

Situation Report

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Burundi: The End of the Tunnel?

Introduction

At the moment, the political mood in Burundi might be said to be one of cautious optimism. At the end of December 2008, it appeared that the final obstacles were being cleared away to the implementation of a peace accord between the government and the insurgent *Parti pour la Libération du Peuple Hutu/Forces Nationales de Libération* (PALIPEHUTU-FNL) as prefigured in their ceasefire agreement of 7 September 2006. As the UN Secretary General had continued to emphasise in his regular reports on the situation, this was a matter of urgency not only in the light of preparations for elections to be held in 2010, but so that the country should enjoy a more stable platform from which to tackle its myriad economic and social problems. This promising phase of a protracted process was marked by the government's release of the first batch of rebel prisoners and by a belated agreement by PALIPEHUTU-FNL to drop the first part of its name, "Party for the Liberation of the Hutu People", a requirement if it intended to enter constitutionally sanctioned politics. ²

The relief of the international community, which had laboured so long to achieve the desired breakthrough, was also reflected in the agreement reached with the World Bank and the International Monetary Fund on 28 and 29 January 2009, to cancel 92 per cent of Burundi's debt. This debt relief amounted to some US\$1.4bn and, according to the country's finance minister, would give Burundi's government some \$40 mn over the next two decades to allocate towards social and economic development.³

That suddenness of these developments was the culmination of years of regional, continental and international pressure, as well as the dynamics of Burundi's internal situation. Only in the last year has the need for considered haste impressed itself upon the two principals to the 2006 ceasefire agreement. There are a number of reasons that might explain this, some of which are suggested in this situation report.

The government of President Pierre Nkurunziza is relatively new to parliamentary politics and public diplomacy, being centred on a movement that was itself a rebel movement a little more than five years ago. The process of conversion to civil politics is seldom easy, and a new leadership tends to be wary of fractures within the ranks and of internal challenges easily exacerbated by the sensitive compromises required in negotiations. PALIPEHUTU-FNL has had even less experience of the sophisticated diplomatic environment, as its behaviour

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since the conclusion of the 2007 ceasefire demonstrates. These are two of the most favourable broad constructions that may be placed upon the actions, procrastinations and frequent obduracy of one or both of the two leaderships.

Any consideration of the prospects for establishing a peace in Burundi with reasonable chances of success must concentrate not only upon the arguments and positions adopted by the conflicting parties, but also must consider the nature of the Burundian democratic culture as it has evolved in the recent past. Given Burundi's violent political history since independence, and the piecemeal and troubled way in which a political compact was eventually reached, it would have been very surprising had the road ahead been altogether smooth. It is evident that the habits of consensus building, diplomatic concession and political compromise seldom come naturally in an environment in which these virtues are too easily interpreted as weaknesses.

A fractured political landscape

The Conseil National pour la Défense de la Démocratie/Forces pour la Défense de la Démocratie (CNDD/FDD) swept to power in July 2005, with 59% of the popular vote, not two years after signing a peace agreement whereby it abandoned its own armed struggle. This party, under the leadership of Pierre Nkurunziza, was at pains to depict this as an overwhelming and definitive victory for the interests of the Hutu majority it claimed to represent. Certainly it had inflicted a severe defeat on the Front pour la Démocratie au Burundi (FRODEBU) (22%), which had acted as the Hutu political vanguard since its victory in the country's first democratic election, in 1994. Yet Nkurunziza's new administration had to take care not to antagonise the still powerful Tutsi minority, largely represented by the Union pour le Progrès National (UPRONA), which, though it took 7% of the popular vote, retained a significant level of control within the country's security establishment in terms of the peace agreements of 2000 and 2003. The political and constitutional agreement worked out prior to the 2005 elections necessarily preserved a large measure of protection for the political opposition and for minority rights, with a careful balancing of "ethnic" interests and provisions that prevented the decisive use of simple majorities in the National Assembly and Senate to pass contested legislation.4

Beyond the three leading political parties there were a host of others, including a CNDD faction that had broken with its militant wing prior to 2003. The subsequent electoral marginalisation of this party provided a salient lesson about the fate of politicians who failed to retain the potential to protect their supporters in the event of a return to the bloody civil strife. This realisation certainly featured large in the considerations of the sequencing of disarmament and political accommodation that have bedeviled the ceasefire implementation virtually to this day.

In 2005, outside the peace and parliamentary processes the most significant obstacle to democratic consolidation was offered by the FNL, the military wing of the proscribed PALIPEHUTU, which had been founded in the wake of the Hutu massacres of 1972, and claimed to be the only reliable defender of exclusively Hutu interests. PALIPEHUTU-FNL alleged that the peace accords constructed around the Arusha Agreement between 2000 to 2003 simply disguised the perpetuation of Tutsi power, which could continue to threaten a veto on political arrangements by virtue of continued domination of the security forces. PALIPEHUTU-FNL, led by Agathon Rwasa, depended largely on the support of the rural populations of Burundi's north-west, and from the sizeable Hutu refugee camps that had existed in Tanzania since the 1970s and had been enlarged following subsequent pogroms. PALIPEHUTU-FNL was also known to have made common cause upon occasion with the DR Congo based Forces Démocratiques de Libération du Rwanda (FDLR). Bringing the FNL into the peace agreements was therefore of broader regional significance, and this contributed to the importance accorded by the international community of ending their insurgency as part of the drive to disarm and neutralise the "negative forces" in the Great Lakes region.⁵

The transitional government of President Domitien Ndayizeye had made some progress in approaches to the FNL, but these were suddenly aborted by the CNDD-

FDD's electoral victory.⁶ President Nkurunziza, whose party had secured 64 of the 118 seats in the National Assembly, and 32 of the 49 available in the Senate, and who had been unanimously elected to the presidency by the parliament, found his room for political manoeuvre more constrained than the magnitude of his victory suggested. Quite apart from the constitutional requirement that all parties with more than 5% electoral support had to be accommodated in cabinet, there was a question about Nkurunziza's own influence within the CNDPP, for although Nkurunziza was the head of state, the ruling party itself was led by Hussein Radjabu, previously its secretary-general, a man widely regarded as the power behind the scenes. Radjabu showed less concern for the spirit of the constitution, demanded the absolute loyalty of the civil service to his party's programme and enjoyed a reputation for ruthlessness and an authoritarian leadership style.⁷

The diplomatic posture of the new Burundian government has to be viewed against the background of a protracted, and only partially hidden, struggle for power within the CNDD-FDD between supporters of the party and national presidents. This, in turn, provided the losers of the 2005 elections with opportunities to restore their fortunes, even if this meant encouraging the FNL. This was not the ideal environment for the international community to encourage diplomatic initiatives.

By October 2005 the new government had ordered the *Force de Défense Nationale* (FDN) to increase the military pressure on the FNL, which continued to resist attempts to suppress its relatively meagre forces. The ensuing campaign witnessed a number of serious human rights abuses by both sides, particularly in the rural areas surrounding the capital. The government may have thought that its efforts were bearing fruit in November, when certain members of PALIPEHUTU-FNL splintered from Rwasa's command and established a new leadership under Jean-Bosco Sindayigaya. After some early confusion, however, this new wing was shown to be something of a phantom, though this did not prevent Rwasa's forces from including these dissidents among its principal targets.⁸

Even as military operations intensified towards the end of 2005, the UN was beginning to reduce the size of its peacekeeping and observation mission, ONUB. Not only did ONUB lack the mandate to become involved in matters concerning the FNL, beyond lending a degree of muscle to the UN's diplomatic stance, but the Burundian government was eager for foreign peacekeepers to depart, probably because of concerns that they might report on the counter-insurgency and its attendant horrors. Nevertheless, it was apparent that in the event of the FNL agreeing to peace terms, the UN would have to continue to play an essential role in continuing its quite successful work on national disarmament, demobilisation and reintegration (DDR) and on other tasks related to peace consolidation. This led at the end of 2006 to the establishment of the United Nations Integrated Office in Burundi (BINUB) with the dual roles of providing support to the Burundi government in creating peace and stability; and ensuring coherence and coordination among the UN agencies in Burundi.

Tanzanian pressure Though the Burundian government showed every intention of committing to a military solution to the FNL problem, Tanzania's government had an interest in a conclusion that would lend itself to the repatriation and return of the 350,000 Burundian refugees on its territory. At the beginning of 2006, therefore, Tanzania's President Kikwete had persuaded Agathon Rwasa to open talks with Nkurunziza, an approach the latter initially rejected, saying that the deadline for negotiations had expired.¹¹

But on 11 March 2006, Rwasa forced the issue. At a press conference in Dares-Salaam he announced that he was willing to stop fighting and to enter into negotiations with the Burundian government without any preconditions. Following discussions with other regional and international governments, President Nkurunziza relented, and in May South Africa's President Mbeki announced the resumption of the Facilitation, appointing his minister for safety and security, Charles Nqakula for the task. The latter oversaw the preparations for formal talks, which began in Dar-es-Salaam on 2 June 2006. 12

These negotiations took place in two separate commissions, which proved to be significant given the subsequent reluctance of the FNL to distinguish their functions. A military commission was to tackle the business of disarming and either demobilising FNL fighters or integrating them into the security forces. The political commission was to handle negotiations about provisional immunity for the FNL leadership, refugee repatriation and resettlement, and the FNL's eventual participation in national politics.¹³

On 18 June 2006, the Burundian government and the FNL leadership signed the Agreement on Principles towards Lasting Peace, Security and Stability in Burundi, at a ceremony in Dar witnessed by Presidents Kikwete and Mbeki. This offered PALIPEHUTU-FNL provisional immunity from prosecution should a ceasefire be concluded, and permission in principle to organise itself as a political party. The agreement also called on the armed forces to act in a manner conducive to national reconciliation and unity, though it made no mention of any intention to alter the army's ethnic composition, long a major point of contention for the FNL. 14

Formal negotiations resumed in Tanzania five days later, in an attempt to meet the ceasefire deadline of 2 July set by the Facilitator. The latter, however was recalled to South Africa to address a security crisis there, and his absence allowed for the emergence of discord and the suspension of ceasefire talks, which resumed fitfully only in mid-July.¹⁵

The ceasefire agreement of September 2006

To the surprise of many observers, on 7 September 2006, at a Dar-es-Salaam summit meeting of regional heads of state discussing the Burundian peace process, President Nkurunziza and Agathon Rwasa signed a ceasefire agreement. This was all the more remarkable in that Rwasa had continued to the last moment to denigrate the Burundian President and had failed to extract any concessions on the key issues of PALIPEHUTU-FNL integration into the armed forces or the government. Although the principles of DDR and the integration of FNL combatants were addressed, no details were provided about the basis on which this would happen, nor was the political participation of FNL members in national institutions mentioned. 16 The FNL subsequently tried to explain away the apparent lack of logic in their signature of a document that failed to address their principal political concerns by claiming that they had done so out of concern for the suffering of the Burundian people. It may also be that they allowed themselves to be pressured by the Facilitation on an understanding that these issues would indeed be addressed soon. International observers, however, were mostly of the opinion that the new FNL position reflected an awareness of the movement's relative military weakness. its growing diplomatic isolation, and the dangers of a permanent exclusion from political power.¹⁷

With few exceptions, the ceasefire held in the immediate aftermath of the agreement, and a number of FNL combatants emerged from the hills, though there was no sign of preparations having been made for the construction of the demobilisation centres provided for in the agreement.

On 10 October 2006, the government announced the formation of a Joint Verification and Monitoring Mechanism, but the PALIPEHUTU-FNL delegates declined to attend pending the release of their head of intelligence and operations, who had been captured in July. The Facilitator's attempts to convince Rwasa that this and other substantive issues could be dealt with in subsequent negotiations failed to move the FNL to cooperate. The impasse continued for some months as wrangling over new arrests of FNL personnel and the validity of guarantees of immunity prevented the meeting of the verification committee until a brief session convened eventually in February 2007, after South Africa had agreed to a request from the AU that it retain 1,100 troops in Burundi to protect PALIPEHUTU-FNL leaders and personnel. JVMM discussions resumed in March, closing after only one week with the worrying admission of the Facilitator that there were "irreconcilable" differences between the government and FNL delegates. These differences principally revolved around the manner in which PALIPEHUTU-FNL members would be absorbed into the political organs. The government was

Distraction of a political power struggle

willing to accommodate them in appointed positions but indicated that to bring them into the National Assembly or cabinet would both violate the constitution and upset arrangements made in previous peace agreements. In their haste to achieve a signed ceasefire in 2006, the mediators had evidently been willing to underestimate the difficulties of finding solutions to so many of the substantive concerns of the parties involved.¹⁹

By early 2007, however, the protracted and troubled seguel to the signing of the ceasefire agreement had been somewhat eclipsed in the public eye by domestic political upheavals. On 7 February 2007, a special congress of the CNDD-FDD deposed Hussein Radjabu from the party leadership, alleging abuse of power and corruption. A brief period of calm ensued, and not two weeks later the FNL declared its willingness to cooperate in the JVMM. The sense of relief was shortlived, however, for Radjabu's ousting had not eclipsed his influence inside the ruling party and government positions hardened as an insecure President Nkurunziza came to rely increasingly upon the support of his generals, the very group least likely to approve of concessions to the rebels. Nkurunziza's handling of the crisis led directly to a problem in parliament, where a group of 19 MPs broke away from the CNDD-FDD to form a block still supporting Radjabu. Their obduracy was strengthened by the arrest of their champion in April 2007, on charges relating to threats against state security. This effectively deprived Nkurunziza of the parliamentary majority he needed to carry out government business. It also created a political atmosphere in which threats, intimidation and even assassination became tools with which to manipulate political forces.

The details of these domestic developments need not detain us here, but they revealed a great deal about the political climate in the country, and the willingness of the government to employ means at odds with the spirit and letter of the constitution, if needs be. This was hardly conducive to the creation of a climate of confidence in its dealings with the FNL.²⁰

Unblocking the peace process

On 17 June 2007, President Nkurunziza met Agathon Rwasa in Dar-es-Salaam in an attempt to clear up outstanding issues and reactivate the JVMM. The President promised to see that some 2,000 FNL combatants were soon released from custody, as required under the ceasefire agreement, and Rwasa undertook to examine the details of the arrangements for his forces' cantonment. Yet there was no mention of any compromise on the inclusion of PALIPEHUTU-FNL in government, despite the probability that this issue that was bound to remain a major obstacle to progress in implementation. Thus, when the JVMM resumed its meetings in Bujumbura shortly afterwards, the FNL's attempts to repeat its political demands were rebuffed by the chairperson, who explained that political issues were outside the remit of the commission. By 25 July, the FNL delegation to the JVMM had left Bujumbura, accusing the South African Facilitation of partiality towards the government and refusing to continue to participate in the implementation of the ceasefire.²¹

On 26 September 2007, the Facilitation and the regional technical team met in Pretoria to address this latest hiatus in the peace process. In an attempt to resolve the matter a Political Directorate was to be established in Bujumbura, to be chaired by the South African Special Envoy for the Great Lakes Region, and to include the AU special Representative, the UNSG's Executive Representative and the South African and Tanzanian ambassadors to Burundi. By mid-November, however, even this directorate had not been able to move beyond considering anew complication. Growing numbers of dissidents belonging to Sindayigaya's renegade FNL faction were now giving themselves up for cantonment but, as non-signatories of the August 2006 ceasefire, were not covered by its provisions or entitled to compensation.²²

Of all the international players, only the Tanzanian government seemed to have the required leverage to press the FNL back to negotiations before a rapidly deteriorating security situation relapsed into full-scale hostilities. President Kikwete warned the FNL leadership that it would be expelled from Dar-es-Salaam

unless it resumed cooperation, a threat followed by the end of the year that it would expel some 120,000 Burundian refugees by mid-2008.²³ The Burundian government was also alarmed by this prospect, being unprepared and only too aware of the political impact of so many families returning to reclaim property occupied by others since their flight.

In January 2008 there was a brief moment of optimism that the FNL might return to negotiations as it withdrew its long-standing objections to the continued role of Charles Nqakula as Facilitator. Talks then resumed the following month in Dar-es-Salaam, but in March 2008 a senior PALIPEHUTU-FNL spokesman, Pasteur Habimana told a radio audience that the movement would return to the JVMM only if certain new conditions were met. These included immunity from prosecution for members of the movement once they had returned to civilian life, permission for the militia to register as a political party, and the payment of the US\$700,000 debt incurred by the movement in providing for its forces since the ceasefire agreement. The Burundian government refused outright to meet these preconditions, and the talks collapsed once more.²⁴

April 2008 witnessed an escalation of FNL operations against both military and civilian targets, including the mortaring of the capital on a number of occasions. On 4 May the foreign ministers of Uganda and Tanzania issued an ultimatum to the PALIPEHUTU-FNL leadership to cease hostilities and return to Bujumbura within ten days. This appears to have had the desired effect, for by 17 May the entire movement leadership except Rwasa, had returned to the Burundian capital to resume participation in the JVMM. An unconditional ceasefire was signed on 26 May, reaffirming the arrangements of September 2006. The government now announced that it was prepared to provide for FNL fighters in assembly camps, and on 30 May 2008, Agathon Rwasa himself returned to Burundi, traveling with the Facilitator, Charles Nqakula, and arriving to a warm public welcome.

The Magaliesberg meeting and beyond On 11 June 2008, a meeting was held in Magaliesberg, South Africa, at which the Burundian government and PALIPEHUTU-FNL issued a declaration committing themselves to renounce violence and resolve any further disputes through dialogue and to respect the timelines laid out in a roadmap that would see the implementation of the peace process concluded by the end of 2008. A further meeting between President Nkurunziza and Agathon Rwasa and the Facilitator, Charles Nqakula, resulted in the signing of another agreement to dismantle obstacles to these agreements.

Given the tortuous process of the ceasefire implementation so far, it would have been premature to anticipate that this marked the end of the difficulties, however, and Rwasa now indicated that he wanted his party recognised prior to regroupment. There was also an important disagreement about the number of eligible fighters he had under command: the government estimated 3,000, FNL claimed upwards of 20,000, a difference with major implications for cantonment and the receipt of demobilisation benefits. Indeed, there was ample evidence that the FNL was continuing to recruit, and that many unemployed youths were being induced into its ranks by the prospect of a demobilisation package, rather than out of any political conviction.²⁵

By October, implementation had again ground to a halt, over the timing of the assembly of FNL fighters and the registration of PALIPEHUTU-FNL as a political party. The issues of party recognition and the allocation of government posts continued to obstruct the smooth handling of cantonment, but the Tanzanian pressure on the FNL had so weakened the movement's military position that the balance of power had swung decisively in favour of President Nkurunziza, who felt strong enough to resist all but the most modest of demands.

Another meeting between Nqakula, Nkurunziza and Rwasa followed in Kampala, and on 6 November 2008, Nqakula, backed by the foreign ministers of Tanzania and Uganda presented a proposal to unblock the impasse: that PALIPEHUTU-FNL should drop the first part of its name, with its ethnic, and therefore

unconstitutional, connotations, which would then open the way to its registration as a political party. Rwasa initially rejected this idea, but at a regional summit held in Bujumbura in December 2008, was pressed into making this significant concession. On 9 January 2009, the FNL officially abandoned the PALIPEHUTU in its title, a significant symbolic step in that its name now no longer referred to its claim to be the party of Hutu liberation.²⁶

A number of government posts were also allocated to the FNL, though these were more junior than Rwasa wanted, and the issue retains the potential to cause further disputes. The demobilisation of the FNL also remains problematic, with complaints that inadequate provision has been made for the special camps to receive the fighters. Government promises to free political prisoners were also challenged in terms of the numbers involved, though in January 2009, the first batches were being released.

Even as it appears that the implementation of the 2006 agreements has reached the point of no return, little progress has been made on the important issue of a truth and reconciliation commission and a special tribunal, both essential to addressing the climate of impunity. The renewal of BINUB's mandate in December 2008 made specific mention for an end to human rights violations by the government security forces, even as it urges the FNL to accelerate its movement to the assembly areas.²⁷

President Nkurunziza already has begun campaigning for the elections due in 2010. He has every reason from a tactical viewpoint to keep the FNL tied up in procedural issues to prevent it launching an effective challenge at the polls, where it is likely to present the greatest threat to his continued rule. The calculations of the other actors in Burundi's unforgiving political landscape will also play a part in determining outcomes, and the way they are reached. Already, the Senate's refusal to provide a majority adequate to pass the President's nominations for the country's new electoral commission indicates that cross-party compromises will be necessary to consolidate the democratic political process.²⁸ It is improbable that the run-up to 2010 will be untroubled, and the government is already clamping down on opposition press and politicians.

It may still be some time, therefore, before an administration comes to power secure enough in itself to give undivided attention to the massive problems of economic and social reconstruction that will otherwise continue to threaten stability and security in Burundi. In these circumstances, the premature withdrawal of international political and diplomatic support could easily jeopardise the gains made so far. Given the large number of crises afflicting Africa, some diversion of attention is almost inevitable. But the principal leaders of Burundi need constant reminding that too much blood and treasure has been expended on their countries problems for ill-considered political adventures to go unremarked and unpunished.

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² UNSC, SC/9531, South African Facilitator tells of 'significant step forward' as Security Council considers situation in Burundi, 6037th Security Council Meeting, 11 December 2007; Agence France Presse, "Burundi rebels drop ethnic reference in name", 9 January 2008.

³ Agence France Presse, "IMF, World Bank, cancel 92 pc of Burundi debt", 30 January 2009.

⁴ On the "mythico-history" of the Hutu-Tutsi conflict, see Liisa H Malkki, *Purity and exile: Vioemce, memory, and national cosmology among Hutu refugees in Tanzania.* University of Chicago Press, Chicago, 1995, especially pp 52–104.

⁵ International Crisis Group (ICG), *Burundi: Finalising Peace with the FNL*. ICG: Brussels, 28 August 2007, pp 8–9.

⁶ *Ibid*, p 2.

⁷ *Ibid*, pp 12–14; ICG, *Burundi: Restarting political dialogue.* ICG: Brussels, 19 August 2008, pp 2–3.

⁸ ICG, Finalising peace...op cit, pp 2–3.

⁹ UN Security Council (UNSC), S/2006/163, Sixth Report of the Secretary-General on the United Nations Operation in Burundi, 21 March 2006, pp 1, 14.

- 10 UNSC, S/2006/429. Seventh Report of the Secretary-General on the United Nations Operation in Burundi, 21 June 2006, pp 12–13.
- 11 UNSC, S/2006/163, op cit, pp 5, 17.
- 12 UNSC, S/2006/429, op cit, p 4; Economist Intelligence Unit (EIU), Country Report, Burundi, May 2006, pp 14–15; EIU, Country Report, Burundi, August 2006, pp 12–13.
- 13 UNSC, S/2006/429, op cit, p 4.
- 14 EIU, Country Report, Burundi, August 2006, p 13; ICG, Finalising peace... op cit, pp 4-5.
- 15 EIU, Country Report, Burundi, August 2006, pp 13–14.
- 16 EIU, Country Report, Burundi, November 2006, pp 12–13; UNSC, S/2006/842, Eighth Report of the Secretary-General on the United Nations Operation in Burundi, 25 October 2006, pp 1–2.
- 17 UNSC, S/2006/842, op cit, p 2; EIU, Country Report, Burundi, November 2006, p 13; ICG. Finalising peace... op cit, pp 5–6.
- 18 UNSC, S/2006/842, op cit, pp 2–3; EIU, Country Report, Burundi, November 2006, p 14; Additional details of the composition and duties of the JVMM are to be found in ICG. Finalising peace... op cit, pp 6–7.
- 19 EIU, Country Report, Burundi, May 2007, pp15–16; ICG. Finalising peace... op cit, p 7.
- 20 ICG, Finalising peace... op cit, pp 6–7, 12–14; UNSC, S/2006/994, Ninth Report of the Secretary-General on the United Nations Operation in Burundi, pp 3–4; S/2007/287, First Report of the Secretary-General on the United Nations Integrated Office in Burundi, pp 2–4.
- 21 UNSC, S/2007/682, Second Report of the Secretary-General on the United Nations Integrated Office in Burundi, p 4; EIU, Country Report, Burundi, August 2007, pp 15–16; EIU, Country Report, Burundi, November 2007, p 13.
- 22 S/2007/682, op cit, pp 4-5
- 23 EIU, Country Report, Burundi, November 2007, p 13; EIU, Country Report, Burundi, February 2008, pp 13-14.
- 24 EIU, Country Report, Burundi, May 2008, p 14.
- 25 EIU, Country Report, Burundi, August 2008, p 12.
- 26 Agence France Presse, "Burundi rebels drop ethnic reference in name", 9 January 2008.
- 27 EIU, Country Report, Burundi, February 2009, pp 11-13.
- 28 Agence France Presse, "Burundi senators reject electoral commission nominees", 20 January 2009.