in Mugamba Commune, about 60km south of Bujumbura.⁹ While RED-Tabara denies being involved in attacks targeting civilians, confrontations between armed groups and government agents have resulted in collateral damage.

The FNL of Aloys Nzabampema, Rwasa's former right hand man, is also among the armed groups frequently mentioned. The group, which split from Rwasa in 2012,

18 December
2015

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has maintained a base in Southern Kivu. It has, for some time, been reported to be crossing the border from eastern DRC to Rusizi National Park in Burundi.¹⁰

So far each group has maintained its own chain of command. While RED-Tabara has stated that it is not in competition with the other groups, notably Forebu,¹¹ there is no indication that the groups have a combined strategy. They have also occasionally clashed over who has been responsible for certain attacks.

The parallel security forces

While the police are often considered to be the primary repressive instrument of the ruling party, it is important to note that it is far from all police officers who are involved in human rights violations. Andre Ndayambaje, chief of police and former member of the gendarmerie, is believed to have very limited control of the force, which is effectively under the Bunyoni's control. Conversely, Godefroid Bizimina, a former FDD combatant who is Ndayambaje's deputy, is said to exert more control over the police force. Moreover, early on in the crisis, the police force was infiltrated by negative elements of 'Imbonerakure' and demobilised former rebels, who are on the front line to fight the insurrection in protest neighbourhoods.¹²

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Another important unit which has been very active in the violent repression of the insurrection is the Appui à la Protection des Institutions (API), the branch of the security sector whose task is to protect government institutions such as the president, the vice-presidents, the National Assembly and the Senate.

API has engaged in tracking, arresting, and abusing alleged protestors and insurgents.¹³ Moreover, the minister of public safety has created an anti-riot brigade in charge of repressing the contestation in protest neighbourhoods in the capital. He nominated at the head of this brigade Désiré Uwamahoro, a controversial police officer previously convicted for the 2007 torture of more than 20 prisoners in Rutegama.¹⁴ By entrusting this brigade to such an individual, the government has sent a clear message to all involved about its disregard for proper rules of engagement. Since it was brought into use the brigade has been accused of a number of violations.¹⁵

Yet despite all the resources deployed and the aggressive methods used, security forces have not been able to completely put an end to the insurrection.

Creation of a new opposition platform¹⁶

The crisis has led the majority of vocal opponents to flee Burundi.¹⁷ In September and October 2015, the government issued more than 40 arrest warrants for opposition, civil society and media personalities, accusing them of complicity in the failed coup attempt and of organising the insurrection. The aggressive repression of the regime has united previously rival opponents, who have joined forces against the president or to denounce actions of the state. Despite the fact that they are spread across East Africa and Europe, the opposition has slowly begun to constitute a common platform of contestation.



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The result was the creation in August 2015 of the Conseil National pour le Respect de l'Accord d'Arusha pour la Paix et la Réconciliation au Burundi et de l'Etat de Droit (CNARED) which is mainly composed of opposition parties, former heads of state and CNDD-FDD dissidents. In August 2015, Léonard Nyangoma, president of the National Council for the Defence of Democracy (CNDD) and first president of the CNDD-FDD during the armed struggle, was elected president of CNARED, a decision that surprised many.

While he is reputed to be able to mobilise people around a cause, Nyangoma's main weaknesses are the fact that he has lived in exile for many years and that his support base is confined to people of his home region of Bururi. Thus he is criticised for being disconnected from the realities of Burundi's political landscape. Moreover, history has demonstrated that he has a propensity for making unilateral decisions. He also has a controversial past as the head of the CNDD rebellion. Nyangoma was replaced by former National Assembly president Jean Minani during internal elections in April 2016.

Pacifique Nininahazwe's participation was a delicate issue for Burundian civil society, which has always declared itself apolitical

The leadership of the platform appears to fulfil a desire for ethnic balance and political sensitivities. The first vice-president is a Tutsi, Bernard Busokoza, the former first vice-president of Burundi, while Onésime Nduwimana, the former CNDD-FDD spokesperson, is second vice-president, an appointment that appears to be a deliberate attempt to include a rebel¹⁸ in the leadership of the group.

Pacifique Nininahazwe, a key leader of the protest movement against the third term, was designated executive secretary in the early stage of the organisation. His participation was a delicate issue for Burundian civil society, which has always declared itself apolitical.¹⁹ He was one of two civil society figures who participated in the anti-third-term campaign to be officially associated with a political organisation. The other is Vital Nshimirimana, who was previously in charge of the organisation's commission on human rights, justice and solidarity. Both Nininahazwe and Nshimirimana have since stepped down from these roles.

Soon after the birth of CNARED, the regime in Bujumbura wasted no time in exploiting the involvement of civil society groups in the organisation to further link individuals such as Nininahazwe with the coup plotters. Part of the communications strategy of the state since the start of the crisis has been to argue that the April/May protestors colluded with the May coup plotters and are responsible for the current insurgency. This has become their rationale for refusing to negotiate with CNARED members.

Within CNARED, Gervais Rufyikiri, formerly CNDD-FDD, heads the diplomatic commission, while Sinduhije is in charge of the security commission. Pie Ntavyohanyuma, another former president of the National Assembly, and several former heads of state act as advisors and special envoys for the platform. While CNARED's political membership is very diverse, it has been criticised by many observers and stakeholders for a lack of representation of women and young people.

Despite the fact that arrest warrants have been issued for the majority of its members, CNARED has positioned itself as an unavoidable interlocutor for partners and

August 2015

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OF CNARED

organisations that want to help find a political solution to the Burundi crisis. It has engaged in direct talks with European and African organisations and governments in order to anchor its legitimacy and promote its demands.

However, despite all its efforts, CNARED has been plagued by the same problems that have challenged opposition parties and platforms in the past – differences between members and conflicts of interests and egos. Moreover, like those of previous opposition platforms, CNARED's long-term political strategy and orientation beyond its opposition to the government and the third term needs to be clarified.

Because it is based in exile, it also faces a representation issue, as many dissidents still in Burundi do not feel represented or connected with the body or its objectives. Some question CNARED's commitment to a negotiated political solution when some of its members have been accused of contributing to the violence by leading or belonging to the newly emerged armed groups.

'Genuine and inclusive' dialogue in the face of a worsening crisis

The first months of Nkurunziza's third term were marked by a hardening of the government's power. The political space had been shut down by the outright destruction and closing down of media and civil society organisations, there had been countless arbitrary arrests, cases of torture and ill treatment in various legal and illegal detention centres and many extrajudicial executions at the hands of the security forces.²⁰

The international community and regional actors have tried to promote dialogue across the two sides of the political divide by deploying a number of seasoned diplomats to mediate. In May 2015 the African Union dispatched a high-level mission led by members of the AU Panel of the Wise, former Togolese prime minister and secretary general of the OAU, Edem Kodjo, and Ibrahima Fall of Senegal, who was later named AU Special Representative for the Great Lakes.

Fall replaced Boubacar Gaoussou Diarra, who had been recalled after a falling out with the regime over his bold criticism. In the year that preceded the crisis, Diarra, as AU Special Representative, frequently raised concerns about the authoritarian drift of the CNDD-FDD and spoke very early on about the importance of free and fair elections in 2015. His candour quickly became an annoyance to the government and created tensions between the AU and Bujumbura. Hence, a few weeks before the ruling party announced Nkurunziza's candidacy, the government requested that Diarra be replaced.²¹ With Diarra gone in April, and Fall replacing him in June, the

high-level mission never managed to gain meaningful traction in the process.

The UN sent its Special Envoy to the Great Lakes Region, Said Djinnit, who had been involved in attempts to find a solution since the beginning of the crisis. However, some in the opposition accused him of favouring Nkurunziza's third term because he did not tackle the issue head on during the talks. Hence, in June 2015, Djinnit stepped down as mediator at the demand of the opposition.

On 21 June the UN announced that Senegalese politician and diplomat Abdoulaye Bathily would replace Djinnit as mediator. He held the post for less than a month before being rejected by the Burundi government following the release of a UN report criticising the regime for restricting press and political freedoms and engaging in acts of violence against the population.

Finally, on 6 July 2015, during an East African Community (EAC) summit on Burundi, the organisation nominated Ugandan President Yoweri Museveni as lead mediator. Interestingly, the only heads of state present at that meeting were presidents Jakaya Kikwete of Tanzania and Museveni. Presidents Uhuru Kenyatta of Kenya, Paul Kagame of Rwanda, and Nkurunziza were only represented by their foreign affairs ministers. Kagame would continue to avoid subsequent EAC summits on Burundi, clearly indicating the lack of unity and consensus among the members of the regional economic community on ways of resolving the crisis.

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Museveni's nomination was received with a great deal of scepticism by the opposition and many observers. Museveni, who was himself seeking another term as president after 30 years in power, was not considered to be neutral about term limits. There were also concerns about whether the Ugandan president would have the time to manage the crisis as he was about to embark on a presidential campaign in his own country in an election cycle that promised to be more competitive than usual.

On 14 July 2015, a few days before the presidential elections, Museveni, the CNDD-FDD, the opposition, and civil society organisations met in Bujumbura for the opening of the mediation process. The talks were supposed to continue with Ugandan defence minister Crispus Kiyonga at the helm, but on Sunday 19 July Burundi government representatives

failed to appear, citing the need to prepare for the upcoming election, which the EAC had demanded be postponed by two weeks. Unwilling to further delay the polls, the government held the election on 21 July.

In October 2015, in order to respond to international and regional pressures to engage in an inclusive dialogue and to minimise outside interference, the government created the inter-Burundian dialogue commission and nominated 15 individuals who, for the most part, had been co-opted by the regime. The commission only included representatives from organisations that were in Burundi, thereby excluding the CNARED.

Recognising the government's ploy to engage in dialogue on its own terms without truly having to involve dissidents, the international community pressured it to engage in 'genuine and inclusive'²² dialogue if it hoped to achieve a political resolution to the crisis. By this it meant dialogue mediated by the EAC.

Despite pressure and sanctions imposed by international organisations and development partners, the regime remained inflexible

Despite pressure and sanctions²³ imposed by international organisations and development partners, the regime remained inflexible. Incendiary communiqués from the CNDD-FDD leadership raised the alarm among observers. By October 2015, violent rhetoric coming from the ruling party and a damning internal report from African Union (AU) human rights observers discussed at the AU Peace and Security Council resulted in a series of concentrated actions by international partners which, temporarily de-escalated the violence.

On 17 October 2015, the AU Peace and Security Council issued the strongest worded communiqué since the beginning of the Burundi crisis, calling on all parties to refrain from violence and for the deployment of additional human rights monitors and military advisors and the preparation of troop deployment as a contingency plan. It also threatened to impose targeted sanctions.²⁴ The AU first called for the deployment of human rights observers in May 2015. Approximately 10 of them were deployed in July with the mandate to 'monitor the human rights situation on the ground, report violations of human rights and international humanitarian law and undertake local conflict prevention and resolution activities.'²⁵

The Great Lakes special envoys from the United States, the European Union and the UN backed the communiqué. It was followed by an official letter from the EU to start consultations with the Burundian government based on Article 96 of the Cotonou Accord, which calls for a re-evaluation of assistance from the EU and EU member states if it is deemed that a state fails to respect essential elements of human rights, democratic principles, and the rule of law. The consultations entailed meetings where the government was to address the specific steps to address the EU's concerns, followed by the establishment of clear benchmarks to assess Burundi's progress. The decision to engage in Article 96 consultations was part of a coordinated effort with the



THE AU FIRST CALLED FOR THE DEPLOYMENT OF HUMAN RIGHTS OBSERVERS IN MAY 2015

international community and the AU, and the EAC to achieve a lasting political solution by means of inclusive dialogue.²⁶

At about the same time the government began disarmament operations in opposition strongholds. On 2 November Nkurunziza made a public announcement, giving civilians until 7 November to disarm with no legal consequences or face forcible disarmament by security forces.

This speech was followed by the release of secretly recorded inflammatory remarks made by Senate president Reverien Ndikuriyo, calling on people to 'go to work' against the 'terrorists' and the 'enemies of the state'. Ndikuriyo's remarks raised red flags among the international community, as they resembled the coded language of Hutu extremists during the Rwandan genocide. There was a massive exodus of civilians in opposition neighbourhoods in Bujumbura as confrontation between insurgents and security forces continued.

The 7 November deadline created a sense of urgency on the part of the international community and resulted in statements from the UN, the AU and the International Criminal Court. Alarmed by the situation, France called an emergency meeting of the UN Security Council for the following Monday, 9 November. The international reaction to these developments forced the government to act with care and recalibrate, albeit temporarily, its security operations.

On 9 November, the Security Council passed a resolution condemning the escalation of violence and urging the Burundian government to cooperate in the EAC-led dialogue.²⁷ This was followed by unusual remarks in November by China encouraging the government to engage in dialogue.²⁸

Responding to the increasing international and regional pressure, the government accepted an invitation from the European Union (EU) to start consultations about article 96 of the Constitution, which states that the president is to be elected by universal suffrage and that the term of office is renewable once. With a number of their development partners having suspended their bilateral assistance following the elections, and the fact that the economy was plummeting, the government had little choice.

The EU announced that the consultations were closed and 'appropriate measures' would be considered, suggesting potential restriction

On 8 December a delegation of Burundian government officials met EU representatives in Brussels. However, the EU representatives deemed the outcome of the meeting unsatisfactory, arguing that the Burundian government had minimised the security situation and human rights concerns without suggesting satisfactory steps to remedy the crisis. In a statement the EU announced that the consultations were closed and 'appropriate measures' would be considered, suggesting the potential restriction of EU cooperation with Burundi.²⁹

While it had been hoped that the meeting would be a first step towards the de-escalation of violence and a subsequent normalising of relations between Burundi and the international community, what followed was one of the most violent episodes of the crisis.

9 November
2015

THE UNSC PASSED A
RESOLUTION CONDEMNING
THE ESCALATING VIOLENCE

On 11 December 2015, before dawn, Forebu attacked four military camps around Bujumbura. Reports suggest that about 30 assailants opened fire on military installations in and around the capital. They fell back in the hills surrounding the city, as armed forces were deployed throughout the city, notably in Nyakabiga and Jabe, targeting protest neighbourhoods.

On the 12th, residents found dozens of corpses scattered in the streets. Witnesses said security and defence forces had summarily executed young people in opposition neighbourhoods³⁰ and arrested hundreds more on the pretext that they were insurgents. Witnesses and rights groups have further accused the government of collective punishment and of executing innocent civilians, the majority of them Tutsi, to crush the opposition.³¹

The government continues to assert that dissidents, armed or not, have no legal basis for their opposition and that the international community is over-reacting

Coincidentally, the fighting took place while the African Commission on Human and Peoples' Rights was in Burundi undertaking a mission at the request of the AU Peace and Security Council. Their preliminary findings indicated 'ongoing human rights violations and other abuses including arbitrary killings and targeted assassinations, arbitrary arrests and detentions, torture, arbitrary suspension and closure of some civil society organisations and the media'.³²

On 18 December the AU gave the Burundian government 96 hours to accept the deployment of a 5 000-strong AU peacekeeping force, the African Prevention and Protection Mission in Burundi (Maprobu). The Burundian government categorically refused and stated that any AU deployment would be met with force. Despite attempts to convince the government to accept the deployment of an AU mission as a tool to de-escalate the crisis and support peace talks, the government has remained firm in its decision.

While initial threats of AU deployment may have pushed the government to accept a call by the Ugandan government for a first round of dialogue on 28 December 2015, the talks have effectively stalled. Very little was accomplished apart from the delivery of speeches by numerous delegations of stakeholders. The talks were to resume at the beginning of January, but the Burundian government declined to participate until there is more consultation on the date and about those who will participate in the dialogue, thereby explicitly refusing to talk to coup plotters and implicitly rejecting the CNARED as an interlocutor.

During the AU summit of January 2016 the heads of state rejected the possibility of deploying Maprobu without Burundi's consent. Instead, the AU dispatched a high-level delegation to engage in consultations with the government and opposition members. The government accepted the deployment of 200 human rights and 100 military observers,³³ something it had already agreed to in October 2015, but the fact that it had failed to agree on a memorandum of understanding with the AU significantly hindered the ability of the observers to work.

While the government also appeared to have made some concessions with regard to the press by re-authorising the broadcasting of Isanganiro and Rema, two privately



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owned stations destroyed after the coup attempt, and by removing the names of some members of the opposition, civil society and the press from the arrest warrants, there remain important questions about the CNDD-FDD's willingness to engage in genuine talks for a political resolution. In February, Nkurunziza gave a commitment to UN Secretary-General Ban-Ki Moon that he was open to mediation with the opposition. However, shortly after the UN representative's departure, Foreign Minister Alain-Aime Nyamitwe reiterated the government's opposition to negotiating with CNARED and the armed opposition.

Since May 2015 the government has systematically sabotaged every attempt to engage in genuine and inclusive dialogue. It has not only benefited from the political gridlock at the EAC, but it has also been immune to calls and pressures – both economic and political – to find a political solution to the crisis.

The government continues to assert that dissidents, armed or not, have no legal basis for their opposition and that the international community is over-reacting to a situation that is contained in few areas of the country and has no popular support. It also justifies its use of violence as being within the bounds of the Geneva Conventions and denies any abuses by its forces. Most importantly, the government has consistently argued that it is under no obligation to enter into discussions with coup plotters and criminal elements, hence truly testing the limits of international intervention.

In March 2016, former Tanzanian president Benjamin Mkapa replaced Museveni as lead mediator for the EAC and in May, a fresh round of consultations between the government and selected members of the opposition and civil society organisations took place in Arusha. However the discussion could only begin once CNARED was barred from attending the meetings, thereby continuing to allow the government to dictate its conditions without offering the necessary space for constructive dialogue toward a political resolution. True to form, the Burundian government invited specific actors within CNARED to try to divide the opposition. Former CNARED president Nyangoma attended along with Frederic Bamvuginyumvira (Sahwanya- Frodebu), another ranking member of CNARED.³⁴ There was also Domitien Ndayizeye, senator and former head of state who is a member of the CNARED.

Today's political crisis will not simply die down as previous political and security crises have done

Mkapa announced that he would hold subsequent meetings with parties that were invited and met them in Brussels. But the extent to which this kind of dialogue will lead to tangible political rapprochement among the government, the political opposition and armed groups remains to be seen. The government's insistence on dictating who can and cannot attend may have negative consequences. Indeed, depending on their capacity, the exclusion of armed opposition actors could lead them to continue and even increase their use of violence for political objectives.

Assessing Arusha

Today's political crisis will not simply die down as previous political and security crises have done. With the continued flow of refugees to neighbouring countries and continued government-sponsored violence against an emboldened armed rebellion,



IN MAY 2016, A FRESH ROUND OF CONSULTATIONS TOOK PLACE BETWEEN GOVERNMENT AND SELECTED MEMBERS OF THE OPPOSITION AND CIVIL SOCIETY

regional, continental and international actors have had to recognise the limitations of peace-building efforts in Burundi.

The Arusha Agreement, ceasefires and the many protocols that followed Arusha have unequivocally made Burundi a better and safer place. By the end of the civil war, 300 000 Burundians had died and many more had been displaced, contributing to cycles of instability in the Great Lakes Region. It can be argued that, despite the crisis, the Arusha Agreement and the international peace-building framework is one of the reasons why, after over a year of high intensity crisis, Burundi has not yet returned to a full-blown war. The gains of Arusha have demonstrated their resilience.

Until recently, Burundians have been open about issues of ethnicity and the role it played in previous episodes of violence

Until recently, Burundians have been open about issues of ethnicity and the role it played in previous episodes of violence. Unlike Rwanda, which chose to eliminate references to ethnicity, Burundi openly dealt with it by painstakingly negotiating ethnic inclusion in all branches of government.

Nevertheless, despite the relative stability the peace-building process brought to the country, many agree that the political configuration that resulted from the Arusha Agreement will eventually have to be re-examined as the political landscape in the country evolves. Staunch supporters of Arusha, even those who oppose Nkurunziza, and many on both sides of the ethnic divide, believe that a new political settlement is necessary in order to address the changing political dynamics and Arusha's shortcomings that are today more apparent. However, there is not consensus on how to approach the process.

One looming question is whether the overemphasis on and rigidity of ethnic quotas set by the Arusha Agreement have helped the country on its path to democratic consolidation. The Arusha process took place in a context where a handful of powerful Hutu and Tutsi political actors set out how power would be distributed among themselves. The elitist nature of the peace negotiation focused on the political imperatives, as they were understood at the time, recognising that the conflict was political but with important ethnic implications.

While ethnic-based power sharing was intended to protect the Tutsi minority while empowering the Hutu majority and to force consultation across ethnic cleavages, we have seen over the years how the post-transition government has been able to use different forms of patronage to consolidate its power. For example, while regional considerations were factored into the power-sharing agreement, they were not sufficiently examined as a force that can easily trump ethnicity. The ruling party has used regional allegiances to exclude many from political participation.

It is no secret that the CNDD-FDD was contemptuous of the Arusha Agreement. The spirit of Arusha is one of inclusion and compromise, but the current government has dealt with the agreement as a constraint and has done the bare minimum to abide by it, taking advantage of loopholes and the nature of Burundian politics to divide and conquer, as opposed to consulting and compromising.

300 000

BURUNDIANS HAD DIED IN
THE CIVIL WAR

This was possible because of the way Arusha was designed, with a focus on how power would be distributed among actors, and not on how it would be separated among institutions. Hence we have seen the ease with which, in fewer than two electoral cycles, the ruling party has been able to blur the lines between the branches of government and centralise power in the hands of a few individuals.

Moreover, some elements of Arusha were never fully implemented. One of the most important aspects of the peace accord that has been neglected is the need for transitional justice and the rule of law in Burundi. This crisis has been exacerbated by decades of impunity that have allowed serious crimes to go unpunished and violence to be rewarded. Agents of the state have used violence for political gain, with little regard for demands for justice. This, in part, explains how the state continues to resort to the same type of violence, whenever it is faced with opposition.

This impunity, coupled with the failure to vet the police properly, has contributed to the continued instrumentalisation of security forces and political violence. While the military was relatively successfully reformed and integrated, the police remained an insurance policy for the ruling party and the government has made little effort to truly professionalise the force despite significant training support from international donors.

In recent years several opportunities to mitigate some of the factors that contributed to the crisis have been missed, though it remains uncertain whether it would have been possible to prevent it altogether.

One of the most important aspects of the peace accord that has been neglected is the need for transitional justice and the rule of law in Burundi

From the closing of the political space during the 2010 elections to NGO and UN reports of military training of 'Imbonerakure' in eastern Congo, a number of red flags should have been identified in this small, post-conflict state. International and regional focus on stability over democratic consolidation may have been a pragmatic decision at the time. However, as the Burundi crisis shows, in some cases it is the lack of democratic consolidation that facilitated authoritarian backsliding and the emergence of some of the political grievances that led to violent confrontation.

Despite a continued UN presence, the authoritarian tendencies of the ruling party that were identified early in its tenure have been tolerated by key donor and partner countries involved in reform in the country.

Notes

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