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Abbreviations

AU – African Union

BNUB- The United Nations Office in Burundi

BINUB – The United Nations Integrated Office in Burundi

CNDD-FDD - The National Council for the Defense of Democracy–Forces for the Defense of Democracy

COMESA - Common Market for Eastern and Southern Africa

EAC - East African Community

EOM - EU Election Observation Mission

EU – The European Union

FRODEBU – The Hutu Front of Democracy in Burundi

ICC - International Criminal Court

ICGLR - International Conference on the Great Lakes Region

MENUB - The UN Electoral Observation Mission in Burundi

NATO - North Atlantic Treaty Organization

ONUB - United Nations Operation in Burundi

RtoP – The Responsibility to Protect

UN – The United Nations

UNIIB - United Nations Independent Investigation on Burundi

UNSC – The United Nations Security Council

UN S-G – The United Nations Secretary-General

UPD - Union pour la paix et le développement, opposition party

United Nations Security Council (UNSC)

The Charter of the United Nations is the foundation document for all the UN work. The UN was established to “save succeeding generations from the scourge of war” and its main purpose is to maintain international peace and security. The Charter gives the UN Security Council primary responsibility for the maintenance of international peace and security. In fulfilling this responsibility, the Council may adopt a range of measures, including the establishment of a UN peacekeeping operation.

The Security Council shall first determine the existence of any threat to the peace, breach of the peace, or act of aggression and after that make recommendations, or decide what measures shall be taken. The UNSC can call upon the parties to a dispute to settle it by peaceful means and recommend methods of adjustment or terms of settlement. In some cases, the Security Council can also resort to imposing sanctions or even authorize the use of force to maintain or restore international peace and security.

All Member States are obligated to comply with Council decisions. Therefore, all members of the UN have to agree to, and carry out, the decisions of the Security Council. While other organs of the United Nations make recommendations to member states, only the Security Council has the power to make decisions that member states are then obligated to implement under the Charter. These decisions, or resolutions as they are commonly referred to, can take any form. All means and measures are available to the UNSC as long as the resolution, and the mandates the resolution includes, complies with the Council's main purpose.

The UNSC's recommendations and measures are compiled in what is called a *resolution*. In the resolution, the Council's demands and recommendations are called mandates, which constitute the goals and means that are to be implemented by all actors involved. When the resolution refers to a conflict, the mandates and especially the means to implement the mandates approved by the UNSC, could be further specified through references to Chapters VI, VII and VIII in the UN Charter.

When a dispute leads to hostilities, the Council's primary concern is to bring them to an end as soon as possible. In that case, the Council may:

- issue ceasefire directives that can help prevent an escalation of the conflict;
- dispatch military observers or a peacekeeping force to help reduce tensions, separate opposing forces and establish a calm in which peaceful settlements may be sought.

Beyond this, the Council may opt for enforcement measures, including:

- economic sanctions, arms embargoes, financial penalties and restrictions, and travel bans;
- blockade;
- or collective military action.

A chief concern is to focus action on those responsible for the policies or practices condemned by the international community, while minimizing the impact of the measures taken on other parts of the population and economy.

The United Nations Charter and conflict management

Chapters VI, VII and VIII in the Charter of the United Nations outlines the possibilities and limitations to the United Nations conflict management. When the UNSC creates a resolution, it could or could not include a specific reference to one, two or all three of the chapters dealing with conflict management, all depending on how severe the conflict is and how specific the UNSC would like the response to be. Of course, the inclusion or exclusion of specific references to Chapters VI, VII and VIII also depends on the level of consensus among the UNSC members.

Chapter VI

Chapter VI deals with the “Pacific Settlement of Disputes” and constitutes that:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. In sum, Chapter VI deals with peaceful means of conflict management.

UN peacekeeping operations have traditionally been associated with Chapter VI. However, the Security Council need not refer to a specific Chapter of the Charter when passing a resolution authorizing the deployment of a UN peacekeeping operation. Hence, if the UNSC explicitly refers to Chapter VI of the UN Charter in a resolution, it would therefore imply that *only* peaceful means could be used.

Chapter VII

Chapter VII deals with action with “Respect to Threats to the Peace”, “Breaches of the Peace” and “Acts of Aggression”. Under Chapter VII, the UNSC can decide on measures involving or not

involving the use of armed force to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures.

In recent years, the Council has adopted the practice of invoking Chapter VII of the Charter when authorizing the deployment of UN peacekeeping operations into volatile conflict or post-conflict settings where the State is unable to maintain security and public order. The Security Council's invocation of Chapter VII in these situations, in addition to denoting the legal basis for its action, can also be seen as a statement of firm political resolve and a means of reminding the parties to a conflict and the wider UN membership of their obligation to give effect to Security Council decisions. Hence, when the UNSC includes or refers to Chapter VII in a resolution it signifies that all necessary means, including coercive military force, are available to fulfill the mandates specified in the resolution. If the UNSC wishes to allow such measures but only in certain circumstances, or for only some of the mandates included in the resolution, then that must be explicitly stated in connection to the reference to Chapter VII.

Chapter VIII

Chapter VIII in the UN Charter regulates what is called "Regional Arrangements".

This chapter provides for the involvement of regional arrangements and agencies in the maintenance of international peace and security.

Hence, if the UNSC would like the assistance of a regional organization in implementing a resolution and achieving its mandates, then the Council includes a reference to Chapter VIII. Such a reference may or may not include a specific organization (such as the North Atlantic Treaty Organization or the African Union), however it has to explicitly include language defining that organizations under Chapter VIII are asked to implement the mandate. Furthermore, it must also specify what parts of the resolution, or if the resolution as a whole will be implemented by Chapter VIII organizations. It is most common that no specific organization is mentioned in the resolution, however this option opens up for *any* willing Chapter VIII organization to implement the resolution as long as they follow the mandates and mission according to the resolution. If a specific organization is referred to, then *only* that organization is allowed to implement the resolution, or selected parts of the resolution.

The creation of United Nations Peace Missions

The UN Charter gives the Security Council primary responsibility for the maintenance of international peace and security. In fulfilling this responsibility, the Council can establish a UN peacekeeping operation.

UN peacekeeping operations are deployed on the basis of mandates from the UNSC. If the Security Council determines that deploying a UN Peacekeeping operation is the most appropriate step to take, it will formally authorize this by adopting a resolution. The resolution sets out the operation's mandate and size, and details the tasks it will be responsible for performing. This implies that the UNSC must clarify both the actual establishment of a UN peacekeeping mission and its size, scope (i.e. what mandates), measures and tools (including references to Chapter VI, VII and/or VIII of the Charter) in the resolution. The resolution also has to define for how long the peacekeeping mission will exist. This can either be limited by a timeframe or until some or all of the mandates in the resolution have been achieved. Hence, the mere existence of a UN peacekeeping mission depends on the UNSC resolution and its mandates.

Over the years, the range of tasks assigned to UN peacekeeping operations has expanded significantly in response to shifting patterns of conflict and to best address threats to international peace and security. Although each UN peacekeeping operation is different, there is a considerable degree of consistency in the types of mandated tasks assigned by the Security Council.

Depending on their mandate, peacekeeping operations may be required to:

- Deploy to prevent the outbreak of conflict or the spill-over of conflict across borders;
- Stabilize conflict situations after a ceasefire, to create an environment for the parties to reach a lasting peace agreement;
- Assist in implementing comprehensive peace agreements;
- Lead states or territories through a transition to stable government, based on democratic principles, good governance and economic development.

Depending on the specific set of challenges, UN peacekeepers are often mandated to play a catalytic role in the following essentially peacebuilding activities:

- Disarmament, demobilization and reintegration of ex-combatants;
- Security sector reform and other rule of law-related activities;
- Protection and promotion of human rights;
- Electoral assistance;
- Support for the restoration and extension of State authority;
- Promotion of social and economic recovery and development.

Atrocity crimes

Atrocity crimes are considered to be the most serious crimes against humankind. Their status as international crimes is based on the belief that the acts associated with them affect the core dignity of human beings, in particular the persons that should be most protected by States, both in times of peace and in times of war. The term “atrocity crimes” refers to three legally defined international crimes: genocide, crimes against humanity and war crimes, and ethnic cleansing, which is a part of crimes against humanity and/or genocide.

Atrocity crimes tend to occur in countries with some level of instability or crisis. Consequently, measures taken to prevent these crimes are likely to contribute to national peace and stability. Prevention also serves the larger agenda of regional and international peace and stability. Atrocity crimes and their consequences can spill over into neighbouring countries by, for example, creating or reinforcing tensions between groups that are defined along religious or ethnic lines rather than by national borders. The obligation to prevent and punish atrocity crimes has become a norm of customary international law, which means that it is mandatory for all states, regardless of whether they have ratified the conventions.

The principle of the Responsibility to Protect, which reaffirms the primary responsibility of the State to protect its population from atrocity crimes, is founded on all these legal obligations and interpretations.

Genocide

Genocide, according to international law, is a crime committed against members of a national, ethnical, racial or religious group. Even though the victims of the crimes are individuals, they are targeted because of their membership, real or perceived, in one of these groups.

Article II in the Convention on the Prevention and Punishment of the Crime of Genocide defines the term “genocide” as:

Acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, including:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;

- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Note: Genocide can happen in or outside of armed conflict.

Crimes against humanity

Crimes against humanity encompass acts that are part of a widespread or systematic attack directed against any civilian population. Even though non-civilians might also become victims of the attack, the ultimate target must be the civilian population for it to be considered a crime against humanity.

The Rome Statute of the International Criminal Court defines crimes against humanity in Article 7 as follows:

For the purpose of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

War crimes

On 12 August 1949, the international community adopted four Geneva Conventions. These and the two Additional Protocols, adopted in 1977, protect individuals who are not involved in hostilities during times of armed conflict. The Conventions and Additional Protocols articulate the standard of treatment for these individuals under international humanitarian law and define a war crime as:

An act committed during an armed conflict that violates international humanitarian or human rights law.

The range of violations that constitute war crimes is broad and includes, inter alia, murder or ill-treatment of anyone who is not or no longer taking part in hostilities, including civilians, prisoners of war, wounded or sick, medical and religious personnel and staff of relief operations.

Note: War crimes under the Responsibility to Protect should be limited to crimes directed against civilian populations, committed in a widespread and systematic manner.

Ethnic cleansing

Ethnic cleansing is not officially recognized as a distinct crime under international law, but entails a purposeful policy designed by one ethnic or religious group to remove, by violent and terror-inspiring means, the civilian population of another ethnic or religious group from certain geographic areas.

Thus, ethnic cleansing is encompassed in crimes against humanity, and/or genocide, which includes the forcible transfer or deportation of populations.

Burundi

Population: 85% Hutu, 14% Tutsi, 1% Twa.

Ruling party: The National Council for the Defense of Democracy–Forces for the Defense of Democracy (CNDD-FDD). The CNDD-FDD is closely connected to and supported by the Imbonerakure, the CNDD-FDD's paramilitary youth movement.

President: Pierre Nkurunziza, ethnic Hutu and former chairman of CNDD-FDD

Background

Burundi is a tiny, landlocked nation in Africa, just south of Rwanda, that shares a border with Tanzania to the east and south and the Democratic Republic of the Congo to the west. It is most often linked to its northern neighbor Rwanda because of the similarities in ethnic divisions between Hutus and Tutsis and other histories of violence. However, while the world was engrossed by the 1994 Rwandan genocide that spurred a plethora of international debate and attention, much less is commonly known about the Burundian Genocide in 1972, its 1993-2005 civil war, and the tremendous repercussions of each that are still being felt today.

Furthermore, returning refugees who fled during the civil war are placing additional strains on the country's limited land and resources. The 2014 Global Hunger Index categorized the levels of hunger as "extremely alarming" due to "persistent food insecurity, high inflation, a high poverty rate, and poor levels of education."

The current ethnic divisions in Burundi between the Hutus and the Tutsis can be traced back to when it was a colony of Belgium from 1916-1962. Under Belgian rule, the minority Tutsi population were favored and given enormous privileges enabling them to gain control of the military, government and, most importantly, land. Hutu land chiefs were stripped of their rights and claims, which further pitted them against the Tutsis. As the Tutsis continued to build on their government and military monopoly, the tensions came to a head in the spring of 1972.

1972 Genocide

A small group of radicalized Hutu intellectuals, mostly operating from Tanzania, spurred a rebellion aimed at retrieving power from the ruling Tutsi and would subsequently launch attacks that killed hundreds of Tutsis in a matter of days. As a result, then-President Michel Micombero deployed the military and carried out attacks on Hutus, killing hundreds of thousands across Burundi. While the estimated number of deaths varies, most estimates hold that around 200,000 were killed by the end of August 1972.

Civil War: 1993-2005

In July of 1993, the Hutu Front of Democracy in Burundi (FRODEBU) candidate Melchior Ndadaye became the country's first democratically elected president. His presidency lasted less than three months, as he was assassinated in October of that same year by Tutsi extremists. Intense inter-communal fighting broke out between Hutus and Tutsis as a result of

the assassination and a UN Security Council fact-finding mission to Burundi undertaken in 1994 estimated that the failed coup attempted to kill some 50,000 people, both Hutu and Tutsi. Burundi saw another president killed in early 1994, when newly elected Hutu president Cyprien Ntaryamira and Rwandan president Juvenal Habyarimana both died when their plane was shot down near Kigali (an event that would come to mark the beginning of the Rwandan genocide). Violence between the two groups continued and in 1996 another coup was launched by Pierre Buyoya, a Major in the Tutsi army who overthrew the interim President Sylvestre Ntibantunganya.

The civil war that claimed over 350,000 lives and led to the displacement of more than 1 million civilians between 1993 and 2005.

Arusha Peace Agreement

While many informal attempts to end the conflict were carried out both inside and outside of Burundi, it was not until 28 August 2000 that the major parties to the conflict signed the Arusha Peace and Reconciliation Agreement for Burundi. Subsequent ceasefire agreements were reached, following the Arusha Peace Agreement, which saw an end to the initial violence in 2005. The Arusha Peace Agreement contains five important protocols addressing the root causes of the conflict and ways to implement sustainable peace through democratic elections and political institutions. The agreement includes a power-sharing element which stipulates a five year term of office for the president and a two-term limit for reelection.

Recent developments

There is an imminent risk of mass atrocity crimes in Burundi as a result of targeted killings, widespread human rights violations and a growing number of clashes between the security forces and armed opposition elements. The UN Special Adviser on the Prevention of Genocide, Adama Dieng, and the UN High Commissioner for Human Rights, Zeid Ra'ad al-Hussein, have warned of a possible relapse into civil war if ongoing violence is not halted.

What sparked the violence and the current conflict was when President Pierre Nkurunziza announced in April 2015 that he will seek a third presidential term after being nominated by his ruling party, the CNDD-FDD. Seeking a third term was a violation of both the agreement and the constitution. Three months later, in July 2015, President Nkurunziza won the presidential elections. Following this, in August 2015, he was officially sworn in for a third term as Burundi's president.

The current political situation in Burundi has the potential to destabilize the entire country and place thousands of innocent lives in danger. The main opposition group, the Alliance of Democrats for Change (ADC), has claimed that the President and his party have been arming the Imbonerakure, the youth wing of the current ruling party CNDD-FDD, and allowing them to carry out attacks on the population. The violent reputation of the Imbonerakure is a major cause for concern and could incite ethnic violence at any moment. Tutsis are being targeted because of their ethnicity in what is further evidence that tensions between Hutus and Tutsis still exist. A report by Amnesty International highlights past human rights abuses of the Imbonerakure and details the powerful influence they hold over the police and civil society.

In early November 2015, President Nkurunziza called for all citizens to disarm or face action by Burundian security forces as "enemies of the nation." Following this, violence has been steadily increasing and at least 439 people have been killed in civil unrest since April 2015. According to the UN, at least 130 people were killed in December, which corresponds to twice the number reportedly killed during the preceding month.

High Commissioner Zeid has raised concern over a systematic policy of targeting members of the opposition, journalists and human rights defenders. The UN Office of the High Commissioner for Human Rights has also reported increasing cases of sexual violence by government security forces, including such violence against women in opposition neighborhoods of Bujumbura. Opposition politicians, human rights defenders and journalists have also been subjected to arrest and torture, and independent media outlets have been systematically destroyed or shut down.

The UN High Commissioner for Refugees reported that over 239,000 Burundians, including a number of high-ranking government officials, have fled the country since April. Refugees have reported harassment, enforced disappearances and murder, including by the Imbonerakure. Furthermore, there has been a widespread censorship of media outlets, such as radio stations and the internet, trying to report on the current situation and warn appropriate parties. There are also reports of people, even children, being arrested arbitrarily.

There are ongoing reports of hate speech and incitement to violence by members of the government and some opposition supporters. Journalists, human rights activists, and the civilian population suspected of opposing President Nkurunziza's third term, are very vulnerable to arbitrary arrest and detention, among other abuses. The civilian population in areas perceived by the government as having a high percentage of opposition, faces on an

almost daily basis executed and mutilated bodies spread out on the streets to intimidate the residents.

Conflict timeline

In 2004, Security Council Resolution 1545 authorized the deployment of a peacekeeping mission known as the United Nations Operation in Burundi (ONUB) to help oversee the implementation of the Arusha Peace Agreement.

On 25 October 2006, the United Nations Integrated Office in Burundi (BINUB) was established (S/RES/1719) to assist Burundian Government efforts towards peace and stability. BINUB was also mandated to facilitate dialogue between the Government and the extra-parliamentary opposition, and to help the Government of Burundi to professionalize its security forces. Working with the civil society, BINUB promoted the respect of human rights and prepared for the establishment of transitional justice mechanisms. BINUB was equally mandated to promote and protect women's rights and to ensure gender mainstreaming.

On 19 December 2007, the Security Council decided (S/RES/1791) to extend BINUB until 31 December 2008. The mission was then extended again in S/RES/1858 and S/RES/1902.

On 1 January 2011, the previous work of ONUB and BINUB was carried over to the United Nations Office in Burundi (BNUB) in S/RES/1959. BNUB was mandated to support the Government in strengthening the independence, capacities and legal frameworks of key national institutions, in particular the judiciary and parliament; promoting dialogue between national actors; fighting impunity and protecting human rights. BNUB ended its operations in Burundi on 31 December 2014, a development that was promoted and welcomed by the Burundian Government but stood in contrast to the recommendations of several UN member states and experts.

In 2013, the Burundian government imposed a media law that has been widely criticized for limiting the protection of journalistic sources, requiring journalists to meet certain educational and professional standards, and banning content related to national defense, security, public safety, and the state currency. The law empowers the media regulatory body to issue press cards to journalists, suspend or withdraw cards as a result of defamation cases, and impose financial penalties for media offenses.

In 2014, Burundi's authoritarian government increased its crackdown on opposition parties and imposed heavy restrictions on freedom of assembly, not allowing more than three persons to gather publicly.

Also in March, police arrested 70 people in Bujumbura for allegedly planning to participate in a protest affiliated with the opposition party Movement for Solidary and Democracy (MSD). They were tried on charges of rebellion and insurrection during a one-day summary hearing. The hurried proceedings resulted in 21 defendants sentenced to life in prison, 27 defendants sentenced to between 2 and 10 years, and 22 defendants acquitted. The MSD was suspended until July.

On 1 January 2015, the UN Electoral Observation Mission in Burundi (MENUM) was established. It was tasked with overseeing the upcoming electoral process beginning in May 2015 and keeping the UN Secretary-General informed. While many continue to laud the nation for its successes, the warning signs are mounting that a return to violence is certainly not out of the question.

On 15 April, in his trip to Burundi following a deteriorated security situation and reported human rights abuses, the UN High Commissioner for Human Rights, Prince Zeid Ra'ad al-Hussein, stated, "I therefore urge the country's politicians, and the rank-and-file political activists, to ensure the political debate, while naturally heated, never reaches the level of inciting hatred or violence...I urge the President and the ruling party, as well as opposition leaders, police and military to place the future well-being of the country as a whole before their own personal political desires."

On 25 April, Burundi's ruling party announced their nomination of President Pierre Nkurunziza for a third term in power as president.

On 26 April 2015, protesters took to the streets to express their disapproval with President Nkurunziza's decision and the police responded by firing teargas. The protests continued throughout May 2015 and into June 2015.

On 13 May, a coup attempt against Nkurunziza occurred while he was out of the country; the coup leader, Godefroid Niyombare, a general who had been let go as intelligence chief declared that the president had been ousted amid protests against his bid for a third term. Facing resistance from President Nkurunziza loyalists, the coup collapsed and forces loyal to President Nkurunziza were back in full control by 15 May.

On 14 May 2015, the Peace and Security Council of the African Union issued a decision on the situation in Burundi stating, “the strong condemnation by the AU of all acts of violence, including the ongoing clashes in Bujumbura between factions of the army, attacks against civilian populations and other abuses, as well as the destruction of public infrastructure and other property.” It also welcomed ongoing UN efforts and wished for a return to the Arusha Peace Agreement to find a long-lasting political solution to the crisis.

On 15 May 2015 Prince Zeid warned of the possibility for further violence after the failed coup attempt and urged “the Burundian authorities to ensure that security forces comply fully with the country’s international human rights obligations and international standards on policing demonstrations.”

On 23 May, Zedi Feruzi, leader of the opposition Union pour la paix et le développement (UPD) Zigamibanga party in Burundi, and his bodyguard, were reportedly shot dead in the country capital of Bukumbura. According to the UN spokesperson's office, the killing came just one day after a fatal grenade attack on Bujumbura's central market that left two dead and many others wounded.

On 24 May, United Nations Secretary-General Ban Ki-moon condemned the killing of a Burundian politician and his bodyguard in a move that threatens to further destabilize the country amid simmering political tensions and a growing humanitarian crisis. He also stated that “These acts of violence constitute a stark reminder of the need for all Burundian political leaders to address the current political crisis with the highest sense of responsibility and to place peace and national reconciliation above partisan interests.”

On 28 May 2015, High Representative/Vice-President Federica Mogherini issued a statement informing that the EU Election Observation Mission (EOM) had been suspended because of “restrictions on independent media, excessive use of force against demonstrators, a climate of intimidation for opposition parties and civil society, and lack of confidence in the election authorities.”

On 31 May, The UN Special Adviser on the Prevention of Genocide, Adama Dieng, “strongly encouraged Burundian parties to use their influence to prevent any action that could increase the risk of violence against individuals or groups on the basis of their identity, including political affiliation, religious and ethnic identity, particularly given the history of ethnic violence in the country.”

On 25 May 2015, the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), International Conference on the Great Lakes Region (ICGLR), the AU, and the UN issued a joint statement condemning the acts of violence in Burundi. They called “on the Government to guarantee the security of all citizens, respect their human rights and exercise restraint at all times and in particular while handling demonstrations.”

On 6 July, the East African Community (EAC) appointed Ugandan President Yoweri Museveni to facilitate dialogue in Burundi.

On 23 July, the AU deployed human rights monitors and military observers to the country. The human rights monitors have not been granted permission to conduct their work.

Also on 23 July, President Pierre Nkurunziza won the presidential elections and a new term in office. President Nkurunziza had garnered 69.41 percent of the votes cast in the polls.

On 20 August, President Pierre Nkurunziza was officially sworn in as Burundi's president for a third term in power.

On 29 October, the President of the Burundian Senate, Révérien Ndikuriyo, called on local leaders, police, and civilians to identify and exterminate the opposition; “you should exterminate, these people deserve to die!” and “get ready to pulverize”. The message was delivered in a language very similar, and sometimes identical, to the language preceding the Rwandan genocide, also urging them to “conduct the work” and “complete the task”.

On 6 November, the Chief Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, stated that she was prepared to take further action and prosecute everyone who conducts, or plans to conduct atrocity crimes. Burundi has ratified the ICC.

On 7 November, President Nkurunziza sets an ultimatum, calling on the opposition to disarm within five days to avoid being punished as “enemies of the nation”. Shortly after the announcement, President Nkurunziza initiates an operation aimed at identifying and forcefully disarming the opposition.

On 9 November, at an urgent UNSC meeting on the escalating situation in Burundi, the UN Secretary-General reminded Burundian authorities of their responsibility to protect civilians. The Secretary-General also appointed Jamal Benomar as his Special Adviser on Conflict

Prevention, including on Burundi. The Special Advisor on the Prevention of genocide, Adama Dieng, briefs the UNSC and says that “the country appears to be on the verge of a descent into violence that could escalate into atrocity crimes” and reports that the violence and human rights violations over the last period have included the assassination of senior members of the security forces and high-profile individuals affiliated with both the ruling party and the opposition, as well as targeted killings of ordinary civilians. Furthermore, Adama Dieng reports a “continued militarization of opposition political parties and actors” and reports of “civilians fleeing from areas perceived to be sympathetic to the opposition, for fear of attacks”. Finally, he concludes that “given the clear information we have about the gravity of the situation, we will not be able to claim, if a full scale conflict erupts, that ‘we didn’t know’. The international community has a responsibility to protect Burundians and to prevent the commission of atrocity crimes”.

On 12 November, the UN Security Council (UNSC) passed Resolution 2248 (S/RES/2248), warning of possible further measures against those perpetuating violence in the country and calling for the Secretary-General to report on options for an enhanced UN presence. Also on 12 November, the UNSC issued a statement on Burundi (S/PRST/2015/18), expressing deep concern about the rising violence in the country.

On 30 November, Special Adviser on Conflict Prevention and Burundi, Jamal Benomar briefed the UNSC after visiting the region and meeting with President Nkurunziza, who claimed that the situation in Burundi was under control and that the government was in no need of international assistance. Jamal Benomar also presented the Council with brief options for a future UN presence: a peacekeeping operation, a special political mission, or a UN “support team” to enhance UN presence in the country (S/2015/926).

On 1 December, the UN Secretary-General issued a letter outlining two possible options for Burundi: an integrated UN special political mission or a fully-fledged peacekeeping operation.

On 11 December, at least 100 people were killed in Bujumbura following coordinated attacks against military barracks by unidentified armed opposition elements. There were also reports of extrajudicial executions of suspected opposition supporters by Burundian security forces as well as the existence of suspected mass graves in the aftermath of the attacks.

On 17 December, the UN Human Rights Council held a special session on the situation in Burundi and decided to deploy a mission of existing independent human rights experts. As of 26 January 2015, the team had still not been able to enter the country due to lack of response

by the government of Burundi.

Also on 17 December, the AU Peace and Security Council asked to authorize the deployment of a 5,000-strong African Prevention and Protection Force in Burundi (MAPROBU) for a period of six months pending acceptance of the proposal by the government. The Burundian government rejected the deployment, and the force was not approved by Heads of State at the AU Summit when the issue was put to a vote on 30-31 January. Instead, The AU decided to set up a high-level delegation of African leaders to travel to Burundi and meet with officials and assess the situation to further look into the possibilities and needs of military deployment.

On 21 January, Special Advisor Jamal Benomar deployed his team in Burundi according to the 9 November resolution. The support team started working with the government to support a “credible and inclusive political dialogue” and advise the authorities on addressing security concerns.

On 22 January 2016, the UNSC visited Burundi and met with President Nkurunziza to discuss the ongoing crisis. Discussions between the government and opposition facilitated by the EAC, AU and UN were due to resume on 6 January, but were indefinitely postponed by the government due to concerns over the participation of certain opposition groups.

On 30 January, on the AU summit opening, the UN Secretary-General made clear that troops were needed in Burundi to stem the violence.

On 8 March 2016, after eight days of meetings, interviews, and exchanges with a wide range of actors, the United Nations Independent Investigation on Burundi (UNIIB), created by the Human Rights Council last December, ended its first country visit. During their visit, the experts met with government officials – including one of the country's two Vice Presidents – political leaders, civil society groups, and victims of human rights violations.

“Overwhelmingly, what we take away is the sense that Burundi is at a crossroad, but also the hope shared by most people that the current situation will improve,” one member of UNIIB stated.

The Responsibility to Protect (RtoP)

The Responsibility to Protect (RtoP) is a new norm, based on existing international law, to prevent and stop genocide, war crimes, ethnic cleansing and crimes against humanity.

In 2001, the government of Canada sought to answer Kofi Annan's challenge to reform the work of the UN so that atrocity crimes such as the genocides in Rwanda and Srebrenica could be prevented and stopped. Canada formed a panel of international experts, the International Commission on Intervention and State Sovereignty (ICISS). After a series of consultations among governments, non-governmental organizations, inter-governmental organizations, universities and think tanks, ICISS issued its report, *The Responsibility to Protect*, and created the foundation of the principle.

Some years later, in September 2005 at the UN World Summit, heads of state and governments unanimously adopted the Responsibility to Protect and agreed to the text in Paragraphs 138-140 of the Outcome Document of the World Summit (see A/RES/60/1 para. 138-140).

The Outcome Document on the Responsibility to Protect said that all member states have a duty to prevent and halt genocide and mass atrocities. This duty lies first and foremost with the state, but the international community has a role that cannot be blocked by the invocation of sovereignty. Sovereignty no longer exclusively protects States from foreign interference; it is a charge of responsibility where States are accountable for the welfare of their people. This principle is enshrined in Article 1 of the Genocide Convention and embodied in the principle of "sovereignty as responsibility" and in the concept of the Responsibility to Protect.

The adoption of the Responsibility to Protect was historic as the idea of committing to an international responsibility to protect all mankind from atrocity crimes gained support from governments and civil society from all regions. This was in part a result of leadership from states in the Global South, including Argentina, Chile, Guatemala, Mexico, Rwanda and South Africa, all of whom were staunch advocates for the inclusion of the norm.

Three pillars

In January 2009, the UN Secretary-General released a report on the implementation of the Responsibility to Protect. Following this, the first General Assembly Debate on the Responsibility to Protect was held in July 2009. At this debate, UN Member States overwhelmingly reaffirmed the 2005 commitment and the General Assembly passed a consensus resolution (A/RES/63/308) taking note of the Secretary-General's report.

In his 2009 report "Implementing the Responsibility to Protect" (see A/63/677) the Secretary-

General outlined three pillars of the principle. The pillars further explain the implementation of the Responsibility to Protect:

Pillar I:

The first pillar says that states bear the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing.

Pillar II:

The second pillar says that the international community has a responsibility to assist and encourage states in fulfilling their protection obligations.

Pillar III:

The third pillar says that if a state fails to protect its population from these crimes or in fact perpetrates them, the international community must respond in a timely and decisively manner, using appropriate diplomatic, economic, humanitarian and other peaceful means to protect populations. If peaceful means are inadequate, the international community must be prepared to take stronger action, including collective enforcement measures under Chapter VII of the UN Charter.

Note: All three pillars include not only the reaction to atrocity crimes but also the prevention, including the bare incitement to commit these crimes.

African Union (AU) and the Responsibility to Protect

In 2000, African nations formed the African Union, and immediately incorporated principles later echoed in the Responsibility to Protect in the AU founding document, the Constitutive Act. The AU's emphasis on ensuring that the protection of populations from atrocity crimes be a collective responsibility, can be seen in the following articles of the Constitutive Act:

- Art. 4 (h) stipulates that the “Union has the right to intervene in a Member State (MS) pursuant a decision of the Assembly in respect of grave circumstances, namely genocide, war crimes and crimes against humanity.”
- Art. 4 (j) indicates that a MS has the right to request intervention from the Union for the restoration of peace and security.

Furthermore, the AU does not require the consent of the state to intervene in situations where populations are at risk. However, as per RtoP principles, the AU considers that military intervention without the consent of the state must be a last resort.

How to detect atrocity crimes – Framework of analysis

It is possible to identify warning signs or indicators that they might occur. This is particularly true in the case of genocide and crimes against humanity. If we understand the root causes and precursors of these crimes, and can identify risk factors that can lead to or enable their commission, it follows that we can also identify measures that can be taken by States and the international community to prevent these crimes. The earlier the risk factors are identified, the greater the opportunities for early prevention. However, if atrocity crimes are already occurring, the options available to respond will be very limited and may require the use of coercive measures, including the use of force. The United Nations Office of the Special Adviser on the Prevention of Genocide has developed a tool to detect, prevent and halt atrocity crimes; The Framework of Analysis for Atrocity Crimes.

The framework consists of 14 risk factors which are conditions, behaviors or situations that increase the risk of genocide, war crimes or crimes against humanity. Each risk factor includes several indicators. The Framework is thus an analytical tool for assessing the risk of atrocity crimes. Not all risk factors need to be present for there to be an assessment that there is a significant risk of atrocity crimes occurring. Second, the more risk factors (and the greater number of relevant indicators) that are present, the greater the risk that an atrocity crime may be committed.

When analyzing the situation in Burundi with help of the Framework, it stands clear that the conflict in Burundi is at the brink of, or at an imminent risk of atrocity crimes being committed if not already being perpetrated. At this moment, at least 12 out of 14 risk factors and a vast number of indicators are identified as present in the Burundi conflict. Therefore, the conclusion is that so far, the Burundian authorities have manifestly failed in their responsibility to protect its populations from atrocity crimes.

Below is a summary of identified risk factors and some examples of their respective indicators. For a full list of risk factors and indicators and access to the entire framework, consult the final part “Useful links”.

Risk factor 1: Situations of armed conflict or other forms of instability.

Situations that place a State under stress and generate an environment conducive to atrocity Crimes, including political tension caused by autocratic regimes or severe political repression and security crisis caused by, among other factors, defection from peace agreements.

Risk factor 2: Record of serious violations of international human rights and humanitarian law.

Past or current serious violations of international human rights and humanitarian law, including past acts of atrocity crimes or their incitement and a policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement.

Risk factor 3: Weakness of State structures.

Circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes, including high levels of corruption or poor governance, lack of an independent and impartial judiciary and lack of effective civilian control of security forces.

Risk factor 4: Motives or incentives.

Reasons, aims or drivers that justify the use of violence against protected groups, populations or individuals, including political motives, particularly those aimed at the attainment or consolidation of power and real or perceived threats towards groups, populations or individuals who are against interests or objectives of perpetrators, including perceptions of disloyalty to a cause.

Risk factor 5: Capacity to commit atrocity crimes.

Conditions that indicate the ability of relevant actors to commit atrocity crimes, including capacity to encourage or recruit large numbers of supporters from populations or groups and the availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement.

Risk factor 6: Absence of mitigating factors

Absence of elements that, if present, could contribute to preventing or to lessening the impact of serious acts of violence against members of a national, ethnical, racial or religious group, population or individual members of any of these groups, including a strong, organized and representative national civil society and of a free, diverse and independent national media and lack of or limited presence of the United Nations.

Risk factor 7: Enabling circumstances or preparatory action.

Events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration including the creation of, or increased support to, militia or paramilitary groups and increased violations of the right to life, physical integrity, liberty or security of members of opposing groups, populations or individuals, and/or recent adoption of measures or legislation that affect or deliberately discriminate against them.

Risk factor 8: Enabling circumstances or preparatory action.

Events or measures, whether gradual or sudden, which provide an environment conducive to the commission of atrocity crimes, or which suggest a trajectory towards their perpetration including acts of incitement or hate propaganda targeting particular groups or individuals and abrupt or irregular regime changes, transfers of power, or changes in political power of groups.

Risk factor 9: Intergroup tensions or patterns of discrimination against members of a national, ethnical, racial or religious group.

Past or present conduct that reveals serious prejudice against members of a national, ethnical, racial or religious group and that creates stress in the relationship among groups or with the State, generating an environment conducive to atrocity crimes including serious discriminatory, segregational, restrictive or exclusionary practices, policies or legislation against opposing groups.

Risk factor 10: Signs of an intent to destroy in whole or in part a national, ethnical, racial or religious group.

Facts or circumstances that suggest an intent, by action or omission, to destroy all or part a group based on its national, ethnical, racial or religious identity, or the perception of this identity including political manifests, media records, or any other documentation through which a direct intent, or incitement, to target a protected group is revealed, or can be inferred in a way that the implicit message could reasonably lead to acts of destruction against that group.

Risk factor 11: Signs of a widespread or systematic attack against any civilian population.

Signs of violent conduct including, but not limited to, attacks involving the use of force, against any civilian population and that suggest massive, large-scale and frequent violence (widespread), or violence with patterns of periodicity, similitude and organization (systematic) including Increase in the number of civilian populations or the geographical area

targeted, or in the number, types, scale or gravity of violent acts committed against civilian populations and signs of a plan or policy to conduct attacks against civilian populations.

Risk factor 12: Signs of a plan or policy to attack civilian population.

Facts or evidence suggestive of a State or organizational policy, even if not explicitly stipulated or formally adopted, to commit serious acts of violence directed against civilian population, including the adoption of discriminatory security procedures against different groups of the civilian population and the involvement of State institutions or high-level political or military authorities in violent acts.

Actions to prevent and halt atrocity crimes

The primary goal of RtoP focuses on the prevention of atrocity crimes and is here referred to as upstream prevention. Upstream prevention involves measures that governments can employ in their countries, such as developing institutions and policies and strengthening sectors in order to reduce the risk that mass atrocities will occur. If the prevention occurs at a later stage, it is referred to as downstream prevention. Downstream prevention involves responses to imminent threats of mass atrocities. These measures may be economic, political, humanitarian or military, and can be undertaken by actors in the international community, including civil society, individual governments, regional and sub-regional arrangements, and UN bodies.

In the event that a state fails to prevent mass atrocities within its borders, and if diplomatic, humanitarian and other peaceful means are inadequate, the Security Council may authorize any necessary means, including the use of force, to protect civilians from mass atrocities. No matter what the situation, the responsibility of all actors extends beyond when the threat to populations is no longer imminent, and includes holding perpetrators accountable, establishing mechanisms for rebuilding and reconciliation, and preventing the recurrence of violence.

Below are some examples of actions to prevent and halt atrocity crimes listed:

- Strengthening and supporting democracy and elections
- Supporting and facilitating sharing of power and democratic processes
- Deploying experts, police and/or military to ensure protection of fundamental human rights
- Referring matters to the International Criminal Court (ICC) to ensure justice and accountability when the state is unable or unwilling to

- Promoting intergroup confidence building and dialogue to prevent atrocities or to promote reconciliation between ??
- Carrying out security sector reforms to assist the transformation from conflict and hostilities to peace and stability
- Strengthening the rule of law to ensure accountability
- Deploying neutral envoys for mediation between groups
- Establishing fact-finding missions to ensure a non-biased report on the situation
- Deploying military and police force to protect civilians
- Deploying military to help oversee or enforce other tasks
- Targeting sanctions against perpetrators such as travel bans or freezing assets in order to eliminate means to commit atrocity crimes
- Establishing arms embargos or no-fly zones to eliminate means to commit atrocity crimes
- Pressuring perpetrators with the threat of coercive means, including military interventions

Agenda Items

The members of the Security Council are asked to convene at an extraordinary meeting; to gather once again within the walls of peaceful cooperation and to prove your commitment to ensuring peace and security in the international community.

Here, the Security Council is encouraged to discuss necessary actions and consider all appropriate measures, including actions under Chapter VII of the Charter of the United Nations, to protect all civilians, including members of ethnic, religious and confessional communities, from both the incitement and the perpetration of genocide, crimes against humanity, war crimes, and ethnic cleansing (mass atrocity crimes) in Burundi.

Burundi is at a crossroads and the international community needs to wake up to this reality. A civil war in Burundi between 1993 and 2005 resulted in serious crimes against humanity, culminating in genocide. The war cost over 300,000 lives and displaced over one million people in Burundi. The country's tragic history and that of its neighbor Rwanda illustrate the consequences of failing to act when leaders fail to stop incitements to violence, or commit such incitements themselves. Today, Burundi is once again facing an imminent risk of mass atrocity crimes (genocide, crimes against humanity, war crimes and ethnic cleansing) as a result of targeted killings, increasing human rights violations and a growing number of clashes between the security forces and armed opposition elements. Learning from the failure to stop

the Rwandan genocide, the United Nations developed in 2005 a tool for the prevention and halting of mass atrocity crimes; the Responsibility to Protect (RtoP). To deter further violence and to prevent repetitions of Rwanda and Burundi, the Security Council should take urgent measures to prevent the situation from escalating, including actions outlined in the Responsibility to Protect principle. The United Nations Security Council and the international community must unite in its responsibility to protect Burundians and to prevent mass atrocity crimes.

The Security Council is specifically asked to address the following issues:

1. The responsibility of the Burundian authorities and the international community to protect all Burundian civilians from mass atrocity crimes;
2. The formulation and implementation of a substantial United Nations response in Burundi aimed at the protection of civilians from mass atrocity crimes. Necessary actions and appropriate measures should be taken, specifically actions arising under Chapter VII of the Charter of the United Nations and the Responsibility to Protect.

Useful links

About the crisis in Burundi and international response:

<http://www.globalr2p.org/regions/burundi>

<http://responsibilitytoprotect.org/index.php/crises/crisis-in-burundi>

List of UN resolutions, statements and documents for Burundi:

<http://www.securitycouncilreport.org/un-documents/burundi/>

Reports on UN Security Council work on Burundi:

<http://www.whatsinblue.org/cgi-sys/cgiwrap/scrarchives/managed-mt/mt-search.cgi?search=Burundi& mode=tag&IncludeBlogs=31&limit=3&page=1>

About RtoP:

<http://www.responsibilitytoprotect.org/ICRtoP%20Toolkit%20on%20the%20Responsibility%20to%20Protect.pdf>

The Framework of Analysis for Atrocity Crimes:

http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf

About UN peacekeeping:

<http://www.un.org/en/peacekeeping/>

List of all statements on RtoP by UN member states:

<http://www.responsibilitytoprotect.org/index.php/about-rtop/government-statements-on-rtop>

List of references to RtoP in Security Council resolutions:

<http://www.responsibilitytoprotect.org/index.php/component/content/article/136-latest-news/5221--references-to-the-responsibility-to-protect-in-security-council-resolutions>