

BURUNDI POWER SHARING AGREEMENT

Having initiated a long consultation process with the Burundian political parties, and Burundian civil society, on the issue of power sharing, the Facilitators have concluded that the following consensus exists among the Burundian people:

Article 1

The parties concur with the Arusha Agreement on Peace and Reconciliation in Burundi and the Global Ceasefire Agreements.

Article 2

The representative parties in Burundi agree that they will work together to ensure that their country will never again be exposed to ethnic and political violence, to carnage, insecurity and instability, or to genocide and exclusion.

Article 3

They agree that the constitutional and legal principles which will guarantee this outcome and will be used to design the process of implementation, include:

- Creating and institutionalising a system of democratic governance;
- Including minority political parties in the general system of governance;
- Protecting and including ethnic, cultural and religious groups in the general system of governance;
- Building a national security and justice system in order to guarantee the security of all Burundians, including ethnic minorities.

Article 4

The Post-Transition Constitution fully expounds these principles.

Article 5

Among other things, the Constitution includes a very brief Charter on the fundamental rights and obligations of the individual and the citizen, which guarantees equal rights for all citizens and ethnic groups.

Article 6

The Constitution envisages the establishment of a Constitutional Court which will ensure that the organs of the state, and other institutions and individuals, respect the provisions of the Constitution, including the Charter of Fundamental Rights.

Article 7

Every political party will be open to every Burundian, and their national status will be reflected in their organisational structure. Political parties are strictly forbidden to endorse exclusion, violence or hatred in any form, and in particular when directed at individuals on ethnic, tribal, religious or regional grounds.

Article 8

They also agree that the lists of candidates presented by these parties for the elections which will be held according to the principles of direct universal suffrage should be of an inclusive, multi-ethnic nature and address the imperative of gender equality.

Article 9

The Burundians also agree that in exercising his executive powers, the President of the Republic, elected by universal suffrage (except in the first elections) will be assisted by two Vice-Presidents.

The President of the Republic will nominate the Vice-Presidents whose candidature he will submit for prior approval by the two Chambers of Parliament elected by the people.

Article 10

The President of the Republic is authorised to dismiss the Vice-Presidents.

The Vice-Presidents shall come from different ethnic groups and political parties.

The Constitution stipulates the specific responsibilities of the President of the Republic and the Vice-Presidents, including their institutional relationships with each other as members of the Presidency, as well as their relations with the Parliament and the rest of the executive.

Article 11

The Government, made up of a Council of Ministers, shall include 60% Hutu Ministers and Vice-Ministers, and 40% Tutsi Ministers and Vice-Ministers, taking into account their general representation.

Article 12

Any party gaining at least 5% of votes cast for members of the National Assembly is entitled to serve on the Council of Ministers, in proportion to its representation in the National Assembly.

Article 13

The National Assembly will be composed as follows: 60% of Assembly members will be Hutu, 40% of Assembly members will be Tutsi and 3 Assembly Members will be of the Twa ethnicity. A minimum of 30% of the Assembly members will be women.

Article 14

In order to ensure that the ethnic and gender balance specified in the 2000 Arusha Agreement for Peace and Reconciliation is realised a co-optation mechanism will be used to address any imbalance which may result from the elections.

In this regard, in addition to the directly elected assembly members, a number of seats will be distributed, through the co-optation mechanism, among the parties which reach the threshold.

Article 15

The Senate will be constituted on the basis of 50/50% representation between the Hutus and Tutsis, plus 3 senators of Twa ethnicity. A minimum of 30% of the senators will be women.

Amongst other powers, the Senate will be endowed with the authority to approve amendments to the Constitution and constitutional law, and to monitor compliance with constitutional provisions requiring ethnic, tribal, religious, cultural, regional and gender diversity and balance in all structures and institutions of the state.

Article 16

The municipal administrators will be 67% Hutu and 33% Tutsi, subject to adjustments which may be introduced by the Senate on the basis of actual ethnic diversity in each commune.

Article 17

As is normal and acceptable in every democracy, political parties will be free to create their own agreements and coalitions which may affect any power sharing between them, without affecting the shares specified in this document. While these will be permitted, given their private nature, these will be separate from anything stipulated in the Constitution or in legislation.

Article 18

State defence and security organisations including Defence, Police and Intelligence Services are staffed according to the allocations approved during the transition period, mindful of the need to ensure ethnic balance and prevent acts of genocide and unconstitutional seizure of power.

Article 19

The composition of the state administration is representative of the Burundian nation, reflecting the diversity of its people, including their gender and ethnicity.

Article 20

Reorganisation of state enterprises will be ethnically balanced, using the 60/40 ratio of Hutus and Tutsis as in other state institutions, taking into account all of the actors and competencies in Burundian society.

Article 21

By implementing the essential measures described above, it will be possible to address the four challenges of:

- Reassuring the entire population of Burundi
- Guaranteeing the country's stability
- Establishing national unity and reconciliation
- Ensuring political, economic and socially inclusive stability.

Article 22

Conscious of the work done by the Facilitator to develop a national consensus, the parties agree that the above-mentioned provisions should be incorporated in the Constitution of Burundi, by referendum and other relevant legislation.

Article 23

They agree that these provisions represent an acceptable compromise and the necessary framework for power sharing in Burundi, creating a new order for the country based on unity, solidarity, cooperation between Burundi's ethnic groups, democracy, peace and stability.

Article 24

They also agree that the provisions concerning the state of law and the protection of human rights, reassure all elements of Burundian society they they will be able to work in conditions of security and dignity.

Article 25

They also agree that within five years of creating the institutions foreseen in the new Constitution, the Government, the Parliament and the appropriate National Councils will carry out an inclusive national consultation, to assess how effectively the above measures have contributed to such national objectives as national unity and reconciliation.

This review should enable the people of Burundi to update any constitutional, legal, political and institutional measures needed to ensure that the country attains the fundamental goals of democracy, peace, national unity and reconciliation, and development.

Article 26

The parties wish to express their sincere appreciation for the work done by the Facilitator in order to promote and expedite the Burundi Peace Process, and ask the Facilitator to remain committed to the future of Burundi.

Done and signed in Pretoria, August 6, 2004

Parties to the Arusha Agreement and the ceasefire agreements

Signatures