

**BURUNDI: THE ISSUES AT STAKE.
POLITICAL PARTIES, FREEDOM OF THE PRESS
AND POLITICAL PRISONERS**

12 July 2000

ICG Africa Report N° 23
Nairobi/Brussels
(Original Version in French)

Table of Contents

EXECUTIVE SUMMARY	i
INTRODUCTION	1
I. POLITICAL PARTIES: PURGES, SPLITS AND CRACKDOWNS	1
A. Beneficiaries of democratisation turned participants in the civil war (1992-1996)	3
1. Opposition groups with unclear identities	4
2. Resorting to violence to gain or regain power	7
B. Since the putsch: dangerous games of the government.....	9
1. Purge of opponents to the peace process (1996-1998).....	10
2. Harassment of militant activities	14
C. Institutionalisation of political opportunism.....	17
1. Partisan putsches and alliances of convenience.....	18
2. Absence of fresh political attitudes.....	20
D. Conclusion	23
II WHICH FREEDOM FOR WHAT MEDIA ?	25
A. Media culpability in the crisis	26
1. Poor journalism and self-censorship. (1993)	26
2. Press offences and calls for bloodshed (1993-1996)	28
B. The general obsession with political control.....	31
1. Broadcast media since 1996: censorship by default.....	31
2. The militant written press	32
3. More freedom for the spoken press	34
C. Deficient public information and communication policies.....	34
1. An unsuitable legal framework.....	34
2. A restricted forum for public debate.....	36
D. Conclusion	39
III. THE ISSUE OF POLITICAL PRISONERS	40
A. Situation of the Prison Population	42
1. The origin of the prisoners	43
2. What are the prisoners accused of?	46
3. What is a “political crime” for the Burundian courts?	49
B. The political stakes of the debate	50
1. The burden of “genocide”	50
2. The respective positions of the parties	51
C. Conclusion	57
RECOMMENDATIONS	58
ANNEXES	
ABOUT ICG	
LIST OF SELECTED REPORTS	
ICG BOARD MEMBERS	



BURUNDI: THE ISSUES AT STAKE. POLITICAL PARTIES, FREEDOM OF THE PRESS AND POLITICAL PRISONERS

EXECUTIVE SUMMARY

After two years of negotiations, the Burundian peace process has reached a critical stage. In his capacity as Mediator, Nelson Mandela, during his latest visit to Bujumbura from 12 to 14 June renewed his support for rebel demands that President Pierre Buyoya's government should free all political prisoners regardless of their crimes and restore the rights of political parties. In March of this year Mandela also demanded that freedom of the press be restored and that all regroupment camps be dismantled. A compromise has finally been reached on this single issue: the Burundian government has promised to close all camps by 31 July 2000. On the subject of political prisoners, the government defended itself by suggesting that the situation was more complex than it seemed and denounced propaganda from the Tanzanian facilitation team and certain Hutu parties. Buyoya considers - in common with the majority of Tutsi opinion - that these prisoners are either members of armed groups or terrorists who participated in the massacres that followed the assassination of President Melchior Ndadaye in October 1993.

At a moment when the peace process is entering into its final phase, the demands that Nelson Mandela has made to the Burundian government are justified for several reasons. Firstly, Buyoya, who regained power after the July 1996 putsch, must show willingness to co-operate in order to merit a role in the transition period that will follow the peace agreement. Secondly, all the rebel groups must be brought to the negotiating table and their requests must be heard. There can be no credible negotiations as long as rebel sympathisers remain in prison accused of nothing more than representing a threat to state security. Thirdly, there can be no constructive dialogue with political parties whose activities are proscribed by the authorities. Finally, freedom of the press is fundamental to ensuring the success of the peace process. As long as the population has not been fully informed about the progress of the Arusha negotiations, the chances of signing a peace agreement remain slight.

Mandela's demands regarding prisoners, political parties and the press should probably be dealt with through negotiations rather than be a condition for their continuation. However, it is essential that the government make a significant gesture of compromise as a demonstration of its goodwill to the Burundian population: it should initiate a debate on expected changes during the transition period. These demands have been formulated to strengthen the peace process through participation of the rebels and of the people. In this debate the reluctance of the government to accept compromises is not without good reason. In particular, it warns that Mandela, by choosing to adopt the demands of the Hutu political parties and the rebels, may provoke a violent Tutsi reaction. It also believes that it is unfair to apply pressure to only one of the parties

involved in the conflict. These complaints, however justified, do not diminish the government's responsibility to show good faith at this critical stage of the peace process.

Political parties: purges, splits and crackdowns

FRODEBU (*Front pour la Democratie du Burundi*), the party that won the 1993 elections, accuses the government of authoritarianism and harassment of the opposition. Conversely, the government accuses the FRODEBU of civil disobedience and mobilising the Hutu population against it. Although this polarisation reflects the hard-line positions of the two parties, at this critical moment of the peace process two paradoxes must be kept in mind. Firstly, although the parties opposed to the current regime were able to emerge during the period of democratisation granted by Buyoya himself in the early nineties, as of 1994, they also promoted and benefited from the civil war. Most of them used violence to obtain positions of power in 1994, when the Convention of Government was signed. None of them can *a priori* be considered as defenders of democracy or human rights.

Moreover, none of the parties are showing signs of a new attitude, which could contribute to building a peaceful future in the country. Instead, the president and the parties have engaged in politicking and manipulation. Their radical positions are aimed at pandering to their natural electorate, or to ensure a role in the institutions of transition. These manoeuvres have led Pierre Buyoya to purge the UPRONA (*Union de Progres National*) and its anti-Arusha faction, to crack down on his Tutsi radical opponents from PARENA (*Parti pour le Redressement National*), and to guarantee impunity to the police, armed forces and administration in their harassment of the FRODEBU militants. These constant re-alignments have given rise to internal divisions within the parties, alliances and counter-alliances whose political objective has sometimes been solely limited to carrying out personal attacks on Buyoya.

Which freedom for what media?

Control of the media is an obsession that is deeply entrenched and shared by all Burundian politicians. The government, its allies and the opposition are all responsible for the current state of the media, which is typically militant and sometimes defamatory.

Due to heavy state control of the media and the reluctance of the government to publicise its role in the Arusha negotiations, the media has failed to fulfil its duty to inform the people. In 1996, a suspension of the freedom of press followed a three-year period during which the media of various parties had encouraged violence by spreading messages of ethnic hatred. At present however, although the government is adamant that restrictions are necessary, in truth they are being used as a pretext to control the information that people receive about the Arusha negotiations.

Henceforth, a radical change of policy towards the press is required in order to prepare the people for a peace agreement and to pave the way for the return of exiled politicians. Notably, radio must be made accessible to all parties involved in the conflict. It must provide support for the process of national reconciliation and reconstruction of the country through a debate that is as broad and healthy as possible.

The issue of political prisoners.

The debate on the question of political prisoners strikes right at the heart of the conflict in Burundi as it involves the issue of guilt. Each side has diametrically opposed opinions about who is responsible for the violence that has blighted the last thirty years. Each

side accuses the other of being responsible for " genocide ": the Hutus cite the events that occurred in 1972, whilst the Tutsis refer to those of 1993. However, to ensure a meaningful peace, it is essential to deal with the past. No long-term reconciliation is possible without an effective method for assigning guilt, determining sentences and guaranteeing the future rule of law. At the same time this issue (which has already become dangerously politicised) risks preventing a peace agreement being reached unless an equitable compromise is found in the very near future.

In reality, Burundi has no prisoners of conscience in the traditional sense of the term. Many who are in prison today are guilty of heinous crimes. Nevertheless, other prisoners are detained for political reasons. For many the mere suspicion of having been involved in the 1993 massacres, or of being a sympathiser of armed rebellion, have provided sufficient pretext for their arrest and long pre-trial detention. By May 2000, more than 6500 prisoners were awaiting trial.

The time to make compromises on this matter has now arrived. The government must face up to this unpleasant truth. It may not be able to free all political prisoners without endangering the rule of law in Burundi and alienating Tutsi public opinion, but it can and should release some of the prisoners.

RECOMMENDATIONS

To the mediator, Nelson Mandela

On the issue of political parties

1. Demand from the Burundian government the immediate, strict, impartial and total application of the measures contained in the Constitutional Act of Transition of June 1998 which regulates the activities of political parties, especially Article 60 which authorises parties to hold meetings freely on a communal, provincial and national level.
2. Immediately disqualify from the negotiations and bar from the institutions of transition leaders of political parties who, in future, are found to be guilty of defamation, inciting ethnic hatred or using verbal or physical violence against adversaries.

On the media

3. Demand from the government that all political and rebel parties have immediate, equitable and unconditional access to all official media.
4. Include within the peace agreement and the programme of institutions of transition a communications policy, which will ensure that the contents of this agreement are publicised.

On the issue of political prisoners:

5. Recognise that certain prisoners should be freed - for example those who have supported the rebellion and are not guilty of bloodshed - as a significant compromise gesture from the government. And in return:

6. Demand an immediate cease-fire from the rebels when these prisoners are released.

To the government of Burundi

On the issue of political parties

7. Implement immediately, comprehensively and equitably the measures contained in the Constitutional Act of Transition of June 1998, which regulates the activities of political parties, especially Article 60 which authorises parties to hold meetings freely on a communal, provincial and national level.

On the media

8. Grant to all political and rebel parties immediate, equitable and unconditional access to all official media.

On the issue of political prisoners:

9. Free certain prisoners - for example, supporters of the rebellion who are not guilty of bloodshed.

To the Burundi donor community

On the issue of media

10. Provide support for the professional training of Burundian journalists and for programmes providing information about the peace agreement and how the institutions of transition will work.
11. Support, as part of the peace accord, the creation of an independent and non-partisan media.

On the issue of political prisoners

12. Support an investigation into the cases of all remaining prisoners to ensure that they are brought to trial before the 31 of December 2000, and ensure that their living conditions are improved.
13. Provide support for the rehabilitation and the reintegration of prisoners who have been freed.
14. Mobilise funds and personnel to ensure that the International Judicial Commission and the National Truth and Reconciliation Commission are able to begin work immediately after the peace agreement is signed.

Nairobi/Brussels, 12 July 2000



BURUNDI: THE ISSUES AT STAKE. POLITICAL PARTIES, FREEDOM OF THE PRESS AND POLITICAL PRISONERS

INTRODUCTION

At a time when the Burundian peace process is entering its final phase, the problems raised by the rebellion, recently taken up by mediator Mandela, seem still to be present. Although the demands that have been made by Mandela regarding the freedom of action of political parties, the freedom of the press and the freeing of political prisoners are justified for several reasons, it is vital to understand the position of the two parties involved in the conflict for the purpose of finding a solution that is acceptable to all sides.

In this stalemate, there is a real risk that either the rebellion or the Burundian Tutsi minority will reject the agreement, thereby hindering prospects for peace. In May and June 2000, in Bujumbura and in Arusha, the International Crisis Group looked into the three crucial issues that are at stake: political parties, the freedom of the press and of political prisoners.

I. POLITICAL PARTIES: PURGES, SPLITS AND CRACKDOWNS

The first of the three points raised by Nelson Mandela in March 2000 to force Pierre Buyoya to compromise was the pressing need for the government to allow political parties to operate freely¹. " There are political parties who are critical of the government and media which are not able to operate freely. This is a totally unacceptable situation (...) " declared the South African mediator during a plenary session in Arusha². No significant negotiations can take place if the parties are being harassed by governmental police services on a daily basis.

Since the 25 of July 1996 putsch, Burundian political parties have been obliged by law to curb their activities. Following this suspension, identical to that applied to the Constitution and the National Assembly, by the Minister for National Defence Firmin Sinzoyiheba on the day of the putsch, activities were re-authorized by the government on 12 September 1996 in response to regional and western pressure.

¹ The mediator seems indeed to have been particularly troubled on this subject by a letter from the former president Jean-Baptiste Bagaza, who complained about the repression from the services of the State towards his party and about the arbitrary arrests that senior members had been subjected to during the first quarter of the year 1997. ICG interview with a South African diplomat, Nairobi, 05/06/2000.

² Speech of President Mandela, given during the consultative meeting held in Arusha on the 27th of March 2000, p. 4.

Julius Nyerere had declared that restoring political parties was one of the conditions for lifting the economic sanctions that had been imposed on Burundi by countries in the region as of 31 of July³.

Party leaders complain, however, that they are not able to operate freely throughout the country and that their activities are closely monitored or even proscribed by the new regime. Since the putsch, three texts have controlled their activities: the decree-law of April 1992 setting out conditions for their acceptance and requirements regarding their operation, according to the then Constitution; the decree-law n°1 of the 13 of September 1996 relating to institutions during the transition period; and lastly, the Constitutional Act for Transition promulgated on the 6 of June 1998. This last text outlines again, in detail, the legal conditions according to which the parties can operate, limits their activities to national, provincial and communal meetings of their governing bodies, and prohibits public demonstrations and mobilisation activities. Since June 1998 FRODEBU, especially, has believed that it continues to suffer police victimisation, which violates the legal conditions of the Constitutional Act for Transition and is contrary to the spirit of the peace negotiations. The Mukasi wing of UPRONA and PARENA both describe the persecution as being worthy of a totalitarian state.

Other leaders, such as those of the PRP (*Parti pour la Reconciliation du Peuple*) or ABASA (*l'Alliance Burundo-Africaine pour le Salut*), denounce what they allege to be Buyoya's manipulative policy towards them: without prior consultation he has appointed to the government some of their members who remain in the country, thereby causing divisions within the parties. Leaders in exile also criticise the lack of goodwill from the Minister of the Interior. Since 1996, he has used a legal requirement for the leader of the party to live in the country as an excuse to favour " internal wings " that hold more moderate views towards the government. This is despite the fact that the participation of these founding leaders in the Arusha process established their legal and official position as representatives of the groups they stand for, regardless of their place of residence⁴. In response to these attacks, the government has denied allegations of persecution. It points out that political parties only very rarely respect the statutory provisions and obligations with which they are meant to comply⁵. For instance, their governing bodies are either incomplete or have a statutory mandate that has already expired. Some are even involved in disputes about the identity of their legal representative. Therefore, the Head of State cannot be held responsible for the internal divisions that undermine the parties and which can be attributed to their respective positions in the Arusha negotiations, perceived as a gateway to power. Members of the president's entourage dismiss the complaints of the exiles that are incapable of controlling the personal ambitions of their leading officials back home⁶.

There is therefore widespread confusion about the plans, the identity and the real situation of political parties in Burundi. Some parties say they are victims of permanent political repression, which is undeniable but may sometimes be

³ Cf. ICG, " Burundi : lift the sanctions, and relaunch the transition ", Burundi report n°1, 28/04/1998.

⁴ ICG interview, representative of the ABASA, Arusha, 19/05/2000.

⁵ ICG interview, Ministry of the Interior, Bujumbura, 04/05/2000 and Republic of Burundi, " Note on the concerns expressed regarding the questions relating to the current operation of political parties, of prisoners termed as political, to the situation within the protection zone as well as the way the press currently operates ", Bujumbura , April 2000, 10p.

⁶ ICG interview, representative of the UPRONA, Arusha, 20/05/2000.

exaggerated, or simply manufactured for consumption by the international community. Most parties have, for various reasons, an internal and an external wing. They can generally be classified according to the regional affiliation of the leaders, or their being able to gain power through the shifting political tactics and strategies of the day. All parties are participating in the Arusha negotiations. However, they are also involved in alliances and counter-alliances of varying sincerity within the country. They are jockeying to become essential partners in the post-Arusha transition government and trying to gain control over ministerial, diplomatic and administrative posts, or state-owned companies. Finally, rare are those leaders of parties who can currently claim to be political innocents. Some carry the heavy responsibility of doing nothing to prevent the massacres of 1993 or 1972. Suspicions against others of backing assassinations, " villes mortes " operations (*city-wide strikes*) or the ethnic cleansing of Bujumbura neighbourhoods are generally well founded.

It is therefore impossible to assume that Burundian political parties and their leaders have aims that are either peaceful or democratic. Parties are individual or collective enterprises for gaining political power. The motivations, methods and objectives behind any involvement in the political scene differ for each one. It depends on the funds a party receives and how effective it is in reaching its determined objective. Burundian politics are in a very confused state; there is an accumulation of political resources, uncertainty regarding the legitimate method for gaining power and a constant adjustment of the balance of power. The three phases of recent political evolution (Democratic Transition, Convention of Government, Buyoya II) have succeeded each other without the legitimacy of the preceding phase ever being radically challenged. Consequently, the rules of politics have never been clarified. The current claims and counter-claims to legitimacy are based on electoral results, street violence, the guarantee of national sovereignty, and participation in the Arusha negotiations. During the transition period the issue at stake is, therefore, to restore order to this chaos and establish clear rules for politic activities, which will be acceptable to all and guarantee peace.

On the subject of Mandela's demand for political freedom, two paradoxes should be mentioned to provide a better definition of the issues at stake. Firstly, political parties and their leaders who were the main beneficiaries of liberalisation under Pierre Buyoya at the beginning of the nineties, very rapidly appeared as the main participants in the civil war, out to gain, regain or consolidate power. Not one of the parties is, strictly speaking, democratic. Nor does any party have the institutions in place to oblige its members to abide by the democratic rules contained in its statutes. For party leaders, the democratic principles and the respect for human rights remain secondary to achieving their objectives or political aims. Secondly, those parties that are supposedly preparing the future of the country in Arusha do not demonstrate a constructive attitude. This lack of openness and political maturity leads them to play a dangerous game with the people, contrary to the objectives of peace and to make political opportunism a way of life.

A. Beneficiaries of democratisation turned participants in the civil war (1992-1996)

Burundi's political liberalisation dates back to 1988, when Major Pierre Buyoya implemented a policy for national unity. This was in response to two rounds of killings that year: an attack by the PALIPEHUTU (*Parti pour la Liberation du Peuple*

Hutu) against several Tutsi families launched from neighbouring Rwanda, which was followed by a retaliatory massacre of Hutu civilians by the army at Ntega/Marangara in August. The appointment of Adrien Sibomana, a Hutu politician, to the position of Prime Minister and the opening up of high positions in the State (except the army and magistrates' courts) to other prominent Hutus was the first sign of openness. This then led to the adoption by referendum of a "Charter for National Unity" in February 1991, followed by the formation of a Constitutional Commission two months later. These reforms were already on going when the 'Conférence des Etats Francophones' (Conference of French-Speaking States) in La Baule raised the issue of multiparty politics. France, by its decision to tie development aid to the liberalisation of the African political scene and, more specifically, to pluralism, exerted an unavoidable pressure on the Burundi government. The new Constitution adopted by referendum in April 1992 ensured a return to a multiparty system. This was rapidly followed by legislation aimed at controlling the activities of political parties.

1. Opposition groups with unclear identities

In the months that followed the promulgation of the decree-law on political parties, the Ministry of the Interior approved eleven groups. Two others were approved after the June 1993 ballot⁷. Regulations for approving the parties were a direct result of the regime's fears that divisions might bury the policy for national unity implemented since Buyoya came to power. These regulations prevented the republic's institutions from being challenged and were aimed at stopping ethnic mobilisation, as the principle of "taking the different components of the Burundian population into account" was established as dogma. In reality, at the start of the nineties the public did not have a particularly good opinion of the multiparty system. Memories of the sixties were far from positive (instability, assassinations, electoral mobilisation based on ethnicity, the massacres of 1965, etc.). Reformers suspected the decision to institute these reforms so rapidly and bring forward the date of elections was due to the government's refusal to organise a sovereign national conference. Such a conference, they believed, would have provided the opportunity for true democratisation⁸.

These laws also illustrate the paradox of a return to a multiparty system. The regime reluctantly approved them under pressure from the international community. It was not necessarily a priority for democracy activists. Indeed, at the start of 1993, FRODEBU wanted to constitute a transitional government with Buyoya as president and Melchior Ndadaye as Prime Minister. The president refused. Leaders of UPRONA, in particular, were not convinced of the need for a multiparty system in Burundi. In the event, a multiparty system was legalised only on condition that the nascent parties conformed to the ideology of the former single-party (for the precise conditions for registration of the parties according to the principles set out in the Constitution of 6 March 1992 of Heading III, Articles 53 to 60, see Appendix n°1 and for the decree-law of April 1992, see Appendix 2).

⁷ According to the department for administrative and legal affairs in the Ministry of the Interior, four parties had their approval refused by a justified decision. As these documents have not been made available we are unable to indicate which parties were involved or the reasons for refusing their approval.

⁸ ICG interview with a representative of FRODEBU, 08/05/2000.

In fact, the approved political parties operated according to a legal framework, which left them relatively powerless before the discretion of the executive powers and the partiality of a legal system that supported the regime. Their freedom of action effectively depended on the Ministry of the Interior's interpretation of the law. Moreover, even if the aim of the parties was to oppose the authority in place, they were required to state that they followed the ideology for unity and support the government's message. This legal constraint, symptomatic of the regime's view of a return to a multiparty system, meant that the official projects and programmes of these organisations lacked credibility.

Official documents presented by the political parties to gain approval were intended to demonstrate the contribution that they could bring to political debate in Burundi⁹. All parties presented their statutes, political programmes and vision of society in accordance with the principles contained in the Charter for National Unity, supporting democracy and expressing a desire for development for all. The UPRONA set the tone. The party of independence declared, amongst other things, that it relied upon the historical and political heritage of Prince Louis Rwagasore. It took into account " the various components of the Burundian population " outlined in the Charter for National Unity of 1991 and the political reforms that were undertaken between 1988 and 1992, in order to claim that it transcended ethnic divisions and should be part of its renewal.

For the other parties, however, it should be noted that there were several differences as far as their programmes and objectives were concerned. The RPB (*Rassemblement du Peuple Burundais*) and the PP (*Parti du Peuple*), for example, maintained the principle of " one man, one vote ". RADDES (*Rassemblement pour la Democratie et le Developpement Economique et Social*) promoted liberal economic ideas based on the development of the private sector, a reduction of the public sector and a widespread liberalisation of markets. Conversely, the PIT (*Parti Independent pour les Travailleurs*), the PSD (*Parti Social-Democrate*) and INKINZO (*Parti Socialiste et Panafricaniste*) proclaimed their socialist tendencies and the necessity to promote the rights of workers and social justice. The ABASA and the PRP (*Parti pour la Reconciliation du Peuple*) presented other original features. ABASA promoted national reconciliation and equitable development. To achieve this, it focused on the role of patriotism, of pan-Africanism and regional integration. The PRP, initially the *Parti Royaliste Parlementaire* - which later became the *Parti pour la Reconciliation du Peuple* through legal necessity - intended to end the republic and restore the monarchy. This objective was anti-constitutional, which explains why it was toned down in official documents¹⁰. Finally PARENA, approved in 1994, presented an economic and social manifesto, which bore the signs of a team experienced in the affairs of state. It was focused on balancing the budget, monetary discipline, a diversification of agriculture, a strengthening of national facilities and, particularly, on de-politicising the offices of state following the change of personnel in 1993. There were no anticlerical references contained in this vision of society which, excluding this element, somewhat resembled a return

⁹ Due to a difficulty in gaining access to official documents that have been barred by the department of administrative and legal affairs in the Ministry of the Interior, ICG has not been able to carry out an exhaustive and systematic assessment of the registration of the political parties. The following dossiers have been briefly consulted: RPB, PARENA, PP, RADDES, FRODEBU, UPRONA, and ABASA.

¹⁰ ICG interviews with the presidents of the PRP, of the ABASA and the PIT, Arusha, 19/05/2000 and 21/05/2000.

to the politics of the years from 1976-1984 (for a complete list of the political parties and the date of their approval, and the names of the leaders see Appendix n°3).

The statutes of all parties claim that they are democratically structured and cover the entire country. Apart from UPRONA, FRODEBU alone had the time and funds to achieve this. The structure generally starts in the hills and spreads out to reach all administrative levels of the state: hills, zone, commune, province, and nation. At each level an assembly made up of members of the party is supposed to meet regularly to debate its activities. A board is democratically elected for a mandate that generally does not exceed two years. Some leading members go on to participate at a higher level. On a national level the founder members are added to the provincial representatives to form a Congress, which is the plenary assembly of the party. This congress elected a National Management Committee, or a Central Committee, which forms the executive of the party, bringing the leaders together. This board, sometimes called the executive board of the central committee or the national management committee, unites the president, vice-presidents, general-secretary, treasurer and their deputies. It is generally elected during an ordinary meeting of the National Congress, which every two years brings together founder members and delegations from national, provincial and communal assemblies.

The major parties, such as FRODEBU and UPRONA, have internal regulations outlining the decision-making processes of the executive committees and assemblies, together with procedures for selecting candidates and the role of the sector-based commissions. At FRODEBU, five sector-based commissions direct the activities of the national executive committee: finance, ideology and codes of conduct, social affairs, communications and public relations, diplomacy and general policy¹¹. At UPRONA in 1998, the following commissions were also included: functions of the party's governing body; political and diplomatic affairs; economic issues and property management; Justice and issues related to genocide and to disaster victims and communications. Youth, women and union organisations were more or less officially affiliated to them. UPRONA is affiliated to the *Jeunesse Révolutionnaire Rwagasore* (JRR) and to the UFB *Union des Femmes Burundaises*. FRODEBU was associated with AFED (*Association des Femmes pour la Démocratie*, GEDEBU (*Génération Démocratique Burundaise*) and more recently, neighbourhood organisations such as the Kinama and Kamenge youth associations in Bujumbura. Finally, these two parties rely on full-time paid staff, operating nationally with a small bureaucracy. FRODEBU estimates the number of its staff to be 450. (For more details on UPRONA and FRODEBU before the 1993 ballot, see Appendix n°4).

It is hard to see through the official lines of the parties to determine the leaders' true motives. However, one can paint a general picture of the proliferation of parties.

For parties that primarily defended Hutu interests, their existence was partly explained by the origin of their leaders and their lack of opportunity within FRODEBU due to their age, support base, personal experiences or the timing of their entry into politics. The President of the PP, a computer expert exiled in Rwanda for many years, returned at the beginning of the nineties – too late to stand out in FRODEBU. He therefore assumed the mantle of the independence PP,

¹¹ ICG interview, general secretary of FRODEBU, Bujumbura, 03/05/2000.

a Hutu party well established in his native region of Mugara. The first president of the RPB, Ernest Kabushemeye, was a geologist and the brother-in-law of the Catholic Bishop of Kirundo, who today is the Catholic Archbishop of Gitega. His ambition was probably to conquer the "great north", supported by the clergy. Another example: the PL had initially been led by a brilliant lawyer and businessman able to seize the opportunities offered by successive regimes in the country. Creating a political party offered other opportunities.

The existence of a large number of "Tutsi" political parties can be attributed to the rivalries and infighting that have troubled the path of the UPRONA ever since independence. The exile and the royalist opinions of the leader of the PRP is a classic example. In RADDES, there was a high concentration of intellectuals (economists, lawyers) and businessmen from the centre of the country, who undoubtedly failed to achieve the political career they wanted in the UPRONA either due to its domination by the Bururi elite under the Bagaza regime, or to the opening up of the state to the Hutu elite as a result of the policy for national unity. Equally, the ANADDE (*l'Alliance Nationale pour le Droit et le Développement*) was a party composed of former diplomats and senior officials whose advancement was undermined by Buyoya's reforms, which sacrificed the power of the Tutsi elite that was not from Bururi. The PSD, PIT, ABASA, Inkinzo and Av-Intwari were the parties of five men with specific objectives and various motivations. The president of the PSD is a former minister of Jean-Baptiste Bagaza - and suspected of plotting for his return to power. The president of ABASA, a doctor of international law whose brilliant diplomatic career was interrupted, would like to offer his abilities in the service of the country. The president of the PIT was a former UPRONA ideologue from the late seventies. He resigned after a conflict with Bagaza, left the country, obtained a doctorate in child psychology and on his return became involved in the union movement to defend the rights of Burundian workers - the main rallying theme of his party. An intellectual with socialist revolutionary beliefs led Inkinzo. His manifesto quoted Jaurès, Che Guevarra and Fidel Castro. AV-Intwari was the product of another Tutsi intellectual who was convinced that he alone held the answers to the country's problems. Finally, opponents described PARENA as being "the sect" of former president Jean-Baptiste Bagaza¹².

At the end of 1993, the results of the ballots and the putsch left the small parties to make the following political admission: universal suffrage had not granted them power, though violence had cast a shadow over the legitimacy of the results of the election. Dissatisfied Tutsis in the Buyoya regime, who believed that they could negotiate their political survival after the electoral victory of the UPRONA, were not given openings in the former single-party and subsequently took the opportunity to strongly defend Tutsi interests in order to obtain what they failed to achieve through the ballot box. Having appeared on the political scene through the liberalisation implemented by Pierre Buyoya, they used civil war to gain access to the reins of power. Facing them, a section of the FRODEBU also adopted violence and entered into armed conflict to regain power.

2. Resorting to violence to gain or regain power

Widespread violence and massacres followed the assassination of President Ndadaye in October 1993. This was exacerbated by the death of his successor, President Ntaryamira, together with Rwandan President Juvénal Habyarimana,

¹² ICG interviews with many Burundian journalists, Bujumbura and Nairobi, May-June 2000.

when their aircraft was shot down over Kigali on 7 April 1994. This then triggered the genocide of Tutsis in neighbouring Rwanda, and the fighting that brought the RPF (*Rwandan Patriotic Front*) to power. As a result of these events, FRODEBU negotiated a Convention of Government, established in September 1994, involving all political parties that shared out administrative and diplomatic posts. The Convention of Government rewarded the former regime and small Tutsi parties to the cost of FRODEBU, which was forced to recognise that it was incapable of leading the country and should, therefore, share power¹³. Power sharing confirmed that elements of the opposition in Burundi were protected by a section of the army. Those involved in the opposition force claimed: 1) that its interests were not represented by UPRONA, that had sold out to the Hutu majority; 2) that FRODEBU had lost its legitimacy by acting as an accomplice or directly organising 'acts of genocide' during the October 1993 massacres. This political force asserted itself by public rhetoric and using violence in the capital. It represented a hard-core from the former regime, together with other excluded Tutsi groups. They refused to accept the political transition, the arrival in power of FRODEBU and the loss of economic and social privileges. In addition, they feared extermination or exile. Their spokesmen were more often than not identified as the leaders of the RADDES, PRP, Av-INTWARI, ABASA, Inkinzo, PARENA and ANADDE. The affluence of the leaders of PARENA, PRP and RADDES helped them to create trouble. Each of these parties maintained secret and organic links with one or other of the Tutsi youth militia, notably the SOJEDEM (*Solidarité Jeunesse et Démocratie*)¹⁴. It was the militias that held sway in Bujumbura between 1994 and 1996 and launched strike orders and the famous 'villes mortes' (city-wide strikes) that paralysed the capital each time the government declined to submit to their dictates. (For a detailed summary of the events see Appendix 5).

FRODEBU, under Ntibantunganya's influence, was inclined to a conciliatory attitude in view of the new regional context in which Burundi found itself. The RPF had just taken power in Kigali and Rwanda's genocide cast opprobrium over radical Hutu political demands. However, the party was divided over concessions to be made to the losers of the 1993 ballot. In April 1994, one of the party's founder members Léonard Nyangoma went into exile due to a disagreement on the issue of power sharing with the army and the Tutsi opposition. Demanding a return to the constitutional legality of 1993, he tried in vain to lead FRODEBU into forming a government in exile. For its part, the party refused to designate him as a successor to presidents Ndadaye and Ntaryamira. Most prominent officials feared the post of head of state passing to a Hutu from Burundi. Consequently, Nyangoma created a rival organization that took up the new option of armed struggle: the CNDD (*Conseil National pour la Défense de la Démocratie*). As with the Tutsi parties, instead of seeking appeasement an important section of FRODEBU's administration decided to resort to violence and armed struggle to regain power and fulfill their political ambitions.

The reappearance of representatives of the former regime and their allies also failed to restore peace and security to Burundi. Less than a month after signing the Convention of Government, a biased enforcement of one of its protocols stating that "any person, civilian or military, involved in the massacres will be taken to

¹³ Some authors of the convention would later admit that it was a "coup d'Etat" within FRODEBU, cf. Various ICG interviews with the leaders of political parties since 1998.

¹⁴ In the shadowy SOJEDEM of the "Déo brother" were to be found deserters from the APR born in Burundi and Burundians who had participated in the war in Rwanda.

court"¹⁵, brought about the arrest of thousands of civilians and local FRODEBU leaders. However, nobody among the military, those involved in the putsch, those responsible for the violence carried out during neither the 'villes mortes' operations nor those involved in the assassination of Hutu Members of Parliament was arrested. The list of victims of political violence became significantly longer from October 1994 to July 1996, despite the signing of the Convention of Government. During this period alone, about a dozen FRODEBU representatives or deputies were assassinated by the military, by policemen or by Tutsi militia. This political breakdown was undoubtedly due to the general ill will and absence of trust between political party leaders who negotiated the Convention of Government. Their objective was apparently limited to dividing up official posts amongst themselves and gaining access to the resources of the State. Instead of restoring peace, the Convention of Government caused institutional paralysis.

This reminder of the dramatic events experienced in Burundi between 1993 and 1996 fully illustrates the first paradox confronting Mandela demand for political party freedoms. All Burundi's political parties involved in the Arusha process have participated, aggravated and benefited from civil war. Whether to gain or consolidate power, each party has compromised itself by resorting to violence to achieve its aims. At present, nothing guarantees that these practices have ceased.

B. Since the putsch: dangerous games of the government

The relationship between the political parties and the government has experienced significant variation since 1996, governed by the balance of military power between the army and the rebellion, and also on the rationale behind the internal and external dynamics of the peace process. A brief chronology of these changes highlights three successive periods.

From July 1996 to the end of 1997 the priority of the government after the putsch was to re-establish its control over the entirety of the country and to quell the rebellion, whilst simultaneously recognising it as a legitimate political partner in order to reach a peace agreement (Rome negotiations with the CNDD). This politico-military option was aimed at making a complete break with the party system instituted by the Convention of Government. A need for military action, a requirement to confirm its legitimacy amongst the Tutsi people, and a desire to cut off the political parties and the Hutu rebellion from its base led the new authority to implement a policy of regroupment camps accompanied by severe police pressure on party activities: this was achieved by, for instance, the house arrest of Jean-Baptiste Bagaza, the mass arrests of FRODEBU officials and activists, and the taking to court many of its leaders charged with complicity in the massacres of 1993 or for collusion with armed groups (see below).

Faced with international pressure to set up a peace process deemed to be hostile to the new regime, and with the relative failure of the military option, a second phase began at the beginning of 1998. The government decided to make peace with the political parties and to breathe new life into them through a partnership and an "internal debate" whose purpose was to compete with the process taking place in Arusha. All parties were accepted in the National Assembly, whose mandate was renewed until the signing of a peace agreement. The rebirth of an

¹⁵ " Appendix to the government agreement determining the policy of reinstatement of displaced persons and the repatriation of refugees ", Rohero (Hotel Novotel), 22/07/1994, p. 3.

internal political life caused splits within the opposition parties, which the government used to weaken the position of those participating in the Arusha process. There were several attempted putsches within those parties whose leaders were in exile.

However, the success of this tactic did not last very long. The partners, on whom the government was depending to validate an internal option for a peace process, did not manage to secure the support of their party members who, on the whole, remained loyal to their exiled leaders. In May 1999, the creation of partisan groups in Arusha (G7, G8) followed by an intensification of rebel attacks gave a second life to the external process and broke the trust between the executive and the political parties. The police, army and the administration subjected the activities of political parties to increased intimidation and surveillance. The final phase of the peace process supervised by the new mediator Nelson Mandela begins, therefore, in a situation of increased tension, in which the various participants to the process mutually accuse each other of all kinds of crimes, with the purpose of raising the stakes in anticipation of signing a peace accord.

1. Purge of opponents to the peace process (1996-1998)

Following the putsch of 25 July 1996, the constitutional order of 1992, which had already been given a rough time by the Convention of Government, was suspended. The parties received an order to cease their activities and political demonstrations were banned. Nevertheless, a bonus from this sudden halt of partisan activities was the ending of the anarchy that had reigned in the capital for two years¹⁶.

The States in the region, who had imposed an embargo on the country one week after the putsch, determined that the first conditions for lifting the said was the reestablishment of the National Assembly and the political parties. In reality on the 12 September 1996 the new government of Pierre Buyoya restored the National Assembly and the political parties but within an institutional framework for transition determined the very next day. Article 22 of the decree-law n°1/001 of the 13/09/1996 organising the institutional system for transition, states that " freedom of peaceful meetings and association is guaranteed in accordance with the conditions set out by law"; however, equally in Article 51, it determines that public demonstrations and meetings are banned and that " only public meetings whose purpose is to set up the governing bodies of political parties on a communal, provincial and national level may be authorised by the competent authority"¹⁷.

These restrictive provisions regarding the freedom of action of political parties were subsequently relaxed in the Constitutional Act for Transition promulgated by the decree-law n°1/008 of the 8 June 1998 ratifying the political partnership between the government and the National Assembly. Article 60 of this decree-law determines:

¹⁶ ICG, " The Mandela Effect : assessment and prospects for the Burundian peace process", 18/04/2000, 92 p.

¹⁷ Decree-law n°1/001/96 of the 13/09/1996, art. 51, paragraph 2.

“ Without prejudice to the provisions of Article 30, and taking into account the pressing need to restore peace and national cohesion, political parties are not permitted to organise public demonstrations and meetings.

Only national, provincial and communal meetings of the governing bodies of the parties are permitted ”.

Therefore, the parties were not entitled to mobilise publicly nor to demonstrate, although meetings of their governing bodies up to a communal level were, theoretically, permitted. In reality, there would be significant variations in the way these regulations were applied using two types of reasoning: the political tactics from within the country to influence the course of negotiations in Arusha, and the varying levels of hostility from the local administration. According to the needs of the moment, the government would decide to apply the law to a greater or lesser degree, in order to exert pressure on political parties or to favour certain of their factions.

When President Ntibantunganya took refuge at the embassy of the United States on the 24 July 1996, the president of the UPRONA, Charles Mukasi, took the political responsibility for withdrawing the UPRONA from the Convention of Government, thereby creating an institutional crisis, which was used as the justification for Major Buyoya to seize power. However as soon as he was installed in power differences appeared between the leader of the party and the government. During a meeting with the Central Committee of the UPRONA in September 1996, the Head of State confirmed that, through the implementation of a unifying policy, he intended to make the FRODEBU a partner. However, since 1993 the UPRONA had continuously claimed that the FRODEBU, the CNDD, the FROLINA, and the PALIPEHUTU had colluded in organising the Tutsi massacres of 1993 and pointed out the similarity of their ideology. The rehabilitation of the FRODEBU signified to the UPRONA that criminal practices were seen as a justifiable political option. By opposing this position the UPRONA gained the support of some members of the PARENA, the party of the former president Bagaza, which had been more or less dismantled since the putsch of the 25 July 1996. Their systematic opposition to the policies of the government risked paralysing the authority of the State and handicapping its policy of negotiation.

When the Rome agreements were announced in March 1997, the differences between the government and the UPRONA became official. By refusing to sanction the principle of negotiating with armed factions that had been accused of carrying out “acts of genocide”, the party immediately withdrew its support for the government in the Arusha peace process. The president was faced with the following alternative: either he should withdraw from the process in Arusha or he should proceed without the support of the party. Since that time, a standoff has ensued between himself and the president of the UPRONA, Charles Mukasi.

The pressure on those members of the UPRONA opposed to the Arusha negotiations and any dialogue with the rebels began in February 1997. Negotiations with the CNDD were on going and the Head of State told Charles Mukasi during a meeting in Ngozi that he would not tolerate anyone placing obstacles in his path. According to the president of the party, Pierre Buyoya had declared “ I do not wish to go as far as dividing the UPRONA but I must take

initiatives and go forward"¹⁸. The struggle inside the Central Committee of the party was led by certain key members of the government and the presidential cabinet: Pascal-Firmin Ndimira, who became Prime Minister in July 1996 ; Luc Rukingama, Minister for External Relations and Co-operation; Libère Bararunyeretse, political advisor to the presidency; and Jean-Baptiste Manwangari, a legal advisor. Despite mediation attempts by his colleagues, Pierre Buyoya did not manage to overcome the obstinacy of Charles Mukasi, which is sometimes described as resentment for not having been chosen as Prime Minister when he was considered as the main architect of the failure of the Convention of Government.

Three days after announcing an agreement with the CNDD, the president of the UPRONA issued a communiqué denouncing it. The UPRONA parliamentary group had to try to redress the situation and issued a counter-communiqué supporting the government. After two months of unsuccessful consultations in the party commission analysing the peace plan, supporters of the President of the Republic went on the offensive. They replaced the national party leadership during official meetings of the peace process. The police also applied pressure against the president of the UPRONA: on the 5 June, the information services carried out raids at the offices of the party and at the residence of Mukasi. The latter, questioned along with some of his allies, reacted to this by expelling from the party five of Pierre Buyoya's close allies. Shortly after this he continued his counter-attack by attempting to organise consultations with provincial and regional officials from the party throughout the entire country. He had to face the hostility of the gendarmerie, which was surrounding the national offices in order to prevent such a meeting being held on the 20 of July. One week later, it was the governor of the province of Muyinga who opposed him. Finally, the president of the party attempted to organise a "National Forum" for the 9 of August which was similar to the procedure which enabled him to dismiss Nicolas Mayugi in May 1994 and which he wanted to pass off as an extraordinary congress, the highest instance of the party. Members of the Central Committee who were close to President Buyoya told the Minister of the Interior that, by virtue of the statutes of the party, only they had the authority to convene a congress and, therefore, this could only be held in accordance with the above-mentioned provisions. Moreover, the legal provisions of the transition ban the holding of congresses. Charles Mukasi initiated an action for cancellation before the administrative chamber of the constitutional court, which was subsequently dismissed on the 31 of July due to faulty procedure. On the 25 of August 1997, Charles Mukasi took his revenge: invited by the mediator to the regional summit, the government did not go to Arusha under the influence of the central committee of the UPRONA. Even though this committee had actively prepared the summit, the council of ministers met on the eve of the summit and opposed its participation.

The differences within the central committee led to the emergence of two factions: the first supported president Mukasi in his fight against the negotiations and denounced the manipulation, division and intimidation of the central committee by the government. The other faction favours the negotiation policy and accuses the party president of "political trickery". In a letter addressed to the Minister of the Interior, dated the 16 January 1998, 21 parliamentarians of the UPRONA group in the National Assembly denounced the refusal of the party president to convene the

¹⁸ Charles Mukasi, " Persecutions against UPRONA by the power in place which is dominated by racist and genocidary organisations such as FRODEBU ", Bujumbura, 16/05/2000, p 13.

central committee which had not been held for six months. The letter explained that the president refused to convene the committee because he was afraid that his mandate would be challenged due to differences between the members.

Aware of the danger that they represented, the government sought to maintain its hold over the radical Tutsi opposition. This policy had been clearly stated in a memorandum issued by the president's office and entitled "Anti-Subversive Struggle"¹⁹. Written to combat the move against the peace negotiations, this document identifies the methods for eliminating "subversion".

The following are considered as being guilty of this offence:

- "Those who do not oppose the peace project per se but rather oppose those who have elaborated it;
- Those who oppose peace, with arguments of misinformation such as genocide, impunity, illegal power, etc.
- Out-and-out negativists who are only there to oppose any action that has been initiated by the institutions in place;
- Others who impose conditions difficult to carry out;
- And lastly, those who worry about the outcome of the project."

For this government agents must operate as "genuine anti-subversive agents" and have at their disposal full administrative and legal powers, including being able to make the accusation of "betrayal of National security."

On the other hand, those who were subjected to repression used it to gain credibility. In this way Mukasi claimed that political motivations lay behind the arrest in August 1998 of Claudine Matuturu, the then Minister for Repatriation and Reconstruction, and his principal private secretary who were charged with corruption. As they were both opposed to a "peace process that accepts genocide and people who have committed genocide" they were victims of the "frustrations of a government faced with an accumulation of failures in all areas of national life, and of the many inconsistencies of the powers in place". Finally, he proclaimed that it is "inadmissible that members of UPRONA continue to rot in prison due to unfair persecutions aimed at forcing them and the Burundian people to endorse a policy that has been condemned by the Charter for National Unity."²⁰

Unemployed, isolated and subject to occasional police intimidation, Mukasi and his allies, in all about a dozen members of the central committee, were finally suspended from their party responsibilities on the 7 October 1998 during a meeting orchestrated by supporters of Pierre Buyoya, and placed under the protection of the gendarmerie.

Seemingly, the radical wing of Tutsi opinion, which is opposed to the Arusha negotiations and to any dialogue with those that it generally terms as the "genocidal-tribal-terrorists", was persecuted by the regime. However, this coercive phase only lasted a short while. Since May 1999, due to an increase in the tension between the government and the FRODEBU after the failure of the Partnership, the Tutsi extremists have reappeared on the national public stage.

¹⁹ Republic of Burundi. Presidency of the Republic. Office for the Co-ordination of Security Services. "Anti-Subversive Struggle" (Bujumbura: 25 May 1998).

²⁰ Declaration of the UPRONA Party regarding the Arbitrary imprisonment of Members of the National Management of the UPRONA Party.

Shadowy associations and dissident wings of the UPRONA ²¹were united in an "agreement for restoring the rule of law in Burundi". This was an urban faction subject to police pressure whenever it tried to organise street demonstrations similar to those of the years 1994-1995. However, its communiqués, press conferences and inflammatory statements appeared on the public scene and served as a frightening reminder during the last phase of the peace process. In addition, the leaders of this radical wing took advantage of the close surveillance to appear as martyrs.

The government in this way had given the extremists quite a wide freedom of action, with the objective of making the negotiators well aware that a section of the Tutsi population were ready to fight against the return to power of the FRODEBU and that Pierre Buyoya and his allies represented the only bastion against these extremists. "We will also start killing Burundians" proudly claimed an extremist Tutsi leader whilst pamphlets of PA-Amasekanya or "the framework agreement" incited the population to take up arms against the peace agreement signed in Arusha²². In this way the UPRONA party of Pierre Buyoya is playing the card of intimidation over the peace process, with the risk that this will provoke yet again a desire for vengeance in people's minds, and will lead to a renewal of ethnic violence in the capital. Such is the dangerous game played by the government with the FRODEBU activists.

2. Harassment of militant activities

The repression of militant activities particularly affected the FRODEBU. Indeed, the other parties often do not have a national structure and operate essentially from Bujumbura when a section of their leadership is not abroad. In reality, other parties either have sympathisers within the army or the administration, which permit them to operate freely throughout the neighbourhoods of Bujumbura, or they hide their activities under the cover of sporting activities or other social events, which, for the Tutsi parties, are permitted to take place with the authorities' blessing²³. Amongst the parties of Tutsi allegiance, only PARENA is subject to constant pressure from the police. Sometimes exaggerating, the party has denounced the daily harassment of its officials, and the torture and wrongful arrests that they have been submitted to²⁴. In January 1997, Jean-Baptiste Bagaza was placed under house arrest. Two months later about half a dozen militants were arrested for terrorist acts and an assassination attempt on the Head of State. They were accused of laying mines in the central market in Bujumbura and on some main roads into the city. The following year, a group of militants was accused of being involved in an obscure conspiracy that was uncovered by the army in Cibitoke (see above).

These PARENA militants, including the magistrate Isidore Rufyikiri, are still in prison although their guilt has never really been proven. The house arrest of J-B. Bagaza was lifted in February 1998, but he has chosen to live in exile in Uganda. In

²¹ Its representatives are: The Center for Studies on Genocide of Gérard Nduwayo ; the association 'AC Génocide' of Venant Bamboneyeho; the Revolutionary Rwagasore Youth J represented by its general secretary Bonaventure Gasutwa; the association 'Coalition against Dictatorship of Raphaël Horumpende; and Charles Mukasi. See Communiqué n°1/00 from the Centre for Genocide Studies, 07/02/2000.

²² ICG interview, Bujumbura, 15/05/2000 and various pamphlets May/June 2000.

²³ Observation ICG associate, Bujumbura, 07/05/2000.

²⁴ ICG interview, PARENA representative, Arusha, 21/05/2000.

Bujumbura, the party has been closely watched. Its public militant activities were reduced to opening bars where sympathisers could meet to receive the latest instructions from their leaders and to listen religiously to the recorded speeches of Jean-Baptiste Bagaza²⁵. Although there is genuine police surveillance, PARENA is, however, satisfied with its position as martyr. This position enables it to raise the spectre of persecution, and gives its activities an air of resistance, disguised under the outmoded charm of court intrigues.

The repression of FRODEBU leaders has undergone important changes since 1996 and is currently being heightened for the reasons that we have already outlined. In January 1997, at the height of the military campaign against the rebellion, the President of the National Assembly and the deputy general-secretary of the party, Léonce Ngendakumana and Domitien Ndayizeye underwent a judicial procedure that implicated their complicity in the massacres of 1993. Augustin Nzojibwami, the general-secretary of the party, was even arrested in February for having opposed the regroupment camp policy implemented by the government to cut off the rebellion from the population. Officially, Pierre Buyoya had only agreed to reauthorize political parties on the condition that they contribute in a " positive " way to national political life. Any criticism against his actions was therefore considered as negative and destructive²⁶. However, one year later, when dialogue with the FRODEBU became an opportunity to make political gains, all the charges against Léonce Ngendakumana were abandoned. Domitien Ndayizeye would even win his trial. The real repression was not of the national party officials who were participating in the Arusha negotiations, but of local officials, militants and sympathisers.

For the police, army and administration the equation is simple: any FRODEBU militant is a potential rebel and therefore an enemy. The presumption of natural complicity with "armed groups " legitimises all kinds of abuses, which are yet further encouraged by the special measures implemented under the regroupment camp policy²⁷. Conversely, the militants and party officials are not aware of, or still do not recognise, the legal framework that was imposed in September 1996, and then relaxed in June 1998. Consequently either they denounce a repression that was not really present, as its limitations set out in the Constitution Act for Transition are very strict, or they operate clandestinely and incur the repression of the forces of order when they are discovered. The total absence of trust and respect between the provincial governors, their civilian or military subordinates and local party officials encourage regular conflicts between the administration and FRODEBU militants.

In Kayanza, for example, according to FRODEBU representatives²⁸, the entirety of the administrative and police services belong to the UPRONA. Moreover, according to the party, these administrators apparently received an order not to apply the measures outlined under the Constitutional Act for Transition. Meetings of the executive board of the Gitega Federation are regularly held, as are those of the

²⁵ Observation ICG associate, Bujumbura, 06/05/2000.

²⁶ The Economist Intelligence Unit country report, Burundi, 4th quarter 1996 and 1st quarter 1997.

²⁷ See. The census on violations of Human Rights presented in the bulletin of the Iteka League and a description of " the hell " (according to an expression from an inhabitant) of the neighbourhoods of Kinama and Buterere in Bujumbura : Iteka-Burundian League for Human Rights, *Information Bulletin* n°28, August 1997 ; n°30, February 1998 ; n° 34, January 1999

²⁸ ICG interview with representatives from the Kayanza federation, Bujumbura, 10/05/2000

National Management Committee, but not in the provinces. Party officials are obliged to go to the home of the general-secretary in the Mutanga-Nord district of Bujumbura to ensure that they are not beaten up. There are also problems as far as the meetings on a communal level are concerned, though these should normally be authorised. Party officials are afraid and need to operate clandestinely. When the seminars that were supposed to underpin the national debate, in accordance with the partnership agreement, were organised in 1998–1999 they suggested that militants from the Nzojibwami branch were systematically invited to participate. In the working class areas of Bujumbura, the situation is explosive. In Kinama, district leaders complain, for instance, that they have been unable to meet since the putsch of 1996. Armed robbery has become much more frequent in the neighbourhood without resulting in any action from the police or the army who are suspected of being accomplices. Men are arrested when they refuse to participate in the night patrols that are organised to provide security; however, the police refuse to provide them with weapons or even to accompany them, and as a result civilian patrols are mugged and robbed during the night. In Kamenge, FRODEBU sympathisers say that they are harassed daily by the police and administration. They are arrested on any pretext whatsoever. They are put into solitary confinement and have to pay fines if the party fails to intervene with the public prosecutor to attain their freedom. In Musaga and Kanyosha, the militants have to meet in small groups of three to five people in cafés to keep themselves informed about the evolution of the peace process. The only true meetings of the party can only take place in the home of Domitien Ndayizeye, the general-secretary, who is a direct interlocutor of the government. In the area of Buterere, militants complain about arbitrary arrests, daily fines, confiscation of property, repeated rapes and even murders. The regional director is accused of encouraging Tutsi militia to harass the Hutu population. He has supposedly received an order to raise a minimum of 400,000 Burundi francs per week by extorting money from the population.

Since mid-1999, tension has risen several notches and mutual accusations are constantly flying about. The Mayor of the city is accused of applying daily pressure over the militants of the party and of encouraging the regional directors in the harassing of the Hutu population. When militants wanted to celebrate the New Year on 1 January the area director took away all the chairs from the room where they were supposed to meet. Several days earlier, the FRODEBU MP Gabriel Gisabwamana was assassinated by the military in front of witnesses, after he had identified himself. The people who were responsible for this crime are known to the police but have still not yet been arrested, or even sanctioned²⁹. This type of impunity is not very favourable to re-establishing trust, especially when there are such flagrant differences in the treatment of the political parties, especially between the FRODEBU and the UPRONA.

On 19 April 2000, the area director of Gihosha communicated to the general secretary of the FRODEBU that he prohibited any "clandestine meetings " from being held in his home, in flagrant contempt of the regulations set out in the Constitutional Act of Transition³⁰. Shortly after this, the party was again accused of collecting contributions in support of the rebellion. At the beginning of the year 5,000 FRODEBU cards had been distributed throughout the entire country. The government then accused the FRODEBU of mobilising the population against the

²⁹ ICG interview with representatives from the Kayanza federation, Bujumbura, 10/05/2000.

³⁰ Letter of the director of the Gihosha Area to the general secretary of FRODEBU, 19/04/2000.

authority of the State. The party defended itself by saying that the distribution of membership cards is not banned and does not correspond at all to mass mobilisation. In defence of the FRODEBU it should be noted that its great rival, the UPRONA, was actively involved in re-energising the provincial and communal activities of the party in complete freedom. The report of the ordinary session of the Central Committee held on the 8 April 2000 shows that the leading authorities of the UPRONA had been involved for several months in the restructuring of its provincial, communal and neighbourhood committees, in the re-energising of its support (circulation of information sheets in Kirundi), recruiting new members, installing younger leading officials, turning sympathisers into members, accumulating contributions and reorganising the management of its property (renovations and increases in rents) in order to fill the coffers of its provincial federations³¹. Whilst the UPRONA is therefore in the throes of a total reconstruction to prepare itself for the transition period that will follow the imminent signing of a peace agreement, the FRODEBU is subject to daily harassment and has been rendered incapable of reassuring its militants and sympathisers of the government's good faith in respecting the undertakings which, periodically, it alleges to have adopted.

C. Institutionalisation of political opportunism

Various forms of repression are not the only facet of the stormy relationship between the political parties and the government. Since the beginning of the Arusha negotiations a serious trend in the Burundian political scene has been the splitting of political parties and the development of new alliances based on these splits. This whirlwind movement is symptomatic of the emergence of a new trends on the Burundian political scene: institutionalisation of opportunism as the main thread of political action. Up to now, two serious trends led to the formation of alliances and bound the political families together: regionalism and ethnic nationalism. For the great majority of the population ethnic identity reified and manipulated by more than a century of colonisation and post-colonisation, has become the main feature of political activity. Partisan coalitions in Burundi are symptomatic of this trend. Between 1993 and 1996 the " Forces for Democratic Change " corresponded roughly to an alliance, which defended Hutu interests, and the " Coalition of opposition political parties " corresponded to an alliance defending Tutsi interests, irrespective of the ethnicity of their leaders. For the elite, other aspects sometimes guided political groupings on a secondary level such as, for example, the clan and, especially, the regional origin. Burundi and its elite are renowned for having led the country since the beginning of the seventies. Finally, a third reason has become more important: whether they are opposed or not to the presence of Pierre Buyoya in the transition institutions.

Turning legal tools into political instruments is a phenomenon that is also seen, the best example of this being the requirement for political parties to have leaders who live in the country. The government to stir up latent regional divisions existing within the FRODEBU and to get the three small Tutsi political parties to participate in the partnership policy would use this argument. At the PRP, the ABASA and PARENA the exile of their presidents and the expiry of their legal mandate was used as a pretext for 'internal wings' within these parties to take control, followed by their immediate entry into the government. A strict interpretation of the Law of

³¹ UPRONA Party, " Summary of the ordinary session of the Central Commission held on Saturday 8 January 2000 ".

the 15 April 1992 does not make it illegal to reappoint leaders who reside outside the country. The condition of residence stipulated in Article 24 concerns the conditions for approving political parties. Moreover, Article 39 of the decree-law of 15 April 1992 states that the parties must remain faithful to the principles attached to their approval and not to precise conditions regarding the residence of their leaders.

1. Partisan putsches and alliances of convenience

After the putsch of the 25 July 1996, the FRODEBU was split. Some of its leaders were in exile, including its president Jean Minani, and some remained in the country, namely the toppled president Sylvestre Ntibantunganya, the president of the Assembly Léonce Ngendakumana, and the general secretary of the party Augustin Nzojibwami. With the aim of cutting Minani off from his internal political base, the government of Burundi requested the internal FRODEBU party to appoint a new president who resided within the country, in accordance with the Burundian law. Consequently, the party became split between those who wished to keep Minani as the president and those who wanted to replace him. These two factions are represented, on the one hand, by the former president Ntibantunganya and the president of the Assembly and, on the other, Augustin Nzojibwami. At that time it appeared that the dissension was divided along regional lines, the Nzojibwami faction representing militants from Bururi and the Minani faction representing the others. This crisis ended in a FRODEBU congress in December 1997 which, despite pressure from the Buyoya regime, maintained Minani as president. The Ministry of the Interior subsequently attempted to suspend the FRODEBU by declaring that it was against Burundian law to have a president who resided outside the country. However, Pierre Buyoya finally opposed this move.

At this same period, towards the end of 1997, negotiations for a partnership between the government and the Assembly were also initiated. These negotiations were brought about by the FRODEBU fearing that it would be marginalised by the Rome negotiations, which had established Léonard Nyangoma as the official partner of the government. The negotiations were also due to Pierre Buyoya trying to strengthen his legitimacy in order to be able present himself in Arusha from a position of strength, supported by a united internal Hutu-Tutsi front. The internal FRODEBU party was especially interested in this partnership for three reasons: firstly, the FRODEBU party in exile were getting the limelight at the Arusha negotiations; secondly, they risked losing their positions if a transition government was appointed at the conclusion of Arusha; lastly, the mandate of the Assembly was due to expire in June 1998 (1993-1998) along with the associated posts and sources of income. The Nzojibwami faction very soon became dominant in the internal negotiations, aiming to become a partner who cannot be ignored and to remove Minani who had become a liability.

The exiled wing of the FRODEBU led by president Jean Minani opposed any collaboration with the authorities whilst the internal wing, dominated by Augustin Nzojibwami, sought a compromise. The two FRODEBU factions approached the Arusha negotiations from different positions and consequently had different strategies of adjustment. The external wing counted on Tanzanian support to strengthen its position and appear as the real, uncompromising, opposition, whilst the internal wing depended on an 'internal bloc' with the government. However since the beginning of 1999 serious disagreements have appeared within the internal wing. These tensions partly coincided with the onset of Committee

negotiations from December 1998 - January 1999, accompanied by the suspension of sanctions, which was seen as a political victory for Buyoya. Strengthened by this victory and working with the government on the text for transition proposals which were to be submitted to Nyerere, Nzojibwami attempted a gamble and on the 18 March expelled Ntibantunganya and three other prominent FRODEBU members, accusing them of being undisciplined and trying to install parallel structures within the party. On the 22 March Minani in turn expelled Nzojibwami, accusing him of wanting to split the party and taking illegal decisions. Nzojibwami then publicly told the BBC that he refused to obey, maintaining that Minani could no longer continue to lead the party from outside the country under the Burundian law on political parties. This crisis intensified the divisions within the party with a large number of leading figures of the internal FRODEBU party coming out in support of the position held by Minani. Losing ground, the allies of Pierre Buyoya then launched the Convergence Nationale pour la Paix et la Réconciliation (*National Convergence for Peace and Reconciliation* - CNPR).

The birth of the CNPR is a product of the transformation of the Burundian political landscape and underlined an attempt to take the negotiations in hand at a time when they seemed to be flagging. The Convergence encompassed all the parties of the G8 except PARENA and AV-Intwari but did include the Nzojibwami wing of the FRODEBU, as well as the RADDES party which up to that point had always refused to participate in Arusha. The CNPR was launched on the 2 October 1999 in Bujumbura, officially as a reaction to G7/G8/G3 and their ethnic logic. Although the government denies this, the Convergence is in fact a lobby group for the president and as such helps clarify the various blocs. Comprised of dissident wings from almost all the Tutsi parties, along with a section from the FRODEBU (Nzojibwami wing), its statements faithfully reflect the views of the government.

The parties all believed that they could benefit from a re-energising of the internal process that was promoted by the Convergence. All of the signatories to the Convergence, except the PIT and the Anadde, were either expelled from their parties by the leader in exile, or they expelled their leaders in accordance with the Burundian law, which prohibits party leaders to live outside the country. At FRODEBU Minani, living in exile in Dar-es-Salaam, expelled Nzojibwami in March 1999; however, in accordance with the above-mentioned law the latter proclaimed himself president of the party in October 1999. At the PRP, Albert Girukwishaka replaced Mathias Hitimana who was living in Belgium; at the PL, Joseph Ntidendereza replaced Gaëtan Nikobamye, who was living abroad; at Abasa, Serge Mukamarakiza took over from TERENCE Nsanze, living in Switzerland. At the enlarged National Assembly, Convergence gathered the signatures of 56 parliamentarians. Putting it simply, the negotiation cards had been redistributed in favour of the internal leaders who were part of groups supporting the government in place and believing it should remain during the transition period (see Appendix 6 for a summary of the changes in leaders of the political parties).

To compete with the Convergence (internal FRODEBU party - Buyoya regime) an alliance between the leaders in exile took place, the external FRODEBU and PARENA forming the mainstay³². This alliance had been sought when these leaders realised that Heads of State in the region were trying to identify leading personalities from the Hutu-Tutsi coalitions to lead the post-Arusha transition. Shortly after this, a new group was created, the 'Alliance Nationale pour le

³² See ICG, *The Mandela Effect*, op. cit., p. 47.

changement' (*National Alliance for Change - A.N.A.C*) which brought together the Minani wing of the FRODEBU, the PARENA, the PP, RPB, ABASA, Sojedem and several prominent civil society leaders. The creation of this group, four days after Mandela had been appointed, was immediately perceived as competing against Convergence.

The agreements between the FRODEBU and the PARENA, signed on the 30 October 1999, were presented to all the parties in Arusha at the end of March 2000, for the purpose of "advancing the negotiations"³³. They agreed upon a transition period of 2/3 years, and that the transition should be led by a president and a vice-president from an ethnicity and a background different from the president's although both "originating from the global negotiations in Arusha". The two parties also agreed upon the necessity of installing a High Council of State which would be responsible for monitoring the implementation of the accord and of interpreting its terms in cases of disagreement between the signatories: the former presidents of the Republic would be entitled by right to be members of the said council. The FRODEBU and the PARENA demanded political, diplomatic, security and financial guarantees for the application of the accord, in particular, the sending of a contingent of two thousand specially trained soldiers to protect the new and former high officials of the State and an international peace keeping force. In an interview, the president of the FRODEBU Jean Minani explained that these were not post-accord power sharing agreements, but were tactical alliances in order to act as a single bloc against Buyoya during the negotiations³⁴. The FRODEBU believes that it is necessary to break the myth that any collaboration between Hutus and Tutsis is impossible. Real negotiations have without a doubt taken place between these two parties, although they have different agendas. The FRODEBU believes that the strength and the level of representation enjoyed by the PARENA will only be known after the elections. For its part, the PARENA hopes to play the Hutu card during the negotiations to get rid of Buyoya but also to recover Tutsi support and to consolidate its power when the accord is implemented³⁵. A new alliance through circumstances therefore exists with the political aim of primarily blocking Pierre Buyoya's participation in the institutions of transition.

2. Absence of fresh political attitudes

"The speeches of many still remain fixed in stating the misdeeds committed by the 'others', and the danger that they represent, and underline the violence and injustices that have been suffered by claiming judicial compensation and radical political measures that these would entail. However, both sides equally excuse and justify these same injustices, violence and atrocities that have been committed by 'their side'. **Each group reproduces the failings that it is decrying in the group opposite (...)**

This situation has lasted for decades. It is a page that should be turned and any changes in Burundi must, primarily, pass through the political class. Only a political class capable of new alternatives, of openness, of dialogue, of tolerance and daring, capable of transcending ethnic divides and of freeing itself from sectarian attitudes and prejudices will be able to bring about a profound social and political change in Burundi. The Burundians will not be able to get rid of their ethnic

³³ Interview with Jean Minani, president of FRODEBU, Burundi Bureau, 21/03/2000.

³⁴ *Ibidem*.

³⁵ See ICG, *The Mandela Effect*, op. cit., pp. 53-54.

blinkers if the politicians themselves cannot throw away their own. Equally, the political class will only be able to solve the Burundian conflict by bravely accepting to recognise and treat **on an equal basis**, with respect and dignity, the problems and the needs that are expressed by all sides.

After more than a year of talks in Arusha, the politicians should stop taking pleasure in outmatching each other in trying to demonstrate to 'their base' that that are without equals in defending the interests of 'their ethnic group'. The time has come for politicians to demonstrate their desire and ability to understand the concerns of the opposite side and to suggest serious and courageous measures aimed at gaining their confidence, even if this means taking risks. **There can be no lasting solution to the Burundian conflict that does not require a minimum level of mutual trust and respect, and a minimum amount of real concessions to be made to each other along with the latent risks to be taken.** ³⁶.

This analysis, from the Burundian League for Human Rights " Iteka " a little more than one year after the start of the peace negotiations, is more true than ever. More than ever, as the end of the peace process approaches, the political parties are entrenched in their positions and are loathe to be the first to make any concessions. Even at the risk of scuppering the peace negotiations there has been a return to an agenda that was believed to have belonged to the past. This demonstrates the lack of political courage of the party leaders who still remain trapped by their ulterior motives. The recent changes of Commission V in the Arusha negotiations are significant of this situation.

Commission V of the peace negotiations is centred on the essential question of national and international guarantees for the agreement. After a difficult start at the end of March, during which the parties rejected the chairmanship of judge Mark Bomani (who had been requested twice by the mediator) on the pretext of the partiality of the Tanzanian team, Commission V was finally able to start its work in mid-May under the official chairmanship of the mediator in person, assisted by teams which had conducted the four other commissions to achieve a successful outcome to the discussions.

This first meeting highlighted the state of mind of the different participants. Preceded by a press conference of the party members of A.N.A.C. in Bujumbura on the 6 May, which advocated the need and merits of involving foreign troops³⁷, the Commission's work was limited to reaffirming the positions of principle for requirements on the quality of the agreement (clear, precise, complete, and unambiguous), its sincerity and its support from the population and from all the parties involved in the conflict³⁸. When raising the first question regarding compromise, the appropriateness and the role of a United Nations observation force, the words resembled again those of from the putsch of 1996: for the UPRONA and certain Tutsi parties, any foreign force is considered as an occupation force and an unacceptable presence for a sovereign government.

³⁶ Burundian League for Human Rights – Iteka, " An open letter to the leaders and members of the political class in Burundi ", 12/08/1999, p. 4. Passages underlined by the author.

³⁷ Fondation Hirondelle, " Five Burundi parties want International Peace Force ", 09/05/2000 .

³⁸ Fondation Hirondelle, " Burundi peace talks resume in Arusha ", 16/05/2000.

G7 and its opponents essentially differ on the powers to be devolved to the Surveillance Commission for the application of the peace agreements, which will be organised into six sub-committees (security and defence; return and reintegration of refugees; administrative reforms; legal reforms; electoral issues; and the drafting of a new constitution). The former are demanding the presence of an " international guarantor " within this Commission who will have deciding powers subject to the rule of consensus; the latter require that Burundians alone should participate in it and that it should only have consultative powers. There is also a difference of opinion about the composition of the force to be made available to the " defence and security " sub-committee charged with protecting the directors of the institutions of the transition, with ensuring the integration of rebels in the army, for disarming the demobilised forces, and for seizing any other weapons circulating amongst the population. G7 demands the exclusive involvement of a foreign force of 20,000 men (8,000 policemen and 12,000 soldiers) to carry out this task, whilst representatives of the CNPR refuse any other presence than that of the new forces of national security, along with a technical committee. On this issue PARENA opposes its partners in A.N.A.C and proposes that an international force of 1,000 – 2,000 men should be made available to the technical committee. Regarding the judiciary, G7 also demands that political prisoners be freed two weeks before the agreement is signed, all regroupment camps be dismantled and that a temporary amnesty be granted for all " political, military and police " crimes until the end of the enquiries that will be carried out by the National and International Commissions on genocide and other crimes against Humanity which are provided for within Commission I³⁹.

This profound disagreement on the question of the international guarantees of the agreement illustrates the state of tension of the UPRONA and of the government, who are still incapable of accepting a compromise which may challenge the control they have over the military and the police in the country. Under the pretext of maintaining national sovereignty, the government refuses to recognise the dangers that are present in the life of the political leaders in exile, and hides behind what it considers as being the last element guaranteeing its power during the transition, that of using the military-police as blackmail. The message conveyed by this state of tension is in fact the following: in the event of being in a minority in the transition institutions, the UPRONA and the Bururi military establishment want to be able to resort to a new putsch. In reality, risking being placed in a position of minority, and refusing to accept responsibility for the failure of an agreement due to its entrenched position, the government is, moreover, trying to find other blocking tactics. Undoubtedly, this is the political sense of the " Memorandum sent by the members of the political parties of the CNPR to the mediator Nelson Mandela " which demanded a suspension of the negotiations to favour a direct agreement between the government and the armed rebellion. Using their exclusion from the negotiations as a pretext, the " putsch " leaders of the CNPR " decided to mobilise their supporters to oppose the negotiation of an agreement that does not take their future vital interests into consideration ". Equally they " reserve the right to boycott the future meetings of the Arusha negotiations until the question of the representation of political parties in these negotiations and the identity of the negotiators are regulated in accordance with Burundian law " ⁴⁰.

³⁹ Fondation Hirondelle, " Burundi delegates split over Foreign help in peace monitoring ", 23/05/2000.

⁴⁰ CNPR, " Memorandum sent the by political parties to the Mediator Nelson Mandela ", 10/06/2000.

Wishing to reverse the balance of power in the negotiations, the government and its allies are attempting to challenge the Arusha set-up and continue to threaten violence towards all of the non-signatories of the agreement that is to be implemented.

In defence of the government it must, however, be underlined that the G7 parties and their supporters are not showing any signs of goodwill, changing attitudes or political maturity. Indeed at the end of the third meeting of Commission V held from the 19 to the 24 June 2000 and during which no new major compromises were arrived at, they delivered personal attacks on Pierre Buyoya, probably forgetting that he himself also had to accept to sign the peace agreement. During a press conference on the 24 June, Jean Minani, Léonard Nyangoma and Gaëtan Nikobamyè reiterated their demand that the transition president should be from their ranks and denounced the desire of Pierre Buyoya to impose himself as the leader of the transition. Jean Minani declared: "If Buyoya still wants to lead the transition he would be in opposition to the wishes of the people. How can he pretend to lead a people who do not listen to him? There would be a popular revolt and we would support it"⁴¹. The reasons for this "revolt" are significant of the problematic political reasoning within the G7 group. Pierre Buyoya is not invalid because he is part of the military, or because he gained power through a putsch, or because he has not given enough signs that he is a democrat over the last four years, which are three good reasons to exclude him. He is invalidated because he does not have a "large enough representation" within the population, because he lacks goodwill, maintains "concentration camps" in the country and refuses to free political prisoners⁴². In other words, conveying the deep feelings attached to this position, "he is a Tutsi without any political credit", and is not a respected partner of the peace negotiations. Finally, in addition to trying to increase its position in the sharing out of the security forces, G7 demands that the future army should be composed of 60% rebels, the blackmail of failure is suggested in order to force the government to accept a compromise. "In July, if the negotiations have not been concluded, those who have refused to co-operate will be exposed to the Burundian people and the international community", declared Jean Minani. Entrenched in this position, he has already shifted any blame for failure onto the government, as if he himself did not have to make compromises. For G7, the insurmountable condition of the political debate remains the demographic legitimacy of the Hutu population to lead the country. No other consideration is admissible. The shambles of Minani's late alliance with Tutsi parties in rejecting the candidacy of Pierre Buyoya to lead the transition institutions after this press conference⁴³ does not, unfortunately, permit this conclusion to be considered as invalid. For the government, its allies and opponents, the states of mind and political attitudes have not really changed since 1994.

D. Conclusion

At the end of this investigation into the political parties in Burundi, the political stakes that have been raised by the mediator Nelson Mandela by demanding a total liberalisation of their activities appear much clearer. Firstly, none of the parties has

⁴¹ "The G7 group explains its position during a press conference", Interview Burundi Bureau, 25/06/2000.

⁴² Fondation Hirondelle, "Pro-hutu parties want to lead Burundi's transition", 24/06/2000.

⁴³ Burundi Bureau, "A procedure error creates a misunderstanding in the G7", Brief n°628, 26/06/2000.

formally proven that it has definitively renounced violence and has radically changed its mindset with regards to the excesses of the years 1994-1995. In this context, restoration of full freedoms for political parties would remove controls on the excesses that Burundi has suffered in recent years. This could be contrary to the objectives of the peace process. Such an observation does not release the government from its responsibilities. On the contrary, it needs to prove that it is impartial and completely fair in its application of the current legislation. Equally, political parties must prove that they have rejected violence and that they respect their political adversaries before complete freedom of action can be resumed.

The second paradox in Mandela's demand for freedom of political parties is partly a result of the state of the peace negotiations since June 1998. Political parties participating in the Arusha talks, especially the large parties that tried to create a separate group during the consultations in Dar-es-Salaam, in reality show a mindset that augurs ill for the future of Burundi. Parties of the government, such as UPRONA and FRODEBU, show a lack of openness. Their tactics of intimidation and manipulation do nothing to build trust. Other parties use strategies of alliances and counter-alliances aimed at gaining posts in the transitional institutions or to undermine the authority of Pierre Buyoya. The parties' efforts since the start of the talks have therefore centred on modifying the balance of power in the negotiations in order to impose opinions, which have already been seen to be insufficient. All in all, since 1996 the government and the political parties have had a greater reputation for resorting to intimidation, manipulation, attempting divisions and carrying out political opportunism than presenting a new vision of society which offers a chance for peace and renewal in Burundi. This is worrying, given their past since 1993.

At a time when the peace process has reached such a crucial stage, when concessions must be made by each side to reach an agreement and there is an increased risk of failing, the liberalisation of political activities could turn out to be extremely dangerous. FRODEBU, fully aware of this, has not pushed for liberalisation. It merely demands that daily harassment of its activists should cease and that legal provisions of the Constitutional Act of Transition should be respected. Intimidation of FRODEBU endangers the peace agreement's credibility and strengthens the desire for vengeance among party militants. This must cease. It is also essential that the Head of State should not use daily threats from the militia as a political excuse to justify staying in power.

Under the impetus of its new president Luc Rukingama and his team, UPRONA has since the end of 1998 started to revitalise its partisan structures, the recruitment of troops, the collection of subscriptions and the reorganisation of the party in preparation for the political renewal that will necessarily be brought about by the peace agreement. A normalisation of political activities is healthy and desirable. However, all political parties must be able to benefit from it equally and all leaders must be able to return to Burundi in order to re-establish contacts within the country and to explain clearly to the people their ideas. Finally, as underlined by the Burundian League for Human Rights – *Iteka*: " There can be no lasting solution to the Burundian conflict unless there is a minimum of trust and respect for each other, and that a minimum level of real concessions should be granted to each

other along with their latent risks"⁴⁴. This is the price of peace. Burundian political leaders must show that they are ready to pay it.

II WHICH FREEDOM FOR WHAT MEDIA ?

The public press today dominates Burundi's media landscape, both broadcast and written, despite the proliferation of independent titles, which accompanied democratisation at the beginning of the 1990s. A vital information tool for the ruling powers, public media have been influencing national political life for almost half a century. Successive military regimes have never allowed any challenge to their grip on these media, an attitude which persists to this day. Coverage of the Arusha peace process is a perfect example of this. Since the start of these negotiations, the government's communication policy has remained ambiguous, reflecting its doubts about this forum which has always been perceived as imposed by the international community and naturally hostile to the government.

As well as instinctive self-censorship and official censorship, Burundi public media professionals also have to cope with numerous difficulties in accessing information. Material resources are very limited, and institutional obstacles cannot be ignored. The legal framework within which the media operate is restrictive, and the threat of administrative sanctions weighs heavily on journalists at all times.

The private press, originally a symbol of political liberalisation in the country, is almost non-existent today. However, it had a short and unimpressive life, and took a violent and brutal turn.

The explosion in the independent press during Burundi's short period of democracy - from January to December 1993 - was quickly stifled. The birth of a young "free and independent" press came in response to the need for information underlying the liberalisation of political life. As *Reporters sans Frontières* (RSF) points out, "as shocking or paradoxical as it may appear, the extremist papers with their inflammatory editorials resulted from the relaxation of the single party regime. Whatever their tone, their independence or their partisan commitment, the twenty six newspapers (and the two already approved but not yet operational radio stations) bear witness to a remarkable vogue for the media, even though the readership remained substantially that of the urban elites who were able to buy several newspapers."⁴⁵ The media were both the witnesses and the players in the political and moral crisis, which gripped the country. Many of the opinion-forming newspapers and party propaganda news media became the tools of confrontation used by the various camps against each other: Tutsi against Hutu, UPRONA against FRODEBU.

Today, seven years after the advent of the multi-party state, more than forty titles of different tendencies have disappeared as suddenly as they arrived. Their average life span was between six and 12 months. The existence of a pluralist press might have had a moderating influence during the period of initiation into the rules of democracy. However, most of these titles displayed a desire to shore up

⁴⁴ Burundian League of Human Rights– Iteka, " Open letter to the leaders and members of the political class in Burundi ", 12/08/1999, p. 4. Passages underlined by the author.

⁴⁵ Reporters sans Frontières, *Burundi: le Venin de la Haine. Etude sur les médias extrémistes*, Paris 1995 p/ 7

ethnic hatred and collective prejudice, "defending" one ethnic group against another⁴⁶. At a time when the conclusion of the Arusha peace negotiations offers the prospect of a period of stability, the media landscape has not moved beyond the possibility of a "relapse". Media professionals, both public and private, still operate under the temptation to campaign rather than inform, and the total liberalisation of newspapers and the airwaves could pose unexpected problems.

In fact the problem of the media in Burundi is not so much one of freedom of expression as of the founding of a genuinely pluralist public forum, supported by an appropriate legal and political environment. Journalists must turn their backs on their propaganda role and learn to give expression to public opinion. The country also stands in need of a transparent and effective communication policy, applied to the progress of the peace process. Rumour must give way to rigorous information, and the media must act to support reconciliation and democratisation. Nelson Mandela's March 2000 demands for public and private media freedoms, and the opening up of the public media to all shades of political opinion are not enough. They must be accompanied by a change in attitudes on the part of both journalists and politicians, and an institutional communication strategy designed to promote peace.

A. Media culpability in the crisis

With the advent of the multi-party system under the 1992 Constitution, freedom of expression made definite progress, inter alia due to the efforts of the private press and a few journalists from the public press. This opened up the way to start a face-to-face debate in a quite new fashion. Within the State owned broadcasting services, the challenge was to change the habits of many journalists who behaved as civil servants or publicity agents for the propaganda of those in power - an exercise carried out with every change of regime. It was necessary to stimulate a sense of professional ethics among journalists, and to depoliticise the public broadcasting services. The assassination of Melchior Ndadaye in October 1993 and the massacres which followed, however, had the opposite effect. The media themselves shared in the responsibility for conflict.

1. Poor journalism and self-censorship. (1993)

Journalists in the public services came from different educational backgrounds. Most were graduates of the Burundi Ecole du Journalisme (1982-1990). Other applicants came from the faculty of social sciences. They gained their qualifications through in-service training and seminars organised either within the only available state broadcasting body, the Radio Télévision Nationale Burundaise (RTNB), or at international radio stations in foreign capitals⁴⁷. The education received at the Ecole du Journalisme never established the frontier between propaganda and information. Its aim was to produce journalists for the publicly owned broadcast and written news media and press agents for the public service, which was the only sources of employment. This Ecole de Journalisme was closed on the eve of the advent of the multi-party system. In practice, Burundi journalists had no opportunity to learn their trade or practise it in accordance with even

⁴⁶ *ibid.*

⁴⁷ ICG interview with a former Ecole de Journalisme du Burundi staff member, Bujumbura, 05/05/2000.

minimal professional ethical standards, either before or after the closure of the college.

The League of Human Rights *Iteka* commented in May 1993 during the electoral campaign that "the public press has failed to adapt to the needs of a pluralist society; it continues to act as a propaganda instrument for the government of the day. In the run up to the elections, instead of reporting the different opinions expressed on the prevailing situation in the country, it tends to be satisfied with relaying the accusations of UPRONA, which is in power, against FRODEBU, instead of forcing itself to relate the facts (...) It even cuts short or distorts information in order to reach pre-arranged conclusions. The public press has failed in its mission to educate and inform the public (...) The public media have chosen to throw in their lot with the existing powers and are not treating the other parties on an equal footing. Media heads and journalists have thus abandoned their duty of objectivity."⁴⁸

The subsequent arrival of FRODEBU in power gave a real jolt to many journalists, in both the public and private media. This unexpected political change led some to raise their professional standards, whilst others responded in a spirit of resistance. Against the background of the new regime, some believed in the democratisation of the country and felt they had a duty to consolidate the process by conscientiously informing the public and promoting a face-to-face debate. Others, by contrast, saw themselves as spokesmen for the new opposition. Conflicts within the Burundi broadcasting services were exacerbated when President Ndadaye came to power.

As the RSF pointed out, neither print nor broadcasting journalists have always contributed to establishing a dispassionate debate in Burundi society. But the sanctions introduced by the new ruling party FRODEBU - censorship, dismissals and intimidation - and, in particular, the justifications which accompanied them - suggested or betrayed a real propensity to gag what should first and foremost be a public service⁴⁹. The interference of political power in public sector information services did not come to an end with the arrival of FRODEBU in power. The dismissal of the RTNB director Louis-Marie Nindorera on 25 September 1993 for trying to protect his journalists' work is just one well-known example. There were many instances of censorship orchestrated by the new administration: the refusal to broadcast reports on the return from exile of former President Jean-Baptiste Bagaza; the ban on broadcasting Rwandan music; the Defence Minister's order not to broadcast a programme on the presence of repatriated Hutu candidates in the entry competition for the military academy, the Institut Supérieur des Cadres Militaires (ISCAM); etc.

Deploring this continuing practice, RSF commented: "The question is whether it is desirable for a minister to have the power to issue directives to editors, and for legislation to treat journalists as civil servants, thus bringing the public information services *de facto* under state control."⁵⁰ The Association for the Promotion and Protection of Freedom of Expression (APPFE) also came to a similar conclusion: "It is deplorable that at a time of democratic renewal the government should still seek to judge the competence of staff working for the public press solely on the basis of

⁴⁸ Reporters sans Frontières, Rapport Burundi, August 1993, p.21

⁴⁹ *ibid.*

⁵⁰ *ibid.*

their ability and enthusiasm for promoting the programme and interests of the party in power and the government."⁵¹ Alongside a privately-owned sector, which was struggling to set up without means, resources or qualified staff, the public media remained under firm government control, under pressure not only from an interventionist executive but also from journalists who were resentful of or actually resistant to the new government's authority. It was not long before this situation gave rise to divisions between Tutsi journalists and their Hutu colleagues, which worsened dramatically after the massacres of October 1993.

2. Press offences and calls for bloodshed (1993-1996)

It is impossible to understand the situation of the privately owned written press in Burundi without some knowledge of how these newspapers emerged through various stages. During the second half of 1993, hard on the heels of the June presidential and legislative elections, a privately press emerged. This was the first wave in the Burundi media explosion, which followed the revolution at the polls. Believing that they were contributing to the introduction of media pluralism, the party publications (FRODEBU's *Aube de la Démocratie* and UPRONA's *Indépendant*) then continued to co-exist alongside the independent newspapers (*Le Citoyen*, *Panafrika*, *La Semaine* etc.). FRODEBU, the party newly in power, then exploited the press in new ways, learning the use of criticism and sometimes giving way to misguided impulses. After the assassination of Ndadaye in October that same year, and the widespread massacres which took place throughout the country, a second series of titles made their appearance. Whilst the tone of the first newspapers was changing radically, considering that Burundi political life could ultimately only be understood through a confrontation between Hutu and Tutsi, this second wave exaggerated the trend.

The FRODEBU paper *Aube de la Démocratie* had no hesitation, in late 1993, to justify or excuse the massacre of tens of thousands of Tutsis to avenge the assassination of President Ndadaye by army personnel: "On 1 June 1993, the date of FRODEBU's victory, Hutus caught a glimpse of the dawn of freedom. They were at last about to recover those rights which had been usurped for centuries. When the democratic institutions were left leaderless, challenging these rights (...) they felt their own lives directly threatened. They were plunged into the dilemma of "kill or be killed", kill or be enslaved once more and forever. Thus nothing had been taught to these long-downtrodden people who reacted with long-repressed anger. Let us make sure they do not become enraged again, for they have now seen of what they are capable and would not hesitate to do it again if necessary"⁵².

A few weeks later a long media war was triggered because of a total paralysis of its work. The government was unable to have its security services enforce an order from the Communication Minister designed to ban "the publication, distribution, circulation and sale on Burundi soil" of the *Carrefour des Idées*, which had run a headline on 15 December 1993, a few days after President Ndadaye's funeral reading, "National hero or chief of a tribe of head hunters?" Humiliating caricatures, a descent into pornographic style and the publication of malicious gossip and rumours became the common currency in the written press. Out of 22 newspapers appearing regularly in Burundi at the end of 1994, 15 had been set up after the coup attempt of October 1993 and ranged themselves on the side of

⁵¹ Quoted by RSF, *ibid*.

⁵² Quoted by RSF, *Burundi: le venin de la haine*, op.cit. p. 61

insult and propaganda. The *Carrefour des Idées* was soon joined in its crusade of hatred by both the Tutsi press (*La Balance, La Nation, Le Patriote, L'Etoile, Le Républicain* etc.) and other Hutu titles (*L'Eclairer, Le Miroir-Nankana, Le Témoin* etc.).

In its 3 October 1994 issue, *L'Etoile* ran a headline on the inauguration of President Sylvestre Ntibantunganya: "He limped to power and will soon be broken". On the following 28 October the *Carrefour des Idées* put a price on the heads of Léonard Nyangoma and Festus Ntanyungu, "putting up a million Burundi francs to anyone who can bring them on the blade of a spear". In the same issue the newspaper published several lists of Hutus "who have spread terror and murdered Tutsis in several places" and "FRODEBU-PALEPEHUTU deputies, the worst of whom are marked with an asterisk." The *Citoyen* of 18/12/94, which had a reputation for moderation, let itself be drawn in to the racist spiral, describing the then Justice Minister as "a character with greying hair, a very dark complexion and a face dominated by a very flat nose and sporting little spectacles which contrast with his face. The minister is a microcosm of contrasts." Describing Sylvestre Ntibantunganya, President of the Republic, the *Carrefour des Idées* ran article headed "The Rushubi Jackal" (a reference to the area where the President was born) insulting him in the following terms: "His ugliness is astonishing. Underhand and fanatical in politics, he personifies the most unyielding ethnic fundamentalism. His face bears the signs of a life not ruined by nature." Calling for his liquidation, and parodying King David's Psalm 109, the same paper continued: "Let his children be fatherless and his wife widowed. Let his children be continually vagabonds, and beg..."⁵³

Using the rhetoric of a Hutu people oppressed and exploited from the dawn of time by Tutsis who invaded and enslaved them, Hutu newspapers, which sprang up in response to a bellicose Tutsi press, vied with each other in their imaginings. In this spirit *L'Eclairer* of 8 June 1994 published on page 2 a drawing of a woman and two men working in the fields. In the distance a cowherd and a bureaucrat were working, both guarded by a soldier. The point of this drawing was to re-state the old morphological distinction which Burundi racial theorists so often trotted out. Again according to RSF, the Hutu papers put across their ideology in a subtle and allusive fashion. They used metaphors and caricatures that were readily understood by working class and rural strata of society, as well as Kirundi versions of the papers⁵⁴. The *Témoin*, another extremist Hutu newspaper, described PRP President Mathias Hitimana as "mentally ill" in its September 1994 edition. In the sixth September issue a caricature showed the head of the army general staff in company with the Interior Minister drinking from a pitcher labelled "Hutu blood". In the Kirundi version of this newspaper, *Témoin Nyabusorongo*, President Jean Baptiste Bagaza was pilloried carrying a big bundle of rifles with the commentary, "With these rifles that Museveni has just given me, we'll see who's the stronger, Ntibantuganya or me"⁵⁵. In its first issue, on 27 September of the same year, the *Miroir Nankana* adorned its pages with a private conversation between the Hutu UPRONA deputy François Ngeze and another party member, Mrs Claudine Matuturu, the then Minister for Public Administration. The two were also depicted in a drawing bordering on the pornographic. The commentary unambiguously

⁵³ *ibid.*

* Translator's note: English Translation from the Authorised King James Version.

⁵⁴ RSF, *Burundi: le venin de la haine*, op. Cit.

⁵⁵ *ibid.*

informed readers that the UPRONA deputy Ngeze was "the lackey of the Tutsis in his party" and that Matuturu was "a whore".

In the general atmosphere of impunity into which the country had fallen since the attempted coup, a kind of negative solidarity had developed between the press, political parties and militias. The pro-Hutu press did not hesitate to fly to the aid of a Hutu arrested by the law, loudly arguing that "the mono-ethnic Tutsi magistrates' courts have decided to exterminate the Hutu leadership"⁵⁶. An arrested Tutsi criminal, on the other hand, could also count on support from his extremist friends arguing that in any case, "those guilty of the October 1993 genocide were still running free."

The public press (both broadcast and written), did not escape from this extreme politicisation. Many journalists, accustomed to the one-party system, found it difficult to adapt to the new pluralist conditions which had so recently emerged. During the electoral campaign, under directions from the ruling party UPRONA, they served as propaganda go-betweens to party candidates. For them the electoral victory of the FRODEBU was completely unexpected. The crisis which broke out a few months later did not spare them. The new (Hutu) management of the RTNB (Radio Télévision Nationale du Burundi) tried to compensate for the lesser numbers of Hutu journalists in the public service by rigid censorship of Tutsi journalists. Bugged down and mired in the constant friction between legal power (mainly Hutu) and actual power (predominantly Tutsi), it was unable to bring under control the dominance of Tutsi opinion. After the introduction of the Government Convention, the Directorate General of the RTNB fell once again into the hands of the Tutsi opposition. The RTNB thus became a battleground for perpetual confrontations, Tutsi journalists putting up fierce resistance to the supervisory powers still in the hands of a Hutu minister. The conflict reached a climax with what was to be called "the cleansing of the professional class". During assignments or seminars organised abroad many Hutu journalists decided to remain in exile, including Stanislas Ndayishimiye, Celsius Nsengiyumva and Gervais Abayeho. Some were killed under circumstances which have never been explained, such as Alexis Bandyatuyaga and Pamphile Simbizi. Still others decided to leave the RTNB, when the pressures became too great.

Hutu extremists also toyed with the idea of setting up independent radio stations. In a country with an oral culture, radio is a powerful medium for political mobilisation. Following the example of the inflammatory Rwandan radio stations, extremist Hutu refugees launched Radio Rutomorangongo from Kivu, pre-empting the UPRONA project for the launch of Radio Tanganyika which was never carried out. Radio Rutomorangongo only broadcast occasionally and reception was poor, except in the highlands. However, it so closely resembled the sinister Rwandan RTLM (Radio des Mille Collines) as to be indistinguishable from it.

Against this background the Burundi Journalists' Association ABJ, and the Association for Promoting and Protection of Press Freedom APPLE, were completely isolated in the fight for a "responsible press aware of its duties", and restrictions on press freedom became inevitable. The RSF had to resign itself to asking the Burundi authorities to enact all the measures available under the legislation in force to ban the publication and distribution of six newspapers regarded as extremist. Far from playing a part in educating and informing public opinion, *La Nation*, *La*

⁵⁶ *ibid.*

Balance, *L'Aube de la Démocratie*, *le Carrefour des Idées*, *L'Eclaireur*, *Le Miroir* and *Le Témoin* were contributing to the maintenance of a climate of hatred through their repeated calls for violence and even bloodshed. In its recommendations the same organisation drew attention to the dangers inherent in Radio Rutomorangingo, citing the example of Radio RTLM which had demonstrated its considerable destructive power⁵⁷. The decision to suspend the seven publications was taken by the Conseil National de la Communication (CNC) on 18 March 1996⁵⁸. Of the seven, four had in any case already ceased to appear due to financial difficulties.

With the coup of 25 July 1996, Burundi passed from one extreme to another. The desire to put an end to calls for ethnic hatred and to preserve national unity became the pretext for continuing censorship and, in particular, the systematic manipulation of the public media to reflect the government's political agenda.

B. The general obsession with political control

The clampdown on information became apparent as soon as the Arusha discussions were first proposed, in July 1996 - when President Pierre Buyoya returned to power - and subsequently, at the start of these negotiations two years later. The State continued to impose, and to some extent even increase, media censorship, refusing information, banning its diffusion and, in extreme instances, seizing newspapers. In general this pressure was more felt in the broadcasting media than the written press. According to the *Iteka* league, "the RTNB continued to exercise censorship without any real frame of reference and often seeking to bring programmes into line with what appeared to be acceptable to the government as "patron" or "owner" of the public media"⁵⁹. Censorship could take the form of banning the transmission of a programme, taken by the broadcasting authority, or of cutting out sections or groups of sentences. This is also true of programmes made by external collaborators.

1. Broadcast media since 1996: censorship by default.

Two programmes co-produced by Studio Ijambo and the League of Human Rights - *Iteka* were censored, either wholly in or part: "Citizens' participation in the management of public affairs" of 23 September 1999 and "The genocide: the opinion of a displaced woman on responsibility for the crisis" of 28 October 1999. A few seconds were also cut from "The protection of civilians in conflict zones" on 30 September 1999.

During a single year, 1999, six of the programmes produced by Studio Ijambo and broadcast by RTNB were partly or wholly censored: "Will dissensions within the FRODEBU have an impact on the peace process?" This was censored in its entirety on 15 June 1999. It was accused of providing a platform to a single party. Only FRODEBU leaders participated, with a single government member taking part at the end. A week later the programme on "Survie", an association for the widows of soldiers, was censored in its entirety for bias in favour of the armed rebellion. A round table on the peace process organised by the Studio, with the former head of

⁵⁷ *ibid.*

⁵⁸ APPLE, *Guide de la Presse Burundaise*, 1996

⁵⁹ Burundi League of Human Rights *Iteka* "Aux confins de l'espoir ou du désespoir, le Burundi à la croisée des chemins", annual report on human rights, Bujumbura, April 2000.

the President of the Republic's war cabinet (now Defence Minister), FRODEBU President Jean Minani, PRP President Mathias Hitimana, and Libère Bararunyeretse of the pro-government wing of UPRONA was completely censored because the subject was considered "too sensitive". On 25 May 1999, FRODEBU President Jean Minani's comment that "the Moshi meeting has reached conclusions which I cannot make public" was cut from a broadcast of *Express*. On 19 June 1999 passages, on the use of children in armed conflicts, with witness accounts from children used during the war and the relevant statistics, were cut from the rest of the broadcast programme. The broadcast of 23 October 1999 on "what Burundis think about the death of Julius Nyerere, mediator in the Burundi conflict" was censored when the comments of someone rejoicing in his death were cut. The RTNB official had decided that it was indecent to rejoice in anyone's death, regardless of what one thought of them⁶⁰. Recently however a change has been observed on the RTNB airwaves. Programmes such as "Focus", broadcast on Friday evenings, have displayed unusual courage. Political leaders from all sides (except the PARENA and other Tutsi extremists who were apparently invited several times and who refused to take part) are questioned by listeners and discuss areas as sensitive as genocide, the peace agreement, or army reform. In future RTNB programmers, subject to incessant and often contradictory calls to order from the supervising minister, would explain and discuss cuts and censorship before carrying them out.

Nevertheless, journalists today agree that they are still compelled to tacit and subconscious self-censorship. How to know whether the publication of a given piece of news will throw fuel on the fire? Should you give an assessment of a confrontation in which the army has suffered significant losses? Can you ask rebel or opposition representatives for a reaction to a government spokesman's declaration?⁶¹ State media journalists cope alone with these dilemmas, according to their own consciences.

2. The militant written press

Of the 40 newspaper titles which appeared between August 1991 and June 1996, very few –apart from the government daily *Le Renouveau* and the Catholic Church's paper *Ndongezi* –still succeed in appearing regularly. Since 1999 thirteen titles approved by the CNC were mostly unable to produce a single issue. Others appeared only once before vanishing⁶².

Fewer than a dozen opinion-forming publications share Burundi's readership, appearing irregularly and in some cases only printing a few hundred copies. Most frequently seen in newsagents' kiosks are *La Lumière*, *La Vérité*, *L'Avenir* and *Le Patriot*, which between them represent the various shades of political opinion in the country.

- **La Lumière:** a bi-monthly periodical launched in September 1999, after the suspension of FRODEBU's official paper *L'Aube de la Démocratie*. FRODEBU party deputy Pancrace Cimopaye is the editor-in-chief. The paper reflects the official views of the so-called "Minani wing" of FRODEBU. Its editorial line is "changing the political and social order". The suspension of *L'Aube de la Démocratie* took place after the publication of numbers 62 and 63 on 1 and 15 June bearing the names of

⁶⁰ Ibid pp 35-36.

⁶¹ ICG interview with journalists during the press freedom week in May 2000

⁶² Activity Report 1998-1999 issued by the National Communication Council (CNC), stencil.

two different editors-in-chief: Cimpaye of the FRODEBU (Jean Minani wing) and Christian Nkurunziza of FRODEBU's Augustin Nzojibwami wing. In the conflict the two rival wings had tried to seize control of the publication of *L'Aube de la Démocratie*. The CNC decided to suspend the paper provisionally on 16 June 1999 after establishing that FRODEBU's ruling body, itself divided, was unable to agree on a single editor. A letter⁶³ of 18 July signed in Arusha by FRODEBU President Jean Minani nominating "the Honourable Pancrace Cimpaye" as editor in chief of *L'Aube de la Démocratie* came in response to the decision of 22 March 1999⁶⁴ by Augustin Nzojibwami appoint "the honourable Christian Nkurunziza" as editor of the same journal.

- **La Vérité:** bi-monthly launched in May 1999, positioned close to ex-President Jean-Baptiste Bagaza's PARENA party. Alternating radical Tutsi theories with an inflammatory style, the periodical received a two-month suspension from the CNC after the publication of issue no 16 of 14 October 1999. The issue had contained two articles which were censured: one accused the Apostolic Nuncio and three Burundi prelates of "funding, advising and blessing acts of genocide" and the other described Tutsis engaged in the peace negotiations in Arusha in Tanzania as "weaklings". The council justified its decision to suspend the periodical for two months citing its "accusations without proof and serious insults against physical and moral persons" and the "malevolence and basic tribalism of its comments regarding the Apostolic Nuncio, Catholic bishops and certain Burundi delegates at the Arusha peace negotiations". The Council also considered that its insinuations could adversely affect the private life, security and tranquillity of individuals⁶⁵. Finding this decision arbitrary, Jean-Marie Bizimana, editor in chief of the journal, believed that it was due to government pressure on the CNC⁶⁶. This editor has 17 outstanding complaints against him and was formerly involved in the publication of *La Nation*, which was suspended in March 1996. He had been imprisoned in January of the same year.
- **L'Avenir:** launched in July 1997, *L'Avenir* is a weekly paper of information and analysis which appears at irregular intervals. Several journalists from the public press contribute to this paper. Suspected of pro-government sympathies, this journal of the centre takes up a nationalist position. Although its regular appearance is always in doubt, "this is the only genuinely private newspaper which continues to appear"⁶⁷. After changing its name to "*L'Avenir de la Nation*" it was suspended by the CNC because of a risk of confusion with *La Nation* which had ceased publication in 1996 on the orders of the then CNC. The newspaper ended by retaining its original title.
- **Le Patriote:** from its inception in 1994, this bi-monthly immediately showed its colours: a malevolent and deep-seated opposition to FRODEBU and everything connected with it. Between the launch and its suspension in February 1996 ten complaints were recorded at the national public prosecutor's office in Bujumbura and its director Athanase Boyi had already appeared several times before the local courts⁶⁸. From 10 to 17 February 1999 he was arrested and imprisoned "for

⁶³ Ref. No 700/86/0018/Cab/99 and Dec. No 700/86/004/S.G./99.

⁶⁴ See note 19.

⁶⁵ CNC, Activities report (1998-1999).

⁶⁶ ICG interview with newspaper chief, Bujumbura, 08/05/2000.

⁶⁷ *Afrique Centrale, Des Médias pour la Démocratie*, Panos Institute, 2000.

⁶⁸ APPLE, *Guide de la Presse Burundaise*, 1996.

contempt of court" and his periodical was suspended following what the CNC considered to "the offensive publication of an article in issue no 58 of 01/02/1999 containing malicious tribal allegations and insinuations regarding the State Prosecutor". In its most recent report the CNC did not fail to point out that the choice of material and manner of presentation pursued by this periodical was obsessively directed against the Hutu people, blaming them for the past with gratuitous allegations and condemnations without the right to reply⁶⁹.

3. More freedom for the spoken press

A considerable number of private radio stations were also given permission to broadcast: *Radio Umwizero* (run by the Association for Humanitarian Action) in 1995; Radio Culture (owned by the Honourable Frédéric Ngenzebuhoro, head of the UPRONA group in the National Assembly), and the Chamber of Commerce station *Radio CCIB-FM+*. Two magazine production studios worked with these different radio stations. *Studio Ijambo* (which has been in existence since 1995), funded by the American NGO *Search for Common Ground*, broadcasts social programmes aimed at reconciliation on the RTNB, Radio Kwizera in Ngara (Tanzania), and the Voice of America. The Protestant *Trans World Radio-Burundi*, part of the *Trans World Network*, makes educational programmes on public welfare, national reconciliation and evangelism, which are broadcast on national radio in Burundi. Alongside is the state-owned Burundi Press Agency (ABP), with correspondents in every province throughout the country. *Net Press* and *Azania* are individual initiatives, using faxes and e-mail as a means of spreading news. Their fellow organisation *Press Club* has ceased operation, following harassment by the documentation services.

C. Deficient public information and communication policies.

Against the background of generalised censorship, which has prevailed since 1996, Mandela's call for freedom is fully justified. There can be no peace negotiations without debate, nor a lasting peace unless the public as a whole understands what is at stake, nor democratisation without information for the electorate. However, Mandela's call takes no account of the structural deficiencies of the media. Other factors must also be considered, including the dramatic impoverishment of the population and the inheritance of thirty years of single party rule, which have left the country almost bereft of any forum for public debate.

1. An unsuitable legal framework

Press freedom in Burundi is regulated by the statutory order of 21 March 1997. The government that came to power as a result of the July 1996⁷⁰ *coup d'état* introduced this as part of a series of measures to "restore public order and the authority of the state". The decree gives final expression to 20 years of repressive legal measures that had been relaxed somewhat during the period of democratisation without giving journalists complete freedom of action.

The transformation of "patriot journalists" under the Law of 25 June 1976 into free and independent journalists was not achieved by the 1992 amendments to the law.

⁶⁹ CNC, Activities report (1998-1999).

⁷⁰ League of Human Rights - Iteka, *Rapport Annuel sur les Droits de l'Homme au Burundi*, 1999 edition.

Journalists were charged with "presenting objective information (...) inseparable from education, the training of Burundi in civic life and the mobilisation of the people to achieve government aims." (Article 2). The margin for manoeuvre was reduced by the limits set out by Article 6, which laid down that "Burundi journalists should always act as convinced patriots, aware of the ideals of the party, which is the sole body responsible for national life." It was not until the Law of 4 February 1992 that the legal duty of journalists to serve the state or the single party was removed by a legal text which stated "the press carries out a public mission" (Article 3). In the wake of the 1992 Constitution introducing the multi-party state, a new press law was promulgated on 26 November 1992, departing its from its predecessors and declaring "every journalist is free to express his views in the press and to research, receive and communicate information of any kind" (Article 4). However, there were limits to this liberalisation. Authorisation (in future from the CNC) was still required to publish or broadcast. The duty of legal, administrative and judicial deposit also remained in place, the law specifying that legal deposit should take place four hours before distribution in the case of the daily press and 24 hours in advance for other publications⁷¹.

Burundi journalists were also required to abstain from publishing or distributing and information liable to damage "national unity, public order and safety, morality and proper conduct, honour and human dignity, national sovereignty, public peace and tranquility, cooperation with other states or the duty to work for development." On another level, under the Law of 26 November no secrets concerning national defence, foreign policy, currency and public finance, state security or public safety, secret information relating to Government deliberations or those of authorities with executive powers or confidential information regarding private life and personal or medical files could be published (Law of 26 November 1992).

The statutory order of 21 March 1997 differs essentially from its predecessor in the definition of press offences. As the *Iteka* league has pointed out, the regime of sanctions against those guilty of press offences becomes much more severe. Those found guilty can receive sentences ranging from 6 months' to 5 years' imprisonment accompanied by fines of FBu 5000 to FBu 100 000, as compared with the previous sentences of a maximum of two months' imprisonment and fines of FBu 5000⁷². These increased sentences, and the tightening-up of legislation on press offences, are not negative in themselves. After the excesses of 1994-1995, any incitement to violence, defamation or calls for ethnic hatred must meet with firm punishment. The problem lies rather with the strict application of the law by a subservient or politicised judiciary. However, the continued existence of a duty of legal deposit was the most explicit signal of the new regime's readiness for censorship. Instead of having confidence in a judicial system to which any offences could be referred, the government has once again given itself prerogatives which reveal its reluctance to embrace freedom of expression and which enabled it to suppress any article incurring its displeasure without appeal. Finally, as the *Iteka* league also stresses, this law fails to cover the status of the public media in general, or in particular the RTNB, kept under supervision by a separate order dating back ten years⁷³.

⁷¹ Reporters Sans Frontières, *Rapport sur le Burundi*, August 1993.

⁷² Burundi League of Human Rights-*Iteka*, *Bulletin d'information* no. 25-27, January-March 1997

⁷³ *ibid.* p. 27.

Overall, the greatest problem for freedom of expression in Burundi is not so much its restrictive legal framework as the inability of the government to accept the birth of a pluralist public debate and its demands. Whilst the country needs a "voluntarist", i.e. hands-off communication and information policy, supportive of the peace process and promoting national conciliation, Burundi remains almost bereft of a forum for public debate. Its institutional framework does not meet the needs of the country, and no constructive discussion, able to foster mutual respect and tolerance, is likely to emerge.

2. A restricted forum for public debate

The 1992 Constitution contained provision for the creation of an independent authority to regulate relations between public and private media and the Government. The national communications council, CNC, was set up at the end of 1992 with the aim of protecting the media against the abuse of power and preventing out-of-control behaviour. In the absence of the means and political will, however, it failed lamentably in these two tasks. The Maison de la Presse, a centre for journalists created in January 1997 with UNESCO funding to promote press freedom is therefore the only institution dedicated to improving the national media environment. The absence of a policy supporting the information and communication sector is symptomatic of the attitude of the country's leaders at a time when its needs are so great.

a. A regulatory body without credibility

Conceived as a body to regulate relations between the media and the government, the CNC's role is to protect written and broadcast communication, with the power of decision in press freedom issues and an advisory role vis-à-vis the government⁷⁴. It may take measures aimed at guaranteeing respect for the law by both public and private media, and advises the Government either on request or at its own initiative. The CNC is made up of 17 members appointed by presidential decree, and has always suffered from a lack of independence and credibility. The members nominated by Pierre Buyoya in 1992 represented the various shades of political opinion in the country. However, representation of the different parties on the council has rather contributed to undermine its authority than to strengthen it. The deteriorating national political situation paralysed its activities, which were systematically challenged on all sides. The suspension of *Net Press* by the Documentation Services, or the strict requirement that the *Aube de la Démocratie* should submit the paper for approval before printing, both illustrate the recurrence of government interference in information, greatly to the detriment of the CNC. Since the putsch, the CNC has been accused of being a tool of the new regime. There are no radio or television proprietors nor editors of private newspapers on the new council which was set up to serve from 18 August 1998⁷⁵.

The CNC has also always suffered from a crucial lack of resources. Since 1992 there has been no specific allocation in the state budget, and it had to wait until October 1998 for its first permanent executive⁷⁶. But the CNC's most serious

⁷⁴ See Article 26 of the March 1992 Constitution and Articles 159, 160 and 161 of the Constitutional Act of transition, June 1998.

⁷⁵ Panos Institute, *Afrique Centrale, Des Médias pour la Démocratie*, March 2000.

⁷⁶ Burundi League of Human Rights-*Iteka*, *Le Burundi à la croisée des chemins*, Bujumbura, April 2000, p. 31.

problem remains its lack of authority over RTNB services. Although it has powers to intervene in problems in the broadcast and written private press, the CNC has no authority over the state-owned press. Yet the council was set up precisely in order to prevent government control of the media. In the debate on the problem of public media access and their use by the political parties, the CNC believed that it had the right to take a decision. But the government had no intention of ceding it the least scrap of its powers⁷⁷.

Although the political parties and certain public institutions, including the Parliament, are in the habit - according to the CNC - of denouncing the discrimination they experience in accessing the electronic media (UPRONA (Mukasi wing) and PA Amasekanya through *Net Press*; FRODEBU (Minani wing) and the Parliament through *Burundi-Bureau*) and the various international radio stations received in Burundi (RFI in French, BBC and VOA in Kirundi), the situation remains totally unsatisfactory. The very fact that the parties ignore the CNC is evidence of its lack of credibility within the country. It is thus unable to play the role intended for it in the 1992 Constitution and subsequent laws. When the mandate of the existing team expires in August 2000, it is essential that its renewal should mark a break with the practices which have so far prevailed.

b. Restricted readership and inadequate resources to meet the need for information

More than ninety percent of the Burundi population today lives in rural areas. School enrolment has been estimated at 59% of the population in the primary sector, 10% in the secondary sector and 2% in higher education, without taking account of refugees and displaced persons. It is generally calculated that a maximum of 2000 individuals have sufficient purchasing power to buy a daily newspaper. Even students at the national university, or civil servants educated to a level high enough to enable them to read the press on a daily basis, lack the financial means⁷⁸. The average price of newspapers on sale in Bujumbura currently stands at FBu 500. Taking a daily newspaper for one month would represent 10% of a primary school teacher's wages or a university student's grant. This catastrophic economic situation makes it quite impossible to fund independent publications. There is no viable advertising market to make good the shortfall in sales receipts and enable the newspapers to prosper. By necessity, therefore, the only titles published are partisan publications financed at a loss to spread a political message.

The only institution dedicated to the support of freedom of expression is the Maison de la Presse. Set up in January 1997 as a centre for communication between press and public, the aims of the Maison de la Presse include encouraging solidarity between journalists by encouraging regular discussions and debates. At first mistrustful, some journalists, such as those from *L'Aube de la Démocratie*, now mix with their colleagues from the public and private press and also write their articles there. The Maison de la Presse provides computer tools for data entry and pre-press layout preparation for the use of the various written media. It also organises cycles of training and professional development for journalists through seminars financed by UNESCO.

⁷⁷ ICG interview with a CNC representative, 05/05/2000.

⁷⁸ ICG interview with an RTNB representative, 03/05/2000.

Thanks to the recent acquisition of a building with government funding, the Maison de la Presse is trying to achieve autonomy and independence, and striving to make media professionals realise that it would be in their interest to agree to pay subscriptions⁷⁹. It is setting up income-generating activities such as hiring out the conference room, document capture etc. Together with the Burundi journalists' association (ABJ) the Maison de la Presse plans to set up a press freedom and ethics observatory to manage press offences and establish a structure whereby media professionals can be sanctioned by their peers.

Whatever its efforts, the Maison de la Presse cannot meet all the needs of the independent newspapers and thus help fill the information vacuum on the peace process. A voluntarist government policy is essential. Until now the public media have remained at risk from its involvement in the matter, and this has been observed throughout the negotiations.

3. The Arusha negotiations: weak communication management

When it became clear that the Arusha negotiations were inevitable, due to the tenacity of the then mediator Julius Nyerere and the support of the region, and because the government expected to achieve the rapid lifting of the embargo, the negotiations were given prominent coverage on RTNB after months of harsh condemnation. When the government realised that the embargo would not be lifted quickly, the RTNB's goodwill towards the Arusha negotiations evaporated, and was replaced by the preferential coverage of seminars and initiatives organised within the internal debate. Subsequently, the Arusha negotiations only returned to the RTNB's channels when public press reporters' subsistence expenses were paid by the UN development programme UNDP. The private press, lacking both logistical and human resources, has remained absent from this arena except via the coverage available in the various newspapers owned by the various political parties.

Thus the contradictions and tensions in government policy have emerged in its approach to managing public opinion since 1996 and in its manner of mobilising its political base vis-à-vis its negotiating policy since 1998. On the one hand, the change in mentality since 1996 is enormous, for which credit must go to President Buyoya. Opinion in the capital has changed a great deal since his return to power in 1996, as has the language of politics. The government has succeeded in selling the idea of "negotiations", a word that had previously aroused violent and malevolent reactions. However, the government's communication policy remained ambiguous. As a government official put it, "as long as there was no guarantee that the Arusha process would produce anything, it only was the principle of negotiations which could be sold, not the substance"⁸⁰. The President has often repeated that no agreement would be imposed from outside, and that public opinion had to be "ready" in order to avoid the Rwanda scenario, where an extremist faction had rejected the Arusha agreements in 1993. But in practice, although the government's communication policy has succeeded in limiting incitement to hatred in the media, it has not actively prepared the public to accept a negotiated agreement. The argument used to justify censorship is that the media are becoming a platform for material undermining the negotiations, spreading ethnic propaganda and humiliating their adversaries. However,

⁷⁹ ICG interview with *Maison de la Presse* representative, 04/05/2000.

⁸⁰ Interview with senior Burundi official, September 1999

government communications have not been effective in preparing the way for the understanding and acceptance of the substance of a peace agreement. There have certainly been discussions and round tables organised by the government throughout the country, the famous "national debate" in which people have expressed their views freely. But freedom of expression and the results of these debates have been neither transferred to the media nor extended to the rest of the population. Many Burundians complain that avoiding subversion does not add up to an active communication policy, and reproach the government for treating them like children and refusing to allow debate. The media are censored to such an extent that their educational message is neither credible nor reassuring.

This policy has several serious consequences for the peace process. Firstly, if the people are not properly informed and consulted on these negotiations, they tend to believe that the Arusha negotiations are a game, that the government itself does not really believe in them and that they have therefore no credibility. Delegations returning from Arusha seemed afraid to take up and reconstruct the debates that were held, for fear of being described as "traitors" by their respective communities. Secondly, in a context of renewed violence, and while the peace process is not yet producing any concrete dividends, government censorship is experienced as repression and a failure to take account of the problem of insecurity, exacerbating the public feeling that politicians are negotiating a power sharing agreement without concern for public protection. Little effort is being put into communicating and explaining the need for a new political and social order (and the benefits which would follow), nor to alleviating the fears of the communities regarding the changes that a peace agreement would bring. In other words, the government is imposing these negotiations without either reassuring or educating the public, who are left to their own devices, with the danger that they will retreat into ideological ghettos. The negotiations are an empty slogan, with neither content nor a clear vision enabling everyone to understand what their future might be. Tutsi in particular fear a re-run of 1993 when Buyoya went to the elections promising victory and lost everything. This time he is going to negotiations, but neither the vision of the future nor the immediate benefits reassure the Tutsis. Hutus see that Buyoya is promising change as in 1993 but believe that he will hang on to power once more, thus distorting the game of negotiations⁸¹. At the end of the day, despite its evident change of heart regarding the negotiations, the Burundi ruling class as a whole remains obsessed with political control of the media.

D. Conclusion

This analysis of the Burundi media and their role in public life raises questions regarding their nature and purpose. The restrictive legal framework and omnipresent censorship have not allowed journalists to satisfy the expectations of readers and listeners. Regarding the public broadcast media, "listeners believe that communication is not free and for this reason they are not attracted to information apparently censored to extreme and denuded of substance. This explains the public preference for foreign radio stations, which have more freedom and are more informative."⁸² This public disaffection, which applies equally to television, may also be explained by its anachronism. As for the government daily

⁸¹ cf. ICG, *L'effet Mandela*, op. Cit. pp 59 et seq.

⁸² *Evaluation de la Consommation de l'Information*, Final report of the inquiry on communication via public media, March 2000, p. 79

newspaper *Le Renouveau*, many people highlight the fact that its only public appeal lies in its announcements and advertising⁸³.

All this stems from the "fear of informing public opinion", the reflex reaction of a paternalist state. The Arusha process illustrates this. Censorship has succeeded in limiting incitement to hatred in the media and preventing them from becoming platforms for undermining the negotiations, spreading ethnic propaganda and humiliating their adversaries. But on the other hand Government communication policy has done nothing to actively prepare the public for a negotiated agreement, or to increase understanding and acceptance of its content⁸⁴.

To assess media activities in Burundi over the last ten years is to become aware of the need to learn how to manage public service information. The thirty years of single party rule continue to cast their shadow over the media world. This applies equally to the public press, under strict political control, and to the private press. In 1993, with the advent of democratic pluralism, the government failed to achieve the necessary transformation to guarantee independence for a state-owned press at the service of the public and citizens. The arrival on the scene and the misguided behaviour of a free but irresponsible press, without a frame of reference or resources, have justified the interference and the abuses observed until now. The political crisis that broke out on 21 October 1993 with the assassination of Ndadaye, followed by the widespread ethnic massacres, deepened the socio-ethnic divide in Burundi and did not leave the media landscape unscathed. Journalists immediately put themselves at the service of politicians, and turned their profession into a weapon. Journalism inspired by hatred and inciting the public to crime – both on the airwaves and in written form – also bears no small share of the responsibility for the conflict that has torn the land for the last seven years.

In consequence a culture of face-to-face, tolerant debate has failed to emerge in a society where violence has played too prominent a role in conflict resolution. If a "voluntarist", i.e. hands-off policy is not put in place to reverse this trend, the peace process can never gain ground as a credible and desirable alternative to violence. The press will thus have a preponderant role to play in preparing the public to welcome the terms of the peace agreement and in supporting the changes that will follow.

III. THE ISSUE OF POLITICAL PRISONERS

The issue of political prisoners, which was put forward by the rebel movement of the Conseil National pour la Defense de la Democratie-Forces de Defense de la Democratie (CNDD-FDD) as a condition for their participation in the Arusha negotiations, met with a response from the mediator Mandela. "Nothing is possible as long as people who voted for democracy are in jails" declared Jean-Bosco Ndayikengurikiye, head of the CNDD-FDD, in March 2000. "We shall go to Arusha once those things have been done"⁸⁵. The mediator was clearly struck by this demand, perhaps given that he himself had been a political prisoner for 27 years. It prompted him to criticise president Buyoya publicly a few days later in Arusha: "Innocent people are languishing in jail, simply because they do not agree with the

⁸³ *ibid.*

⁸⁴ Cf. ICG Report, *L'effet Mandela*, op. Cit. p. 59

⁸⁵ IRIN, "Burundi: FDD Ready to go to Arusha", 21 March 2000.

Head of State (...). That is a situation that I find totally unacceptable, (...) I can't control my feelings when I know that so many people are languishing in jail."⁸⁶

The differences on the issue of political prisoners have led to a swift deterioration in relations between the mediator and the government. "I cannot tolerate any regime which imprisons people for their ideas", Mandela told a group of parliamentarians in London in April. "The existence of prisoners of conscience in Burundi is common knowledge (...) Unless President Buyoya acknowledges that fact, he can have no credibility within the international community."⁸⁷ Caught on the hop, Buyoya reacted a few days later in a communiqué from the Burundian embassy in South Africa, warning Mandela of the "lies of the facilitation propaganda of Tanzania and the Hutu political parties". By calling for the release of the political prisoners, "without making any distinction between the grounds for the charges facing them, he has placed himself, no doubt unconsciously, on the side of those who want impunity from crimes."⁸⁸ At the beginning of May, the Minister for External Relations and Co-operation, Séverin Ntahomvukye, reasserted this stance to the diplomatic corps in Bujumbura: "Some partners have a tendency to pronounce themselves in favour of an unconditional release of these detainees. The government is of the view that such a decision, which would be against the law (...), would only have disastrous consequences for the country."⁸⁹ A few days later, president Buyoya told ICG that he was prepared to make concessions on all the issues called into question by the mediator, except for the release of the prisoners, whom he regards as common law criminals⁹⁰.

Although the issue was clearly an emotional one for Mandela, his use of it was no less tactical for that. Mandated to draw up a cease-fire between the warring factions, he had to secure concrete undertakings from the government in order to win the rebels' participation in the negotiations. Excluded from the peace process by Nyerere since the beginning of the negotiations, the rebels of the FNL and the CNDD-FDD need to establish a relationship of minimal trust with the government and the mediator. For Mandela, the rebels' requirements also had to be more realistic. He thus tried to get them to accept a compromise by exerting public pressure on them with the aim of reducing their demands: "They came to me with conditions, difficult conditions, which would make a meeting [with the government] very difficult", he related to the assembled delegates. "But I said to them, 'this is not the way leaders who want unity, who want peace, behave. You must withdraw these conditions (...)'. They immediately withdrew those conditions and they are coming here in April as people who are committed to peace and who want to ensure that the crisis that exists in Burundi is addressed seriously and resolved."⁹¹

However, the rebels resisted the mediator's pressure and rejected any unconditional participation in the negotiations. Furthermore, in an attempt not to appear any less demanding than the CNDD-FDD, other rebel groups (FNL) then adopted a similar position of refusal to participate in any direct negotiations with the government without the prior release of the political prisoners⁹². Mandela's reaction was to reaffirm publicly his position on the issue and to add a request that

⁸⁶ Speech by President Mandela to the Consultative Assembly on 27 March 2000 in Arusha.

⁸⁷ IRIN, "Burundi: Mandela raps Buyoya over political prisoners", 1 April 2000

⁸⁸ IRIN, "Burundi: Release of 'Political Prisoners' discouraged", 5 April 2000.

⁸⁹ AFP, "No political prisoners in Burundi, according to the government", 8 May 2000.

⁹⁰ ICG interview, Bujumbura, 16 May 2000

⁹¹ Speech by President Mandela before the Consultative Assembly of 27 March 2000 in Arusha.

⁹² IRIN, "Burundi: FNL commander sets out peace conditions", 11 May 2000.

the population resettlement camps be closed. So it was that at the beginning of June, when Buyoya undertook to close all the camps by the end of July, Mandela suddenly toned down his message by declaring that account had to be taken of the constraints that the government was facing. "For people such as myself, who have spent 27 years in prison, it is difficult to keep calm when discussing prisoners and people in resettlement camps (...). Innocent people imprisoned without trial should be released, but we should take into account the constraints that the government of Burundi is facing."⁹³

For all that, the issue of political prisoners was not resolved so easily. To the consternation of president Buyoya, the mediator returned to the subject with increased vigour, and in spectacular fashion, during his visit to Burundi in June. As soon as he arrived in Bujumbura, the mediator took the initiative to undertake an inspection visit of Mpimba prison. He told the prisoners: "Even people who may have killed a president will be described as a political prisoner if they committed that offence in promoting the objectives of their political community. (...) If we are serious about bringing peace, all political prisoners must be released so that they may take part in the search for peace. (...)" The next day, Mandela repeated his message before the National Assembly. "I have never seen human beings living under such conditions (...). I have not recovered from that shock. I will not recover until I see that the leadership here is taking responsibility on their shoulders to release those people from such conditions."⁹⁴

Mandela's insistence over the release of all "political" prisoners then triggered a crisis in the peace negotiations in Burundi. The release of prisoners regarded by many as persons who have committed genocide represents for the mediator as dangerous a demand as does the continued imprisonment of the political detainees for Buyoya. A compromise has to be reached before the problem becomes insurmountable. In order to shed more light on this point, we shall first address the issue of the identity of these prisoners. We shall then expound the subject of the political debate, and the positions of the government, the Tutsi opposition and the Hutu-dominated parties. Thirdly, we shall give a number of recommendations to overcome the deadlock in the situation.

A. Situation of the Prison Population

More than 9,000 prisoners are detained in the 11 prisons in Burundi. The large majority of them have never been tried. Unfortunately, the information provided by the Burundian prison authorities is not very reliable⁹⁵. Nonetheless, of the 9,173 prisoners reported on 25 March 2000, 6,717 were held on remand, awaiting trial. These figures do not include prisoners held in dark cells or military prisons. Each of the 16 provinces also has prisons for detainees placed in police custody. These prisons, which are controlled by the provincial governors, the municipal administrators, the *Gendarmerie*, the Public Security Police (PSP) and sometimes by the criminal investigation department of the public prosecutors' offices (PJP),

⁹³ IRIN, "Burundi: FNL commander sets out peace conditions", 11 May 2000.

⁹⁴ Fondation Hirondelle, "Mandela steps up pressure for Burundi to Release Political Prisoners", 13 June 2000.

⁹⁵ Listed by categories of crimes, the office of the Director-General of Prison Affairs was only able to report 6,717 detainees, whilst there are in fact 6,768. This difference of 51 detainees is attributed to a calculation error on the part of the prison governors. Office of Prison Affairs. Memorandum. "The Prison Situation in Burundi as at 25 March 2000"; ICG interview, Bujumbura, 17 May 2000.

are used for the pre-trial detention of political opponents⁹⁶. Other prisoners are held unlawfully by the national armed forces or by the intelligence services. Although there is little accurate information on this problem, it is established that these bodies regularly arrest people. Many have also disappeared at the hands of the forces of law and order⁹⁷. In this case, the Iteka League recently compiled a list of 69 cases of persons who had been detained without any control by the Public Prosecutor's Office between September and December 1999⁹⁸. The following analysis only concerns the listed prisoners, and hence its scope is limited.

1. The origin of the prisoners

With the mass repression carried through by the government after the violence of 1993, the prison population in Burundi rose by 283% in the space of four years (1994-1998). American diplomats put the number of detainees at the end of 1994 at around 3,500, three-quarters of whom were detained whilst awaiting trial. Waves of arrests had begun in May but had only resulted in the detention of a total of some 800 people at the end of the year⁹⁹. However, six months later, the number of detainees was 4,586, i.e. an increase of a third. Subsequently, in November, the prison population had increased by exactly one thousand persons, rising from 4,586 to 5,586¹⁰⁰. A year later, in December 1996, the total had increased by almost two thousand, i.e. to a total of 7,525. According to Mr Pinheiro, the "large majority" of these prisoners were made up of Hutus accused of having taken part in the massacres of October 1993¹⁰¹. In August 1998, the total had again increased to reach the maximum figure of 9,895 prisoners, three-quarters of whom were awaiting trial (see graph on the evolution of the prison population since the beginning of the nineteen nineties, on the next page).

In the upheaval of the civil war, the police and magistrates' courts largely ignored the code of criminal procedure. Article 17 of the national Constitution of March 1992 guarantees the accused the presumption of innocence as well as the right to defence. "Any person accused of a criminal act is presumed innocent until his guilt has been legally established during the course of a public trial during which he shall be accorded all the guarantees for his free defence."¹⁰² Although, according to the code of criminal law of 1959 that was applicable until the beginning of this year, prisoners could be detained awaiting trial for an indefinite period, certain procedures

⁹⁶ ICG interviews, Bujumbura, 10 May 2000.

⁹⁷ Amnesty International, "Burundi: Justice on Trial", 30 July 1998, p. 13.

⁹⁸ Burundian Human Rights League Iteka. "On the border between hope and desperation: Burundi at the crossroads". Annual Report on Human Rights, 1999 edition, Bujumbura, April, 2000, pp. 58-60.

⁹⁹ United States. Department of State. *Burundi Human Rights Practices, 1994.*, February, 1995.

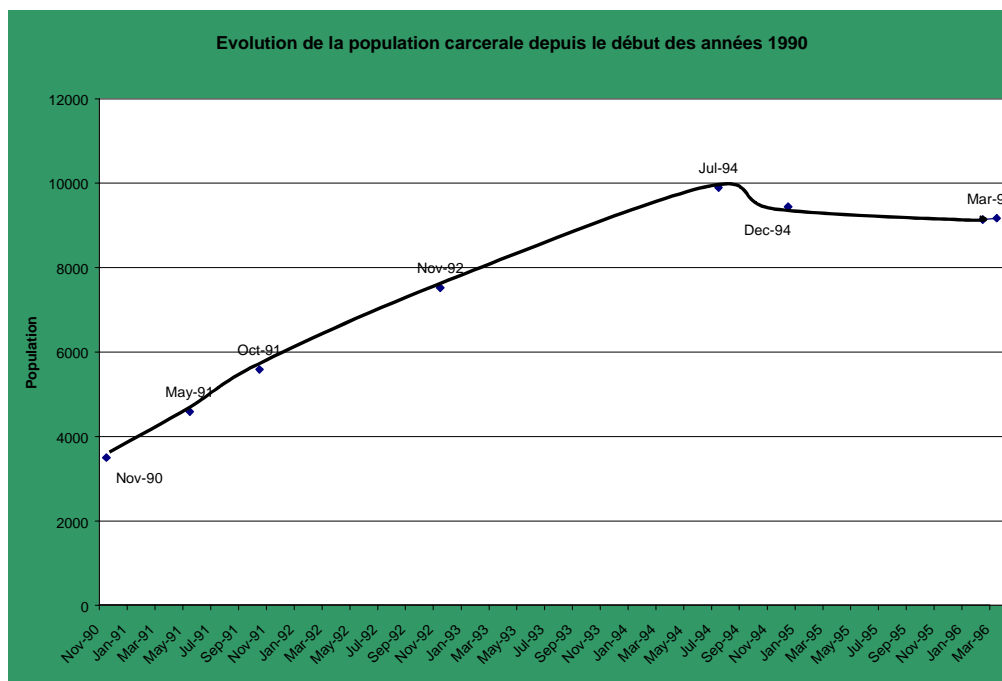
¹⁰⁰ United Nations. Economic and Social Council. Human Rights Commission 52nd session. "Initial report on the human rights situation in Burundi submitted by the Special Rapporteur, Mr Paulo Sergio Pinheiro, in accordance with Commission resolution 1995/90." E/CN.4/1996/16/Add.1, para. 26. 27 February 1996.

¹⁰¹ United Nations. Economic and Social Council. Human Rights Commission. 53rd session. "Second report on the human rights situation in Burundi submitted by the Special Rapporteur, Mr Paulo Sergio Pinheiro, in accordance with Commission resolution 1996/1." E/CN.4/1997/12, para. 31. 10 February 1997.

¹⁰² Republic of Burundi. Office of the President. Decree-Law No. 1/06 of 13 March 1992 promulgating the Constitution of the Republic of Burundi. Art. 17.

did nonetheless have to be respected. The detainee had to appear before the prosecutor immediately. A judge then had to review and confirm the detention after five days, after fifteen days, and then after every thirty-day period¹⁰³. However, since, according to this same code, the prisoner was not entitled to legal representation during the preliminary investigation phase preceding the trial, he had no recourse whatsoever against a prosecutor's desire to keep him in detention under remand. For example, of the 1,363 prisoners held in Gitega prison on 31 December 1998, at least 37% had not appeared before a prosecutor at the time of their arrest¹⁰⁴. At the same time, 98% of prisoners held on remand had never seen a judge¹⁰⁵.

Evolution of the prison population since the beginning of the 1990s



Officially, all the citizens of Burundi are equal before the law. The Convention of Government, which lasted from 10 September 1994 until Major Buyoya's coup d'état on 25 July 1996, promised "legal proceedings against all civilians or military personnel involved in the massacres and the assumption of a sense of responsibility on the part of the population as regards security."¹⁰⁶ Subsequently, the decree-law of 13 September 1996 stated: "All men are equal in dignity, in rights and in duties without distinction on account of sex, origin, ethnic group, religion or opinion. All men are equal before the law and have the right, without distinction, to the law's protection."¹⁰⁷

However, in practice the application of the code of criminal procedure in Burundi is characterised by marked ethnic prejudices between the Tutsis and the Hutus. In

¹⁰³ Amnesty International. "Burundi: Justice on Trial", 30 July 1998, p.12.

¹⁰⁴ Burundian Association for the Defence of Prisoners' Rights. "1998 Annual Report", vol 2, Bujumbura, 1999.

¹⁰⁵ Burundi Human Rights League Iteka, *op. cited*, Annex III.

¹⁰⁶ Republic of Burundi. Departments of the Prime Minister. *Government Agreement and its Annexes: 10 September 1994 - 9 June 1998*.

¹⁰⁷ Republic of Burundi. Office of the President. Decree-Law No. 1/001/96 of 13 September 1996 organising the institutional system of transition

his first report on the human rights situation in Burundi, Mr Pinheiro expressed serious concerns about the provincial judicial investigation commissions, set up by the Public Prosecutor in April 1995, which he blamed for the increase in the rate of arrests. "The Special Rapporteur is (...) extremely concerned by the information he received, which indicates that the commissions include persons who took part in the massacres and that they have deliberately failed to investigate complaints filed by Hutus and give preference to complaints by Tutsis."¹⁰⁸ Two years later, after Buyoya's return to power, these concerns turned to immense indignation as regards the treatment of prisoners, the bulk of whom are Hutus.

"For the most part, these persons appear to have been arrested by security officers without arrest warrants or by means of a simple report of arrest and held arbitrarily, often for more than a year without ever being brought before a judge; nor do they seem to have had access to a lawyer to prepare their defence. The Special Rapporteur was dismayed to learn that many prisoners appear to have undergone cruel, inhuman or degrading treatment, and have not even been properly fed, when held in army or police communal cells before being transferred to a prison. Some prisoners who were apparently violently beaten when they were held in the cells are reported as having died shortly after arrival in prison. In the last few months, Muyinga prison has allegedly had as many as 15 deaths of this type every month."¹⁰⁹

The quality of the justice dispensed in Burundi's criminal courts suffers from a shortage of judges and public prosecutors to deal with the huge number of prisoners awaiting trial¹¹⁰. Most of the accused who were involved in crimes committed during the 1993 massacres or in the ensuing civil war, and who face the death penalty or life imprisonment, have to be brought before one of the three *tribunaux correctionnels* (courts trying criminal cases of a serious nature) of the courts of appeal: Bujumbura, Ngozi and Gitega. These courts, which were closed between March 1993 and February 1996 because the judges' appointments had not been renewed, have now been reopened and have to cope with an enormous backlog in cases awaiting trial. Furthermore, there are only twenty-five courts of appeal magistrates representing the government in these courts, which means that each has to deal with several hundred cases.

The public prosecutor's offices are experiencing similar problems. Eighty-eight magistrates are responsible for carrying out the preliminary investigation of these cases, questioning suspects, finding witnesses and preparing hundreds of cases for judgement – all this without computers, photocopiers, or any real office equipment to speak of. At the end of 1996, some 5,000 preliminary investigations were under way at the same time¹¹¹. In May 1999, the four prosecutors of Ngozi each had

¹⁰⁸ United Nations. Economic and Social Council. Human Rights Commission. 52nd session. "Initial report on the human rights situation in Burundi submitted by the Special Rapporteur, Mr Paulo Sergio Pinheiro, in accordance with Commission resolution 1995/90", 14 November 1995.

¹⁰⁹ United Nations. Economic and Social Council. Human Rights Commission. 53rd session. "Second report on the human rights situation in Burundi submitted by the Special Rapporteur, Mr Paulo Sergio Pinheiro, in accordance with Commission resolution 1996/1." 10 February 1997.

¹¹⁰ Since 1998 the Ministry of Justice has had an annual budget of 2.5 billion Burundian francs (a little more than 4 million dollars), half of which is devoted to prisons, cf. Tony Jackson, "Justice in Burundi: Situation Report", International Alert: June 1999.

¹¹¹ United States. Department of State. Bureau of Democracy, Human Rights, and Labor. *Burundi Country Report on Human Rights Practices for 1996*. 30 January 1997.

approximately 160 cases concerning almost 500 prisoners¹¹². In order to carry out this work, which often called for travel between the prisons and the place of the crime, the prosecutors shared the vehicles belonging to the local district court and the PJP, and were only entitled to 100 litres of fuel per month.

When the investigations have been completed and the cases are brought before the court, the decisions are generally only handed down after a long delay. The large majority of judgements depend on the statements of witnesses, who are often afraid to appear before the court or who do not have the money to travel to the hearing. Seeing as several defendants may be charged with the same crime, any failure on the part of a witness to appear can lead to multiple judgements being delayed. In 1999, for example, the criminal courts had scheduled some 180 cases for each quarter. Of these 180 cases, an average of 12 were tried, i.e. 6.6%¹¹³. Between 1996 and 1999, the three courts handled an average of 412 cases a year. At this rate, it would take a further 16 years to try all the prisoners awaiting trial.

2. What are the prisoners accused of?

Burundi's political prisoners do not resemble the stereotype of a prisoner of conscience. Although many of them have been imprisoned because of their political opposition to the regime, they are charged with crimes listed in the code of criminal law.

The tables and graphs presented below document and illustrate the general situation of the prison population in Burundi. The statistics on which they are based, which were produced by the directorate of prison affairs of the Ministry of the Interior, are questionable of course, and cannot be taken at face value. As we have already stated, all the prisoners detained without trial in dark cells, military garrisons and other cells of the regime's political police throughout the country, are excluded. However, despite these restrictions, these tables and graphs give a credible insight into the prison population in Burundi.

¹¹² *Ibidem*.

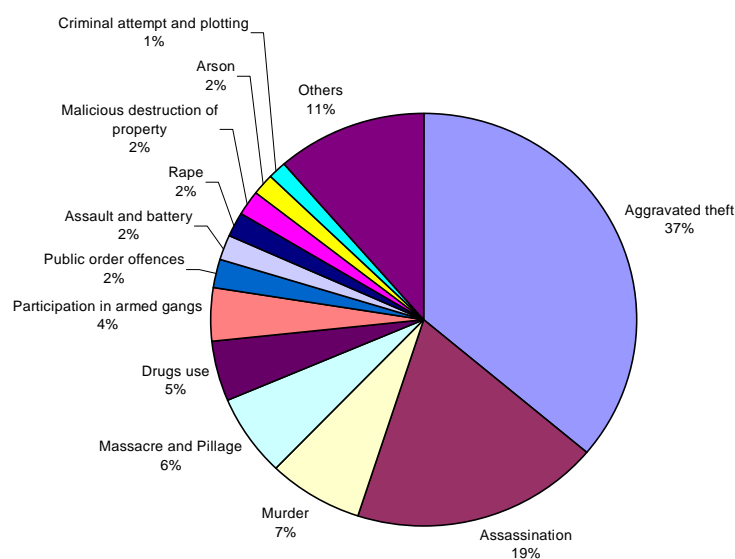
¹¹³ Burundian Human Rights League Iteka, op. cit., p. 23.

Insert 1a: Breakdown of convicts by count of indictment as at 25 March 2000

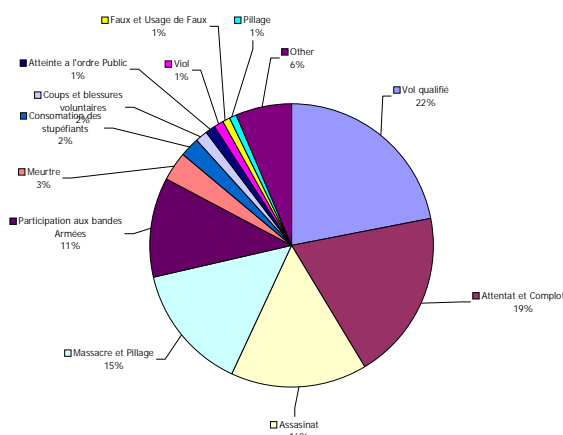
Crimes Total	Rutana	Gitega	Ngozi H	Ngozi F	Muramvya	Muyinga	Bubanza	Bururi	Mpimba Rumonge	Ruyigi		
Aggravated theft	125	102	100	1	86	45	19		228	119	62	887
Assassination	2		26	5	4	1		1	211	210	2	462
Murder	2	34	3	3	1		1		104	31	2	181
Massacre and Pillage		125			8				21			154
Drugs use	6	7	24	2		46	12		15	6	1	119
Participation in armed gangs	10	10	1		10	1			40	30	1	103
Public order offence	4	3	1	2	4		3		31	4		52
Assault and battery	15	1		2	5	1			19	5		48
Rape	8	1	4		2	4	1		21	1	5	47
Malicious destruction of property		2	20				5		12	6	1	46
Arson	6	6			2	4			6	15	5	44
Criminal attempt and plotting			16							15		31
Others	28	42	18	11	7	7	17	10	115	16	11	282
Total	206	333	213	26	129	109	58	11	823	458	90	2456

Sources: Statistics from the directorate general of prison affairs, Ministry of the Interior.

Insert 1b: Aggregated graphic representation of the breakdown of convicts by count of indictment as at 25 March 2000



Insert 2a: Aggregated graphic representation of the breakdown of the prison population awaiting trial as at 25 March 2000



Insert 2b.: Breakdown of the prison population in detention awaiting trial as at 25 March 2000

Crimes	Rutana	Gitega	Ngozi H	Ngozi F	Muramvya	Muyinga	Bubanza	Bururi	Mpimba	Rumonge	Ruyigi	Total
Aggravated theft	62	194	138	1	88	84	2	142	542	122	103	1478
Criminal attempt and plotting		3	1098	9				2	183			1295
Assassination	3		707	6	16	11	4	20	256	6	20	1049
Massacre and Pillage	5	951			10	6	1				6	979
Participation in armed gangs		39	11	1	6		10	33	453	195	2	750
Murder	1	38	50	1	1	5	1	10	111	2	4	224
Drugs use	1	27	23	2	2	27	3	5	52	6	4	152
Assault and battery	6	40	15		6	3		14	13	5	6	108
Public order offence			49	1	6			5	10			71
Rape	4	5	14		5	8			22	1	6	65
Forgery and use of forgery		4					2	1	51	2		60
Pillage		7	22	4		3			8		9	53
Others	43	102	24	11	18	10	3	41	151	19	11	433
Total	125	1410	2151	36	158	157	26	273	1852	358	171	6717

Sources: Statistics from the directorate-general of prison affairs, Ministry of the Interior.

NB: The category "Other crimes" represents all those that individually account for less than 1% of charges. Except for special mention, these are the following: Desertion of one's post; Misuse of trust; Cannibalism; Conspiracy; Indecent assault; Criminal attempt and plotting; Social aversion; Abortion; Cheque without funds; Plotting against the life of the Head of State; Misappropriation of public funds; Corruption; Denunciation; Desertion; Malicious destruction of property; Illegal possession of firearms; Abduction; Embezzlement and misappropriation of public funds; Poisoning; Kidnapping; Removal of boundary posts; Superstitious tests; Swindling; Escape of prisoners; Extortion; Forgery and use of forgery; False witness; Fraud in examinations; Manslaughter; Incest; Arson; Infanticide; Drunk and disorderly; Mutilation of a corpse; Breach of public solidarity; Massacre; Menace; Failure to help a person in danger; Outrage; Parricide; Loss of arms; Pillage; Rebellion; Concealment; Refusal to appear; Swindle; Attempted assassination; Treason; Deceit; Usurpation of functions; Incitement to debauchery; Petty larceny.

These figures show, first and foremost, that Burundi's prisons probably contain under 10,000 inmates. Of these, the overwhelming majority are in detention on remand (more than 70%) and can therefore be suspected of having been imprisoned for political reasons, irrespective of the official charges. However, the latter show that most of the prisoners are detained for "aggravated theft". Crimes committed in the context of the political violence that has marked the country since 1993 officially represent a large proportion of the convict population (between 10%

and 40%, according to the interpretations of the counts of indictment) and probably the majority of those held on remand (45% to 60%). It is thus worth stressing that this population falls dramatically once the prisoners have the chance to appear before the judge and to undergo a trial. These figures thus confirm that a large part of the prison population, perhaps as much as 30% of those held on remand, does not deserve to be incarcerated.

3. What is a “political crime” for the Burundian courts?

The Hutus who are in prison today and who account for the majority of the prison population, are viewed as political prisoners. Given that the Hutus represent the large majority of the population (estimated at 85%), it is not surprising that they are in the majority among the prisoners. However, the flagrant impunity enjoyed by many Tutsis and the frequent complicity of the police in the crimes committed since 1993, have led to a strong politicisation of the judicial apparatus and the sentencing of an overly large number of Hutus.

The majority of the total prison population, as well as a large majority of the prisoners in pre-trial detention, was detained in the context of the political crisis. Using an analysis carried out in January 1999 by the Directorate General of Prison Affairs (DGAP), it can be estimated that 5,551 crimes out of a total of 9,285 were linked to the sole crisis of 1993, i.e. 60% of the total prison population. If you add to that those persons arrested for crimes committed in the context of the civil war, the total increases still further. However, given that not all the crimes are political, it is difficult to ascertain exactly how many prisoners would fall into this category. Nonetheless, some parts of the code of criminal law deal with political crimes, such as “rebellion” (Title IV, Chap. I) and “attacks on state security” (Title IX). This latter part includes, in particular, “assassination attempts and plots against the Head of State”; “criminal attempts, plots and other offences against the authority of the State and the integrity of the territory”; “attacks and plots of such a nature as to lead to massacre, devastation or pillage” and “participation in armed gangs”¹¹⁴. These crimes concern 38% of the total prison population, 47% of the prisoners held on remand and 13% of the prisoners already sentenced.

The political crisis thus concerns the majority of the total prison population and a large majority of prisoners on remand. For example, the number of prisoners held by virtue of the crimes listed in Titles IV and IX is ten times higher than the number of prisoners already sentenced, six times higher than the number detained for massacre and pillage, seven times higher than the number detained for “participation in armed gangs” and 41 times higher than the number detained for “criminal attempts and plots”. This means that in some prisons, a large majority of the prisoners on remand are being held for political crimes. In the Ngozi men's prison, for example, these crimes account for 87% of the cases of detention under remand, which themselves represent 91% of the total prison population that totalled 2,364 inmates in March 2000¹¹⁵. At Gitega, they represent 72% of

¹¹⁴ Republic of Burundi. Official Bulletin of Burundi no. 6/81. “Decree-law no. 1/6 of 4 April 1981 reforming the code of criminal law” 277, 292-297.

¹¹⁵ The Special Rapporteur for Burundi, Marie-Thérèse A. Keita Bocoum calculated that 90% of detentions on remand for men are linked to the political crises. See United Nations. Economic and Social Council. Human Rights Commission. “The Issue of the Violation of Human Rights and Fundamental Freedoms, where it occurs in the World” (10 August 1999). The ICG's calculations are based on the data provided by the Office of Prison Affairs “The Prison Situation in Burundi as at 25 March 2000.”

prisoners on remand, who themselves represent 81% of the total population of 1,740 prisoners at the same time.

B. The political stakes of the debate

1. The burden of "genocide"

The scenes of violence that have punctuated Burundi's history at regular intervals have had a profound effect on the population. Both the Hutus and the Tutsis are convinced that they have been the victims of deliberate attempts at genocide. The Hutus remember 1972, when, following a revolt in the south of the country, the regime of President Michel Micombero launched massive reprisals. Between 100,000 and 150,000 people were killed and a further 150,000 were forced into exile in what at the time was the bloodiest episode in modern African history. Resolved to remove the political leaders of the majority that had been brought to heel, the regime deliberately sought to physically eliminate all educated or semi-educated Hutus¹¹⁶. For their part, Tutsis emphasise that in 1993 more than 50,000 of their kinsfolk died during the massacres unleashed by the assassination of President Ndadaye.

Convinced of its innocence, each party uses the moral authority accorded it by its status as a victim to secure political gain. In the eyes of the Tutsis, the wave of massacres that unfurled in 1993 was an attempt at genocide. As proof they point to the report drawn up in 1996 by the International Commission of Inquiry entrusted with establishing the facts surrounding the assassination of the President of Burundi – a report that concluded that acts of genocide had been perpetrated against the Tutsis "with the participation of certain Hutu activists and officers of FRODEBU."¹¹⁷ However, the Commission itself acknowledged that it had been hampered in carrying out its inquiry and the Security Council did not recognise its report. Nevertheless, confirmation of the Hutus' willingness to commit genocide against the Tutsis was provided by the Rwandan genocide in 1994.

FRODEBU and the parties of Hutu denomination vigorously refute this interpretation of the events of 1993 and assert that the prisoners currently detained are victims of Tutsi officers behind the attempted coup d'état. For them, there was never any desire to exterminate the Tutsis. Terrified at the idea that the assassination of president Ndadaye could herald a reprise of the 1992 anti-Hutu massacre programme, the population rose up in legitimate defence and in order to rescue the fledgling Burundian democracy. Subsequently, events such as the assassinations of numerous senior officials in Ndadaye's government and the attacks on Hutu populations by the army throughout the country, proved, in their view, that these fears were justified. According to a senior representative of FRODEBU, "the perpetrators of genocide did not act on the party's orders. The party does not shoulder the responsibility or the fault... there is no collective guilt on the part of FRODEBU as regards the 1993 killings or the mobilisation for the perpetration thereof."¹¹⁸

¹¹⁶ René Lemarchand, quoted by Zdenek Cervenka and Colin Legum. "Can National Dialogue Break the Power of Terror in Burundi?: Report on the impact of the National Dialogue international conference held in Bujumbura on May 15-18 on Burundian efforts to restore democratic process in the country" *Current African Issues* 17, 1994, p. 10.

¹¹⁷ United Nations, "Letter sent to the president of the Security Council by the secretary general on 25 July 1996" 5/1996/682.

¹¹⁸ ICG interview, Bujumbura, 3 May 2000.

This cyclical violence has been promoted by the impunity enjoyed by its perpetrators. No party has wanted to admit that its members were guilty. Protected by the police, the Tutsi chiefs who orchestrated the 1972 massacres, the repression of the population in 1988, 1991 and 1993 at the state's expense, and the ethnic cleansing of Bujumbura between 1994 and 1995, remain out of reach. The same applies for many of the leaders of FRODEBU, who, forced into exile, condemn the political imprisonments whilst trying to negotiate their amnesty at Arusha. But the question of responsibility is too important to the peace process to be ignored. No lasting reconciliation between the parties will be possible without the necessary means to assign responsibilities, assess penalties and ensure the permanence of the constitutional state, and that is the reason why the Inquiry Commission was set up within the First Commission. This will begin its work once a peace agreement has been signed.

In the meantime, the issue of the prisoners risks driving the negotiations onto the rocks. The divergent positions of each party as regards guilt and justice are fed by the opposing interpretations of the responsibility for the blood spilt during the waves of violence and could prove to be irreconcilable if they remain open to political exploitation. A means therefore has to be found to defuse the problem before the chances of reaching a peace agreement are lost. For this, the government will need courage since it will have to dare to offer clemency. This is the only gesture that could prompt, or even force, the rebels to offer a cease-fire. But the government does not bear sole responsibility for stopping the war and it will not take the risk of alienating its sympathisers if it has no guarantee in return.

2. The respective positions of the parties

The issue of guilt constitutes the very core of the conflict between the two ethnic groups – Tutsis and Hutus – in Burundi. Politics is omnipresent in the way the country's judiciary works. Each party involved in the peace negotiations currently being held in Arusha has its own point of view as to the nature of the system. Furthermore, each party vehemently uses its interpretation as a weapon in the political debate. Three points of view can be distinguished: that of the government, that of the Tutsi opposition parties and that of the Hutu parties. For the government, the imperfections of the system can be attributed to a lack of resources rather than an institutionalised bias. For the Tutsi opposition parties, the regime uses the instruments of the criminal justice system to harass political opponents who represent a threat to the government. For the Hutu parties, it is the mono-ethnic system of power that has created a political justice system in which some enjoy impunity for their crimes whilst others suffer unjustified penalties. These three interpretations are partially correct and all three are also put to the service of a political cause.

a. The government or the technocratic alibi

Under pressure from Nelson Mandela, the government has responded with a technically based argument, designed to serve its interests by depoliticising the justice issue. Criticised by the Tutsi opposition for its failure to defend the minority against attempts at extermination by the majority, Buyoya must pursue the "fight against impunity" that he began in 1996. At the same time he has to restore his image in the international community, transforming it from that of a putschist military chief to that of a moderate leader - the only one able to build a bridge

between the Hutus and the Tutsis. This exercise will require major efforts on his part to reform the criminal justice system and guarantee the impartiality of the courts' decisions.

The government denies *en masse* that there are any political prisoners in the country. "According to legal doctrine and jurisprudence, a political prisoner is a person deprived of his freedom for political reasons. In this sense, there are no political prisoners in the 11 prisons in Burundi."¹¹⁹ On the other hand, the government maintains that the problem is down to an upsurge in violence for which the judicial system was not prepared. Having lost all meaning in the chaos that followed the massacres of 1993, the criminal courts had in fact stopped operating. The prosecutors feared for their lives and were unable to investigate cases, whilst the judges were unable to hand down impartial decisions. However, the mass arrests that took place in the meantime filled the country's prisons. As a result, when the criminal justice institutions started working again at the beginning of 1996, their work was inevitably slowed down.

Aware of the weaknesses of the system, the government says that it has made major efforts to improve it. Chosen in part because of the credibility he had acquired with FRODEBU at the head of the electoral commission in 1993, T rence Sinunguruza was appointed Minister of Justice in 1997. Since then he has been working on depoliticising the judicial apparatus. The legal proceedings brought against the leaders of the opposition were abandoned for lack of sufficient evidence. It is with him that the new pro-FRODEBU public prosecutor, G rard Ngendabanka, has been working since December 1998¹²⁰. Together, they have helped to settle cases awaiting trial and strengthen the action of the prosecutors responsible first and foremost for completing the preparations of cases for judgement¹²¹. In January, eight magistrates were sent to Ngozi to support the work of the slowest court with the aim of settling all the criminal cases by the magistracy's holidays in August 2000¹²². In April, six extra magistrates were dispatched to Gitega with the same mission. In order to solve the problem of the courts' inability to pass judgements, the sessions of the courts of appeal will soon be increased from one to two months.

Likewise, the government has worked on the introduction of a more lasting reform with the institution in January 2000 of a new code of criminal law prohibiting torture, according prisoners the right to a lawyer at the time of their arrest and limiting the period of detention in police custody to 14 days¹²³. Those authorities infringing these regulations shall be declared liable for legal proceedings. As

¹¹⁹ Republic of Burundi. "Memorandum on the concerns expressed about issues relating to the current operation of the political parties, the so-called political prisoners, the situation in the protection sites as well as the current operation of the press", Bujumbura, mimeo, April 2000.

¹²⁰ Burundi-Bureau "Burundi-Justice: the Public Prosecutor Jean Bosco Butasi gives up his post and all the controversial cases", Br ve Nouvelle No. 222. 15 December 1998.

¹²¹ ICG interview, Bujumbura, 3 May 2000; Republic of Burundi. "Memorandum on the concerns expressed about issues relating to the current operation of the political parties, the so-called political prisoners, the situation of the protection sites as well as the current operation of the press", Bujumbura, April 2000.

¹²² Between 1996 and 1999, the criminal divisions of the Court of Appeal delivered 384 verdicts whilst Bujumbura and Gitega delivered 588 and 678, respectively. Burundian Human Rights League - Iteka, op. cit., Annex IV.

¹²³ Republic of Burundi. Office of the President. Law no. 1/015 of 20 July 1999 reforming the code of criminal procedure.

regards detention under remand, the new criminal procedures limit the length of this: "Detention under remand may not exceed twelve months if the deed only appears to constitute an offence for which the penalty provided for by the law is not greater than five years' penal servitude."¹²⁴ This means that as of 1 January 2000, prisoners on remand under a wide range of counts of indictment, including that of "rebellion" (Title IV, Chap. I), can claim conditional release¹²⁵. In January, two hundred prisoners on remand were indeed released, which, in the words of the public prosecutor Ngendabanka himself, means "detention under remand is an exception whilst freedom is the rule."¹²⁶

Determined to remain in place, president Buyoya is instinctively clinging to the reins of power that the judicial apparatus represents. What is more, in this he is supported by the self-seeking authoritarianism of the UPRONA and the army, two groups alarmed at the prospect of losing their control over society. However, here he must arrive at a balance between the demands of his political base and the demands of the international community. He must become the defender of the Tutsis against the genocide whilst at the same time presenting the Hutus with an image of moderation and the guarantee of impartial justice.

b. The Tutsi opposition or the radical drift

For Buyoya, as for all the participants in the peace process, the greatest threat comes from the temptation to create radical unrest on the part of the Tutsi opposition. The government has thus at times manipulated the judicial apparatus in order to undermine PARENA, the party of former president Jean-Baptiste Bagaza as well as the UPRONA wing led by Charles Mukasi. But despite their resounding complaints, these groups are in fact taking advantage of the repression with which they are confronted. The apparent concern about them displayed by the government gives them a degree of credibility. The Mukasi wing of UPRONA is using this attention to pass itself off as a threat to the peace process and consequently as an essential element in it. In the same way, PARENA is taking advantage of the repression to denounce the repressive and illegitimate nature of Buyoya's government.

PARENA also claims to have been the victim of the official repression, inter alia of two accusations of plotting to overthrow the president, which led to mass arrests and large-scale lawsuits. A party document on one of these episodes sets forth the reasoning as follows: "Since the government has nothing further to offer the population, it had to find something else with which to busy itself and in particular to distract it from its real concerns."¹²⁷ In March 1997, ten people, including Bagaza and other party bigwigs, were accused of being responsible for a number of explosions of mines in Bujumbura and taking part in a conspiracy to assassinate the president. The ensuing trial was characterised by accusations of torture and judicial irregularities. Bagaza himself, who was allowed to leave the country, is no

¹²⁴ Republic of Burundi. Office of the President. Law no. 1/015 of 20 July 1999 reforming the code of criminal procedure. Article 75.

¹²⁵ The other crimes include "assault and battery", "molest", "manslaughter", "petty larceny", "extortion of funds, objects, notes", "misuse of trust", "swindling", "concealment", and "false witness".

¹²⁶ AFP, "Burundi-Justice: Burundi releases more than 200 prisoners pursuant to a new code", 2 February 2000

¹²⁷ PARENA party. "The PARENA, the victim of a political/judicial scandal orchestrated by the government", Bujumbura, mimeo, 20 December 1999, 5.

longer in danger but his lieutenants are still awaiting the decision of the Supreme Court, which everyone senses will be a guilty verdict.

It seemed as though another coup d'état had been mounted in December 1998, when the authorities near the Rwandan border in the northern province of Cibitoke apprehended an armed gang. Other members of PARENA were arrested in Bujumbura¹²⁸. During the trial that followed, the evidence submitted concerned the actions of a certain Moïse, who had allegedly orchestrated the plot but whose real identity remained obscure. In an appeal against the verdict, one of the defence lawyers emphasised the lack of evidence:

"How can the Court base itself on the statements of a testimony of an unknown person who has not appeared before the examining magistrate, who has not appeared before the court, and of whom we do not know his name, his father's name, his mother's name or his place of residence, and against whom no action has been brought for want of identifying elements, whilst this entire lawsuit revolves around this 'Mr Moïse' like a genuine GHOST."¹²⁹

Despite this fundamental technicality in the trial, twenty-three of the twenty-five people were declared guilty and sentenced to fifteen years in prison. The Supreme Court is due to deliver its verdict in appeal shortly.

PARENA uses these episodes to call into question the government's legitimacy by denouncing its determination to eliminate the political opposition. In this instance, as regards the first accusation of plotting, the party asserts "the plot against the life of the Head of State and the placing of anti-tank mines gratuitously and maliciously shifted onto PARENA is merely the expression of political hatred. The government born of the coup d'état of 25.7.1996 quite simply wanted to remove PARENA's leaders and take the party out of the political scene."¹³⁰ However, just as is the case for the Mukasi wing of UPRONA, its image as a victim of official repression bestows upon the party a moral legitimacy as well as political credibility.

c. *The Hutu opposition or the denial of responsibility*

The Hutu-dominated parties reject *en masse* the government's defence that the Burundian judicial apparatus is snowed under. On the contrary, they denounce the inherent bias of its courts and the government's flagrant use of them for its political advantage. However, convinced that they are in a position to inherit power, the Hutu parties are currently endeavouring to rid themselves of their ethnic label. Recently FRODEBU has discretely distanced itself from those from among its own ranks who perpetrated crimes in 1993. One of its leaders even told ICG that those responsible for the 1993 massacres should be punished¹³¹. Although chiefly aimed at opposing Buyoya, the fact that FRODEBU recently joined ANAC also helps to soften its image. Indeed, the party leaders reckon that a rapprochement with alleged "Tutsi extremists" will put an end to the demonisation of FRODEBU as a

¹²⁸ "Burundi-Justice: Arrest of a senior officer", Bureau du Burundi, 29 January 1999.

¹²⁹ Introductory petition for appeal to the Court of Cassation for Diomède NZOBAMONA represented by Maître Fabien Segatwa. 7 April 2000.

¹³⁰ PARENA party. "The PARENA, the victim of a political/judicial scandal orchestrated by the government" (Bujumbura: 20 December 1999), p. 15.

¹³¹ ICG interview, Bujumbura, 3 May 2000.

Hutu party and will contribute to their "redemption" in the eyes of the Facilitation but also those Tutsis wanting change. In fact a recent statement by the party even acknowledged the status of political prisoner for members of PARENA accused of having attempted to overthrow the government. "The clouds that have surrounded those cases in which we see the involvement of the secret service (information) and other State departments show that it is all about discrediting a party and a politician. The case is therefore political."¹³² More cynically, however, many are those among the Hutu parties and the leaders of the opposition who hope to compromise the legal proceedings of which they could be the subjects for acts committed during the crisis. Bringing the question of political prisoners to the forefront of the Arusha negotiations will make negotiations necessary on the future judicial system before a commission of inquiry is set up.

FRODEBU's position has not always been so moderate. A year ago, a party activist, who also turns out to be one of the few Hutu lawyers, spelt out FRODEBU's standard viewpoint:

"Burundi's prisons, which only have a capacity to accommodate 3,000 prisoners, currently house more than 11,000, at least 80% of whom are in detention under remand. Almost all the latter are members of the political parties fighting for the establishment of democracy in Burundi. The complaints lodged by the members of these parties are never acted upon by the Burundian judiciary on account of its mono-ethnic composition."¹³³

The parties defending the Hutu interests also assert that despite the obvious guilt of many Tutsis in the bloodshed, virtually none of them have appeared before the courts. For them, the trial of the persons accused of having tried to assassinate president Ndadaye constitutes an attempt to justify the proceedings brought against Hutu prisoners. Eighty-one people were charged, including lieutenant-colonel Charles Ntakije, lieutenant colonel Bikumagu, respectively Minister for Defence and Chief of Staff of the Armed Forces at the time, lieutenant colonel Isaie Nibizi, barracks commander and responsible for the president' security, and François Ngeze, a Hutu politician of UPRONA who would have been chosen as the future head of state by the plotters of the coup d'état. The charge cited an attempted coup d'état which began in the night of 20 to 21 October 1993, mobilised officers, NCOs, corporals and privates of the Bujumbura garrison and ended in the death of the Head of State and senior political figures, and resulted in killings and a serious crisis which is still affecting the country."¹³⁴

However, the trial was marred by irregularities and the inquiry into the senior civil servants involved in the affair was open to considerable criticism. Key witnesses such as lieutenant colonel Jean Bosco Daradangwe, the then Director General of Communications at the Ministry of Defence, were not called to the witness box, whilst others died in obscure circumstances. Three soldiers involved in the case were killed during - so it appears - an attempt to escape from Mpimba prison in

¹³² Sahwanya-FRODEBU Party. Office of the General Secretary. "Declaration No. 004/2000 of the Sahwanya-FRODEBU Party", Bujumbura, 13 May 2000.

¹³³ Maître F. Segatwa and M. Fulgence Dwima Bakana. "The issue of respect for human rights in Burundi's judicial system: the case of political prisoners", Bonn, 15 June 1999, p. 1. Cited in Centre of Analysis and Action for Burundi. "Burundi: When genocide and crimes against humanity become a 'business'", Brussels, November 1999, pp. 10-11

¹³⁴ Republic of Burundi. Ministry of Justice. Supreme Court. Notification of ruling RPS 38, 11th sheet.

December 1995. Oddly there was also no inquiry into the deaths of colonels Lambert Sibomana and Dieudonné Nzeyimana, both intelligence officers under Ndadaye and both of whom knew about the preparation of the coup d'état. Similarly, the President of the Supreme Court suddenly brought the trial to an end when it became evident that if it continued the identity of those behind the plot would be unveiled¹³⁵. Of all the accused, only twenty-eight were declared guilty and none of these had a rank higher than that of lieutenant. Five were sentenced to death, six to twenty years in prison, two to ten years, and one to thirteen years. The other fourteen were given a one-year suspended sentence.

It is not surprising that, well before the result of the proceedings, the FCD described the trial as stage-managed and aimed at protecting those responsible for the death of president Ndadaye. In the general declaration of the party's second ordinary congress, FRODEBU denounced the trial, calling it "the opportunity that those in power have given themselves to draw a veil over the responsibilities of some of their number"¹³⁶. The rebel party of the National Council for the Defence of Democracy (*Conseil National pour la Défense de la Démocratie* - CNDD) was equally virulent in a memorandum published after the judgement was handed down. "Since the assassination of the first president-elect, Melchior Ndadaye, this judicial apparatus has not for one moment threatened the real perpetrators of the bloody putsch. A few underlings have been summarily tried and sentenced in what is tantamount to a parody of justice."¹³⁷

In their view, the reason for such a verdict lies in the mono-ethnic nature of the judicial apparatus. The Supreme Court is made up of Tutsis to the tune of 90¹³⁸ and, of the three chambers of the courts of appeal, it is only in Bujumbura that one finds two Hutus out of eighteen magistrates. The judges sitting in the district courts and in the courts immediately below the courts of appeal are all Tutsis, without exception. It is only in the subordinate strata of Burundi's judicial apparatus - the "courts of residence" - that one finds a majority of Hutu judges. Thus, since independence, those responsible for committing acts of violence against the Hutus have enjoyed impunity for their crimes. This was particularly the case as regards the assassination of the Hutu prime minister Pierre Ngendandumwe in 1965 and then again on the occasion of the massacres of 1965, 1969 and 1972. Likewise, the Tutsi military officers and Tutsi chiefs of police and leaders of political parties who organised the militias responsible for the "dead town" ethnic cleansing campaigns aimed at ridding Bujumbura of its Hutu inhabitants in 1994 and 1995, remain out of reach. On the other hand, the judicial system has relentlessly brought proceedings against Hutus for more futile reasons. Once denounced for participation in or support of the violence of 1993 or the insurrection that followed, the unfortunates are placed in detention under remand for years before a trial gives them the opportunity to prove their innocence. To conclude, with thousands of activists in prison, the FCD should bear the political label of "genocidal" parties unfit to govern the country.

¹³⁵ Amnesty International, "Burundi: Justice on Trial", 30 July 1998, pp. 6-7.

¹³⁶ "General declaration of the second ordinary congress of the Sahwanya-FRODEBU Party" III.2.39.

¹³⁶ "General declaration of the second ordinary congress of the Sahwanya-FRODEBU Party" III.2.39..

¹³⁷ National Council for the Defence of Democracy. "Memorandum on the Burundian Crisis", mimeo, June 1999, p. 35.

¹³⁸ Burundi Bureau. Analysis File Number 18, 20 August 1999

C. Conclusion

The debate on "political prisoners" threatens to derail the peace negotiations since it is a debate on responsibility in the bloodbath that ravaged Burundi. No leader wants to admit any responsibility that would prevent him from having a claim to political power during or after the transition. Consequently, each party is portraying itself as a victim of the defamatory accusations of the others. The government is endeavouring to appear apolitical on the basis of a technical argument that by its very nature criminalises FRODEBU. The radical Tutsi opposition is in agreement as to the guilt of the Hutus and puts itself forward as a victim of the government's political repression. For their part, the parties of a Hutu persuasion are attempting to clear themselves of any responsibility for the 1993 massacres.

However it is both dangerous and irresponsible to try to draw any political advantage from the already sensitive subject of justice. Burundi does not have ten thousand political prisoners. A large number of the prisoners detained for "political" crimes are in fact guilty of acts of horrendous cruelty. Moreover, the FCD's refusal to recognise the improvements made to the criminal justice system since 1996 undermines still further a fragile element, but one which is of vital importance in Burundian society: the credibility of the judicial system. The constant denunciation of a mono-ethnic system incapable of dispensing impartial justice for the two main ethnic groups risks becoming a reality, since if the Tutsi judges do not dispense fair justice today, what reason can we have to expect that Hutu judges will dispense fairer justice tomorrow?

However that may be, the current system is indeed mono-ethnic and dangerously vulnerable to the temptation to dispense summary ethnic justice. Although the current pressure to deliver guilty verdicts seems to be limited to the trials for alleged plots to overthrow the president, that does not mean that the Burundian judicial apparatus is independent of all influence. The judges, who are poorly paid, fear that an unpopular decision will lead to them being suspended or being posted to a region far from their home and family. What is more, the judges are subjected to the pressures and virulence of the society in which they operate. In a period of political tension, any honest decision on the part of a judge could lead to social ostracism or violent reprisals. The first trials in 1996 were held in a climate of considerable political and ethnic tension, which could not fail to affect the vast majority of the Tutsi judges. Of the 150 cases dealt with during its two sessions, the court pronounced 89 death penalties and 36 life sentences¹³⁹.

At the current stage of the debate, if the parties want the Arusha negotiations to succeed they must renounce the temptation to play with the fate of national justice on the political scene. Some encouraging signs of this possibility can be glimpsed both on the part of the government and of the parties defending the Hutu interests. The reform of the code of criminal law was a vital measure that should be maintained. Likewise, the moderation of FRODEBU's rhetoric on political prisoners constitutes a timely improvement. However, there remains much to be done and peace will not be possible unless all the parties consciously take measures bearing witness to their good faith. The government cannot release all the prisoners without undermining the future of the constitutional state but should

¹³⁹ United Nations. General Assembly. 51st session. "Human Rights Situation in Burundi". 7 October 1996.

nonetheless release some of them. It is impossible to release prisoners accused of murder without the risk of triggering a resurgence in ethnic violence, but the government could release those prisoners charged with crimes listed under Title IX of the code of criminal law. Moreover, with the support of the international community it would be possible to complete the preliminary investigation of the cases of the rest of the prisoners held on remand, and to release those whose cases do not contain sufficient evidence. By making the gesture that these measures represent, the government would prove its desire for peace.

But the government is not the only party that should demonstrate its willingness to arrive at a peace agreement. The same onus rests on its Hutu opponents. If a peace agreement is achieved, FRODEBU should be aware that it has a very good chance of taking over the reins of power, and should therefore give the Tutsi minority very solid guarantees *now* rather than doing so when trying to outdo its rivals during the negotiations. At the same time, the rebels should state their willingness to declare a cease-fire in exchange for a demonstration of good faith on the part of the government, as described in the previous paragraph.

At the end of the day, the debate on political prisoners is deceptive in that it only results in the most fundamental question - that of political and ethnic impunity - being side-stepped. In order to arrive at a lasting peace, Burundi must turn a page on the past and this calls for justice and clemency at the same time. Those who are still at large are more important than those who are in prison. Burundi is a small country where crimes have been committed openly and publicly. The guilty parties cannot hide, since their identity is common knowledge. Many young Hutus see the perpetrators of the crimes of 1972 - which perhaps robbed them of their father, their brother or their land - walking in the streets. The same applies to many Tutsis, for whom the sight of certain rehabilitated FRODEBU politicians is unbearable, since for them these people ordered the assassination of their nearest and dearest or the latter's permanent installation in the camps for displaced persons. But justice must first come via peace and, at least, those political prisoners who have not committed murder should be released today.

RECOMMENDATIONS

To the mediator, Nelson Mandela

On the issue of political parties

1. Insist that the government of Burundi immediately proceed with the strict and impartial application of all the measures of the constitutional act of transition of June 1998 governing the activities of the political parties, in particular Article Sixty authorising free meetings of the parties at municipal, provincial and national level.
2. Immediately disqualify from the negotiations and bar from participation in the transitional institutions any leader of a political party guilty, as of today, of defamation, incitement to ethnic hatred or recourse to verbal or physical violence against his opponents.

On the media

3. Insist that the government provide all the political parties and the rebels with immediate, fair and unconditional access to the public media.
4. Provide for the establishment, in the peace agreement and the programme of the transitional institutions, of a communication policy widely disseminating the contents of this agreement.

On the issue of political prisoners:

5. Recognise the release of certain prisoners, for example those of the rebels' sympathisers who have not committed murder, as a significant gesture of compromise on the part of the government. And in exchange:
6. Insist that the rebels apply an immediate cease-fire following the release of these prisoners.

To the government of Burundi

On the issue of political parties

7. Immediately apply, in a strict and impartial manner, all the measures of the constitutional act of transition of June 1998 governing the activities of the political parties, in particular Article Sixty authorising free meetings of the parties at municipal, provincial and national level.

On the media

8. Give all the political parties and the rebels immediate, fair and unconditional access to the public media.

On the issue of political prisoners:

9. Release certain prisoners, for example those of the rebels' sympathisers who have not committed murder.

To Burundi's financial backers

On the issue of the media

10. Support the vocational training of Burundian journalists and the production of radio programmes disseminating the measures of the peace agreement and the organisation of the transitional institutions.
11. Support the creation of independent and unbiased media, in the framework of the peace agreements.

On the issue of political prisoners

12. Support the preliminary investigation of the cases of all the remaining prisoners so that they can be tried before 31 December 2000 and improve the prisoners' living conditions.
13. Support the rehabilitation and reintegration of the released prisoners.

14. Mobilise the necessary resources and staff so that the international judicial inquiry commission and the national truth and reconciliation commission can begin its work as soon as a peace agreement has been signed.

Nairobi - Brussels, 12 July 2000

**Annexe 1: Extracts from the Constitution of the Republic of Burundi
of 6 March 1992 relating to political parties**

Art. 53

A multiparty system is recognised in the Republic of Burundi.

Art. 54

The political party is a non-profit-making association, with the legal status of an artificial person and bringing together citizens around a democratic project for society founded on national unity, with a political programme based on specific objectives, dictated by the concerns of realising the general interest and the development of all. Political parties combine to bring about the expression of suffrage and participate in political life through pacific means.

Art. 55

Political parties are approved in accordance with the Constitution and the law. To be approved, they are obliged, in particular, to subscribe to the Charter of National Unity and to adhere to the following fundamental principles: the respect for and safeguarding and consolidation of national unity; the protection and promotion of basic human rights; the promotion of a constitutional state founded on the respect for and defence of democracy; the protection of the integrity of the territory and of national sovereignty; the prohibition of intolerance, ethnicism, regionalism, xenophobia, and recourse to violence in all its forms. Political parties are obliged to comply with the Charter of National Unity and with the principles listed above in their everyday operations.

Art. 56

At the stage of their approval and when operating, political parties must, in their organisation and in the composition of the executive organs, respect democratic principles and the ideal of national unity, taking account of the various component parts of the Burundian population.

Art. 57

Political parties are not allowed to identify themselves, by means of their form, action or in any other manner whatsoever, with a particular ethnic group, region, religion, sect or sex.

Art. 58

Members of the armed forces, the police and the magistracy, who are in service or working, are not permitted to join political parties.

Art. 59

The external financing of political parties is not allowed, except by exceptional dispensation laid down by the law. Any other kind of financing of such a nature as to damage national independence and sovereignty is also prohibited. The law determines and organises the sources of financing of political parties.

Art. 60

The law defines the conditions under which political parties are formed, and carry out and terminate their activities.

Art. 80

The functions of president of the republic are incompatible with the exercising of any other elected public position, any employment in the public sector and any professional activity.

They are also incompatible with the position of leader of a political party.

Art. 178

Municipalities are administered by the Municipal Assembly, the Municipal Council and the Municipal Administrator elected by the Municipal Assembly.

These institutions are elected under the conditions established by the law.

The election of these bodies is based on **Ubushingantahe**, beyond the competition of the political parties.

Annexe 2: Conditions for approval and rights and duties of political parties according to the decree-law of April 1992

Apart from abiding by the principles of the Charter of National Unity and undertaking to respect the Constitution, the laws and good moral standards, political parties must meet the following conditions in order to obtain approval:

- have their head office on the national territory (Art. 14)
- present a project for society and a programme based on specific political objectives (Art. 21)
- take account of the various component parts of Burundi's population in the composition of their founding members and in the formation of their executive organs (Art. 22)
- include at least two members from each province, including at least one permanent resident among the group of founding members (Art. 23)
- have founding members and leaders of Burundian nationality, who - enjoy their civil and political rights, are over 21 and are resident on the national territory. (Art. 24)
- submit statutes giving details of the internal organisation of the party at national level; the composition, method of appointment and length of mandate of the executive organs at national level; the name of the legal representative and his substitute; the sources of financing, etc. (Art. 26)
- comply, throughout their existence, with the conditions required for their approval (Art.39)
- fair treatment as regards public funds and services made available by the State or territorial authorities, (Art. 15)
- ownership of premises and equipment necessary for their administrative operation and assembly (Art. 16)
- the freedom to create their own media (Art.17)
- a fair right of access to the State media (Art. 18);
- access to certain public halls in an equitable manner (Art. 46)
- a State contribution to the financing of their campaigns for presidential and legislative elections (Art. 51);

In the context of their activities, political parties:

- must keep the Ministry of the Interior informed of changes in their senior executives (Art. 41);
- must inform the provincial governors of the establishment of their local representation (Art. 42);
- may hold meetings, organise demonstrations and produce propaganda within the confines of the conditions laid down by the law (Art. 43);
- must refrain from conducting their propaganda in public or private places of work and in schools and higher education establishments; moreover, this propaganda may not prove to be divisionist in nature (Art. 44 and 45)
- are permitted to receive member's affiliation fees, revenue derived from their own activities, State subsidies and donations and legacies, provided that these do not come from body corporates or foreigners and that the liberalities from which they benefit are proven to be of a lawful origin (Art. 47 to 55);

-must submit their annual accounts in March every year (Art. 57); if they fail to do so for a period of three years, they shall be deemed to have been dissolved.

Finally, in the event of failure to meet their obligations, political parties may be suspended by the Ministry of the Interior for a maximum period of six months. During this period, the party may refer the matter to the administrative division of the Supreme Court to have this administrative decision quashed or at the end of this period the public Ministry may do so, in order to have a judgement passed on the lawfulness of the political behaviour of which the party is accused, and to decide on supplementary sanctions, or possibly to pronounce the party's dissolution (Art. 58-61).

Annex 3: Political parties approved since 1992 in Burundi

Name and motto	Acronym	Date of registration	Identity (name, length of mandate of President, ethnic group, and region of origin)
1. Parti de l'Unité pour le Progrès National	UPRONA	First approved on 07/01/1960 then confirmed on 14/05/1992. (Founded in 1957)	Nicolas Mayugi (1992-1994, Hutu, Muyinga) Charles Mukasi (1994-1998, Hutu, Ngozi) Luc Rukingama (1998-..., Hutu, Bururi)
2. Parti pour la Réconciliation du Peuple (initially Parti Royaliste parlementaire)	PRP	30/06/1992	Mathias Hitimana (1992-..., Tutsi, Bujumbura, native of Bururi)
3. Parti du Peuple – "Justice, peace and integral development"	PP	30/06/1992	Schadrack Niyonkuru (1992-..., Hutu, Bururi)
4. Ralliement pour la Démocratie et le Développement Economique et social	RADES	20/07/1992	Joseph Nzeyimana (1992-1993, 1994-... Tutsi, Bujumbura, native of Gitega) Cyrille Sigejeje (1993-1994, Tutsi, Muramvya)
5. Front Pour la Démocratie au Burundi	FRODEBU	23/07/1992 (founded on 18/06/1986)	Melchior Ndadaye (1992-1993, Hutu, Muramvya) Sylvestre Ntibantuganya (1993-1995, Hutu, Gitega) Jean Minani (1995-..., Hutu, Kirundo)
6. Rassemblement du Peuple Burundais – "Social justice and development"	RPB	12/08/1992	Ernest Kabushemeye (1992-1995, Hutu, Kirundo) Balthazar Bigirimana (1995-..., Hutu, Kirundo)
7. Alliance Nationale pour le Droit et le Développement Economique	ANADDE	18/8/1992	Ignace Bankamwabo (1992-..., Tutsi, Muramvya)
8. Parti Libéral	PL	23/10/1992	Gaétan Nikobamyé (1992-..., Hutu, Imbo)
8. Parti Social Démocrate	PSD	20/02/1993	Vincent Ndikumasabo (1992-, Tutsi, Kayanza)
9. Parti Indépendant des Travailleurs	PIT	13/04/1993	Nicéphore Ndimurukundo (1992-..., Tutsi, Muramvya)
10. <i>Inkinzo</i>	-	08/05/1993	Alphonse Rugambarara (1993-...,

<i>y'ijambo</i> (The shield)			Tutsi, Ruyigi))
11. Alliance Burundo-Africaine pour le Salut	ABASA	10/06/1993	Térence Nsanze (1993-..., Tutsi, Bururi)
12. Parti pour le Redressement National – “Justice, peace, progress”	PARENA	03/08/1994	Jean-Baptiste Bagaza (1994-..., Tutsi, Bururi)
13. <i>AV-Intwari</i> Alliance of the Valiant)	-	1996	André Nkundikije (1996-..., Tutsi, Muramvya)

Sources: Guichaoua (A.), sld., “Governments, political representation, principal bodies of state, and institutions in society (Burundi)” in *Réseau Documentaire sur l’Afrique des Grands Lacs*, CD-ROM no. 7, Vol. 2, 1999, 47p. and ICG interviews, May 2000.

Annexe 4: Indicative portrait of the parties UPRONA and FRODEBU on the eve of the 1993 ballot

UPRONA

The UPRONA, the independence party founded by Prince Louis Rwagasore which then became the single party, was the instrument for the political domination of the first three presidents of Burundi, Michel Micombero, Jean-Baptiste Bagaza and Pierre Buyoya - all three military men. This party thus has an almost organic relationship with the army and its high command, even though not many officers appear in its organisation chart. The UPRONA of the 1990s, which would go through the whole period of transition to democracy, is essentially the party fashioned by Pierre Buyoya during the Congress of December 1990. The central committee at the time, made up of slightly more than a hundred members, is still in operation, although the party's executive organs have been changed several times. The UPRONA fashioned by Pierre Buyoya is attempting to return to its roots in order to reappropriate the prestige of its illustrious founder and to re-establish the National Union in the context of the 1988 and 1992 reforms. Appealing to the myth of a royalty transcending the ethnic divisions, Prince Louis Rwagasore had an organic vision of the Burundian nation as one and indivisible. This principle of unity, echoed *ad nauseam* under the first Buyoya regime, found its concrete expression in the opening of the central committee to Hutu activists and the integration of all those disappointed by the Bagaza regime, which was characterised in its second term (1982-1987) by an increasing monopolisation of the power and resources of the state by the Tutsi elites of Bururi. The central committee of 1990 thus saw the arrival in office of Tutsi elites from the centre, east and north of the country, the return of a handful of heavyweights from the Micombero era, the increased power of the young intellectuals of the JRR, a number of trade unionists, magistrates and university graduates and among them, in particular, Hutu professionals, either born of the policy of appeasement of the first Bagaza years after the 1972 genocide, or of the opportunities already offered thanks to the policy of national unity. With Hutus accounting for a quarter of its members, the central committee is made up of former ministers, senior civil servants, ambassadors or directors of semi-public companies who have climbed all the party rungs and supported their administrative career with this political affiliation, but were frustrated in their aspirations by the frenzied regionalism of Jean-Baptiste Bagaza. This policy of unity has been applied to the UPRONA, as it has within the territorial administration and the state apparatus overall, but to a lesser degree in the army, where it has been possible to detect the emergence of Tutsi field officers from the centre and north of the country, but no Hutu officers.

FRODEBU

The FRODEBU was officially created in 1986 at the time when the dictatorship of Jean-Baptiste Bagaza was reaching its peak. The party's founder members were young Hutu and Tutsi professionals or intellectuals who entered into dialogue together about the political and social problems that the country was experiencing and the means by which to solve them. In addition to Melchior Ndadaye, Cyprien Ntaryamira and Sylvestre Ntibantunganya, they included Léonard Nyangoma, Jean-Marie Ngendahayo, Pontien Karibwami, Juvénal Ndayikeza, Richard Ndikumwami and Gilles Bimazubute (journalist, Tutsi). Melchior Ndadaye, a project manager with the Savings and Credit Co-operative (*Coopérative d'épargne et de crédit* - COOPEC) experienced his first national audience following his noteworthy speech during the summits of State executives in 1988, during which he denounced the contradictions between the official policy of national unity and

the reality of the state's practices. Unfortunately, this resounding position was followed by a bloody attack by the PALIPEHUTU at Ntega/Marangara in August 1988. Melchior Ndadaye was arrested but his appeal was heard. Shortly thereafter, Hutu intellectuals published an open letter, signed by university graduates, agronomists and journalists. It denounced army violence and the institutionalised discrimination against Hutu populations but resolutely affirmed that the approach of the armed struggle as adopted by the Palipehutu was wrong. The country became aware of the existence of a new political force that the Buyoya regime would try to harness. The policy of national unity and the opening up of numerous administrative positions to the Hutu elites would thus paradoxically favour the organisation of FRODEBU network. Relying on the relaxation of the police repression and their accession to positions of power, Sylvestre Ntibantunganya, who had become director of the Institut Rwagasore, Léonard Nyangoma, who was a member of the executive of the party's group of affiliated trade unions, and Melchior Ndadaye, who was an executive in a bank controlled by the Tutsi establishment, increased their contacts with Tutsi intellectuals sensitive to the need for renewal, who were mainly from the JRR, and gradually organised their political project. In 1990, Ndadaye, Karibwami, Ngendahayo, Bimazubute and Ntibantunganya were thus founder members of the Burundian Human Rights League Iteka (*Ligue burundaise des Droits de l'Homme Iteka*), with Eugène Nindorera, Ambroise Niyonsaba and Alphonse Rugambarara, who are today either ministers or leaders of political parties.

The country's political liberalisation and the announcement of the forthcoming legalisation of a multiparty system would result in the historic leaders of the FRODEBU losing their political virginity. From an undertaking as human rights activists advocating the establishment of democracy, the FRODEBU leaders had to turn their action into electioneering mobilisation. The issue was then raised as to relations with the PALIPEHUTU. When Tutsi populations were massacred at Bugesera in Rwanda in the first quarter of 1992, Melchior Ndadaye refused to make a statement condemning this violence, when it was learnt that members of the PALIPEHUTU had taken part. Informal contacts had in fact existed between the administrative staff of the FRODEBU and the PALIPEHUTU since the clandestine creation of the FRODEBU in 1986, although the latter had always declared its rejection of the armed struggle.

Symbolically, the FRODEBU party adopts the watchword *Sahwanya*. This word, which means "gathering" in Kirundi, is emotionally highly charged. It is the name that was given to the prayer and self-help units that were developed throughout the country by the Catholic church at the beginning of the nineteen eighties and which were persecuted by Jean-Baptiste Bagaza's regime because members of the PALIPEHUTU had allegedly invested in them. *Sahwanya* is the symbol of the Hutu resistance to Tutsi oppression. For the financing of the party's activities, a tactical alliance was nonetheless established with the former president of Burundi, Jean-Baptiste Bagaza. The latter financed the FRODEBU's election campaign, which then enabled him to return from exile after his victory in the presidential elections of June 1993.

When it was required to win the elections, the FRODEBU, a young party, realised that it needed the PALIPEHUTU's rural networks for its own electoral mobilisation. Their support was secured. The FRODEBU leaders had asked President Buyoya several times in 1993 not to hold elections with such short notice. But Buyoya was convinced he would win and wanted to benefit from a tactical advantage over the new parties. He forced the FRODEBU to find the resources for an effective

mobilisation. However, by agreeing to co-operate with the PALIPEHUTU, the FRODEBU undoubtedly corrupted its original convictions. The massacres of Tutsis in 1993 were a direct consequence of the ethnic escalation of the election campaign.

Annexe 5: From electoral revolution to the Convention of Government: an outline of the facts

The approval of the various political parties passed off without any major problems in 1992. Only the FRODEBU had difficulties securing its legalisation on account of the considerable reluctance of the party in power to authorise the creation of a formation from which it sensed a threat. UPRONA's officers, in particular, criticised the proposed executive organs "for not representing the different component parts of the population of Burundi" - in short, for not having enough Tutsis. The matter was thus referred to the administrative division of the Supreme Court in this regard, in order to prevent the legalisation of the party. Pressure on the regime from the international community, in particular (chiefly from the German, Belgian and French governments), was needed for the president to decide to put an end to the doubts surrounding the fate of his most formidable potential opponent¹⁴⁰. The Parliamentary Royalist Party (*Parti Royaliste Parlementaire*) of Mathias Hitimana also initially found itself facing a flat refusal on account of its anti-republican vocation. It was only approved after it changed its name to the Party for Reconciliation of the People (*Parti pour la réconciliation du peuple*) and amended its project for society. The two underground parties embodying the Hutu resistance abroad probably did not ask to be legalised, seeing as they were involved in the armed struggle, or else refused to accept the legitimacy of the Buyoya regime to rule on their legality.

The legalisation of the FRODEBU and the actual establishment of pluralism in rural areas immediately caused tensions with the administration, which did not always understand the consequences of the abolition of the one-party system. The exercising of minimum freedoms, such as the refusal to attend inaugurations and official ceremonies of the UPRONA, or the refusal to take part in work in the community's interest (a relic of the hard labour of the colonial era) was sometimes seen as a manifestation of civil disobedience. To calm the stir that the FRODEBU's legalisation caused in Tutsi public opinion and mitigate the possible inherent risk of things getting out of control, Pierre Buyoya finally decided to set up a national commission of dialogue on democratisation, in November 1992. On 10 March 1993, one week before the publication of the electoral law, this commission had the representatives of the political parties and the administration sign a code of conduct and duty to neutrality¹⁴¹.

Aware of the fears that its legalisation would engender among Tutsi public opinion, the FRODEBU very quickly stepped up its mediations with the Head of State to convince him not to hold a ballot in the months following this return to a multiparty system. The party in fact proposed that Pierre Buyoya put in place a government of transition and national unity, which would make it possible to ensure a smooth transformation of Burundi's political scene. However, in the belief that he would easily win the elections on his ticket as a reformer, Pierre Buyoya decided to hold snap general elections in order to benefit from the advantage of the incumbent. The electoral law was

¹⁴⁰ Cf. Gahama (J.), "Limits and contradictions in the peace process in Burundi", in Guichaoua (A.), *The political crises in Burundi and Rwanda (1993-1994)*, Paris, University of Lille 1/Karthala, 1995, p. 79.

¹⁴¹ Cf. Nsanze (A.), *Burundi, the past in the present. Vol. 2: the Republic against the people*, Nairobi, 1998, pp. 202-204.

published on 16 March 1993, the official campaign would last from 16 to 29 May and the presidential and legislative ballots would take place on 1 and 28 June. The UPRONA, which unanimously chose him as candidate for the presidency despite the lack of clarity regarding his status (the new constitution prohibited military personnel from aspiring to elected positions and the Major President had not officially resigned from the army), was convinced that it would make short work of the opposition political formations. The state party that had run the country for twenty-six years had at its disposal the material means, organisation, political experience and human and financial resources such as to enable Major Buyoya to be re-elected easily and the party executives to dominate the National Assembly by some considerable margin.

Unfortunately, this political calculation was incorrect. Forced to mobilise effectively in a very short space of time, Melchior Ndadaye's FRODEBU concluded a tactical alliance with the PALIPEHUTU to win the elections and inflict a humiliating defeat on the UPRONA. Supported by three other small Hutu parties, the RPB, PP and PL under the banner of the "Forces of Change" (*Forces de changement*) and borne by the local structures of the underground party¹⁴², Melchior Ndadaye handsomely won the presidential election in the first round of voting, with 64.79% of the recorded votes. Pierre Buyoya, the UPRONA candidate, supported by the RADDES and the PSD, only managed 32.47% of the votes and Pierre-Claver Sendegeya of the PRP obtained 1.40%. The election campaign had passed off without things getting out of control. Only Pierre-Claver Sendegeya was reprimanded by the electoral commission for his aggressiveness towards the UPRONA and fined BUF 2.5 million. Three weeks later, the results of the legislative elections were even more catastrophic for the former single party. Despite UPRONA's nomination of a majority of Hutu candidates on its lists, the FRODEBU won 65 of the 81 seats in the Kigobe Palace, i.e. 74.4% of the recorded votes, compared to 24.4% for the UPRONA. On two occasions, participation had reached record levels: 97.18% for the presidential election and 91.9% for the legislative elections. Non of the other parties obtained the threshold of 5% of votes required for parliamentary representation.

The FRODEBU's landslide victory had two consequences. Firstly it was interpreted by the losers as an ethnic census subjecting the Tutsi minority to public humiliation and was rejected by a part of the army. An initial attempt at a putsch failed on 3 July 1993, one week before the investiture of the new president. Secondly, the agreements concluded with the PALIPEHUTU and the lack of political experience of the new government team swiftly undermined its credibility. Its activists' conquest of the state looked like a social revolution. The FRODEBU did not know how to manage its victory and gave free rein to the excesses of its rank and file. Despite the appointment of a Tutsi prime minister from the UPRONA at the head of the government, in the person of Sylvie Kinigi, a second putsch was fomented and this time succeeded in removing the new regime's leaders on 21 October 1993. Melchior Ndadaye was assassinated, as were the President and Deputy President of the National Assembly. The putsch clearly aimed at creating a destabilising institutional void, putting an end to the period of democratic transition and its founding text, the Constitution of 1992.

¹⁴² For details on this collusion, see in particular the Burundi Human Rights League-*Iteka*, Special News Bulletin, May 1993.

The assassination of Melchior Ndadaye had a catastrophic effect on the country. A psychosis and collective hysteria simultaneously gripped the Hutu and Tutsi populations, the former fearful of a repeat of the 1972 genocide, the latter fearful of a bloody revenge from the demographic majority. Hutu peasants indiscriminately massacred innocent Tutsi populations the length and breadth of the country and the army responded to each atrocity with a renewed escalation of violence. In all, the bloody outbursts of violence in October, November and December 1993 claimed at least thirty thousand lives and provoked the exodus of some 70,000 new refugees. The ringleaders of the coup d'état, who were unanimously condemned by the international community, quickly declared that they wanted to hand power over to the civilians. The government had in the meantime taken refuge in the French embassy and general confusion reigned in its ranks. The institutional void continued until the end of December.

The institutional void brought about by the simultaneous assassinations of the President of the Republic, and the President of the National Assembly and his deputy president, would force the FRODEBU to negotiate with its opponents a re-establishment of the state's executive bodies. Indeed, constitutionally, power fell to Sylvie Kinigi, the UPRONA's prime minister, for the sole purpose of dispatching day-to-day matters until new elections were held. Seeing as it was impossible to organise this ballot, the leaders of the FRODEBU agreed to compromise with the UPRONA and its allies so as to be able to appoint a new head of state. The Kajaga-Kigobe negotiations of January-February 1994 thus replaced the 1992 Constitution and designated Cyprien Ntaryamira as the new president. Shortly before his appointment against a backdrop of the beginning of the civil war, militias of young Tutsis were created by certain politicians (of the Raddes, the Inkinzo, and Sojedem) as a reaction to the massacres that followed in the wake of the assassination of president Ndadaye and with a view to exerting pressure for their inclusion in the new government. It was from this point on that battles began to be waged between Hutu and Tutsi militias in various districts of the city, leading to the ethnic cleansing of these same neighbourhoods. The Kamenge district was shelled by the army in 1994 and 1995 and the Tutsi militias continued to create disorder with the army's complicity by organising "dead towns" and assassinating Hutu MPs and politicians. They denounced the FRODEBU's participation in the massacres of Tutsis in 1993 and Ntibantunganya's abuse of power (he was accused of using state funds to support the CNDD from September 1994), and did not conceal the fact that their objective was to overthrow a "genocidal" government. Soon a battle of influence began between the Tutsi politicians through the agency of the militias (Sans Défaites, Sans Echecs, Sojedem, Puissance d'Autodéfense-Amasekanya) for whom the UPRONA head office was often the stage for controlling the Tutsi youth.

The first of the political parties to sense the opportunities offered by the elected government's inability to control the situation was undoubtedly the UPRONA and its new president Charles Mukasi. The latter had been appointed party leader in replacement of Nicolas Mayugi in February 1994, during a National Forum that punished the team deemed to have been responsible for the electoral defeat of June 1993. On account of the institutional void and the fact that it was impossible to hold a new ballot, the FRODEBU needed the UPRONA in order to amend the Constitution and appoint a new head of state. During an initial round of talks at the Kigobe

Palace, the decision was taken to review the 1992 Constitution and to implement a power-sharing arrangement at government level and in some administrations. The president of the republic was to be elected by the National Assembly, by unanimous vote, to complete the mandate under way, on a candidacy presented by the party that had won the 1993 elections. Following this procedure, Cyprien Ntaryamira was elected president after the UPRONA had rejected Sylvestre Ntibantunganya, who was regarded as being politically too hard-line.

Nonetheless, this power sharing was unable to satisfy the entire political class. The matter was thus referred to the Constitutional Court, with the aim of "declaring the law modifying the Constitution to be unconstitutional, on the grounds that no procedure for the review of the constitution could be undertaken in the event of serious internal troubles"¹⁴³. The court, which had been appointed by the previous regime and only contained two Hutu members and a single FRODEBU sympathiser (Maître Fabien Segatwa), was reputed to be the last bastion of Tutsi power. President Ntaryamira then decided to dismiss most of its members and accept the resignation of Me Segatwa. This legally questionable and politically explosive decision resulted in violence flaring up in the capital and triggered the first "dead towns". With a view to restoring calm, the leaders of the political parties met at Kajaga to re-establish the Constitutional Court and at the same time choose a prime minister from among the opposition ranks.

This first crisis government was made up of 27 ministers, 60% of whom were from the "Forces of Democratic Change", the presidential movement made up of the FRODEBU, the RPB, the PP and the PL, and the remainder from the opposition parties, whether or not represented in parliament. The increase in the number of ministerial posts (from 23 to 27) meant the entry into the government – in addition to the four UPRONA ministers - of Nicéphore Ndimurukundo, president of the PIT (Ministry of Education), Joseph Nzeyimana, president of the RADDES (Ministry of Trade and Industry), Léonidas Nyamwana of the PRP (Minister for Public Works and Equipment), Alphonse Rugambarara, president of the Inkinzo (Minister of Culture, Youth Affairs and Sport), and, secondarily, Gaétan Nikobamye, president of the PL (Minister for Institutional Reforms and Relations with the National Assembly). The government had been in office for barely eight weeks when the aeroplane bringing presidents Ntaryamira and Habyarimana back from Arusha was shot down over Kigali. In accordance with the 1992 Constitution and the ruling of the Constitutional Court of 12 April 1994, Sylvestre Ntibantunganya was then called upon to exercise the functions of caretaker president. A week later and under pressure from the Tutsi parties, the same Court decided to rule on the appeal lodged before it on 13 January on the review of Article 85 of the Constitution and the validity of the Kigobe agreements. It concluded that this law was unconstitutional and therefore that Sylvestre Ntibantunganya's power was not legally well founded.

A new crisis was unfolding and a new negotiation phase had begun between the political parties, forced by the supporters of the previous regime. The death of president Ntaryamira in the explosion of the aeroplane bringing him back from Arusha again weakened the FRODEBU which on this occasion was forced to concede fresh negotiations in order to secure the appointment of a

¹⁴³ Foundation for unity, peace and democracy "Study of an institutional system adapted to Burundi", Bujumbura, mimeo, August 1996, p. 56.

president. A monitoring committee was immediately set up on 6 April 1994 to ensure the management of day-to-day business following the death of president Ntaryamira. This new period of transition was to last until 5 October 1994, when a new government was set in place under the leadership of the outgoing president of the National Assembly, Sylvestre Ntibantunganya, following the signing on 10 September of a "Convention of Government," due to run until the end of the mandate of the elected assembly, in June 1998.

The Convention of Government, which was signed on 10 September 1994, was the fruit of five months of negotiations between the political parties, during which a series of five protocols were adopted on the government's action programme and the sharing of the ministerial, administrative and diplomatic posts among the "Forces for Democratic Change" (*Forces de Changement démocratiques*) and the "Coalition of Opposition Political Parties" (*Coalition des Partis politiques d'opposition*), and signed during July. These political agreements between the twelve existing parties ratified the UPRONA's official return to the administration and a situation in which those elected in 1993 were taken hostage by the small parties, with all legislative, administrative or political decisions henceforth having to be taken according to the rule of consensus.

To re-establish peace, the political parties thus took the initiative of replacing the national sovereignty embodied by popular suffrage, thus:

Article 5:

This agreement, with a view to the re-establishment of the institutions, corrects some clauses of the current Constitution which have become inapplicable on account of the crisis, until a national debate leads to a constitution based on the democratic principles guaranteeing the development of one and all.

Article 6:

The agreement determines the missions entrusted to the president of the republic and to the government born of the consensus. It determines the functioning of the institutions born of the consensus and sets guidelines for the effective running of the State. Until its review is effected, the Constitution of the republic continues to be applicable for all matters that do not run counter to this agreement".

The president thus could not be of the same political group as the prime minister and all his institutional deeds (legislative, regulatory and administrative) had to be countersigned by the prime minister except for those governed by Article 72.1 of the Constitution (article governing the appointment of the prime minister). The Agreement also accorded him the right to choose on his own the members of his own office. The government was made up of members of the FCD to the tune of 55% and members of the CPPO to the tune of 45%, with the portfolios distributed according to prior agreement between the two alliances.

A three-quarters majority moreover subjected the institutional acts of the president of the republic to the deliberation of a National Security Council ruling. The members of this council were: the President, the Prime Minister, the Minister for External Relations (FCD), the Minister of the Interior (CPPO),

the Minister of Defence, a representative of the FCD, a representative of the CPPO, a representative of civil society, a representative of the National Council of Unity, and a permanent secretary enjoined to ratify the Agreement without any modification and to accept the suspension of its prerogatives as regards dismissal of the government. Finally, a committee made up of members of the different political parties was set up to monitor application of the agreement.

Sylvestre Ntibantunganya, the president of the FRODEBU, who was chosen as head of state by the parties, had a small FCD majority in his government but found himself bound hand and foot by the members of the CPPO and their sympathisers, who were in the majority within the National Security Council with seven members out of ten. Parallel to this, the agreement established a sharing-out of the administrative and diplomatic posts, whereby 60% went to the FCP and 40% went to the CPPO. A special protocol was responsible more especially for distributing the functions within the information and migration departments of the Ministry of the Interior.

The composition of the government also saw an enlargement in the representation of the coalition of the opposition political parties, organised throughout the negotiations into four entities: the PRP, the PIT, the group of opposition parties (UPRONA, Inkinzo, RADDES), and the Forum for the Constitutional State (ABASA, PSD, ANADDE). The parties that were members of the FED did not obtain any ministerial posts but salvaged administrative and diplomatic appointments. The PRP was no longer represented in the government but the PIT retained the Ministry of National Education, and the Inkinzo and the RADDES also kept their positions. Overall, the major winner in the Government Agreement was undoubtedly the UPRONA, which increased its ministerial representation, claimed for itself all the governor's and municipal administrator's posts reserved for the CPPO and also obtained a quota of the director's posts in the migration and information departments as well as several diplomatic representations and the directorate general of the national radio and television. Charles Mukasi, its president, was aware of its political influence.

Distribution of the administrative and diplomatic posts in the Government Agreement of 10/09/1994.

Positions		FCD	CPPO
Governorship of provinces	of	Bubanza, Cankuzo, Cibitoke, Gitega, Karuzi, Kirundo, Makamba, Ngozi, Ruyigi	Bururi, rural Bujumbura, Bujumbura city hall, Kayanza, Muramvya, Musinga, Rutana
Administration of municipality	of		
Diplomatic representations		Addis Ababa, Bonn, Geneva, Kampala, Kigali, Kigoma, Kinshasa, Moscow, Paris, Ottawa, Rome, Riyadh, Tokyo, Washington	Brussels, Bukavu, Dar-es-Salaam, Cairo, Nairobi, New York, Peking, Pretoria, Stockholm

Information services	-General Administrator -Directorship of internal information	-Assistant General Administrator -Press and information department -Department of external information.
Migration services	-Assistant General Administrator -Directorship of the department of the Chancellery -Directorship of the aliens department	-General Administrator -Directorship of the department of border administration

Despite the UPRONA's return to office, the chaos orchestrated by Charles Mukasi, the small parties and the Tutsi militias remained the preferred method of making the FRODEBU give in and forcing it to make still more concessions. On 8 January 1995, Jean Minani, who had just been elected president of the FRODEBU, was forced to resign the presidency of the National Assembly due to the UPRONA's threats to paralyse the capital again. Minani was accused of having incited FRODEBU's executives to massacre the Tutsi population, during a call for resistance against the putschists that was broadcast by radio from Rwanda in October 1993. The Tutsi parties judged his election to the presidency of the Assembly unacceptable, and Léonce Ngendakumana replaced him. It was then his own prime minister, Anatole Kanyenkiko, who fell victim to the UPRONA's vendetta. He was accused of collaborating too closely with the "genocidal forces", and the Tutsi parties organised a general strike that forced his departure on 15 February 1995. He was to be replaced a week later by Antoine Nduwayo. In mid March, the assassinations of the Minister for Energy and Mines and then of the Mayor of Bujumbura caused the violence to flare up again throughout the country. The confrontations between rebels based in Zaire who infiltrated as far as the Kibira forest and the army intensified. On 18 June, the National Security Council decided to put in place exceptional measures to curb the violence. The Assembly, several of whose members had received death threats and were obliged to take refuge in Uvira, rejected these. The confrontations between militiamen and the massacres by the army continued unabated. On 15 January 1996, a "dead town" day was again organised in Bujumbura, calling for the resignation of Sylvestre Ntibantunganya. However, Déo Niyonzima, one of its main leaders and head of the SOJEDEM, was arrested¹⁴⁴.

This latent violence and the fact that it was impossible to put an end to it via a resolution of the conflicts based on internal dialogue gradually raised the question as to the timeliness of foreign mediation, or the arrival in Burundi of an international intervention force to enable the disorder to be brought to an end. Nineteen ninety-six started with the international community paying fresh attention to Burundi. Boutros Ghali, the UN Secretary-General, asked for an international force to be stationed in neighbouring Zaire, ready to intervene in Burundi to put an end to the ethnic massacres. After its Rwandan disappointments, the Security Council remained restive regarding any military intervention but supported the deployment of human rights observers and renewed mediation efforts. While international pressure on the country's political leaders intensified - particularly following the visit to Bujumbura on 31 May of the American assistant secretary of

¹⁴⁴ Cf. Delorme (O.), Gaud (M.), "Political chronology of Burundi ", art. quoted.

state for African affairs, Georges Moose, and then of Madelaine Albright, the then US Ambassador to the United Nations -, they agreed to take part in an initial attempt at peace negotiations organised by the former president Julius Nyerere at Mwanza, Tanzania. After a difficult start, these talks, which were gradually opened to include all the political parties, seemed to yield fruit and led to a regional summit at Arusha. There Sylvestre Ntibantunganya publicly asked for regional military assistance, a request positively received by Uganda, Tanzania, the American government and all the financial backers. However, this was vigorously rejected by the UPRONA, the radical Tutsi opposition and the army which called it an "invasion". On 23 July, having been stoned by the population during the burial of victims of violence at Bugendana, Sylvestre Ntibantunganya took refuge in the United States Embassy. The next day, the UPRONA denounced the Government Agreement and called for the president's resignation for collusion with the enemy. Two days later, the prime minister Antoine Nduwayo resigned, the PARENA demonstrated in Bujumbura and the army announced that Pierre Buyoya had been returned to power.

Annex 6: The splitting into two of the leaderships of the Burundian political parties

Political parties	Presidents in July 1996	Putschist presidents
1. UPRONA	Charles Mukasi	Luc Rukingama
2. P.R.P.	Mathias Hitimana	Albert Girukwishaka
3. P.P.	Shadrack Niyonkuru	Séverin Ndikumugongo
4. RADDES	Joseph Nzeyimana	--
5. FRODEBU	Jean Minani	Augustin Nzojibwami
6. R.P.B.	Balthazar Bigirimana	--
7. ANADDE	Ignace Bankamwabo	--
8. P.L.	Gaëtan Nikobamye	Joseph Ntidendereza
9. P.S.D.	Vincent Ndikumasabo	--
10. P.I.T.	Nicéphore Ndimurukundo	--
11. ABASA	Térence Nsanze	Serge Mukamarakiza
12. Inkinzo	Alphonse Rugambarara	--
13. PARENA	Jean-Baptiste Bagaza	--
14. A.V. Intwari	André Nkundikije	--