

BURUNDI



CASE STUDY: BURUNDI

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ACRONYMS AND ABBREVIATIONS

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| ADC – IKRIBIRI: | Alliance des Démocrates pour le Changement (Alliance of Democrats for Change) |
| AU: | African Union |
| A.PRO.DH: | Association Burundaise pour la Protection des Droits Humains et des Personnes Detenues (Burundian Association for the Protection of Human Rights and Detained Persons) |
| BNUB: | Bureau des Nations Unies au Burundi (United Nations Office in Burundi) |
| COSOME: | Coalition de la Société Civile pour le Monitoring Electoral (Coalition of Civil Society for the Observation and Monitoring of Elections) |
| CECI: | Commission Electorale Communale Indépendante (Independent Communal Electoral Commission) |
| CENI: | Commission Electorale Nationale Indépendante (Independent National Electoral Commission) |
| CEPI: | Commission Electorale Provinciale Indépendante (Independent Provincial Electoral Commission) |
| CNDD-FDD: | Conseil National de Défense de la Démocratie- Forces de Défense de la Démocratie (National Council for the Defense of Democracy – Forces for the Defense of Democracy) |
| CNI: | Carte National d'identité (National identity card) |
| EAC: | East African Community |
| EU: | European Union |
| EU-EOM: | Election Observation Mission of the European Union |
| FRODEBU: | Front pour la Démocratie au Burundi (Front for Democracy in Burundi) |
| CECI: | Commission Electorale Communale Indépendante (Independent Electoral Communal Commission) |
| FNL: | Forces Nationales de Liberation (National Liberation Forces) |
| PAM-AU: | Pre-Electoral Assessment Mission of the African Union |
| UPRONA: | Union pour le progress national (Union for National Progress) |
| UNDP: | United Nations Development Programme |

I. BACKGROUND

Since its accession to international sovereignty in 1962, Burundi has experienced political and electoral turmoil marked by violence amplified by ethnic cleavages between the majority Hutu and minority Tutsi. In 1992, Burundi signed the Charter of National Unity, which launched the experiment with multiparty politics. Prior to this, the country was ruled by a single party dominated by the Tutsi, the Union for National Progress (UPRONA). The first multiparty elections in 1993 led to the election of a Hutu president, Melchior Ndadaye of the Front for Democracy in Burundi (FRODEBU). Three months into power, however, President Ndadaye was assassinated, leading to the onset of large-scale massacres in which over 300,000 people died and others fled into neighbouring countries - Democratic Republic of Congo (DRC), Tanzania, Uganda and Rwanda. Others became Internally Displaced Persons (IDPs).¹

Insecurity in Burundi continued until the military under a Tutsi military leader, Major Buyoya, took power in July 1996, a move that led to the birth of new Hutu rebel movements that contested Tutsi hegemony. But Burundi was rescued from further chaos through the intervention of regional and international actors who also placed sanctions on the Buyoya government. Through these initiatives, and under the leadership of former presidents Julius Nyerere and Nelson Mandela, Burundian parties signed the Arusha Agreement for Peace and Reconciliation on August 20, 2000. The Arusha Agreement sought to rebuild the social and political fabric while also implanting the values of democracy, equality, justice and the rule of law. In addition, the agreement helped inaugurate the creation of a political order based on power sharing across the political spectrum. In essence, the Arusha Accord for Peace and Reconciliation in Burundi became the backbone of Burundi's transition to a democratic state. Despite the signing of the agreement, some major rebel movements, in particular, the National Council for the Defence of Democracy- Forces for the Defense of Democracy (CNDD-FDD), continued to fight the transitional government until regional and international mediation also encouraged them to join the government.

The CNDD-FDD, headed by Pierre Nkurunziza, won the presidential elections of 2005, which were organized by the United Nations. In September 2006, Nkurunziza negotiated with the remaining rebel movement (Palipehutu-FNL), which renounced violence and became a political party. In 2010, the second post-electoral transition process was organized by the Independent National Electoral Commission (CENI). The election marked the dominance of the CNDD-FDD in all state institutions. The opposition boycotted the rest of the electoral process after denouncing serious irregularities during local elections that marked the first election of the election cycle. United as the Alliance of Democrats for Change (ADC-Ikibiri), the opposition sought the

¹ <http://www.bi.undp.org/content/burundi/fr/home/countryinfo/>, consulted on 02/07/2015.

annulment of the election and replacement of the CENI. In the absence of a response from the government, the opposition lost all confidence in the electoral administration and, with the exception of UPRONA, boycotted most governance institutions for five years.

2015 proved a decisive year for Burundi in political and electoral terms. Although the country had started to prepare for elections at neighbourhood, municipal, legislative, senatorial, and presidential levels, these preparations were marred by violence and intimidation that compromised the electoral process. But more important, the process was marred by President Nkurunziza's controversial decision to run for a third term, which constituted, according to most analysts, a contravention of the Arusha Agreement and the 2005 constitution. The announcement of the candidature of President Nkurunziza for a third term was approved both by the CENI and validated by the Constitutional Court. This led to a wave of protests that weakened the pre-electoral environment. The situation was further compounded by the attempted coup in May 2015 organized by General Godefroid Niyombare, who sought to stop the presidential third-term bid.

In the context of escalating violence, the Pre-Election Mission Evaluation of the African Union (AU) was deployed in Burundi from 7 to 22 December 2014. At the time of the visit, the AU mission deplored the fragility of the political dialogue, but it was also optimistic that there would be national consensus for resumption of normalcy that would contribute to holding elections: "the dialogue between the Government and opposition political parties, although fragile, has led to progress in the establishment of a legal and political framework for the conduct of the general elections in 2015"²

Despite holding parliamentary and local elections in June 2015 as the first steps in the electoral cycle, the opposition, civil society and the international community requested a postponement of the presidential vote because of the worsening political atmosphere. But the government did not respond favourably to a postponement. Both national actors and international deplored the government's reluctance to postpone the elections. The UN mission also decided to join the EU and AU in the observation boycott. As a result, both the AU and the European Union (EU), leading actors in Burundi electoral process, opted not to send any observation missions. In early June, two commissioners of the CENI resigned because the conditions for holding credible elections did not exist.³ Despite these factors, the CENI went ahead with parliamentary and municipal elections at the end of June 2015. In these elections, the CNDD-FDD won 77 per cent of the seats of the National Assembly (that is, 77 out of the 100

² See United Nations Security Council, Report of the General Secretary of the United Nations on the Office of United Nations in Burundi, General Distribution 31/07/2014.

³ <https://menub.unmissions.org/d%C3%A9claration-pr%C3%A9liminaire-de-la-menub-sur-les-%C3%A9lections-%C3%A9gislatives-et-communales-du-29-juin-2015>.

seats), followed by the coalition of small parties led by Charles Nditije and Agathon Rwasa. The latter had previously threatened to withdraw from the electoral process.

II. CONSTITUTION, ELECTORAL LEGISLATION AND GUIDELINES

Burundi is a unitary state whose constitution pledges to respect the independent functioning of its institutions and respect for ethnic and religious diversity. This is in recognition of its political history marked by strong ethnic conflicts that were resolved through the Arusha Agreement for Peace and Reconciliation in Burundi in August 2000 and the Constitution of March 2005. The Arusha agreement is an integral part of the current constitution.

The constitution has strong provisions for the principle of equality in the distribution of powers in order to address problems of ethnicity that have dogged Burundi. These concerns were enshrined in the Constitution of 2005, which provides that at government level vice-presidents should belong to different ethnic groups and political parties. This balance is also in the government, which is open to all ethnic groups. It comprises not more than 60 per cent of Hutu ministers and deputy ministers and not more than 40 per cent of Tutsi ministers and deputy ministers. Gender balance is also not left out, because the constitution guarantees a minimum of 30 per cent of women. To avoid the dominance of one ethnic group over another in the security services, the Constitution provides that the minister in charge of the army cannot be of the same ethnic group as the one in charge of the national police. The same logic applies to the National Assembly, which must be composed of at least 100 deputies elected by direct universal suffrage, with the proviso that not more than 60 per cent should be Hutu and not more than 40 per cent should be Tutsi, while at least 30 per cent should be women. Three members of the Twa ethnic group are co-opted.

The procedures for revising the Constitution are provided for by the fundamental law. The initiative of the revision belongs concurrently to the President of the Republic after consultation with the government, the national assembly or the senate deciding by the absolute majority of members respectively comprising them.

The CENI is the electoral management body in Burundi consisting of five members appointed by the President of the Republic on the approval of the National Assembly. The Constitution provides that an “independent national electoral commission ensures the freedom, impartiality and the independence of the electoral process.”⁴ Although the CENI enjoys independence constitutionally, the fact remains that it has suffered from a serious crisis of confidence on the part of stakeholders, especially opposition

⁴ See sections 90 to 298 of the Constitution of Burundi, 18 March 2005.

parties. The organization of the 2015 presidential election raised many questions about the impartiality of the CENI and its ability to manage elections properly.

Political parties

Burundi embarked on the experience of multiparty politics in 1992 with the signing of the Charter of National Unity. In 1993, a Hutu president was elected, but he was then assassinated three months later. The Arusha Agreement and the 2005 Constitution anchored the principle of multiparty democracy in Burundi. The Constitution recognizes that political parties have the right to form freely without interference. Nonetheless the government has often interfered in the internal management of political parties, particularly since the boycott of the 2010 elections by opposition parties. In order to better establish its power, the CNDD-FDD, through the Interior Minister, favoured the division of political parties by a process that some researchers⁵ called the "Nyakurization".⁶ These divisions have weakened the opposition parties, including the FNL, the FRODEBU, the UPD and UPRONA; two FRODEBU wings exist (Sahwanya and Nyakuri); two UPD (Zigamibanga and Feruzi); two FNL (Rwasa and Icanzo); and recently two UPRONA (Nditije and Concilie). These manipulations have shaken the opposition parties, while marginalizing the most hostile leaders by preventing them from organizing.⁷

III. ELECTORAL SYSTEM

Burundi's electoral system is organized by the Constitution and the Electoral Code of June 2014.⁸

Election of the President of the Republic

"Executive power is represented by the President of the Republic, elected for a term of five years, renewable once."⁹ This question raised a problem of interpretation in the lead-up to the 2015 elections. The provision that complicates the interpretation of the possible third term of President Nkurunziza is Article 302, which is part of Title XV, "Special provisions for the first post-transition period" of the 2005 Constitution. This article stipulated an exceptional situation in which the first president of the post-transition period was elected by the Senate and the National Assembly, which was the case of Nkurunziza in 2005. His supporters claimed that since he was elected by direct

⁵ Arusha Spirit, are you there? Burundian Democracy at Risk for the 2015 Elections, by Justine Hirschy and Camille LAFONT, <http://polaf.hypotheses.org/1142#more-1142> accessed 24/07/2015.

⁶ "Nyakuri": noun that refers to "authentic" Kirundi language.

⁷ Arusha Spirit, are you there? <http://polaf.hypotheses.org/1142#more-1142> accessed 24/07/2005.

⁸ Law No. 1/20 of 3 June 2014 amending the Law No. 1/22 of 18 September 2009 on the electoral code is the electoral law in force in Burundi.

⁹ Section 96 of the Constitution of Burundi of 18 March 2005.

universal suffrage only in 2010, he should be able to run for a real second term in 2015.¹⁰ However, the opposition and civil society argued that this extra mandate did not match the requirements of the Arusha Agreement, which limited the number of mandates of the president. Under the Constitution, the President of the Republic is elected by direct universal suffrage for a five-year term renewable once. His election is held by uninominal vote in two rounds. To be elected president, the candidate must have received an absolute majority of votes cast. If this is not achieved in the first round, the candidate with the relative majority of votes cast is declared the winner.

Election of deputies and senators

The election of deputies is held in the poll of blocked lists by proportional representation. These lists must be of a multi-ethnic character and respect the balance between men and women. The candidates nominated by parties or independent lists are not considered elected and therefore are allowed to sit only if their party or their list totalled a number of votes greater than or equal to 2% of all votes cast.¹¹ The parliamentary candidates must be of Burundian nationality, be at least 25 years old, and enjoy their civil and political rights. The Senate is composed of two delegates from each province, three people from the Twa ethnic group and former heads of state. The two delegates per province are elected by an electoral college consisting of members of municipal councils in the province concerned. Under Article 180 of the Constitution, they must come from different ethnic communities and be elected by separate ballots. It is assured that there will be a minimum of 30 per cent women, whose terms of appointment, if any, are defined by the electoral law.

IV. PARTY AND CAMPAIGN FINANCE

The financing of political parties and of electoral campaigns is governed by the 2005 Constitution and Law no. 1/16 of September 2011 on the organization and functioning of political parties. External financing of political parties is prohibited. However, the Constitution as the law provides for the internal financing of political parties (party activities, events, donations and bequests) and public financing. Specifically, the 2011 law authorizes: membership fees, revenue from own activities, state grants and donations and legacies. The maximum contribution amount is set by each party, and any amount that exceeds this is considered a liberality.

The terms of the public funding of parties are provided by law on the organization and functioning of political parties in 2011. The law provides for the funding of political par-

¹⁰ See Stef Vandegeste "The eligibility of the current President of the Republic of Burundi to the 2015 elections: a legal analysis", Institute of Development Policy and Management, University of Antwerp, 23 pp.

¹¹ See sections 168 and 169 of the Constitution of Burundi 18 March 2005.

ties equitably, in proportion to their seats in the National Assembly. This funding may apply to the operation of political parties in election campaigns and should be transparent. The law does not provide for a limit on campaign spending and proscribes, in any way, the use of public goods. Moreover, sanctions for non-compliance with its provisions is laid down by law in Article 224, which states that “shall be punished by a fine of 40,000 to 200,000 francs a person who, for propaganda purposes, use or leave use for his own benefit, that of a candidate or a political party, assets and resources of the State, an institution or a public body.” Also, Article 28 for good conduct code of political parties stipulates the need to ensure that no political party makes use of state resources on his behalf. The public funding of political parties remains to be achieved in reality. For instance, there was no budget for political party funding during the 2010 elections.¹² The observation reports, including the EU, noted a lack of resources for election campaigns of political parties, except the ruling party, CNDD-FDD. Given the boycott of the 2015 elections by opposition parties, the issue of party and campaign financing did not arise.

V. ELECTION MANAGEMENT

The organization, conduct and supervision of elections are entrusted to an independent national electoral commission (CENI) comprising five independent members. They are appointed by decree after having been previously approved separately by a three quarters majority of the National Assembly and the Senate.¹³ The CENI consists of five members: the President, the Vice President, the Commissioner for Finance and Administration, the Electoral Commissioner for Operations, Logistics and Legal Affairs and the Commissioner in charge of Education and Civic Communication. The CENI is supported by Independent Provincial Electoral Commissions (CEPI) and the Independent Communal Electoral Commissions (CECI). The 2010 elections were the second electoral process in the post-transition period, after the signing of the Arusha Agreement. Although these elections were generally conducted in a relatively calm environment, imperfections mainly related to the transparency of procedures and respect for the rights of political parties. This led to a political stalemate towards the end of the process, characterized by a boycott of the elections by most opposition parties. To this were added the lack of display of the minutes and the impossibility of bringing cases before the branches of CENI. In 2015, the work of CENI was further discredited by the crisis of confidence between the state on one hand and all the other actors in political life on the other hand. This lack of trust was deepened by the resignation of two key members of the electoral commission, who left the country arguing that they were under strong pressure from those in power. Besides the political implications, this situation left the CENI with a lack of capacity to manage the process. Two new

¹² European Union, 2010, “Final report: 2010 local, presidential, parliamentary, senatorial, hill elections”, Electoral Observation Mission, Burundi 2010, p. 3.

¹³ See Articles 69 and following of the Constitution of Burundi 18 March 2005 of the United Republic of Burundi.

commissioners were proposed by the authorities and were then appointed after the opposition declined the proposal made to them by government to propose replacements for the two members who had resigned.

Logistics

The voter registration phase was conducted by the enumerators at the registration centres, under the supervision of coach agents (members of CEPI). The organization of this phase was satisfactory to the CENI. In anticipation of the influx to the polls (elections were to be coupled to this election cycle) and to facilitate the flow, the CENI installed 12,000 polling stations in anticipation of parliamentary and local elections initially scheduled for May 2015.¹⁴

In preparation for the 2015 electoral process, the formation of the CENI was done sequentially. The CENI received bridge training before training the other electoral bodies below it. Despite this, observers and the CENI have recognized the need to strengthen training, specifically that of the CEPIs and CECIs, to enable them to better fulfil the functions entrusted to them as Burundi builds up credible electoral processes. Although the CENI was criticized for a number of shortcomings related to voter registration, over the years it has developed a good command of the technical aspects of the electoral process. This has been because most of the technical support has been provided by the UNDP, particularly with regard to the installation of the data processing centre.

Financing

The CENI has low financial capacity. Its funding relies mainly on the help of partner countries and organizations, especially as the availability of funds may result in a delay in the electoral calendar.

The independence of the CENI

Two positions exist with regard to the CENI, and emerged in the light of the electoral process in 2015 from the voter registration phase. The ruling party and some opposition parties expressed their confidence in the CENI and refused any questioning of the impartiality of it. On the other hand, the vast majority of opposition parties and civil society have strongly questioned the independence of the CENI to the point of asking for its resignation.

¹⁴ Encounter of the Pre-electoral Assessment Mission of the African Union with the Commissioner in charge of electoral logistic, operations and legal affairs of the CENI in Burundi.

Questioning of the impartiality and independence of the CENI was also due to the fact that “political actors” could not appoint proxies to observe the electoral list. The CENI explained that this posture was dictated by the electoral law, which contained no provisions relating to “political actors”. This argument was however found to be too “legalistic” by detractors who argued that there cannot be inclusive elections without the participation of “political actors” who represent the real opposition to the ruling party. The addition of such parties to the electoral process is also one of the conditions imposed by donors who support the organization of elections.

Some events reinforced the sense of bias by the CENI, particularly the resignation in May 2015 of Caritas Spes Ndironkeye, Vice-Chairman of the CENI, a few weeks before the parliamentary and municipal elections. Upon her resignation, she noted that the CENI had faced pressure from the ruling party. Despite a very disrupted social context and a strong request for the postponement of the elections by the international community due to lack of consensus on the electoral process, Burundi held parliamentary and local elections in the absence of the opposition, which boycotted the process.

VI. ELECTION DISPUTE RESOLUTION MECHANISMS

Electoral justice mechanisms are provided to legally challenge the various operations in the electoral process. Remedies are provided for each stage of the electoral process.

Litigation of enrolment on the lists

The electoral code offers remedies to protesters of the enrolment process. The CENI encourages interested parties to contest the electoral roll with the legal mechanisms provided in this regard. However, the opposition parties have not used them because of the loss of confidence in the CENI.

The appeal against the registration or omission on the roll can be submitted by anyone, including political parties and independent candidates, to the CENI.¹⁵ The appeal must be filed at the request addressed to the President of CENI and copies are sent to the CEPI and to the Head of the enrolment centre. The CENI has three calendar days after the referral to come to a decision. If the applicant is dissatisfied, he may appeal to the CEPI within two calendar days following the notification of the decision. The CEPI ultimately decides within two days of the referral under Article 23 of the Electoral Code. In order to avoid the risk of violence due to non-legal challenges to the elections, the use of legal mechanisms should be a priority.

¹⁵ See sections 22 and following of law No 1/20 of 3 June 2014, op. cit.

Litigation of rejection of the nomination

In the context of the presidential election, nomination papers are received by the CENI. Any rejection of an application must be justified on issues of non-compliance with the Constitution and the electoral law. Appeal procedures are open to challenge the decision to reject the candidature: “in case of rejection of nomination, the decision of the Independent National Electoral Commission must be reasoned on all points of non-compliance with the Constitution and this Act. Within two calendar days after service of the decision, any challenge can be brought before the Constitutional Court, which has a period of eight calendar days to decide definitively.”¹⁶

The period for nominations for the presidential election in 2015 was from 30 April to 9 May. Although no candidate of the opposition was rejected by the CENI, the real sticking point was the candidacy of President Nkurunziza. Although 14 senators petitioned the Constitutional Court to interpret Articles 96 and 302 of the Constitution, the Court ruled in favour of a third term for President Nkurunziza.

For the parliamentary elections, an appeal against a decision to reject an application can be brought by the political party or any person on the list of candidates to the Constitutional Court, which has a period of eight calendar days to come to a decision. The applicant must notify the Constitutional Court within forty-eight hours after notification following the notification of the rejection as stipulated by article 132 of the electoral law. For the Senate elections, these same remedies are available to the Constitutional Court as provided in Article 163 of the electoral law.

Thus, the Constitutional Council is the judge of the litigation process in relation to presidential, legislative and senatorial elections.

Litigation results

The CENI proclaims the provisional results of the elections. For presidential, legislative, and senatorial elections as well as referendums, the Constitutional Council is the judge of electoral disputes. It has the important power of assessing the results in order to determine whether any irregularities influenced the electoral results to a significant degree. It can be appealed just as it can appeal itself.¹⁷ As for the elections of the hill councils, the contestation of the results is taken before the CECI then the CEPI, which proclaims the final results. For the election of local councils, applicants must refer to the CEPI and CENI, which ultimately decide.¹⁸

¹⁶ See Articles 103 law No 1/20 of 03 June 2014 op. cit.

¹⁷ See Sections 79 and following of law No 1/20 of 03 June 2014, op. cit.

¹⁸ For the deadlines and the form of the request, see articles 73 and following of the electoral code.

VII. VOTER REGISTRATION

Burundi adheres to the principle of universal suffrage, which is captured in the electoral code and continental and international norms. Although voter registration follows these norms, opposition parties and civil society have strongly criticized the process. There are no unreasonable restrictions on the universality of suffrage, because the electoral code provides that “voters are, Burundian citizens, of both sexes, aged 18 years on election day, enjoying their civil and political rights and not in a case of incapacity to vote provided by the electoral code”.¹⁹ Voter registration is manual and has been criticized because this does not strengthen transparency of the elections and the credibility of the results. The registration is done on pre-printed books that are filled in at the registration centres, which are located in the municipalities. At the close of the registration period on the electoral lists, all records are returned to the Data Processing Centre in Bujumbura for data entry and processing. This method was strongly criticized because of alleged violations of the principles of universality and equality of suffrage.

The main issues raised in relation to voter registration in 2015 were:

1. The cost of the National Identity Card (CNI) is high for most of the population; communal administrators issue the CNI only to supporters of the ruling party. This issue had already been raised during the 2010 process. To prevent the exclusion of voters who were unable to obtain this CNI, the CENI authorized the use of other documents to register (passports, driver’s licences, student cards, and baptismal cards). This effort to open up was welcomed given the context. However, some opposition parties and civil society organizations considered that a significant number of Burundians could not register for various reasons, causing the CENI, for the sake of appeasement, to consider reopening electoral lists, for an exceptional period.

2. Some people were able to have multiple falsified identity cards, with different names and surnames from those they had in civil status. Thus, it was likely that they registered in multiple locations with different names. This undermined the principle of equal suffrage – “one person, one vote”. In this regard, a number of ID cards were seized by the Association for the Protection of Human Rights and Detainees (A.PRO. HR). For example, in the province of Cibitoke, in each municipality, school principals had blank CNI with pictures and distributed them to targeted people. Principals are not authorized to issue identity cards. In Bujumbura, a woman was apprehended with a bag containing more than seventy identity cards filled in and other blank ones. Her inability to explain what she was doing with this stock has raised doubts, especially since she was released some time later by the police.²⁰

¹⁹ See article 4 law n°1/20 of 03 June 2014, op.cit.

²⁰ Excerpts of discussions of the African Union MEP with Mr Pierre Clavaire Mbonimpa, President of BA.P.HR. DP, Bujumbura 19 December 2014.

3. Foreigners were able to obtain identity cards and were therefore able to register on the electoral lists. Yet, the right to vote in an election in Burundi is linked to nationality. These cases of fraud raised by all stakeholders in the electoral process were not denied by the CENI. However, the CENI considered that the granting of the CNI is not within its jurisdiction, but in that of the Ministry of Interior, and thus it could not be held responsible for its unreliability. Despite these challenges, the CENI tried its best to clean up the electoral list, both during data entry and up to the time of the legal period of verification of lists. However, religious denominations, the opposition, civil society and observers continued to question the extent of irregularities. The debates around the electoral list raised questions about the entire electoral process and the credibility of the CENI.²¹

VIII. BOUNDARY DELIMITATION

Redistricting is a real source of conflict, in the sense that the most affected constituencies are considered opposition strongholds. The opposition therefore considers that the boundary demarcations in the lead-up to elections are done arbitrarily in order to neutralize the political opposition forces. This is troubling because it disrupts the peaceful organization of the elections.

The Burundian opposition has repeatedly denounced the limitations related to administrative divisions. This issue was also raised during the organization of the elections of 2015. In fact, the Burundian authorities reduced Bujumbura from thirteen to three towns in December 2014 and created a new province in March 2015. These changes were made because Bujumbura is considered an opposition stronghold.²² The lack of observation missions during this phase of the electoral cycle also makes it difficult to monitor the implications of electoral boundaries.

IX. PROCUREMENT AND ELECTION ADMINISTRATION

In 2010, international partners had argued that it was impossible for Burundi to organize elections alone, due to the significant lack of financial and human resources quality. As a result, the United Nations Operation in Burundi (BNUB) initiated a Project to Support the Electoral Cycle (PACE), which aimed to facilitate better organization of elections. The management unit of the project had developed strategies that could ensure the establishment of an inventory system and monitoring of election materials. The acquisition of equipment was made in close collaboration with financial partners, and also with NGOs.

²¹Elements drawn from the meetings between the African Union Pre-electoral Assessment Mission and actors in the electoral process from 7 to 22 September 2014.

²²Crisis Group, 2015 "Elections in Burundi: the test of truth or the test of strength?" Report Africa No. 224, 17 April 2015, p. 5, consulted 29 June 2015.

As part of the electoral process in 2015, the electoral administration was supported by international partners through a common basket. Technical assistance was provided by the UNDP, which also helped with the installation of the data-processing centre. But as most major donors pulled out because of protests against President Nkurunziza's action, the election administration faced considerable limitations in conducting credible elections.

Communication between the CENI and its branches was effective, however, throughout the preparation phase of the electoral process. In meetings held with all electoral stakeholders, some opposition members complained that the CENI was conducting a dialogue of the deaf. They felt that the CENI was restricting discussions during its meetings and conferences and ignored the recommendations of the opposition as well as civil society.²³

X. CIVIC AND VOTER EDUCATION

Civic and voter education is generally low in the electoral process in Burundi in all phases.

Nevertheless, civil society and international NGOs support the civic and electoral education. Regarding the electoral process of 2010, the International Foundation for Electoral Systems (IFES) implemented, jointly with the CENI and civil society, an Electoral and Civic Education Action Plan. For each type of election, television and radio spots were created in order to better educate voters. In sum, the EU Election Observer Mission in 2010 listed a period of 4 hours and 49 minutes of voting awareness messages on the entire electoral process.

As regards civic and voter education in the 2015 process, the CENI conducted a number of outreach and communication activities through the use of banners, TV and radio spots and posters. Civil society organizations such as COSOME (Coalition de la Société Civile pour le Monitoring Electoral) and APRODH (Association Burundaise pour la Protection des Droits Humains et des Personnes Détenues) as well as representatives of religious denominations, led an important election campaign, particularly in the context of the registration of voters. There were, however, weaknesses that were noted in the technical and financial capacity of civil society to carry out their activities. The coordination of activities between civil society and the CENI suffered from major weaknesses, both for the adoption of a civic education plan, and a harmonized content for the development of programs aimed at women, young people and minorities.

²³ Excerpt of the meeting of the African Union Pre-electoral Assessment Mission with M. Chauvineau MUGWENGEZO, UPD Party, Bureau de liaison of the African Union in Bujumbura, 16 December 2014.

XI. ELECTORAL CAMPAIGNS

The campaign for the election of the President of the Republic during the 2010 election took place in a context of great political disagreement due to the boycott of the presidential election by opposition parties and uncertainties as to the rest of the process. Such a situation was repeated in 2015 as part of the first elections of the electoral process, especially the legislative and the municipal elections. In both the 2010 and 2015 elections, the opposition boycotted the elections because of insecurity.

The United Nations electoral mission in Burundi found that only the CNDD-FDD and its close allies in the opposition such as the UPRONA and NFL wings were able to campaign throughout the country. Opposition parties such as the Movement for the Rehabilitation of Citizens (MRC) or the FRODEBU and independent candidates of the Abibenga Mizeru y'Abarubdi coalition led by Aghaton Rwasa were much less visible in the course of the campaigns.²⁴ Insecurity and lack of sufficient funds contributed to a weak campaign of political parties and independent candidates who had no campaign funds.

Representatives of civil society, political parties and the population denounced the climate of intimidation of members of opposition parties. The code of good conduct of political parties provides in Article 28 that it must "ensure that no political party, no competitor makes use of state resources on his behalf." Despite the formal prohibition for all campaigns, the EU-EOM noted various cases of the use of state vehicles by public officials, including ministers and administrators, in most instances from the CNDD-FDD. For example, in the communal elections, this practice was very common, but there were no sanctions against the perpetrators. The presidential election campaign was marked by the same use of state resources by the CNDD-FDD officials.

The electoral crisis in 2015 was worsened by the following factors: the partisan use of state institutions, abuses of youth by inducting them into militias (the Imbonerakure), lack of confidence in the CENI, moves to reduce the inclusiveness of the electoral process, and the determination of the president to be candidate for a third term. All these exacerbated tensions with an opposition that sought revenge after its defeat in 2010.²⁵

XII. MEDIA, ELECTION MONITORING, SECURITY

The 2005 Constitution guarantees freedom of the press. Article 19 provides certain basic rights such as freedom of opinion and freedom of expression. In February 2010, political parties, the media and the administration signed a code of good conduct

²⁴ Secretary General report, op. cit. p. 14.

²⁵ <http://www.crisisgroup.org/fr/regions/afrique/afrique-centrale/burundi/224-elections-in-burundi-moment-of-truth.aspx>, consulted on 1 July 2015.

during elections that places an obligation on political parties to ensure respect for and protection of journalists when covering the various events.²⁶ The role of the media during the 2015 election process was largely disrupted by conflict and the insecure environment that prevailed, especially in the Burundian capital. Following the failed coup attempt, several private media outlets such as Radio Television, Radio Télévision Renaissance, Isanganiro Radio, Radio Publique Africaine and Radio Without Borders Bonesha FM were closed down.²⁷ In 2010, the National Communication Council gave free space to candidates and political parties to broadcast their messages to ensure equal access to public media. However, the EU-EOM's media monitoring unit identified gaps in the allocation of air-time between the CNDD-FDD and the other parties to the public media. In general, the media performed their duties with respect for the freedom of the press. However, there were some abuses of journalists that were noted by the EU-EOM: for instance, there was the arrest of the director of the weekly newspaper *Arc-en-ciel*, Thierry Ndayishimiye, and the director of the online news agency Net Press, Jean Claude Kavumbagu. In the 2015 electoral process, private media were subjected to muzzling, particularly African Public Radio. This situation was worsened with the failed coup attempt.

Election observation

Civil society organizations were involved in the observation of the electoral process of 2010 and played a special role in the areas of mediation and election observation. The EU-EOM observers noted the presence of domestic observers in 90 per cent of electoral districts visited during the local elections, 85.7 per cent in the presidential election and 82.17 per cent during the legislative election.

During the 2010 elections, the Catholic Bishops of Burundi had denounced the intimidation of people who were meant to be free to make their choice at the polls. In the preparations for the 2015 elections, the bishops continued to denounce the irregularities noticed in the registration of voters. The Catholic Church was also concerned by the conflict generated by the candidacy of President Nkurunziza.

For the 2015 electoral process, civil society deployed observers at the voter registration phase. This led to them identifying many irregularities in the distribution of voter cards and also in the registration thereof in general. The EU also deployed an observer mission, and the African Union sent a team of experts to conduct a pre-election assessment. In a context of disagreements and tensions, the AU decided not to send an election observation mission, a move that was followed by other major observers.

²⁶ Article 16 of the code of good conduct of political parties, media and administration in the electoral period.

²⁷ See Report of the Community's Observer Mission to East Africa to Burundi presidential election on 21 July 2015, p. 4.

Election security

The participation of the security sector in the electoral process in 2010 was considered neutral. The defence and security forces fulfilled the mission entrusted to them maintain order. Thus, they were able to prevent potential clashes among political actors. Throughout the electoral process, cases of human rights violations were nevertheless identified. These violations were noted particularly during the local elections.

The restriction of civil liberties has been a feature of the Burundian political system since 2013. This has been characterized by low public confidence in the defence and security forces, with the exception of the army, which has shown some neutrality. Young people from the ruling party, commonly called "Imbonerakure", have been identified as responsible for abuses against the opposition political parties and the intimidation of opponents of the regime. This led to a sense of insecurity of the people and political actors, who did not feel safe to carry out their political activities.²⁸ The scale of the violence and insecurity, although detrimental to the integrity of the electoral process, could not be quantified in the absence of methods and criteria for collecting and analysing such information.²⁹

XIII. ELECTION DAY AND MANAGEMENT OF RESULTS

Opening and conduct of polling

The opening of the poll, in large part, was evaluated positively during the electoral process of 2010, including the presidential election. The delays were between 15 and 45 minutes, according to the report of the Electoral Observation Mission of the European Union. This same mission noted that the voting booths were not positioned to ensure voting secrecy, while guaranteeing that voters could not take ballots out of offices. This finding was made in relation to the communal elections, and the EU noted a correction of this imperfection in the presidential elections. In 95 per cent of polling stations visited by the EU Observation Mission, the booth was placed so as to guarantee the secrecy of voting.³⁰ Many civil society organizations deployed observers in all elections, including COSOME, the Episcopal Commission for Justice and Peace, the African Observatory for Democracy and Electoral Assistance, and the European Union EOM.

The electoral logistics improved during the electoral process in 2010. The municipal elections were marred by a lack of organization in the distribution of materials, including ballots. Nevertheless, improvements were noted in the distribution of election ma-

²⁸ This emerges from the African Union Pre-electoral Assessment Mission in Burundi.

²⁹ http://www.eueom.eu/files/pressreleases/english/communique-de-presse-moeue-burundi-28052015_fr.pdf, consulted 1 July 2015.

³⁰ European Union. Op. cit. p. 51 and f.

terials. For the municipal elections in May 2015 in particular, the general lack of use of indelible ink on the finger of voters was denounced by the European Union. Similarly, voter identity screening was not routinely performed in 11 per cent of voting regions visited. Finally, voters allowed to vote without identification documents were recorded in 61.3 per cent of the areas visited.³¹

The organization of five elections in such a short interval was also problematic. Generally all elections took place in a calm and peaceful manner. The electoral process of 2015 started in a climate of violence, with a boycott of the election by the opposition.³² The people of Burundi have experienced relative political stability since the signing of the Arusha Agreement in 2000. However, the East African Community's Observer Mission deployed during the 2015 electoral process noted that the elections took place in a climate of insecurity and uncertainty. This undoubtedly led to the breakdown of political dialogue and the difficulty for key stakeholders to achieve a consensus. This situation was further exacerbated by the narrowing of democratic space, limiting public freedoms, rights violations and media boycott made by the opposition parties.

Counting and consolidation

The voting process was assessed positively in 88 per cent of polling stations visited by the Mission of the European Union in 2010. The conduct of voting was considered positive by observers in 88 per cent the regions visited, but it noted a lack of consistency in respect of procedures. The failure to present minutes and communicate them to the party representatives greatly marred the municipal and legislative elections. These problems were identified in the consolidation of the results, which were considered opaque by the observation mission of the European Union.

³¹ Op. cit. p. 55.

³² More excerpts will be drawn from the 2015 parliamentary elections in Draft I of the case study, when information is more available on these elections.

XIV. USE OF ELECTORAL ASSESSMENT TOOLS

| Components | Recommendations from 2010 | Actions taken for 2015 elections |
|-------------------------|---|--|
| Electoral law | EU | |
| | Clearly define the role of the CENI with regard to litigation. | The new electoral code specifies the role of the CENI as well as these branches at every level of litigation. |
| | Include contentious proceedings before the CEPI. | The CEPI intervenes in electoral disputes, especially for hill and municipal elections. |
| | Clarify the proceedings before the Constitutional Court. | Such clarification has been made (see Electoral Code). |
| | Define update modalities of electoral lists. | A fundamental problem remains: it is the type of (manual) enrolment and distribution of documents of civil status, such as the National Identity Card (CNI). |
| Electoral system | EU | |
| Enrolment | AU/EAC | |
| | Prohibit the misuse of state property by the ruling party as election propaganda funds. | This prohibition exists in the election law but up to the present there have been no mechanisms to prevent of the misuse of state resources (serious allegations of use of state resources by the CNDD-FDD exist). |

| | | |
|------------------------------------|--|--|
| Financing election campaign | EU | |
| | Prohibit the misuse of state property by the ruling party as election propaganda funds. | This prohibition exists in the election law but up to the present there have been no mechanisms to prevent of the misuse of state resources (serious allegations of use of state resources by the CNDD-FDD) exist). |
| | AU/EAC | |
| | Meeting the financial constraints of political parties to give them the means to reach populations. | The parties continue to face weak financial means; there are no clear measures, precise and accepted public funding of political parties. There is also a great need to ensure the safety of the parties during the election campaign and public events. |
| Electoral management body | EU | |
| | Use a single ballot for the next elections. | Measure adopted. |
| | In order to enhance legal certainty for all operations and election phases, it is recommended that the CENI administer the electoral process by establishing written policies and procedures systematically and to publish them. | Performed. |

| | | |
|----------------------------------|---|--|
| Electoral management body | AU/EAC | |
| | Address human resource constraints in the offices of national electoral commissions, provincial and communal, so that they are prepared to respond to emergencies during elections. | The training of the CENI agents was ensured, especially through initiatives such as the BRIDGE. The CENI itself ensured cascade training (CEPI and CECI). The various missions, having observed the pre-election phase, including the Pre-Election Mission of Evaluation of the African Union, noted the need to extend the time of training to further strengthen the capacity of the CENI and mainly the CECI. |
| | To prevent people voting in several places, the focus will be on the quality of indelible ink (UNDP covers its purchase) and technical use. | The acquisition of indelible ink provided by the UNDP. |
| Electoral civic education | UA/EAC | |
| | Develop mechanisms for the promotion of civic education and encourage all Burundians to actively participate in all political processes. | The lack of a safe and secure environment and the lack of resources as well as the incapacities of CSOs mean that a good civic education campaign in Burundi was not possible in the electoral process in 2015. |

| | | |
|---|--|---|
| <p style="text-align: center;">Electoral civic education</p> | <p>Encourage all citizens and political parties to make use of the redress mechanisms provided for in the electoral code (appeal against registration, omission etc.).</p> | <p>Encourage all citizens and political parties to make use of the election dispute resolution mechanisms provided for in the electoral code (appeal against registration, omission, etc.)</p> <p>CENI called on citizens and political parties to an active verification of the lists and challenge them using the legal provisions provided. The lack of confidence of stakeholders in the CENI said that the resignation of the CENI is requested by the opposition and civil society.</p> |
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