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Central Africa Report

Status and dynamics of the political situation in Burundi

Yolande Bouka

Summary

Once hailed as a peacebuilding success story, Burundi has recently experienced escalating political tensions that threaten the stability of country ahead of its 2015 general elections. Frictions between political actors stem partly from the closing of the political space by the government, which prevents the opposition and civil society from operating freely in the country. Moreover, attempts by the ruling party to allow President Pierre Nkurunziza to run for a third mandate, in violation of the current constitution, have raised concerns about the democratic future of the country. Additionally, UN reports alleging that the CNDD-FDD has taken steps to arm and train its youth wing, the Imbonerakure, and recent violent incidents attributed the youth chapter, have heightened fears of a relapse of political violence.

IN 2010 BURUNDI HELD its first general election by universal suffrage in 17 years. While the polls were intended to mark the end of the immediate post-transition period and the consolidation of democratic governance after decades of war and crisis, the contested results increased tensions and entrenched the ruling National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD) party. The country experienced two years of instability and violence that was generally blamed on the activities of the CNDD-FDD youth wing (the Imbonerakure), the intelligence services and the police. Most opposition leaders fled the country, leaving a political vacuum.

While violence had subsided by the end of 2012, paving the way for the return of the exiled leaders in 2013 under negotiated security guarantees brokered by the UN, uncertainty remains about the stability of the country as it gears up for elections in 2015. Indeed, recent political and legislative developments, such as the passing of a new and restrictive media law, a controversial new framework for the national land commission (CNTB), a disputed review of the constitution by the ruling party, and a rift between the CNDD-FDD and its coalition partner, the Union for National Progress (UPRONA), have created a tense political environment.

A year ahead of the next general elections, a number of questions arise. What are the potential effects of the contested legislative changes on the political dynamics of Burundi? What are the concerns of the opposition and civil society with regards to the ruling party's actions? How can the recent behaviour of the CNDD-FDD be explained? What are the short and long-term security risks of such sustained political tensions? Is there a possibility of a return to ethno-political violence?

> The Arusha Peace Agreement put an end to a 12-year civil war that claimed the lives of some 300 000 Burundians

This report, which is based on field research and interviews conducted in the Burundian capital, Bujumbura, in February 2014, has the aim of analysing the status and dynamics of the political situation in Burundi. It is divided into five sections. The first part analyses the background to Burundi's current political framework. The second explores the nature of and the contributing factors to the current political crisis. The report then assesses the quality and breadth of the political space as the country approaches the 2015 elections. The fourth section examines the potential implications of the security and stability situation in Burundi. Finally, the way forward in preparation of successful and transparent elections next year is addressed.

Arusha, consocialism and power-sharing

Burundi's contemporary political framework is anchored in the Arusha Peace and Reconciliation Agreement and its various protocols. This agreement was signed in the year 2000 and put an end to a 12-year civil war that claimed the lives of some 300 000 Burundians.

The war was triggered in 1993 by the assassination of Melchior Ndadaye, the first democratically elected and the first Hutu president of the country. Ndadaye, a member of the moderate Front for Democracy in Burundi (FRODEBU), was killed by Tutsi military officers opposed to a political shift after decades of Tutsi rule by UPRONA.

Initially a cross-communal party, UPRONA became dominated by the Tutsi elite shortly after the country's independence. Its tenure was marked by multiple episodes of ethnically engineered violence against Hutus by the Tutsi-controlled military in 1965, 1972 and 1988. Ndadaye's murder triggered violent ethnic reprisals, which eventually developed into a full-blown civil war. FRODEBU splintered following Ndadaye's assassination, with the more radical membership splitting from the party and morphing into the CNDD and its armed wing, the FDD.[1]

The Arusha peace agreement was the result of intense negotiations between 20 Burundian groups and political parties. The main parties to the talks were UPRONA, FRODEBU, the CNDD and the Party for the Liberation of the Hutu People (PALIPEHUTU). While the political wing of the CNDD headed by Leonard Nyangoma signed the Arusha agreement, the FDD refused to do so, declaring the CNDD political leadership illegitimate. This split the CNDD further and resulted in the formation of the more radical CNDD-FDD under the leadership of Jean-Bosco Ndayikengurukiye.

Typifying the situation in Burundi as a political conflict with important ethnic dimensions,[2] the Arusha agreement

21 October
1993

THE WAR IN BURUNDI IS TRIGGERED BY THE ASSASSINATION OF MELCHIOR NDADAYE, THE FIRST DEMOCRATICALLY ELECTED AND FIRST HUTU PRESIDENT OF THE COUNTRY

had, among other things, the aim of developing a system of democratic governance for the country that would ensure the security of ethnic minorities. The consocialist agreement was to ensure power sharing at the political level by dividing executive powers between a president and two vice-presidents from different political parties and ethnic backgrounds. In addition, it required that a high majority to pass legislation and amend the constitution.[2] This provision was not only aimed at preventing legislative domination by a single ethnic group, but also to promote dialogue and consensus across political divides.

Furthermore, to promote power sharing in the security sector, the agreement made provision for the various armed groups to be integrated into the existing army and for the army not to comprise more than 50 per cent of a single ethnic group. The rationale of this compromise was that ethnic balance would ensure the stability of the armed forces, prevent ethnic violence and reduce the possibility of a coup d'état.[3] As a result of this provision, the army received an infusion of Hutu soldiers, removing the previous domination of the Tutsi elite.

In addition to preparing the way for a new constitution and detailing the transitional political arrangement, the Arusha agreement stipulated that the first post-transitional president would be elected by the national assembly. It was under this framework that Pierre Nkurunziza of the CNDD-FDD was elected Burundi's president in 2005. While not a signatory to the Arusha agreement, the party signed a final peace agreement in 2003 and reaped the benefit of the demise of two main political rivals, namely FRODEBU and the Forces Nationales de Libération (FNL), both of them Hutu-dominated parties.[4]

The CNDD-FDD's first term was characterised by a combination of notable successes and worrying trends. On the one hand, under Nkurunziza's leadership, the FNL signed a deal effectively putting an end to the last remnant of rebel activity. Negotiations initially stalled as the FNL refused to recognise the legitimacy of the 2005 indirect presidential elections. After fierce fighting between government forces and the FNL, the rebel group unexpectedly signed a ceasefire in September 2006. However, the ceasefire was violated by both the government and the FNL on numerous occasions as negotiations continued tenuously. Finally, in May 2008, an agreement was signed. In the following year the FNL joined the political fold when it officially registered as a political party.

> Even in the early years of his mandate, President Nkurunziza displayed a tendency to silence dissent by force

However, even in the early years of his mandate, President Nkurunziza displayed a tendency to silence dissent by force. One prominent example is the suspension of the accreditation of the non-government organisation Forum for the Strengthening of Civil Society (FORSC). This occurred after it had threatened to disclose the names of individuals they suspected of being involved in the assassination of anti-corruption campaigner Ernest Manirumva.[5] In addition, dissent among members of the CNDD-FDD also resulted in the dismissal of 22 of its members from parliament in 2008 shortly after the arrest of the party's former chairman, Hussein Radjabu, who was believed to be the party's successor to Nkurunziza at the next elections. So, almost as early as the ascent to power by Nkurunziza and his inner military circle they demonstrated their willingness to suppress opposition within and outside the CNDD-FDD.

It was against this backdrop of increased political repression that Burundi prepared for the 2010 general elections. In the months before the polls the ruling party used all the resources at its disposal to engineer favourable electoral conditions for the CNDD-FDD and to restrict the political space. For example, the party made multiple attempts to have electoral rules ratified that would give the CNDD-FDD an advantage. One of these was an attempt to introduce an electoral code that would transfer some of the responsibilities of the electoral commission to the president.

There was also evidence of the CNDD-FDD hindering the opposition's ability to compete freely and efficiently in the electoral process. Rights of assembly, of public demonstration and of political expression were violated regularly. Members of the opposition and of civil society were intimidated, harassed and arrested by the police and the intelligence services on numerous occasions.[6] UN, diplomatic and NGO reports[7] have documented the ruling party's use of the Imbonerakure to intimidate the opposition. Many members of the youth wing are demobilised CNDD-FDD fighters who have allegedly been re-armed by the party to disrupt opposition political meetings.[8] FRODEBU and the FNL also accused the ruling party of creating dissident groups within their parties and of offering financial incentives to leading opposition figures so that they would join the CNDD-FDD. The aim, they said, was to weaken parties with strong Hutu bases that were a potential challenge the CNDD-FDD.[9]

The electoral season started in May 2010 with local elections. The CNDD-FDD won 65,5 per cent of the vote, while the runner up, the FNL, received 14,5 per cent. Even before the official results had been released the opposition accused the ruling party of fraud and demanded that the results be invalidated. In particular, the FNL accused the ruling party of falsifying poll results and intimidating voters. International observers, while admitting that some minor irregularities had been observed, declared that the results were for the most part valid,[10] while the electoral commission (CENI), credited for its neutrality, denied the opposition request.

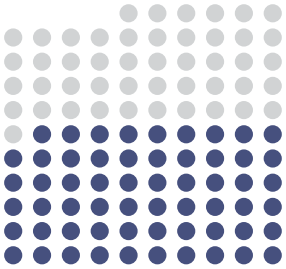
In response to these results the opposition created a coalition of 12 parties, which included the FNL, Sahwanya-FRODEBU (one of FRODEBU's splinter parties), the CNDD, the Movement for Solidarity and Democracy (MSD) and the Union for Peace and Development (UPD), calling it the Alliance for Democratic Change (ADC-Ikibiri). This coalition contested the results and boycotted the remainder of the elections, notably the presidential election in June, the national assembly and senate elections in July, and local administrative elections in September. Nkurunziza ran unopposed and captured the presidency with 92 per cent of the vote. UPRONA decided at the last minute to rejoin the electoral process, but the damage had been done. The party won only 17 of the 106 seats while the CNDD-FDD increased its seats in the national assembly from 59 to 81, thereby ensuring their almost complete dominance of the assembly and a return to a de facto single party state.

UPRONA's participation in the legislative elections was seen as betrayal by some members of the coalition, but it resulted from strategic consideration. The Constitution stipulates that the vice-presidents must be from a different ethnicity and from different political parties. In addition, 40 per cent of the ministerial positions and national assembly seats have to go to the Tutsi. UPRONA, being the most prominent and popular Tutsi party in Burundian politics, thus had an assured position not only in the executive branch, but the legislative branch as well.

In the aftermath of the elections, violence and instability gripped Burundi throughout 2011 and most of 2012. Reports by the UN and human rights organisations document numerous cases of torture, disappearances, extrajudicial killings and massacres. These were committed mainly by government forces, but also by the FNL, which raised fears that Burundi was on its way to a resumption of fully fledged armed hostility between the political parties.[11]

> 40 per cent of ministerial positions and national assembly seats have to go to the Tutsi

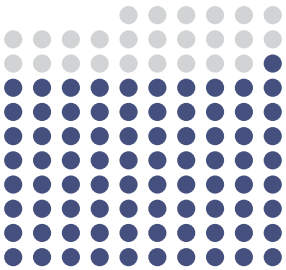
In addition, members of the media and civil society continued to be harassed and arrested during this period. Opposition members were forbidden to meet and many of them were found murdered, while leading opposition leaders such as Agathon Rwasa (FNL), Alexis Sinduhije (MSD) and Pancras Cimpaye (FRODEBU) fled the country.[12] It is important to note that the post-election violence was mostly political in nature, pinning Hutu against Hutu in an intense struggle to win over the Hutu constituency. UPRONA and the Tutsi were for the most part left out of the violence and political struggle.



BEFORE 2010,
THE CNDD-FDD HELD

59 of 106

SEATS IN THE NATIONAL ASSEMBLY



AFTER 2010,
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81 seats

In hindsight, to most observers, the election boycott was clearly a miscalculation by opposition leaders.[13] Their hope was to undermine the credibility of the elections and the CNDD-FDD by boycotting the remainder of the electoral process. However, Nkurunziza was able to maintain domestic and international legitimacy. Although the international community was of the opinion that the CNDD-FDD had engaged in unsavoury practices during the electoral process, it also considered the internal division and lack of discipline among the opposition parties as having contributed to their demise. Confirmation by the international observers that the elections met their basic standards meant that international support of the outcome was only logical. Participation in the elections by UPRONA gave further legitimacy to the process.

The boycott and the ensuing post-election crisis had a devastating impact on the image of the extra-parliamentary opposition and the credibility of some of its leaders. It paralysed the opposition's ability to contest the CNDD-FDD within existing institutions and lost it the opportunity to constitute a blocking minority in parliament. The CNDD-FDD had gained sufficient seats to pass many laws championed by the executive, some of which imposed greater restrictions on political activity. In addition, the post-election crisis gave the ruling party the opportunity to damage opposition networks in the country through politically motivated arrests and killings. The long absence of opposition leaders from the domestic political scene also dimmed their status. For instance, the three-year exile of Agathon Rwasa, once believed to be one of Nkurunziza's most important rivals, left him with a reduced popularity and less viability as a candidate.

Setting up the political crisis

The 2015 elections should be the litmus test of Burundi's democratic system. However, the current political climate challenges the possibility of peaceful and legitimate elections. Indeed, the politicisation of state institutions over the past decade in order to restrict the political space has stifled the opposition's ability to mount a credible challenge to the ruling party.

> The 2015 elections should be the litmus test of Burundi's democratic system

Moreover, the current tensions between the ruling party and the parliamentary opposition, which consists of UPRONA, FRODEBU-Nyakuri and three Batwa delegates, has left the national assembly deadlocked over constitutional changes that could have a serious effect on the upcoming elections and the country's future political landscape. For the past year, the CNDD-FDD has unilaterally drafted and adopted controversial new legislation to protect the party's interests, thereby turning the national assembly into a place where little to no dialogue between the CNDD-FDD and the opposition occurs.

Recent relations between UPRONA and the CNDD-FDD have been so antagonistic that the political partnership between the two parties and the health of the democratic system is being jeopardised. As the elections approach, some positions taken by the ruling party on sensitive issues have resulted in a hardening of relations between the two parties. The mains points of contention are:[14]

1. A government-proposed structure of transitional justice.
2. A new law governing the land commission (Commission Nationale des Terres et Autres Biens, CNTB).
3. Constitutional amendments proposed by the CNDD-FDD.

The Arusha agreement provided for the establishment of a transitional justice programme that would include a Truth and Reconciliation Commission (TRC) and a Criminal Tribunal to deal with the most serious crimes.[15] The TRC was to be a non-judicial body mandated to determine the causes and nature of the Burundian conflict, to identify crimes committed since the country's independence, and to identify individuals who committed acts of genocide, crimes against humanity and war crimes during the various episodes of violence. The Tribunal was to be a judicial mechanism that would address, prosecute and punish crimes of genocide, crimes against humanity and war crimes.

However, only in April 2014 did the government unilaterally move to establish a TRC, but unaccompanied by a Criminal Tribunal, despite strong objections by the opposition, civil society and the international community.[16] The framework of the transitional justice programme has been a point of contention between the CNDD-FDD and UPRONA for over a decade. After national consultations in 2009 that indicated that Burundians wanted truth, justice and reparations to anchor the country's transitional justice programme for crimes committed between 1962 and 2008, the CNDD-FDD decided that priority should be placed on the establishment of the TRC, rather than trying to seek retributive justice.[17] UPRONA argued that this approach would simply promote impunity and advocated for the implementation of the transitional justice programme outlined in the Arusha agreement.[18]

This divergence in opinion should be understood through the prism of the

passage of time. While UPRONA was indeed in power during many of the country's episodes of violence, many of the main decision-makers and suspects are no longer in positions of power or even alive. Similarly, many of the victims of the events of 1965 and 1972 are dead or are no longer in the country. The passage of time also makes it difficult for testimonies and evidence to be gathered. On the other hand, war crimes committed by former CNDD-FDD combatants who are currently in power are more recent and this may contribute to the party's reservations about implementing a criminal prosecution mechanism.

The CNDD-FDD's sudden adoption, after years of inertia in this regard, of a law establishing the TRC was, with the exception of UPRONA's François Kabura, second vice-president of the national assembly, attended by no other member of the parliamentary opposition. By forgoing the establishment of a criminal tribunal, the adoption of the law effectively shields members of the CNDD-FDD from prosecution for crimes committed during the civil war.

The second point of contention between the CNDD-FDD and UPRONA is the government's 2013 review of the CNTB, which manages land conflict resulting from the war and other episodes of violence.[19] There have been two main waves of mass displacement in Burundi. In the first, which occurred in the wake of ethnic violence in 1972, some 300 000 Hutu fled the country. The UPRONA government subsequently redistributed their land, issuing new land titles. While some of the land was given to Hutu individuals, some of whom were relatives of the exiled Hutu, a far greater share was parcelled out to the Tutsi which contributed to the ethnicisation of land conflict in Burundi.

The second wave of displacement derived from the events of 1993, when tit-for-tat violence following Ndadaye's assassination resulted in a second Hutu exodus and a wave of Tutsi displacements. While the 1993 Hutu refugees and the Tutsi internally displaced persons (IDPs) were less often victims of expropriation, many still struggle today to regain their properties.

The Arusha agreement provided for the creation of a land commission responsible for '(i) Examining all cases of land owned by old caseload refugees and state owned land; (ii) Examining disputed issues and allegations of abuse in the (re)distribution of land and ruling on each case in accordance with the above principles.' [20] The revision of laws governing the commission enacted in December 2013 expanded the CNTB's jurisdiction to all land disputes, i.e. not only to those resulting from conflict-induced displacements, but also to cases that may have been solved by earlier land commissions.

Some opposition and civil society representatives have accused the new law governing the CNTB of having a pro-Hutu bias.[21] Many of those consulted, particularly those of Tutsi background, argue that this revision will enable the commission to wrongfully expropriate Tutsi land without compensation based on a simple accusation of land grabbing.

While UPRONA voted against the measure, the CNDD-FDD together with some members of FRODEBU-Nyakuri had sufficient votes to pass the law. The ruling party claims that UPRONA's opposition to the law is rooted in the fact that under its leadership much of the land was acquired illegally or redistributed poorly. They defend the new tribunal as a tool that will speed up the process since many cases get held up for years in the regular justice appeal process, frustrating repatriations and heightening tensions over land disputes.

April 2014

WHEN GOVERNMENT UNILATERALLY MOVED TO ESTABLISH A TRC, BUT UNACCOMPANIED BY A CRIMINAL TRIBUNAL, DESPITE STRONG OBJECTIONS

However, the most important conflict between the two parties stems from the proposed constitutional changes that were drafted by the CNDD-FDD at the end of last year. The dispute does not rest in the amendment of the constitution per se, as there was a general consensus that the electoral code needed to be amended[22]. However, two important matters drew the ire of UPRONA and civil society, and alarmed the international community. First, the CNDD-FDD unilaterally drafted an extensive revision of the constitution without consulting other stakeholders. The opposition was taken by surprise in November 2013 when it came to light that the Council of Ministers was reviewing the revised bill.[23]

Secondly, the extent of revisions is seen by some as an abrogation of the current constitution and a dismissal of the Arusha accords. Among the most controversial proposals is the removal of article 302, which stipulates that the first post-transition president is to be elected by the national assembly. This would only leave article 96, which stipulates that a president is to be elected by universal suffrage, renewable once. Adoption of this revision could open the door for Nkurunziza, who was once elected by the national assembly and once by a popular vote, to run for a third term. Critics argue that the Arusha agreement explicitly states that 'no one may serve more than two presidential terms'.[24]

Moreover, the opposition and civil society accuse the CNDD-FDD of attempting to weaken the power-sharing and consocialist nature of the constitution. The bill proposes the reduction of current voting quorums from a two-thirds majority to a simple majority. Adoption would allow the CNDD-FDD, should it win over 50 per cent of the seats in the national assembly, to legislate without interference from other parliamentary parties. The bill also proposes to change the structure of the executive branch by replacing the two vice-presidents with a 'powerful'[25] prime minister, who could come from the same party as the president, and a mostly ceremonial vice-president. In addition, it is proposed to restrict access to seats in the National Assembly to parliamentarians whose parties have won at least five per cent of all votes cast, instead of the current two per cent.

The proposed changes would consolidate the power of the CNDD-FDD and jeopardise the ethnic power balance that was hard won and is essential for Burundi. The opposition's concerns were increased when at the beginning of 2014 the ruling party ignored the consensus struck at a two-day consultative workshop on the revision of the constitution in December 2013. It was convened by the president of the national assembly and participants included members of government, the opposition, civil society and religious groups. Among other things, it was agreed to leave any revision of the number of presidential mandates until after the 2015 elections.

Despite this, the CNDD-FDD submitted its bill,to a vote. However, UPRONA and FRODEBU managed to block its ratification despite the ruling party's efforts to influence and intimidate reticent members of the assembly. The constitutional revision fell one vote short of passing.

The mounting tension between the CNDD-FDD and UPRONA finally came to a head this February when the CNDD-FDD Minister of the Interior, Edouard Nduwimana, summarily dismissed Charles Nditije from UPRONA's presidency. His dismissal was linked to his increasingly critical public statements against the CNDD-FDD, particularly since the passing of the new CNTB law in 2013. The dismissal so enraged the UPRONA leadership that the country's first vice-president, Bernard Busokoza of UPRONA, wrote to Nduwimana declaring his action illegal. President Nkurunziza then dismissed Busokoza,[26] which was quickly followed by the resignation of the three UPRONA cabinet ministers.

Article 128 of the Constitution states that, 'In the case of resignation, death or of any other cause of definitive cessation of the functions of a Vice-President of the Republic, a new Vice-President of the Republic originating from the same ethnicity and of the same political party as their predecessor is appointed.' President Nkurunziza attempted to coax Bonaventure Niyoyankana, a former president of UPRONA, to replace Nditije and to submit a list of UPRONA nominees to replace Busokoza and the three ministers.

However, Niyoyankana, under pressure from former UPRONA president Nditije and core of the party, refused to play into President Nkurunziza's hand, forcing him to turn to Concilie Nibigira, Niyoyankana's former vice-president, to give him a list of potential UPRONA candidates. Her acquiescence gained her the leadership of the government-approved wing of UPRONA. By mid-February, all vacant positions had been filled by pro-government UPRONA members, who were almost immediately disowned by their own party.

It should be noted that even before the current crisis, UPRONA was split between a wing that was conciliatory to the CNDD-FDD and another that had greater support from the core of the party and refused to work with government. Until recently, pro-government UPRONA members such as Nditijie and Busokoza had enjoyed relatively peaceful and mutually beneficial relationships with the CNDD-FDD.

The recent events beg the question as to why the CNDD-FDD is moving so boldly to make the legislative changes now instead of taking the opportunity to do so immediately after its 2010 victory.

Some observers suggest that the CNDD-FDD's forcefulness is aimed at ensuring Nkurunziza's third term in the belief that he is the most popular candidate of the CNDD-FDD. Every week he visits rural areas to build schools, play football and attend religious services with the population.[27]

In 2010, the CNDD-FDD and Nkurunziza were riding the wave of a fresh victory and the reality of the president's term limit was not one of the party's most pressing concerns. But now, as the party has failed to live up to expectations, is accused of widespread corruption and has lost some support because of dismal socio-economic conditions, it may be trying to buttress its position by maintaining at its head a likable candidate.

Observers also interpret some of the constitutional amendments proposed by the CNDD-FDD as being a quiet admission that, given the determination of the opposition to participate in the upcoming elections and its own loss of popularity in recent years, even if it manages to win the majority of national assembly seats in 2015, it will not have the same margin as it has currently. Hence, the move to reduce voting quorums may be an attempt to ensure that the CNDD-FDD will maintain the level of legislative control it has had since 2010.

Opposition and political space

Apart from the measures discussed above, the ruling party has taken specific steps to limit the political space available to the opposition. The Minister of the Interior continually tries to interfere in the internal management of opposition parties. Similar to before the 2010 elections, the opposition once again accuses the ruling party of creating dissident groups within their parties. The CNDD-FDD benefits from leadership crises within the opposition and it routinely promotes dissension within parties by providing incentives to some of their leaders in an attempt to encourage them to split from their parties, as illustrated above.

> The ruling party has taken specific steps to limit the political space available to the opposition

Interference by government should, however, not be interpreted as the sole source of division in opposition parties. The Burundian opposition is diverse, fragmented and obtains its majority support from the urban elite. These are all factors that contribute to the difficulties it has in mounting a successful challenge to the current government. With regard to the fragmentation of the opposition, it should be noted that it is divided between a parliamentary opposition and an extra-parliamentary opposition. The former comprises the government-recognised branch of UPRONA, FRODEBU-Nyakuri and three Batwa representatives. The main extra-parliamentary opposition parties are part of the ADC-Ikibiri and include the CNDD, the FNL (without Rwasa at its head), the MSD and Sahwanya-FRODEBU.

Even on the major issues that constitute the main points of contention between the ruling party and some opposition parties and civil society, there are divergences in position. For instance, within the national assembly, FRODEBU-Nyakuri joined the CNDD-FDD on the land commission vote in 2013, while it boycotted the recent vote on the new land tribunal and the TRC in concert



THE OPPOSITION ONCE AGAIN ACCUSES THE RULING PARTY OF CREATING DISSIDENT GROUPS WITHIN THEIR PARTIES

with UPRONA and the Batwa delegates. The latter, however, joined the CNDD-FDD in its failed attempt to amend the constitution in March 2014. Because of these fault lines between members of the opposition, the CNDD-FDD can move its agenda forward with ease.

A careful analysis of the internal dynamics of many political parties exposes their own internal rifts as well. For example, FRODEBU and FNL both have multiple political wings. Given the nature of politics in many developing countries, where access to a political post is one of the few ways of gaining power and wealth, the manipulation of allegiances is easy and allows the CNDD-FDD to exploit pre-existing vulnerabilities.

In a continuation of the trend begun in 2005, the CNDD-FDD has made it increasingly difficult for political parties to engage fully in political activities and to compete in the electoral process by using its overwhelming majority to pass very restrictive laws. A 2012 law governing opposition parties imposes fines and prison terms for opposition leaders found guilty of lies or slander with the intent of disturbing peace and security.[28] Another law passed in 2011 prohibits the formation of coalitions outside electoral campaign periods.[29] Under this law, the ADC-Ikibiri, which constitutes the bulk of the extra-parliamentary opposition, is an illegal organisation and cannot operate freely in the country until the government officially decides to announce the start of the electoral campaign.

A law on public demonstrations passed in 2013 has further curtailed the ability of political parties to operate freely. The law stipulates that organisations must give four business days' notice to local administrative authorities of a planned rally, demonstration or party meeting. The authorities then have 48 hours to forbid the meeting if they deem that such an event risks endangering public order.[30] In fact, article 10 of the law states that 'the administrative authority can at any time, in spite of a declaration done in accordance to the law, differ or put an end to any meeting, procession, parade, gathering on public roads and in public places, if required to maintain public order'.[31] As 'public order' is only vaguely defined in the law, civil society members and opposition groups claim that it has now become almost impossible to hold meetings in the provinces as local authorities often deny them the right to meet.[32]

> A new media law severely restricts news reporting and imposes heavy fines for violating vaguely defined offenses

The ruling party has also gained control of judicial nominations by influencing the judicial system to neutralise opposition members. The ruling party is often able to arbitrarily arrest opposition leaders on fabricated charges and to then use the courts to legitimize their incarceration, thereby excluding, even if temporarily, competitors from the political scene. For example, in December 2013, former Burundian vice-president and current leader of the extra parliamentary branch of FRODEBU, Frédéric Bamvuginyumvira, who was believed to be the consensus presidential candidate for ADC-Ikibiri, was arrested with a woman and charged with adultery and debauchery.[33]

The charges were later dropped, but he was remanded for allegedly attempting to bribe the arresting officers and he is expected to stand trial in front of the anticorruption tribunal later this year.

Other politicians, such as MSD leader Alexis Sinduhije and former UPRONA president, Charles Njitije, fled the country for fear of being arrested. Sinduhije fled after an MSD jogging rally on 8 March 2014 when youth and police officers, deployed under the auspice of the new law governing public demonstrations, clashed and dozens of MSD party members were arrested. After a quick trial, 21 of them were convicted and sentenced to life in prison for insurgency, rebellion and assault of law enforcement officers. There is now a warrant for Sinduhije's arrest for participating in this so-called insurgency and rebellion.[34]

Government efforts to restrict the political space is indicated by its clampdown on society's democratic checks and balances, notably that of the press. Burundian society and media are among the most vibrant in the region[35] and they have filled the void left by the exile of the extra-parliamentary opposition leaders by questioning and challenging government. In 2013, the CNDD-FDD passed a media law that severely restricts news reporting and imposes heavy fines for the violation of vaguely defined offenses, such as the publication of material that hinders national unity.[36] While the law has not yet been applied, members of the media fear that as the elections draw closer, the government will not hesitate to apply it to silence dissent.[37]

Security

For many observers the most worrying aspect of the growing political tensions is its potential impact on the stability and security of the country. However, a return to a full-blown civil war seems unlikely. While certain civil society observers suggest that some members of the former Burundian armed forces (Forces Armées Burundaises, FAB, which was mostly a Tutsi army)[38] have kept an eye on the situation and could split from

the army if they believe that the power-sharing agreement is under serious threat, most civil society and diplomatic observers consulted believe that the army is likely to stay out of any political crisis, as it did during the post-election violence in 2010.

The Burundian army now considers its task the protection of the territorial integrity of the republic. It has gained a favorable reputation through its involvement in international peacekeeping missions in Somalia, the Central African Republic and Mali. Those missions are not only a source of pride in the armed corps, but are also an important source of revenue. On the one hand this satisfies the ambitions of high-ranking officers who might otherwise be inclined to get involved in politics, and on the other it keeps the ex-FAB out of Nkurunziza's way. A further factor is that because of the level of ethnic integration within the army, the opportunities by either ethnic group to prepare a coup without the other side knowing about it are limited. Most observers thus agree that the necessary elements for a relapse to a politicised and ethnically polarised army, as well as pre-Arusha violence, are not present.[39]

> A return to full-blown civil war seems unlikely as the army will probably stay out of any political crisis

While the army is considered to be a stable force in Burundi, the same cannot be said of the police force. The latter's establishment is relatively new (2004) and is an amalgam of former gendarmes (Burundian armed forces with civilian police duties) and former members of the armed political movements. The police is very unpopular among the population as they are perceived to be poorly disciplined and trained, and are routinely abusive towards the general public. The police force is accused of being used by the state to neutralise opponents.

The most significant security concern is the growing presence of the Imbonerakure in the countryside. The group started to make its presence felt shortly before the 2010 elections and was accused of intimidating the opposition. They were heavily involved in the post-election violence against members of the opposition in rural areas. According to some members of civil society and the diplomatic community, they have not only grown in number but now also cover most of the countryside. In some areas they have taken over local administrative authorities and the police. Working outside the law, they reportedly impose curfews and arrest, beat and kill individuals.[40]

The government denies using the Imbonerakure and maintains that it is merely a youth wing like any other party's youth group. According to a representative of the CNDD-FDD, crimes committed by some members of the Imbonerakure are not representative of the group and are the acts of misguided individuals.[41] But for most observers, their documented acts of intimidation against the opposition in the countryside, their disruption of political meetings and the fact that they are above the law are a serious threat to the stability of the country as elections approach. Some civil society members, particularly those associated with the Tutsi ethnic group, have expressed a concern that the Imbonerakure are being armed and trained by the ruling party.

In April 2014, a leaked cable of the UN Integrated Office in Burundi (BNUB) authoritatively documented

THE GOVERNMENT DENIES USING THE IMBONERAKURE AND MAINTAINS THAT IT IS MERELY A YOUTH WING LIKE ANY OTHER PARTY'S YOUTH GROUP

weapons distribution to members of the Imbonerakure. The CNDD-FDD vehemently rejected the allegation and called for the expulsion of BNUB's head of security, Paul Debbie, who is now a persona non grata in Burundi.[42] In February 2014 the ADC-Ikibiri sent a warning to the UN Secretary-General warning him that the ruling party was preparing genocide. While most observers doubt that the political crisis could lead to genocide in Burundi, there is consensus that should violent confrontations escalate, the Imbonerakure would in fact be one of the greatest causes of violence.[43]

Looking ahead to 2015

The CNDD-FDD

The CNDD-FDD definitely has the incumbent's advantage of having at its disposal a great deal of resources to win the elections in 2015. Despite the CNDD-FDD's slowly decreasing popularity, Nkurunziza has continued to travel and campaign in the countryside to maintain the party's hold in the rural areas. The ruling party understands that its victory is contingent on maintaining its edge outside Bujumbura. Hence, the CNDD-FDD will most likely continue to restrict the ability of the opposition to campaign freely, in rural areas in particular, as it did during the 2010 electoral campaign. What is not certain is the level of resistance and resilience the opposition will display in the months to come.

Observers believe that the CNDD-FDD will most likely press ahead with Nkurunziza as the party's presidential candidate for 2015. The move would most likely prompt the opposition to challenge the nomination at the Constitutional Court. However, according to some diplomats, the opposition is likely to lose the case for two reasons, namely a) a case could be made for Nkurunziza's eligibility to run for a third term, and b) given the strong influence of the executive on the judiciary, the court may simply give in to the will of CNDD-FDD.

Many observers have, however, also indicated that there are signs of a rift between CNDD-FDD generals and the civilian members of the party. The divide dates back to the sacking and arrest of former CNDD-FDD chairman, Hussein Radjabu in 2007. He was condemned to 13 years imprisonment for conspiracy in planning an armed rebellion. As far as many people are concerned, the charges against Radjabu were fabricated by Nkurunziza's inner circle to prevent the general from seeking the CNDD-FDD's presidential nomination in 2010.

Political actors consulted for this report argue that Radjabu's sacking clearly indicated a consolidation of power in the hands of a very small group of the CNDD-FDD military elite. After the 2010 elections, Nkunuziza's small military inner circle continued to control the direction of the party, frustrating CNDD-FDD intellectuals. Observers suggest that the intelligentsia of the party would rather rally behind Dr Gervais Rufyikiri, the current second vice-president, for the 2015 elections. He is popular with technocrats and international donors, which makes him a strong candidate. However, the fact that he was not part of the armed rebellion and that he holds dual citizenship (Belgian and Burundian) is unlikely to win him the support of former soldiers whose backing is essential for a successful nomination.[44]

> The new and consensual electoral code is the only positive recent political development in Burundian politics

The passing of a new and consensual electoral code is the only positive recent political development on the Burundian political landscape. Following consultations between all political parties, the national assembly on 25 April 2014 unanimously adopted a new code for the 2015 elections. The CNDD-FDD's acceptance of the electoral code came as a surprise to most observers as it was the ruling party's first indication of a willingness to engage with the opposition. The CNDD-FDD even accepted to eliminate a provision that required presidential candidates to hold university degree, a provision agreed to by the CNDD-FDD and most of the opposition parties, but opposed by FNL supporters loyal to Agathon Rwasa who would have been disqualified from running for president. The opposition and civil society have welcomed the adoption of the new electoral code.[45]

The opposition

There is a clear determination by the opposition to participate fully in the electoral process. The consensus is that the current political situation is largely a consequence of the 2010 boycott and that the opposition needs to be active throughout the elections to stand a chance of challenging the CNDD-FDD. Even so, the opposition faces an uphill battle. It is difficult to say how, given the many difficulties placed in their way, the opposition parties will manage to carve out the necessary political space so as to conduct an efficient campaign.

The opposition will be unable to muster the necessary voter support if it is unable to mobilise and campaign effectively in the countryside. But the parties' ability to mobilise and campaign successfully is not only contingent on the political space available to them; it also depends on their ability to consolidate their support

base and to maintain a united front throughout the electoral process. Will individual parties like the FNL, FRODEBU and UPRONA be able to get their factions under control and move forward as unitary parties? Also, should the ADC-Ikibiri choose to continue to challenge the ruling party as a coalition, it is imperative that its leadership settles on a clear platform, a single presidential candidate and electoral list, and that these issues are decided sooner than later.

> Most observers agree that Burundi has the sovereign right to amend its constitution, but they question whether the country is ready to move away from the Arusha agreement

International community

Given the Burundian government's heavy dependence on the country's foreign partners – 50 per cent of Burundi's annual budget is funded by international donors – members of the opposition and civil society expect the international community to put a significant amount of pressure on the ruling party to ease current tensions and to prepare transparent elections. In the past few years, most initiatives aimed at mitigating conflict between the CNDD-FDD and other actors have been driven by the international community, in particular the UN. While the BNUB's mandate was renewed until the end of the 2014, reliable UN sources confirm that this is its last mandate, leaving the country without an important moderating voice after January 2015.

Recently the CNDD-FDD has displayed a measure of indifference to international pressure. In the name of national sovereignty, it has passed legislation opposed by the international community. The international partners themselves have been more cautious in their criticism of the country's policies in view of the fact that in recent years a number of diplomats have been expelled from Burundi. Nevertheless, the UN and the US have explicitly condemned the violence between the police and members of the MSD in March, and have warned the government against its attempts to amend the constitution in a way that will strip it of the fundamental power-sharing provisions stipulated in the Arusha agreement.[46]

International observers consulted for this research agree that it is essential to ensure stability and peace in Burundi. For the country to move to peaceful and legitimate elections, they call on all parties involved to engage in good-faith dialogue. Most observers agree that Burundi has the sovereign right to amend its constitution but they question whether the country is ready to move away from the Arusha agreement and its consocialist arrangement. In any case, should Burundians decide to engage in a significant revision of the constitution it should be as a result of broad consultations and wide participation in the decision-making process. In the meantime, sufficient political space should be available for healthy political participation by the opposition.

50%

OF BURUNDI'S ANNUAL BUDGET IS FUNDED BY INTERNATIONAL DONORS

Notes

1 Peter Uvin, 1999, Ethnicity and power in Rwanda: different paths to mass violence, *Comparative Politics* 31(3):262.

2 Arusha Peace and Reconciliation Agreement signed on 28 August 2000, Article 4.a. Constitutional amendments require a four-fifths majority in the National assembly and a two-thirds majority in the Senate, while organic laws require three-fifths majority in the National assembly and the senate approval. See articles 6.5 and 6.6, Protocol II, Democracy and Governance.

3 Protocol II, Democracy and Governance, Articles 11.5.d and 14.1.g.

4 International Crisis Group, 2004, *Crisis Watch*, no. 9: 2, http://www.crisisgroup.org/~/media/ Files/CrisisWatch/2004/cw9.pdf (accessed 18/6/2014).

5 International Crisis Group, 2009, *Crisis Watch*, no. 76: 2, http://www.crisisgroup.org/~/ media/Files/CrisisWatch/2009/cw76.pdf (accessed 18/6/2014).

6 Between May and November 2010 the UN Integrated Office in Burundi (BNUB) report 365 politically motivated arrests, Seventh Report of the Secretary-General, BNUB, S/2010/608: 8.

7 International Crisis Group, 2009, *Crisis Watch*, no. 76: 2, http://www.crisisgroup.org/~/media/Files/CrisisWatch/2009/cw76.pdf (accessed 18/6/2014); US Department of State, 2011, 2010 Human Rights Report: Burundi, http://www.state.gov/j/drl/rls/hrrpt/2010/ af/154334.htm (accessed 18/6/2014).

8 Maitre Isidore Rufyikiri, Former Head of the Burundi Bar Association, personal interview in Bujumbura, February 2014. US Department of State, 2011, 2010 *Human Rights Report: Burundi*, http://www.state.gov/j/drl/rls/hrrpt/2010/af/154334.htm (accessed 18/6/2014).

9 International Crisis Group, *Burundi: ensuring credible elections*, 2010: 9.

10 European Union, Burundi: Rapport Final. Elections communales, présidentielle, législatives, sénatoriales et collinaires 2010: 3.

11 International Crisis Group, Burundi: bye-bye Arusha, 2012: 4.

12 According to BINUB, there was an increase in extrajudicial killings and/or politically motivated killings from 27 cases in 2009 to about 30 cases in 2010 and 61 in 2011 Report of the Secretary-General on BINUB, S/2011/751, 2013: 9. Seventh Report of the Secretary-General on BINUB: 8. It should be noted that some members of the government affiliated with the CNDD-FDD were also murdered during this period.

13 Personal interviews, Bujumbura, February 2014.

14 Honorable Emmanuel Nkenguruste, UPRONA Senator, Dr Julien Nimumbona, Professor, and Dr Christophe Sebudandi, Executive Director, AfroBaromater, personal interviews, Bujumbura, February 2014.

15 Arusha agreement, Protocol II, Democracy and Governance.

16 The CDNN-FDD stated that a tribunal would be established at a later time. Burundi: l'Assemblée nationale adopte le projet de loi portant création de la CVR, 18 April 2014, http://french.china.org.cn/foreign/txt/2014-04/18/content_32130547.htm (accessed 18/6/2014).

17 CNDD-FDD, Mémorandum du parti CNDD -FDD sur la Commission Vérité et Réconciliation et le Tribunal Spécial, Bujumbura, 5 May 2007: 6.

18 UPRONA, Mémorandum du Parti UPRONA sur la mise en place de la Commission Vérité et Réconciliation et le Tribunal Spécial, Bujumbura, 17 April 2007: 6.

19 The commission has been seen as a useful conflict resolution tool. Land is an essential resource in a country where 90 per cent of the population relies on agriculture, with most of them involved in subsistence farming. Land has been and continues to be a source of intense conflict in communities. In addition, the multiple episodes of violence have resulted in large numbers of internally displaced persons and refugees, some of whom are returning to the country.

20 Arusha Agreement, Protocol IV, Reconstruction and Development, Article 8.j.

21 Times Live, Political crisis in Burundi as Tutsi ministers quit, 5 February 2014, http://www.timeslive.co.za/africa/2014/02/05/political-crisis-in-burundi-as-tutsi-ministers-quit1 (accessed 18/6/2014).

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24 Arusha agreement, Protocol II, Democracy and Governance, Article 7.3.

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28 Republique du Burundi, Cabinet du President, Loi N.1/25 du 14 Novembre 2012 Portant Statut de l'Opposition Politique au Burundi, Articles 19-21.

29 Republique du Burundi, Cabinet du President, Loi N.1/16 du 10 Septembre 2011 Portant Revision de la Loi N.1/006 du 26 Juin 2003 Portant Organisation et Fonctionnement des Partis Politiques, Article 8.

30 Republique du Burundi, Loi N.1//28 Du 5 Decembre 2013 Portant Reglementation des Manifestations sur la Voie Publique et Reunions Publiques, Article 5.

31 Article 10 : L'autorité administrative peut à tout moment, nonobstant la déclaration régulièrement faite, différer ou mettre fin à toute réunion, tout cortège, défilé, rassemblement sur la voie publique et dans les lieux publics, si le maintien de l'ordre public l'exige, ibid.

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