
CASE STUDY*

Burundi

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To what extent was the conflict in Burundi generated by lack of inclusion of a group or groups in the state's political and legal structures? Was there a lack of human rights protection for the excluded group?

Since independence in 1961, the Burundian political landscape has been polarised, marked by political assassinations and large-scale violence. For the following two decades, dictatorships led by three Tutsi military regimes associated with UPRONA (*Union pour le Progrès National* – Union for National Progress)¹ ruled the country. This period encompassed numerous waves of mass violence: from the attempts of various opposition rebel groups to destabilise the regimes, and from the regimes' use of violence to repress such attempts. While violence in Burundi has been long described as ethnic violence between the Hutu majority and the minority Tutsi elite,² it is now widely acknowledged that there is a multiplicity of causes for the mass violence, entangled with political and social identities more broadly. The exclusion of ethnic, social or political groups from the political space and its attached benefits has motivated the formation of rebel groups, and the use of violence to challenge, acquire or maintain political privileges.

While the origin and nature of ethnicity in Burundi is still widely debated (Daley 2006; Vandeginste 2014), exclusion from state structures was institutionalised under the Belgian colonial rule by, for example, granting socio-economic and political privileges to the Tutsi (such as exclusive access to education and administration positions). A series of events following the assassination of Prince Rwagasore in 1961 contributed to the polarisation of Burundi's political landscape along ethnic lines (Lemarchand 1996)³. Throughout, the state operated through clientelism and rent-seeking (Curtis 2012). During the military dictatorships, large-scale violence resulted from numerous attempts by excluded political actors to destabilise the authoritarian regimes, and counter-violence to repress these failed attempts.

The most dramatic demonstration of the exclusionary nature of Burundi's political system, and of violence resulting in widespread violations of human rights and genocide, came in 1972 (Lemarchand, 2011). A failed coup by Hutu gendarmerie and an uprising of Hutu rebels led to the killing of thousands of Tutsi. The army responded by killing all educated Hutu. Within three months, it is believed that 2,000 to 3,000 Tutsi, and 100,000 to 200,000 Hutu were killed. Around 300,000 Hutu left the country to seek refuge in neighbouring countries (Daley, 1991). In 1988,

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Burundi DDR / © UN Photo/Martine Perret

several hundred Tutsi were killed by Hutu rebels and, in reprisal, Tutsi military killed 20,000 Hutu. Finally pressurised to open up the political space, President Pierre Buyoya – an UPRONA Tutsi military chief of staff who took power in 1987 – placed Hutu representatives in a variety of important political roles and organised a democratic election. Due to his efforts in opening the political space, Buyoya thought he would win the elections.

Instead, Melchior Ndadaye, from the prominently Hutu party FRODEBU (*Front pour la Démocratie au Burundi* – Front for Democracy in Burundi) created in 1992, won and became the first democratically elected President in 1993. He was assassinated three months after taking his post by the most extreme Tutsi elements in the military who feared the inclusion of Hutu in political affairs. As a result, civil war broke out. The war forced 400,000 people to flee to foreign countries and displaced 800,000 from their homes. After peace talks gradually integrated various parties from 1994 to 2009, the country enjoyed relative peace (or less violence). However, in

2015, a new wave of political violence started after President Pierre Nkurunziza, from the CNDD-FDD (*Conseil National pour la Défense de la Démocratie – Forces de Défense de la Démocratie* – National Council for the Defense of Democracy – Forces for the Defense of Democracy)⁴ which had been in power since 2005, won a contested third term. The current political landscape clearly excludes political actors who opposed the President’s third term.

How did reform initiatives or various peace processes try to address this?

From 1994 to 2009, 20 agreements were signed by different sets of political parties and rebel groups with the aim to end the Burundian conflict. These agreements can be understood in terms of four processes. First, two agreements were signed in 1994 by those who were seen as “authorised political parties” as a call to stop violence and confidence-building measures. Second, seven agreements between 1998 and 2005 included the preparation, adoption of the

Arusha Peace and Reconciliation Agreement and its translation into the constitutional framework: it included 19 different parties but not the CNDD-FDD and the PALIPEHUTU-FNL.⁵ Third, the process between 2002 and 2003 (comprising six agreements) negotiated a ceasefire and the integration of the CNDD-FDD into political, institutional and security structures. Fourth, a set of five agreements between 2006 and 2009 entailed a ceasefire and provided for the integration of the PALIPEHUTU-FNL into political, institutional and security systems. Burundi was also involved in the regional peace process (2004–2013) that addressed the relations between the Burundian, Rwandan, Congolese, Central African and Ugandan conflicts.

When Buyoya (the leader of UPRONA at the time) deposed the President in July 1996 in his second successful coup, neighbouring countries placed an economic embargo and other sanctions on Burundi (Grauvogel, 2015).⁶ The pressure led to negotiations and the signature of the Arusha Peace and Reconciliation Agreement for Burundi in August 2000 in Arusha, Tanzania. The agreement did not include the two active rebel groups and was signed reluctantly by the 19 signatories representing the Government of Burundi, the National Assembly, and 17 political parties. These political parties were divided into two interest groups based upon ethnic ideology – the “G-7” of Hutu dominated parties and the “G-10” of Tutsi dominated parties – although the degree of ethnic allegiance among these parties varied (Daley 2007). The peace agreement could not bring an end to the hostilities, but it provided for major institutional reforms. The Arusha Peace and Reconciliation Agreement was a comprehensive document, addressing four key matters: 1) It provided an in-depth historical analysis of the “nature of the conflict, problems of genocide” and guarantees of non-repetition; 2) It provided for transitional arrangements and constitutional principles of

the post-transition constitution to promote democracy and good governance; 3) It called for peace and security for all through the adoption of a ceasefire and a reform of the security sector; 4) It defined how the reconstruction and development should be achieved through rehabilitation and resettlement of refugees and victims, physical and political reconstruction, and economic and social development.

The CNDD-FDD and the Burundian authorities signed six agreements between 2002 and 2003 that included a ceasefire, transformation of CNDD-FDD into a political party, power-sharing arrangements, and the integration of their members into the security forces. The CNDD-FDD won the presidential election in 2005 and has been the leading political party in Burundi since then. The PALIPEHUTU-FNL and Burundian authorities signed five agreements (between 2006 and 2009): these provide for a ceasefire, the integration of PALIPEHUTU-FNL into security forces, and the transformation of PALIPEHUTU-FNL into a political party. These two sets of agreements also include provisional immunity for the members of the two armed groups, provisions related to the return of refugees, and the demobilisation, disarmament and reintegration of rebels. Overall, these various peace agreements introduced a complex institutional framework that includes ambitious political, judiciary and military power-sharing arrangements and provides for the creation of various commissions to deal with specific groups as detailed below.

How did inclusion and protection of rights feature in the agreements or constitutional and institutional reform approaches?

A broad and inclusive power-sharing system had already been gradually integrated into the

institutional structures from 1992 onwards, to deal with the problem of political ethnic exclusion (Reyntjens 2016). Arusha and the subsequent agreements defined how the problem of exclusion was created and elaborated through complex institutional arrangements to promote further inclusion and national unity by seeking regional, ethnic and gender equilibrium. Both Arusha and the 2005 Constitution define “ethnicity” as a major cause of the conflict. These texts outline three principles to redress the issue: minority political parties should be included in the democratic process; the protection and inclusion of ethnic, cultural and religious minority groups should be integrated into the general system of governance; and national security and justice should be restructured to guarantee the security of all Burundians, including the ethnic minorities (as described in the preamble of the constitution). Throughout the constitution, these principles are translated into the political and legal structures by requiring the representatives of reformed public institutions (the government, the legislative power, the army, the police, etc.), to represent the ethnic diversity of Burundian society in their composition and the undertaking of their duties.

Based on consociationalist principles, these arrangements established quotas, minority over-representation and minority veto through a set of rules in the composition of the government, the National Assembly, the Senate and security forces. For instance, the constitution stipulates that government must include “at most 60% of Hutu Ministers and Vice-Ministers; at most 40% of Tutsi Ministers and Vice-Ministers; a minimum of 30% of women” (Article 129). The National Assembly is composed of “at least 100 Deputies on the basis of 60% of Hutu and 40% of Tutsi, including a minimum of 30% of women, and of three co-opted Twa” (Article 164).

The defence and security forces “may not include more than 50% of the members belonging to a particular ethnic group” (Article 257). “Minister given the charge of the Force of National Defence is not of the same ethnicity as the Minister responsible for the National Police” (Article 130) (Constitute Project 2016).

The constitution requires that all political parties and electoral lists must be multi-ethnic. More specifically, a political party might not be based on ethnic affiliation (Article 78) and legislative electoral lists must have a multi-ethnic character and gender equilibrium (Article 168). A variety of measures and institutions have been put in place to promote the principle of the equality of rights for “all the ethnic, political, regional and social components of Burundian society” (this includes: the National Commission for National Unity and Reconciliation; the National Observatory for the Prevention and the Eradication of Genocide, of War Crimes and of Crimes Against Humanity; the National Council of Security; the Economic and Social Council; and the National Council of Communication – as detailed under Title XII in the constitution).

How did the peace or reform process approach inclusivity: did it focus just on the dominant groups at the heart of the conflict? To what extent did it also attempt broader inclusion of other groups and interests?

The inclusion agenda in Burundi has been driven by various national and regional dimensions. As mentioned above, these institutional reforms claim to promote ethnic, regional and gender equilibrium through the composition of the governmental, judicial, and security institutions. However, the process in negotiating and implementing inclusion demonstrates certain limitations, as it has

been driven by existing political dynamics and power disequilibrium.

First, the Arusha peace process in itself was not sufficiently inclusive. The 19 signatories “expressed reservations about key provisions” and “did not embrace it sincerely” (Reyntjens 2016, 68). The CNDD-FDD and PALIPEHUTU-FNL were not involved in the talks and rejected the accord – and remained active rebel groups until 2003 and 2009 respectively. The lack of inclusion in the initial peace process meant that violence and human rights violations continued until 2009 (Vandeginste 2011). The PALIPEHUTU-FNL and CNDD-FDD only bought into the process and were pressurised to commit to Arusha principles as this was a requirement before being authorised to enter political institutions.

Furthermore, the inclusion agenda was a response to pressure from foreign mediators and the previous Tutsi elite fear of losing power through democratisation with the Hutu demographic majority turning into an ethnic political domination rather than seeking a fairer repartition of power (Reyntjens 2016, 67). Such arrangements forced the winning FRODEBU government to share power with the actors behind the murder of Ndadaye in 1994 (Daley 2006, 671). It also led to a proliferation of parties due to the equal status for participating groups and “unrestrictive application of power sharing” (from four parties in 1996 to 17 in 2000) (Lemarchand 2006). This meant that creating a new party would grant more political benefits in future institutional settings than alignment with existing political parties. This could be seen to have contributed to “factionalism within the rebel movements” (Daley 2007, 341–2). However, “[most] of these newcomers had no constituencies to speak of beyond a handful of relatives and friends, their primary concern being to cash in on per diems and perquisites and position themselves for access to government positions” (Lemarchand

2006, 10). Despite these limitations, power-sharing arrangements led to the successful transition to multi-party democracy and put an end to the conflict thanks to “unprecedented de-polarisation of the political arena” (Lemarchand 2006, 11).

The Arusha reforms could also be seen to have corrected the “ethnic imbalance among the elite” but to have left intact the contradictions within society: “the continued instrumental and often violent use of ethnicity by the political elite and the failure of the peace process to move beyond ethnic categorisation” would not provide the basis for “a more inclusive democratic participatory politics that see the ordinary Burundian as part of a broader political community with equal allegiance and rights to the state, essential pre-conditions for the sort of societal transformation that is vital for lasting peace and stability” (Daley 2006, 658–9). The current context shows how the exclusion of political opponents and potential opposition at all levels of power frequently leads to human rights violations. Burundi’s institutions, despite being formally inclusive, have not succeeded in creating a broader sense of a common political community.

Today, while it respects institutional requirements, the political configuration is marked by a paradoxical situation in which the



Kibimba Memorial / © Astrid Jamar

CNDD-FDD operates almost as a single state party with popular support. This ruling party “retained popularity with its rural constituents by providing social services, such as free primary education and healthcare for the most vulnerable” (Reyntjens 2016, 72) but continued to employ violence and human rights violations as a political tool to exclude its political opponents – this without real accountability, despite the legal obligations to respect fundamental rights.

Reviewing the institutional engineering in line with today’s conflict, Reyntjens considers that the consociational state organisation has been successful in promoting a political transformation. Such institutional engineering “diminished ethnicity as an electoral issue ... but failed to produce better governance” (Reyntjens 2016, 66). However, the multi-ethnic party system is again leading to a similar use of political violence. This reinforces the idea that creating political structures along the lines of ethnic identity was crucial in justifying and using violence for political power. Even though ethnicity is not the central problem anymore, political violence remains a problem while the regime is respecting the new institutional rules.

In conclusion, the institutionalised power-sharing still conceals negotiations among political elites in line with their affiliations, leaving certain fringes of society excluded, particularly those opposed to the third mandate today. On the one hand, it can be claimed that Arusha and the consequent constitutional reforms have been successfully implemented. For instance, the Peace Agreement Matrix considers that 78% of the Arusha peace agreement has been implemented over 10 years.⁷ On the other hand, political violence and human rights violations continue to be a crucial tool to access, maintain or contest political power. This also includes an absolute political and security breakdown since the elections in 2015.

What were the critical moments when attempts at inclusion could have succeeded (and did not) or failed (and did not)? What factors – in country leadership, civil society mobilisation and international intervention – determined whether they succeeded or failed?

In addition to political struggles mentioned above, the self-exclusion of most opposition parties in the 2010 elections is crucial to an understanding of the exclusive nature of the current regime, its adherence to institutional power-sharing requirements and the return to larger-scale violence. During the 2010 electoral process, most opposition parties gathered under the coalition ADC-Ikibiri (*l’Alliance des Démocrates pour le Changement au Burundi* – Alliance for Democrats for Change in Burundi). They thought that elections were rigged by the ruling party, the CNDD-FDD, and assumed that the international community would support them to reorganise free and fair elections. The international community continued to support the electoral process and accepted its results. Consequently, the CNDD-FDD maintained the presidential and most ministerial seats (Vandeginste 2011; ICG 2011). An electoral boycott weakened the balance provided for in the constitution and backfired on the coalition ADC-Ikibiri – as the CNDD-FDD obtained 76% of parliamentary seats (Reyntjens 2016, 72). This led to the establishment of a de facto one-party state ruled by the CNDD-FDD (Vandeginste 2015). Over the years from 2010 until today, the CNDD-FDD consolidated its power with the prominence of high-level political actors with strong military backgrounds. The repercussions of the withdrawal of most opposition parties from elections continue to have consequences in terms of the composition of institutions and the respect of human rights values.

Because of an emphasis on stability and pleased by the apparent peace, international peacebuilders “largely turned a blind eye to governance abuses, human rights violations, and militarism, when confronted with the messy and contested politics of transition” (Curtis 2012, 74–75). However, the degradation in security, democracy and development has been perceptible for a long time. CNDD-FDD governance practices have been referred to as the “système DD” marked by corruption, misappropriation, brutality, torture, and murder (Hirschy and Lafont 2015). They have also severely suppressed the opposition, the press, and civil society. Despite broad but discrete critiques inside and outside of the country, the populist politics of the CNDD-FDD attracted strong support from rural communities, where most other political parties have limited constituency.

Opposition to the mandate for a third term of President Nkurunziza (CNDD-FDD) continues to cause major problems.

In 2014, the Movement for Solidarity and Development (*Mouvement pour la solidarité et le développement – MSD*)⁸ organised a march to demonstrate against a third presidential mandate. Some 70 demonstrators were arrested; most of them received heavy sentences although they were released in January 2017 (BBC 2014; Ndashinze and Nzeyimana 2017). Acts of violence committed by the Imbonerakure (Kirundi for “those who see far” youth members of the ruling party) are reported weekly. Between December 2014 and January 2015, clashes occurred in Cibitoke, the north-eastern province, between an armed group and Burundian armed forces. At a societal level, there are many other issues that have been exacerbated by the conflict and the current deteriorating context. The justice system is not considered to operate impartially (More 2010) and corruption is a common occurrence (ICG 2012). Land disputes are considered to be a major social issue, particularly due to the economic crisis, land



Nkurunziza Press Conference / © MONUSCO/Papy Amani

grabbing, and the return of at least 200,000 refugees since 2000. Burundi is considered the country with the highest hunger indicator in Africa (ICG 2014).

On 26 April 2015, President Nkurunziza announced he was standing as candidate for presidential elections. Shortly after this announcement, much wider demonstrations against his candidacy started to take place in the capital, Bujumbura. The police used violence against demonstrators, some of whom responded by throwing stones back at the police (BBC 2015; Associated Press in Burundi 2015). After a failed coup in May 2015, the situation escalated further. On one side, the most fervent supporters of the Nkurunziza presidency consider that a third term for Nkurunziza is legal. On the other side of the political spectrum, many opponents consider that a third term is illegal and fails to respect the constitution and Arusha peace agreements. The opposition boycotted the elections again in 2015. The resulting government further threatened the political equilibrium with the CNDD-FDD gaining a stronger majority in both the executive and legislative state structures. All these elements are crucial factors in the gradual closure of non-violent channels to political opportunities and the consequent failure of democratisation and efforts of inclusion.

How transformative has the process been on the inclusion front? If not transformative now, were there transformative moments, or is there further transformative potential?

The most recent development in Burundi inevitably leads to negative conclusions in terms of political transformation. Since the controversial candidacy of Pierre Nkurunziza and his re-election for a third presidential term in 2015 (Jamar 2016; Vandeginste 2016),⁹

gross human rights violations have been widely reported, more than 1,000 people have been killed, thousands have reportedly been tortured, unknown numbers of women have been victims of various forms of sexual crimes, hundreds of people have been forcibly disappeared, and thousands remain in illegal detention. From April 2015 to August 2016, 286,036 people sought refuge in neighbouring countries. Burundi is again experiencing a major violent political crisis.

Despite appearances, this is not the political status quo. Over the last two decades, institutional reforms led to a major power reconfiguration. Previous rebel groups became key political players. The military and police forces successfully adopted ethnic quotas. The political scene is still fragmented but frictions are mainly occurring within and in between “Hutu parties” (Reyntjens 2016, 72); the UPRONA (dominantly Tutsi party that ruled the almost one-party state from 1961 to 1993) became a minor political party. However, the political game remains in the hands of a political elite and the political landscape continues to be marked by violence to maintain political privileges, despite the promotion of inclusion and fundamental rights. It could be considered that these elite pacts “leave the extant social system intact” and are “not conditional on the cessation of direct violence”. Further, they can legitimise opportunistic and violent behaviours. The Arusha peace process’ emphasis on such institutional reforms missed an opportunity for tackling social injustice (Daley 2007, 334, 349, *passim*).

Institutional reforms in relation to respecting human rights and preventing human rights violations have mostly been implemented. They were, however, ineffective in providing actual protection for victims of human rights violations or in discouraging the political use of violence. The CNDD-FDD regime continues to function with violence:

respecting constitutional power-sharing provisions but neglecting rule of law principles. Future peace talks should aim to readdress the issue of broader inclusion and encourage

actual political coalitions, instead of the current system based on allied parties that not only accept the President's mandate for a third term but also align to his political agenda.

Endnotes

- 1 UPRONA was created by Prince Louis Rwagasore in 1958. The party is predominantly Tutsi but initially it had also strong support from the Hutu, until its radicalisation in later years.
- 2 The Burundian population is considered to be composed of 83% Hutu, 16% Tutsi and 1% Twa.
- 3 The UPRONA was divided into two factions, the monarchy faced a legitimacy crisis, and thousands of Tutsi refugees fled from Rwanda to Burundi.
- 4 The party was created out of the jointure of the CNDD, the political wing and the FDD, the military wing of the group funded in reaction to Ndadaye's assassination by FRODEBU in 1994. It registered as CNDD-FDD as a national party in 2005. It won the election on the same year and had been the ruling party with Pierre Nkurunziza as the President. The political crisis of 2015 started with debates and violence related to the third presidential term of Nkurunziza.
- 5 The Party for the Liberation of the Hutu People – National Forces of Liberation (PALIPEHUTU-FNL from its French acronym, *Parti pour la liberation du Peuple Hutu – Forces Nationales de Liberation*) which turned into the FNL due to interdiction to strict ethnic affiliation for political parties.
- 6 Under the regional framework initiative, the heads of Ethiopia, Kenya, Rwanda, Tanzania, Uganda, Zaire, and the Secretary General of the Organisation of African Unity condemned the coup and imposed economic sanctions and travel bans to seek a return to constitutional order and inclusive peace negotiations. The embargo was initially endorsed by main Western donors through development aid cuts, but later condemned by some international actors. See reliefweb.int/report/burundi/report-regional-sanctions-against-burundi
- 7 Arusha Peace and Reconciliation Agreement for Burundi. peaceaccords.nd.edu/accord/arusha-peace-and-reconciliation-agreement-burundi
- 8 The MSD is a political party created in 2007 and formally accredited by Burundian authorities in 2009. The party is rooted in civil society and independent media based in Bujumbura, led by Alexis Sinduhije, the founder and former director of the Radio Publique Africaine in Burundi, currently living in exile. It has been perceived as a threat by the CNDD-FDD. The party has been accused of having links with armed groups in the Democratic Republic of the Congo (Van Acker 2016, p21).
- 9 The controversy over Nkurunziza's mandate for a third term results from a legal loophole in the current constitution, limiting presidential candidates to run for two terms elected "by universal direct suffrage" (Article 96) but also stipulating that the first post-transition President would be elected by the Parliament (Article 163) – as is the case for Nkurunziza. While Nkurunziza's most fervent supporters consider that a third term is legal, many opponents consider that this fails to respect the constitution and Arusha peace agreement.

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