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PARTICIPATORY ELECTIONS PROJECT

CASE: BURUNDI 1993 Presidential Election and the Arusha Process 2000-01

Background on the Conflict

The Republic of Burundi, the world's third poorest country, covers 27,834 square kilometers in East Africa. A Germany colony from 1890 until WWI, Burundi was incorporated into the Ruanda-Urundi territory, administered by the Belgians from 1916 until 1962.¹

Much like Rwanda, Burundi's population is 85% Hutu, 14%Tutsi minority, and 1%Twa.² Historically, the Hutu were sedimentary farmers, while Tutsi were nomadic herdsmen. As ownership of cattle was associated with prestige and wealth, political power gradually shifted towards the Tutsi.³ Both groups lived together for centuries, usually peacefully, but at times with outbreaks of communal and political violence.⁴

Belgian rule was based on the idea that the Tutsi were superior to the Hutu. Tutsi are tall and slim, with smaller facial features that appeared more Caucasian to the colonial administration than the stalky and large-featured Hutu. However, these are extreme ends of the spectrum. Most Hutu and Tutsi cannot tell each other apart. Nevertheless, the Belgians intensified ethnic tensions by installing Tutsi administrators and issuing identity cards based on the ethnic distinctions. The Hutu began to associate Tutsi with political oppression and fear, the Tutsi viewed the Hutu as a threat to their economic, social and political power.

Burundi managed to avoid the large-scale genocide of its neighboring Rwanda. However, violence between Tutsi and the Hutu rebel groups broke out in 1965, 1988 1991, and 1994-2001. According to the UN statistics, the overall death toll by 2001 had reached 150,000, although some estimates are significantly higher. ⁵

Overview of 1993 Election and the Arusha Peace Process

In 1992, a new Constitution⁶ called for the first multiparty elections in Burundi's history. Presidential and National Assembly elections were held in 1993. Melchior Ndadaye, the leader of the Front for Democracy in Burundi (FRODEBU), the moderate Hutu-dominated party⁷, was elected the

¹ Africa Peacebuilding Program, "Burundi. August 2001," Available from: < http://www.afsc.org/africa/burundi.htm, (22 July, 2002).

² US Department of State Bureau of African Studies, "Background Notes. Burundi," Aug. 2000, Available from: http://www.state.gov/www/background_notes/burundi_0008_bgn.html, (22 July, 2002).

³ Africa Peacebuilding Program.

⁴ United States Committee for Refugees (USCR), <u>World Refugee Survey 2002</u>. Washington DC:2002, p. 57[hereinafter, USCR World Refugee Survey]

Africa Peacebuilding Program.

⁶ The Constitution was based on the 1991 Charter of National Unity, which named ethnic division as a vital national problem. see Matthias Basedau, "Burundi" <u>Elections in Africa. A Data Handbook</u>..Edited by Dieter Nohlen, Michael Krennerich and Bernhard Thubaut, Oxford University Press:1999, p.154.

⁷ Basedau, p.154-155.

first Hutu President with 65% of the vote. FRODEBU also won 80% of the parliamentary seats. 8 International observers called the elections "extraordinarily free and fair."

That same year, however, the Tutsi dominated military assassinated Ndadaye. This did not come entirely as a surprise. The Burundi military traditionally obtained political power "through the barrel of a gun. "10 Though the military seemed to accept the transition process, IFES cautiously warned in 1992 that it was comprised of 98 percent Tutsi, who could have perceived democracy to mean their "professional, and perhaps physical, extinction."

Following a succession of short-lived presidents, Major Pierre Buyoya, leader of the Tutsi-dominated Union for Progress and National Unity (UPRONA), seized power in 1996. The coup intensified the Hutu insurgency and fighting claimed at least 60,000 lives between 1996 and 2000. In addition, the government implemented a policy of *regroupment*¹², in which 800,000 Hutus were forced into heavily guarded camps in order to "deprive rural forces of support in rural areas." 13 Most of these camps were shut down in 1998, however, a similar program in late 1999 forced at least 300,000 Hutus into the camps.

In August 2000, Nelson Mandela and his Vice-President Zuma, brokered and facilitated The Arusha Peace and Reconciliation Agreement, (hereinafter, Agreement) between the military and 15 rebel groups. 14 After several fits and starts, a three-year transition government was installed on 1 November 2001. In the absence of a ceasefire, the Agreement will not be backed by a UN peacekeeping force. However, a "Burundian Protection Force" is foreseen to facilitate the return of exiled political leaders. Half of the force will be picked from members of the Tutsi-dominated army; the parties representing Hutu interests will choose the other half.

NGOs and international observer groups have identified two major flaws with the Agreement—lack of rigid cease-fire provisions, and failure to obtain signatures or engage in negotiations the two main rebel groups—Forces for Defense of Democracy (FDD) and the National Liberation Forces (NLF) According to Africa Peace Building Program, "in late 2001 there was still no cease-fire, no agreedupon transition plan, and a steady drift toward a more widespread civil war."

Size and location of displaced population

Refugees¹⁵

USCR reports that more than 375,000 Burundians officially remained as refugees in December 2001, the vast majority (350,000) in neighboring Tanzania. In addition, USCR estimates that an additional 300,000 to 400,000 Burundians are currently in refugee like conditions in Tanzania, but without

Gary Ouellet, Gerrit DeJong, & Randall Purcell, <u>Burundi. A Pre-Election Assessment Report</u>, *International Foundation for* Electoral Systems (IFES), Washington DC: April 1992, p. 21.

⁸ Africa Peacebuilding Program.

⁹ Basedau,p.154.

Ouellet, DeJong, & Purcell, p. 22.

Odellet, Desorig, & Farcei, p. 22.

12 As defined by Francis Deng, "...massive forced movement of entire communities to sites at varying distances from their homes." The government claimed legality of the policy under Article 17 of Additional Protocol II to the Geneva Convention which allows for forced movement of civilians for security purposes. According to Deng, regroupment caused widespread suffering, both physical and psychological. see Francis Deng. "Specific Groups and Individuals: Mass Exoduses and Displaced Persons." Report of the Representative of the Secretary-General, Mr. Francis Deng, Submitted pursuant to Commission of human Rights Resolution 2000/53. E/CN.4/5/Add.1. Annex I. 6 March,2000. Available from:

<a href="http://www.unhchr.ch/Huridocda/Hur USCR, World Refugee Survey 2000. p. 67.

¹⁴ "Transition at Great Risk in Burundi. Arusha Implementation and Aid Cannot Wait For Ceasefire." *International Crisis Group* CrisisWeb Media Release. 24 May, 2002. http://www.crisisweb.org/projects/showpress.cfm?reportid=666 (22 July, 2002).

The Arusha Agreement, Protocol IV, Ch. I, A. 1.1defines a refugee according to: the 1951 Geneva Convention Relative to the Status of Refugees, the 1966 Protocol Relative to the Status of Refugees, and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. See Arusha Peace and Reconciliation Agreement for Burundi, 28 August 2000, Available from:

http://www.usip.org/library/pa/burundi/pa_burundi_08282000_toc.html, (7Aug.,2002) [hereinafter, Arusha Agreement]

official refugee status.¹⁶ The largest host countries are as follows (includes official and unofficial refugees):

Tanzania	820,000
Congo-Kinshasa	20,000
Rwanda	2000
Zambia	2000

Refugee living conditions are usually unsatisfactory. Burundian refugees in Tanzania live in northwest areas, where social services barely met the needs of local residents. 17 The UN reports that, due to a massive influx of refugees into the country, there is "a considerable hardening of attitude by Tanzania to refugees." ¹⁸ In Rwanda, 500 out of 2000 Burundian refugees live in Kigeme camp in Gikongoro Province where, according to UNHCR, conditions were "not up to the desired standards." 19

IDPs

At the end of 2001, over 600,000 IDPs remained in Burundi²⁰— both in 210 subcamps and scattered throughout the country. Over 85% of IDPs are located in the four western provinces of Bujumbura, from which rebel forces have launched attacks against the capital in 2000—Rural, Bubanza, Bururi and Makamba.21

IDPs in Burundi are commonly referred to as *sinistrés*, a term that includes "all displaced, regrouped, and dispersed persons and returnees." According to Francis Deng's 2000 ECOSOC Report, the displacement situation has deteriorated dramatically since 1994, mostly due to the continued regroupement policies of the military. The government maintains that the regroupment measures are taken for protection of all Burundi citizens, both Hutu and Tutsi, Regardless, the conditions in these camps remain grave.

Transitional and Permanent Government Structures under the Arusha Agreement

The three-year transitional period, which started from November 1, 2001, is divided into two 18-month phases. Among other transitional arrangements, both Hutu (G-7 group) and Tutsi (G-10 group) are allotted quotas in the Cabinet—60% for the G-7 and 40% for the G-10. In the first phase, Mr. Buyoya, will act as President, and Mr. Ndayizeye as Vice-President. Phase II will be marked by Ndayizeye taking Presidency. A new Vice-President will be designated by the G-7group.²³ Upon completion of phase II, Burundi will hold both Presidential and Parliamentary elections, provided all the provisions of the Agreement are met.

The tri-partite government envisioned in the Agreement consists of the Executive, Legislative, and Judicial branches. The President will be elected for a five-year term by a popular majority vote. If no candidate wins absolute majority in the first round, a second round will be held within 15 days. 24 No. one may serve more than two terms. An interesting feature of the Executive office is that the

¹⁶ USCR World Refugee Survey 2002.

¹⁷ USCR, "Tanzania 2002," Country Report, Available from: http://www.refugees.org/world/countryrpt/africa/tanzania.htm, (22 July, 2002).

¹⁸ USCR, "Tanzania 2002," Country Report, Available from: http://www.refugees.org/world/countryrpt/africa/tanzania.htm, (22 July, 2002).

19 USCR "Rwanda 2002," Country Report, Available from: http://www.refugees.org/world/countryrpt/africa/rwanda.htm, (22

July, 2002).

²⁰ USCR 2002 report, p.57.

²¹ Deng, ECOSOC Report 2000,p.4.

²² Arusha Agreement, Protocol IV, Ch.1, A 1.2.

²³ Security Council, Interim Report of the Secretary-General to the Security Council on the Situation in Burundi. 14 Nov., 2001.S//2001/1076, .Available from: http://www.unhcr.ch/cgi-

bin/texis/vtx/rsd/+SwwBmeSR_K_wwwwnwwwwwtFqrF1G1DmoMFmqDFqm7y-

dFqt2lygZf3zmAwwwwwwGFqmFyfBFqAETN0IRjgRj/rsddocview.pdf>(22 July, 2002), p.2.

Arusha Agreement, Protocol II, Ch. 2, A. 7.1, A 3.3.

President will have two Vice-Presidents, each belonging to different ethnic groups and political parties²⁵

Prior to the Agreement, the Legislature was a unicameral National Assembly with 121 members-- 81 elected and 40 appointed.²⁶ Members were elected from 16 multi-member constituencies.²⁷ Under the Arusha Agreement, the Legislature is bicameral, consisting of a Senate and the National Assembly. The Senate is comprised of two members from each province, elected by the Electoral College of each province.²⁸ The National Assembly, (Assemble Nationale) will have 100 members in the first election, and will be further determined by a future Constitution.²⁹ Each representative is elected by popular vote for a 5-year term. The electoral system under the Agreement is based on proportional representation in with a 5% threshold, although the National Electoral Committee may lower the threshold to 2%. 30 Burundi will be divided into provinces, communes, and collines (zones), with further subdivisions and magnitude to be determined by future law.

Full implementation of the Agreement appears unlikely as fighting intensified six months after installation of the transitional government. As the International Crisis Group (ICG) notes: "The ceasefire was always going to be the most difficult and critical part of the peace process. It has revealed the raw struggle for control of the security forces and other instruments of power. It has become clear that the facilitation team urgently needs support, and its strategy must be clarified. Its members must also work hard to dispel any perceptions of bias". 32

Refugee and IDP participation

Arusha talks in length on political participation as a citizen's right. Protocol I Ch.II, A7 calls political inclusion a key guiding principle for all Burundi citizens, regardless of sex, ethnicity, and regional or social status in the society. Article 7(4) further calls for "deliberate promotion of disadvantaged groups, particularly the Batwa…"³³ A5.5 of Protocol II establishes an Independent National Electoral Commission to "guarantee the freedom, impartiality, and independence of the electoral process."

More importantly, the Agreement connects reconciliation with elections, naming elections as one key solution to the conflict in Burundi.³⁴ Article 5(6) of Protocol I, Ch2, calls for "[e]nactment of an electoral law that takes into account the concerns and interests of all components of the nation on the basis of the provisions of Protocol II to the Agreement."35 This text suggests that refugee and IDP voting could be crucial in future Burundi elections.

Furthermore, The Agreement relies heavily on the 1992 Constitution and the 1998 Transitional Constitution, which state that all Burundi citizens have the right to participate, directly or indirectly, in the "management of the state." Arusha restates this, adding that "the right to vote shall be guaranteed."37 It is reasonable to interpret that the language implies the right to vote for all citizens, including refugees and sinistrés.

²⁵ Arusha Agreement, Protocol II, Ch, 2, A 7.4 Under the transitional structure, Nelson Mandela appointed Pierre Buyoya and Domitien Ndayizeye as president and vice-president of Burundi for the first phase at a summit of regional heads of state. Buyoya leads the Upruna party, and Ndyizeye represents the Frodebu party—two prominent Tutsi and Hutu parties, respectively.

US Department of State Bureau of African Studies. "Background Notes. Burundi". Aug. 2000. Available from: http://www.state.gov/www/background_notes/burundi_0008_bgn.html(22 July, 2002).

Burundi, Electoral System, (no date) Avaialbe from: http://www.ipu.org/parline-e/reports/2049 B.htm>, (22 July, 2002).

²⁸ Arusha Agreement, Protocol II, Ch. 2, A6.14.

²⁹ Arusha Agreement, Protocol II, Ch.2, A 5.2.

³⁰ Arusha Agreement, Protocol II, Ch. 2, A20.6.

³¹ Arusha Agreement, Protocol II, Ch. 1, A3.6.

³² International Crisis Group, "Transition at great risk in Burundi Arusha Implementation and Aid Cannot Wait For Ceasefire," CrisisWeb Media Release., 24 May, 2002, http://www.crisisweb.org/projects/ showpress.cfm?reportid=666>(22 July, 2002). Batwa is Burundi name for the Twa.

³⁴ Protocol I, Ch 2 of the Agreement, titled "Solutions," offers a list of solutions to the conflict in Burundi, outlined in the preceding Ch1 of Protocol I.

Arusha Agreement, Protocol I, Ch 2., A5.6. Note: Protocol II creates the government structure and outlines election

procedures.

36 Constitution of the Republic of Burundi, as adopted in 1998. Available from: http://www.burundi.gov.bi/const2.htm>(22 July, 2002)., CHIII,A31, [in-office translation]

Arusha Agreement, Protocol II, Ch.1, A5.1

The Agreement also creates three institutions which could help ensure refugee/IDP political participation, in addition to the National Electoral Commission. First, Protocol II, A 9(8) establishes, the *Ubushingantahe* Council to sit at *colline* level and "administer justice in a conciliatory spirit." Second, Protocol II, A10(7) establishes a post of an "independent *Ombudsperson*," who "shall hear complaints and conduct inquiries relating to mismanagement and infringement of citizens' rights committed by members of the public administration and the judiciary, and shall make recommendations thereon to the appropriate authorities. ³⁹ These two institutions could certainly contribute to addressing "infringement" on electoral rights of Burundi citizens.

Finally, Protocol I establishes the National Commission for the Rehabilitation of Sinistrés and calls for the "reinstatement of former refugees, taking into account experience gained before and during their exile." While the text never explicitly establishes political participation through elections as one mechanism for the "reinstatement" of refugees, it can certainly be extrapolated from this wording.

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⁴⁰ Arusha Agreement, Protocol I, Ch. 1, A7.10.

³⁸ According to IFES, *Ubushingantahe* is a traditional system "in which wise, honorable and responsible men in each *colline* propose the administrator of the commune who is to be appointed by the central government. Ouellet, DeJong, & Purcell, p.13. ³⁹ Arusha Agreement, Protocol II, Ch. 1A7(8). The article further establishes that *Ombudsperson* shall also "mediate between the administration and citizens and between administration departments and shall act as an observer of the functioning of administration" He/she must be appointed by a ¾ majority in the National Assembly and confirmed by the Senate. He/she is to report to the National Assembly.

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