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Crisis in Burundi: How to address impunity and prevent future violations?

Summary

Burundi is in the middle of its worst crisis since the end of a decade-long civil war, sparked by the April 2015 announcement by the CNDD-FDD that it had nominated President Pierre Nkurunziza to run for a third term in office. Whereas international attention to Burundi is dwindling, which coincides with the end of the electoral period and the departure of the international press, the situation on the ground continues to deteriorate. Human rights violations are on the increase, independent radios are still not able to operate more than four months after being destroyed, the majority of the political opposition are in exile, human rights defenders are deemed legitimate targets for violent attacks, tensions within the army are growing, and the death toll continues to rise with new bodies appearing on the streets of Bujumbura almost every day. Without urgent international action – starting with the UN Human Rights Council – Burundi will continue down a dangerous path towards authoritarianism, guerrilla attacks, and all-out civil war, and the Great Lakes Region faces the prospect of regional proxy conflict once again.

Context

In spite of regional and international pressure to postpone, the 2015 electoral process in Burundi went ahead, culminating in the re-election of President Pierre Nkurunziza to a third term in office. Following nearly two months of protests, a failed *coup d'état*, and hundreds of Burundians either dead, severely injured, or detained, the process that surrounded the re-election of President Nkurunziza is seen as a huge blow to democratisation in the country and a potentially watershed moment for Burundi's fragile peace.¹ And whereas the perception appears to exist



outside of Burundi that the situation is gradually improving – partly as a consequence of the government's favourable presentation in regional and international circles – the situation on the ground belies this simple analysis.² Protests and violent clashes have been replaced by increasingly clandestine violence. The death toll continues to rise as the bloody bodies of mostly young men are found almost every morning on the street, many of which have gunshot wounds, visible signs of torture and their hands tied behind their backs.³ Night-time raids by the security forces on the contested neighbourhoods have now increased under the pretext of disarming civilians, which rarely uncover weapons but lead to gunfire, explosions and widespread fear among the population.⁴ Political assassinations are once again increasing,⁵ there are credible claims of tensions within the army, and rumours of a rebellion being planned by exiled politicians would appear highly plausible. At the time of writing the government had ruled out any negotiations with the collective of political actors in exile, CNARED,⁶ on the same day as a Presidential decree established a national commission to oversee

a countrywide inclusive dialogue process among Burundians over a period of six months. The exclusion of a large number of politicians and members of civil society from negotiations comes off the back of a commission of inquiry report from the Ministry of Justice that called for prosecutions of individuals identified as having been behind the “insurrection” of the preceding months.⁷ In this context, Burundi continues to be awash with fear, stoked by the relentless deluge of rumours that is strengthened by the enduring lack of an independent media in the country for four months since the failed *coup d'état* on 13 May 2015.

Research conducted by Impunity Watch among youth in contested neighbourhoods in the capital and several provinces in the countryside shows that youth from across the political divide are mobilising to defend their rights as citizens at all costs.⁸ The presence of weapons, their widespread availability, and their relative low cost has made the resort to arms for this defence a reality. Reports of violent confrontations between opposing groups of youth are now commonplace. What started as a non-violent rejection of the third term of the President and a display of utter frustration at an entire socio-economic and socio-political system built upon impunity, structural violence and neopatrimonialism, has now become increasingly violent. The hopes for change that brought an unprecedented number of Burundians to the streets to demand a more equitable system have been crushed, including by the failure of internal and external actors to shine a light on the root causes of the current crisis. For many young Burundians, the combination of fear, anger, and crushed hopes for the future, combined with the failure of non-violent means for demanding change, may leave them with few alternatives in the months ahead.⁹

Of the few human rights defenders and journalists who remain in the country, many continue to be the targets of threats and violent attacks.¹⁰ Political opposition members have adopted tactics to minimise their risks of being victimised,¹¹ while widespread claims exist that the ranks of the police are filled with members of the *Imbonerakure* youth

wing of the CNDD-FDD and that parallel chains of command are in operation.¹² Serious allegations of abuses committed by the police and the National Intelligence Service (SNR) continue to be reported, including evidence that torture, inhuman or degrading treatment are being systematically used to extract confessions and crush dissent.¹³ Attacks against low-level and high-ranking members of the CNDD-FDD are also increasing. As yet, however, no credible investigations have been instituted.

Simultaneously the President has tightened his grip on power with an ever-closer inner clique through the appointment of several close allies to senior and strategic governmental positions.¹⁴ The about-face of Agathon Rwasa in deciding to take his seat in the National Assembly and his subsequent nomination as Deputy Speaker continues to be the subject of much puzzled debate, not least because as the historical leader of the FNL and an outspoken critic of Pierre Nkurunziza, he was until recently regarded as the President's main rival. Nonetheless Rwasa's decision and the appointment of members of his *Amizero y'Abarundi* coalition to ministerial positions cannot be taken as evidence that a legitimate government of national unity has been formed, despite official rhetoric to that end.

In combination with this tightening grip, restrictions on political space, and the increasing number of reported human rights violations, evidence continues to mount of the further erosion of the letter and spirit of the Arusha Peace and Reconciliation Agreement (2000). Whilst far from perfect, 'Arusha' has engendered a level of social, political and institutional transformation that, in conjunction with its sister text (the 2005 Constitution), has been the very fulcrum of post-conflict 'stability' in Burundi. The fact that ethnicity is not a factor in the current political crisis¹⁵ is in no small part thanks to Arusha. Tampering with this Agreement and the Constitution would set a dangerous precedent in an already fragile context that could spark further violence.

Beyond the immediate borders of Burundi, the political crisis has affected the wider Great Lakes Region. Nearly 200,000 refugees have crossed into

neighbouring countries since before the crisis began in April.¹⁶

Political exiles in Rwanda remain a significant issue of contention that has put a strain on the already fraught relations between Kigali and Bujumbura, exacerbated by suggestions that the former is providing tacit support – or even a rear-base – for a planned rebellion.¹⁷ For the youth of Burundi who have been forced to leave their country frustration, repression and the absence of perspectives for the future creates fertile ground for the resort to arms. At present, however, opinion seems to be shared that an armed rebellion will require much greater coordination, financing and political backing from key regional actors to constitute a genuine threat to Bujumbura. Nevertheless, the longer the current political crisis remains unresolved and the longer the key driving factors of this crisis remain unaddressed, the more likely a return to all-out civil war or regional proxy conflict becomes.

Recommendations to the UN Human Rights Council

Consistent, coordinated and concerted international engagement is vital if we are to avoid the degeneration into authoritarianism and a relapse into all-out civil war. We should be under no illusion that the conditions exist for a rebellion that has by all accounts already been set in motion. Protracted violence and conflict in Burundi will necessarily have security and humanitarian consequences for the wider Great Lakes Region and could ultimately lead to the intervention of states in the region, leading to another regional proxy conflict.

For these reasons, we recommend the following:

a) The UN HRC should adopt a resolution at its 30th Regular Session condemning the ongoing violence, human rights abuses and impunity enjoyed by perpetrators. The HRC should establish a periodic reporting mechanism under the aegis of the UN High Commissioner for Human Rights' office and consider other proposed measures including the establishment of a Special Rapporteur on Burundi.

b) Impunity must be addressed. The Burundian authorities must conduct independent and impartial investigations of human rights abuses and international crimes committed by all sides since the political crisis began, but notably the allegations of excessive force by the police and evidence of torture by the SNR. Given the lack of independence demonstrated by past investigations and the inability of several commissions of inquiry to effectively discharge their mandate in an impartial manner, investigations must be instituted with regional and international oversight.

c) The Burundian Government must allow the independent media to re-open and guarantee the security of journalists. The independent media has been a celebrated cornerstone of Burundi's post-conflict peacebuilding. Its current absence and the lack of independent information are exacerbating the climate of fear in Bujumbura. Pro-government media have a monopolisation on messages being broadcast from inside Burundi. The targeting of independent radios during the immediate hours after the failed *coup d'état* and the persistent harassment of (national and international) journalists demonstrates that the protection of journalists and guarantees of their personal and professional security is paramount.

d) All youth militia, paramilitary and other armed groups must be immediately disarmed; parallel structures and reports of civilians operating in police uniforms must be investigated. The armed members of the *Imbonerakure* in particular should be disarmed, if necessary by force, as well as armed members of the youth wings of opposition parties. The Burundian military should be tasked with this disarmament, with support from African Union military observers. Investigations must be launched to ensure that members of the police have been recruited according to the law.

e) **Once the independent radios are re-opened, an open-ended citizen dialogue process should be established to discuss issues affecting the lives of citizens, targeting young people in particular.** With international support, this citizen dialogue should use the national media as its vehicle, which would encourage responsible reporting among the media, would provide a forum for political actors to share their vision for the country, and would encourage healthy debate among citizens of the common interest issues that affect their lives, and the ways to address them.

Legacies of Violence

The need for Burundi to shed its legacy of violence by addressing its culture of impunity is a fundamental component of Arusha. It is a fallacy to think that redressing past massive violations of human rights and protecting rights in the present are mutually exclusive. Burundi's ongoing political crisis is a grave demonstration of this fact. By neglecting to uncover the truth about the past, by failing to prosecute those responsible for abuses, by instituting flawed reparations procedures, and by forsaking the key measures needed for guaranteeing non-recurrence, successive Burundian regimes have failed to address the culture of impunity and have paved the way for cyclic violence. Peace, stability and democracy cannot be built on the foundations of impunity. Criminal justice procedures in particular would have a norm-affirming effect in Burundi and would demonstrate that no-one is above the law.

It is for these reasons that we recommend the following:

f) **With the support of the international community, Burundi must take serious and determined steps to redress past abuses through processes aimed at truth, justice, reparations and guarantees of non-recurrence.** This must begin with wide-ranging institutional and political reforms directed towards tackling the real spheres of power and influence in the

country, including comprehensive vetting of state bodies and the security forces, the dismantling of parallel structures of power, and security sector reforms that ensure greater civilian oversight and accountability of the police and SNR. Without such reforms, powerful personalities will remain in place who will otherwise put efforts towards addressing impunity and legacies of violence in jeopardy through their own self-interest or desires to use the process for persecution and "turn-taking".¹⁸

Notes

¹ See e.g. US Department of State, *Urgent Need for Political Dialogue in Burundi*, Press Statement, 20 August 2015.

² See e.g. UN OHCHR, *Zeid alarmed by recent upsurge in arrests, detention and killings in Burundi*, 28 September 2015.

³ *Ibid.*

⁴ *Ibid.*

⁵ These include the high-profile assassinations of Lieutenant General Adolphe Nshimirimana, Colonel Jean Bikomagu, and senior members of the political opposition. The most recent attempted assassination on 11 September 2015 targeted the army Chief of Staff, Prime Niyongabo.

⁶ See e.g. Jeune Afrique, *Burundi : le gouvernement ne négociera pas « avec ceux poursuivis pour insurrection »*, 23 septembre 2015.

⁷ République du Burundi, Ministère de la Justice, *Commission d'enquête chargée de faire la lumière sur le mouvement insurrectionnel déclenché le 26 avril 2015*, Aout 2015.

⁸ Impunity Watch, *Burundi: La citoyenneté en crise*, Great Lakes Dispatches, Numéro 1, Aout 2015. Available at:

http://www.impunitywatch.org/docs/IW_Great_Lakes_Dispatches_%28Numero_1_-_Aout_2015%29.pdf

⁹ *Ibid.*

¹⁰ The most high-profile being against prominent human rights activist, Pierre-Claver Mbonimpa, on 3 August 2015.

¹¹ The Guardian, *Burundi opposition spokesman shot dead as violence escalates*, 8 September 2015.

¹² Amnesty International, *Burundi: Braving Bullets: Excessive Force in Policing Demonstrations in Burundi*, AFR 16/2100/2015, 27 July 2015.

¹³ Amnesty International, *Burundi: "Just Tell me What to Confess to". Torture and Other Ill-Treatment by Burundi's police and Intelligence Service Since April 2015*, AFR 16/2298/2015, 24 August 2015.

¹⁴ Deutsche Welle, *Troubled Burundi's new government*, 25 August 2015.

¹⁵ Impunity Watch, *Burundi: La citoyenneté en crise*, Great Lakes Dispatches, Numéro 1, Aout 2015.

¹⁶ UNHCR, *Update on UNHCR's operations in Africa*, 24 September 2015.

¹⁷ Deutsche Welle, *Uneasy neighbours: Rwanda and Burundi*, 28 August 2015.

¹⁸ Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, Mission to Burundi (8-16 December 2014)*, A/HRC/30/42/Add.1, 10 August 2015.

IMPUNITY WATCH

Impunity Watch is a Netherlands-based, international non-profit organisation seeking to promote accountability for atrocities in countries emerging from a violent past. IW conducts research into the root causes of impunity and obstacles to its reduction that includes the voices of affected communities to produce research-based policy advice on processes intended to encourage truth, justice, reparations and the non-recurrence of violence. We work closely with civil society organisations to increase their influence on the creation and implementation of related policies.

PEACE BEYOND BORDERS PROGRAMME

The 'Peace Beyond Borders' Programme is being implemented by a consortium of ten national and international organisations in the Great Lakes Region of Africa with multi-annual funding from the Netherlands Ministry of Foreign Affairs. The Programme aims to promote the transformation of conflicts in Burundi, the DRC and Rwanda through the adoption of a 'Roadmap to Peace' by a 'Virtual Regional Parliament' composed of 'Peace Brokers' elected to represent their communities. With the aim of incorporating the specific needs and priorities of women and young people, a 'Women's Agenda for Peace' and a 'Youth Agenda for Peace' have been developed based on a participatory action research approach. Within the Programme, Impunity Watch is responsible for coordinating the research activities and takes a leading role in the advocacy efforts of the Programme.

CONTACT US

Impunity Watch (Burundi)
Avenue Bweru n° 32 Rohero II
Bujumbura
Burundi
Tel: +257.22.275.923 /
+257.22.275.924

Impunity Watch (HQ)
't Goylaan 15
3525 AA Utrecht
The Netherlands
Tel: +31.302.720.313
Email: info@impunitywatch.org
www.impunitywatch.org

*** The views expressed in this report do not necessarily reflect those of the other consortium partners to the Peace Beyond Borders Programme.*



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