

The Utility of Mediators in Burundi Peace Process

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Abstract

The conflict in Burundi that erupted with the killing of the democratically elected President Melchoir Ndadaye in 1993 was under an international spotlight. Firstly the international community was enraged by the violent way in which hope over peace was scoffed in Burundi. Then, the intervention of the regional actors and the subsequent appointment of Julius Nyerere, former president of Tanzania and later Nelson Mandela, former South African president, as mediators to the conflict, added to outside interest. The peace process started in earnest in 1996. For the next four years, negotiating parties battled it out at the negotiating table up to the moment of the signing of the peace treaty in 2000. Success was not guaranteed nor was compromise easy to reach. The daunting task was to include rebel groups that were still fighting in the talks. The fragile nature of the Great Lakes Region did not make things easy since rebels fighting in Burundi could easily traverse borders either to dodge advancing attacks or rearm. The subsequent implementation of the Agreement, through the formulation of the transition government and holding democratic elections in 2005 that brought to power president Pierre Nkurunziza, is testimony that if the region, the international community, and the facilitators act in unison, many of the conflicts in Africa could be resolved.

Introduction

The attempted seizure of power by the army on 21st October 1993, besides killing the first democratically elected President in Burundi, Melchoir Ndadaye, caused an estimated 50,000 deaths and the exodus of 80,000 refugees to neighbouring countries and sparked one of the most vicious conflicts in Burundi (Lemarchand, 1997: 211). While the international community was indifferent to previous conflicts in Burundi, the train of tragic events that unfolded with the coming to power of Major Pierre Buyoya in 1993 activated international interest that stood firm until peace was

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restored. In the 1990s a new international consensus championed by the United Nations was slowly crystallizing around a growing intolerance for massive human rights abuses. Equally significant, this particular conflict was sustained for a long time making its impact felt not only at home but also abroad, thus dragging in more external actors in the process. As many countries became affected by the conflict, they were forced to look for a way to stop the suffering not only to Burundi but also to their own countries. This article hypothesizes that mediators played key critical roles that facilitated achievement of peace in Burundi.

The peace process was initiated by a meeting that convened in Cairo in November 1995 at the request of the UN Secretary General and attended by presidents of Burundi, Rwanda, Uganda and Zaire and a Tanzanian presidential representative. At that meeting it was decided that negotiations involving mediation by an eminent African statesman should start immediately, with Nyerere as a prominent candidate for the mediation task. The Tunis OAU Summit of March 1996 formalized the request when Nyerere showed willingness to mediate and when the contending parties in Burundi agreed to his mediation.

The Mediation

The Burundi peace talks started in 1996 in Mwanza Tanzania. Two rounds of talks, that came to be known as Mwanza I and Mwanza II, took place in April and June 1996. The talks set the principles of negotiations with a major agreement being that negotiating parties will be UPRONA and FRODEBU, each political party having representation in the parliament. The Mwanza Talks were intensive and acrimonious and it was clear that it would be impossible to make meaningful progress at the first meeting (Bunting et al, 2000). The facilitator drafted a statement for consideration and possible signature by FRODEBU and UPRONA leaders in which they would declare, inter-alia that there cannot be a solution to the conflict in Burundi through the use of arms and other forms of violence because the nature of the conflict is political; that they condemn violence, political killings and assassinations as a means of achieving or returning to political power or settling differences with political opponents; and lastly, that they reiterate their total commitment and adherence to the use political as well as constitutional means for achieving political objectives (Bunting et al, 2000).

It is hardly surprising that Mwanza I Talks broke down. After so many years of hate and repudiation, parties could not set aside their deep-seated animosity towards each other. The Hutu considered the Tutsi as genocidaires and they insisted that men responsible for Ndadaye's assassination should be brought to justice and that nothing short of the return of the pre-1993 legality can bring peace to the country. On the other hand, the Tutsi extremists rejected out of hand any ideas of power sharing.

Hate and mistrust persisted even at the time of Mwanza II in June 1996. Political polarization appeared to have been, at least temporarily, intensified by the talks. Both FRODEBU and UPRONA traded accusations that nearly paralyzed the talks. A stalemate emerged and for two years peace talks were suspended until the all-parties talks resumed in Arusha in 1998 (Mthembu-Salter, 1999: 237). As opinions hardened, Major Pierre Buyoya orchestrated the 1996 army *coup de tat* that saw him back to power for the second time.

The All-Party Talks

The first session of the All-Party Talks finally began on June 21, 1998 in Arusha Tanzania (Arusha Talks). Seventeen political parties and representatives from civil society organizations, women's and youth associations signed a "Declaration by the Participants in the Burundi Peace Negotiations Involving all Parties to the Burundi Conflict". The signatories committed themselves to firstly, engage in serious negotiations until they reach a just and lasting solution to the crisis in their country. Secondly, to resolve the Burundi conflict through peaceful means, and to put an end to all forms of violence. And thirdly for the suspension of hostilities to take effect not later than 20th July 1998. The declaration also laid down the road map to achieving peace by highlighting contentious issues that called for immediate attention, including: (i) nature of the conflict in Burundi and the problems of genocide and exclusion and their resolutions; (ii) democracy and good governance, constitutional arrangements, justice and the fight against impunity, administration and transitional institutions; (iii) peace and security, rehabilitation and resettlement of refugees and displaced persons; (iv) guarantees on implementation of the agreement emanating from the Burundi Peace Negotiations.

Rules of Procedure

Before the beginning of the talks, negotiating parties agreed on a number of rules to guide the proceedings. Particularly noteworthy is that negotiations

were to be conducted at three levels, namely in plenary meetings, in committees, and in informal consultations. The plenary was the highest organ with decision making power. Meetings were held in closed sessions. Rules of procedure were very important since they provided a general guideline on the conduct of the peace talks. They were the key to the success or failure of the talks. But rules of procedure allowed only political parties as negotiators in the talks and made all other stakeholders observers. This, in my opinion, was not healthy for a process that was to unleash democracy and democratic institutions in Burundi and that was expected to be a microcosm of political democratic processes. Democracy encompasses more than political parties and those who made the rules of procedure ought to have been aware of that. By including only political parties the civil society, academicians, religious leaders, intellectuals, refugee camp leaders, women and youth group leaders and others were sidelined. This rigidity in the rules of procedure nearly paralyzed the talks, especially when the same negotiating parties splintered due to internal misunderstandings. When the splinter groups demanded participation in Arusha and were refused, they reverted to violence.

Again, the power distribution in the talks was tilted in favour of the facilitator who had final say over admittance to the talks. Even when it became apparent that the rules of procedure were working to obstruct the peace talks, negotiating parties were not able to amend them. If constitutions of countries are amended from time to time to accommodate prevailing demands, it is strange why the rules of procedure were treated as sacrosanct. When Mandela assumed the Facilitator role, he saw the danger of shutting out some parties simply because of the tight qualification procedures. He then invited FDD and FNL but CNDD and PALIPEHUTU from which the two parties splintered vetoed their admission. It might not be too speculative to argue that parties and groupings that were consciously left out of the peace process developed a vested interest in trying to sabotage both the peace processes and the implementation of the agreements.

The Mediators/ Facilitators of the Burundi Peace Talks

The Burundi peace talks were notable for having two renowned African statesmen as Facilitators. Nyerere started the process but unfortunately he died before the conclusion of the talks. He was followed by Mandela, another political heavy weight in Africa, an indication of how the international community valued the peace talks. It is important here to mention some of

the experiences the facilitators had with the parties. Initially not all political parties accepted Nyerere as mediator and positions kept changing from time to time. For instance, in 1997 the Buyoya government and UPRONA boycotted talks that were organized by Nyerere. Reasons given by the government included lack of consultations in the preparation of the meeting, choice of venue and the partiality of the mediator. UPRONA argued that neither Tanzania nor Nyerere were impartial and that Tanzania was a hostile territory. They saw Nyerere as the author of the sanctions that brought suffering to the people and threatened the Buyoya regime. Sanctions, with all their good intentions, placed Nyerere in a position where he could no longer be perceived as impartial to all parties to the conflict.

The Buyoya regime, for instance, viewed Nyerere as using sanctions to bring it down. Nyerere was put under severe criticism when he refused admission to Arusha of the two rebel movements, CNDD-FDD and FNL. During the course of the negotiations, parties faced internal problems because leaders did not agree on certain pertinent issues concerning the core of the talks. These parties thereafter developed factions like FDD, which is a breakaway of CNDD, and demanded representation in Arusha. Nyerere viewed this as a threat to his endeavour and strictly refused them admission to the talks. In return, FDD accused Nyerere of harbouring a 'hidden agenda' in collaboration with President Yoweri Museveni of Uganda to install in Bujumbura a weak government under their influence. By adopting a hard approach to the breakaways, Nyerere alienated these otherwise crucial actors in the Burundi peace search. It is only logical that by refusing them admission, these parties were likely to sabotage the talks by stepping up violence and the refusing to be bound by subsequent agreements reached in Arusha.

Following increased pronouncements by the parties on the partiality of Nyerere as the mediator, he informed the heads of state of his desire to step aside as a facilitator of the Burundi peace process in August 1997. The Summit was firmly of the view that the continued role of Nyerere was crucial for the negotiated settlement of Burundi conflicts. This declaration boosted Nyerere's legitimacy as facilitator to the Burundi peace process, albeit with the problem of exclusion of the FDD and FNL unresolved. In the course of time, parties' perceptions of the mediator and towards each other changed, thus facilitating a smooth continuation of the talks. However, Nyerere was

not able to bring the negotiating parties to sign a peace agreement before his death in October 1999.

Nelson Mandela, former President of South Africa, was appointed new Facilitator by the Eighth Arusha Summit on 1st December 1999. For reasons of continuity he had to work with the same facilitation team of the previous facilitator, and at the same venue in Arusha, Tanzania. With a personal track record of both reconciling with opponents and working diligently towards just, inclusive political settlements, he had the right qualifications for the job of mediating between the Burundian conflicting parties. Furthermore, the South African government would not let Mandela fail in his endeavour. Since the South African government was already responding to problems of the Great Lakes Region, Burundi was critical for its overall regional success. On 16th January 2000, Mandela met with negotiating parties to launch his initiative. During the same meeting all the delegates of the eighteen parties that attended for the peace talks gave him a standing ovation (Eck, 2000).

The appointment of Nelson Mandela gave the Burundi peace process a major and much needed new lease of life. There was renewed hope of peace in Burundi. The first strategic move by Mandela was to invite political parties and rebel groups that did not have representatives in Arusha, especially the rebel movements CNDD-FDD and PALIPEHUTU-FNL. But as we saw earlier, these parties could not participate in the talks because rules of procedure did not allow military groups to join. Like his predecessor, Mandela also failed to address the problem of the rules of procedure.

Mandela's second strategic move was to actively engage the international community in the Burundi peace process. One such international involvement was in February 2000 when Mandela invited various non-regional statesmen to attend a session of Arusha talks. He also organized a two-way video address in which other interested persons, especially from outside Africa, could participate in the talks, prominent among them former US President, Bill Clinton. The gesture to involve ex-US President Bill Clinton assured delegates that they were receiving the highest international attention.

The Arusha Peace and Reconciliation Agreement for Burundi

The Arusha Peace and Reconciliation Agreement for Burundi, hereinafter referred to as "the Agreement", was signed in Arusha on the night of 28th

August 2000. This was a major landmark as far as the Burundi peace is concerned. It was to be a major breakthrough in the search for peace in Burundi. It was also a major achievement for the mediators and the region that had worked hard to bring violence in Burundi to an end.

Present during the historic signing ceremony were twelve heads of state and government from Africa, and outside Africa including the then US President Bill Clinton. There were also representatives of international organizations: the United Nations, the European Union, and the Organization of African Unity that was represented by the then Secretary-General Salim Ahmed Salim. The Heads of State and Government as well as the representatives of international organizations apart from being international witnesses to this event also threw their diplomatic weight behind the Agreement. Their presence served as an indication of their readiness to help the conflict resolution endeavour. Some of their countries also had been involved in the conflict resolution process in Burundi.

The Agreement in outline called for a transitional government to be set up within six months, elections in three years and for the army to split evenly on ethnic lines. It is very important to note from the beginning that the Agreement was not a comprehensive peace plan. The reason for this observation is that some contentious areas and especially thorny issues were suspended pending further negotiations. The remaining contentious issue was a ceasefire. This depended on the rebel commitment to the Agreement. According to Section 2(c) Article 1 of the Preamble:

Pending the negotiation and agreement of a comprehensive cease-fire agreement with the armed wings of non-signatory parties, chapter III of protocol III to the Agreement shall not come into effect; following the conclusion of the cease-fire agreement, it shall be deemed to be amended so as to be consistent with the provision thereof.

Some parties were at first cautious and reluctant. On the signing day only fifteen out of eighteen parties signed the Agreement. Initially, a cluster of minority Tutsi parties known as G-8 threatened to boycott the signing ceremony, but the Facilitator Nelson Mandela persuaded five of them in his last minute efforts and they agreed to sign the document but with

reservations. At a regional Summit in Nairobi on 20th September 2000 the remaining three groups signed the Agreement after some persuasion from the heads of state (The East African, September 25 - October 1, 2000). Nevertheless, seven parties still nursed some reservations on issues pertaining to handling of genocide suspects, the electoral system and the powers of president as well as the parliament. On 1st December 2000, the Burundian National Assembly endorsed the agreement, effectively making it a constituent part of the domestic laws.

The Agreement is made up of Protocols and Annexes to whose provisions the signatories commit themselves. Protocols have been modelled alongside the major themes for negotiations. The Agreement contains five protocols. Protocol I is on Nature of the Burundi conflict, problems of Genocide and Exclusion as well as their solutions. It deals with the nature of the Burundi conflict from the pre-colonial to the post-colonial period. Also it stipulates solutions to the Burundi conflict. Protocol II deliberates on democracy and democratic institutions to be established in Burundi. Rules governing the transition period are stipulated. Protocol III in regard to peace and security covers issues of composition of the security forces and integration of armed forces of belligerents. Some provisions of this protocol on cease-fire and cessation of hostilities were suspended. The guarantees for the implementation of the Agreement established the Implementation Monitoring Committee to oversee the Implementation period, as discussed in the next section.

The Implementation Monitoring Committee (IMC)

According to Protocol V Article 3 of the Agreement, there shall be an Implementation Monitoring Committee (IMC) to follow up, monitor, supervise and coordinate the implementation of the Agreement. The functions of the IMC were to:

- (i) Ensure that the implementation timetable is respected;
- (ii) Ensure the accurate interpretation of the Agreement;
- (iii) Reconcile points of view;
- (iv) Arbitrate and rule on any dispute that may arise among the signatories;
- (v) Give guidance to and coordinate activities of all the commissions and sub-commissions set up pursuant to each protocol of the Agreement;

- (vi) Assist and support the transitional government in the diplomatic mobilization of the financial, material, technical and human resources required for the implementation of the Agreement;
- (vii) Decide on the admission of new participating parties in accordance with article 14 of protocol II to the Agreement; and
- (viii) Perform any other duty specifically allocated to it by the Agreement (Article 34(1) of Protocol V).

The IMC was chaired by the representative of the UN who acted in consultation with the government, the OAU and the Regional Peace Initiative on Burundi. The IMC was composed of two representatives of parties; one representative of the government; six Burundians designated for their moral integrity; and representatives of the UN, the OAU (now AU), and the Regional Peace Initiative on Burundi. Professor Andrew Masondo was appointed by the Facilitator as his permanent representative. The inauguration of the IMC formally marked the end of the Burundi peace talks. The Burundi facilitation team officially completed its work and handed over the remaining responsibilities to the IMC.

The Implementation of the Agreement

There was great optimism when the Burundi peace Agreement was signed. One of the reasons was the keen interest of the international community which promptly promised to see to it that peace returned to the country. Even after the negotiations formally ended several 'proxy' talks were organized by the Ministry of Foreign Affairs and International Cooperation, in Dar es Salaam. These were high level meetings attended by heads of state. It was also clear that rebels could not sustain their hard-line positions given a new atmosphere of political understanding in Burundi. Very slowly rebels found themselves squeezed and unable to mobilize support leaving the only option to use the opportunity provided by the Agreement to be part of the peace process.

The major challenge that faced the IMC was the regional nature of the insurgency in Burundi. It came to light that the main rebel groups were at the same time engaged in the war in the DRC, making it difficult for regionally imposed sanctions to have a serious negative impact on them, supposing the region imposed sanctions on rebels as it threatened. But the political climate in the DRC changed drastically after the assassination of President Laurent Kabila in January 2001. Joseph Kabila, succeeding his father, showed great