



Strategic Security Analysis

Investing in ethical education to solve Burundi's domestic governance

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Photo: Lusenda Burundi refugee camp – MONUSCO/Abel Kavanagh

Key Points

- Since the 1960s, the period of independence of Burundi, the situation of human rights has remained worrying. The UN Human Rights Office in Burundi, established in 1995, at the height of the 1993 bloody civil war, has assisted the Government in order to protect and promote the human rights, until it shut down on February 28, 2019. The assistance provided by the Office was impactful mainly through the harmonization of national legislation with international human rights standards and the creation of institutions focused on the protection and defence of human rights.
- The closure of the Office is one manifestation of the embarrassment in which Burundian top leaders find themselves after neutral UN experts have reported serious human rights violations committed by state institutions that may constitute crimes against humanity.
- The short-term solution could result from a combination of increased pressure and diplomatic actions to negotiate with the government of Burundi the reinstatement of the UN Human Rights Office. Such actions could also help to mitigate the symptoms of poor governance, particularly with regard to human rights. For the long-term, a robust mechanism addressing the root cause of ineffective or bad governance is the right way towards a lasting solution. In this regard, we suggest a smart training program specifically addressing issues of leadership ethics within all levels and categories of the leaders, sustained by coaching and mentoring activities.

About the Author

Dr Gervais Rufyikiri has a diversified experience both in academic research and in the political field. Former Vice-President of Burundi (2010-2015) and President of the Senate of Burundi (2005-2010), he contributed to build post-conflict institutions. Dr Rufyikiri has written many scientific articles reporting his findings in the domain of agriculture, environment and politics. He also lectured at universities in Burundi. Since 2017, he is Executive-in-Residence, Global Fellowship Initiative at the Geneva Centre for Security Policy. Dr Rufyikiri was educated in Burundi and in Belgium. He holds a doctoral degree in Biological, Agricultural and Environmental Engineering.

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I. Introduction

Since Burundi gained independence in 1962, Burundians have lived from generation to generation in political turmoil. They had reckoned heavily on the implementation of the negotiated compromises contained in the 2000 Arusha Peace and Reconciliation Agreement¹ to turn the page in history and engage in a new era of reconciliation and peaceful cohabitation. Unfortunately, they had to be disillusioned because the root causes of the crises were not addressed due to the unwillingness of the most influential post-wartime leaders to enforce essential provisions of the Arusha Agreement and to apply practices of good governance and standards of democracy. The examples of these provisions are the organization of credible elections (Protocol II, Chap. I, art. 5, al. 2-3), the peaceful alternation of power (Protocol II, Chap. I, art. 7, al. 3) and the respect and protection for the fundamental rights and freedoms of the individual (see for example Protocol III, Chap. I, art. 8, al. a).

President Pierre Nkurunziza's bid for a third term in office was the striking case of non-compliance with the Arusha Agreement and the Constitution, the violation of which fuelled tensions in an already fragile political environment and triggered a violent crisis that began in April 2015.² Since then, the situation of human rights has deteriorated. According to the two reports already published by the UN Commission of Inquiry on Burundi, elements of crimes against humanity have been documented³ and the human rights situation remains worrying.⁴ The release of reports by the UN Commission of Inquiry has accelerated the deterioration of diplomatic relations between Burundi and the UN, resulting in the closure of the UN Human Rights Office in Burundi.

This paper brings answers to some foremost questions, especially about the role played by the UN Human Rights Office in Burundi, the ups and downs regarding human rights during the post-war period and the degradation of human rights that followed the escalation of violence since the 2015 electoral crisis and its consequence for the victims. A solution for lasting human rights respect in Burundi is suggested at the end.

II. Establishment and impact of the UN Human Rights Office in Burundi

The Office was set up when Burundi was at the height of the bloody civil war that left nearly 300,000 dead between 1993 and 2005.

The UN Human Rights Office in Burundi opened in 1995 and exercised its mandate – the protection and promotion of human rights – until it shut down on February 28, 2019 at the insistence of the Government of Burundi (the reasons are given below).⁵ The Office was set up when Burundi was at the height of the bloody civil war that left nearly 300,000 dead between 1993 and 2005. The political context was marked by massive violations of human rights. The contribution of the Office has been noticeably impactful since 2005, during the post-wartime peace-building process. The Office provided technical assistance to the Government to combat impunity and promote the modernization of the Burundian legal framework through the harmonization of national legislation with international human rights standards. The Criminal Code revised in 2009⁶ is one of the outputs of the fruitful cooperation between the Office and the Burundian government. The striking innovations introduced by the new Criminal Code included the abolition of the death penalty, and new offenses such as genocide, crimes against humanity and war crimes, torture and other cruel, inhuman or degrading treatment have been codified.

Furthermore, the Office supported the establishment in 2011 of the Independent National Human Rights Commission (CNIDH), which raised enormous expectations for the protection and defence of human rights. Moreover, the Office advocated for the establishment of transitional justice mechanisms, in accordance with the provisions of the Arusha Agreement, and provided support. Although the ‘judicial’ component of transitional justice also provided for by the Arusha Agreement is still not considered, after lengthy debates between national actors and numerous diplomatic negotiations, the Truth and Reconciliation Commission was finally created in 2014,⁷ 14 years after its announcement by the Arusha Agreement. If these commissions do not exercise their mandates in line with the original objectives, it is because their independence has been severely undermined by political interference in their operation.⁸ For example, in the context of the 2015 crisis, alongside the decision of the Burundian government to suspend collaboration with the Office of the United Nations High Commissioner for Human Rights, the CNIDH had not collaborated with this institution.⁹

Other areas of intervention of the Office included training in capacity building on human rights for security, judicial and prison institutions, and civil society organizations and media, which at the same time helped increase awareness about sensitive human rights issues. This assistance aimed at improving the independence, integrity, and performance of Burundi’s institutional system through the rule of law.

III. Human rights situation during the post-wartime period (2005-2015)

In general, improvements were achieved between 2005 and (April) 2015 in the domain of human rights, compared to the situation prevailing in wartime. For instance, the rights of women have been promoted as their participation and responsibility in decision-making institutions have substantially increased. The 2005 Constitution of Burundi (revised in 2018) provides for a minimum quota of 30% of women in the government, the National Assembly and the Senate in order to promote women's political participation. The massive return of refugees in the post-wartime period was tangible proof of the improvement in the security situation and, consequently, of the human rights situation.¹⁰ Political rights had been improved as well¹¹ and the emergence of a vibrant and pluralistic press and very active civil society organizations had made significant progress in freedom of expression and of association. This positive trend towards a stable security situation has also been confirmed by international actors.¹²

Ineffective enforcement of the legal framework has been the major obstacle to lasting progress in the field of human rights.

However, worrying human rights abuses also occurred in the same post-war period, particularly between 2010 and 2015. Despite the introduction of modern laws and other structural reforms, especially with regard to human rights, serious deficiencies have always characterized the leadership and governance system. Ineffective enforcement of the legal framework has been the major obstacle to lasting progress in the field of human rights. The most influential senior officials of the ruling party CNDD-FDD¹³ (especially some Generals from the ex-FDD fighters) have developed informal (but most powerful) parallel command structures and, taking advantage of their privileged positions, they interfered with the day-to-day functioning of institutions until they became non-independent.¹⁴ For example, the CNIDH, which in its early years had shown some signs of independence, has become an accomplice to the perpetrators of the crimes by minimizing, if not ignoring, the crimes committed since the beginning of the 2015 crisis.¹⁵ Reacting to the lack of independence, the Global Alliance of National Human Rights Institutions, demoted in 2018 the CNIDH from 'A' to 'B' status.¹⁶

After independent institutions were neutralized, the ground was then conducive to the rise of the culture of impunity for loyal members of the ruling party. In particular, the impunity enjoyed by the pro-government militia *Imbonerakure*,¹⁷ despite being responsible for many serious human rights abuses, is widely criticized by national and international actors.¹⁸ In their continued conquest of the political space to exercise total control over the resources of the country, the CNDD-FDD-dominated government has resorted to the use of force to weaken opposition parties and silence all voices that could criticize the abuses of the political spectrum. This winner-takes-all wartime mindset and the subsequent violence and confrontational approach have resulted in serious human rights violations. Several independent reports have denounced numerous killings, enforced disappearances, kidnappings, acts of torture, rapes, and arbitrary arrests committed against real and perceived opponents by the security institutions, often collaborating with members of the ruling party.¹⁹ Alongside that, the government has repeatedly used diplomatic means to sanction and dismiss some of its key partners who reported on the human rights situation. Examples are the expulsion of the Human Rights Watch representative Neela Ghoshal in June 2010²⁰ and the declaration as *persona non grata* of the Special Representatives of the UN Secretary General and other UN officials in Burundi.²¹

IV. Why was the Human Rights Office shut down by the current government? What is the intention behind this?

In December 2015, the Human Rights Council set up the United Nations Independent Investigation on Burundi (UNIIB) to investigate violations of human rights in Burundi that had been triggered by the unconstitutional re-election of President Pierre Nkurunziza for a third term in office in April 2015. The crackdown on opponents to this third presidential term led to atrocities committed by the government security institutions and the pro-government armed militia 'Imbonerakure'.²²

The damage has affected nearly 431,000 refugees as of March 2018²³ and, according to the Worldwide Movement for Human Rights (FIDH), the victims recorded during the first two years of the crisis (2015-2017) amounted to about 1,200 people killed, between 400 and 900 enforced disappearances, several thousand people tortured and more than 10,000 people arbitrarily detained.²⁴ In the UNIIB's report, Experts stated that some of human rights abuses could be described as 'crimes against humanity'.²⁵

Following the UNIIB's report, the Human Rights Council decided to establish the Commission of Inquiry on Burundi through resolution 33/24 of 30 September 2016. At the same time, the Burundian Government caught a temper tantrum. Nervous, it reacted forcefully and, among others, declared *persona non grata* the UNIIB's Experts, announced its withdrawal from the Rome Statute of the International Criminal Court, rejected cooperation with the Commission of Inquiry, refused to cooperate with the Committee against Torture and suspended all cooperation with the UN Human Rights Office in Burundi. Since then, the relations between the Burundian government and the United Nations have continued to deteriorate. Although the suspension measure has slowed down its activities on ground, the Office in Burundi continued to exercise its mandate. The government suspected the Office of complicity in drafting the reports of the Commission of Inquiry. Even though the Commission of Inquiry's investigators did not obtain visas to travel to Burundi, their reports published in September 2017 and in September 2018, respectively, contain well-documented information.

The government's decision taken two years later to close down the UN Human Rights Office in Burundi (which entered into force on February 28, 2019) has toughened its isolation by estranging embarrassing witnesses who could collect data and information and report on poor governance, including human rights violations. It was obviously for the same reason that the Subcommittee for the Prevention of Torture failed to visit Burundi as it was announced in July 2018. Such measures from the Burundian government reflect the fear felt by the instigators and perpetrators of crimes within the ruling system. The facts gathered by these independent organizations should serve as a basis for further investigations by the International Criminal Court. On October 25, 2017, ICC judges authorized the opening of an investigation by the Office of the Prosecutor into crimes under the Rome Statute committed in Burundi from 1 December 2004 to 26 October 2017.²⁶

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V. Current human rights situation in Burundi: what is not being shared from inside the country?

The population is too scared to denounce abuses, and lives in fear of expressing their opinion on the current governance and political situation.

The human rights situation in Burundi remains very worrying. Violence with a political dimension remains frequent, while the mediation process led by the East African Community (EAC) to resolve the crisis has yielded no results and is currently deadlocked. Journalistic sources and human rights defenders report that people continue to disappear while many lifeless bodies, some of them tied up, have been found or spotted in many parts of the country.²⁷ Intimidation and arbitrary arrests targeting members of opposition political parties and the existence of secret places for illegal detention and ill-treatment of opponents are also frequently reported.²⁸ The political space for opposition political parties, independent media and civil society organizations remains restricted and most of their leaders are still in exile. On February 15, 2019, a new political party, the National Congress for Freedom (CNL), was registered, a government decision that could be considered a positive sign in terms of political freedoms. However, its members are being molested.²⁹ The political environment is likely to become even tougher at the expense of members of opposition in the run-up to the upcoming elections in 2020.

Impunity for crimes committed during the different violent crises, such as the mass killings of the 1972 and 1993 civil wars, is by far the main structural cause of recurrent violence in Burundi. The Provisions of the Arusha Agreement for transitional justice have been implemented partially. In the absence of the judicial mechanism involving the international community to deal with penal aspects, the mere Truth and Reconciliation Commission created in 2014 is unable to provide answers to the basic concern of the victims: justice. Such context favours the 'vendetta rule' of the most powerful actor. In November 2018, some retired military figures, who allegedly took part in the 1993 coup that killed President Melchior Ndadaye and sparked the inter-ethnic massacres and civil war that lasted more than 10 years, were arrested while others are under warrant for arrest.³⁰ This act is a clear sign that people need to know the truth and that the guilty are punished. The paradox, however, is that the decision was taken by the same leaders in power since 2005, who have refused any progress towards the establishment of the judicial mechanism announced in the Arusha Agreement, or another version agreed through dialogue. One might think they were waiting for the moment of total control of power. The instrumentalization of the already non-independent judiciary, which seems to be the case in the current political context in Burundi, could undoubtedly lead to unfair and partial justice.

What is not being shared from inside the country is data and detailed information on human rights violations as well as the real feelings of the oppressed citizens. The population is too scared to denounce abuses, and lives in fear of expressing their opinion on the current governance and political situation.³¹

In the absence of independent media and operational independent civil society organizations, crimes continue to be committed, but many of them are covered in silence. Moreover, few Burundians still living in Burundi dare to criticize the bad acts of the Government. Some would call this forced resignation, resilience, but the behaviour best fits the content of this saying in Kirundi "*uko zivugijwe niko zitambwa*" (the cadence of the dancers must be adjusted to the rhythm of the drums).

VI. Effect of human rights violations for the victims

The current situation continues to affect many Burundian in different ways. There are direct victims, who have either lost their relatives, or who have been abused in one way or another. They are desperate because they lack one of the most essential elements of life: living with dignity and respect. They are not entitled to the protection of State institutions or to fair and impartial justice. Can they be treated as ordinary citizens when the ruling system equates them with ‘*mujeri*’? In his expressions of hatred, President Nkurunziza inserted in the Burundian political jargon the term ‘*mujeri*’ to portray opponents to his regime.³² Normally, the term is used to name rabid, nasty and stray dogs which are therefore small, skinny and very hungry because they have been abandoned by their handlers and are dangerous because their bites are deadly to people. When captured, these animals are killed. Dehumanization is known to be a powerful weapon of war consisting in denying human attributes to others and depicting them as animal-like³³ or people with undesirable characters. In many countries, the use of the dehumanization technique by the highest authorities preceded the mass killings, as was the case during Nazi-controlled Jewish extermination in Germany between 1941-1945³⁴ and genocide in Rwanda in 1994.³⁵

Besides these direct victims, a large part of the population has suffered from diverse consequences of the 2015 crisis. The poverty of Burundians has increased as a result of the combination of the following crisis-related main factors: scarcity of foreign currencies, bilateral cooperation suspension by many donors, increased corruption and decrease of the GDP per capita. For example, the 2015 socio-political instability increased household food insecurity by 11% because of a reduction in the average purchasing power of staple foods and other basic goods.³⁶ According to reports by international aid agencies, some 1.8 million Burundians (16% of the population) need assistance with food, nutrition or livelihoods.³⁷

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VII. What can the international community do?

The international community should combine their increased pressure with diplomatic actions to negotiate with the government of Burundi the reinstatement of the UN Human Rights Office. To be effective, international actors must harmonize their interventions and adopt the same language. However, nobody can ignore that the international community is not a monolithic bloc sharing the same vision and the same strategy. Geopolitical and economic interests have a remarkable influence on each actor's position. Among other things, authoritarian countries or weakly democratized countries are clearly in solidarity with the current Burundian regime and oppose any measure or action that tends to unravel the situation. Thus, diplomatic actions must start within the international community itself in an attempt to minimize divergent positions.

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Another factor to consider is the strained diplomatic context prevailing between Burundi and most of the regional and international actors. These include poor collaboration between the government and foreign non-governmental organizations (NGOs). The government's decision in October 2018 to suspend for three months the foreign NGOs, requiring them to fulfil a series of new conditions³⁸ as a prerequisite for authorization to resume their activities, has created discomfort among these NGOs. This measure is part of a broader crackdown on civil society in Burundi which led in 2016 to the banning or suspension of the main local civil society organizations.³⁹ *Avocats Sans Frontières* and *Handicap International*, refusing to comply with what they called 'ethnic registration', have closed their offices in Burundi.

VIII. Building ethical leadership for a lasting solution

For the medium and long terms, actions addressing the root causes of ineffective or bad governance are expected to lead to a sustainable solution.

The search for a solution to the challenges of human rights violations in Burundi must begin with the diagnosis of governance problems and the identification of their root causes. This approach has the advantage of avoiding treating only the symptoms instead of attacking the disease concomitantly. In Burundi, like in many other fragile states, unethical leadership⁴⁰ is the major challenge leading to poor governance. The concern for ethical leadership is part of people's daily lives, be it the leaders in public administration or of corporations accused of tax evasion, negligence, corruption, political manipulation, human rights violation, or promoting inequalities through unequal access to resources and wealth.⁴¹ It goes hand-in-hand with questioning the concept of leadership legitimacy when citizens' confidence in governance is extremely low, as leaders fail to lead with integrity, honesty, and morality.

Serious human rights violations, like mass killings, crimes against humanity or genocide, occur because unethical leaders, to attain and maintain power in order to have total control on resources of the country, use violence to impose by force their influence over citizens or to exclude a part of the population politically and economically. Power-sharing and peaceful alternation of power are hampered by unethical leaders. Changes of constitutions to allow incumbent Presidents to overstay in power beyond term limits are a worrying phenomenon that undermines peaceful transitions towards stability and democracy and causes insecurity and human rights violations in many African countries. The violation in 2015 of the fundamental texts, namely the Arusha Agreement and the Constitution, by the Burundian President is an extreme case of disrespect for the rule of law by the highest authorities who, under normal conditions of governance, should rather guarantee their respect. The failure to respect the rule of law has been the major cause of violent protests/repression in many African countries, including in Burundi.

Although the facts show that poor governance is a common feature of all fragile states, their leaders are not prone to practice it because they are as such or because of their genetic patterns. What would be true is that the leaders' individual personality and collective behaviours could have been shaped by a combination of environmental factors, such as poor education, personal history, legacies of wartime or long period of dictatorial regimes. Some factors are changeable (education, for example), others not (individual history, for example).

Therefore, the short-term solution should consist of increased pressure from local peace-loving actors and the international community. The output may be the mitigation of symptoms of poor governance, particularly with regard to human rights. The international community must show more sympathy and solidarity with the people of Burundi who are suffering today.

For the medium and long terms, actions addressing the root causes of ineffective or bad governance are expected to lead to a sustainable solution. These actions must be focused on changeable factors that may influence positively the leaders' behaviour. Setting up and enforcing robust mechanisms that would compel policy-makers to commit to lead with integrity, honesty and morality could reverse the current trend. Practically, a smart training program specifically addressing ethical issues within all levels and categories of the Burundian leadership, sustained by coaching and mentoring activities, appears to be the great part of the

solution. And that is where the post-wartime peace-building programs in Burundi should have started. The fact that donors-driven capacity-building programs have focused almost exclusively on technical capacity has not been a good strategy. Neuroscience researchers have shown that negative behaviors can be unlearned in the same way positive behaviors can be learned.⁴² Training in leadership ethics should promote higher levels of consciousness and awareness of leaders on how their behaviour impacts the performance of themselves and the people around them. There are many well-known training international centres, such as the Geneva Centre for Security Policy (GCSP), which could be interested in playing a role in the implementation of such a program.

The proposed long-term solution could be criticized as it could be expensive. However, given the expected outcomes and impact on the protection and respect of human rights, and on good governance as a whole, it is worth it, the cost being nothing than the price for peace. Like many other people around the world, positive changes, including those regarding the respect of human rights, remain Burundians' deep aspirations. However, the time of changes remain an unpredictable parameter.

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