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Challenges to the peace process in Burundi

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THE PEACE process in Burundi will remain fragile unless the government and the remaining rebel movement Palipehutu-FNL reach a genuine peace agreement, which continues to be postponed. The ceasefire agreement signed on 7 September 2006 has been respected by all parties, but demobilising the FNL has proven to be a moving target, partly because its integration into the defence force and security services remains a major problem. The FNL belies the defence and security services should be completely overhauled in the process, a demand rejected by the Tutsi community, the government, and the regional initiative. By contrast, the government believes the defence and security services should retain their current structure, reflecting the ethnic balance prescribed in the constitution.[1]

The tensions between the government and the FNL have been exacerbated by a split in the ruling party between factions led by Hussein Rajabu (the former president of CNDD-FDD) and by President Pierre Nkurunziza. This, coupled with ongoing tensions between the ruling party and opposition parties, does not bode well for peace in Burundi.

In this interview, ***Jan van Eck****, a South African who has played an active role in peace processes in the region since 1999, outlines some of the major challenges to peace and democratic consolidation in Burundi, and points to possible solutions.*

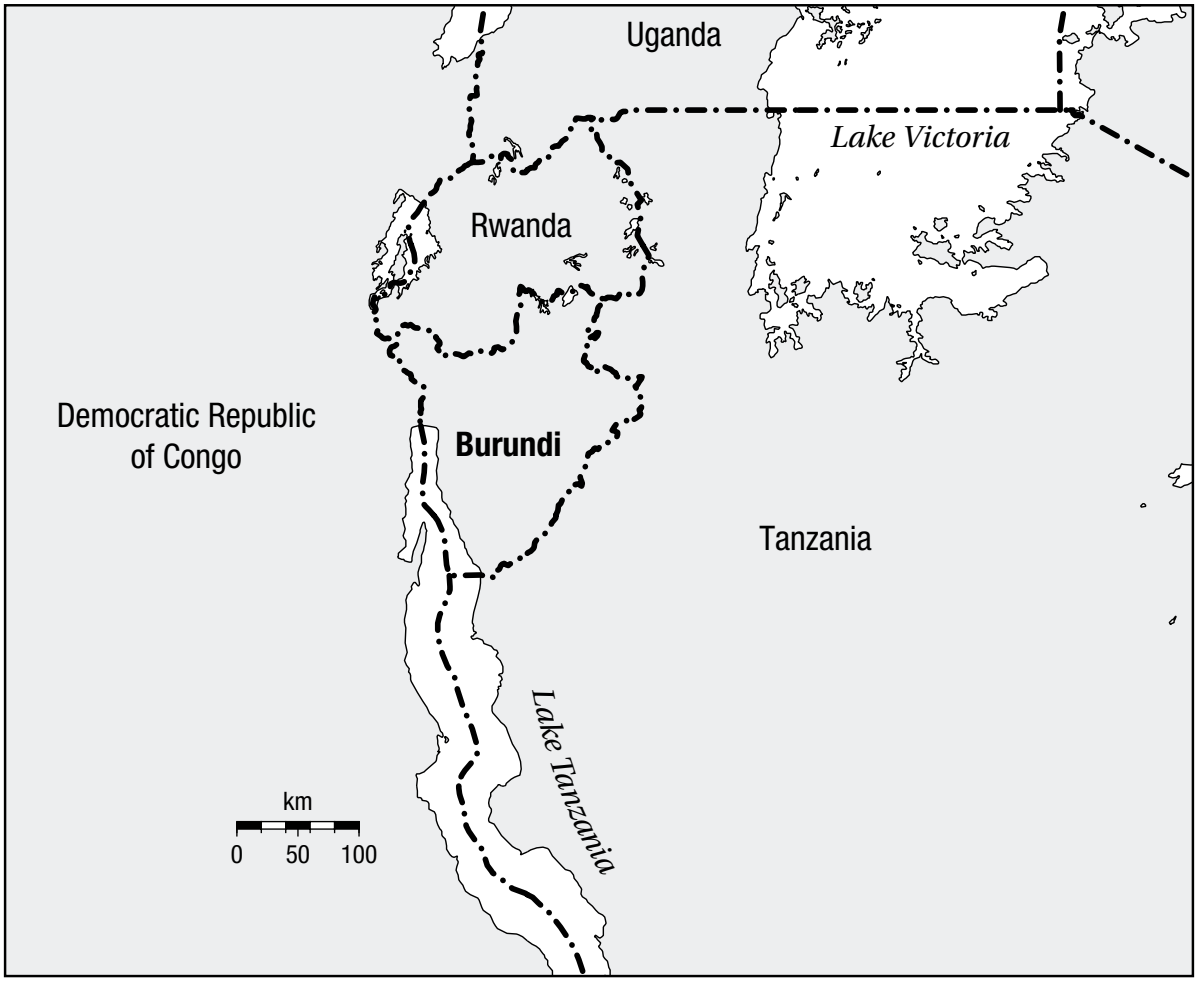
What is your present role in the peace process?

I am still working with the Burundi peace process because it has not been concluded. I still do as much analysis as I can, because what happens in Burundi is affected by everything in the region. You cannot predict nor do anything in Burundi unless you understand the regional dynamics, and that is why the instability in eastern Congo affects Rwanda and Burundi.

I play an informal role in the negotiation process. When the South African Minister of Safety and Security, Charles Nqakula, was appointed to continue South Africa's mediation in the peace process last year, I facilitated meetings between him and his team and the National Liberation Forces (FNL), because South Africa was worried that the FNL might again reject them as facilitators as they had rejected former Deputy President Jacob Zuma in the past. Because I had a link to the FNL, I offered to arrange a meeting. They secretly met with the FNL

Global Insight aims to provide members of the policy community with concise but trenchant analyses of topical issues. Comments and suggestions are invited.

Jan van Eck is a South African conflict analyst, specialising in the Great Lakes region. He has been working with the FNL since 1999, and has helped to facilitate the negotiations in Dar es Salaam between the FNL and the Burundi government, mediated by the South African government. He is a consultant to the South African Institute for Security Studies, and a former ANC MP.



in Nairobi, because they were worried that the Tanzanians might object. From that moment on, once the FNL accepted the team and the Burundi government arrived in Dar es Salaam, I assisted the FNL, and tried to convince them to stay engaged. My role is informal; I help whoever is in charge of the official process -- that is, if they wish to make use of my help.

What is the current state of negotiations between the Burundi government and the FNL?

I have been working with the FNL since 1999. At the time they were not even considering negotiations. They had wanted to join the Arusha process, but their request had been turned down by Julius Nyerere's team at the time because he had chosen a previous FNL leader, who was then ousted and went to live in Denmark. As a result, the operational FNL was not represented in Arusha, and Agathon Rwasa lost interest in the FNL Arusha Peace Process. When Nelson Mandela took over in 1999, he invited Rwasa's FNL to the Arusha process. My task then was to engage them in the benefits of fighting with their mouths and not with their guns.

The problem we had was that no one could decide whether the FNL was a significant force that needed to be included in the peace process. Questions were asked: are they a real threat, or are they a nuisance that could be ignored? This has been the underlying theme of all the attempts to include them. Regional leaders still ask whether attempts to create peace can succeed without the inclusion of the FNL, and such concerns have long undermined the seriousness of attempts to include them in peace talks.

What about the Disarmament, Demobilisation and Reintegration (DDR) process?

The FNL signed the DDR process, which has not started. The National Council for the Defence of Democracy–Forces for the Defence of Democracy (CNDD-FDD) signed a peace accord with the Burundi government in 2003. That process is still continuing, and is far from completed. Concerns have

been raised by the FNL, especially with regard to the composition of the army. A close assessment of the integration process as spelled out in the Arusha peace process has resulted in further 'Tutsization' of the armed forces. The old order at the top of the army is now stronger than it was before. The FDD component -- especially higher-ranking generals -- has been weakened. This has a direct impact on FNL's ability to genuinely participate in the DDR. They argue that the army is still Tutsi-controlled. There are many reasons for this, one being that there is a regional fear that if the new Burundian army becomes too Hutu-dominated, it would worry Rwanda.

What has been the impact of the tensions within CNDD-FDD about the negotiations?

The tensions within the ruling party have confirmed the FNL perception that it is not a government worth joining. Firstly, the period immediately after the election was marked by human rights violations when the CNDD-FDD chairman, Hussein Rajabu, used the state apparatus to silent dissenting voices. This obviously made the Burundi government an extremely unattractive government to negotiate with. To this end, the FNL were reluctant to join institutions run by an oppressive government. The FNL feared that if the opposition could be intimidated and the former president and vice-president could be arrested on the basis of a bogus coup attempt, their immunity on return to Burundi could not be guaranteed. As a result, these discouraging developments after the democratic elections of August 2005 have had a negative impact, eroded the trust of the FNL, and reflected negatively on the ability of the government to genuinely negotiate with the FNL.

The tensions within the ruling party have serious implications for the fragile peace in Burundi. The government's internal problems are further compounded by the split into two factions of the ruling party, one led by Rajabu and the other by President Pierre Nkurunziza. This, coupled with the tensions with all the opposition parties who permanently remain at war with the ruling party, does not bode well for the fragile peace process. The government has no time to think about the FNL and to take the process seriously. Its approach might be that it has enough internal opposition and therefore might not want to bring the FNL into the process, because this might strengthen the existing opposition in Burundi. If the FNL is brought in, the preferable option for the CNDD-FDD would be to ensure that they do not form a political party that could oppose the ruling party in the next election, but to get the FNL to merely lay down their arms, be integrated, and hopefully disappear into the institutions without any long-term presence in Burundi as a political party.

An aspect of Burundi that one has to be aware of is that if a party splits it will never reunify. They hate one another more than they hate their original opponents. What is occurring now is a growing alliance between the Rajabu CNDD-FDD faction and all the opposition parties, even the main Tutsi party, UPRONA. Those are negative alliances with short-term objectives. They are a serious threat to the state and stability in the region. Burundi is more unstable at the moment than it has been since 2000.

The new Burundi government understandably adopted a very strong resolution after the elections: it emphasised its sovereignty and independence, and regional leaders can no longer treat it in the same way as the many transitional governments were treated in the period from Arusha to the democratic election. A tradition has been established whereby regional leaders are reluctant to interfere in Burundi's internal affairs. As a result, there is not enough pressure on the government. The peace process is handled by the Burundi Peace Initiative, but it does not have a mandate to interfere in sovereign government. The only issue on which the government could be pressurised, to some extent, is that it signed a ceasefire with the Palipehutu-FNL. On the internal situation, they have been put under tremendous pressure by donors, which resulted in President Pierre Nkurunziza and others getting rid of Rajabu, primarily because the donors wanted it and not because the party wanted to kick him out. Rajabu became an embarrassment to the government and prevented donors from committing funding.

What are the factors that could derail the peace process?

There is no split in the FNL. Firstly, Agathon Rwasa maintains control over the vast bulk of the movement, although the fact that the peace process has produced no benefits for the FNL has affected the morale of some within the FNL. Secondly, there has been no progress in the current negotiations; all issues decided on have not been implemented, and FNL political prisoners are still in jail. There is deep unhappiness within Palipehutu-FNL about the process. The fact that Rwasa insists on negotiations and the implementation of the peace accord has created some minor tensions within the FNL. What counts against Rwasa is that for the last year, since the signing of the accord, the FNL combatants have not received

any food or medicine, which is about to cause a rebellion in his ranks. They say that Rwasa and the process are not delivering, and as a result they blame Rwasa. It is therefore not surprising that some combatants would leave out of frustration. The numbers who would opt to do so is not a worrisome figure, but they do not want to lose anyone.

There is no known personality in the FNL that is leading any split. These are individuals who seem to have left and gathered in groups in the Bubanza region with other dissenting groups that are not necessarily part of the FNL. These are the groups that clashed with government forces. They are not FNL on their own; the FNL members of those dissident groups might be the smallest component. There are other elements among them who cannot be identified, elements who also arrive with weapons whose sources cannot be determined. There is a general impression that there are people in Burundi who are actively supporting the creation of such groups, and we cannot determine who the others are besides the individuals FNL dissidents who might be there. There is no evidence that there are elements within government who are trying to create splits within the FNL, but there have been previous attempts to do so.

The biggest crisis now is that the FNL, after a week or more of consultation among its structures, has formally rejected the facilitation team led by Minister Nqakula. Until that is resolved, the process has no facilitator to play a role between the government and FNL. The process was already at the point of collapse, but now, with the FNL announcement, nothing is happening.

What are some of the threats posed to the fragile peace in Burundi?

The Kivu situation has revived the ethnic divisions in the region, and highlighted the inability of the region to deal with ethnic issues. Even Nkurunziza's government, when it came from the negotiations, said it was a nationalist movement, no longer a Hutu liberation movement, which they always were, as pro-Hutu as FNL. There was a belief that the ethnic problem would disappear through the denial of its existence. The fundamental problem with the Kivus is that there are Tutsis of Rwandan origin who are Congolese who have lived in eastern Congo for many generations, but have lived in great tension with a large proportion of the population of eastern Congo. When the genocide took place, and the Hutu regime fled to eastern Congo where these Tutsis also lived, it created serious problems. The question is, how do the Congolese Tutsis, the Banyamulenge, and the Banyamasisi coexist with the Hutu *genocidairés* from Rwanda? The problem related to the Banyamulenge and the Rwandese Hutus who fled to the Congo was not dealt with during the Congolese peace process. People hoped that the problem would disappear, but now it has again resulted in instability in eastern Congo. The biggest fear among the Tutsi elites is that if the ethnicity issue is addressed, it would result in a re-examination of the history of ethnic oppression and repression in the region. This process will reawaken ethnic feelings in the region: in Rwanda, Burundi, eastern Congo, and even in Uganda.

How do you see the reconciliation process under the Arusha Agreement?

Even though the law has been passed, nothing has being done about the reconciliation process. The UN and the Burundi government are trying to agree on how a truth and reconciliation process would work. The talks between the government and the UN have stalled because they cannot agree on the composition of the special court, the commission of inquiry, and who will have dominant control: the UN or the Burundi government. As a result, nothing has been implemented except that the president has spoken about a dialogue among Burundians concerning the process, and specifically about the role of civil society. What complicates this process is that ethnic tensions are a subregional factor and, therefore, eastern Congo, Burundi and Rwanda have to deal with the problem together. If you do not deal with the three countries, you will not solve the problem. Hutus in Rwanda see the government as being Tutsi-driven, with no freedom of thought and political association for Hutus. As long as Rwanda does not liberalise internally and allow Hutus to form parties, Rwandese Hutus will be permanently planning to overthrow the Rwandan government. Burundian Hutus who sympathise with their kin in Rwanda will always support Rwandese Hutu in their search for freedom in Rwanda. Should Rwanda, for example, again invade eastern Congo, because the Congolese government will not solve the problem of the *Interahamwe*, Rwandan Liberation Democratic Forces (FDLR) and so on, it will unite all Hutus in the region against the Tutsis and Rwanda. I am concerned that the situation could deteriorate and result in a completely new Congolese war.

What about the regional dynamics and actors?

Tanzania was pivotal in getting the FNL to Dar es Salaam for the negotiations. The Burundian government turned its back on the FNL after the election in 2005, when the FNL failed to respond to its request for negotiations. The Burundian government went to the Tripartite Plus countries, namely Uganda, Rwanda and Congo, to report the FNL and requested them to treat the FNL as a negative regional force, implying that the leaders should be identified and taken to the International Criminal Court.

In January 2006, when the FNL reached a decision to negotiate, after lengthy consultations, the Burundi government was no longer interested and requested that efforts to bring the FNL into the process should be abandoned. But Tanzania, especially President Jakaya Kikwete, pushed for negotiations. His main objective with regard to Burundi is to ensure the return of more than 300 000 Burundian refugees in Tanzania to their homeland. His conclusion was that as long as the FNL is not included in the negotiations, Burundi would not be stable, and the refugees would therefore not be able to return to Burundi.

After a drawn-out process, President Kikwete managed to convince the FNL to negotiate in Dar es Salaam. Although the government of Burundi did not want to participate, they eventually arrived when President Thabo Mbeki agreed to provide South African facilitation. Tanzania's role in bringing the FNL and keeping them in the process has been a key component of the process.

Kikwete does have the influence to make something happen, but it is difficult for individual countries to do things independently. He is vice-chair of the regional initiative for Burundi; Museveni is the chair. The regional initiative includes the other countries in the region, and is the body that appoints the facilitation. Nothing can be done by individual countries; it has to be the collective decision of the regional peace process, which includes South Africa as the facilitating country. The region is not united in its approach to Burundi; neither does it share possible solutions to the situation. We have a distinct division between regional countries on this issue about whether the FNL should be included or not, and that has seriously undermined the process. While Rwanda and Uganda are very reluctant to include the FNL, Tanzania and the DRC are convinced that they have to be included. With that nuanced difference between the regional countries, it is difficult to get them to agree on how to solve problems in this process.

Could you explain the workings of the Comprehensive Ceasefire Accord?

What happens in Dar es Salaam and with the two accords is important to the region. The Comprehensive Ceasefire Accord comprises two accords. The first was signed on 18 June 2006, and includes an agreement on political and other principles. The second, signed on 7 September 2006, is a military accord except for a few issues such as that of political prisoners. To the FNL, the 18 June accord is by far the most important one because it addresses some of the fundamental political issues that would bring about real change in Burundi. It includes a social contract which the FNL has always championed as a way of bringing about reconciliation in Burundi. They believe that there should be a national conference where Hutu, Tutsi and Twa come to reconcile and confess the truth. They believe that without a collective forgiveness, a stable government in Burundi is not tenable, and the ethnic divisions will continue to be cemented due to the historical memory, guilt and anger of the Burundians.

In principle, they want to do exactly what the Burundi government has committed itself to, but the methodology is totally different. The accord of 18 June includes a paragraph where the parties agree to a truth and reconciliation process. The FNL was able to amend the wording, calling it a truth and forgiveness process. There is a sub-paragraph that says the FNL wishes to call the truth and reconciliation process a 'social contract'. There is no agreement that there should be a social contract; therefore, the government wishes to return to that clause before an agreement or compromise can be reached.

Similarly, for the 7 September accord, for example, they still have to negotiate a technical forces agreement which still has not been undertaken. There are a number of issues that have not been addressed in the two accords. Since the FNL sent a delegation to Burundi to join the Joint Verification Monitoring Mechanism in February 2007, all the problems in the JVMM have been a source of tension and dispute between government and the FNL on whether these issues should be discussed or negotiated. The FNL said it would not move towards DDR, not identify cantonment sites until they have dealt with all the unresolved issues. That is the reason why no progress has been made this year. The 7 September accord deals specifically with immunity for the FNL that should be granted within 48 hours of signing. It took five months before they had immunity, and that is where things started going wrong. There is no process in place to release prisoners 48 hours after signing, and nobody is being released except for

the four FNL members who were delegates to the JVMM. Those are critical points in the accord, including the Technical Force agreement which is critical to the identification of the FNL's role in the military and other institutions. There was no discussion about how the FNL's leadership would be accommodated politically.

When the government came to Dar es Salaam to negotiate, it made it clear that it came to lay the framework for engagement with the FNL, which included the signing of the ceasefire, laying down of arms, and the integration of the FNL into Burundian institutions. The government's mandate was as limited as possible. The FNL arrived with a maximum agenda for the negotiations. From the moment the meeting started, they had different agendas and could never reach agreement about the negotiation agenda. The result is that the government is still unhappy that the peace process dealt with more than they wished to discuss. The government is not happy with the political accord of 18 June. The FNL is not happy with either accord. The FNL had to be forced under threat to sign the two accords; if they did not sign, the Tripartite Plus countries would identify them as terrorists and their leaders would be taken to the Criminal Court. This explains why there is no movement on the accords.

What are the possible solutions?

One looks for solutions on a daily basis. We cannot have a situation where a dysfunctional relationship exists between the facilitation and the FNL. That needs to be dealt with. The ceasefire agreement cannot be implemented if there is no facilitation. If one of the parties refuses to co-operate any further with the facilitation, there cannot be any implementation. This has to be resolved, or else we can predict that the entire process will unravel. A failed implementation or non-implementation could result in a return to war.

If there is a genuine belief that Burundi needs the FNL to become stable, the government might also adopt that position. There are still far too many people in government, in the region and internationally, who are not convinced that the FNL can, by being excluded, sabotage the whole process. As long as the FNL is a luxury and not a necessity for peace, there will not be enough commitment to ensure that the FNL is brought into the process. The unwillingness to provide the FNL with concessions is to a large extent the result of them not being taken seriously enough.

The main price for bringing the FNL into the process is that the ethnic issue will be on the agenda, to be dealt with through a reconciliation process which by its very nature has to be ethnic. The government does not want the ethnic issue to be included, and neither does Rwanda. Denying the existence of ethnicity does not make it go away. The people of Burundi have lost faith in the government since the election. It caused tremendous damage throughout Rajabu's period. There is a general feeling that the government is weak, that it has lost its quorum in parliament, and that it cannot pass legislation. The army estimates the FNL's strength at 5 000, which could show a growing support for the FNL among the people. The FNL is exploiting the general unhappiness with the government, and is building up its support base very effectively. The longer we delay this process because we think they are not a serious spoiler, the bigger a spoiler they become. We have a bigger problem now than we had a month ago. To say the FNL is heading for a split, which could be a solution to the problem, is very dangerous, because that would not be a solution but an opt-out.

Endnote

1. See Crisis Group Africa Report No. 131, *Burundi: Finalising peace with the FNL*, 28 August 2007

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