

Grand Corruption in Burundi: a collective action problem which poses major challenges for governance reforms



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ABSTRACT

This study contributes to understanding the extent of corruption in Burundi, and its consequences for political and economic governance. The last decade, corruption in Burundi was rampant and systemic. It generated political tensions between the state and citizens, it undermined economic development efforts and good governance reforms. Grand corruption involving the ruling party, senior political and administrative officials has induced politicization within the public sector which in turn led to the malfunctioning of anti-corruption institutions, thwarting good governance reforms including the fight against corruption. Corruption is a major factor of instability in Burundi and must be addressed, not as a «*principal/agent*» problem, but rather as a collective action problem. Some possible actions are proposed in the conclusion.

1. INTRODUCTION

The international community is very concerned about the harmful effects of corruption, especially when it is systemic, i.e. corruption becoming the rule rather than the exception¹, as it is the case in Burundi. Corruption is a vague and complex phenomenon generally defined differently by different authors. This article will mainly draw on O'Hara's conceptualization² who defined systemic corruption as "the abuse of power for private benefit against the common good based on the actions of bribery, fraud, extortion, embezzlement, state capture, nepotism, and others".

When I visited Mwaro province (March 7, 2011) and met some of the local executives, I referred to the behavior of two rodent species to distinguish two forms of corruption in Burundi: the common rats (*Imbeba, Rattus rattus*) and the Gambian pouched rats (*isiha, Cricetomys gambianus*). Common rats steal products to cover their immediate needs, as do agents in public services who demand bribes generally corresponding to small amounts that are spent to cover the needs that the monthly income does not cover. The Gambian pouched rats on the other hand, can steal quantities of food exceeding their needs, including items they do not need for survival such as metal objects, which they stockpile in underground galleries. Such behavior is also displayed by some senior officials for whom corruption is motivated by the pleasure to accumulate wealth rather than for basic needs coverage.

Corruption exists in all Burundian public institutions and services, affecting the daily lives of citizens in multiple ways. Both forms of corruption, i.e. petty or administrative corruption and grand corruption, are present. Petty corruption is usually individual and corresponds to unofficial bribes payments to achieve legal or illegal objectives. The perpetrators are public services employees and local authorities with low wages making them more susceptible to corruption. In this paper, less attention is paid to this form of corruption because, although it is the most prevalent, when compared to grand corruption, it is less harmful to current society's stability in Burundi.

Corruption tarnishes Burundi's image, which, with a GDP per capita of US \$315 in 2015, is also the poorest country in the world.³ In spite of the existence of internationally benchmarked legal anti-corruption frameworks, the corruption scores for Burundi remain high⁴.

This paper unravels the phenomenon of corruption in the larger context of state governance. I identify the enabling factors and I attempt to establish the cause and effect relationship between corruption and political and economic instability observed during the last decade in Burundi. Many cases of grand corruption are discussed in section 2 to enlighten the public about its severity and complexity given the diversity of its forms and the involvement of different categories of actors. Section 3 deals with the analysis of corruption motivations in order to understand why it is rooted despite the existence of many anti-corruption laws and institutions. Lastly, Section 4 argues by way of cases that corruption is a major source of political, social and economic tensions in Burundi. The information given in this article is very relevant

[1] PERSSON, A., ROTHSTEIN, B., TEORELL, J., "Why anticorruption reforms fail-systemic corruption as a collective action problem", *Governance*, vol. 26, no. 3, July 2013, pp. 449-471.

[2] O'HARA, P.-A., "Political economy of systemic and micro-corruption throughout the world", *Journal of economic issues*, vol. 48, no. 2, 2014, pp. 279-307.

[3] IMF, "World Economic Outlook Database, October 2015". <http://www.imf.org/external/pubs/ft/weo/2015/02/weodata/weo-selgr.aspx>, visité le 20 janvier 2015.

[4] TRANSPARENCY INTERNATIONAL, "Corruption Perceptions Index 2015". <http://www.transparency.org/cpi2015#results-table>, visité le 20 janvier 2015 ; THE WORLD BANK GROUP, *WGI 2015 interactive data access : Country data report*. <http://info.worldbank.org/governance/wgi/index.aspx#countryReports>, visité le 1^{er} février 2016

and is based mainly on proven evidence or directly experienced facts given the highest political posts I occupied during the last decade⁵, but also on quantitative data provided in reports issued by governmental institutions as well as by nongovernmental and intergovernmental organizations. The period under analysis is between 2005 and 2015. The year 2005 symbolizes the end of the 1993 long civil war with the arrival of the National Council for the Defence of Democracy-Forces for the Defence of Democracy (*Conseil National pour la Défense de la Démocratie-Forces de Défense de la Démocratie - CNDD-FDD*) to power and the beginning of a new era in the history of Burundi and thus new development perspectives.

2. SOME EVIDENCES OF SYSTEMIC CORRUPTION IN BURUNDI

2.1. Perceptions of corruption versus measurements

Several international rating systems, including those of the World Bank/WGI and Transparency International, ranked Burundi among the world's most corrupt countries and showed the increasingly high level of corruption since the beginning of the CNDD-FDD era. According to data from WGI, the control of corruption percentile rank⁶ which was 19% in 2005 gradually declined to 1.4% by 2012. However, because of the secret nature of corruption⁷, it is almost impossible to report on the annual amounts pocketed by the corrupt or to provide a total figure of the state treasury losses due to corruption. Most information on corruption comes under the form of «suspicion or rumors of corruption» that could become «corruption facts» if they are proven by judicial instances. The latter is quite rare, unfortunately, even if subsequent evidences of illicit enrichment often seem to endorse and legitimize the rumor. A substantial increase in assets of some senior Burundian officials was strongly criticized by anti-corruption activists, because, without bank financing, such accumulation cannot be justified given the registered incomes of the owners. In July 2014, OLUCOME (Observatoire de Lutte contre la Corruption et les Malversations Economiques) launched a campaign “Where did you get your wealth from?” to denounce the cases of illicit enrichment observed for some Burundian officials.⁸ The illicit enrichment outward signs in Burundi are numerous and consist mainly of houses/buildings, hotels, hospitals and luxury vehicles, as well as private sports complexes, whose acquisition costs without bank financing appear too high compared to the owners' official income.⁹

2.2. Widespread grand corruption

Grand corruption is mainly perpetrated through intentional irregularities found in public procurement, tax evasion by means of minimization of the taxable goods value and use of false invoices and false certificates of origin of imported goods, as well as abusive tax exemptions. It involves policy makers and senior officials who accept or demand bribes to cover irregularities and owners of companies who offer bribes to obtain preferential and unlawful treatment

[5] Speaker of the Senate between 2005 and 2010 and Second Vice-President of the Republic between 2010 and 2015.

[6] Percentile ranks indicate the percentage of countries in the world (more than 200 countries and territories) of lower rank than the indicated country, so that higher values indicate better governance scores.

[7] In Burundi, the secrecy is evoked in the term « *gupfumbatisha* » which means to slip a bribe into someone's hands or to give discreetly.

[8] OLUCOME, <http://www.olucome.bi/Le-domicile-du-President-de-L.html>, visité le 23 janvier 2016.

[9] Examples of signs of illicit enrichment are a luxury residence in Gasekebuye in the capital Bujumbura, a hospital in Mpanda Commune and an 8-level hotel in Sororezo all built in the last 10 years for a total cost estimated to be over US \$10 million by Chief Commissioner of Police Alain Guillaume Bunyoni, and private sports complexes of President Nkurunziza in Mwumba and Rumonge communes and one that is being built in Gitega.

to achieve legal or illegal objectives. Such pervasive monetized patronage is among features of the “*political marketplace*” reported by de Waal¹⁰ as a contemporary system of governance. The transparency of public procurement procedures and fair competition between bidders under the public procurement Code simply remain theoretical regulatory principles. The public procurement process is in practice more or less opaque, the reference to the formal rules and institutional procedures being dominated by inter-personal bargaining with influent political officials, on the basis of corruption, for example to win a business or secure a contract. The phase of tender documents preparation is then crucial for the prospects of the public procurement process. Those prepared under the influence of corruption are often «tailor-made» for a pre-determined company to win the market while exclusive clauses are usually included to eliminate competitors. Obviously, the amounts distributed in corruption networks constitute unequivocally a prejudice to the state treasury in the form of overpayment due to an overbilling or shortfall due to under-invoicing depending on that the state is respectively buyer or seller of goods and services. Grand corruption is increasingly present in recent years also in the form of “bonus shares” issued by companies in which the beneficiary, without spending anything, receives dividends. It is this practice that has allowed the CNDD-FDD party to be a shareholder in several new companies.

3. CORRUPTION STRATEGIES: A TYPOLOGY

During my time in office as Speaker of the Senate between 2005 and 2010 and Second Vice-President of the Republic between 2010 and 2015, I was among first-hand observers of how public goods frequently served personal interests of some party cadres and senior officials or of the CNDD-FDD party itself (although I failed to rectify the situation for reasons explained later in Section 4). Looking back, I conclude that corruption is practiced in many different ways. Below I discuss a selected number of these cases. The idea is not to be exhaustive, but rather to illustrate the array of creative strategies deployed to bend the rules.

3.1. Exclusive clauses in tender documents

This kind of irregularities has been found for example in June 2014 in the rehabilitation project of a section of the road RN5 Bujumbura-Nyamitanga of 30.1 linear km. The tender documents contained a clause “*experience in Burundi during the period 2008-2013*” which received an exaggerated weight in the final decision. This particularly favored the French company Sogea-Satom, the only one to meet this requirement. The competitors have denounced this discriminatory clause which was inserted in the tender documents under pressure from some senior officials at the President’s Office, in this case the Civil Chief of Staff at that time, the Chief Commissioner of Police Alain Guillaume Bunyoni and Jean Marie Rurimirije, the “Chargé de Mission” at the Presidency”, who furthermore forced the managing director of the Roads Authority (*Office des Routes-OdR*) to award the contract in spite of complaints from aggrieved bidders and the correspondence of the Public Procurements Regulatory Authority that instructed the suspension of the public procurement process, and the excessive price offered (57 billion BiF for Sogea-Satom against 35 billion BiF offered by the least expensive company). Finally, the hierarchical authority had to get involved to order the Roads Authority to correct the tender documents and to resume the procedure.

[10] DE WAAL, A., *The political marketplace: analyzing political entrepreneurs and political bargaining with a business lens*. World Peace Foundation, 2014, p. 1. <http://sites.tufts.edu/reinventingpeace/files/2014/10/Political-Marketplace-de-Waal.pdf>, visité le 1^{er} mars 2016.

[11] For more information, visit the website at <http://www.girijambo.info/2016/03/10/burundi-sogea-satom-entreprise-de-droit-francais-implique-dans-des-dossiers-aux-odeurs-de-corruption/>, visité le 11 mars 2016.

3.2. **Overbilling: buying defective equipment and fictive goods**

Military equipment purchase for US \$5.6 million to a Ukrainian company, Cranford Trading Inc., during the period 2008-2010, without abiding to rules or procedures, has been approved despite the adverse opinion of the technical Acceptance Commission warning that the supplied equipment was defective. In its report on this case involving senior officials, including ministers and senior members of the army, the General State Inspectorate estimated that the equipment was worth only half the purchase price.¹²

Another such case concerns a contract for the supply of fruit tree seedlings produced in Kayanza province in 2011 under the direct supervision of the President's Office (in normal conditions, such activity is carried out under the responsibility of the Ministry in charge of environment or agriculture). While the so-called suppliers demanded a payment of about 4 billion BIF, investigations by the Special Anti-Corruption Brigade put the cost at just 0.79 billion BIF.¹³ The difference between the two amounts was embezzlement of public funds by paying the overbilled amount to fictitious associations.

3.3. **Cases of under-invoicing: fraudulent sale of the presidential aircraft**

A parliamentary inquiry commission on the fraudulent sale of the presidential aircraft (Falcon 50) in 2006 showed the involvement of the President's Office and indicated that Delaware Corporation company won the bid even though it was the lowest bidder (US \$3.15 million) compared to Aero Toy Store company's offer (US \$5 million), or to the market value of US \$6.85 million established by a second expert opinion. The commission members concluded that there was "*complicity between Burundian authorities and foreign stakeholders to effect the diversion of a portion of funds from the sale of the Falcon 50*"¹⁴.

3.4. **Goods purchased but not provided: purchase of a presidential aircraft**

A sum of nearly eight million US dollars disbursed fractionally between March and August 2014 was transferred to an account in the United States for the purchase of a presidential aircraft. Responding to the controversy of civil society organizations on the circumstances of acquisition of this aircraft, the President's spokesman informed the opinion that it was «the result of a formal order of the Burundian government», while the General Secretary and government spokesman had said a few days earlier that «the plane was a gift from friends of Burundi». These contradictory statements exposed a lack of transparency in the management of this case and gave more reasons for suspicion of a possible embezzlement of public funds by the President's Office, because this aircraft is still not delivered to this date.

3.5. **Free shareholding in companies: concession of the port of Bujumbura**

In the initial contract, the operation of the port of Bujumbura was a concession awarded in December 2012 to Global Port Services Burundi (GPSB) composed of four shareholders : Global Group of Companies (GGC, 56% of shares), Secomib (28 %), state of Burundi (9%) and Afrolines (7%).¹⁵ The shareholder capital was set at 10.27 billion BIF. But a shadow remains

[12] AFP, *Deux ministres et les chefs de l'armée accusés de corruption*, 2010. <https://sites.google.com/site/bujumburavi/a-b-news-5133>, visité le 1^{er} mars 2016.

[13] Investigations by the author.

[14] RÉPUBLIQUE DU BURUNDI, *Rapport de la commission d'enquête parlementaire sur la vente de l'avion présidentiel "Falcon 50"*, Bujumbura, Assemblée Nationale, 2008, p. 88. http://www.arib.info/AN_RAPPORT_VENTE_FALCON50.pdf, visité le 17 février 2016.

[15] RÉPUBLIQUE DU BURUNDI, *Rapport d'audit comptable et financier de la société Global Port Services Burundi (GPSB) : exercice clos aux 31 décembre 2013 et 31 décembre 2014 (Rapport provisoire)*. GPSB, Volume 2,

on the arrangements that led to the choice of the three companies for the partnership in this transaction. What is certain is that Secomib and Afrolines companies were invited in a discretionary way by GGC which won the concession to create the GPSB. Moreover, shares of Secomib would include shares (at least 20% of shares) that GGC was forced to donate to the CNDD-FDD and which had to be hidden under a name of a businessman who is close and faithful to this party.¹⁶

Subsequently, GGC has not paid for its shares, preferring to be removed from the concession, arguing that the profitability of the concession was not guaranteed. This argument appeared as a pretext. Perhaps the investor had quite realized that he was exposed to too much risk by investing in a non-transparent and highly criticized business, or he had finally discovered the hidden realities behind the identity of the two other shareholders and then preferred to withdraw from the business. Afrolines was also removed from the concession for non-payment of its shares which would be rather linked to those of GGC as a reward due by the latter to Afrolines's owner to have successfully enabled the scheme.

Currently, two shareholders (Secomib and the State of Burundi) are managing the GPSB company since a new shareholders' agreement was signed on November 11, 2014 allowing Secomib to become the majority shareholder with 91% of shares. Paradoxically, its expenses (amount to be paid in terms of shares) have not increased proportionately; they decreased instead. Indeed, by the same agreement, the two shareholders decided to (temporarily) reduce the share capital from 10.27 to 1.06 billion BIF, while the main goal of the concession was to mobilize more new money needed to modernize the infrastructure and port facilities.

Not only this concession was marred by numerous irregularities that feed corruption suspicions, but it is also a case of embezzlement of public infrastructure under the protection of an invisible hand behind the so-called main shareholder Secomib.

3.6. Involvement of foreign companies

The examples given above show the involvement of some foreign investors in acts of corruption in Burundi. The conviction in December 2015 of Pierre Achach, CEO of UK-based oil exploration Surestream Petroleum Ltd, by the Correctional Court of Paris among others for active corruption linked to his professional activities in Burundi, having offered a flight ticket to a Burundian Minister to get a license renewal for oil exploration in the Lake Tanganyika region¹⁷ is a further evidence. Also fall in this corruption category, the President's flight expenditures aboard an aircraft rented by the owner of the concession of the Burundi's nickel deposits.¹⁸ The involvement of multinational companies in acts of corruption in developing countries to obtain preferential treatment or benefits is a well-known fact, as confirmed by a note of the OECD.¹⁹

Bujumbura, 2015, pp. 21-22.

[16] Personal communication with the former Minister of Transport, Public Works and Equipment at the time, Moïse Bucumi.

[17] MEDIAPART, « Fraude fiscale: deuxième condamnation dans l'affaire HSBC ». <http://www.etudes-fiscales-internationales.com/media/01/01/612959128.pdf>, visité le 22 janvier 2016.

[18] Information from multiple sources contacted.

[19] OCDE, *Policy Paper and Principles on Anti-Corruption: setting an agenda for collective action*, p. 33. <http://www.oecd.org/dac/governance-peace/governance/docs/39618679.pdf>, visité le 1er février 2016.

4. A LARGE NUMBER OF ANTI-CORRUPTION RULES AND INSTITUTIONS BUT FOR FEW RESULTS

4.1. Legal framework

Burundi has adopted over the last ten years many laws regulating good governance including the Law no. 1/12 of 18 April 2006 against corruption. This anti-corruption law is a fundamental legal reference «*designed to prevent and punish corruption and related offenses in public and private services institutions and non-governmental organizations*», even if it is imperfect. For example, it lacks clear provisions to regulate investigations and prosecutions of illicit enrichment when signs appear and can prove suspicions of corruption. Indeed, Article 58 of the Act provides that «*the illicit origin of the enrichment be established by a judicial decision*» instead of faithfully referring to illicit enrichment items defined in Article 20 of the UN Convention against Corruption, i.e. «*a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.*»²⁰ In addition, certain categories of senior officials such as General Officers enjoy the privileges of jurisdiction under Article 28 of the Anti-Corruption law and Article 32 of the Law no. 1/07 of 25 January 2005 governing the Supreme Court, which made the Anti-Corruption Court to be perceived as a penal court that is specialized for small fishes that are subordinate agents.²¹ Amendments have therefore been suggested, including the harmonization of anti-corruption legislation with international conventions, particularly in the fight against illicit enrichment.²²

4.2. Institutional framework

Based on the anti-corruption law, three specialized agencies in the fight against corruption and related offenses were created in 2006, namely the Special Anti-Corruption Brigade, the Public Prosecutor's Office at the Anti-Corruption Court and Anti-Corruption Court. Their work is complemented by that of the 'regular' courts which are also involved in the adjudication of cases of corruption, especially in case of mixed affairs that include corruption and other related crimes as well as appeals against decisions of the Anti-Corruption Court, which are submitted to the Supreme Court. The latter also has exclusive jurisdiction over persons who benefit from jurisdictional privileges. In addition, two other control institutions provide information in the form of reports—unfortunately undervalued—on service management and public finances, i.e. the General State Inspectorate established in 2006 and the Audit Court established two years earlier. Note however that the High Court of Justice alone to have jurisdiction to judge the highest officials of the country, as provided for in Article 234 of the Constitution, has not been yet created. Far from being trivial, it is a strong indicator of a lack of commitment from the highest state authority to promote the rule of law. Similar failures are often recognized when 'Western' institutions models are imported to developing countries regardless of domestic political environment²³ which is strongly influenced by a «*particularistic political culture*» that Rothstein²⁴ has defined as «*a system in which the government's treatment of citizens depends on their*

[20] NATIONS UNIES, *Convention des Nations Unies contre la corruption*, New York, Nations Unies, 2004.

[21] TATE, T., "A commitment to end corruption or criminalize anti-corruption activists? A case study from Burundi", *Journal of Human Rights Practice*, vol. 5, no. 3, November 2013, pp. 478–488.

[22] UNODC, *Rapport d'examen du Burundi*, Wien, 2014. https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2014_04_30_Burundi_Final_Country_Report.pdf, visité le 16 janvier 2016).

[23] CAROTHERS, T., *Promoting the role of law abroad: The problem of knowledge*, Working papers. Rule of law series, no. 34, Washington D.C, Carnegie Endowment for International Peace, 2003, p. 11.

[24] ROTHSTEIN, B., *The quality of government : corruption, social trust, and irregularity in international perspec-*

status or position in society.»

4.3- Particularistic political culture as an obstacle to anti-corruption reform

Without neglecting the contribution of imperfections of the legal and institutional framework to the poor performance of the anti-corruption reform, it is important to recognize that this framework provides basic tools that could have enabled large-scale actions against corruption. However, for various reasons, mostly related to the weakness of the power to govern in effective manner, the extent of corruption has increased, sanctions were imposed on some perpetrators of petty corruption only, while corruption cases involving senior government officials have remained untreated.²⁵ As argued by Carothers, «*rule of law is not just the sum of courts, legislatures, police, prosecutors, and other formal institutions with some direct connection to law. Law is also a normative system that resides in the mind of the citizens of a society.*»²⁶

Therefore, it is time to learn lessons from the anti-corruption policy in Burundi and to admit that domestic efforts and resources invested by development partners have produced low results. Failure of anti-corruption reforms is a very widely discussed phenomenon and is partly explained by the fact that anti-corruption policies and institutions are implemented based on the conceptualization of corruption as a «*principal-agent*» problem when it is basically a «*collective action*» problem²⁷, precisely for systemic corruption. Besides the fact that the ‘principal’ actor is very corrupt, instances of control and sanctions are corruption issues themselves. Not only are controls rare, they also lack rigor as well. For example, how can we expect a contribution from the Burundian police in the fight against corruption when this same policy is known to be the most corrupt of all institutions of the country?²⁸ The control approach against corruption in Burundi has ignored a key component of systemic corruption, a «*particularistic political culture*». Therefore, there is a problem of near-impossibility to control corruption at the top of the state, given the difficulty of «*controlling the controller*».²⁹ The evidence is a widespread impunity for certain categories of citizens, especially for senior political officials and high-ranked members of defense and security forces.

Finally, strong corruption networks have developed and they operate through informal, parallel structures of decision making, but with supra-institutional powers, which have consolidated around the famous «*myth of Generals*³⁰». These decision-making circles are prominent over civilian official structures and are seriously harmful to the performance of good governance reforms in general and anti-corruption institutions in particular. Besides being directly involved in scandalous cases of corruption, they interfere in the functioning of institutions (counter orders, injunctions, intimidations, threats), on the one hand, to force decisions in violation of legal procedures, for example in the case of public procurements, and on the other hand, to block the processing of many infringement cases or to close them without further examination by the justice. Such interference in the functioning of institutions is favored by a power management system tinted with both military and one-party dictatorships in which the CNDD-FDD has gradually positioned as *de facto* one-party whose major concern is the expansion of

tive, Chicago, The University of Chicago Press, 2011, p. 108.

[25] TATE, T., *op. cit.*, pp. 478–488.

[26] CAROTHERS, T., *op. cit.* p. 8.

[27] PERSSON, A., ROTHSTEIN, B., TEORELL, J., *op. cit.*, pp. 449–471.

[28] TRANSPARENCY INTERNATIONAL –KENYA, *The East African Bribery Index 2014*, Nairobi, 2014, p. 2.

[29] Ventelou, B., «*La corruption dans un modèle de croissance : partis, réputation et choc*», *Economie Publique*, no. 10-2002/1, 2003, p. 180.

[30] Generals in question are exclusively those from the maquis, former FDD.

its political space whatever the price. The result is one of the CNDD-FDD power's greatest mistakes, i.e. systematic impunity for its members including for economic crimes, pursuant to a proverb saying that «*the dirty laundry is washed in the family*». It was this negative solidarity that made such that the former Mayor of Ngozi commune Clotilde Caraziwe, who had circumvented the Forestry Act to illegally authorize a deforestation of over 20 ha in February 2011, was not punished proportionally to the offense, even as the Second Vice-President of the Republic who had visited the area to see the extent of the damage had demanded law enforcement to investigate and sanction the guilty.³¹ This is the whole problem of reform champions who often fail or are forced to give up their battle because they lack strong support bases needed to fight against the established networks that perpetuate the *status quo*.³²

4.4. What motivates corruption in Burundi ?

In general, temptation for corruption is fostered by the low risk of being caught and punished in relation to the lack of anti-corruption policy enforcement, while motivations may differ from case to case. A close focus on corrupt cases in the grand corruption category allows to distinguish between grand corruption motivated by political aspects and grand corruption practiced for personal gains. Grand corruption motivated by political aspects is that practiced for instance by the CNDD-FDD (i) to fund various activities related to its functioning, since the membership fees are low compared to the current needs (salaries, office supplies, transportation, social activities, etc.), (ii) to provide for investment needs associated with ambitions to expand its political space (for instance for construction of party offices at the national, provincial and local levels) and (iii) to maintain patronage relationships with its members, attract dissidents and corrupt some opponents to weaken opposition political parties. In such a patronage perspective, a part of bribes is redistributed to members in the form of various social assistances for recruitment and loyalty purposes, and in return, the population agrees to maintain the party's political base, as reported also by Ventelou.³³ Corruption can thus lead, on the one hand, to a political temporary stabilization when corrupt funds are used to bring dissents back in the party or to rally some political opponents to support the government's programs, and on the other hand, to a political instability when some citizen groups who do not adhere to the ruling party's ideals are excluded from all opportunities.

Grand corruption for individual gains addresses the desire to live in luxury that a regular income cannot provide for and the pleasure to accumulate wealth. This would motivate some Burundians to take advantage of their responsibility positions to get unlawful benefits. Especially for former FDD combatants, corruption is a way to reward themselves for the time spent in the bush, a shortcut to catch up in the personal enrichment.

Commitment to anti-corruption struggles has become part and parcel of the official discourse. But, aside from pleasing and harmonizing the language with the international community in order to build or sustain donor sympathy, very little commitment to change is actually present. President Pierre Nkurunziza made a good impression when he spoke about «*zero tolerance to all perpetrators of acts of corruption*» during the inauguration speech for his second term on August 26, 2010³⁴. His fine words received an enthusiastic applause from the public. Everything suggests that the policy makers were aware of the evils of corruption and hunting

[31] RÉPUBLIQUE DU BURUNDI, *Mauvaise gestion de la chose publique : deux autorités suspendues*, 2011. <http://www.presidence.gov.bi/spip.php?article1227>, visité le 16 janvier 2016.

[32] OCDE, *op. cit.*, p. 37.

[33] Ventelou, B., *op. cit.*, p. 181.

[34] REPUBLIQUE DU BURUNDI, <http://www.presidence.bi/spip.php?article694>, visité le 22 janvier 2016.

down the corrupt persons would lead to more revenue collection and would attract more foreign aids and encourage more domestic and foreign investors. But at the same time, they seem to fear the eventual risk of breaking the balance of forces that stabilize the CNDD-FDD system. Indeed, by lacking a development vision that can satisfy the expectations of the population and give a good reputation to the CNDD-FDD, the survival of this latter depends largely on the willingly or unwillingly solidarity between members including in case of error.

Instead, a neopatrimonialism-based governance has developed, inducing a negative solidarity and complacency of CNDD-FDD leaders. This resulted in corruption being tolerated or trivialized, leading to disregard for the law and to widespread impunity for corrupt senior officials, as long as they are active in the CNDD-FDD. The State's assets are then managed as though they are owned by the ruling party or are a private property owned by former guerrilla leaders. Obviously these leaders have not been prepared for modern governance in terms of public affairs management. This behavior is both a factor of short-term stability as long as the CNDD-FDD will remain on power as *de facto* one-party, and a factor of its own long-term destabilization, because sooner or later, disgruntled citizens—they are many, honest or because they do not benefit from corruption networks—would ultimately penalize the party through voting or other mechanisms challenging the authoritarian system of which they are currently subject. It is indeed accepted that any neopatrimonialism-based governance system is so turbulent and unstable.³⁵ While corruption may be low in some developmental patrimonial regimes³⁶, a real multiparty system (not illusory as it is the case today) in Burundi may be a response to this systemic corruption problems.

5. CORRUPTION IN BURUNDI: A MAJOR SOURCE OF INSTABILITY

5.1. Root cause of political tensions

In Burundi, corruption has greatly contributed to the deterioration of the climate of trust between citizens and the state. Several civil society activists, journalists and members of opposition political parties have suffered from various forms of intimidation, arrests, untimely summonses and even death threats following denunciations and criticisms about many cases of corruption.³⁷ The case of the murder in April 2009 of the vice president of OLUCOME Ernest Manirumva is one example. While shadows remain over the perpetrators of the murder, he was probably victim of his anti-corruption positions and commitment. Indeed, at the time of his murder he was investigating several sensitive cases, including allegations of widespread corruption and the illegal purchase of weapons in the police.³⁸ It is important to remember that at that time the Minister in charge of the police was the Commissioner of Police Alain Guillaume Bunyoni. Despite several opinions that had urged the court to investigate on certain higher-ranked members of Intelligence Services and Police suspected in the case, including by the use of DNA testing, these senior officers refused to cooperate with the US Federal Bureau of investigation (FBI) which was assisting Burundi in the investigation, as requested by the Government, suggesting that some senior officials in the influential spheres of decision-making of the state were actually

[35] DE WAAL, A., *op. cit.*, p. 7.

[36] BOOTH, D., GOLOOBA-MUTEBI, F., *Developmental patrimonialism? The case of Rwanda*, Working paper no. 16, London, Africa power and politics, 2011. <http://www.institutions-africa.org/filestream/2010321-appp-working-paper-16-developmental-patrimonialism-the-case-of-rwanda-by-david-booth-and-frederick-golooba-mutebi-march-2011>, visité le 22 février 2016.

[37] TATE, T, *op. cit.*, pp. 478–488 ; JOURNALISTE EN DANGER, *La liberté de la presse en Afrique Centrale : Rapport 2006*, Kinshasa, 2006, pp. 87-97.

[38] OMCT, *Burundi: Assassinat d'Ernest Manirumva: la justice n'est pas rendue*, <http://www.omct.org/fr/human-rights-defenders/urgent-interventions/burundi/2012/05/d21803/>, visité le 24 janvier 2016.

involved in that assassination.

It was also with the goal of eliminating witnesses, that three Italian religious Nuns were murdered in September 2014 at their home in Kamenge. While no judicial inquiry worthy of the name has been conducted, their murder appears to have been carefully planned in connection with information which the Nuns could reveal on one or more issues : (i) act (or attempt) of burglary in the convent, which took place the same day of their murder; (ii) misuse of drugs generously provided by some missionaries on behalf of the Health Center of the parish of Kamenge (the Nuns ran hospitals in Burundi and Eastern DRC) but which were diverted to the “Hôpital Populaire de Kamenge” (a private hospital owned by Managing Director of the National Intelligence Service at that time, late General Adolphe Nshimirimana); (iii) the presence of young Imbonerakure militias in paramilitary training in the eastern DRC, as injured (in fighting with other armed groups active in the region) were treated in the Nuns’ hospital of Luvungi in the Kiliba Ondes region.³⁹

It should be remembered that in the speech to mark the first anniversary of the CNDD-FDD’s victory, at Prince Louis Rwagasore Stadium in Bujumbura on September 3, 2006, the President of the CNDD-FDD at that time warned that those who criticized the government would have their lives threatened, victims of «telling the truth». ⁴⁰ By this message, he wanted to impose on all Burundians the «cult of secrecy» supposed to be the guideline for CNDD-FDD, whose members are called also the “Bagumyabanga” (those who keep the secret). Reference may be indeed the speech of the CNDD-FDD spokesman of April 8, 2015 to understand that in the practices of the CNDD-FDD rebellion, one who did not keep the secret was even physically eliminated.⁴¹

Although it is difficult to establish cause and effect relationships between the current crisis which started in April 2015 and corruption, it seems plausible to assume that the protection of dishonestly acquired wealth, fear of possible prosecution for economic crimes and thirst to accumulate more wealth are major motivations of the President Nkurunziza, encouraged by a corrupt entourage, to seek a third term in violation of the fundamental texts of the country, i.e. the Constitution and the Arusha Peace and Reconciliation Agreement for Burundi.

This analysis supports other studies⁴² which concluded that the successive conflicts that Burundi has experienced were rooted in an unequal distribution of wealth, even if they had strong ethnic and regional overtones, corruption being a major factor of inequality⁴³.

[39] Paramilitary training of militias recruited among the CNDD-FDD’s youths Imbonerakure took place between 2013 and 2014 in the locality of Kiliba Ondes in the Democratic Republic of Congo (DRC). <http://www.rpa.bi/index.php/2011-08-15-07-10-58/justice/item/1304-la-verite-sur-l-assassinat-des-soeurs-italiennes-de-kamenge-se-fait-toujours-attendre-une-annee-apres-les-faits>, visited on 16 March 2016 ; <http://burundinews.fr/actualites/veritesoeurskamenge.html>, visited on 21 March 2016.

[40] In his speech, the President of the CNDD -FDD has used the Burundian saying about a meeting of a man and a skull of a decapitated head: “*Gahanga wishwe n’iki ?*” *Nako kati* : “*Jewe nishwe n’urw’abagabo nawe uzokwicwa n’akarimi kawe*” (“What are you dead, skull ?” Answer: “I am who died of natural death, but you, you will die because of what you will say”), to tell reporters that if they did not keep the secret, they would be victims of broadcasting information they held on government abuses.

[41] <http://www.netpress.bi/spip.php?article6729>, visited on February 3rd, 2016.

[42] NDIKUMANA, L., “Distributional conflict, the state and peace building in Burundi”, *The Round Table*, vol. 94 no. 381, 2005, pp. 413-427; NGARUKO, F., NKURUNZIZA, J.-D., “An economic interpretation of conflict in Burundi”, *Journal of African Economies*, vol. 9 no. 3, 2000, pp. 370-409.

[43] GUPTA, S., DAVOODI, H., ALONSO-TERME, R., *Does corruption affect income inequality and poverty ?* IMF Working Paper, Washington, IMF, 1998, p. 7.

5.2. Control-based governance

Just like other countries where corruption is systemic, control of corruption in Burundi can only be effective if it involves all Burundian citizens in their different social categories, which requires that it should be approached as a “collective action” problem. However, the CNDD-FDD power has unfortunately opted for a control-based governance system it has erected as a great obstacle to the actions of both governmental institutions and other non-state actors. The CNDD-FDD power used various maneuvers to weaken the opposition, including by the fragmentation of the opposition political parties. As a result, the parliamentary opposition became weak and unable to play its counterweight and oversight roles. Simply, the Parliament was reduced to a sounding board approving decisions of the executive power as directed by and according to the only desires of the ruling party behaving like a single party. The separation of the executive and legislative powers advocated by the 2005 Burundian Constitution has therefore been a «liberal myth», as explained by Feldman⁴⁴, like in many countries where majority rule builds a solid executive/legislative block characterized by political configuration leading to powers confusion to the advantage of the majority party.⁴⁵ It is in this context of limitation of Burundian parliament’s oversight powers that the National Assembly could not go to the end of the investigations it had initiated on the issue of fraudulent sale of the presidential aircraft⁴⁶ because of a judicial divestiture (10 years after the scandal, the justice is still unable to deal with it).

Civil society organizations and the independent media which appeared determined to assume the responsibility of «corruption watchdogs», as do similar organizations worldwide⁴⁷, were despised, considered as enemies rather than collaborators for complementary works besides those of the government institutions. They faced problems including intimidation, judicial harassment and threats in order to silence journalists and activists engaged in the fight against corruption.

Finally, the public services politicization in appointing officials to decision-making positions and in recruiting or mobility of public servants resulted in confusion between political and technical positions. This has had as a corollary the emergence of a group of outlaws («untouchables» people), poor administration at all levels and non-independent institutions. The anti-corruption institutions have thus been neutralized and were rendered unable to play their role of «corruption guard dogs.» It is in this environment that a deep-rooted kleptocracy (rule by thieves) has developed in Burundi after all efforts of citizen organization for an effective collective action were annihilated.

5.3. Corruption undermines economic progress

Systemic corruption is a major factor that undermines economic progress in Burundi. Pieroni and Agostino recently reported that countries with very high corruption index are characterized by low scores on economic freedom⁴⁸, which is also true for Burundi consider-

[44] FELDMAN, J.-P., *La séparation des pouvoirs et le constitutionnalisme : Mythes et réalités d'une doctrine et de ses critiques*, Revue française de droit constitutionnel 2010/3 (n° 83), Paris, Presses Universitaires de France, pp. 483 – 496. <http://www.cairn.info/revue-francaise-de-droit-constitutionnel-2010-3-page-483.htm>

[45] Nabli, B., *L'opposition parlementaire : un contre-pouvoir politique saisi par le droit*, Pouvoirs 2010/2 (n° 133), Paris, Le seuil, pp. 125-141. <http://www.cairn.info/revue-pouvoirs-2010-2-page-125.htm>

[46] RÉPUBLIQUE DU BURUNDI, *op. cit.*

[47] MUNGIU-PIPPIDI, A., “Controlling corruption through collective action”, *Journal of Democracy*, vol. 24, no. 1, January 2013, pp. 101-115.

[48] PIERONI, L., D'AGOSTINO, G., « Corruption and the effects of economic freedom », *European Journal of Political Economy*, vol. 29, no. C, 2013, pp. 54-72.

ing its low scores both in relation to Corruption Perception Index published by Transparency International⁴⁹ and Index of Economic Freedom published by Economic Freedom of the World.⁵⁰ Indeed, individuals are not protected by the government to allow them, for example, to freely do business and compete. Private companies are destabilized by an unfair competitive game in public procurement procedures or advantages granted to certain companies with ties to government authorities. For example, a very tense climate has recently characterized the relationships between telecommunication companies and the government, the former accusing the latter of failing to protect them after a new company, Viettel Burundi (known by its trademark Lumitel), was authorized to operate with huge fiscal advantages—including tax exemption for a period of fifteen years—bringing to six the number of mobile operators for a small market.⁵¹ In addition, most of these companies had to renew their license at a cost of US \$10 million, which was 50 times more expensive than their first acquisition 15 years earlier. Finally, in order to survive, the company Econet Wireless bought U-Com Leo and operates on its license, while Africel was forced to close.

Corruption was also a source of financial instability for public companies which are «cash cows» for corruption chains. This was the case of the Sugar Company of Moso (SOSUMO) which, facing annual production declines, was about to go bankrupt in 2010 because of embezzlement of operating / investment funds allocated to the production of sugar cane and its transformation. Sugar production which had dropped to about 14,000 tons per year in 2010 gradually increased to almost 26,000 tons per year in 2013, the company's debts were paid off and its reserves increased, thanks to tighter management by a new managing team appointed in late 2010.⁵² This commitment to clean up the management of the company, including avoiding corruption, got this leadership team into trouble from corrupt networks that eventually succeeded to get them out, for example by not renewing the mandate of the Director General Audace Bukuru in 2014. Ultimately, maintaining government control over public companies does not benefit the state, but rather facilitates access to their assets for purposes of corruption, which could justify the reluctance of decision making circles in the privatization of public companies.

Another consequence of corruption is an ineffective revenue mobilization policy. Although the implementation of the Burundi Revenue Authority (OBR) in 2010 was a major reform aimed at maximizing the revenue collection, it was unfortunately found that the domestic revenues-GDP ratio continued to decline, representing 13.7% in 2013 compared to 14.9% in 2011.⁵³ The capacity of the Government to broaden the tax base in a country where the informal economy still plays an important role, streamline the management of tax exemptions, control fraud circuits and ensure the mining sector transparency⁵⁴ is therefore a great challenge. Regarding

[49] TRANSPARENCY INTERNATIONAL, *op. cit.*

[50] GWARTNEY, J., LAWSON, R., HALL, J., *Economic Freedom of the World: 2015 Annual Report*, Vancouver, Fraser Institute, 2015. <http://www.freetheworld.com/2015/economic-freedom-of-the-world-2015-a4-version.pdf>, visité le 30 janvier 2016.

[51] AFRICAN BUSINESS JOURNAL, *Téléphonie mobile au Burundi : il y a de l'eau dans le gaz*. http://www.africanbusinessjournal.info/index.php?option=com_content&view=article&id=1252:telephonie-mobile-au-burundi--il-y-a-de-leau-dans-le-gaz&catid=82:conjoncture&Itemid=459, visité le 21 janvier 2016.

[52] BURUNDIMEGA-INFO. *Burundi : Audace Bukuru-l'homme qui sauva la Sosumo*. <http://burundi-megainfo.blogspot.be/2013/03/burundi-audace-bukuru-lhomme-qui-sauva.html>, visited on March 2nd, 2016.

[53] IDA, *Burundi - eighth economic reform support grant (IDA/R2014-0358)*, World Bank, 2014. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/12/16/00047144_20141216094540/Rendered/PDF/916140PGDP150010Box385388Boo0U0o9o.pdf

[54] An illicit mineral traffic concerns both minerals from Burundi and minerals from the DRC transiting fraudulently by Burundi with the involvement of some high-ranked members of the defense and security forces of Burundi. Visit the following website about it: <https://www.globalwitness.org/fr/campaigns/democratic-republic-congo/putting-principles-practice/>

the external resources mobilization, to my knowledge, no decision to suspend or cancel aid in general or budget support was taken by development partners on the basis of corruption concerns. Development partners were probably corruption-tolerant because major corruption cases remained at the stage of «suspicion» in the absence of judicial action to establish the facts or simply for fear of discovering the truth in cases of grand corruption involving foreign companies. Their concerns were simply expressed at occasions of formal or informal political dialogues.

Corruption was also the main cause of Burundi's low Country Policy and Institutional Assessment (CPIA) scores and consequently it negatively affected the aid volume granted to Burundi by donors using the CPIA system to allocate aid among countries, as do the International Development Association (IDA) and the African Development Bank.

6. CONCLUSION

This study shows that corruption is a deep root of political and economic instability in Burundi. The control and tight grip policy over economic resources was ultimately chosen by the CNDD-FDD leaders, not to promote the development, but rather to satisfy their personal economic ambitions and to ensure CNDD-FDD party's survival needs. Few people get rich and live in luxury at the expense of the majority of people who suffer a lot of extreme poverty for a country ranked the poorest in the world. One consequence of such a governance strategy is the government's use of brutality and violence to suppress opponent criticisms while the power cannot be subjected to strong social control and that the ruling party cannot be sanctioned by the citizens by the voting system, which would have forced the leaders to be honest and clean.

It is time to admit that, even if corruption existed before the arrival of the CNDD-FDD to power in 2005, its magnitude increased significantly over the past decade to the point that it became systemic. The anti-corruption reform has failed, despite the existence of many institutions devoted to it. The mobilization of Burundian citizens for "collective action" against corruption remains a major challenge in Burundi. Much greater investment is necessary to professionalize the institutions in order to build a governance system capable to subject all citizens to comply with law. The ultimate goal is to make public institutions stronger than individuals, whatever the social ranks and the positions they hold. The legal framework also needs to be amended or supplemented to extend the missions of anti-corruption institutions, to allow its alignment with international conventions against corruption and related offenses, especially in the fight against illicit enrichment, and to better protect whistleblowers, judges and investigators.

Public funding of political parties, in addition to other financial resources of each party including membership fees, to cover most of "normal" costs seems to be part of the solution to the temptation of ruling parties to abuse with corruption practices. This would allow the Government to exercise control over the finances of political parties. To this end, the enforcement of provisions of Law no. 1/16 of 10 September 2011 on public financing (Article 18) and monitoring of sources and resources use for political parties (Article 20, 40 to 46)⁵⁵ is a recommended path.

Given the involvement of foreign companies in corrupt practices, the countries from which these multinational companies originate, must also assume their full responsibility in the grand corruption deepening in Burundi, particularly the Western countries which are Burundi's major donors. In addition to their pressure in the form of conditionalities, they must take an

[55] RÉPUBLIQUE DU BURUNDI, *Loi no. 1/16 du 10 septembre 2011 portant révision de la loi no. 1/006 du 26 juin 2003 portant organisation et fonctionnement des partis politiques.*

active part in the fight against corruption by attacking the supply front. The judgment of the Achach case can serve as a good example.

This article addresses the phenomenon of corruption as a source of instability, although it could be analyzed also in the opposite direction, to understand the political instability-induced effects on the worsening of corruption. Political instability in Burundi may create favorable conditions encouraging/inciting people to be corrupt and this would be the subject of another study. Writing on corruption is not an easy task because the proof is often lacking although cases are well known. The information provided by this article is thus made available to various Burundi's development actors (domestic and donors) as a starting point for further investigation by specialized (local or foreign) agencies in the field.

