

Elections in Burundi: Moment of Truth

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Executive Summary

The elections scheduled to take place between the end of May and August 2015 will be decisive for Burundi. The future of the present rulers (President Pierre Nkurunziza considers running for a third term) and, more importantly, the upholding of the 2000 Arusha agreement as the foundation for peace, are at stake. Popular protests and the precedent set by the fall of Burkina Faso's president suggest street confrontations will take place if President Nkurunziza decides to impose his candidacy. The return to violence would not only end the peace progressively restored since the Arusha agreement, it would also have destabilising consequences in the region and mark a failure in peacebuilding. To avoid this scenario, Burundi's partners, who have already expressed their concerns, should increase their involvement in the electoral process and prepare a gradual response depending on how inclusive the process will be.

With the upcoming congress of the ruling party, which is supposed to decide on its presidential candidate, and the 26 May legislative and local elections only a few weeks away, tension is rising and prospects for free and fair polls are slimmer by the day. While preparatory meetings held in 2013 and the return of opposition leaders to the country raised hopes of an electoral process based on dialogue between the regime and the opposition, there are increasing signs of a looming electoral crisis. The partisan use of state institutions, exactions committed by youth militia (the Imbonerakure), the lack of confidence in the Independent National Electoral Commission (INEC), strategies by the regime to reduce the inclusivity of the electoral process and the president's will to run again exacerbate tensions. The opposition wants revenge after its defeat in the 2010 polls, but it remains uncertain if its leaders will be allowed to contest the elections.

The prospect of a third term for President Nkurunziza calls into question the preservation of peace in Burundi. The president is risking it all by trying to force his name on the ballot, against the Catholic Church, civil society, a fraction of his own party and most external partners. The opposition's survival is at stake and the security forces are unsure how to react in case of violent crisis. The situation is much more serious than the failed 2010 elections: what lies behind this new electoral cycle is the upholding of the Arusha agreement as the foundation of Burundi's regime.

International actors are aware of the stakes and risks associated with the upcoming electoral cycle, and some neighbouring countries are closely monitoring the situation. The UN High Commissioner for Human Rights, the Tanzanian president, Belgian ministers and the UN Security Council recently came to Bujumbura; the Burundian president and his Rwandese counterpart met in Rwanda and a UN electoral mission (MENUB) was sent in early 2015. As some Burundians flee to Rwanda, the country's relapse into violence would be a pitiful outcome for the guarantors of the Arusha agreement and could fuel regional crisis. The reaction of Burundi's partners – especially the guarantors of the Arusha agreement – is not commensurate with the gravity of the situation. They must urgently mobilise sufficient resources and will have to get more involved to prevent rising tensions between supporters of the president and of the opposition and to avoid confrontation in the streets.

Recommendations

To improve the electoral process

To the ruling party:

1. Announce its support to an inclusive electoral process during its next congress and refrain from using any belligerent rhetoric.

To the Independent National Electoral Commission (INEC), political parties and civil society organisations under the auspices of MENUB:

2. Negotiate an agreement on the methodology and a realistic timeframe to improve the reliability of the voter rolls.
3. Guarantee unlimited access to national, provincial and local electoral commissions by party representatives and candidates and by observers throughout the compilation of results.

To international partners, in particular the European Union and the African Union:

4. Appoint high-level political figures who are well known by Burundian and regional actors at the head of their observation missions.
5. Create a coordination mechanism gathering all international electoral observation missions, under the joint supervision of the African Union (AU) and European Union (EU), in order to avoid duplicating efforts or sending contradictory messages and to guarantee maximum coverage of polling stations.
6. Increase donor support to Burundi's civil society to help it properly monitor the electoral process and polling stations, pay careful attention to hate speech and ethnic rhetoric as well as risks of escalating violence and intimidation.

To the INEC:

7. Publish the list of the candidates for each election on its website and in the official journal.
8. Publish on its website and disseminate through radios the detailed results of each polling station and keep all the information featured on the reports issued by each polling station.

If President Nkurunziza runs for a third term

To international partners, and especially to the UN Security Council:

9. Task the UN special envoy for the Great Lakes Region to negotiate a suspension of protests with the opposition and the ruling party, remind them of their commitments to a peaceful electoral process and encourage the return of Burundians who fled to Rwanda.

10. Create a group of friends of the Arusha agreement, gathering the guarantors of the agreement and the countries that are concerned with Burundi's stability, to call on all Burundian political parties to reaffirm their commitment to the Arusha principles.
11. Inform the heads of the Burundian security services that repression against the population will lead to an investigation by the International Criminal Court (ICC), a reduction or a suspension of U.S. and European military and police cooperation programs, a visa ban and the blacklisting of those officers involved in repression to serve in AU and UN peacekeeping missions.
12. Reinforce the human and financial capacities of the Office of the High Commissioner for Human Rights so that it can provide significant support to Burundian organisations monitoring human rights violations before, during and after the elections.

To the opposition:

13. Challenge the validity of President Nkurunziza's candidacy before the East African Community's Court of Justice in light of EAC constitutive principles.

If some opposition leaders are excluded from the electoral competition

To the opposition:

14. Introduce a submission to the INEC and the Constitutional Court.

To the group of friends of the Arusha agreement:

15. Organise without delay a roundtable in Bujumbura with the ruling party and the opposition to agree on a consensual and inclusive solution.

To the International Criminal Court:

16. Publish a communiqué warning that the prosecutor will investigate any electoral violence.

To Belgium and the Netherlands:

17. Withhold their last financial contribution for the elections.

To the EU:

18. Switch from reinforced political dialogue to the consultations provided for in Article 96 of the Cotonou Agreement. If they are not conclusive, consider the suspension of its institutional assistance.

Nairobi/Brussels, 17 April 2015

Elections in Burundi: Moment of Truth

I. Introduction

After the opposition boycott of the electoral cycle in 2010, Burundian politics has gone through a difficult period. The dialogue between the government and opposition during President Nkurunziza's first term in office (2005-2010) ended, opposition leaders went into exile and there was a crackdown on opposition militants. The 2010 elections were technically a success but a political failure that has, to a greater extent, influenced the current electoral cycle.¹ Despite the creation of an opposition platform, the Alliance of Democrats for Change (ADC-Ikibiri), political dialogue was de facto interrupted during President Nkurunziza's second term.² President Nkurunziza's second term proved to be a setback for democracy, with his authoritarian government characterised by targeted repression, the restriction of political freedoms, political intolerance and increased corruption.

Even more serious, the conduct of his government raised questions about its commitment to the power-sharing Arusha agreement between the Hutu and Tutsi elites that ended a long civil war in the year 2000. That agreement has been gradually deconstructed: abortive attempt to change the constitution, the decision to ignore the idea of the special tribunal as part of the transitional justice process, creation of a fictitious opposition, manipulation of institutions, change to land policy, etc. By trying to monopolise institutions, the government lost its legitimacy in the eyes of Burundians, and by failing to respect the Arusha agreement, which was the result of the hard combined efforts by Tanzania, South Africa, the EU, the AU and others, it lost its legitimacy in the eyes of the international community.

The need to prepare the electoral cycle of 2015 in a peaceful climate provided an opportunity to make a fresh start, allow opposition leaders to return from exile and renew political dialogue. Unfortunately, although elections are scheduled to take place between May and August 2015, an undeclared confrontation dominates the mindset of protagonists.³ The government's drift toward authoritarianism and the president's decision to seek a third term has provoked resistance from most of the population,⁴ civil society, the opposition and his own party. Since the Catholic Church, which enjoys the allegiance of more than 60 per cent of the population, has openly opposed a third term, there no longer seems to be anyone to mediate between the president

¹ See "Closing Doors? The Narrowing of Democratic Space in Burundi", Human Rights Watch (HRW), November 2010 and "You will not have peace while you are living: the escalation of political violence in Burundi", HRW, May 2012.

² For more on political developments since the 2010 elections, see Crisis Group Reports N°169, *Burundi: From Electoral Boycott to Political Impasse*, 7 February 2011; N°185, *Burundi: a Deepening Corruption Crisis*, 21 March 2012; N°192, *Burundi: Bye-Bye Arusha?*, 25 October 2012.

³ The Burundian electoral cycle takes place over four months (from the end of May to the end of August) and includes five elections (in order: legislative and communal on 26 May, presidential on 26 June with the second round on 27 July, senatorial on 17 July and local in August). Decree 100/71 of 27 March 2015 on elections for communal councils, deputies, the president of the republic and senators, presidential cabinet, Bujumbura, 27 March 2015.

⁴ A poll taken in 2014 found 62 per cent of Burundians against a third term, up from 51 per cent in 2012. Round 3 of the Afrobarometer Survey in Burundi, Bujumbura, January 2015.

and his allies and opponents of a third term. Against a background of popular resistance to African government attempts to extend their period in office (Burkina Faso in 2014, the Democratic Republic of Congo (DRC) in January 2015) and growing socio-economic discontent, the moment of truth represented by these elections risks turning into a violent confrontation.

II. Electoral Tension and International Concern

A. *A Crescendo of Electoral Tension*

1. A start to political dialogue

The approach of the 2015 elections has witnessed renewed calls by Burundian politicians and international circles for a resumption of the political dialogue that came to a halt in 2012. International actors, especially the UN Office in Burundi (BNUB), have played a decisive role in attempts to begin a dialogue. The BNUB has worked hard to this end and has insisted on the need for a consensual approach to the organisation of the next electoral cycle.

After a preliminary meeting in Switzerland in 2012,⁵ the BNUB organised a workshop for political partners in Bujumbura on 11-13 March “to discuss the lessons learned from the 2010 elections and agree a roadmap for the 2015 elections”.⁶ This initiative aimed to encourage a new spirit of cooperation among political forces and had two results: firstly, opposition leaders were allowed to return to the country⁷ and, secondly, it allowed the government and the opposition to publicly renew dialogue on a subject of common interest for the first time since 2010: the next electoral cycle. The practical outcome of this meeting was a 42 point roadmap on the 2015 elections in Burundi adopted by consensus in 2013. It contained recommendations seeking to create a secure environment favourable to the holding of free, transparent and fair elections in 2015. The recommendations recognised the right of all political parties to conduct their activities unhindered, proscribed violence and the manipulation of young members by political parties and emphasised the importance of reunifying divided political parties.⁸

2. An arena of confrontation

Unfortunately, at the end of 2014, electoral dialogue became a dialogue of the deaf, between, on the one hand, the Independent National Electoral Commission (INEC) and the government and, on the other, opposition political parties and civil society. Far from being consensual, the electoral process has become an arena of confrontation that has created a pre-electoral climate even worse than in 2010.⁹

⁵ Switzerland has a development cooperation agreement with Burundi. See Crisis Group Report, *Burundi: Bye-Bye Arusha?*, op. cit.

⁶ This was the workshop’s title.

⁷ Notably Alexis Sinduhije, Pascaline Kampayano and Agathon Rwasa. Alexis Sinduhije is president of an opposition party, the Movement for Solidarity and Development (MSD). Pascaline Kampayano was the candidate of the Union for Peace and Development Party (UPD) in the 2010 presidential election. Agathon Rwasa is the historic leader of the National Forces of Liberation (FNL) which received the second highest number of votes in the 2010 communal elections. He claims to be the president of the party but the interior ministry does not recognise him as such. See Section B.2.

⁸ “Eléments d’une feuille de route vers 2015”, Articles 4, 9, 25 and 29, 13 March 2013. Participants agreed to meet on a quarterly basis in the pre-electoral period to assess progress with the roadmap. Four meetings have already been held, on 27 November 2013, 20 May 2014, 16 October 2014 and 23 October 2014.

⁹ “Burundi: échec de la réunion d’évaluation préalable au scrutin de 2015”, Radio France internationale (RFI), 24 October 2015.

The lack of confidence in the electoral process ...

Under fire from critics from the moment it was formed, the INEC is no longer inclusive and is seriously discredited.¹⁰ The reappointment of Pierre Claver Ndayicariye and Prosper Ntahogwamiye, respectively as president and spokesperson, in December 2012, was badly received by the opposition. It associates them with the 2010 electoral cycle, when it denounced irregularities and has been calling on them to resign since the registration of voters at the end of 2014. The opposition accuses the Independent Provincial Electoral Commissions (CEPIs) and Independent Communal Electoral Commissions (CECIs) of not being representative and has challenged the selective distribution of identity cards, the registration of electors and the new electoral boundaries.

Although the composition of the CEPIs and CECIs is supposed to reflect political diversity, the opposition is not represented on them. The opposition claims that many members of the civil society purportedly representing the opposition are in fact close to the governing party. The Corruption and Financial Embezzlement Observatory (OLUCOME), one of Burundi's most important civic organisations and the parties of the ADC-Ikibiri coalition decided in December 2014 to withdraw from the CEPIs and the CECIs in protest.¹¹ Even though the INEC is still convening meetings between the protagonists in the electoral process, this withdrawal compromised the inclusiveness and impartiality of electoral preparations.

Voter registration has been a decisive factor in discrediting the INEC. Even before registering voters in December 2014, representatives of the opposition parties Frodebu-Nyakuri and the Movement for Solidarity and Development (MSD) denounced the alleged distribution of identity cards to National Council for the Defence of Democracy (CNDD-FDD) members.¹² Accusations of fraud intensified during voter registration to the extent that many opposition parties collectively called it to be annulled. The government rejected this request but recognised "irregularities" in the process.¹³ Moreover, only 3,694,859 electors were registered, while the INEC has been aiming to register 4.2 million.

In response to the avalanche of criticism (school head teachers arranged for their pupils to go to registration centres; voters were registered on presentation of their identity card without being physically present; other voters were registered without presenting an identify card, etc.),¹⁴ the INEC finally organised a meeting to evaluate the registration process on 29-30 January 2015. The governing party said it had distributed identity cards to facilitate the registration of its members in rural areas.¹⁵ As a concession and under pressure from foreign partners, the INEC agreed to a partial

¹⁰ Unlike electoral experts and civil society associations involved in the electoral process, the INEC has not responded to Crisis Group requests for an interview.

¹¹ "Burundi: les partis de l'ADC-Ikibiri se retirent des démembrements de la CENI", Xinhua, 1 December 2014.

¹² "Distribution de cartes d'identité en cachette dans la province Kirundo", Bonesha FM, 21 August 2014.

¹³ Letter from the opposition parties to the president of the INEC, 10 December 2014. "Burundi: le gouvernement admet des irrégularités dans le processus électoral", Voice of America, 1 December 2014.

¹⁴ "Rapport de l'observation de l'enrôlement pour les élections de 2015", Bishops' Synergy Commission Justice and Peace (CEJP)/Civil Society Coalition for Election Observation and Monitoring (COSOME). Crisis Group interview, member of COSOME, Bujumbura, March 2015.

¹⁵ Crisis Group interview, CNDD-FDD official, Bujumbura, March 2015.

reopening of registration, as long as it did not affect the electoral timetable.¹⁶ However, it rejected other requests from the opposition and civil society, such as the use of ultra-violet lamps to detect indelible ink on the fingers of electors.¹⁷

In addition, the authorities created a new province in March 2015 and reduced the number of communes in Bujumbura from thirteen to ten in December 2014.¹⁸ These changes to constituencies right in the middle of the electoral process must be taken into consideration by the INEC and seem to have been aimed at opposition strongholds. In fact, the new province of Rumonge combines communes from the province of Bururi and Bujumbura rural, two areas where the opposition has a strong presence. In addition, the city of Bujumbura is dominated by the opposition.¹⁹

Although ignored by the authorities, the challenge to the representative nature and neutrality of the key electoral institution, the INEC, has increased the tension and cast doubt over the preparation of the electoral roll. The timetable for organising the elections is extremely tight and the period set aside for “cleaning up” the electoral roll seems insufficient.²⁰ Many opposition activists believe the legitimacy of the forthcoming elections is already compromised.

Street protests and the threat of riots

The rising tide of dissent at the electoral process is accompanied by street protests and the exchange of threats between the government and the opposition, in a context of socio-economic stagnation and opposition from the Catholic Church.

In March 2014, the first opposition demonstration resulted in a violent confrontation between MSD supporters and the security forces. An arrest warrant was issued against the MSD's leader, Alexis Sinduhije, who went into hiding. The interior minister suspended the MSD for four months on charges of insurrection. This confrontation set the tone for relations between the opposition and the interior minister. The latter and the mayor of Bujumbura insist that the security forces will treat all unauthorised demonstrations as insurrection.²¹

Nevertheless, the biggest demonstration in Bujumbura, which was for the release of the journalist Bob Rugurika in March 2015, the pro-government counter-demonstration that followed, the CNDD-FDD's demonstration on 11 April 2015 and Agathon Rwasa's arrival at court with his supporters show there is still space for organising demonstrations without provoking a violent response from the security forces.²²

¹⁶ This meeting decided that the provisional electoral roll should be displayed for seven days and that registration would be reopened for three days. Only passports and identity cards would be accepted. “Stratégie de mise en œuvre de la réouverture partielle de l'enrôlement des électeurs”, INEC, 30 January 2015.

¹⁷ Crisis Group interviews, COSOME official, members of the opposition, Bujumbura, March 2015.

¹⁸ “Rumonge est désormais la 18ème province du Burundi”, IGIHE, 3 March 2015. “Burundi: Désormais Bujumbura Mairie compte 3 communes”, AG News, 18 December 2014.

¹⁹ A poll conducted in 2014 found that 82 per cent of people questioned were opposed to a third term for the president, while the percentage fell to 59 per cent in rural areas. Round 6 of the Afrobarometer Survey in Burundi, Bujumbura, January 2015. Crisis Group interviews, electoral expert, members of the opposition, Bujumbura, March 2015.

²⁰ Crisis Group interview, electoral expert, Bujumbura, March 2015.

²¹ “Burundi: le gouvernement durcit le ton après une manifestation contre Nkurunziza”, *Jeune Afrique*, 20 February 2015. “Le combat des manifs”, Iwacu, 6 March 2015.

²² A spontaneous demonstration in support of Bob Rugurika was attended by about 10,000 people. Crisis Group interviews, journalists, members of civil society, Bujumbura, March 2015; “Burundi: une foule inédite pour accueillir le journaliste Bob Rugurika”, RFI, 19 February 2015; “Burundi: le

Each demonstration sends a message to the opponent and indicates an accumulation of forces for, or perhaps against, the elections.²³

There has been an increase in the number of spontaneous acts of resistance against the police, illustrating the Bujumbura population's irritation and refusal to accept the imposed order. In response to the arrest of a student leader, a group of students went to the police station where he was detained and forced his release. In Bujumbura's main market, police officers are sometimes faced with hostile crowds and any intervention runs the risk of provoking a riot.²⁴ Since 2013, the social and economic crisis that fuels popular exasperation has been denounced by a group of organisations and trade unions that have made strong protests against corruption, new taxes and the increase in the cost of living. The most recent protest was in March 2015.²⁵

This increase in popular resistance is echoed by the Catholic Church, which remains very influential and has publicly disavowed the government's temptation to prolong its stay in power.²⁶

B. *The Off-side Trap*

Since the start of the electoral process, the government has tried to put the opposition out of the game by resorting to several simultaneous strategies. All of them seek to restrict the political space and their common denominator is a partisan use of state institutions.

1. Neutralisation by the judiciary

The neutralisation of the opposition by the judiciary represents a threat to the main opposition leaders. On 12 August 2014, the INEC spokesperson declared that, during the 2015 elections, it will not accept the candidacies of party leaders who are subject to legal proceedings. However, although the electoral code states that the papers presented by candidates for the presidential, legislative and senatorial elections must include a judicial attestation, they are not required to have no criminal record.²⁷ A short while after the statement by the INEC spokesperson, a Supreme Court spokesperson declared, on 20 August, that no legal attestation will be issued to anyone subject to legal proceedings.²⁸ However, the electoral code makes no mention of this. These statements have caused turmoil in the ranks of the opposition, which has in-

pouvoir organiser une contre-manifestation pour la paix", Agence France-Presse (AFP), 28 February 2015; and "Burundi: 10 000 personnes rassemblées à Bujumbura à l'appel du parti au pouvoir", *Jeune Afrique*, 11 April 2015. For more on Agathon Rwasa's summons to court, see the chapter on the manipulation of the judiciary.

²³ Crisis Group interviews, members of the opposition, Bujumbura, March 2015.

²⁴ Crisis Group interview, member of civil society, Bujumbura, March 2015.

²⁵ "Dialogue social sur la vie chère au Burundi", PANA, 29 March 2015; "Burundi: un collectif contre la vie chère se monte pour dénoncer de nouvelles taxes", RFI, 23 July 2013. "Les ménages de Bujumbura tirent le diable par la queue", *Iwacu le magazine*, dossier "Le Burundi a faim", January 2015.

²⁶ In a pastoral letter read out in all the country's churches, the clergy denounced presidential attempts to secure a third term. State radio suspended broadcasting of mass on the following weekend. Crisis Group interview, bishop, Bujumbura, March 2015. "Préparons les élections pour promouvoir la paix et la réconciliation", Conference of Catholic Bishops of Burundi, 6 March 2015. "Au Burundi, l'église catholique, épine dans le pied du président Nkurunziza", AFP, 29 March 2015.

²⁷ See Articles 101, 131 and 162 of the electoral code.

²⁸ Statement by the Supreme Court spokesperson on Radio Bonesha, 20 August 2014.

terpreted them as the first stage in a strategy to exclude the main opposition leaders, who are all subject to legal proceedings.²⁹

Following the EU's request for clarification in March, this threat to the opposition seems to have receded for the moment. The EU insists on an inclusive electoral process and the Burundian authorities have indicated that "all defendants remain eligible until a sentence has been pronounced".³⁰ In a context in which it is still a battle to preserve the independence of the judiciary, these judicial questionings of the opposition illustrate the criminalisation of political discourse and the government's manipulation of certain crimes, such as incitement of hatred or breaching the security of the state, to neutralise the opposition.³¹ This manipulation of the justice system has prompted some to counter-attack using the same method by recalling the CNDD-FDD's activities during the civil war.³²

2. A strategy to divide the political movements: "Nyakurisation"

The division of political movements is not new in Burundi, but it has become more pronounced during President Nkurunziza's two terms in office in the ranks of the opposition and recently affected the governing party, Uprona.³³ Opposition political parties and groups suspect the interior minister, who is responsible for officially recognising parties, to be behind a series of splits and dissidences of doubtful spontaneity. This divide and rule strategy exploits the personal and political differences in opposition political parties, weakens them and has led to some opposition leaders becoming independent candidates, thereby reducing their room for manoeuvre during the elections.

The Front for Democracy in Burundi (Frodebu) officially split in two in 2008. The new wing, called Frodebu-Nyakuri (the "genuine" Frodebu), is led by a former party leader and former president of the National Assembly, Jean Minani. The phenomenon of splitting (called "Nyakurisation") also affected the Union for Peace and Democracy (UPD)-Zigamibanga, led by Zedi Feruzi, which divided into two wings, until its official reunification in January 2015.³⁴

In addition, the FNL split in 2010. Shortly before the 2010 elections, the FNL-Iragirya Gahutu (also called the FNL-Nyakuri) appeared. In July 2010, Emmanuel Miburo, one of the lieutenants of Agathon Rwasa, who was then still leader of the movement, formed an alliance with Jacques Bigirimana, current president of the

²⁹ See Appendix B.

³⁰ EU-Burundi government press release, Bujumbura, 5 March 2015.

³¹ The human rights activist, Pierre Claver Mbonimpa, was arrested for violating the state's internal and external security. The president of the bar association, Master Isidore Rufyikiri was disbarred from the Bujumbura Bar in January 2014 after denouncing the "drift toward dictatorship"; and the president of the magistrates' union of Burundi was suspended by the justice minister. Crisis Group interview, magistrate, Bujumbura, March 2015. Report of the UN Secretary-General to the Security Council, UNSC S/2015/36, 19 January 2015, p. 8. "Le bâtonnier de Bujumbura radié pour avoir dénoncé une "dérive dictatoriale" au Burundi", *Jeune Afrique*, 29 January 2014. "Burundi: HRW inquiète après l'arrestation de Pierre Claver Mbonimpa", RFI, 19 May 2014.

³² FNL statement about political manipulation of the massacres of Congolese in Gatumba in August 2004, Bujumbura, 21 November 2014.

³³ All the old parties, including the Frodebu, and the more recent ones, such as the FNL, the CNDD and the Palipehutu, have undergone splits that have given birth to a rival movement. For more details, see "Burundi: scissions des partis de l'opposition à l'approche du scrutin de 2015", Anadolu Agency, 9 December 2014.

³⁴ "UPD-Zigamibanga se réunifie", Iwacu, 19 January 2015. "Nyakuri" means genuine in Kirundi.

branch of the FNL recognised by the government, in order to remove Agathon Rwasa during his absence from the country and replace him as head of the movement. The interior minister recognised Agathon Rwasa's replacement by new leaders, which left him without a party. Since then, Agathon Rwasa has constantly demanded that the party be restored to him.³⁵

Charles Nditije and the Uprona have been in a similar situation since the mini-governmental crisis of 2014, which led to the replacement of the deputy prime minister and Uprona ministers by a new team.³⁶ Although it is a partner of the CNDD-FDD in the government, the Uprona was also the victim of a split in 2014 between factions led respectively by Concilie Nibigira and Charles Nditije. The government exploited the growing internal tension between supporters of collaboration with the CNDD-FDD and those who are opposed to the views of the governing party on several issues (revision of the constitution, transitional justice, land restitution, etc.) in order to replace the Uprona team in the government with a more conciliatory team and to deprive Charles Nditije of the party leadership. The split of the Uprona and Charles Nditije's replacement by Concilie Nibigira at the head of the historic party of independence led to the resignation of the deputy prime minister and the Uprona ministers as well as the neutralisation of a Uprona faction hostile to the government.

Whatever the party, the "nyakurisation" technique is always the same: a faction contests the legitimacy of the election of its leaders and is recognised by the interior minister. The government is using this tactic to try and create a bogus opposition with which to "share" state institutions in accordance with the Burundian power-sharing system.

At the electoral level, the government aims to reduce the political influence of certain opponents. Charles Nditije and Agathon Rwasa, two of the main opposition leaders, are today called "political actors" and the interior minister never misses an opportunity to state that they can only stand for election as independent candidates. Without a party, they do not have the right to hold meetings or organise campaign structures. The authorities recently banned a press conference on these grounds.³⁷ Political actors are invited to INEC meetings but they cannot form a coalition and present joint lists at communal and legislative elections.³⁸ It can take up to a year to form a new party.³⁹ Given that it is rare for officials to take the risk of authorising ADC-Ikibiri activities and that Charles Nditije and Agathon Rwasa cannot act as party leaders, the opposition's political space is small. Moreover, attempts to reunify the Uprona and the FNL have all failed due to government pressure.⁴⁰

³⁵ Crisis Group interview, FNL official, Brussels, December 2014.

³⁶ While at the head of the Uprona, the historic party of independence and partner of the CNDD-FDD in the government, Charles Nditije publicly expressed his disagreement with government decisions and implicitly raised the question of whether the Uprona might be better to withdraw its participation in the government as a minority party whose views are ignored. Crisis Group interview, member of the Concilie Nibigira wing of Uprona, Bujumbura, March 2015. "Qui veut la peau de Nditije?", Iwacu, 20 January 2014. "Uprona: pas de congrès avant la fin des élections de 2015", Iwacu, 29 July 2014.

³⁷ Crisis Group observation at the Maison de la presse, Bujumbura, 12 March 2015.

³⁸ Crisis Group interviews, opposition leaders, Bujumbura, March 2015.

³⁹ Crisis Group interview, electoral expert, Brussels, December 2014.

⁴⁰ A group of ambassadors tried to unite the two factions of the Uprona. An attempt to reunify the FNL in February failed at the last minute. Crisis Group interviews, members of the opposition, diplomats, Bujumbura, March 2015.

3. Party violence and state violence

In this pre-electoral period, the difference between party violence and state violence seems dangerously blurred. Although the BNUB has noted a reduction in the number of political incidents involving the Imbonerakure, the governing party's youth wing, during the second half of 2014, the intensity of the violence seems to be increasing and those responsible are never punished.⁴¹

The violence takes the form a campaign of intimidation that seems to target certain communes and has caused some Burundians to flee to Rwanda.⁴² In addition to intimidation and extortion, the way in which security forces and governing party youth movements act together gives cause for concern. There are reports that the government has distributed arms to its youth wing, provided them with paramilitary training⁴³ and, more recently, used them in an operation against a rebel group in Cibitoke on the border with the Democratic Republic of Congo (DRC). This was an extremely brutal military operation in reprisal for an attack by an armed group at the end of December 2014. Conducted in the utmost secrecy, the operation involved many extrajudicial executions (at least 95 rebels are reported to have been killed, of which at least 47 were executed).⁴⁴ After presenting this operation as a warning to armed groups, the Burundi authorities set up a commission of inquiry in February 2015 following international pressure.⁴⁵ Recent targeted attacks against the members of well-known opposition figures also form part of the campaign of intimidation and have heightened pre-electoral tension.⁴⁶

There is a growing gap between the government's discourse and the real situation. The opposition, the media and civil society continue to denounce human rights violations, while the administration and the police hinder party activities. The government's commitment to international partners "to establish a secure environment that will protect all political actors and facilitate their activities, as well as the free participation of the population in the electoral process" seems to be empty rhetoric.⁴⁷

⁴¹ In the second half of 2014, there were an average of three incidents per month involving the Imbonerakure. Report of the UN Secretary-General to the Security Council, op. cit.

⁴² "Burundi: des bandes d'hommes armés de machettes sèment la terreur", RFI, 9 November 2014. "Gihanga: des attaques répétées inquiètent la population", Iwacu, 18 March 2015. "Burundian refugees in Rwanda reject repatriation", AllAfrica, 6 April 2015.

⁴³ Following the release of a statement by the BNUB commenting on reports of the distribution of arms and paramilitary training for the Imbonerakure, several media and non-governmental organisations, including the Burundian Association for the Protection of Human Rights and Detainees (APRODH), affirmed that members of the Imbonerakure were undergoing paramilitary training near Kiliba-Ondes, in eastern DRC. "Des Imbonerakure sont-ils en RDC?", Iwacu, 19 May 2014.

⁴⁴ Crisis Group interviews, member of the security forces, journalist, Bujumbura, March 2015. "Burundi: summary executions by the army, police", press release, HRW, 12 February 2015.

⁴⁵ "Commission d'enquête judiciaire sur Cibitoke", Isanganiro, 13 February 2015.

⁴⁶ A general's wife and Agathon Rwasa's wife have been attacked in Bujumbura. Crisis Group interview, member of the security forces, Bujumbura, March 2015. "Burundi: tentative d'assassinat", BBC, 15 March 2015.

⁴⁷ According to the roadmap: "Eléments d'une feuille de route vers 2015", Article 30, 13 March 2013.

C. *Elections Under High Surveillance*

Preparation of the elections is a long way from going unnoticed: in addition to European funding of the electoral process, many international actors are involved, including the guarantors of the Arusha agreement and the region's countries. International actors have therefore made arrangements to support and monitor the elections.

1. A tense dialogue with the major donor

INEC estimated the cost of the electoral cycle at \$63 million and foreign partners will cover half that sum. The usual system has been put in place: donors, with the Europeans in the first rank, will contribute to a fund managed by the UN Development Program (UNDP).⁴⁸ The EU has promised to contribute €8 million, Belgium €4 million and the Netherlands €3 million. France, Switzerland and Germany will make symbolic contributions. The U.S. has made public its opposition to a third term for President Nkurunziza, but will also fund the electoral process,⁴⁹ and the UNDP will raise a further \$1 million.⁵⁰ Aware of the tensions and the high risk of electoral fraud, the Netherlands and Belgium have decided to fund the process in instalments.

In accordance with Article 8 of the Cotonou agreement and especially following the increase in tension, the EU and Burundi began a political dialogue at the start of President Nkurunziza's second term in office. This dialogue takes the form of more or less quarterly meetings between the EU ambassadors and the government. The dialogue has become more intense since 2014 following the deterioration in the political situation and the European Parliament resolution on the arrest of the APRODH president.⁵¹ Meetings are now held every month and focus on the elections, with the EU insisting on an inclusive electoral process.⁵²

2. Supervision and observation arrangements for the electoral cycle: a sign of the international community's concern

The UN and other international actors are gradually putting into place arrangements for accompanying and observing the elections. The UN is taking responsibility for mediation, while others are preparing electoral observation missions.

⁴⁸ Crisis Group interviews, diplomats, Bujumbura, March 2014.

⁴⁹ American support for the electoral process is channelled through NGOs that are engaged in capacity building activities for the INEC and that support Burundian civic education associations and monitoring. Crisis Group interviews, members of NGOs and USAID, Washington, March 2015.

⁵⁰ The Special Envoy for the Great Lakes Region, Russ Feingold, reiterated the organisation's opposition to a third term for President Nkurunziza at the end of the mission at a press conference held at the American Peace Institute on 24 February 2015 in Washington.

⁵¹ European Parliament resolution of 18 September 2014 on Burundi, in particular the case of Pierre Claver Mbonimpa (2014/2833(RSP)). Article 8 of the Cotonou agreement provides for political dialogue between the EU and all African, Caribbean and Pacific (ACP) states, on specific issues of mutual concern or of general interest as set out in the agreement and encompasses a regular assessment of the agreement's main elements (human rights situation, democratic principles, the rule of law and good governance). Article 8 also provides for "strengthened political dialogue" in order to prevent situations arising in which one party might deem it necessary to have recourse to the consultation procedure foreseen in Article 96. The strengthened political dialogue is formalised in accordance with the modalities set out in Appendix VII of the Cotonou Agreement.

⁵² The most recent meeting, on 5 March, discussed the question of the third term, CENI's communications policy and the inclusiveness of the elections. EU-Burundi government press release, Bujumbura, 5 March 2015.

In 2014, relations between the government and the BNUB got tense and the latter closed down at the end of the year. The BNUB had sent a confidential report to the UN alleging the distribution of arms to the Imbonerakure. The government described these allegations as absurd and dangerous and declared one member of the BNUB to be persona non grata. However, aware of the threat to peace, the UN Security Council decided against disengaging and deployed an electoral mission (MENUB) with a remit that is purposely vague but includes mediation.⁵³

After a difficult start,⁵⁴ a dialogue was established between the MENUB and the authorities. It remains to be seen what margin for manoeuvre the mission will have in the months to come, but it has obtained a written commitment against electoral violence and the UN has increased its warnings about the need for the rule of law and respect for political rights.⁵⁵ For the first time in ten years, the Security Council sent a delegation to Burundi on 13 March to insist on the need for peaceful elections and the UN Secretary-General called on President Nkurunziza not to stand for re-election.⁵⁶

Other actors have expressed their willingness to send electoral observation missions, including the EU, Belgium, the Common Market for Eastern and Southern Africa (COMESA) and the East African Community. Some organisations have already sent emissaries to communicate their concern to the Burundian authorities.⁵⁷ Although there is a steady stream of emissaries arriving in Bujumbura (the Tanzanian president and the UN High Commissioner for Human Rights both visited recently), some were already well aware of the dangers ahead.⁵⁸

Despite the international attention, there are several weaknesses in donors' support for the elections: the UNDP only has a small team with which to implement its support program; delays in funding for international and local NGOs; modest civic education programs and the lack of a budget for making the elections secure.⁵⁹

⁵³ Crisis Group interviews, UN personnel, New York, April 2015.

⁵⁴ The government delayed signing the Status of Mission Agreement that defined the mission's remit. Crisis Group interview, MENUB official, Bujumbura, March 2015.

⁵⁵ Statement by the president of the Security Council, New York, 18 February 2015.

⁵⁶ "Dispatches from the field: meetings in Burundi focus on upcoming elections", What's in Blue (www.whatsinblue.org), 14 March 2015. "Burundi: UN opposes third term for Nkurunziza", allAfrica, 30 March 2015.

⁵⁷ Notably the Elders, the UA, the COMESA and the East African Community. Crisis Group interview, diplomat, Bujumbura, March 2015. "The Elders warn against political violence in Burundi and urge free, transparent elections", press release, 11 March 2015.

⁵⁸ "Tanzania's Kikwete says Burundi should heed president term limit, risks regional tensions", *Mail and Guardian*, 20 March 2015. On 8 April 2014, one month after the MSD demonstration, Mark Simmonds, British foreign affairs minister and Commonwealth responsible for Africa, then Samantha Power, U.S. ambassador at the UN, met the Burundian president to discuss their concerns. "Nkurunziza: 'Il n'y aura pas de référendum et il n'y a pas de distribution d'armes'", Iwacu, 9 April 2014.

⁵⁹ Crisis Group interviews, electoral expert, members of international and national NGOs, Bujumbura, March 2015.

III. The Dangers of the Electoral Cycle

These elections will be decisive for Burundi's future and all Burundians know it. Although the run-up to the 2015 elections is similar to that in 2010 (contested electoral preparations, intimidation, mobilisation of activist youth, etc.), there is much more at stake in 2015. These elections will close a cycle (President Nkurunziza's two terms in office and the gradual return of peace to the country) and crystallise presidential and opposition attempts to change the government system. In this context, the possibility that President Nkurunziza will decide to stand for a third term is symbolic of a willingness to challenge the Arusha agreement.⁶⁰ The electoral cycle therefore represents a serious danger not only for Burundians but also for the region and international partners.

A. *Double or Quits: Vital Issues for Burundi's Parties*

1. The governing party's dilemma: with or without Nkurunziza?

President Nkurunziza is staking everything on a third term. Ideally, he ought to obtain a triple validation: from his party, the country's institutions (INEC and the Constitutional Court) and the international community. However, the constitutional limitation on the permissible number of terms in office means any attempt by him to stand for a further term in office would be illegal. The president has referred the matter to the Constitutional Court.⁶¹ The Burundian constitution is open to interpretation on this point,⁶² so the Constitutional Court will be under a great deal of pressure, all the more so as few people believe in its political neutrality.⁶³ At this stage, the main obstacle faced by President Nkurunziza is neither the ruling of the Constitutional Court or the opinion of the international community, but the support of his own party.

The CNDD-FDD's Council of the Wise Men must present the party's candidate for the presidential elections at the forthcoming party congress where a decision will be taken. The congress has been repeatedly postponed and there have been increasing signs of internal tension since the start of 2015. Although he was a former CNDD-FDD combatant, the director of the intelligence services was dismissed after advising the president against standing.⁶⁴ Party leaders publicly declared against his candidacy. Some of them have already been expelled from the party.⁶⁵ In prison since 2007, an enemy of Nkurunziza and former CNDD-FDD president, Hussein Radjabu, "escaped"

⁶⁰ This agreement provided for a limit of two presidential terms in office.

⁶¹ The second term in office of the president, who has been in power since 2005, ends in 2015. Article 96 of the Burundian constitution does not authorise more than two terms in office for the president: "The president of the republic shall be elected by direct universal suffrage for a mandate of five years renewable once". To justify a third term, Pierre Nkurunziza maintains that his first post-transition mandate should not be counted because he was elected by the National Assembly and the Senate, as provided for in Article 302 of the constitution: "Exceptionally, the first president of the republic in the post-transition period shall be elected by the elected National Assembly and Senate united in Congress, by a majority of two-thirds of members ...".

⁶² Stef Vandeginste, "La limitation constitutionnelle du nombre de mandats présidentiels: une coquille vide?", Anvers University, 2014.

⁶³ Crisis Group interviews, Burundian politicians, journalists and diplomats, Bujumbura, March 2015.

⁶⁴ Crisis Group interview, member of the security services, Bujumbura, March 2015.

⁶⁵ "Burundi: le président contesté au sein même de son parti", RFI, 24 March 2015. "CNDD-FDD: dix des premiers signataires de la pétition exclus du parti", Iwacu, 25 March 2015.

and joined another CNDD-FDD dissident in a neighbouring country in launching an ultimatum to President Nkurunziza.⁶⁶ Finally, the president has lost the support of the Council of the Wise Men. Given the council's reluctance to endorse Nkurunziza's candidacy, the problem has been referred to a special committee.⁶⁷

The president's candidacy for a third term is now the focus of a division within the CNDD-FDD. The moderates feel that street protests, anti-government voting and the loss of some international support represent a major risk to the party. In fact, the CNDD-FDD electorate does not seem enthusiastic and some officials believe that the president is responsible for the drop in support for the party.⁶⁸ While most Burundians are against a third term but still willing to vote for the CNDD-FDD, the president's candidacy risks leading the party to defeat.⁶⁹ In contrast, the radicals (the president's immediate circle and the Imbonerakure) support his candidacy in order to continue making the most of their positions and benefits.

This division tallies with the divide between the components of the CNDD-FDD: the moderates include exiles, those who occupied civilian office in the bush and those who rallied to the party after 2004. Former combatants and a dozen or so "securocrats" around the president form the radical wing of diehards.⁷⁰ But the division currently extends to the centre of power in the CNDD-FDD, that is, the party "securocrats" who all hold the rank of general.⁷¹ President Nkurunziza's candidacy, which is currently the focus of national and international attention, has become the public symbol of this fight between moderates and radicals.

2. The opposition's dilemma: collaboration but disunity

The opposition learned the lesson of its boycott of the 2010 elections and intends to participate this time round. The five last years have been bitter ones for the extra-parliamentary opposition, which has experienced a series of ordeals including the loss of their parties, exile for some of them, leaving the CNDD-FDD complete freedom of manoeuvre.⁷² The departure into exile or clandestinity of several ADC leaders considerably weakened their respective political parties. Their prolonged absence

⁶⁶ The circumstances in which Hussein Radjabu escaped indicate he had assistance in and out of the prison. "Evasion d'Hussein Radjabu: un coup d'essai, un coup de maître", Iwacu, 6 March 2015. He appeared on social networks in the company of Manasse, a member of the CNDD-FDD Council of the Wise Men, who left the country after a disagreement with the president. Crisis Group interview, journalist, Bujumbura, March 2015. "Burundi: après sa spectaculaire évasion, Radjabu sort de son silence", RFI, 10 March 2015.

⁶⁷ "Le conseil des sages dit non à un autre mandat de Pierre Nkurunziza", Iwacu, 16 March 2015.

⁶⁸ Crisis Group interview, CNDD-FDD official, Bujumbura, March 2015. Yolande Bouka, "A house divided in Burundi: Rifts at the heart of the ruling party", Institute for Security Studies, 1 April 2015.

⁶⁹ Although 62 per cent of Burundians support the restriction on the number of presidential terms in office, 56 per cent say they would vote for the CNDD-FDD candidate. Round 6 of the Afrobarometer Survey in Burundi, Bujumbura, January 2015.

⁷⁰ General Adolphe Nshimirimana said at a meeting of former CNDD-FDD combatants that they would all die before allowing anyone other than Nkurunziza to be elected. Video available on social networks, Bujumbura, March 2015. "Burundi: les ex-rebelles affichent leur soutien à Pierre Nkurunziza", RFI, 1er April 2015.

⁷¹ The CNDD-FDD generals are the power centre of this movement and General Godefroid Niyombare, former ambassador and chief of staff seems to be the leader of the CNDD-FDD's military moderates. Crisis Group interview, member of the security services, Bujumbura, March 2015.

⁷² For more details on this period, see Crisis Group Reports, *Burundi: From Electoral Boycott to Political Impasse*, op. cit., and *Burundi: Bye-bye Arusha?*, op. cit.

from the country left other officials and grassroots party members to take the reins and magnified the problems of communication and organisation.

The power-sharing system gave the opposition a large place in the institutions and reserved a place for them in the government.⁷³ This gave the government a political trump card to play and also provided the prospect of financial gain to politicians who tend to be attracted to whoever is offering them the most money. The forthcoming legislative elections are a matter of survival for the opposition because extraparlimentary opposition is not viable in the long run.

However, the opposition is still reluctant to unite and prefers flexible collaboration. The two opposition platforms that emerged at the start of 2015 no longer exist or hardly exist. The National Rally for Change (Ranac) that united Jean Minani (Frodebu-Nyakuri), Agathon Rwaswa (FNL) and Charles Nditije (Uprona) was stillborn after Jean Minani's defection in February 2015. The two remaining political actors cannot legally form a coalition because they are not officially recognised as presidents of their respective parties. The ADC-Ikibiri was emptied of any substance by the MSD's decision to keep its distance and not participate in joint political communication initiatives or form common lists for the municipal and legislative elections.⁷⁴ The two opposition platforms therefore exist only in theory and their collaboration only extends to the idea of a single candidate for the presidential election. There is no formal agreement between them for the moment.⁷⁵

B. *The Arusha Agreement in the Balance*

In 2012, Crisis Group published a report explaining how the institutional system created by the Arusha agreement was emptied of any substance during President Nkurunziza's second term in office.⁷⁶ Forthcoming elections represent a dual and direct challenge to the Arusha agreement. The prospect of a third term for the president raises questions about the agreement but the post-legislative elections situation may also do the same.

In fact, CNDD-FDD radicals have not tried to conceal their strategic objective in the 2015 elections. They are hoping for nothing less than the 85 seats in the National Assembly that will allow them to change the constitution, which they believe to be out of date. In March 2014, a first attempt to do this failed by only one vote.⁷⁷ The CNDD-FDD believes that the 2005 constitution that institutionalised a power-sharing system, as part of the Arusha agreement, is no longer adapted to the contemporary situation.⁷⁸ A massive victory for the CNDD-FDD could put an end to the power-sharing system and complete the plans of President Nkurunziza and his radical supporters to monopolise power. This challenge to the system agreed at Arusha is clearly put in some

⁷³ Article 111 of the constitution states that, "the government is composed of representatives of political parties that receive more than one twentieth of votes They have the right to a percentage ... of the ministries at least equal to the number of seats they occupy in the national assembly".

⁷⁴ Crisis Group interview, MSD official, Bujumbura, March 2015.

⁷⁵ Crisis Group interviews, opposition officials, Bujumbura, March 2015.

⁷⁶ See Crisis Group Report, *Burundi: Bye-Bye Arusha?*, op. cit and Christian Thibon, "Les élections de 2015 au Burundi, enjeux, inquiétudes, espoirs et inconnu(e)s", Observatoire des Grands Lacs en Afrique, November 2014.

⁷⁷ "Kigobe: Une seule voix auteur du rejet de projet d'une nouvelle constitution du Burundi", Igihe, 22 March 2014.

⁷⁸ For more on the challenges to the power-sharing system, read Crisis Group Report, *Burundi: Bye-Bye Arusha?*, op. cit.

CNDD-FDD speeches and ethnicist actions (meetings of Hutu officers with the army chief-of-staff, use of the risk of a return to power by the Tutsis as an electoral propaganda, criticism of civil society as a preserve of the Tutsis, etc).

The consequences of such a scenario concern not only the opposition and the structure of the institutions. They raise a question mark over the foundations of peace in Burundi. The Hutu opposition will not be the only ones excluded from state institutions. The end of power-sharing would bring an end to the pact between the Tutsi and Hutu elites, a pact that has both political and economic ramifications.⁷⁹ In a context of limited economic opportunities and deepening socio-economic malaise,⁸⁰ the political and economic exclusion of the Tutsi minority and the Hutu opposition would create the conditions for an alliance between them. That would allow malcontents to reach a critical mass both inside and outside the country. This would make a rebellion very likely.

C. *The Existential Dilemma of the Security Forces*

These elections are vital for the security forces on two counts. First, they will put their cohesion to the test, as shown by Hussein Radjabu's escape/release.⁸¹ The military and police forces have integrated thousands of rebel combatants and their composition is therefore heterogeneous. In accordance with the spirit of the agreement, command of the police and the army is also shared. It is unusual for commanders and their assistants to be of the same ethnic group and even more unusual for them to share the same political affiliation.⁸² However, this also entails non-hierarchical allegiances founded on relationships that go back to the civil war and this results in a certain fragmentation of military and police institutions. If the security forces were to intervene against public demonstrations, some commanders and some troops might refuse to follow orders on the grounds of the apolitical and neutral character of their institution.⁸³ The army could prove to be much more reluctant than the police to take action against protesters.⁸⁴

Second, in the event of repression of the population, the position of the security forces could face a challenge and lose the international support that has allowed them to reform and participate in external operations. The Cibitoke operation, in which the army and the police were implicated, led the main donor to the security sector (the Netherlands) to request an explanation. Depending on the conclusions of the Burundian enquiry, this donor could suspend or reduce its support, which stands at

⁷⁹ Many jobs in public sector companies and other agencies are held by Tutsis, who would be at risk of dismissal if the Arusha agreement collapses.

⁸⁰ A movement against the cost of living was created in Burundi and regularly organises protests. "Au Burundi, le casse-tête financier des étudiants", AFP, 27 March 2015.

⁸¹ Imprisoned since 2007, his escape seems to have been planned from the outside with inside assistance. He fled with several other prisoners and one member of the prison service, and seems to have quickly left the country. Crisis Group interview, member of the security forces, Bujumbura, March 2015.

⁸² Crisis Group interview, member of the security forces, Bujumbura, March 2015.

⁸³ Or by requesting written orders. Crisis Group interview, member of the security forces, Bujumbura, March 2015.

⁸⁴ The brutal repression against opponents after 2010 seems to have been led by elements in the police force and the intelligence services and not by the army. Crisis Group interview, civil society activist, Bujumbura, March 2015.

€30 million for the period 2014-2017.⁸⁵ Such a step would be even more justified if it was confirmed that both the security forces and the Imbonerakure were involved (see section II.B.3).

D. *Issues for the Region and Beyond*

These elections also have regional and international implications. As the disturbances in Kinshasa showed in January 2015,⁸⁶ electoral tensions can quickly get out of control. Problems in Burundi would compromise one of the rare successes of peace diplomacy in the region, which involved Julius Nyerere, Nelson Mandela and Bill Clinton, and confirm the research studies that point to the likelihood of a return to civil war.⁸⁷ After the Central African Republic, Burundi could be the second country in the portfolio of the UN Commission for the Consolidation of Peace to revert to being a conflict country.⁸⁸ The peacebuilding policy will once again prove to be a failure.

Moreover, given the inter-dependence and connections between regional powers and their respective positions, a relapse into violence in Burundi would increase the risk of regional unrest, with the last attempt to resolve the causes of conflict in the Great Lakes Region at an impasse.⁸⁹ These connections are illustrated by the fact that the Imbonerakure are training in South Kivu, which could not happen without the agreement of the Congolese authorities,⁹⁰ and also by the welcome that some of the region's countries reserve for members of the Burundian opposition, including those who are fugitives from justice. The region's countries are particularly concerned about the prospect of another flow of refugees from the Burundian crisis, so soon after Tanzania has managed to deal with the long-running situation of the Burundian refugees.⁹¹ In fact, several thousand Burundians fearing a return to violence and complaining of harassment by the Imbonerakure have just sought refuge in Rwanda and refused to return to Burundi. The Rwandan authorities are planning to create a refugee camp to deal with further waves of refugees and the Burundian president has met his Rwandan counterpart.⁹²

⁸⁵ Questioned by a member of parliament, the cooperation minister said it was possible that soldiers trained by the Netherlands participated in the Cibitoke operation. "Antwoorden van de Minister voor Buitenlandse Handel en Ontwikkelingssamenwerking op vragen van het lid De Caluwé (VVD) over het rapport van Human Rights Watch, waarin de organisatie melding maakt van 47 buitenrechtelijke executies in Burundi", Dutch foreign affairs minister, The Hague, 4 March 2015.

⁸⁶ "Manifestations en République démocratique du Congo: la loi électorale doit être révisée ou retirée", International Crisis Group, 23 January 2015.

⁸⁷ See Barbara F. Walter, "Conflict relapse and the sustainability of post-conflict peace", background paper, World Development Report, World Bank, 2011.

⁸⁸ For more on the crisis in the Central African Republic, see Crisis Group Report N°203, *Central African Republic: Priorities of the Transition*, 11 June 2013.

⁸⁹ See Crisis Group Africa Briefing N°107, *Congo: Ending the Status Quo*, 17 December 2014.

⁹⁰ Crisis Group interview, member of the security forces, Bujumbura, March 2015.

⁹¹ During the civil war, about 10 per cent of the Burundian population became refugees and Tanzania took in most of them. These refugees either obtained the right to settle in Tanzania, left the country for another destination or returned recently to Burundi. "La Tanzanie ferme le dernier camp de réfugiés burundais", PANA Press, 20 September 2012.

⁹² About 6,000 Burundians crossed the border and refuse to return to Burundi despite being urged to do so by the authorities. "Thousands of Burundians flee as electoral tension rises", Integrated Regional Information Networks (IRIN), 14 April 2015; "Rwanda: le président Kagame rencontre son homologue burundais", RFI, 14 April 2015.

Finally, a third term for President Nkurunziza risks establishing a dangerous precedent in the region. All these aspects explain the public and non-public positions taken against a third term.⁹³

⁹³ President Nkurunziza sent emissaries to sound out his counterparts in the region and to South Africa but the results were not conclusive. Information Note, Bujumbura, 13 February 2015; Crisis Group interview, member of the security forces, Bujumbura, March 2015. The Tanzanian president and Western countries have publicly opposed a third term. “Washington contre la violation de l’accord d’Arusha en matière de mandats présidentiels”, Radio publique africaine (RPA), 3 January 2015; press release, EU-Burundian government, Bujumbura, 5 March 2015. “Tanzania’s Kikwete says Burundi should heed president term limit ...”, *op. cit.*

IV. A Graduated Response

Since the end of 2014, there have been many international warnings and appeals for transparent and honest elections. They have had a positive effect even though they have not managed to defuse electoral tensions. The authorities have backed down on several issues (the press law, the exclusion of candidates subject to legal proceedings, etc).⁹⁴ The high risk of violent destabilisation associated with the electoral cycle requires an increase in international pressure. Publication of the definitive list of candidates to the presidential elections is scheduled for May.

In the coming weeks, three developments could lead to a relapse into violence in Burundi: the imposition of President Nkurunziza's candidacy in the presidential election, the exclusion of opposition leaders from the presidential election and increased intimidation by the Imbonerakure. The recommendations listed below correspond to several scenarios that do not exhaust the range of possibilities but take into account the possible variations in the inclusiveness of the electoral process and seek to reduce electoral tension before it reaches the point of no return.

A. *Scenario 1: The President Decides Against Running for Office Again and Opposition Leaders are Allowed to Participate*

In this scenario, there will be a major risk of violence between the announcement of the candidates for the presidential election (beginning of May) and the presidential election itself (end of June). CNDD-FDD radicals could try to derail the electoral process and CNDD-FDD youth movements could raise the tempo of their intimidation.

Countries and organisations that hold Burundi's stability dear should deploy electoral observation missions from the start of May and throughout the electoral cycle. The countries and organisations that have already announced such missions should create a coordination mechanism in order to avoid duplicating efforts or sending contradictory messages and to guarantee maximum coverage of polling stations. All missions should be represented in such a coordination mechanism, which should be jointly supervised by the AU and the EU. This would help define an electoral observation strategy covering the whole country and optimise the resources of the missions. In addition, the AU and the EU should appoint prominent political figures who are well-known by Burundian and regional actors at the head of their observation missions.

Donors should allocate more resources to local organisations involved in electoral observation activities because these are not sufficient at the moment. Local organisations plan to deploy about 3,000 national observers but there will be around 12,000 polling stations.⁹⁵ Donors already involved in supporting civil society monitoring activities (EU, US, Belgium, etc) should increase their budget for this task so that na-

⁹⁴ Subject of a dispute between the profession and the government, some controversial articles of the press law (violation of press laws, secrecy of sources, etc) have been deleted. "L'Assemblée nationale du Burundi adopte une nouvelle loi sur la presse", Reporters Without Borders, press release, 10 March 2015. The Burundian authorities confirmed to EU ambassadors that only individuals who have been sentenced to more than six months in prison are ineligible. Granting a concession for the central market to a Chinese company caused uproar and the contract was suspended. "Suspension d'un marché chinois d'investissement controversé au Burundi", Pan African News Agency (PANA), 10 March 2015.

⁹⁵ Crisis Group interview, official of a civil society organisation, Bujumbura, March 2015.

tional observers can cover most polling stations during the different elections. Monitoring of the electoral process should include recording acts of violence and intimidation and monitoring political statements in the media, some of which are already taking on an ethnicist and hateful aspect.⁹⁶ In addition, the government should guarantee unrestricted access to the INEC and its provincial (CEPI) and communal (CECI) divisions by the representatives of political parties and their candidates.

A critical element for the credibility of the elections will be the “cleaning” of the electoral roll and this should be subject to an agreement between the INEC, civil society and political parties. Conceived under the auspices of the MENU, such an agreement should cover the methodology and duration of the operation. Current deadlines for re-registration, checking the lists and dealing with appeals by electors are too short to allow a serious job of work to be done. These deadlines should be extended, even though this may involve delaying the elections by a few weeks. The UNDP’s electoral team should be strengthened.

The INEC should enhance transparency by publishing the list of candidates for each election on its website and in the official journal and by publishing on the website and broadcasting on the radio the election results at each polling station as soon as the votes have been counted. Moreover, all figures appearing on the polling station records should be published, including valid votes for each list of candidates, the number of voters, voting papers received, distributed, not-used, void and blank, etc, to allow for cross-checking.

B. Scenario 2: The President Runs for a Third Term in Office

If there is official confirmation that President Nkurunziza will stand in the presidential election, violence could occur when the list of candidates is published or after the results of the election are announced. At its congress, the CNDD-FDD should announce its support for an inclusive electoral process and refrain from using any belligerent rhetoric. The guarantors of the Arusha agreement should create a group of friends of the Arusha agreement, which should appeal to all Burundian political parties to reaffirm their commitment to this agreement. In addition, the UN Security Council should entrust the UN special envoy to the Great Lakes region with a mission to negotiate a suspension of protests with the opposition and the ruling party. The increase in the number of demonstrations and counter-demonstrations could give rise to an escalation of the conflict. The special envoy should also remind the Burundian protagonists of their commitments to a peaceful electoral process and encourage them to find a solution for the return of Burundian refugees from Rwanda before the elections.

The main providers of assistance to the Burundian security forces (US, the Netherlands and Belgium) as well as the AU and the UN should warn the senior officers of the security forces that repression against the population will lead to an investigation by the International Criminal Court, a reduction or suspension of cooperation programs, a visa ban and the blacklisting of officers involved in repression for service in peacekeeping missions. The Netherlands should insist that the commission of inquiry’s report into the Cibitoke massacre be sent to them before the elections.

⁹⁶ For a representative sample of this rhetoric, see “Burundi-sécurité: une tension fictive entretenue depuis l’extérieur du pays”, Agnews, 15 March 2015.

In addition, the human and financial capacities of the Office of the High Commissioner for Human Rights in Burundi should be increased so that it can provide significant support to Burundian organisations monitoring human rights violations before, during and after the elections.

The opposition should challenge the validity of President Nkurunziza's candidacy before the East African Community's Court of Justice in the light of the EAC's founding principles, notably democracy and the rule of law.⁹⁷

C. *Scenario 3: Inclusion/Exclusion*

The scenario in which the president stands for election while major opposition leaders are excluded will lead Burundi to the edge of the precipice. Violence could occur when the list of candidates to the presidential election is published or when the results of the election are announced. The International Criminal Court should take note of the Burundian situation and publish a communiqué warning that the prosecutor will investigate any electoral violence.⁹⁸ The recent conviction of the former first lady of the Côte d'Ivoire should give food for thought to anyone tempted to resort to violence.⁹⁹

Donors that have been providing funding for the electoral process in instalments (Belgium and the Netherlands) should withhold their last financial contribution until they are satisfied that the government is respecting the principle of inclusiveness – as recommended by the Belgian Chamber of Representatives.¹⁰⁰ The EU should be ready to move from strengthened political dialogue to consultations as provided for in Article 96 of the Cotonou Agreement. If this is inconclusive, the EU should consider suspending aid to the government.¹⁰¹ The group of friends of the Arusha agreement should immediately go to Bujumbura and organise a roundtable between the governing party and the opposition to discuss how to avoid this scenario. Opposition leaders who are excluded should appeal to the competent institutions (the INEC and the Constitutional Court) and those who are in neighbouring countries should be kept under surveillance because they may be tempted to launch another rebellion.

⁹⁷ Good governance includes democracy and the rule of law according to Article 7 of the EAC Treaty. Article 30 allows referral to the Court by third parties, notably any EAC citizen.

⁹⁸ The Court took this course of action at the time of the elections in 2011 in DRC. "Congolese post-election violence will not be tolerated, ICC prosecutor warns", UN News Centre, 6 December 2011.

⁹⁹ Simone Gbagbo has just been sentenced to twenty years in prison for her role in post-electoral violence in 2010-2011. "Côte d'Ivoire: l'ex-première dame Simone Gbagbo condamnée à 20 ans de prison", *L'Express*, 10 March 2015.

¹⁰⁰ Resolutions on the situation in Burundi, Chamber of Representatives, Belgium, Brussels, 26 March 2015.

¹⁰¹ Article 96 of the Cotonou Agreement provides that if one of the parties considers that the other party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law, there should be a thorough examination of the situation with a view to seeking a solution acceptable to the parties to the agreement. To this end, it shall invite the other party to hold consultations in order to examine the situation jointly and in a detailed and constructive manner and allow the party concerned to take measures to remedy the situation. In the event of failure, Article 96 provides for the suspension of European cooperation.

V. Conclusion

Six weeks away from the start of the 2015 electoral cycle, the warning signs of a major electoral crisis are already plain to see: challenges to the electoral commission and electoral roll, the partisan use of state institutions, the narrowing of political space, open dissent in the governing party, intimidation by the Imbonerakure, acts of violence against members of the opposition and the arrival of thousand new refugees in Rwanda. However, it is the suspense surrounding the following question that is most responsible for creating tension: which candidates will be competing in the presidential election?

In the next few weeks, the Burundian government will face a moment of truth. The decisions made by a small number of people will be crucial to the country's future. This choice could be for peace and the spirit of dialogue and consensus that led to the Arusha agreement or it could be a decision to monopolise power and violence. Everything possible must be done to avoid this moment of truth becoming a test of strength.

Nairobi/Brussels, 17 April 2015

Appendix A: Map of Burundi



Appendix B: Opponents Subject to Legal Proceedings

Agathon Rwasa, historic leader of the FNL, is implicated in an attack on 28 December 2000 against a Titanic bus on the road between Kigali and Bujumbura.¹⁰² In August 2013, Bujumbura's Banyamulenge community brought legal proceedings against Agathon Rwasa for the massacre that took place in Gatumba on 13 August 2004.¹⁰³ Summoned on 15 December, Agathon Rwasa reported to the judge surrounded by a crowd of militants but the interior minister telephoned him to tell him the summons had been postponed sine die.¹⁰⁴

Alexis Sinduhije was questioned on 11 January 2012 in Tanzania after the Burundian prosecutor issued an international arrest warrant accusing him of involvement in two murders. The Tanzanian authorities released him a few days later.¹⁰⁵ After the MSD's demonstration on 8 March 2014, the public prosecutor issued an arrest warrant against Alexis Sinduhije, on three charges: participation in an insurrection, rebellion and insulting security force officers, the first of these offences being punishable by life imprisonment. Even if his party had chosen him as its candidate for the presidential election, Alexis Sinduhije is in hiding and the current arrest warrant makes it unlikely that he will be a candidate in the presidential election.

The vice president of Frodebu and former first vice president of the republic, Frédéric Bamvuginyumvira, was accused of corruption and sentenced to five years imprisonment with no remission.¹⁰⁶ He appealed against his conviction. Léonce Ngendakumana, president of Frodebu and of the ADC-Ikibiri, is subject to legal proceedings on several counts. He appealed against a sentence of one year's imprisonment in October 2014 for defamation, racial hatred and making false allegations.¹⁰⁷

The president of the CNDD, Léonard Nyangoma, went into exile in July 2010 following a complaint by the defence minister to the public prosecutor. He was criticised for signing a communiqué, on behalf of the ADC-Ikibiri, accusing the army of committing genocide.¹⁰⁸

¹⁰² An ambush of a bus on the Bujumbura-Bugarama road claimed several victims, including a British national, "Still no justice for Burundi massacre victims, public statement, Amnesty International, 28 December 2010.

¹⁰³ "Massacre de Gatumba: les Banyamulenge saisissent la justice burundaise", Radio Okapi, 19 November 2014.

¹⁰⁴ Crisis Group telephone interview, FNL official, 15 December 2014.

¹⁰⁵ "La Tanzanie libère l'opposant burundais Sinduhije", *Jeune Afrique*, 24 January 2012.

¹⁰⁶ "Burundi: un des leaders de l'opposition condamné pour corruption active", *Le Monde* (en ligne), 16 January 2015.

¹⁰⁷ He was convicted because he wrote to the UN denouncing preparations for "political genocide" in Burundi and compared the Imbonerakure to the Interahamwe. Secretary-General's Report to the UN Security Council, op. cit.

¹⁰⁸ "Burundi: la fuite du leader d'opposition Léonard Nyangoma confirmée", *Le Quotidien du Peuple*, 30 July 2010.

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Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

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