

BURUNDI REPORT

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MANDELA MEDIATION BREATHES NEW LIFE INTO BURUNDIAN PEACE PROCESS

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This latest Burundi Report has been compiled by the author after a three-week visit to Burundi and after attending the Burundian Peace Consultations in Dar es Salaam, Tanzania, between 9 and 29 January 2000. He is consultant to 'The Centre for .Conflict Resolution' (CCR), Cape Town on The Burundian Dialogue Project.

1. Brief Overview of the Prospects for Peace.

The appointment of former South African President, Nelson Rolihlahla Mandela, has given the Burundian Peace Process a major and much-needed new lease on life. It has created real hope amongst Burundian parties that the process can be adapted to accommodate the aspirations of all sides in the conflict. As a result, the chances of the Burundian belligerents making further progress in trying to reach a compromise agreement, have been increased significantly. (also see 'The Impact of Mandela' (2) below).

At the same time, however, serious note needs to be taken of the extremely negative internal and regional environment within which the Burundian parties are trying to negotiate an agreement:

+ Inside the country, the ongoing civil war, and especially the ongoing primarily ethnic motivated slaughter of innocent, continues unabated (due to the absence of any cease-fire), while the crumbling economic and financial situation (due to crippling economic and financial 'sanctions' being maintained by most of the international community), is creating mass poverty amongst all sectors of the population.

This severe lack of personal and economic security is creating a large aggrieved internal community and a correspondingly highly volatile situation. The fact that the Arusha process has not led to an improvement in either the security or economic situation, is resulting in more and more people seriously questioning whether it is indeed worthwhile to continue negotiating. The resultant political exploitation and manipulation of these (very valid) grievances is resulting in a very worrying destabilisation of the internal situation. If this continues unchecked, i.e. if the two main causes (listed above) are not addressed soon, the Government will

eventually either not be able to continue negotiating or sign an agreement, or it will become impossible to implement any agreement.

+ **In the region**, the broader Congolese conflict not only continues to rage on, but seems to be worsening, with more and more countries willingly or unwillingly becoming 'involved' and affected. Unless the 'Lusaka Peace Accords' are implemented (possibly after some necessary amendments), and unless the internal conflicts in neighbouring countries are addressed (Uganda, Burundi and especially Rwanda, where the Congolese after all originated), the region will continue to destabilise the Burundian Peace Process and. it very difficult indeed to reach a durable and implementable agreement.

The growing ethnic overtones of the Congolese war, with the Kabila Alliance adopting a hard line attitude against what they call the 'Tutsi regimes' of Rwanda, Burundi and Uganda, is drawing more and more countries in the region into a pro-Hutu (i.e. Bantu) and anti-Tutsi (i.e. non-Bantu) camp. This explains why countries belonging to the Kabila Alliance openly arm and make use of those mainly Hutu rebel movements fighting and toppling these 'Tutsi regimes' - Burundi included.

This trend strengthens the spectre of a larger and much more devastating regional and ethnically-based war, with all Burundian parties (Government and opposition) having virtually no choice but to prepare for such an eventuality - while at the same time having to try and negotiate a peaceful resolution of the conflict. This "dual attraction" of negotiations on the one hand and war on the other hand, obviously undermines the commitment of parties to negotiations as the only option.

If the war option is to be rejected, and the negotiations option is to become the only option, then it is critical that all necessary steps are taken to make the mediation process in its totality (both in reality and perception) as acceptable, non-partisan and 'negotiations-friendly' as possible (to all parties).

"Early " Warning!

Of specific concern is the ongoing and growing tension between Burundi and Tanzania over the fact that the Burundian **refugee camps** just across the border **in** north-western **Tanzania** are being actively **used by Burundian rebels** to recruit (according to the Tanzanian Interior Ministry), as well as allegedly train and store arms - on an ongoing basis launch large-scale attacks into southern and south-western Burundi.

The fact that nothing substantial has been done to address this five-year old complaint by Burundi, and reports from the UNHCR that even Rwandese militias, the Interahamwe and ex-FAR (the perpetrators of the 1994 Rwandese genocide), are based in some of these refugee camps (which they seem to be using as staging posts on their way to attack Rwanda from the south-east), creates conditions for a major conflict, involving Burundi, Rwanda and Tanzania and could also result in Tanzania being drawn into the present regional war. (A possible repeat of the Rwandese invasion into then Zaire in 1996, which started the whole Congolese and Central African war).

Unless the internal and regional environment starts showing some concrete signs of slowly beginning to stabilise, it is going to become increasingly difficult for both the negotiating parties and the new mediator to bring the peace process to a successful conclusion - i. e. both reaching an agreement and implementing such an agreement.

In this environment it is to be questioned whether the minority Tutsi population - who are increasingly the target of anti-Tutsi hate speech and action - will feel safe enough to give their leadership at Arusha a real mandate to reach a negotiated agreement.

2. The Impact of Nelson Mandela on the process

2.1 Response of Burundian Parties to new Mediator.

The overall response to former President Mandela has been extremely positive.

While some parties initially raised some concerns about his possible appointment, as well as the involvement of the South African Government in the mediation (references were made to South Africa's so-called bias due to its 'close relationship' with Uganda and Rwanda), once the appointment was made by the regional Heads of State, these concerns fell away.

Mandela's first meeting with the 18 (presently involved) Burundian parties in Arusha on 16 January 2000, was highly successful, with all delegations giving him a standing ovation. Those delegates who questioned him afterwards about certain statements he had made during his and a half hour speech (with which they were not completely in agreement), commented that they were very pleasantly surprised by his response that, if they thought that he did not understand certain facts correctly, they should discuss it further with him and provide him with more information. The following comments made by one senior delegate sums this up:

"We were very surprised by his open-minded approach. He seems willing to listen and learn. It seems that he is a true democrat. We have not been used to this!". What is most significant is that both government-supporting parties (who were highly critical of the perceived partisan approach of the previous mediator), and opposition parties have welcomed the new mediator equally. This change in attitude opens up the opportunity of addressing the impasse which existed before.

2.2 Other highlights of Mr. Mandela's mediation thus far:

2.2.1. Invitation to excluded rebel movements to join the peace process.

Mandela's categorical statement that the armed rebel movements, which have thus far been excluded from the Arusha Peace Process, (a major shortcoming of the peace process thus far), have to be included, have restored the hope that the Arusha Process will actually now eventually be able to address ways of bringing an end to the ongoing war and violence. Since then, the rebel movement CNDD-FDD, led by Col. Jean-Bosco Ndayikengurukiye has already accepted to meet Mr. Mandela. The

other rebel movement, PALIPEHUTU-FNL, still has to formally respond to Mr. Mandela's statement.

2.2.2 Invitation to separately meet and listen to all parties.

The announcement by Mr. Mandela that he wants to listen to the positions and views of all parties (something which is already being implemented), has created the impression that he is not only willing to hear all points of view, but - more importantly - that he is willing to learn about the intricate Burundian conflict. This is essential if the mediator and the different parties are to develop the kind of relationship needed to make the mediation process move forward and prevent a continuation of the previous impasse.

2.2.3 Adoption of UN Security Council Resolution on Burundi (No. 1286 - 2000).

Both the address by Mr. Mandela to the UN Security Council on 19 January and the Resolution subsequently adopted unanimously by the Security Council on the same day, reflect a tone which can - if implemented - help to create the kind of positive international environment in which the Arusha Process will be able to flourish. The following quotes from the security council resolution are indicative of this more 'generous' and 'helpful' approach:

+ *Support for Arusha and the Internal Political Partnership:*
"*... reiterates its strong support for the renewed Arusha peace process.... and calls for increased efforts to build an internal political partnership in Burundi* ";

+ *Arusha should be inclusive:*
"*... all parties ... outside the Arusha...process (should) cease hostilities and ...participate in (Arusha)*";

+ *End criminal acts:*
"*...condemns attacks against civilians in Burundi and calls for an end to these criminal acts* ";

+ *Neighbours (must) stop cross-border rebel activity:*
"*...neighbouring States (should) take measures to halt cross-border insurgent activity, and the illicit flow of arms and ammunition, and to ensure the neutrality, security and civilian character of refugee camps* ";

+ *Donors (should) resume economic, development and humanitarian assistance:*
"*... donors (should) provide humanitarian and human rights assistance... resume substantial economic and development assistance....* "

+ *Economic development needs of Burundi must be examined:*
"*... urges international community to examine the economic development needs of Burundi with a view of establishing stable long-term conditions... "*

These sentiments, which demonstrate an admirable understanding of some of the key issues affecting the prospects for peace in Burundi, will to some extent help

to counter the widely-held perception that the UN and the International Community 'merely condemn and criticise'.

This new approach by the new mediator and the UN, may also create the necessary conditions for the international community playing a more constructive and empowering role within the broader Burundian peace process. (This will obviously depend on whether the Security Council and the UN in general will implement these decisions, especially those regarding ending cross-border insurgencies and asking for a resumption of substantial economic and development assistance. (At the request of the previous mediator, both the European Union and the USA, have thus far opposed the resumption of co-operation).

Mr. Mandela's announcement that he will be inviting various non-regional statesmen to attend the next session of Arusha starting on 21 February, seems to indicate that he sees the broader international community playing a much more proactive role in the Burundian (and regional) conflicts during his term as mediator.

3. Challenges facing the new mediation with regard to the Arusha Process.

3.1 Making the Arusha Process more acceptable.

Unless the Arusha process becomes more acceptable in totality, the process will still have difficulty in realising the potential which the new mediator has given it

If it is true that a negotiations process can only succeed if all the parties involved feel that the process belongs to them, that they feel equally comfortable with it and that they do not see it as disadvantaging them vis a vis their opponents, then the Arusha Process up until now has not yet met these criteria.

Unless the very serious allegations of bias against the facilitation process thus far, are investigated and where necessary addressed (allegations which have been made for more than a year), certain key parties are going to remain - at best - reluctant participants. In the Burundian context, where it was (and remains) difficult for some parties to convince their support base to continue negotiating, a negotiations process that is perceived as partisan cannot be afforded.

3.2 Creating a truly inclusive and legitimate negotiations process.

The following issues need to be addressed by the new mediation: 6.

3.2.1 The inclusion of excluded rebel movements.

Without their inclusion, the war and the killings in Burundi will continue. And if this continues, political and ethnic polarisation will continue to grow - something that will make it difficult to reach a durable settlement.

Achieving an effective cease-fire and therefore ending the killings of civilians can only be achieved if the rebel movements responsible for most of the ongoing armed actions within the country are included. (This was vividly demonstrated when only the present eighteen parties represented at Arusha signed a cease-fire in June

1998. The fact that two rebel movements were excluded, meant that the war not only continued but also escalated).

While the new mediator has invited the two main rebel movements, the CNDD-FDD of Col. Jean Bosco Ndayikengurukiye and the PALIPEHUTU-FNL movement of Mr. Kosan Kabura to meet with him to discuss their inclusion in the peace process, certain obstacles will have to be overcome to make this possible:

+ Presently the rules of procedure of Arusha, drawn up at the beginning of the process, prevents any new party from joining the process if any of the existing parties object to this.

In the case of the CNDD-FDD, the founder of the CNDD, Mr. Leonce Nyangoma, who represents the CNDD at Arusha, has indicated that he will not accept the admission of the CNDD-FDD as a new (19th) party, since its leaders organised a 'coup' against him, 'broke away to form a splinter group in 1998 and insists on using the same name as the CNDD, which he (Nyangoma) founded as far back as 1994.

With regard to the inclusion of the excluded PALIPEHUTU-FNL rebel movement, the same problem may arise, since it is a breakaway from the original PALIPEHUTU movement, which is represented at Arusha.

+ An additional complication is the fact that both rebel movements are adamant that they are not only military but also political movements, and that they can therefore not just be brought into the peace process to negotiate a cease-fire and the future of the rebellion, but that they also want to be party to the agreements being reached on political and non-military matters. With the Arusha Process thus far having reached agreements on many socio-economic and political matters, the question is whether these movements can be included without having to formally again start at the beginning, i.e. to virtually renegotiate everything agreed to thus far?

A Possible Solution.

1. Re: The issue of a cease-fire. Since this is the most urgent matter which Arusha has to deal with, a possibility is to create a completely new committee of the Arusha peace process where all parties to the conflict that have military structures will be represented, 7.

i.e. CNDD (at Arusha), CNDD-FDD, PALIPEHUTU (at Arusha), PALIPEHUTU-FNL and FROLINA (at Arusha), as well as the Burundian Government and Army. All these parties, especially the Government and the two excluded rebel movements have stated regularly that they want to meet face-to-face.

2. Re: The issue of political and socio-economic matters. An agreement could be reached with the hitherto excluded rebel movements that no final agreement can be signed by the present parties at Arusha until they have been involved in separate consultations with regard to the agreements reached thus far - and until possible amendments suggested by them are included. These consultations could be done

informally, e.g. between the excluded parties and the mediator. This could prevent the need for re-negotiating everything formally again.

But while the final say on what procedure should be adopted to accommodate them, obviously rests with the parties and the new mediator, it needs to be stressed that unless the Arusha Process addresses the issue of an end to the war soon, the peace process cannot be expected to produce implementable solutions.

3.2.2 Inclusion of other excluded parties and groupings.

since the Arusha Process started there have been significant changes in, the composition of parties, i.e. some have split and others have changed their leaders. None of these changes are presently reflected in the representation of parties at Arusha.

For example: (1) While the largest opposition party, FRODEBU has split into two separate parties, one internal and the other external (with supporters internally), both claim the name FRODEBU, and each has its own office-bearers. (The internal FRODEBU reconstituted itself as separate from the external FRODEBU at a national congress inside Burundi in October 1999). While the external wing, led by Dr. Jean Minani, represents FRODEBU at Arusha, the internal wing is only 'indirectly' represented at Arusha by its leader, Augustyn Nzojibwami, who attends as a representative of the National Assembly delegation.

(2) While the largest governing party, UPRONA, led by Minister Luc Rukingama, is represented at Arusha, the breakaway UPRONA wing led by the former Chairman, Charles Mukasi (which strongly opposes the whole present process of negotiations), is not represented. (As is the case with FRODEBU, both wings claim the same party name, UPRONA, which again complicates admission to Arusha).

(3) A number of the smaller parties represented at Arusha, have since the start of Arusha had changes of leadership. The new leaders are however not recognised by the Arusha Process, resulting in the 'former' leaders still representing the parties.

4) Parties that previously either refused to participate in the original Arusha process or who withdrew from the process subsequently (e.g. RADDES), and who now want to join the process - inter alia due to the nomination of a new mediator, are also (as in 3.2.1 above) not yet able to join the process.

(5) Those parties and groupings who oppose the negotiations process in its present form (due to the presence of parties and individuals who are 'guilty of genocide'), include a number of smaller internal 'resistance' (mainly Tutsi) parties, who believe that negotiations cannot take place until the issue of genocide has been addressed. These groupings, who have significant internal support for this position, fear that the present negotiations process will sweep the crimes committed in the past, especially the crime of genocide (e.g. the 1993 'genocide' of Tutsis, as defined by the 1996 UN Commission of Inquiry), under the carpet (i.e. amnesty), 'opening the door for the those who are still committed to a genocide of Tutsis, to continue'. They include inter alia Mr. Mukasi's wing of UPRONA, AMASEKANYA (self-defence) and

AC Genocide. Although relatively small, they are deeply committed and they strike a cord with the fears of the mainly minority Tutsi ethnic group. Their serious concerns on the issue of genocide (in view of the regional dimension of pro-genocide groups such as the Interahamwe and ex-FAR continuing their ethnic attacks from and in DRC, and the firm rejection by the Rwandese Government of 'negotiating with the genocidaire'), should not be ignored.

The negotiations should demonstrate clearly that specific steps are to be taken to act against the perpetrators of genocide and the propagandists of *the 'philosophy of genocide'*. These extremely real fears of the Tutsi minority need to be addressed!

A Possible Solution.

The new mediation should look at the composition of the present Arusha and try and find a formula whereby all parties group themselves within two major blocks or camps, with each one having a common delegation and viewpoint. For example:

+ Grouping One:

The Internal Partnership, which represents both the internal wing of FRODEBU (mainly Hutu) and the pro-negotiations wing of UPRONA (mainly Tutsi), "Convergence", representing FRODEBU, UPRONA and a number of smaller internal parties, the National Assembly and the Government, which represents both main political and ethnic groupings internally. This grouping would represent the majority of the minority Tutsi community and so-called 'moderate' Hutus who believe in the gradual building up of an inter-ethnic consensus.

+ Grouping Two:

The 'opposition' could inter alia comprise: FRODEBU (mainly, but not only, external), PARENA (mainly internal), the ANAC Alliance, and a number of smaller opposition parties.

+ Notes: (1) Although this is not a completely clear-cut division, (e.g. persons within the National Assembly (Grouping One) also 'belong' to Grouping Two), both still hold together as distinguishable groupings.

(2) Although the CNDD of Mr. Nyangoma would in many instances naturally identify with Grouping Two, there seem to be certain strategic differences between them and especially FRODEBU.

(3) The excluded rebel movements, CNDD-FDD and PALIPEHUTU-FNL, once they enter the process, may form a third grouping, due to their exclusion and the fact that, as active combatants, the issue of a cease-fire, will dominate their role in the peace-process. It is possible that Mr. Nyangoma's CNDD (at Arusha) might eventually link up with this grouping since they have a similar approach to e.g. military matters. The smaller rebel movement, FROLINA (at Arusha) could also join this third grouping.

3.2.3 Conflict between the `Arusha' and `Dar es Salaam' Processes.

Due to the so-called `unmanageable' size of the 18-party Arusha representation, the former mediator decided to involve, what was called, the `Six Key Parties' in more informal `consultations' in Dar es Salaam. (The `Six' are: Government, FRODEBU (`external'), UPRONA, National Assembly, PARENA and CNDD).

While these consultations did make much more progress than was possible at the 18-party Arusha negotiations, it seems as though this process has gone as far as it can go. There are two reasons for this observation: (1) In spite of progress, the Dar es Salaam consultations are now clearly no longer able to make any further progress on the remaining crucial issues. (2) The excluded 12 parties (together with other parties not represented at Arusha) are increasingly mobilising opposition to any further consultations between `the Six', and are making it clear that they have the (collective) ability to derail any agreement reached in their absence.

3.2.4 Strengthen commitment to negotiations and reaching compromise solutions which are genuinely supported by the parties.

Serious attempts will have to be made by the new mediation to convince parties that a long-term compromise agreement, comprising long-term 'power-sharing' and checks and balances on possible misuse of power, is the only way whereby a durable peace will be found.

There are still too many parties who believe in a 'win-lose' solution. Regardless of whether some external role-players, and even countries, believe that one or the other side should come out the negotiations process as winners, this just will not work or produce peaceful co-existence.. The solution - whether one likes it or not - has to be a 'win-win' and nothing less. Parties have to accept that the choice is between negotiating a compromise or never-ending war. (While there are lessons Burundians can learn from the South African negotiating process, it needs to be borne in mind however that South Africa never experienced the massive and systematic attempts to wipe out whole population groups or identified sections of population groups, i.e. the concept of genocide. If this curse is not seen to be addressed during the negotiations process, the conflict will continue in spite of any agreement).

Of great concern is the regional war which is raging around the Democratic Republic of Congo. Due to the fact that Pres. Laurent Kabila of DRC and his ally, Pres. Robert Mugabe of Zimbabwe, have targeted the `minority Tutsi regimes' of Rwanda and Burundi and the `Tutsi-sympathetic regime' of Museveni's Uganda as being the ones who started the war in DRC, Burundian rebel movements (besides Rwandese Interahamwe and ex-FAR, guilty of the 1994 genocide in Rwanda, as well as Ugandan rebels), have formed loose or strong alliances with Pres. Kabila's Alliance against these `Tutsi regimes'.

As long as the war between the DRC and its neighbours continues, Burundian rebels will continue to be tempted by the option of overthrowing the Burundian Government by force. This may result in them being ambivalent with regard to participating in the Arusha negotiations process.

The widely reported arming and training of Burundian and other armed groups by Zimbabwe, DRC and possibly others, obviously makes the war option more attractive. The mediation should actively encourage parties that are participating in the negotiations process to make a final choice between the two options: either you try and negotiate a peaceful solution or you try and militarily topple the present government.

To complicate matters further, it would seem as though too many parties do not have any confidence that the other parties will honour any agreement reached at Arusha. Many of the parties who are negotiating, while agreeing on numerous issues, are seen as having completely different end-objectives in mind - regardless of common agreements reached. This may explain why so many parties are stressing and even over-stressing the importance of international powers providing guarantees to ensure that agreements are honoured during the critical implementation stage. Parties should remember that international guarantors cannot successfully guarantee any agreement which is not genuinely supported by those who sign the agreement. (The Lusaka Accords for DRC and Angola, and the Arusha Accord for Rwanda, are good examples).

4. Conclusions.

In spite of many agreements reached in the Arusha and Dar es Salaam negotiations, the key issues affecting the transitional period have not been touched upon yet. For those to be resolved there still needs to be a mind-shift amongst many parties. This depends to a large extent on the degree of trust and confidence that is still to be developed. The new facilitator, Nelson Mandela, with his (known) ability to assist belligerents in treating one another as opponents instead of enemies, should be able to play a major role in bringing individual leaders together and in this way promote the gradual development of the minimum degree of trust necessary for a durable agreement.

A Thought to Consider

"In apolitical environment in which governmental authority is unstable and in which the rule of law is not necessarily paramount, moving towards 'agreement' may be in itself disquieting. It implies a giving up of control and autonomy and a limiting of one's freedom of action on the shaky Grounds that the adversary can be trusted to fulfil his part of the bargain..... But in the absence of an enforcer, it may be more preferable to maintain a conflictual but known and predictable situation, than to try and construct a less conflictual but much less predictable and transparent one "

--_Paul E. Salem, Assistant Professor of Political Studies at the American University of Beirut, in an article entitled A Critique of Western Conflict Resolution from a Non-Western Perspective'. Negotiations Journal, October 1993.

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