
ELECTIONS IN BURUNDI: THE PEACE WAGER

I. OVERVIEW

Although the deadlines for the political transition in Burundi set by the Arusha Agreement have not been respected, the move toward holding elections, the most important step in the Burundian peace process, is currently underway. Negotiations on power sharing and the new constitution have been completed. While the consensus sought was not achieved, the majority of the 'Tutsi' parties that had been opposed to the constitution finally recognised it on the eve of the end of the transition.¹ The United Nations Operations in Burundi (UNOB) has been deployed in Burundi since 1 June 2004, but it will be credible only if the international community provides it with the necessary support.² Burundi will not succeed alone in making progress toward peace; in order to do, this devastated country needs the immediate commitment of the international community.

A new interim constitution based on the Arusha Agreement entered into force on 1 November 2004, thus avoiding a constitutional vacuum, and is to be submitted to a referendum on 22 December 2004. A new electoral timetable has been presented by the Independent National Electoral Commission (CENI), which provides for the holding of elections in six months, ending with the presidential election on 22 April 2005. Henceforth, respect for these new deadlines will determine the success of the peace process after more than a decade of civil war.

Postponement of the general elections that were to be held on 31 October 2004 is based on a series of important decisions suggested by regional powers.³ Closely argued negotiations on power sharing that

began in June 2004⁴ under the supervision of South Africa were completed two months later with the signing of the Pretoria Protocol,⁵ which reaffirmed the primacy of the Arusha Agreement and determined the orientation of the new constitution. A post-transition constitution based on the Arusha Agreement of 2000 and the Pretoria Protocol of 2004 was adopted by a parliamentary congress.⁶ CENI, responsible for organising the elections, was established by a presidential order at the beginning of September 2004. This progress has made it possible to avert an institutional crisis and to maintain a course toward the holding of elections.

However, after three months of negotiations, the long-awaited consensus had not been forged. Nonetheless, the interim constitution was adopted in the absence of the main 'Tutsi' parties. The regional initiative and the international community have not accepted the proposals of the non-signatory parties to the Pretoria Protocols (the 'Tutsi' parties), which wish to establish power sharing based on political-ethnic affiliation.⁷ Faced with this pressure, the majority of the 'Tutsi' parties finally recognised the new interim constitution.

The political situation was very tense in Burundi during September and October 2004. The adoption of the Pretoria Protocol and the regional summits of

⁴ See Crisis Group Africa report N^o. 81, "End of Transition in Burundi: The Home Stretch", 5 July 2004.

⁵ The Pretoria Protocol on Political, Defence and Security Power Sharing in Burundi, Pretoria, 6 August 2004. Out of 30 political parties, 10 have refused to sign that agreement. They are all 'Tutsi' parties: ALIDE, ANADDE, INKINZO, MRC, PACONA, PARENA, PRP, PSD, RADDES and UPRONA.

⁶ The new interim constitution was adopted by the national assembly and the senate meeting in an extraordinary congress and then was declared provisional by presidential order.

⁷ See Annex B of the Arusha Agreement of 2000 for a more detailed explication of the new interim constitution. The 'Tutsi' parties demand that a majority of the posts given to Tutsis should be for Tutsis from the 'Tutsi' political parties. This proposal was not accepted in the new constitution, which does not specify the political provenance of the Tutsis who will participate in the government.

¹ The Union pour le Progrès National (UPRONA) political party, however, has merely taken note of the new constitution.

² Its mandate has been extended until 1 December 2004 for six months by Security Council resolution 1577.

³ The regional initiative is led by primarily South Africa, Tanzania and Uganda.

August and October 2004 forced Burundian political leaders to accelerate the political process. The president of Burundi, Domitien Ndayizeye, took the decision to impose the interim constitution and the electoral process despite the reluctance and the boycott of the 'Tutsi' parties. On 10 November 2004, the vice-president, Alphonse-Marie Kadege (one of the leaders of UPRONA), was dismissed by the president for his attitude toward the new constitution. He was replaced by another member of UPRONA, Frédéric Ngenzabuhoro, considered to be more flexible. This change has contributed to a calming of the political situation as of November.

These political manoeuvres have raised apprehension and fears among Burundians.⁸ However, this sustained pressure on the political process proved itself necessary to end debate on the new constitution and enable the electoral process to begin. The same political determination will be necessary to ensure adoption of the electoral code and the law organising the administration of the communes that are indispensable for the organisation of the elections.⁹

Political debate on the future of Burundi, as well as economic and social issues is still sorely lacking. Since the beginning of negotiations on the new constitution, the central issue has been power sharing; with discussion of political-ethnic quotas predominating. However, the guarantees for protection of the minority are already established in the 2000 Arusha Agreement. Moreover, the Arusha Agreement is a compendium of protocols that are not limited to the question of power sharing but also deal with justice, reconciliation and economic reconstruction of the country and a return to the rule of law through reform of the judiciary system and security agencies. These key issues must be the focus of debate in order to meet the concerns of a population that has been largely abandoned after ten years of war.

As for security, the disarmament, demobilisation and reintegration process (DDR) officially began on 2 December 2004 with the disarmament of several hundred ex-combatants. The laws creating the new *Forces de Défense Nationale* (FDN) and the new *Police Nationale* (PN) have been adopted by the national assembly. Nonetheless, disarmament, presented as the chief means for pacifying the country,

does not seem to be a solution in the short-term. It is directly linked to the re-integration process, but that has still not begun significantly.¹⁰ The main brakes on integration of the rebel forces are both financial and political. The announcement of forthcoming elections and a change in power do not reassure the parties, and obliges each party to keep its own forces under control. It is important to separate the stakes of the political process from those of reform of the army, while at the same time improving their coordination by following a political-military roadmap. Reform of the army should not depend on the result of the next elections. The basis for restructuring the defence and security forces remains the Global Ceasefire Agreements, and that process must remain technical (with a focus on implementation) and no longer be political.

The new electoral schedule calls for the holding of a constitutional referendum on 22 December 2004; local elections on the *collines* (the lowest level of administrative organisation and corresponding to the general topography of Burundi) and in the communes on 9 and 23 February 2005; legislative elections at the provincial level on 9 March; senatorial elections on 23 March; and finally the indirect presidential election by parliament on 22 April 2005.¹¹ Respect for this timetable partially depends on the expertise provided by the United Nations Operations in Burundi (UNOB). Although the timetable seems fair and realistic, the range of tasks to be carried out is considerable. The funds required for the registration of voters and the holding of the referendum have still not been released. The voter census that has just been held has shown that technical problems remain. As for UNOB, it is entering into the final phase of its deployment. Its mission now is to assist Burundi in the DDR process and in the organisation of the elections.

⁸ More than 2000 Tutsis fled the province of Kirundo in northern Burundi for Rwanda.

⁹ The two draft bills are scheduled to be submitted to parliament during the current session.

¹⁰ The following progress is noteworthy: the deployment in Bujumbura of the special protection unit and training of mixed units at the Tenga camp, but for the time being these initiatives affect only certain elements of the *Forces Armées Burundaises* (FAB) and the *Forces pour la Défense de la Démocratie* (FDD). The minority armed movements have still not begun their integration. Integration is now taking place partially, however, by fighting against the *Forces Nationales de Libération* (FNL). FAB and FDD have been jointly deployed in Bujumbura Rural province.

¹¹ The referendum has already been postponed twice.

II. RESPECT FOR COMMITMENTS

Between January and June 2004, the Burundian political leaders held a series of negotiations on the post-transition constitution. Those negotiations did not make it possible to forge a consensus.¹² Given the stalemate, the heads of state from the region, meeting in Dar Es Salaam in June, requested the South African Vice-President, Jacob Zuma, to close negotiations on power sharing.¹³ Several meetings both in Burundi and in South Africa resulted in the signature of the power sharing agreement, at Pretoria on 6 August 2004. On the basis of this agreement, the transitional government submitted a post-transition constitution to parliament that was adopted first on 15 September 2004 and then again on 20 October 2004 as an interim constitution to be submitted to a referendum. The majority of the 'Tutsi' parties opposed this agreement and the new constitution.

A. A CONSTITUTION BASED ON THE 2000 ARUSHA AGREEMENT

The new constitution is based primarily on Protocol II of the 2000 Arusha Agreement. The power sharing agreement introduced only a few modifications, and the majority of its provisions confirm the provisions of the Arusha Agreement. Power sharing on the basis of political-ethnic affiliation as such has been provided for only during the transitional period.¹⁴ At the end of the transitional period, there is to be power sharing based solely on ethnic affiliation without reference to political affiliation. The South African mediation held to these principles during negotiations and has refused to allow any calling into question of the signed agreements.

The power sharing agreement has introduced two main changes: the future national assembly and the future government must be made up of 60 per cent

Hutus and 40 per cent Tutsis.¹⁵ The 2000 Arusha Agreement provided for an ethnic balance through blocked lists (namely two thirds and one third), which would not necessarily guarantee the same representation in the newly elected national assembly.¹⁶ The 60/40 balance was the percentage used for the transition period, with the difference that the 40 per cent allocated to the Tutsis came in large part from the 'Tutsi' political parties (G10). After the forthcoming elections, the requirement of 40 per cent Tutsis must be respected without reference to ethnic affiliation in their party of origin. Concretely, Tutsis will be able to come from 'Hutu' political parties.

Here are the key points defining power sharing on the basis of ethnic affiliation:¹⁷

- During the transitional period, the executive is to be held by a Tutsi president and a Hutu vice-president for the first 18 months and conversely after the elections. At this point, there will be two vice-presidents: a Hutu from a party with a Hutu majority and a Tutsi from a party with a Tutsi majority. The two vice-presidents can be removed by the president.¹⁸
- The new government will be composed of 60 per cent Hutus and 40 per cent Tutsis without reference to a political party. The political provenance of the ministers will depend on the percentage obtained by each party in the

¹⁵ Pretoria Protocol on Political, Defence and Security Power Sharing in Burundi, 6 August 2004, Articles 11 and 13.

¹⁶ Arusha Peace and Reconciliation Agreement for Burundi, 28 August 2000, Protocol II, Article 20, paragraph 7.

¹⁷ Except for the 60/40 sharing at the level of the government and the national assembly, all points are spelt out in Protocol II of the Arusha Agreement of August 2000.

¹⁸ Article 92 of the interim constitution: "Executive power shall be exercised by a president, two vice-presidents and the members of the government". Article 122 of the interim constitution: "The first vice-president shall ensure coordination of the political and administrative fields. The second vice-president shall ensure coordination in the economic and social fields". Article 123 of the interim constitution: "The vice-presidents shall be named by the president after prior approval of their candidatures by a majority of the members of the national assembly and the senate, voting separately. They shall be chosen from among elected office holders. They may be removed from office by the president". Article 124 of the interim constitution: "The vice-presidents shall belong to different ethnic groups and political parties. Without prejudice to the previous paragraph, the dominant character of their ethnic affiliation within their respective political parties shall be taken into account for their nomination".

¹² See Crisis Group Africa report N°81 "End of Transition in Burundi: The Home Stretch", *op. cit.*

¹³ Communiqué of the 21st summit of the Great Lakes Regional Peace Initiative on Burundi.

¹⁴ To be designated from among the signatories of the Arusha Agreement: the G7 for the 'Hutu' parties and the G10 for the 'Tutsi' parties. There is no longer ethnic cohesion within these two groups.

legislative elections.¹⁹ The ministers of defence and the head of the police must come from different ethnic groups, once again, without reference to their political party.²⁰

- The national assembly will be composed of 60 per cent Hutus and 40 per cent Tutsis. This ethnic distribution will be incorporated into each list presented by the political parties. After the elections, seats in the national assembly will be distributed to each political party by proportional representation. If this does not achieve the required ethnic balance, there will be co-optation to achieve that balance. Ethnic balance is not linked to political balance, which will be determined by the results of the elections.²¹
- The senate shall be composed of 50 per cent Hutus and 50 per cent Tutsis without reference to their political affiliation. Senators shall be elected indirectly.²²

¹⁹ Article 129 of the interim constitution: "The government shall be open to all ethnic affiliations. It shall be made up of a maximum of 60 per cent Hutu ministers and vice-ministers and a maximum of 40 per cent Tutsi ministers and vice-ministers. There shall be a minimum of 30 per cent women. The members shall come from different political parties having received more than one twentieth of the votes and that accept it".

²⁰ Article 130 of the interim constitution: "The president, after consultation with the two vice-presidents, shall ensure that the minister responsible for the national defence force is not from the same ethnic group as the minister responsible for the national police".

²¹ Article 164 of the interim constitution: "The national assembly shall be composed of at least 100 deputies at a ratio of 60 per cent Hutus and 40 per cent Tutsis, including a minimum of 30 per cent women, elected by direct universal suffrage for a mandate of five years and three deputies from the Twa ethnic group co-opted in accordance with the electoral code. In the event that the results of the election do not reflect the above-mentioned percentages, any imbalance shall be adjusted using the mechanism for co-optation provided for in the electoral code". Article 168 of the interim constitution: "Election of deputies shall take place by voting blocked lists by proportional representation. These lists must have a multi-ethnic character and take into account the required minimum balance between men and women. Out of any three candidates registered on a list, only two may belong to the same ethnic group, and at least one out of four must be a woman". Article 169 of the interim constitution: "Candidates presented by political parties or lists of independents may not be considered as elected and sit in the national assembly unless their party or their list has received a number of votes equal or greater than 2 per cent of all the votes cast at the national level".

²² Article 180 of the interim constitution: "The senate shall be composed of (a) two delegates from each province elected by

- The defence and security forces must also respect a 50/50 ethnic balance.²³
- An ethnic proportion of 67/33 has been set for local office at the communal level.²⁴
- In the event that a political party obtains more than 60 per cent of the votes in the legislative elections, co-optation (limited to 21 deputies) will take place among the other political parties represented in the national assembly, whether these parties are predominantly Hutu or Tutsi.²⁵

The goal of this ethnic balance is to increase the representation of the Tutsi minority in the institutions as a guarantee of security. This system will make possible the establishment of a democratic system in which political parties will gradually cease to be representative of a single community. The notions of political-ethnic groupings (G10 and G7) will eventually disappear.

B. SOUTH AFRICA STEPS UP THE PRESSURE

At the three most recent regional summits on Burundi and at the negotiations on power sharing, the South African mediation remained firm and put pressure to move the peace process forward. By proposing an agreement based on the 2000 Arusha Agreement, the mediation rejected *de facto* the proposals of UPRONA and the majority of the 'Tutsi' parties.

an electoral college composed of members of the communal councils of the province in question, from different ethnic communities and elected in different elections, (b) three persons from the Twa ethnic group and (c) former heads of state".

²³ Article 257 of the interim constitution: "During a period to be determined by the senate, not more than 50 per cent of the members of the defence and security forces shall be drawn from any single ethnic group, taking into account the need to ensure ethnic balance and to prevent acts of genocide and coups d'état".

²⁴ Article 266 of the interim constitution: "None of the main ethnic divisions at the national level shall be represented by more than 67 per cent of the communal administrators".

²⁵ Article 303 of the interim constitution: "Exceptionally and only for the purposes of the first election of deputies and only if one party has won more than three fifths of the seats by direct vote, a total of 18 to 21 additional members shall be co-opted in equal numbers from the lists of all the parties having received at least the threshold set for that election or two persons from each party in the event that more than seven parties meet the required conditions".

These parties proposed power sharing on a political-ethnic basis, where the percentage reserved for the Tutsi community would be given mainly to Tutsis coming from 'Tutsi' political parties, thus, taking into account the concept of political-ethnic affiliation. These parties base their demands on the reservations they made when signing the 2000 Arusha Agreement, namely regarding the type of electoral system. They have denounced the mediation of the South African Vice-President, Jacob Zuma, and the position of the South African president, Thabo Mbeki, but their stance has only served to push the mediation into an entrenched position. For example, the declaration, amongst others, of the Burundian Vice-President, Alphonse-Marie Kadege, describing the draft agreement as "a carbon copy of the demands of a single party", shocked the mediation.²⁶ The majority of the 'Tutsi' parties refused to sign that agreement.²⁷

UPRONA denounced the mediation, maintaining that in their eyes the mediation wanted to impose a constitution that does not take into account their reservations and proposals concerning power sharing. The president of UPRONA, Jean-Baptiste Manwangari, declared: "This proposal takes into account ethnic balances, but it sets aside political balances between the 'Hutu' parties and the 'Tutsi' parties. It means that the Tutsis will quite simply not be represented by 'Tutsi' parties".²⁸ Although this declaration has some truth, the power sharing proposals are based on the Arusha Agreement, which was signed and accepted by the G10 in 2000, thus it should be unanimously accepted.²⁹

Despite a lack of consensus, the agreement on power sharing was imposed and submitted to the parties for signature. The *Conseil National pour la Défense de la Démocratie-Forces pour la Défense de la Démocratie* (CNDD-FDD) and the *Front pour la Démocratie au Burundi* (FRODEBU), the two main 'Hutu' parties, have for their part accepted the full proposal, which also incorporates provisions from the draft constitution submitted by the presidency in January.

²⁶ Press release on the consultations in Pretoria regarding power sharing, Vice-Presidency of Burundi, 22 July 2004.

²⁷ ALIDE, ANADDE, INKINZO, MRC, PACONA, PARENA, PRP, PSD, RADDES, UPRONA.

²⁸ Declaration of the president of UPRONA after the first session of negotiations at Pretoria on 21 July 2004, as reported by Agence France-Presse.

²⁹ The G10 signed the 2000 Arusha Agreement with reservations, and those reservations have been ignored by the mediation.

Faced with the reservations of the 'Tutsi' parties, the South African mediation mobilised the heads of state from the region. During the 22nd regional summit on Burundi in August 2004, the heads of state confirmed the decisions made:

The summit took the following decisions: it endorsed the power sharing agreement signed in Pretoria on 6 August 2004 as an appropriate compromise and mechanism for ensuring ethnic balance in the spirit of the Arusha Agreement. It endorsed the approval by the signatories of the Pretoria power sharing agreement that the provisions of the Arusha Agreement be incorporated into the new constitution, voted through a referendum and other relevant legislation.³⁰

Given this firm decision, the president of Burundi is to convene parliament, which will endorse the draft once again without the agreement of the majority of the 'Tutsi' parties. Then at the 23rd summit, the heads of state definitively closed negotiations on the constitution:

The decision of the summit is that the draft constitution endorsed by congress be adopted before 25 October 2004 as an interim constitution until a referendum in order to facilitate the holding of elections in accordance with the calendar of the independent national electoral commission.³¹

Two equally important decisions have also been taken: the elections have been postponed in relation to the timetable proposed by the independent national electoral commission and the transitional institutions must remain in place until elections are held.

Regional pressure and support will henceforth make it possible to launch the electoral process. Although the elections have been postponed for six months, a timetable has been adopted. An institutional vacuum did not occur on 31 October 2004 as was generally expected, and no change will occur before elections are held, making it impossible to reopen the door to interminable negotiations. Finally, recognition of the

³⁰ Communiqué of the 22nd summit of the Great Lakes Regional Peace Initiative on Burundi, Dar Es Salaam, 18 August 2004.

³¹ Communiqué of the 23rd summit of the Great Lakes Regional Peace Initiative on Burundi, Nairobi, 15 October 2004.

new constitution by the region closes negotiations on power sharing. This important decision is going to make it possible to concentrate on the electoral process at the technical level.

Two important laws must still be adopted: the electoral code and the law providing for administration at communal level. The absence of these two laws cannot prevent the referendum taking place because the electoral law of 1992, which is still valid, allows for the holding of a referendum. But those two laws will be necessary for holding the general elections. The two draft bills have been submitted to the current session of the national assembly, and adoption of these laws is the final stage that the transitional government must clear.³²

III. POLITICAL WILL TO SUCCEED IS REQUIRED

The most recent summit of heads of state is a victory for the Burundian President, Domitien Ndayizeye, because postponement of the elections had been accepted and the legitimacy of the new constitution had been confirmed. These decisions also reassure FRODEBU and CNDD-FDD, the main parties backing the new constitution. The demands of the group of 'Tutsi' parties have been definitively rejected. It is a diplomatic failure for UPRONA, which was unable to convince its regional partners, mainly South Africa and Rwanda. Today, these parties have a limited margin for manoeuvre and only superficial negotiations over the system for co-optation can be envisaged.³³ It is in this context that almost all the 'Tutsi' parties ended up accepting or taking note of the new constitution on 31 October 2004.

A. THE PRAGMATIC ATTITUDE OF THE 'TUTSI' PARTIES

The 'Tutsi' parties demand power sharing on a political-ethnic basis.³⁴ In other words, Tutsi representation in the government must come from the

'Tutsi' party. They rejected the second vice-presidency; demanding more power for the single vice-president and that the presidency continued to rotate between the Hutus and the Tutsis.

Since the departure of President Pierre Buyoya at the end of the first part of the transition, UPRONA has lost its chief negotiator and ambassador. It has been unable to win over the regional mediation and the international community. The region's attitude has been to apply maximum pressure by refusing to bring into question the Arusha Agreement and preventing UPRONA from hindering progress. This party is now in a very delicate position because its demands regarding the post-transition constitution have been refused en masse.

UPRONA's leaders chose to favour an ethnic approach, but this approach was very poorly received by UPRONA's key Hutu figures and by Tutsi members of parliament.³⁵ These two groups reproach the leadership for dangerously distancing itself from the basic ideology of a party that seeks to be national and non-ethnic. The Tutsi members of the party feel that by taking this line UPRONA will lose its Hutu electorate and part of its Tutsi electorate.³⁶ Three groups have emerged within the party: the leaders, a group of key Hutu figures and the emerging new generation that wants to settle accounts. UPRONA is more and more divided and did not succeed in forming a block against the backers of the new constitution.

The strategy adopted by UPRONA and its allies has been to boycott the adoption of all proposed legislation and to bring into question the legality of the process. But this approach produced nothing, because several deputies defected from that group, thus making it possible for the congress to reach the required quorum. UPRONA no longer has the legal means to block decisions and is isolated because of this. The more decisions were taken, the more UPRONA protested and the more the party lost its influence and was discredited. By taking note of the new constitution, UPRONA shows political maturity by refusing to block the process. At any rate, UPRONA comes out of this duel seriously weakened. The firing of Vice-President Kadege because of his attitude

³² Declaration of the president of the national assembly at the opening of the October session of parliament.

³³ On the eve of adoption of the electoral code, there has been no serious negotiation to reach a consensus on this question.

³⁴ Crisis Group interviews with non-signatory parties of the Pretoria Agreement, Pretoria and Bujumbura, August-September 2004.

³⁵ For example the deputies Ngeze and Sibomana.

³⁶ Crisis Group interviews with members of UPRONA, September-October 2004.

against the constitution is a flagrant example of this.³⁷ But UPRONA remains symbolically a major player, and it was because of this that the president named Frédéric Ngenzebuhoro, an influential member of that party, as the new vice-president. UPRONA is now behind the electoral process and has accepted to participate.³⁸

The two other main 'Tutsi' parties, the *Parti pour le Redressement National* (PARENA), the *Mouvement de Rassemblement pour la Réhabilitation du Citoyen* (MRC) and to a certain degree INKINZO ("The Shield")³⁹ are not opposed to the holding of elections. PARENA was created by Jean-Baptiste Bagaza, the former president of Burundi, who is its head. This party is strongly rooted in the Tutsi community and has a capacity for mobilisation of young Tutsis. Its leadership, however, has suffered from internal dissension in the recent past.

The MRC, also a predominantly Tutsi political party has refused to sign the Pretoria Protocol, but revised its position and announced several days before the other parties that it would accept the new constitution. This party is run by Colonel Epitace Bayaganakandi, who stood as a candidate against President Buyoya for the presidential position during the first transition period. This party is well supported in the provinces of Muramvya and Mwaro. Although they do not agree with the new constitution, these parties see the elections as an opportunity to become the leader of the Tutsi community. They are now important adversaries of UPRONA. None of the 'Tutsi' parties, for the time being, have called for a boycott of the elections.

B. IN ORDER TO GAIN CREDIBILITY, THE ARMY MUST STOP OPPOSING THE POLITICAL PROCESS

The 'Tutsi' parties no longer benefit from the army's unconditional support. The Forces Armées Burundaises (FAB) have refused to back the positions

taken by UPRONA,⁴⁰ despite the controversial attitude of the minister of defence,⁴¹ and have claimed their independence from the political process. The military have actively been restructuring and reforming the army over the past few months. Any possibility of returning to war or creating a confrontation is totally rejected by the majority of the soldiers. The Burundian army needs to keep control of the DDR process, which will make it possible for it to control reform of the army and prevent any political interference. The FAB seeks a smooth reform and a sound DDR programme in the long run.

Reservations about the integration of the CNDD-FDD have been erased thanks to the successful formation of the special protection unit, joint operations in Bujumbura Rural province and the process of harmonisation carried out in the Tenga camp.⁴² The law creating the new national defence forces (FDN) has been adopted by the national assembly but has not yet been published. The greatest problem for integration is lack of financial means. The Burundian army is seeing its ranks grow without proposals of substantial financial assistance.

Both FAB and CNDD-FDD resist integration of the minority rebel groups. These groups remain partially excluded from the entire integration process by the two new partners. Nonetheless, they were recently admitted into the integrated high command, by decree, on 29 October 2004. Demobilisation is also progressing slowly. The process has just started officially. Although a symbolic step has been taken, the number of demobilised ex-combatants is still low. It seems that the officers more than the soldiers are slowing down this process.⁴³ The delay is partially understandable because the political climate and organising of elections do not create ideal conditions for gradual demobilisation.

The situation is the same for the security conditions. Fighting against the FNL continues in the commune of Kabezi and to a lesser degree in the commune of

³⁷ Executive order no. 100/140 of 10 November 2004 "on the firing of Alphonse-Marie Kadege from the office of vice-president".

³⁸ For example, the president of UPRONA asked voters to register on the ballots.

³⁹ This party was until recently headed by Alphonse Rugambarara, a Tutsi. It is now led by a Hutu. The party has not yet announced whether it will participate in the elections.

⁴⁰ Crisis Group interviews, senior FAB officers, Bujumbura, September 2004.

⁴¹ The absence of the minister of defence at the Council of Ministers when the constitution was discussed was interpreted as a personal political stand and strongly criticised by the president's office.

⁴² It should be noted that the question of harmonisation of ranks has still not been settled. The creation of the new Forces de Défense Nationale (FDN) has also not been formalised.

⁴³ Crisis Group interviews, FAB officers, Bujumbura, October 2004.

Mutambu (Bujumbura Rural province). But this movement is increasingly weakening and only counts a maximum of several hundred fighters in Burundi.⁴⁴ The head of the FNL seems to have fled to the Democratic Republic of the Congo (DRC) with several fighters. The massacre at Gatumba, on the night of 13 to 14 August 2004, for which the FNL has claimed responsibility, has clearly shown the threat of a regional alliance of those forces excluded from the peace process. Nonetheless, there is currently no evidence to confirm either this or that the Burundi peace process could be the target. The FNL no longer has the capacity to carry out a large-scale military operation. But the probability of targeted attacks against voting activities should not be excluded.

C. A PARTIAL VICTORY FOR FRODEBU

President Ndayizeye has taken control of the implementation of the Arusha Agreement. After pushing for postponement of the elections for a year -- a proposal that was rejected at the summit of the heads of state in June -- the president revised his strategy and has taken an independent position in relation to his partner at the time, UPRONA. Knowing that the elections could not be held in October, he set himself the goal of finishing the negotiations on power sharing and beginning the electoral process in order to have a legal basis for him to remain in office to finish organising the elections.⁴⁵

President Ndayizeye is on the way to achieving the goal fixed by his mandate. He was able to negotiate a ceasefire with the CNDD-FDD; he is succeeding in marginalising the FNL; and he is going to be able to organise the elections within a reasonable timeframe. The president has followed the guidelines set out in the regional initiative. In September and October 2004, he assumed his responsibilities and convened two congresses, despite opposition from the vice-president, making it possible to finalise the negotiations. He established the electoral commission and named its members who have been unanimously accepted. He recently called for an electoral census for the various ballots.

Between January and June 2004, FRODEBU was able to carry out negotiations with UPRONA on

power sharing without having to question the Arusha Agreement. From June onwards, FRODEBU represented by its president, Jean Minani, refused to back the decision to postpone the elections presented by the president of Burundi to the heads of state of the region.⁴⁶ By taking this position, FRODEBU was able to avoid compromising its commitment to its electorate through an opportunistic alliance with UPRONA. It has maintained a consistent position by supporting the organisation of the elections without postponement on the basis of Protocol II of the Arusha Agreement.

Nevertheless, FRODEBU remains torn by internal rivalries that weaken it just before the elections, and it still has been unable to re-conquer its base inside the country.⁴⁷ Its influence is limited to its dominant position within the government and to the symbol that it represents. This position will handicap FRODEBU in the upcoming electoral campaign because the population generally disapproves of the record of the transition. As long as peace has not returned to most of the country, elections have not been organised and the structural reforms provided for in the Arusha Agreement have not been carried out, the population faces the same socio-economic confusion as during the war.

Although it is largely united with the CNDD in terms of the goals to be achieved and the need to block the demands of the G10, FRODEBU remains divided on the strategy to adopt in order to compete with the CNDD-FDD. It has, nonetheless, the ability to mobilise its members. FRODEBU is looking to gain ground against the advantageous position of the CNDD-FDD at both the national and regional levels.

The minority 'Hutu' parties -- the People's Party (PP), the *Rassemblement du Peuple Burrundais* (RPB) and the Liberal Party (PL) -- are currently not in a position to rival either FRODEBU or CNDD-FDD. The RPB and the PL, if excluded from the government, may look to form alliances with the CNDD-FDD.

⁴⁴ FNL fighters frequently surrender, and abandoned weapons are found frequently in Bujumbura Rural province.

⁴⁵ Crisis Group interviews, FRODEBU, Bujumbura, September 2004.

⁴⁶ Crisis Group interviews, FRODEBU, Bujumbura and Dar es Salaam, June 2004.

⁴⁷ Crisis Group interviews, FRODEBU, Bujumbura, September-November 2004.

D. CNDD-FDD IS FOCUSING ON THE ELECTIONS

In July 2004, CNDD-FDD began again participating in the institutions. The party has decided to adopt a pragmatic approach regarding negotiations on power sharing and the future constitution by promoting its political aims more than its program: in other words obtaining access to power through elections. It has, therefore, accepted all the provisions stipulated in the Arusha Agreement, including power sharing along ethnic lines, something that it had previously rejected.⁴⁸ CNDD-FDD emphasises results more than form. It understands that the Arusha Agreement allows it to gain power legitimately through the ballot box with the approval of the region and the international community. By integrating Tutsis into the party, ethnic power sharing without political quotas can make it possible for the CNDD-FDD to become the majority party, if it can attract supporters.

By following the guidelines established by the regional mediators, in particular South Africa, and by moving considerably closer to Rwanda and the Rwanda Patriotic Front (RPF), the party currently in power there, the CNDD-FDD is seeking to shed its negative image, which it received after its military intervention in the Congo at the end of the 1990s. Through this renewal, it is able to position itself more and more like the challenger. CNDD-FDD also has the advantage of having begun to participate in the institutions only recently, which saves it from being judged based on its record or being associated with the negative image of the transitional institutions. It currently remains slightly detached from the political debate and is concentrating on the elections.⁴⁹

The other armed political movements continue to represent only small portions of the population, in particular Léonard Nyangoma's *Conseil National pour la Défense de la Démocratie*, Jean-Bosco Ndayikengurukiye's Kaze-FDD, Joseph Karumba's *Front pour la Libération Nationale* (FROLINA), Alain Mugarabona's FNL-Inganzo and the PALIPE-Agakiza. It is very unlikely that they will play an important role during the elections.

E. UNOB BEGINS TO MAKE ITS MARK

The United Nations mission (UNOB), created in June 2004, has gradually joined in the various debates. First, the mission met with the Forces Nationales de Libération (FNL) and tried to engage a dialogue.⁵⁰ Following the massacre of Congolese Banyamulenge refugees in the Gatumba camp on Burundian soil during the night of 13 to 14 August 2004, for which the FNL claimed responsibility, the UNOB broke off negotiations with the armed group. The mission was, therefore, unable to obtain a concrete ceasefire. The UNOB then became involved in the negotiations on power sharing. It proposed several compromises to the parties and has tried to maintain dialogue. Although no consensus has been reached on this initiative, the UNOB has made a positive contribution to bringing the 'Tutsi' parties back into the process.

By maintaining dialogue, the mission prevented radicalisation and was able to maintain its credibility. It was also able to reassure each party that it would not accept renewed fighting and that the elections would be held.⁵¹

The UNOB troops are now at full force, and deployment inside the country has begun.⁵² The mission is going to play a role of primary importance during the elections and will facilitate the DDR process. However, all its teams have only recently been deployed, allowing the mission only a short period to adapt. The stakes are high, and the mission's most important role will be to provide support for the independent national electoral commission. In terms of security, troops have been deployed in Bujumbura Rural province and on the Ruzizi plain, where they patrol during the day on observation missions and provide protection for the civilian population. These activities have reassured the local inhabitants somewhat, but they have had only a limited impact on the fighting, which continues in Bujumbura Rural province. UNOB has neither the mandate nor sufficient troops to intervene. Therefore, the situation remains delicate.

⁴⁸ Crisis Group interviews, CNDD-FDD, Bujumbura, September-October 2004.

⁴⁹ Although the electoral campaign has not yet begun and is prohibited, CNDD-FDD has already started campaigning.

⁵⁰ On 17 and 18 July 2004 in Nairobi.

⁵¹ The mission has held permanent discussions with those involved.

⁵² The mission's forces comprise 5,450 soldiers.

IV. THE ELECTORAL PROCESS

A. THE ELECTORAL TIMETABLE

The electoral process is complex. Six different votes must be organised in the span of six months, from the referendum on the interim constitution to the presidential elections.

- The referendum on the interim constitution will submit the new constitution to a popular vote. In order to organise this first election, CENI organised an electoral census from 20 November to 1 December 2004. At the same time, information and awareness campaigns are to begin on 6 December 2004. The members of the independent national electoral commission must be selected and then the vote can take place. Although organising the referendum is the basis for the rest of the process, the voting itself is simple. The referendum is to take place on 22 December 2004.
- Local elections will be held at the *colline* and communal levels.⁵³ The *colline* council is elected by direct universal suffrage, and these elections are to be held without the participation of the political parties. There will be an electoral bureau for each *colline*. The communal electoral commission is to organise the political campaigns to allow candidates to present themselves. The *colline* council is composed of five members without reference to ethnicity. The candidate who obtains a majority of the votes will be the head of the *colline*. The election of communal councils and the head of the commune will follow. The communal councils (with a maximum of 40 members) are to be elected by direct universal suffrage, and the head of the commune elected by the communal council. The candidates with the most votes (in function of the number of communal councillors required) will be elected. An ethnic limit has been set so that no single ethnic group can hold over 67 per cent seats at the national⁵⁴ or communal level.⁵⁵ The system of readjustment could create tensions and, therefore, the principle must be correctly explained and the means of

recourse made clear in the electoral law. Likewise, the procedures for electing local administrators should be well explained. These elections are to be held on 9 February 2005.

- Legislative elections will take place on 9 March 2005 to select deputies at the provincial level.⁵⁶ Candidates will be chosen from closed multi-ethnic lists presented by the political parties.⁵⁷ The number of deputies per province will be established on the basis of the projected population derived from the most recent general census, and seats will be distributed in proportion to the number of votes received by each list. Candidates from lists that do not obtain at least two per cent of the total number of votes cast in that province will not be elected. Once the seats in the legislature have been distributed on the basis of the election results, an initial readjustment will be made, if the 60/40 ethnic distribution has not been achieved. The new electoral code will establish the rules for co-optation. A second adjustment will be made if one political party has obtained more than 60 per cent of the total number of seats. Between 18 or 21 deputies will be co-opted from the other political parties.⁵⁸ Details about the mechanism for readjustment must be clarified in the electoral code in order to avoid disputes on the day the seats are distributed.
- The senatorial elections are currently scheduled for 23 March 2005 by indirect voting. Two senators -- one Hutu and one Tutsi -- will be elected in each province by an electoral college composed of the members of the communal councils in that province.
- On 22 April 2005, the senate and the national assembly are to meet to elect a president by a two-thirds majority. Exceptionally this time, the president will be elected by indirect vote.⁵⁹

⁵³ Burundi is divided administratively into provinces, communes and *collines*.

⁵⁴ Article 266 of the interim constitution.

⁵⁵ In the draft electoral code.

⁵⁶ There are 16 provinces plus the city of Bujumbura.

⁵⁷ Namely two thirds and one third, see chapter II of this report.

⁵⁸ Ibid, chapter II of this report.

⁵⁹ Article 302 of the interim constitution: "Exceptionally, the first president of the post-transition period shall be elected by the national assembly and the senate meeting in congress by a majority of two thirds of the members".

B. THE NEED TO PROMOTE AWARENESS AND INFORM THE POPULATION

The debates about the elections during the past few months have taken place either in Bujumbura or in South Africa, but they have been covered by the national media. Many press conferences and communiqués have made it possible for at least the people living in Bujumbura to be informed about the issues related to power sharing. Nonetheless, almost the entire population is still poorly informed about the contents of the new constitution and the procedures for holding elections. For example, there are many who feel that they are going to elect the future president by direct universal vote.⁶⁰ For the population, this lack of information is symbolic of the fact that the politicians and, in particular, the elected officials almost never travel inside the country and to their constituencies.⁶¹

Fiery declarations by all political parties have created feelings of incomprehension and fear among a large part of the rural population and returning refugees. The last elections in June 1993 and the events that followed four months later left a bitter taste among Burundians. While the elections should now be synonymous with newfound peace, doubts remain among a large part of the population. The most important step of the peace process remains to be taken. The Burundian political class must make a commitment to this process by reassuring the general public and permitting true political debate.

Talk and debate about power sharing have not been convincing.⁶² For most people, the priority is to live in

peace and have enough to eat. In many ways, the prospect of elections elicits fear in the part of the population that does not want to see the October 1993 scenario repeated and war return. Although the population decries the rumours and manoeuvres of certain politicians, it is never clear who is truly responsible.⁶³ The flight in October 2004 of several thousand Tutsis from the province of Kirundo to Rwanda is a perfect example of this. While it is difficult to establish individual or party responsibilities at the local level, it is clear that the entire Burundian political class is responsible for generating this climate of fear.⁶⁴

Abuse of the civilian population Bujumbura Rural province by CNDD-FDD and to a lesser degree by FAB has not decreased.⁶⁵ This is probably due to harassment of FNL fighters, but the abuses are nonetheless unacceptable and directly affect the civilian population. There are still about 35,000 internally displaced persons in Bujumbura Rural province and they are frequently harassed. If the security conditions do not improve soon, this situation is going to make it difficult to hold elections in the province. CNDD-FDD and FAB must commit themselves, with the assistance of the UNOB, to providing security for the inhabitants of this province.

C. FINANCING THE ELECTIONS

The donors made the establishment of the Independent National Electoral Commission (CENI), and the preparation of both an electoral timetable and a preparatory document for the elections prerequisites

⁶⁰ A series of Crisis Group interviews in Kirundo and Ngozi provinces, Burundi, October 2004. "In 1992, there was a long campaign to explain to us what the draft constitution meant. Now, they don't tell us anything, and we know nothing but what we hear on the radio. Those people will have to come and explain to us what this all means...."

⁶¹ Ibid. "The deputies have shown no sign of life since they were elected. They have to come and reassure people about the current circumstances, and also we cannot vote for something that we know nothing about".

⁶² Ibid. "When you hear the bickering every day on the radio about this issue of the constitution,...apparently there might even be two constitutions...it makes us afraid....If I had known that I was going to find such a political mess, I would never have come back. We want the political class to stop quibbling and implement what has been agreed...." "They should tell us what we should take and what we should leave. If these elections are not held, who will govern us? Let them produce this constitution, and those who want to vote for it will and then

they should leave us in peace". "We expect unifying statements from the politicians and not talk that makes us afraid".

⁶³ Ibid. "People flee from here because they are afraid that it will turn out just like in 1993. They think that war is going to break out again because of the elections. The Tutsis are afraid, and the Hutus are afraid. How can you think that there is nothing to be afraid of when those who are supposed to reassure us say they too are worried about the situation". "The people who flee leave because of hunger. There is no reason to flee. We are all united and the proof is that we are here among Tutsis and Hutus. Hunger is the real problem".

⁶⁴ For example, the president of the senate, Libère Bararunyeretse, an eminent member of UPRONA, declared "This step, which consists in ignoring certain people, can lead the country only to chaos", at a press conference on 20 October 2004 as reported by Agence France-Presse. CNDD-FDD also threatened to leave the government if elections were not organised before 31 October 2004.

⁶⁵ See the second report of the United Nations secretary-general of 15 November 2004.

for the release of funds.⁶⁶ The preparatory document was prepared, primarily by the electoral section of the UNOB and the United Nations Development Programme (UNDP), and subsequently adopted by CENI. This initial project called for a budget of US\$20 million for holding the elections and US\$3 million for the two implementing agencies (UNDP and UNOB). The donors considered the budget poorly balanced, with certain items overestimated and others underestimated.⁶⁷ The budget will probably have to be revised downward before funds will be released.⁶⁸ The UNDP is to coordinate the financial assistance, and the UNOB will provide supporting technical assistance.

The contributions pledged should make it possible to pay for the entire electoral process. However, problems regarding the disbursement of funds and certain conditions are delaying the process. Funds required solely for the referendum have still not been totally released. Because the referendum prepares the way for the subsequent elections, it is the most costly and the most important, requiring registration of voters and establishment of the provincial electoral commissions. The donors have, therefore, requested preparation of a provisional budget for the first three months with set priorities.⁶⁹

CENI launched its activities by establishing electoral commissions at the provincial level and has also completed voter registration. The first problem that arose was, of course, financial, but the European Union is providing support through the finance ministry, which administers the electoral funds. An additional problem is the targeting of funds, which are frequently insufficient for certain operations. On the whole, if donors honour their obligations, organising the elections at this level will not pose any insurmountable problems.

CENI is a technical commission only responsible for dealing with the organisation of the elections. In order for it to do so, a certain number of political decisions must be taken, including the adoption of an electoral code and a law governing administration of the

communes. In addition, a minimum level of security must be provided, which remains the responsibility of the transitional government. The Burundian political class must take decisions quickly regarding the draft laws and must continue to dialogue with FAB and the armed movements in order to find solutions to the security problem.

V. CONCLUSION

To organise elections under the best possible conditions is now one of the main goals. Burundi must create legitimate institutions and elect representatives capable of leading the country out of ten years of fratricidal war, and mobilise all the resources necessary to reconstruct a destroyed country. As the transitional government has been unable to carry out the reforms provided for in the Arusha Agreement, this task will soon fall to the new government, which should be a privileged partner of the international community.

The provisions in the Arusha Agreement have served as a reference for the interim constitution. Ethnic power sharing will replace political-ethnic power sharing based on the G10 and G7 groups that existed during the transition. Ethnic power sharing has the advantage of guaranteeing representation to the Tutsi minority, while permitting true democratic political competition. The interim constitution is not a victory of one ethnic community over another, and it makes possible the establishment of a representative, democratic system. However, the Tutsi community remains very worried about the results of the elections, which do not guarantee that those Tutsis elected or designated will be either legitimate or representative of their community. Despite political tensions and a lack of consensus, the parties have finally heard the voice of reason, have recognised the new constitution and have not questioned the progress of the peace process. This decision symbolises the point of no return for the Burundian peace process, which began after the Arusha Agreements.

Nonetheless, international pressure is necessary and should not be relaxed until the elections are held. Everything has not yet been achieved, and the main step -- holding the elections -- is still to come. Among other requirements for success, two basic laws must be adopted as soon as possible: the electoral code and the law governing the administration of the communes,

⁶⁶ The donors are Canada, France, the European Union, Japan, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the United States.

⁶⁷ Crisis Group interviews, donors, Bujumbura, October 2004.

⁶⁸ It must be prepared by CENI with the assistance of the UNOB and UNDP experts.

⁶⁹ Between US\$8 and 9 million could be released in the first phase.

without which the CENI cannot legally organise elections.

CENI needs financial resources in order to respect the new electoral timetable. Disbursement of funds for the electoral process is still too slow. The international community must do everything possible to accelerate this phase; just like the CENI, UNDP and UNOB are responsible from presenting a coherent step-by-step budget. Burundi and the electoral commission cannot organise the elections alone. The international community must mobilise. Now is the time to show Burundi that its international partners respect their obligations, just like the Burundian political class must respect theirs.

Teams of electoral observers should be quickly put into place. The whole process must be accelerated with the knowledge that each phase is a step toward peace. By ensuring the success of the referendum, the elections will gain credibility. In addition, the campaign to promote awareness and explain the whole process must be accelerated as soon as possible. The UNOB information team is working on these aspects, but this role is primarily the responsibility of CENI, the Burundian media and the transitional government.

A major concern is to be able to ensure a minimum of security during the voting period. To do so, it is important to separate the political stakes from the military stakes; this is the only way to guarantee that the FAB and other armed groups will not disturb the process but instead facilitate it. The ceasefire agreements remain the basis for restructuring the defence and security forces. Their implementation must remain very technical, not political. It is equally necessary to begin demobilisation, if only symbolically.

Although it has diminished in intensity over the last month, fighting continues in Bujumbura Rural province against the PALIPEHUTU-FNL. Nonetheless, this rebellion has been weakened militarily, and it no longer has the capacity to compromise the peace process. Quite to the contrary, it is the success of the peace process that will end the radicalisation of FNL. The official creation of the new FDN through law must take place before the elections in order, among other considerations, to allow the creation of integrated command structures throughout Burundi. The Burundian government, UNOB and donors must quickly prepare an emergency plan aimed at ensuring security during the elections. That

requires coordination of the two processes through preparation of a politico-military roadmap.

The UNOB is entering the final phase of its deployment. Its current mission is to assist Burundi with the DDR process and in the organisation of elections. UNOB is the primary instrument for providing security in the field during the peace process. It must succeed in performing its dissuasion and monitoring role, and it will be credible only if the international community provides the necessary support.

After the terrible failure of Rwanda in 1994 and the setback suffered by the United Nations Mission in the Democratic Republic of Congo (MONUC) in 2004, the success of the UNOB is the only means for the United Nations to regain a lost credibility in the Great Lakes region. The success of the process is also indispensable from a regional point of view and can create a positive precedent for the peace process in the Congo. But Burundi will not succeed alone in making progress toward peace; for that it needs the immediate commitment of the international community.

Despite the early promulgation of the law on the truth and reconciliation commission and the probability of the establishment of an international enquiry commission for crimes committed in Burundi, the question of justice seems to be absent from the agenda and the concerns of the political leaders. The draft law establishing the truth and reconciliation commission has been discussed for more than two years. Ratification of the Treaty of Rome (the International Penal Tribunal) by Burundi took place only very recently, after pressure from the media and civil society, although the text had been signed over a year ago. The continuation of a culture of impunity in Burundi is dangerous for the peace process.

Nairobi/Brussels, 9 December 2004

APPENDIX A
MAP OF BURUNDI

