

## **BURUNDI: HOW SHOULD THE INTERNATIONAL COMMUNITY RESPOND?**

### **Testimony before the House of Representatives Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations**

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The elections cycle got underway in Burundi on June 29, when the election for the parliamentary bodies, the Senate and National Assembly, took place. A second round of elections was held on July 21, despite almost three months of protests and almost universal condemnation of the president and ruling party for going forward with the elections under the current circumstances. The present crisis began on April 28, when President Pierre Nkurunziza announced that he would seek a third term. Burundi erupted into a chaotic scene of street protests and violent police response, followed by an attempted military coup, refugee flows into neighboring countries, and gangs of youth roaming communities at night intimidating, threatening and even killing their fellow citizens. At least 90 persons have died, maybe more, and up to 160,000 refugees have left the country, most going to Tanzania and Rwanda. Many independent radio stations have been closed, even transmission towers destroyed, to limit the flow of news to Burundians, who receive almost all their information by radio or word of mouth.

The background to this situation is complicated, to say the least. Burundi, as all Africa watchers know, has a history of intercommunal violence, often revolving around elections, which began in 1972 and has accounted for as many as 450,000 deaths over those four decades and massive numbers of refugees and displaced persons. This violent past seemed to have come to an end after the signing of an internationally brokered peace agreement in Arusha, Tanzania, in 2001, a subsequent ceasefire in 2004, and peaceful elections in 2005 that brought Nkurunziza to power. Nkurunziza, who had been a university professor, led an armed group, the CNDD-FDD,<sup>1</sup> in rebellion against the sitting government for over a decade. The CNDD-FDD had not signed the Arusha Peace Accords, but did agree to the ceasefire in 2004 and transformed itself into a political party.

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<sup>1</sup> National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil national pour la defense de la democratie-Forces pour la defense de la democratie).

Despite the current turmoil, Nkurunziza had proved to be a popular president in the past. He was a master at old time populism, spending inordinate amounts of time in the countryside interacting with people, attending church, playing soccer - his favorite pastime - and joining in planting cassava and other crops with subsistence farmers. A Gallup Poll in 2011 that gauged the popularity of African heads of state listed Nkurunziza as the most popular on the continent, coming in with an 89% approval rating. This, despite the fact that his government had been ineffective, done little to create jobs or enhance revenue flows, and was massively corrupt. Even with irregularities at the polling places, violence, and opposition boycotts, he won reelection in 2010 with 91.62% of the votes cast. Few observers thought he would lose a free and fair election in 2015.

The question that prompted the protests and subsequent violence, however, was not on his popularity but whether or not Nkurunziza had the right to run under the Arusha Accords and subsequent constitutional term limits provisions. Even before he had announced his intention to run there was an outcry from almost every quarter that he should not, including the UN Special Envoy for the Great Lakes, the Secretary General of the UN, the European Community, the Africa Union, the East African Community, and individual governments like the United States. Even a group of “elders” from within the ruling party privately counseled Nkurunziza not to run.

In fact, this issue is a rather fine legal point. The Arusha Accords and the constitution, established after Arusha, both prohibit more than two terms for a president. But, the logic used by Nkurunziza and his supporters was that in 2005 he was not popularly elected. The vote was carried out on a party list basis and the CNDD-FDD got a majority in parliament. By procedures set by the Arusha Accords, the National Assembly then appointed the president. Nkurunziza was that appointee and became president. He had not, however, run for president and, therefore, had the right to run again for two terms via popular direct election.

The legal point is obviously murky and open to interpretation. Opponents state that the intention or “spirit” of the Arusha Accords and subsequent constitution was to limit a president to two terms no matter how he came into office. Nkurunziza supporters counter that the international community and the parliament had plenty of time to make that clarification into law, but did not. Therefore, with both sides having some rationale behind their views, this seems a legality that should have been left for the Constitutional Court to decide on its

constitutionality. So it was and the court ruled in favor of Nkurunziza having a third term. That should have been the end of the matter, at least legally, but the court's ruling was discredited when the vice president of the court fled the country and issued a statement that he and fellow justices had been threatened and coerced into the ruling by the government. A number of the "elders" who had advised against a third term, including the Second Vice President and the Speaker of the Assembly, have also fled in the fear of their safety.

The volatility of this issue had been known for years, with a formal "Situational Analysis" prepared in October 2013 for the United Nations Department of Political Affairs at the request of the Secretary General concluding that "should President Nkurunziza get an interpretation of the constitution that he feels justifies a third term, and choose to seek one, the likelihood of violent response increases immensely. An announcement to this effect would be a major flashpoint for violence even in his own party."

It is important to note that the response of street protests was not unique to Burundi. It is akin to what happened earlier in Senegal and Burkina Faso where presidents abrogated constitutional term limits and were met with public protest, and often met that protest with oppressive and deadly force. In each of these cases the president either was defeated at the polls (Senegal), or stepped down after extended public unrest (Burkina Faso). The protests in Burundi reflect the same growing demand found in many African countries for greater democratization and adherence to the rule of law. This represents a changing Africa, which has seen growing public protest since the end of the Cold War for greater adherence to constitutional norms, respect for human rights, and the accountability of their leaders.

It also reflects rising popular dissatisfaction with the continuing condition in which the people of Burundi find themselves. In fact, Burundi is one of the poorest countries on earth with one of the lowest levels of human development in the world, being at the bottom of Heavily Indebted Poor Countries (HIPC) standings, one of 39 countries so designated in 2015 by the International Monetary Fund. Approximately 80% of Burundi's population lives in poverty. Famines and food shortages occur frequently and, according to the World Food Program, 56.8% of children under age five suffer from chronic malnutrition. At \$420 per year, Burundi's per capita GDP is second-lowest in the world. Although Burundi's largest economic sector is agriculture (it accounts for 58% of national GDP), subsistence agriculture accounts for 90% of the agriculture base.

Commercial crops only constitute a tenth of agricultural output, predominately with the export of coffee. Low and unreliable electricity supply - less than two percent of Burundians have access to electricity and only 1.2 percent of the population use the internet - contributes to limited prospects for manufacturing and industry, thus stymying economic investment and growth. The Global Competitiveness Index ranks Burundi at or near the bottom of its country rankings for infrastructure, macroeconomic environment, technological readiness, business sophistication, and innovation.

Furthermore, inflation is a serious problem, with food and petrol prices rising and an inflation rate at 7.5% for 2015, down from an average of 14.5% in 2012. Add to this an unemployment rate that might run as high as 40% with no significant manufacturing or industry in this rural economy. Youth unemployment overall is probably near 60%. Land pressures are immense in a country that has one of the highest population densities in the world (396 persons per square kilometer of land as of 2013, the latest figures available) and has been facing the return of refugees and displaced persons from the earlier conflicts.

All of these elements, unemployment, rising prices, and abject poverty are a fact of life for the average Burundian and, combined with a government riven with corruption and inefficiency, and small arms leftover from the disarmament of the warring parties after 2004 still numbering between 100,000-300,000 in the countryside, provide the flashpoints for violence which have been in place for a long time. In fact, since the disputed elections of 2010, violence has been common throughout the country, to include politically motivated youth gangs intimidating opponents, grenades being tossed into public places frequented by adherents of one or the other of the political parties (one of the most egregious was in October 2011 in a bar-restaurant in Gatumba that left as many as 40 persons dead), and growing incidents of sexual violence. In fact, in early March 2015 there was a public strike over high fuel prices, telephone fees and food costs.

So, the outburst of protest in April was more remarkable for its lack of violence in the beginning, rather than the fact that it occurred. Violence became a factor only after police began using live ammunition against protesters. However, the political issue of the third term was a trigger, not the sole cause. Still, the international media too often casts any conflict in Burundi in historical terms as an Interethnic, inter-communal, majority Hutu versus minority Tutsi struggle without looking at the other, core causes, or investigating the changing

nature of ethnic relations in the country. In fact, while there are historical roots to the conflict, the one thing it is not, at present, is ethnically driven. While stability has eluded Burundi in recent years, the one positive outcome of the last 15 years since the signing of the Arusha Accords, has been a society that has largely overcome the ethnic divisions which had provided the fault line along which political rivalries of the past were played out.

Even though ethnicity is not the driving force behind these protests, the danger in Burundi for this conflict to take on ethnic dimensions is palpable and growing. Should the protests, termed “insurgency” by the government, keep escalating, the country is in danger of sliding into days of old when conflict in Burundi was divided along ethnic lines. A strong warning to this effect was issued during a recent visit in June by Adama Deng, UN Special Representative for Genocide. Over the radio, hate speech is beginning as elements in government are identifying predominantly Tutsi neighborhoods as the locus of the agitators. Imbonerakure, which are youth gangs from the ruling party, are terrorizing certain rural areas, intimidating opposition, threatening and even killing on occasion and their targets are primarily Hutu. Burundians, Tutsi and Hutu alike, live in fear. In the night, a knock on the door can mean disaster and many people now sleep outside or pretend not to be home to avoid victimization. It is important to note that little international coverage exists outside Bujumbura, and, although the capital city has been relatively calm of late, disturbing reports from individual Burundians in hotspots like Cibitoke, north of the city and Makamba province in the south of the country, show that intimidation and victimization is going on unchecked. But, the nexus of conflict is basically Hutu versus Hutu, with the most prominent challenger to Nkurunziza being Agathon Rwasa, leader of the FNL (National Liberation Forces), which is a Hutu group that had fought the former Tutsi-dominated government and army, as well as the CNDD-FDD, from which it had splintered during the war years.

Along with the possibility of this situation eventually evolving into a conflict along inter-ethnic, intercommunal fault lines as it was from 1972-2004, it also has profound implications for the Great Lakes Region. Already there are tensions among neighboring states Tanzania, Uganda and Rwanda over the different positions that have taken on Nkurunziza’s third-term bid and the attempted coup against him. These tensions could deepen if violence mounts and refugee flows continue. The possible staging or harboring of dissident forces opposing Nkurunziza in eastern Democratic Republic of the Congo (DRC) could reignite

open conflict there and further damage inter-state relations. Rumors are already rife that elements of the Banyamulenge in North and South Kivu in the DRC coming to support protesters against Nkurunziza. Fighting on July 10 in Kayanza province in northeast was reportedly between the army and dissident former army members who had supported the coup, were staging in the Kibera Forest, and were heavily armed.

With no sign of relenting on Nkurunziza's part, the international community is left standing on the sidelines now as the election process plays itself out. The parliamentary elections have finished, despite the opposition boycott and targeted violence during and after the polls. The CENI (the Independent National Elections Commission) issued a statement on July 2 that the vote was free, and had proceeded in a calm and peaceful manner with "no incidents reported" despite intimidation in certain quarters. The turnout, it said, was "massive" with 95% of registered voters casting ballots. The CNDD-FDD reportedly won 77 seats, government allied parties won 2 seats, and the boycotting opposition won 21 seats. However, because of constitution mandates on ethnic and gender percentages, the government held a conference on July 9 to determine who would take those seats and meet the percentage requirements, appointing some opposition candidates and replacing others with their own members. It is fair to say the CNDD-FDD now has almost complete control of parliament.

At present, Uganda President Yoweri Museveni has led a delegation to Burundi to try and launch an inter-party dialogue. As of July 17, the delegation, now led by the Defense Minister Crispus Kiyonga with Museveni's departure, has begun a dialogue to which opposition leaders like Agathon Rwasa and Charles Nditije have committed. Kiyonga has said he is committed to continue this effort until the parties have reached an accommodation on the future.

Presidential elections take place on July 22 and every indication is Nkurunziza will win those. He will have no opposition and continued intimidation in opposition areas will keep votes for other candidates from being cast. So, all international players will be faced with a probable post-election scenario similar to Kenya after the 2007 elections or Cameroon more recently, where violence occurred, elections irregularities were rife, and a president now sits in office despite an unsavory process and actions on his part. Will the world just accept it as business as usual, as was done with Cameroon, where, because of economic and security ties, the West has ignored a president who has been in power through rigged elections for 31 years and runs one of the most corrupt

governments in Africa? What avenues will be open to the Western governments and international institutions in response? Can they, with good conscience, stop developmental and humanitarian aid to the people to punish Nkurunziza? Will they push for sanctions a la Zimbabwe? Or, will they say business as usual? The world doesn't want to do the former and does not have to do the latter. Here are a set of responses that the international community should consider, even while maintaining diplomatic relations and keeping humanitarian aid flowing.

1. Push publicly and strongly for upholding democratic principles, the rule of law, freedom of the press, an independent judiciary and an independent election commission.

2. Revive and strengthen efforts by local NGOs, community groups and religious organizations to prevent mass violence associated with elections opponents and ethnic conflict that may emerge from the current crisis. Re-start efforts to promote reconciliation and peace efforts across political, community, sub-regional, religious and ethnic lines, efforts that proved very effective in the lead-up to the 2005 elections.

3. Mobilize greater international attention to the rising political and ethnic threat that Burundi represents to the country and the region. While still a remote possibility, the international community should monitor events with an eye to genocide prevention.

4. Strongly encourage regional states to not engage in activities that will further destabilize Burundi or provoke greater political or ethnic conflict there or in the region more broadly.

5. Make it clear that President Nkuranziza and his closet political associates that they have violated international agreements and norms in their actions and that they bear the greatest responsibility for the current political crisis. They will be held responsible by the international community for any breakdown in any law and order or any mass violence that has occurred as a result of their political actions.

6. There should be no immunity from violent deeds by youth militias like Imbonerakure, the police, or any other party that has engaged in violence and loss of life. Establishing a Truth and Reconciliation Commission should be urged as a priority.

7. It is important to realize that this crisis did not catch the world unaware. Since 2008, when preparations began for the 2010 elections and in subsequent years as they were underway for 2015, international funding for democracy and governance (D&G) support, reconciliation and peace building has fallen away dramatically. The US embassy had no D&G funds in its budget for the years 2010-2014. The work with political party reconciliation, leadership development and the integration and capacity building of the armed forces command that had occurred between 2002-2008, was discontinued. We cannot ignore the preparation and lead-up to the next elections cycle in 2020 as we have done for the last two.

8. Burundi's role in international peacekeeping in Somalia, the Central African Republic, Cote d'Ivoire, Sudan and Haiti, where it has over 7,200 troops committed, nearly one fifth of their standing National Army –has been a laudable contribution to international peace and order. However, Burundi is reimbursed by the UN \$1,028 for each soldier deployed, or a return of \$45 million annually, along with the salaries of \$750 a month received directly by the soldiers. The Burundian government should be warned that mass violence in Burundi and any human rights perpetrated by their security forces domestically could jeopardize their ability to serve in future peacekeeping operations.