



Revitalizing Responsibility to Protect (R2P) in Burundi

Executive Summary

In mid-2015, Burundi descended into a political crisis. As the humanitarian situation escalated, African Union (AU), United Nations (UN), and the East African Community (EAC) sought to intervene under Responsibility to Protect (R2P). The AU, however, aborted the plan to send 5000 peacekeeping troops to Burundi in 2015. The UN also failed to send 228 monitoring police personnel in 2016 (sanctioned by UN Security Council –UNSC - Resolution 2303). Inter-Burundian dialogue led by the East African Community (EAC) is also taking place in fits and starts risking the utility of R2P. In fact, the country had a violence-marred referendum on 17 May 2018 revising presidential term limits and ethnic power distribution matrix (among other elements) which might be another source of conflict. This policy brief highlights the R2P impasse in Burundi since 2015, partly pointing at the inherent limitations of R2P. It also calls for a greater role for the Burundian government in exercising responsibility to protect; more by the UN and AU; EAC's increased support for the inter-Burundian dialogue; suspension of aid-related sanctions; and International Criminal Court's (ICC) intervention.

Background

President Pierre Nkurunziza's third term bid in April 2015 triggered protests and violence (Kushkush, 2015). His clearance by the constitutional court, an alleged attempted coup against him, and controversial elections that handed him another term, have escalated the political crisis in Burundi. On 17 May 2018, the ruling party sponsored a referendum that extended presidential term limits and restructured ethnic (between the Hutu and Tutsi) power distribution matrix, which might become another source of conflict.

So far, 600,000 people have been displaced internally while 427,800 have fled to Tanzania, Rwanda, Uganda, and DR Congo. Between 400 and 1000 or more, have been killed by the indiscriminate violence, and yet this number might increase ("Political Crisis in Burundi," 2018).

In response to escalating humanitarian crisis in Burundi, the AU resolved to send 5000 peacekeepers to the country in December of 2015 (McCormick, 2015). It was, however, met with government repudiation and the move was abandoned in February 2016. In July 2016, the UNSC issued Resolution 2303, sending



228 monitoring officers to the country. The delegation was also met with domestic resistance and has yet to operationalize it ("UN to send Police," 2016). The inter-Burundian dialogue led by EAC under the chairmanship of Ugandan President Yoweri Museveni and facilitated by former Tanzanian President Benjamin Mkapa is also happening in fits and starts. President Museveni looks not personally engaged in the process as demonstrated by delegation of his role in the negotiation to his defence minister, Crispus Kiyonga in 2015. On the other hand, Mkapa decries lack of commitment from the parties in conflict. This false start to R2P in Burundi risks damaging its utility: pillars, justification, and relevance.

Key Findings

Sanctions and cutting of aid to the Burundian government by the international community hurt the country's capacity to provide public services and manage the humanitarian situation. This move inadvertently jeopardized guiding principles of R2P as adumbrated by the International Commission on Intervention and State Sovereignty- ICISS (2001) – especially the principles of just cause, proportional means and reasonable prospect, in R2P implementation. Weiss (1999) however emphasizes this principle in R2P implementation for desirable outcomes and sustained legitimacy.

R2P was developed to objectively balance sovereignty calls and human rights needs in armed conflict (Badescu, 2011). Therefore, the procrastination to operationalize missions to Burundi by AU and UN in the face of sovereignty claims by the host government undermined the primacy of human rights *ab initio*. This failure also undermined the third pillar of R2P – timely and decisive response – which Bellamy (2005) emphasizes in his discussion on the relevance of R2P.

The active role of Burundi's government in the conflict and political crisis undermined R2P's first pillar of state responsibility as set in the UN World Summit Output Document of 2005. Therefore, the state responsibility gap was a key escalatory factor in the crisis and resultant humanitarian situation.

Bellamy (2009) emphasizes the second pillar of R2P – international assistance and capacity building – for effective implementation of R2P. Therefore, the detached attitude of Museveni, the clumsiness of the Arusha process (inter-Burundian dialogue), and the effect of sanctions, collectively undermine R2P's utility altogether.

Conclusion

It is clear that R2P in Burundi was a false start and remains so until it is re-examined and operationalized well. Cutting aid, failure to operationalize UN and AU missions, the Burundi government's direct role in the conflict, and the faltering EAC-led inter-Burundian dialogue threaten R2P's utility. However, it is not too late to enforce R2P in Burundi as it is still necessary given continuing repression, violence, and killings in the country. The latest incident involved killings of 23 people in the Northwestern part of the country on 11 May 2018 ahead of the concluded referendum. This referendum, which marks another hurdle for conflict resolution in Burundi, perhaps may not have happened if decisive and timely response by the international community was done in the height of anti-government protests and violence.

Recommendations

The following, therefore, needs to be done to bring to an end the conflict and future unrest as stipulated in paragraph 138 and 139 of the World Summit Document of 2005.

- The Burundian government should exercise high responsibility over the political crisis in the country. It should reverse the patterns of systematic repression of its people: release political prisoners, allow the freedom of the media, allow political freedoms to opposition parties and dissenting civilians (protesters), and pave way for constructive dialogue (with opposition groups) for conflict resolution.
- The Burundian government should also protect the rights, dignity, safety, and humanity of displaced, maimed, and raped victims, and the vulnerable. It should enforce and abide by the rule of law and guarantee justice to all. It should also take bold steps to tame the violence through effective use of security agencies and cut down on public incitement to violence. National Council for the Defense of Democracy–Forces for the Defense of Democracy (CNDD-FDD), the current ruling party, should also tame the *imborurakure* (youth wing) and purge violent elements within it.
- Lifting of sanctions, especially aid cuts that affect social services, should be done to facilitate the Burundi government's capacity to protect. Sanctions that adversely impede the functionality of the country's economy should also be scheduled for lifting.
- The EAC mediating parties, especially Uganda's president Museveni, should get more personally engaged in the mediation process. Member countries should offer total support to the process and pressure the conflicting parties to commit to dialogue.
- The UN should operationalize the UNSC Resolution 2303 to ensure proper security situation monitoring. The effectiveness of this move will provide crucial, reliable, and actionable information for UN's decision making on Burundi going forward, in the context of R2P.
- AU should continue monitoring the situation in Burundi through its Continental Early Warning Systems (CEWS) of the African Peace and Security Architecture (APSA). It should continually examine the information gathered against available options and act decisively and timely to operationalize MAPROBU if need be.
- The International Criminal Court, through its prosecutorial department, should also consider initiating investigations *prorio motu* into the Burundi situation, as provided for under Articles 13 (c) and 53 (1) of the Rome Statute.

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