



## **An Assessment of Post-Arusha Peace Agreement Challenges and the Current Efforts to Restore Peace in Burundi.**

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**Abstract.** Burundi seems to be treading on an uncertain ground. Although effort was made through the Arusha Peace and Reconciliation Agreement to address the ‘age-old’ animosity between Hutus and Tutsis, it is increasingly becoming clear that this has only transformed the conflict from violent to non-violent conflict, with a high incidence of degenerating into violent conflict in future unless outstanding issues in the Arusha peace Agreement are implemented. The article looks at some of the key challenges in post-Arusha Agreement Burundi and how they undermine the aspirations of the Arusha Peace Agreement to create a democratically stable and peaceful Burundian society. It also looks at attempts by various actors to address the current political crisis in Burundi. This article posits that the solution to achieve durable peace in Burundi lies firstly, in harmonizing the 2005 Burundi Constitution with the Arusha Peace Agreement of 2000; and secondly, enacting and empowering judicial and legal instruments to implement political principles and measures such as political power sharing and democratic governance.

**Key words:** Address, Constitution, Hutus, Peace, Peace Agreement, Peace-building, Power- sharing, Referendum, Restore, Tutsis

### **1. A brief Socio-Political History of Burundi**

Burundi's social system has been considered as ‘one of the most complex and least understood in Africa’ (René & Martin 1975:5). Its ethnic composition comprises of three groups: the Hutu, Tutsi and Twa (Weinstein 1972). The Hutu, who account for 85% of Burundi's population, have been described as a Bantu people who are traditionally agriculturalists. The Tutsi, who represent 14% of the population are identified as a Himitic people, who migrated from Ethiopia from the sixteenth century. A number of ethnographers reveal that the Tutsi established a dominant position over the Hutu in the economy and governance of the region (René 1970). The Twa, who comprise 1% of the population, were traditionally hunters and potters, who inhabited the forests and are politically, economically and socially

marginalized. The Ganwa are identified as the fourth group, who were feudal princes of mixed blood. The Ganwa considered themselves neither as Hutu nor Tutsi, but above both groups (René 1988).

According to René and Warren, the Hutu and Tutsi share a similar language and culture, and have common social and political institutions, and have often intermarried and lived together peacefully for centuries. The Hutu-Tutsi animosity came as a result of such factors as colonialism, modernization, the traumatic experience of the Rwandan Hutu rebellion and repressive and discriminatory post-colonial policies (René 1988; Weinstein 1972). Indeed, while colonialism played a dominant role in antagonizing Burundian ethnic groups, the Rwandan Hutu rebellion, which killed thousands of Tutsis and caused thousands of others to flee into neighboring countries perhaps, could have had a big influence in shaping and determining the Hutu-Tutsi conflict in Burundi.

Events in Burundi have always led to ‘a spiraling syndrome of suspicion, fear and hatred’ between the Hutu and the Tutsi. Each level of violence laid the ground for the next, as ‘mutual suspicion and fear’ dominantly characterized the perceptions of both groups. As a result, while in the past violence that surrounded a coup attempt would have remained limited, now such violence is far more likely to involve the entire Burundian society and degenerate into genocidal campaigns (René 1988).

According to Herisse the crisis that had over the years afflicted Burundi was rooted in ‘imported and misapplied ideologies’ especially racial superiority and democracy modeled on Western culture. Herisse argued that, institutions that were established in order to sustain these concepts replaced traditional practices and distorted indigenous social contracts. It was apparent that these factors damaged the social fabric and created disharmony in the Burundian society. (Herisse see <http://www.peacestudiesjournal.org>).

Thus, in conformity to the preceding argument, the Burundi conflict was ‘sustained by the competition among rival political elites for state power, who mobilized their followers around ethnicity’ (Mthembu 2005:22-35). In other words, based on the ideological distortions of the Burundian society, ethnicity was successfully used as a key instrument by rival politicians in pursuit of political power.

## **2. Theoretical Background**

Since politics is the process of managing demands, poorly managed demands are likely to result in violence, therefore, conflict management short of dealing with root causes of violence, is likely to be less fruitful (Zartman 1989).

According to needs theories, in order to address conflicts in society, there is need to place much emphasis on satisfying basic human needs. Achieving a harmonious society is conditioned by needs-satisfaction. (Ramashray 1990). Problem-solving at

any social level ... can be fruitful only when individual needs are taken as the basis of 'analysis and planning'. (Burton 1979).

Thus, the link between needs-satisfaction and social harmony suggests three things, first, that if basic human needs are met, then conflicts are inevitably rooted out. Conflicts emerge due to systematic frustration and prevention of certain individual needs. Second, once analysis and planning are based on needs, it will be much easier to identify and deal with conflict. Thirdly, it is argued that every conflict carries within itself an aspect of need-satisfaction. Conflict breaks out as a failure to recognize certain needs of a particular group or though recognized have been frustrated or unsatisfactorily fulfilled. Once the needs at hand are identified and legitimately recognized to require fulfillment, the course for conflict resolution is mapped out (Ramashray 1990). The relationship between social harmony and needs-satisfaction makes much sense to conflict in Burundi, which according to Prunier is 'largely considered a fight for good jobs, and economic advantage' (Prunier 1975:27).

### **3. Major Challenges in post-Arusha Peace Agreement Burundi**

#### **3.1 Justice and Legal Framework**

In view of the turbulent history characterized by genocide and other crimes against humanity, Burundian parties committed themselves to adopt political principles and measures designed to ensure that such atrocities would never re-occur. (ISS 2000). Judicial instruments aimed at implementing political principles and measures were to include, enactment of legislation to counter genocide and other gross violations of human rights; establishment of an international judicial Commission of inquiry on genocide, war crimes and other crimes against humanity; and establishment of an international criminal tribunal to try and punish those found to have committed atrocities against Burundians (ISS 2000). For some reason, these institutions have not been established 15 years after the signing of Arusha Agreement. Could this be constrained by the fact that a number of key figures holding state power were directly or indirectly responsible for serious crimes against the Burundian people, and therefore, are buying time not to establish such institutions to serve justice to the people?

In an effort to promote national reconciliation, the parties recommended the establishment of a national truth and reconciliation Commission, which shall be tasked with investigating serious acts of violence, committed in the past, and identifying the perpetrators and the victims. (ISS 2000). It is now over 15 years after signing of the Arusha Agreement and the Commission has not been established.

Although, the Agreement is fundamentally good, a key to resolve the conflict but the problem lies in its implementation: representation of Hutus and Tutsis in the

National Assembly is problematic; are Tutsis representing Tutsis supposed to come from Tutsi parties or not? Tutsis lost somewhere; 40 per cent representing Tutsis were to be drawn from any party regardless of whether the party was a Hutu party or not. And so, most of the 40% representing Tutsis in the present government were drawn from the ruling party, which is a Hutu party, National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD). Tutsi parties claim that those Tutsis from Hutu parties ‘are not wholly Tutsis because they have a Hutu ideology’. Thus, the ethnic power sharing quota system does not provide a permanent solution to conflict in Burundi since the problem in Burundi is not fundamentally ethnic but political. Ethnicity is simply used as a tool to obtain political power, (Van Eck, 2005)

It is fundamentally important to address grievances of the Tutsi parties concerning their genuine representation in both cabinet and legislative assembly. This is because sharing a similar ethnic background does not necessarily imply that you share similar convictions or ideologies, (Van Eck, 2005). This affirms the argument that conflict in Burundi is fundamentally political and not ethnic. Thus, to address the conflict in Burundi requires political will and mechanisms that are informed by ethnic dimension.

It is early to conclude that the Arusha Agreement has created democratic institutions and culture by which peaceful change of government is inevitable; without effectively addressing the issue of political power in order to deal with the issue of alienation, peaceful change of government in Burundi may not happen in the foreseeable future.

Moreover, outstanding unresolved issues in post-Arusha peace Agreement Burundi include, dispute over the new Constitution, which was unilaterally imposed on Burundians by the Regional Initiative for Burundi and South Africa when all Tutsi parties had rejected it. Given the fragility of the Burundian society, and since issues with political power were mostly responsible for causing the civil conflict, which power is controlled by the Constitution, it was crucial that the two conflicting parties agree on the adoption of the new Constitution—a common vision and path that must govern the country. Serious concerns over power sharing after the October 2005 elections were a reflection of the limitations in the new Burundian Constitution, (Van Eck, 2005). This implies that, the most important motivating factor behind Burundi’s civil conflict, was not adequately resolved.

Although, the 2005 Constitution was approved through a referendum, Burundians did not participate in its making. To the extent that Burundians did not participate in the process of Constitution-making, undermined the credibility of the Constitution and, therefore, failed to provide a solid foundation for peace-building and enduring stability in Burundi. (Van Eck, 2005).

The win-lose mentality that came as a result of the competitive nature of the 2005 elections influenced the new draft Constitution to the extent that it failed to recognise, in perspective, the key power-sharing formula, which enabled the signing of the Arusha peace Agreement and formed the basis on which Burundi was governed in the pre-election period. This raised questions on the legitimacy of the Constitution upon which elections were held, and on which post-election Burundi would be governed. For instance, according to the Arusha Agreement, political power would be shared between the 'Hutu political opinion and the Tutsi political opinion on the basis of 60 per cent to 40 per cent' respectively. However, the new Constitution does not provide for political/ethnic power sharing formula; while the 60/40 ratio is acknowledged, Hutus from all political parties will now fill 60 per cent of the seats reserved for Hutus, and Tutsis from all parties fill 40 per cent of the seats reserved for Tutsis. In effect, what was purposed as power-sharing between the two warring ethnic and political groups has become 'purely ethnic divide'. Implying that, in case a Hutu political party wins 80 per cent or more of the national vote, they will be permitted to appoint 80 per cent of the 60 per cent reserved for Hutus and 80 per cent of the 40 per cent reserved for Tutsis, who represent the political objectives of the Hutu majority and not the concerns and political views of the Tutsi political minority. Also the powers of the Senate were revised to the extent that it will have no authority to moderate decisions made by the National Assembly, which is controlled by the majority (Van Eck 2005).

The preceding development, poses an enormous challenge to the efforts designed to promote enduring peace in Burundi, which was envisaged in the Arusha peace Agreement; considering that the conflict between Hutus and Tutsis has been dominantly the struggle for political power, it is prudent that unquestionable and fair political remedies are employed to address it. Short of this, will undermine the spirit behind the Arusha Agreement that helped to address the seemingly irreconcilable differences between Hutus and Tutsis, and therefore, likely to plunge the country into future conflicts.

Additionally, the Constitution does not mention the duration of the power sharing arrangement. This is crucial since it provides a guarantee for the minority Tutsis by insuring their stake in political power. Power sharing should be a long-term requirement until such a time Burundians have embraced a shared national identity with a common destiny i.e., see themselves primarily as Burundians and not in terms of Hutu-Tutsi ethnic identity. Unless this is given sufficient time to be ingrained in the minds of Burundians, any election organized is going to be mired by ethnic overtones and is likely to be perceived as a means to impose majority-Hutu domination and therefore, liable to incubate seeds of conflict.

Although, over 15 years ago, a national truth and reconciliation Commission was provided for in Article 3, Clause 3 of the Arusha Peace Agreement for Burundi, it is yet to be established. (Arusha Peace and Reconciliation Agreement for Burundi, 2000). 'According to the Burundian culture without asking for forgiveness or

making reparations, one has to revenge for the killing of his relatives even if it takes a hundred years'. There should be an end to impunity by putting in place a justice system, which is fair enough for all Burundians. The issue of justice should be dealt with decisively; a Commission of Truth and Reconciliation should be set up for people to know what happened and forgive, short of that, Burundi will never have stability, (Anonymous, 2005). Effort needs to be made to implement Constitutional provisions pertaining to institutions of justice and reconciliation. Also Constitutional reviews should be done to ensure that the Constitution is fair and reconciliatory to all Burundian parties.

### **3.2 Referendum, Parliamentary and Local Elections**

The referendum in which voters were asked to approve or disapprove the new Constitution left much to be desired; the Government failed to explain to the electorate the contents of the new Constitution prior to the vote, to the extent that, 'hardly anyone knew what was in the Constitution'. (EIU 2006:1). Whether or not the referendum process was free and fair, as long as, voters were not educated on the contents of the Constitution, the move undermined its credibility. It might well be argued that votes were largely cast on the basis of one's ethnic identity.

The 2005 National Assembly and local administrative elections were won by CNDD-FDD and Nkurunziza, the former rebel leader and candidate of CNDD-FDD ran unopposed in the indirect elections for the presidency. Once the post-election Government was installed, UPRONA the former ruling party raised serious concerns about the allocation of ministerial positions, but nothing was done to address the issue (Human Rights Watch, 2005). Failure to acknowledge and fairly address such concerns was not good for confidence-building especially after a bloody civil conflict, which had left hundreds of thousands dead and, which was largely believed to be centered on political power. For purposes of promoting durable peace in Burundi the issue of equitable power sharing between Burundian parties is critical and demands considerable attention.

## **4. Background to the current Political Crisis in Burundi**

The recent Burundi crisis was both a political and a socio-economic struggle. The party in power since 2005, CNDD-FDD, won elections unopposed in 2010. This was a major setback for democratic practice; the ruling party and its president unilaterally run the country for five years. (Richard, 2016)

The process that led President Nkurunziza to run for a third term was seriously contested from the onset in 2013 to its culmination in 2015. A number of actors ranging from prominent church personalities to the opposition leaders protested against the third term project and the poor socio-economic performance of Nkurunziza's presidency. Controversies surrounding elections preparation and

protests that were initially peaceful later turning violent, attracted the attention of local, regional and international actors to search for a negotiated solution through dialogue, but without success. After Nkurunziza had been declared the presidential candidate of CNDD-FDD in April 2015, violent protests, which attracted police, militias and protesters broke-out. An unsuccessful coup attempt in May 2015 intensified violence and polarization resulting in the death of 439 people by January 2016. Most of the independent media channels and civil society organizations have been closed, and more than 200 000 Burundians have fled the country into neighboring countries. In spite of this hostile environment, both presidential and legislative elections were organized. Although the main opposition parties boycotted the elections, elections went ahead and were won by CNDD-FDD, Nkurunziza was then sworn in as president for the third term on 20 August 2015. However, the elections were neither recognized as credible by continental, regional nor by international bodies. (Richard, 2016)

The Burundian government faces the problem of legitimacy both internally and externally. People are killed on a daily basis since the elections. The exiled opposition have declared a rebel movement, and killings have taken an ethnic dimension. The EU, UN and AU have either applied or threatened sanctions. In the same vein, member states on the continent including regional bodies such as the International Conference on the Great Lakes Region (ICGLR) have engaged the new government in an attempt to search for a workable solution. (Richard, 2016)

A broad range of actors have played an intervening role in the Burundi crisis. The actors include the UN which initially took a central role in attempting to facilitate dialogue among all parties. However, along the line, a number of UN envoys were rejected either by the government or the opposition members. The AU took a tough stance on both the government and the opposition. The Common Market for Eastern and Southern Africa sent delegates to Burundi in partnership with the Eastern African Community (EAC) Panel of Eminent Persons. When various attempts had failed, Ugandan president, Yoweri Museveni was appointed as the mediator for the Burundi crisis. The mediation process is ongoing, and has been supported by the various international organisations that had attempted to lend their weight in addressing the crisis. Although, the ICGLR participated immensely in initiatives to address the crisis, it did not take a leading role. (Richard, 2016)

## **5. Attempts to Address the Political Crisis in Burundi**

### **5.1 UN and the International Community Response**

The UN Security Council is under pressure to intervene in Burundi, where the intensity of violence has raised fears of deteriorating into mass killings similar to those of Rwanda in 1994. France has sponsored a draft resolution arguing UN Security Council to deploy a police force of 228 in Burundi to monitor human rights and help prevent violence. (AFP, 2016) The UN Secretary-General has called upon all parties to ‘engage in credible and inclusive political dialogue to address the crisis (Karuhanga, 2016) The UN Secretary-General representative, Ambassador Jamal Benomaar said that for the political crisis to be resolved, there was need for a genuine and inclusive dialogue. (EAC, 2016)

UN Secretary-General Ban Ki-moon visited Burundi on 22 February 2016 in an attempt to support ongoing UN efforts at addressing the political crisis in the country (un.org, 2016). In response to the French-drafted resolution, the UN Security Council has authorized the deployment of 228 Police Force to Burundi with a mandate to prevent human rights abuses and violence. This was a ‘strong act of preventative diplomacy’. How the UN Security Council resolution is to be implemented is being negotiated. (UN, 2016)

### **5.2 AU Attempts to address the Burundi Crisis**

In consideration of the limited regional capacities, and the need to strengthen the dialogue process, the AU has taken a more central role in Burundi. It has sent a special envoy, deployed human rights observers and through its Peace and Security Council intends to deploy a 5 000 strong African Prevention and Protection Mission to Burundi. (Richard 2016)

Unlike some of the regional actors, the AU through its chairperson has been consistent in calling for observance of the Arusha Agreement and a free and fair electoral environment. The Arusha Agreement provides for a two-term presidencies, and its apparent that Nkurunziza’s decision has violated it. In a press statement on 26 April 2016, the AU chairperson, ‘called on all stakeholders to strictly respect the 2000 Arusha Agreement, the constitution and the electoral law.’ The AU reiterated its position in mind-June. The AU’s unwavering intention was demonstrated when in June they refused to send parliamentary and local elections observers arguing that the process was flawed—could not meet standards of a free and fair elections. The government of Burundi seems to have fallen out of favor with the AU and is not set to accept its mediators. However, within the regional bloc not everyone is opposed to Nkurunziza’s third term bid. (Parrin, 2015)

### **5.3 ICGLR Response in Attempts to Address the Political Crisis in Burundi**

The ICGLR was formed in 2003 with its members developing a very ambitious pact and protocols to operationalize it. However, the organization was not granted adequate resources to fulfill its mandate. Faced with numerous actors, a small secretariat, insufficient resources and divisions within some of its key members, was not well positioned to take a lead role in responding to the political crisis in Burundi. (Richard, 2016)

In response to reports of Rwandan support for exiled opposition to destabilize Burundi, the government of Burundi engaged the ICGLR to rein on Rwanda. The ICGLR attempted to verify the claims but Rwanda refused. (Richard, 2016)

### **5.4 Responses from East African Community (EAC)**

After the UN's efforts met with difficulty, the EAC has attempted to host an all inclusive dialogue for Burundi. (Richard, 2016). President Museveni was appointed to lead the mediation efforts by EAC heads of state on 6 July 2016. Although he has been accepted by President Nkurunziza, the opposition has rejected him as mediator. Because of Museveni's track record of not being conciliatory to the opposition in Uganda, Burundian opposition consider him as someone lacking in credibility. (Parrin, 2015)

Former president Benjamin Mkapa of Tanzania has been appointed facilitator for Burundi peace talks by EAC Summit. The appointment of Mkapa is seen as a boost to the dialogue alongside president Museveni. (Buchanan, 2016)

Tanzania's Foreign Affairs minister has convened a consultative meeting in Arusha to deliberate on the way forward on Burundi's political crisis. The leaders expressed concern on the deteriorating crisis and its potential to degenerate into a humanitarian catastrophe. They emphasized the need for parties to embrace dialogue as the best alternative to address the crisis. The meeting came as a follow-up on the re-launch of the dialogue in Kampala by president Museveni on 28 December 2015. The meeting supported previous initiatives and deliberations by various actors including the AU and UN. (Harushyamagara, 2016); (Karuhanga, 2016)

The Inter-Burundi Dialogue resumed on May 21, 2016 Arusha, Tanzania under the facilitation of former President Benjamin Mkapa. The Dialogue was attended by a number of stakeholders that included former heads of State, prominent political actors within and outside Burundi, and women and youth groups. The Dialogue was also attended by representatives of the diplomatic community in Tanzania; UN Security Council; African Union, EAC partner state governments, and the EAC Secretariat. The facilitator called on the Burundi warring parties to own the challenge and realize that they only possessed the power to resolve the crisis, his

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role was simply to facilitate the discussions. He planned to fairly allow sufficient time and space to all the parties so they could express their views in an attempt to address the crisis. (EAC, 2016)

The second round of inter-Burundi dialogue was postponed before it was held from 12 to 14 July 2016 in Arusha, Tanzania. The opening ceremony, which was scheduled for 12 July 2016, was cancelled after Burundi government delegation walked out of the meeting arguing it could not negotiate with coup plotters and other opposition figures they regarded as enemies of peace including the leader of the main opposition coalition, the Council for the restoration of the Arusha Agreement and the rule of law, CENARED (Atrocities Watch Africa, 2016).

As the 27<sup>th</sup> Summit of the African Union was being held in Rwanda, the government of Burundi decided to recall its delegation to the AU Summit. This was an uncalled for behavior, which demonstrated the unwillingness of Burundi's government to cooperate with those helping to address the political crisis that afflicts Burundians. (Atrocities Watch Africa, 2016)

## **6. Human Rights Violation and Atrocities Committed in Burundi**

President Nkurunziza's decision to contest for a third term in the 2015 elections has led to human rights abuses including enforced disappearances, abductions, extra judicial killings, torture, sexual violence, rape and incommunicado detention of political activists. (Atrocities Watch Africa, 2016)

Hundreds of women have reported rapes with true figures believed to be much higher. According to Human Rights Watch, ever since the political crisis began, members of the youth wing of Burundi's ruling party have raped women perceived to be linked with their political opponents. "Imbonerakure", the youth wing of the ruling party whose name means "The Watchmen" has for long been accused of using inhuman methods to achieve political goals on behalf of Nkurunziza's regime. The Imbonerakure have often tied up, brutally beaten, and gang raped women in the presence of their children. (AFP, 2016)

There was an atmosphere of fear and impunity in the areas where protests against Nkurunziza's third term bid has been most intense. Arbitrary arrests, disappearances and cordon-and-search operations with killing of unarmed civilians have become a daily occurrence at a time when a number of independent human rights organizations have been ejected out of the country. People have been left with no one to turn to for help. (Harushyamagara, 2016)

## **7. A critical Analysis of the current Political Crisis in Burundi**

The inter-Burundi dialogue under the facilitation of former President Benjamin Mkapa seems to have hit a snag. Prior to Mkapa's appointment, a number of

regional, continental, and international actors have unsuccessfully made attempts to engage the government of Burundi to accept an all-inclusive political dialogue as the only feasible approach to resolve the crisis. To respond adequately to that, one needs to refer back to the Arusha peace process that culminated in the Arusha Peace and Reconciliation Agreement for Burundi. The ruling party, CNDD-FDD that was then led by Nkurunziza was not a signatory to the Arusha Agreement neither did they participate in the peace process. The then political-military organization only pledged to abide by the Arusha Agreement during the ceasefire negotiations with the former government of Burundi led by Pierre Buyoya. Naturally, this implies that neither President Nkurunziza nor the ruling party, CNDD-FDD have a *strong emotional* attachment to, and a *sense of ownership* over, the Arusha peace Agreement for Burundi. This argument is demonstrated in the manner in which President Nkurunziza and the ruling party unilaterally run the country for five years after winning the 2010 elections unopposed. (Richard, 2016); and in the lack of political will to address critical unresolved issues that were clearly provided for in the Arusha peace Agreement. (Van Eck, 2005).

On the basis of the preceding arguments, President Nkurunziza's behavior and actions and that of his ruling party, which have seriously constrained efforts to find a durable solution to Burundi's political crisis can only be explained meaningfully within that context.

## 8. Conclusion

For any meaningful dialogue that will route Burundi on the path towards peace and stability, the government of Burundi must embrace an all-inclusive inter-Burundi dialogue. A desire by the government of Burundi to only talk to 'peace-loving' opposition forces, who did not participate in the May 2015 unsuccessful coup and who have not declared war against the government of CNDD-FDD is misplaced and unrealistic. Enduring peace and stability can only be restored to Burundi if the government of Burundi will be willing enough to enter into dialogue with especially opposition forces that have a high propensity to cause trouble owing to their military capability and external support. Concerted diplomatic and political prowess by all concerned actors is required to persuade the government of Burundi to engage productively with Burundi's opposition forces so as to address the political crisis.

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