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Abstract:	<p>Using a lifecycle perspective, this paper analyzes the use of reserved seats and the evolution of cooptation norms and practices in Burundi between the signature of the Arusha Peace and Reconciliation Agreement in 2000 and the 2020 legislative elections. Value-driven objectives, such as minority protection, only partly explain their use and design. The adoption, functionality and recent transformation of electoral cooptation were also determined by <i>realpolitik</i>, most notably by the elites' struggle for positions and the balance of power. Cooptation had important effects on ethnic cohabitation within parliamentary factions. The paper contributes to the literature on the micro-institutions of power-sharing.</p>
Order of Authors:	Stef Vandeginste, PhD
Response to Reviewers:	I have uploaded a 'Note to the editors' in which I respond to the reviewers' comments.

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1 Abstract:

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5 cooptation norms and practices in Burundi between the signature of the Arusha Peace and
6 Reconciliation Agreement in 2000 and the 2020 legislative elections. Value-driven objectives, such as
7 minority protection, only partly explain their use and design. The adoption, functionality and recent
8 transformation of electoral cooptation were also determined by *realpolitik*, most notably by the elites'
9 struggle for positions and the balance of power. Cooptation had important effects on ethnic
10 cohabitation within parliamentary factions. The paper contributes to the literature on the micro-
11 institutions of power-sharing.
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14 Introduction

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18 The use of reserved seats and the cooptation of members of parliament were introduced in Burundi's
19 Arusha Peace and Reconciliation Agreement (APRA) of August 2000 and in the - transitional and post-
20 transition - constitutions adopted on its basis. This paper looks at the motivations behind the
21 introduction of cooptation and the dynamics shaping its implementation and recent reform. It situates
22 cooptation norms and practices in the wider institutional and political context of Burundi's transition
23 following a decade of civil war. The key factors shaping the design, the use and the evolution of
24 cooptation are Burundi's negotiated peace, its highly consociational ethnic power-sharing institutions
25 and its gradual return to de facto single party rule.
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30 In this paper, in line with how it is primarily understood in Burundi, the term cooptation refers to the
31 formal institution that regulates the appointment of representatives of a societal segment to reserved
32 seats in parliament. Cooptation supplements the use of (direct or indirect) elections as a mechanism
33 to attribute seats in the legislature. As explained below, the initial, publicly stated, normative
34 motivation was twofold: ensuring minority protection and promoting multi-party democracy.
35 Pragmatic considerations are, however, also key to understand the use of cooptation in Burundi. The
36 design of power-sharing in Burundi was, as Lemarchand calls it, a case of 'improvised *bricolage*'¹.
37 Cooptation was one of the tools in the game of concessions and compromises between elite actors
38 involved in power-sharing negotiations. Notwithstanding the well-known stickiness of consociational
39 institutions², we may expect that a shifting balance of power also affects cooptation norms and
40 practices. The paper shows how cooptation in Burundi navigated between normative and strategic
41 *realpolitik* considerations. The analysis also shows the interaction between these considerations, with
42 political actors strategically manoeuvring to advance their interests using normative justifications.
43 Using a lifecycle approach to study the adoption of cooptation and its functionality since 2000, this
44 paper intends to contribute to the literature on the performance of power-sharing and electoral
45 institutions in post-conflict societies.³ It also contributes to the literature on micro-institutions, i.e. the
46 rules, processes and practices that shape the real-life meaning – and, at times, the subversion or
47 erosion - of macro-institutions (such as minority protection and reserved seats).⁴ Furthermore, beyond
48 the case of Burundi, the paper also sheds light on the "shelf-life" of consociational power-sharing
49 institutions in post-conflict contexts and, in particular, how they can be accommodated, modified or
50 rejected in a changing political context.
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57 The first section situates the paper in the literature on reserved seats and cooptation in legislative
58 assemblies. The next section explains how and why cooptation was introduced during Burundi's peace
59 negotiations process. Different types of cooptation – with different motivations explaining their use –
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1 were adopted for the transitional and post-transition senate and national assembly. A next section
2 zooms in on the cooptation modalities for the post-transition national assembly under the 2005
3 Constitution and electoral legislation. The paper then analyzes cooptation practice at the 2005, 2010
4 and 2015 elections, in the context of a growing dominance of the CNDD-FDD⁵ – the party of president
5 Pierre Nkurunziza - over the state institutions. This section assesses the effectiveness of cooptation
6 against its stated objectives and also looks at other effects, in particular on the composition of political
7 party factions in the national assembly. A final section analyzes cooptation practice after the 2018
8 constitutional reform.
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10 11 12 **Reserved seats and cooptation in legislative assemblies after ethnic conflict**

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14 In the aftermath of ethnic conflict, societies face the challenge whether or not to recognize ethnic
15 segmentation as a foundation for the post-conflict state institutions.⁶ The literature generally
16 distinguishes between two main options: the integration-based versus the accommodation-based
17 approach. Integration-based models deny the relevance of ethnic societal segmentation for the design
18 of post-conflict institutions. Accommodation-based models, on the contrary, recognize and
19 incorporate ethnicity when engineering the post-conflict state.⁷ Neighbouring ‘false twins’ Rwanda
20 and Burundi offer interesting real-life illustrations of these two different models.⁸ For reasons it would
21 take us too long to explain here, Rwanda opted for ethnic amnesia, while Burundi institutionalized
22 ethnic power-sharing and is now “widely seen as the main African case of consociationalism”⁹.
23 Accommodation-based approaches have used a variety of mechanisms to organize the (descriptive)
24 representation of societal segments in the political institutions, and often also in the security sector
25 institutions. Peace agreements – in particular those that contain constitutional blueprints – sometimes
26 include reserved seats as part of broader power-sharing arrangements.¹⁰ In the toolbox of
27 constitutional designers, reserved seats constitute a mechanism to guarantee the representation of
28 segments, in particular minority groups, in legislatures.
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34 Reserved seats and electoral quotas – both gender quotas and quotas for minority groups – are mostly
35 studied from the analytical perspective of political representation. In the literature, major attention is
36 paid to both the rationale and the modalities of reserved seats. Their presumed underlying rationale is
37 to enhance the inclusion and protection of under-represented groups by guaranteeing their
38 representation in legislatures (and, possibly, other institutions). Seen from this right-based
39 perspective, the key normative argument for a guaranteed representation is to remedy the systemic
40 discrimination of groups who have historically been disadvantaged or whose cultural identity has not
41 (or insufficiently) been recognized.¹¹ Guaranteeing their representation thus presumably aims at
42 ending past injustice and preventing future discrimination.¹² Power-sharing theory suggests another
43 rationale. A guaranteed representation – in particular of those groups that have the capacity to
44 destabilize the political system – is required in order to achieve stability in divided societies.
45 Proponents of consociational power-sharing suggest a combination of guaranteed proportional
46 representation, coalition governments, autonomy and/or veto power that allows segments to protect
47 their vital interests.¹³ Like other research that adopts an empirical rather than a normative
48 perspective¹⁴, this paper does not assume that reserved seats and cooptation in Burundi are a mere
49 justice-seeking mechanism, but rather pays due attention to other more pragmatic and *realpolitik*
50 explanations for their introduction, implementation and evolution. Also, to be clear, I do not study the
51 effects of reserved seats and descriptive representation quotas on policy outcomes¹⁵ or the quality¹⁶
52 of (substantive) political representation.¹⁷
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59 How reserved seats are filled by segmental representatives is generally determined by electoral
60 legislation. In transitional post-conflict settings, peace agreements may determine how seats are
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1 attributed. In practice, there is a wide variation, depending on the balance of power, the local
2 institutional context and demographic aspects (e.g. the territorial concentration of groups, the
3 number of minority groups, etcetera). Bird distinguishes three distinct families of reserved seat
4 mechanisms: electoral systems guaranteeing seats to ethnic parties, systems incorporating designated
5 ethnic groups within pan-ethnic parties and systems involving special electoral districts for ethnic
6 groups.¹⁸ As explained in more detail below, Burundi – where mono-ethnic parties are prohibited and
7 where ethnic groups are not territorially concentrated - belongs to the second family.
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9 Finally, and to avoid confusion, it is worth recalling that, in most academic literature, cooptation, a
10 term coined by sociologist Philip Selznick in 1948, is not studied as an electoral mechanism but rather
11 from a different theoretical angle. In the literature on stability and longevity of autocratic rule,
12 cooptation is defined as the range of formal and informal strategies that incumbent autocrats use to
13 secure the loyalty of opponents and, thus, to ensure regime survival.¹⁹ Cooptation here refers to the
14 encapsulation of challengers – rather than their repression - via policy concessions, the sharing of
15 rents or other means in order to prevent a coup, rebellion or revolution.²⁰ Other authors use the same
16 concept of cooptation in various other contexts, for instance, to study how corporations align the
17 interests of non-governmental organizations with their own goals.²¹ Although I do not use this
18 definition of cooptation as the conceptual framework for my analysis, this Burundi case-study also
19 illustrates how both meanings of cooptation are interrelated, as noted in the analysis of the 2020
20 cooptation practice.
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27 **Burundi's peace process and the use of cooptation: mixed motivations and various modalities**

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29 In 1966, four years after it gained independence, Burundi became a one-party republic, which it
30 remained until 1992. On 1 June 1993, Melchior Ndadaye (Hutu, FRODEBU²²) won the presidential
31 elections defeating incumbent Pierre Buyoya (Tutsi, UPRONA²³). Barely four months later, on 21
32 October 1993, Ndadaye was assassinated by government soldiers during an attempted military coup.
33 After this failure to introduce multi-party democracy - which, as Sullivan called it, was vetoed²⁴ by
34 members of the Tutsi-dominated army - Burundi became the scene of a civil war which was
35 “fundamentally political, with extremely important ethnic dimensions”, as stated in the APRA²⁵. The
36 government army, of which the leadership was exclusively composed of members of the demographic
37 Tutsi minority, opposed two rebel movements composed of members of the demographic Hutu
38 majority. A negotiated power-sharing settlement, rather than a military victory, ended the civil war.
39 The recognition and institutionalization of the ethnic factor in the post-conflict state was a crucial item
40 on the agenda of the peace negotiations.²⁶ Burundi's current dual ethnic and gender quota system
41 was initially designed during an internationally mediated negotiations process which resulted in new
42 security and political (including electoral) institutions.²⁷ The introduction of cooptation in parliament
43 should therefore, first of all, be understood in the context of the use of ethnic quotas to reform
44 Burundi's political institutions and its security sector, to which I turn first.
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50 During the Arusha peace talks (1998-2000), the composition of the army and police force was highly
51 contentious. A representative of one of the Hutu parties to the negotiations requested a national army
52 made up of 85% Hutu, 14% Tutsi and 1% Twa, so as to reflect the (presumed) demographic weight of
53 the three ethnic groups. Given the control of the army commandment by the demographic minority
54 ever since the establishment of the single party UPRONA republic in 1966, it came as no surprise that
55 all Tutsi party delegates initially rejected the use of ethnic quotas for the security sector.²⁸ In the end,
56 as proposed by mediator Nelson Mandela²⁹, it was agreed that not more than 50% of the army and
57 police could be drawn from one ethnic group.³⁰ As a result, ethnic parity in the security sector was laid
58 down in the Constitution of 18 March 2005. It also features in the Constitution of 7 June 2018 (even
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1 though it no longer applies to the – powerful - intelligence service). The 2005 Constitution also
2 imposed quotas on the composition of several political institutions. The government was to be
3 composed of a maximum of 60% Hutu ministers and 40% Tutsi ministers and a minimum of 30%
4 women.³¹ At the local level, not more than 67% of the municipality administrators could be drawn
5 from the same ethnic group.³² More important for the purpose of this paper, ethnic (and gender)
6 quotas also applied to the composition of both chambers of parliament. I first turn to the senate, then
7 to the national assembly. For both chambers, different arrangements applied during the period of
8 transition (initially limited to 3 years) and after the transitional period had come to an end.
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10 For the post-transition senate, the APRA introduced ethnic parity (50% Hutu and 50% Tutsi senators).
11 This principle was included in the 2005 Constitution and maintained in the 2018 Constitution. In order
12 to reach ethnic parity, senators are indirectly elected by provincial electoral colleges made up of newly
13 elected municipality councilors. Burundi has 18 provinces and each provincial electoral college elects
14 two senators. In other words, 18 seats are reserved for Hutu and for Tutsi. These 36 senators are
15 elected in semi-separate ballots, with both Hutu and Tutsi members of the provincial electoral college
16 together voting for their preferred Hutu candidate and for their preferred Tutsi candidate. The ballot is
17 ‘semi-separate’, because the electoral college is ethnically mixed, while the lists of candidates are
18 mono-ethnic (be it that political parties must submit two lists - one of Tutsi, the other of Hutu
19 candidates - per province). Because of this indirect election process, cooptation of Hutu or Tutsi is not
20 needed to obtain ethnic parity. The APRA, however, also provided for the cooptation of a fixed
21 number of 3 Twa senators. This was motivated by the need “to ensure the representation of this
22 community”³³, a historically marginalized minority, originally forest dwellers. Both the 2005 and the
23 2018 Constitution leave it to the electoral commission (CENI) to coopt the Twa senators, who are
24 nominated by 3 Twa civil society organizations and hail from 3 different provinces. Because Twa were
25 absent both from the battle field and the table of peace negotiations, the cooptation of Twa senators
26 (and of 3 Twa national assembly members, see below) was clearly motivated by an imperative of
27 idealism, namely minority representation.³⁴ Burundi thus stands out as a case in which some “others”
28 (also called “forgotten minorities”, i.e. segments who are not at the heart of the ethnopolitical
29 cleavage) are recognized while other “others” (like the Ganwa³⁵ or naturalized citizens) are not.³⁶
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32 The arrangement that was designed for the post-transition senate – and implemented from the 2005
33 elections onwards – did not apply to the senate during the period of transition. The very last evening
34 before the signature of the APRA on 28 August 2000, a transitional senate was added to the political
35 institutions set to govern during the transition (initially set at 36 months, in actual practice of around 5
36 years) between the APRA signature and the first post-conflict elections.³⁷ The transitional senate was
37 added at the last minute request of incumbent president Pierre Buyoya, who remained interim
38 president during the first 18 months of the transition. The last minute creation of the transitional
39 senate and the modality of appointment of its members reveals another motivation behind the use of
40 cooptation in Burundi. Here, cooptation was not inspired by minority representation but rather by
41 other *realpolitik* considerations. To understand the cooptation of the transitional senate, we must first
42 take a brief closer look at the transitional national assembly. The APRA and the 2001 Transitional
43 Constitution provided for a very large transitional national assembly (not subject to ethnic quotas).
44 Sixteen political parties that signed the APRA but were not yet represented in the national assembly
45 could appoint 3 members, in addition to the members already in office. Seats were reserved for those
46 parties – some of which were hardly more than a small family affair - as a reward for their agreement
47 to sign the APRA. In other words, the cooptation of transitional national assembly members essentially
48 amounted to a position-sharing mechanism and an interest-based incentive for negotiating parties,
49 largely disconnected from the idea of representation. Apart from 3 Twa representatives and the
50 former heads of state, the transitional senate (subject to ethnic parity) was composed of a number of
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coopted senators, at least two per province. Quite remarkably, these transitional senators were coopted among the national assembly members by president Buyoya himself, be it in consultation with the vice-president and the bureau of the national assembly. Thus, cooptation allowed the incumbent president to secure the loyalty of the members of the (at that time quite powerful) senate. Here, cooptation serves the function of transition management³⁸, with the incumbent president Buyoya clearly trying to dictate the terms and modalities of the transition. For Sindayigaya, who participated in the Arusha negotiations, this last minute creation of the coopted transitional senate was nothing less than a “hold-up” on the APRA.³⁹ Seen from this angle, the use of cooptation was overwhelmingly inspired by strategic pragmatism and clever power politics rather than by the value-driven argument of representation of Burundi’s ethnic segments.⁴⁰ As explained below, this perspective on cooptation also helps to explain its later transformation.

The next section deals with the post-transition national assembly. So far, I have identified three types of cooptation. First, transitional national assembly members were coopted by political parties, signatories to the APRA. This first type of cooptation was not linked to ethnic power-sharing or to elections, but essentially an instrument to sweeten the peace deal for negotiating parties. Second, transitional senators were coopted by the incumbent head of state. As noted above, like the first type, cooptation here also served the purpose of transition management. Given the required ethnic parity, this second type can also be classified as a case of cooptative ethnic power-sharing.⁴¹ A third type is the cooptation of a fixed number (3) of post-transition Twa senators by the CENI, upon nomination by “the most representative Twa civil society groups”⁴². This third type also applies to the cooptation of post-transition Twa national assembly members and will not be dealt with in more detail below, where I will focus on the fourth type of cooptation, namely of Hutu and Tutsi in the national assembly. The third and fourth type of cooptation can both be classified as auxiliary to electoral ethnic power-sharing: cooptation is used to ‘correct’ electoral results that are not in accordance with the constitutionally required ethnic quotas.

Table 1 gives an overview of the three types of cooptation covered thus far and – in italics - of the fourth type of cooptation addressed at greater length in the next sections.

Table 1

	<i>senate</i>	<i>national assembly</i>
<i>transitional period</i>	Hutu/Tutsi parity; cooptation by head of state (among transitional national assembly members); cooptation of 3 Twa	no ethnic quotas; cooptation by political parties signing the Arusha Peace and Reconciliation Agreement; no cooptation of Twa
<i>post-transition</i>	Hutu/Tutsi parity; semi-separate ballot; no cooptation of Hutu or Tutsi; cooptation of 3 Twa	<i>60% Hutu / 40% Tutsi;</i> <i>cooptation of a variable number of Hutu and/or Tutsi;</i> cooptation of 3 Twa

Cooptation of Tutsi and/or Hutu at the national assembly: the APRA and the 2005 constitution

A variety of motivations and modalities inspired the cooptation of Hutu and/or Tutsi members of the (post-transition) national assembly. As explained in this section, due to some important political dynamics during the period of transition, the 2005 Constitution went beyond what had initially been

1 agreed upon in the APRA on the (limited) use of cooptation. This more extension use of cooptation
2 was due to a combination of value-driven concerns (minority representation and a multi-party
3 parliament), interest-driven attempts by smaller parties to revise the APRA constitutional blueprint
4 and a gradually shifting balance of power.

5 ***The Arusha peace process***

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7 During the Arusha peace negotiations, the composition of the national assembly was a highly
8 contentious issue. Several proposals were put to the table, including ethnically separate ballots,
9 similar to what was agreed for the post-transition senate, as noted above.⁴³ However, as explained in
10 the explanatory note to APRA Protocol II, its constitutional blueprint deliberately combined
11 consociational elements with incentives to discourage ethnic outbidding. The APRA did not explicitly
12 provide for ethnic quotas or reserved seats for Hutu and Tutsi in the national assembly. Rather, an
13 electoral system was designed in great detail and in such a way that (at least) 40 of the 100 national
14 assembly seats were likely to be filled by representatives of the demographic Tutsi minority.⁴⁴
15 Combined with a qualified (two thirds of the votes) majority requirement for the adoption of
16 (important) legislation, this should award a blocking minority to the Tutsi national assembly members.
17 The key to reach that 40% minority representation was a system of proportional representation with
18 blocked, ethnically mixed electoral lists: “the revised electoral code shall prescribe that lists be multi-
19 ethnic in character and reflect gender representation. For each three names in sequence on a list, only
20 two may belong to the same ethnic group, and for each five names at least one shall be a woman”⁴⁵.
21 In other words, a predominantly Hutu party must have at least one Tutsi among its top 3 candidates
22 and vice versa for a predominantly Tutsi party. This was meant to lead to an approximate 60/40%
23 representation of Hutu and Tutsi without reserved seats and without cooptation. As a one-off
24 exception for the first post-conflict elections, however, the APRA provided for the possible cooptation
25 of additional members of parliament in case one political party obtained more than 60% of the votes.
26 In that scenario, on top of the 100 directly elected members, between 18 and 21 members “shall be
27 coopted in equal numbers from the lists of all the parties that have obtained more than the threshold
28 vote” (which was set at 2%). Cooptation was suggested “despite its limited distortion of the electoral
29 result”⁴⁶ and based on a dual motivation. It was supposed to dilute the result in case of an
30 overwhelming victory by one party and, because the small parties were likely to predominantly Tutsi,
31 it would help to reach a 40% Tutsi representation in the national assembly. In other words, in the
32 APRA, cooptation was envisaged - only for the first post-conflict elections and only if necessary - in
33 order to protect the multi-party nature of parliament and to ensure the representation of the Tutsi
34 demographic minority.⁴⁷ Implementation modalities were left to the electoral legislation, to be
35 adopted by the transition parliament.

36 ***The 2005 Constitution and electoral legislation***

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38 The dual motivation behind cooptation – promoting multi-partyism and guaranteeing minority
39 representation – reemerged during the political negotiations in the run-up to the drafting of the 2005
40 Constitution. However, as explained below, rather than an exceptional measure, cooptation became
41 an integral part of the electoral system, in combination with ethnic quotas. In 2004, intense
42 negotiations on the post-transition constitution, the electoral system and ethnic power-sharing took
43 place, essentially a “power play over quotas”⁴⁸. In line with the reservations they had added to their
44 signature of the APRA, several predominantly Tutsi parties wanted to renege on some APRA provisions
45 and called for a more corporate (rather than liberal)⁴⁹ consociational arrangement. Their requests
46 included, inter alia, an alternating (Hutu/Tutsi) presidency and a vice-president (of the other ethnic
47 group than the president) with veto power. They also insisted that “at least 70% of the 40% of the
48 seats reserved for them must be occupied by Tutsis representing Tutsi-led parties and the remaining
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30% by Tutsis representing parties with a Hutu majority”⁵⁰. It is not surprising that predominantly Tutsi parties, fearful of the results of the forthcoming elections after a decade of ethno-political civil war, requested stronger guarantees for their own future share in the political institutions. But, during the period of transition, as a result of at least three important developments, the balance of power had gradually shifted, strongly reducing the leverage of those predominantly Tutsi parties. First, in May 2003, as agreed in the APRA, interim president Buyoya (Tutsi, UPRONA) was replaced by interim president Ndayizeye (Hutu, FRODEBU), for the second half of the transition. Secondly, in November 2003, a comprehensive peace agreement was signed by the Ndayizeye government and the Hutu rebel movement CNDD-FDD. This added another very influential player – who had not been involved in the APRA negotiations and who initially rejected the consociational model⁵¹ - to the table of negotiations on the post-transition Constitution. Thirdly, unlike in 1993, an international military peacekeeping presence (initially by the African Union, later by the United Nations) ruled out the possibility of a (at that time still Tutsi-dominated) government army veto against the transition. As a result, the predominantly Hutu parties, supported by the South African facilitation, rejected the above-mentioned requests made by the predominantly Tutsi parties. In November 2004, interim vice-president Kadege (Tutsi, UPRONA) even resigned over this issue. To break the deadlock, the facilitation put forward the cooptation of national assembly members, in addition to the 100 directly elected members and no longer limited (as in the APRA) to the first post-conflict elections.⁵² The protection of members of ethnic minorities against their exclusion from the political institutions was one of the motivations for the proposed cooptation. In addition, the transitional government of interim president Ndayizeye stated, in the explanatory note to the draft 2005 constitution, that cooptation should avoid that power is concentrated in the hands of one political party.⁵³ In other words, in line with the spirit of the APRA, cooptation was introduced as a tool both to ensure minority representation and to protect the multi-party character of the national assembly. Quite conveniently, this dual normative motivation nicely converged with the interests of the smaller, Tutsi-dominated parties that could not reasonably expect to win a large percentage of the votes at the forthcoming elections.⁵⁴ Indeed, depending on the specific modalities of cooptation (which I turn to next), cooptation might well disproportionately boost their weight in the national assembly.

The 2005 constitution – adopted by referendum - stipulated that the national assembly is composed of “at least 100 members”, with 60% of the seats reserved for Hutu, 40% for Tutsi and 30% for women (without reserving seats for men). In addition, as mentioned above and apparently assuming that no Twa members would ever be directly elected, the constitution stated that 3 Twa members must be coopted. Cooptation – to be further elaborated in the electoral code - was introduced as a mechanism to correct the electoral results in case they did not respect the (ethnic and gender) quotas prescribed by the constitution. In line with the APRA, the electoral code of 20 April 2005 specified that for each three candidates in sequence on a blocked list, only two may belong to the same ethnic group. Keeping in mind the required 30% representation of women, the electoral code also stipulated that at least one out of four (rather than one out of five, as stated in the APRA) candidates shall be a woman. So, as Bird argues, the gender and ethnic quotas mechanically intersect⁵⁵, namely at the moment of party list formation. The electoral code further detailed the cooptation mechanism that was to be used to the extent necessary to correct the electoral results. The key modalities were:

1. Cooptation is the prerogative of the electoral commission (CENI), upon consultation with the political parties concerned. Cooptation disputes are taken to the constitutional court.
2. The CENI coopts ‘best losers’ on the lists, without changing the order of the candidates. ‘Best losers’, a concept also used by Bird⁵⁶, does not refer to the number of votes won by the candidate. Burundians vote for a party, not for individual candidates, so ‘best loser’ refers to the place of the candidate on the blocked list.

- 1 3. Cooptation only benefits those parties that obtain 5% of the votes cast (while the electoral
2 threshold is set at 2% of the votes cast).
- 3 4. Although there is no fixed or maximum number of coopted members, the reasonable
4 interpretation – also adopted by the CENI (see the section on cooptation practice below) – of the
5 electoral code is to limit cooptation to the extent needed to reach the ethnic and gender quotas
6 and not to go beyond. (As a result, the number of national assembly members may vary after
7 every general election, which was indeed the case in practice.)
- 8 5. The CENI must strive for a regional balance, coopting best losers – to the extent needed in
9 order to reach the quotas - from the largest possible number of provincial circumscriptions.
- 10 6. Cooptation can be used to adjust the electoral results in line with both ethnic and gender
11 quotas. But there is no reciprocity requirement for cooptation in itself. In other words, no 60/40%
12 ethnic requirement within each gender group applies, nor does the gender quota (30% women)
13 apply to the members coopted from each ethnic group.
- 14 7. Tutsi can be coopted among candidates on the lists of predominantly Hutu parties (and vice
15 versa for Hutu members). There is no required link between the ethnic identity of the candidate
16 and the dominant ethnic group within the party concerned. This marks a notable difference with
17 the cooptation of Twa (nominated by Twa civil society organizations).
- 18 8. Finally, in line with the stated motivation to enhance the multiparty character of the national
19 assembly, cooptation is done “in equal numbers”, rather than proportionally. Every party
20 obtaining 5% of the votes cast is entitled to an equal number of coopted national assembly
21 members. As a result, cooptation is likely to water down the electoral victory of the largest party
22 and to boost the presence of smaller parties in the national assembly. (Not surprisingly, as
23 explained below, this cooptation modality was revised at the initiative of the dominant party
24 CNDD-FDD of president Nkurunziza at the time of the 2018 constitutional reform.)

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31 In summary, the cooptation of Hutu and Tutsi members of the post-transition national assembly was
32 introduced in the APRA as an optional, exceptional measure limited to the first post-conflict elections.
33 During the political negotiations on the post-conflict parliament, however, cooptation became a
34 permanent institution permitting the CENI to correct the electoral results in view of the ethnic and
35 gender quotas laid down in the 2005 constitution. A combination of normative and pragmatic
36 underpinnings explained its use and its implementation modalities. Undoubtedly inspired by values of
37 democratic governance (minority protection and multiparty democracy), the debate on reserved
38 seats, ethnic quotas and cooptation also reflected a struggle around access to positions and power in
39 the new political arena.
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45 **Cooptation practice**

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47 Cooptation rules have been put in practice during each of the four post-conflict electoral cycles. Tables
48 2 to 4 below provide more details on the 2005, 2010 and 2015 practice at the level of the national
49 assembly. The 2020 cooptation practice (table 5) is discussed after a brief summary of the relevant
50 aspects of the 2018 constitutional reform. The analysis of cooptation practice requires some basic
51 information on the context that prevailed at the time of each of the electoral cycles.
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54 ***The 2005 elections***

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56 The 2005 first post-conflict legislative and municipality elections were generally praised for their
57 freedom and fairness.⁵⁷ After the overwhelming victory of his party CNDD-FDD in the national
58 assembly elections (58.55% of the votes) , Pierre Nkurunziza (Hutu) was – indirectly, by members of
59 parliament - elected first post-transition president of Burundi. It is important to recall that, while it
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was involved in the negotiations on the 2005 Constitution, the former Hutu rebel movement CNDD-FDD had not been involved in the earlier APRA negotiations. Although the peace agreement signed by CNDD-FDD in November 2003 formally referred to the APRA, several authors note that its exclusion from the earlier peace process meant that “the party was not committed to the inclusive democratic institutions that had been established by Arusha, with its consociationalist power-sharing framework”⁵⁸. While the CNDD-FDD electoral victory – with the benefit of hindsight – might cast a dark shadow over the future of the APRA-based institutions (including cooptation) in Burundi, the party did not immediately dismantle or reform the institutional landscape. Instead, in accordance with the 2005 Constitution, it entered into a grand coalition government with the two protagonists before and during the Arusha peace negotiations, i.e. the predominantly Tutsi UPRONA and the predominantly Hutu FRODEBU. Taken together, however, these two driving forces behind the APRA obtained no more than 29% of the votes. Their limited electoral support – which continued to crumble during the next electoral cycles – added to the uncertainty around the future of the APRA based institutions.

In order to bring the results of the national assembly elections in line with the reserved seats for Hutu (60%), Tutsi (40%) and Twa (3 seats) and the gender quota (30% women), the CENI – upon consultation with the parties involved - coopted 18 national assembly members, in addition to the 100 directly elected members. As shown in Table 2 below, the cooptation benefitted CNDD-FDD, FRODEBU and UPRONA but excluded two small parties that obtained between 2 and 5% of the votes. Cooptation was done in equal numbers, each party obtaining 5 additional seats.

Table 2

2005 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			total	details		before coopt	after coopt
CNDD-FDD	58.55%	59	5	3 Tutsi women 1 Hutu woman 1 Hutu man	64	41/18	43/21
FRODEBU	21.69%	25	5	3 Tutsi women 2 Hutu women	30	21/4	23/7
UPRONA	7.20%	10	5	3 Tutsi women 2 Tutsi men	15	0/10	0/15
CNDD	4.14%	4	0		4	3/1	3/1
MRC	2.13%	2	0		2	0/2	0/2
Twa		0	3		3		
Total		100	18	11 Tutsi (9 women; 2 men) + 4 Hutu (3 women; 1 man)	118		

A number of lessons can be drawn from the 2005 cooptation practice. First, no Twa were elected. Without the reserved seats and cooptation mechanism, this minority segment would have lacked representation in the national assembly. This first finding also applies to the 2010, 2015 and 2020 elections.⁵⁹ Secondly, in line with the motivation of the drafters of the APRA and the Constitution, cooptation in equal numbers somewhat reduced the dominance of the winner of the elections. CNDD-FDD obtained 59% of the seats before cooptation, 52% after cooptation. Thirdly, cooptation in equal numbers boosted the weight of UPRONA – one of the architects of the cooptation mechanism - in the

national assembly. From 10 seats before cooptation, its presence went up to 15 seats after cooptation (+ 50%). Fourthly, cooptation benefited mainly Tutsi (11), but also Hutu (4), mainly women (12), but also men (3). As will be shown below, cooptation practice shows another trend in the next electoral cycles. Next, cooptation of members of the Tutsi minority segment did not only happen within the predominantly Tutsi parties. Out of 11 coopted Tutsi members, 6 belonged to the predominantly Hutu parties CNDD-FDD and FRODEBU. As a result, cooptation also slightly changed the Hutu/Tutsi ratio within CNDD-FDD and FRODEBU. Finally, cooptation did not counter the ethnic imbalance within the predominantly Tutsi UPRONA party. All of its 15 national assembly members were Tutsi. As a result, the two predominantly Tutsi parties (UPRONA and MRC) had no Hutu member in the national assembly. Nevertheless, it is worth noting that, in 2005 already, most Tutsi national assembly members hailed from predominantly Hutu parties: 29 Tutsi represented CNDD-FDD, FRODEBU or CNDD, whereas 17 Tutsi seats belonged to UPRONA and MRC (both predominantly Tutsi parties). This result is surely in line with the objective of the APRA to promote ethnic co-habitation within the same parties and thus to prevent ethnic outbidding, while guaranteeing ethnic minority representation. At the same time, it also reinforced the concern expressed by the small predominantly Tutsi parties during the negotiations on the 2005 Constitution, namely that too many Tutsi national assembly members might hail from predominantly Hutu parties and, therefore, merely descriptively (not substantively) represent the Tutsi segment. This finding later gained more strength, as shown below.

The 2010 elections

On 24 May 2010, local elections were held at the level of all municipalities. Amidst allegations of fraud voiced by the opposition, CNDD-FDD obtained 64% of the votes. Twelve parties, including FRODEBU and CNDD, established an ad hoc coalition network called ADC-*IKIBIRI* and claimed the annulment of the municipality elections, the replacement of the CENI and additional guarantees ahead of the organization of the presidential and legislative elections.⁶⁰ Their call went unheeded. Six opposition candidates withdrew from the presidential election, which was held on 28 June 2010 with incumbent Pierre Nkurunziza as single remaining candidate. While most opposition parties boycotted the legislation, new national assembly members were elected on 23 July 2010. Benefitting from the opposition boycott, CNDD-FDD improved its score to 81%. UPRONA was the only opposition party taking part in the legislative elections and obtained 11% of the votes. A third party, FRODEBU NYAKURI, which was a pro-CNDD-FDD dissident FRODEBU wing, obtained 5.88% of the votes. In addition to 3 Twa, one additional member per party was coopted. For the purpose of our analysis, the (limited) 2010 cooptation practice does not add any new insight.⁶¹

Table 3

2010 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			<i>total</i>	<i>details</i>		<i>before coopt</i>	<i>after coopt</i>
CNDD-FDD	81.19%	80	1	1 Tutsi woman	81	54/26	54/27
UPRONA	11.06%	16	1	1 Tutsi man	17	5/11	5/12
FRODEBU NYAKURI	5.88%	4	1	1 Hutu man	5	2/2	3/2
Twa		0	3		3		
Total		100	6	2 Tutsi (1 woman; 1 man) + 1 Hutu (0 women; 1 man)	106		

The 2015 elections

The third post-conflict elections gave rise to the most serious political, humanitarian, diplomatic and economic crisis since the signature of the APRA. Nkurunziza's controversial third term ambition generated a major rift within CNDD-FDD, with many senior party cadres fleeing the country.⁶² It also gave rise to unprecedented demonstrations in the capital city, a coup d'Etat attempt and a violent repression which became the subject of investigations by the International Criminal Court. Nkurunziza survived the crisis and CNDD-FDD obtained 77 of the 100 directly elected seats. The 'new' UPRONA – of which the leadership was now in the hands of a pro-CNDD-FDD dissident wing – won 2 seats. The third player was the last minute established electoral coalition Abigenga Mizero led by Agathon Rwasa, the former leader of the other main Hutu rebel movement PALIPEHUTU-FNL. Several ousted 'old' UPRONA leaders, politically homeless after their party's hostile take-over, joined the ranks of Abigenga Mizero. This somewhat counterintuitive coalition – composed of cadres of the old Tutsi-dominated regime and of a rebel movement of which the mission was to 'liberate' the Hutu from that regime - obtained 21 directly elected seats. In accordance with the electoral code, an equal number of 9 members representing CNDD-FDD and Abigenga Mizero were coopted.

Table 4

2015 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			total	details		before coopt	after coopt
CNDD-FDD	60.28%	77	9	8 Tutsi women 1 Hutu woman	86	57/20	58/28
Abigenga Mizero	11.16%	21	9	8 Tutsi women 1 Tutsi man	30	14/7	14/16
UPRONA	2.49%	2	0		2	0/2	0/2
Twa		0	3		3		
Total		100	21	17 Tutsi (16 women; 1 man) + 1 Hutu (1 woman; 0 men)	121		

The 2015 cooptation practice generates for some new insights, several of which may explain why CNDD-FDD, at the time of the 2018 constitutional reform, revised the cooptation modalities. First, while – ever more so after the 2015 crisis than before - real decision-making power is firmly concentrated in the hands of a group of exclusively Hutu and exclusively male CNDD-FDD military generals⁶³, cooptation now benefits almost exclusively Tutsi and almost exclusively women. Secondly, because cooptation is done in equal numbers, the dominance of CNDD-FDD in the national assembly is again diluted (from 77% of the seats to 71% after cooptation). More importantly, cooptation boosts the weight of opposition coalition Abigenga Mizero in parliament, with 9 extra members (almost a 50% increase of its initial share). In other words, in line with the objective of multi-party democracy that inspired the drafters of the APRA and the post-conflict constitution, cooptation 'corrects' the dominant party's electoral victory. Thirdly, in 2015, cooptation of additional members is necessary because of the ethnic quotas as well as the gender quotas. The 2015 experience thus shows that anyone eager to reform (a fortiori to remove) the cooptation mechanism should take into account both its ethnic and its gender dimension. This may well explain one of the changes made after the

1 2018 constitutional reform, as explained below. Fourthly, cooptation affects the Hutu/Tutsi ratio
2 within parties. Parties benefitting from cooptation become more ethnically mixed in terms of their
3 representation in parliament. This effect occurs, to a minor extent, within CNDD-FDD and, quite
4 spectacularly, within Abigenga Mizero. As a result of cooptation, Agathon Rwasa – a historical leader
5 of the Hutu liberation struggle – leads a parliamentary faction composed of a majority of Tutsi
6 members. This has a number of political consequences. Rwasa, for a long time perceived as a radical
7 Hutu war criminal on the run for national and international justice, can now portray himself as a
8 responsible statesman leading an inclusive, Arusha-style coalition across ethnic boundaries. At the
9 same time, the opposition leader faces the challenge of securing internal coherence within his faction,
10 satisfying both his ‘old’ Hutu and his ‘new’ Tutsi supporters. During the 2020 electoral campaign,
11 CNDD-FDD indeed referred to Rwasa as a Trojan horse, warning the (predominantly Hutu) electorate
12 that a vote for Rwasa may well mean a vote for the return of the old Tutsi-dominated regime. Finally,
13 although this is hard to verify, the profile of one of the coopted Abigenga Mizero members, Fabien
14 Banciryanino (Tutsi, male), may well have enhanced the CNDD-FDD resentment against the use of
15 cooptation (or, at least, its specific modalities). Banciryanino turned out to be the by far most vocal
16 member of parliament, openly and strongly criticizing human rights violations, corruption and other
17 malpractices. In 2018 and 2019, he was the only member of parliament who challenged the
18 constitutionality of some laws and presidential decrees before the constitutional court. All of his
19 requests were dismissed on procedural grounds. Shortly after the 2020 elections, in which he did not
20 participate, Banciryanino was arrested.⁶⁴

27 **Cooptation after the 2018 constitutional reform**

29 At the initiative of the dominant party CNDD-FDD, a new constitution was adopted by referendum in
30 2018. While it would go beyond the scope of this paper to present the constitutional reform in detail,
31 a number of implications for Burundi’s institutional landscape are worth mentioning. Presidential
32 powers were enhanced, to the detriment of parliament. The institution of a prime minister was
33 (re)introduced. The requirement to form a coalition government including all parties obtaining 5% of
34 the votes was removed. Finally, while ethnic quotas were maintained for all political and security
35 institutions (except for the intelligence service) and extended to the judiciary, a sunset clause was
36 introduced requiring the senate to evaluate the usefulness of ethnic quotas within five years after the
37 2020 elections.⁶⁵ The constitution maintained cooptation as an electoral mechanism. New electoral
38 legislation was enacted in May 2019, containing two important new cooptation modalities. First, the
39 gender quota was maintained, but the need to use cooptation in order to reach that 30% women in
40 the national assembly was reduced. The 2019 electoral law requires that at least one out of three
41 (rather than one out of four, as stated in the previous electoral law) candidates ranked in sequence on
42 the blocked list shall be a woman. As a result, the number of directly elected women is more likely to
43 respect the gender quota. Second, cooptation is no longer done in equal numbers but proportionately,
44 and benefits all parties obtaining at least 2% (rather than 5%) of the votes cast. The consequences of
45 these new cooptation rules become clear when looking at their implementation during the May 2020
46 elections (see table 5 below).

52 Despite the Covid19 crisis, the 2020 general elections took place as initially scheduled, in the absence
53 of international election monitors. CNDD-FDD secretary-general Evariste Ndayishimiye won the
54 presidential election, defeating opposition candidate Agathon Rwasa and five other candidates. CNDD-
55 FDD also won the national assembly elections defeating Rwasa’s newly established party CNL⁶⁶ and
56 UPRONA. For the first time since the end of the civil war, only one party represented in parliament
57 takes part in the government, led by prime minister Alain-Guillaume Bunyoni (Hutu, CNDD-FDD). All
58 key positions – president, prime minister, army chief of staff, minister of the interior and public
59

security, head of the intelligence service, national assembly speaker, chief presidential advisor – are now controlled by male Hutu with a military degree or background and what is commonly known as *maquis* legitimacy, based on their active role in the CNDD-FDD rebellion during the civil war.⁶⁷

As shown in table 5, 23 national assembly members were coopted, in addition to the 100 directly elected members. Apart from 3 Twa members, they hail from CNDD-FDD (14), CNL (5) and UPRONA (1).

Table 5

2020 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			total	details		before coopt	after coopt
CNDD-FDD	68.02%	72	14	8 Tutsi women 6 Tutsi men	86	47/25	47/39
CNL	22.43%	27	5	3 Tutsi women 2 Tutsi men	32	25/2	25/7
UPRONA	2.44%	1	1	1 Tutsi man	2	0/1	0/2
Twa		0	3		3		
Total		100	23	20 Tutsi (11 women; 9 men) + 0 Hutu	123		

What can we learn from the 2020 cooptation practice? First, cooptation no longer ‘reduced’ the CNDD-FDD electoral victory. The party’s initiative to replace cooptation in equal numbers by proportional cooptation clearly paid off. Thus, since the 2018 constitutional reform, cooptation no longer serves its initial purpose of countering the dominance of one party in the national assembly. The political consequences of the reform become more tangible when looking at the counterfactual scenario. If we apply the old cooptation rules (with a 5% threshold and cooptation in equal numbers) to the 2020 electoral results, both CNDD-FDD and CNL would have 10 coopted members. In that scenario, CNDD-FDD having 82 (rather than 86) seats, all of its representatives would need to be present in order to meet the two third quorum requirement – i.e. 82 out of 123 members - the constitution imposes on the national assembly. The absence of one CNDD-FDD member would have enabled CNL, UPRONA and the Twa representatives – assuming they agree to join forces - to boycott a national assembly meeting and thus to prevent its deliberations from taking place.

A second important finding is that cooptation is no longer needed to ensure a 30% women’s representation in parliament. As a consequence of the new electoral list formation rules (explained above), 36 women (out of 100 national assembly members) were directly elected, which makes the use of cooptation redundant for gender quota related reasons. In other words, the cooptation mechanism remains useful and necessary only for minority representation related reasons. As shown in table 5, only Tutsi and Twa were coopted. All Hutu were directly elected, while 20 out of 48 Tutsi were coopted. Does this cast a dark shadow over the future of cooptation in Burundi? Perhaps, but not necessarily. On the one hand, one might expect a now Hutu dominated regime to remove an institution that only benefits Tutsi and Twa. This would be in line with Horowitz’ expectation that demographic majorities that overcome a temporary weakness will likely get rid of consociational institutions.⁶⁸ On the other hand, however, cooptation comes with little or no cost and even with a benefit for CNDD-FDD. The potential cost of Tutsi joining forces and collectively boycotting national assembly meetings has in practice been eliminated. In 2009 already, the electoral code was revised in

1 such a way that national assembly members who do not follow party orders lose their seat.⁶⁹ As a
2 result, dissident behaviour of Tutsi MPs within CNDD-FDD is politically suicidal. So the cost of their
3 cooptation is practically non-existent. It even comes with two benefits for CNDD-FDD. A first benefit is
4 reputational. It allows the former Hutu rebel movement to demonstrate that it has overcome the
5 ethnic divide, with 45% of its national assembly members (39 out of 86) being Tutsi. A second benefit
6 is that electoral cooptation of Tutsi allows CNDD-FDD to coopt the Tutsi segment in society and
7 discourage it from establishing or joining a Tutsi-dominated opposition party. Here's where electoral
8 cooptation and the other meaning of cooptation meet. The most promising avenue for Tutsi with
9 political career ambitions is to join CNDD-FDD rather than to oppose it.
10

11 Conclusion

12 Micro-institutions give real-life meaning to broader theoretical concepts, such as power-sharing and
13 political representation. The analysis of the adoption, evolution and implementation of cooptation
14 norms in Burundi since 2000 has demonstrated the need for a contextualized understanding of their
15 functionality. In the literature, there is a widespread assumption that reserved seats and quotas serve
16 the purpose of enhancing the political representation of societal segments and, thus, to either remedy
17 past discrimination or prevent future exclusion. To some extent, that is also the relevant angle from
18 which to understand reserved seats and cooptation in Burundi. The cooptation of Twa MPs is clearly
19 the best illustration of that justice-seeking perspective. The need for a guaranteed representation of
20 the demographic Tutsi minority also, at least to some extent, explains the use of cooptation.
21

22 However, I have also shown that an exclusive justice-seeking perspective fails to shed light on the real-
23 life meaning of cooptation. Value-driven considerations interacted with strategic manoeuvring by
24 political actors who, at times, strategically used them as a normative justification to further their
25 interests. This case-study thus shows that reserved seats and cooptation cannot be studied in isolation
26 from Burundi's conflict-to-peace transition, political power struggles and a gradually shifting balance
27 of power. They constituted a technical device in the toolbox of peace negotiators and mediators. Their
28 introduction, alongside other institutional reforms in other sectors (most notably the security sector),
29 contributed to Burundi's stabilization and to the end of what some analysts called "a never-ending
30 spiral of non-cooperation"⁷⁰ between the country's elites. Not only their adoption, but also their
31 subsequent evolution reflects the balance of power, as shown at several moments throughout the
32 above analysis. Tutsi president Pierre Buyoya cleverly introduced cooptation when negotiating the last
33 minute establishment of a transitional senate in 2000. Small Tutsi-dominated parties tried to design
34 the modalities of cooptation in the 2005 Constitution in such a way as to preserve their own political
35 relevance. After 2015, the Hutu-dominated CNDD-FDD used its political weight to eliminate the
36 negative impact of cooptation on its electoral victories. While it has – so far – kept in place the *ethnic*
37 balancing mechanism in the national assembly, it ended the *political party* balancing mechanism that
38 was introduced during the negotiations on the post-conflict constitution.
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40 Except for the Twa minority, cooptation and reserved seats in Burundi were designed in a liberal (as
41 opposed to corporate) manner. Coopted Tutsi MPs – both national assembly members as well as
42 senators – can hail from predominantly Hutu, ethnically mixed parties. Seen from a Tutsi perspective,
43 it can be argued that the cooptation mechanism thus served a merely descriptive representation of
44 their demographic minority. The case can also be made, however, that, in Burundi, institutional
45 engineering based on ethnic power-sharing, while arguably perpetuating the ethnopolitical logic⁷¹, at
46 the same time allowed the country to end a decade of ethnic violence and to gradually de-ethnicize
47 electoral competition.⁷² The Hutu/Tutsi ratio in the composition of parliamentary factions of what
48 used to be Hutu rebel movements (both CNDD-FDD as well as CNL) lends support to that argument.
49

1 Cooptation was a key tool to engineer that intra-party ethnic cohabitation. Yet, ethnic pacification
2 does not equal democratization. Cooptation of Tutsi and Twa MPs occurred in an increasingly de facto
3 single-party regime.

4 What might be the next stage in the lifecycle of cooptation in Burundi? It is hard to predict its future,
5 which will no doubt depend, i.a., on the implementation of the sunset clause requesting the senate to
6 evaluate the use of ethnic quotas in the legislature, the executive and the judicial branch. The Tutsi
7 minority may be expected to argue in favour of their maintenance. At first sight, the Hutu-dominated
8 ruling party might be expected to end electoral cooptation. As noted above, however, a cost-benefit
9 analysis might lead to a different conclusion.

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12 Beyond the case of Burundi, the paper also allows for a more general conclusion on the functionality
13 and on the shelf-life of consociational power-sharing institutions in post-conflict contexts. While
14 institutional design shapes political behaviour by shifting incentives and cost-benefit calculations, the
15 real life meaning of institutions is vice versa also determined by strategic interests and changing
16 power relations. The latter may, to some extent, remove the institutions from their initial rationale
17 (here: multi-party representation), without however dissolving them. Even when introduced in the
18 peculiar, unstable context of peace negotiations and profoundly shaped by the then prevailing balance
19 of power, power-sharing institutions may well survive in a different political environment, namely to
20 the extent that they are sufficiently malleable so as not to obstruct the interest of newly dominant
21 political actors. From a more policy-oriented perspective, a lesson to draw is that it is important for
22 conflict resolution actors to find a balance between designing power-sharing institutions that, on the
23 one hand, are sufficiently constraining and, hence, reassuring for all negotiating parties involved and,
24 on the other hand, an institutional design that is sufficiently flexible to adapt to a new political post-
25 conflict context.
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- 54 ⁴⁴ *Ibidem*, 160
- 55 ⁴⁵ Protocole II, Chapter 1, article 20, para. 8.
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Reserved seats and cooptation in Burundi (2000-2020)

Abstract:

Using a lifecycle perspective, this paper analyzes the use of reserved seats and the evolution of cooptation norms and practices in Burundi between the signature of the Arusha Peace and Reconciliation Agreement in 2000 and the 2020 legislative elections. Value-driven objectives, such as minority protection, only partly explain their use and design. The adoption, functionality and recent transformation of electoral cooptation were also determined by *realpolitik*, most notably by the elites' struggle for positions and the balance of power. Cooptation had important effects on ethnic cohabitation within parliamentary factions. The paper contributes to the literature on the micro-institutions of power-sharing.

Introduction

The use of reserved seats and the cooptation of members of parliament were introduced in Burundi's Arusha Peace and Reconciliation Agreement (APRA) of August 2000 and in the - transitional and post-transition - constitutions adopted on its basis. This paper looks at the motivations behind the introduction of cooptation and the dynamics shaping its implementation and recent reform. It situates cooptation norms and practices in the wider institutional and political context of Burundi's transition following a decade of civil war. The key factors shaping the design, the use and the evolution of cooptation are Burundi's negotiated peace, its highly consociational ethnic power-sharing institutions and its gradual return to de facto single party rule.

In this paper, in line with how it is primarily understood in Burundi, the term cooptation refers to the formal institution that regulates the appointment of representatives of a societal segment to reserved seats in parliament. Cooptation supplements the use of (direct or indirect) elections as a mechanism to attribute seats in the legislature. As explained below, the initial, publicly stated, normative motivation was twofold: ensuring minority protection and promoting multi-party democracy. Pragmatic considerations are, however, also key to understand the use of cooptation in Burundi. The design of power-sharing in Burundi was, as Lemarchand calls it, a case of 'improvised *bricolage*'¹. Cooptation was one of the tools in the game of concessions and compromises between elite actors involved in power-sharing negotiations. Notwithstanding the well-known stickiness of consociational institutions², we may expect that a shifting balance of power also affects cooptation norms and practices. The paper shows how cooptation in Burundi navigated between normative and strategic *realpolitik* considerations. The analysis also shows the interaction between these considerations, with political actors strategically manoeuvring to advance their interests using normative justifications. Using a lifecycle approach to study the adoption of cooptation and its functionality since 2000, this paper intends to contribute to the literature on the performance of power-sharing and electoral institutions in post-conflict societies.³ It also contributes to the literature on micro-institutions, i.e. the rules, processes and practices that shape the real-life meaning – and, at times, the subversion or erosion - of macro-institutions (such as minority protection and reserved seats).⁴ Furthermore, beyond the case of Burundi, the paper also sheds light on the "shelf-life" of consociational power-sharing institutions in post-conflict contexts and, in particular, how they can be accommodated, modified or rejected in a changing political context.

The first section situates the paper in the literature on reserved seats and cooptation in legislative assemblies. The next section explains how and why cooptation was introduced during Burundi's peace negotiations process. Different types of cooptation – with different motivations explaining their use –

were adopted for the transitional and post-transition senate and national assembly. A next section zooms in on the cooptation modalities for the post-transition national assembly under the 2005 Constitution and electoral legislation. The paper then analyzes cooptation practice at the 2005, 2010 and 2015 elections, in the context of a growing dominance of the CNDD-FDD⁵ – the party of president Pierre Nkurunziza - over the state institutions. This section assesses the effectiveness of cooptation against its stated objectives and also looks at other effects, in particular on the composition of political party factions in the national assembly. A final section analyzes cooptation practice after the 2018 constitutional reform.

Reserved seats and cooptation in legislative assemblies after ethnic conflict

In the aftermath of ethnic conflict, societies face the challenge whether or not to recognize ethnic segmentation as a foundation for the post-conflict state institutions.⁶ The literature generally distinguishes between two main options: the integration-based versus the accommodation-based approach. Integration-based models deny the relevance of ethnic societal segmentation for the design of post-conflict institutions. Accommodation-based models, on the contrary, recognize and incorporate ethnicity when engineering the post-conflict state.⁷ Neighbouring ‘false twins’ Rwanda and Burundi offer interesting real-life illustrations of these two different models.⁸ For reasons it would take us too long to explain here, Rwanda opted for ethnic amnesia, while Burundi institutionalized ethnic power-sharing and is now “widely seen as the main African case of consociationalism”⁹. Accommodation-based approaches have used a variety of mechanisms to organize the (descriptive) representation of societal segments in the political institutions, and often also in the security sector institutions. Peace agreements – in particular those that contain constitutional blueprints – sometimes include reserved seats as part of broader power-sharing arrangements.¹⁰ In the toolbox of constitutional designers, reserved seats constitute a mechanism to guarantee the representation of segments, in particular minority groups, in legislatures.

Reserved seats and electoral quotas – both gender quotas and quotas for minority groups – are mostly studied from the analytical perspective of political representation. In the literature, major attention is paid to both the rationale and the modalities of reserved seats. Their presumed underlying rationale is to enhance the inclusion and protection of under-represented groups by guaranteeing their representation in legislatures (and, possibly, other institutions). Seen from this right-based perspective, the key normative argument for a guaranteed representation is to remedy the systemic discrimination of groups who have historically been disadvantaged or whose cultural identity has not (or insufficiently) been recognized.¹¹ Guaranteeing their representation thus presumably aims at ending past injustice and preventing future discrimination.¹² Power-sharing theory suggests another rationale. A guaranteed representation – in particular of those groups that have the capacity to destabilize the political system – is required in order to achieve stability in divided societies. Proponents of consociational power-sharing suggest a combination of guaranteed proportional representation, coalition governments, autonomy and/or veto power that allows segments to protect their vital interests.¹³ Like other research that adopts an empirical rather than a normative perspective¹⁴, this paper does not assume that reserved seats and cooptation in Burundi are a mere justice-seeking mechanism, but rather pays due attention to other more pragmatic and *realpolitik* explanations for their introduction, implementation and evolution. Also, to be clear, I do not study the effects of reserved seats and descriptive representation quotas on policy outcomes¹⁵ or the quality¹⁶ of (substantive) political representation.¹⁷

How reserved seats are filled by segmental representatives is generally determined by electoral legislation. In transitional post-conflict settings, peace agreements may determine how seats are

attributed. In practice, there is a wide variation, depending on the balance of power, the local institutional context and demographic aspects (e.g. the territorial concentration of groups, the number of minority groups, etcetera). Bird distinguishes three distinct families of reserved seat mechanisms: electoral systems guaranteeing seats to ethnic parties, systems incorporating designated ethnic groups within pan-ethnic parties and systems involving special electoral districts for ethnic groups.¹⁸ As explained in more detail below, Burundi – where mono-ethnic parties are prohibited and where ethnic groups are not territorially concentrated - belongs to the second family.

Finally, and to avoid confusion, it is worth recalling that, in most academic literature, cooptation, a term coined by sociologist Philip Selznick in 1948, is not studied as an electoral mechanism but rather from a different theoretical angle. In the literature on stability and longevity of autocratic rule, cooptation is defined as the range of formal and informal strategies that incumbent autocrats use to secure the loyalty of opponents and, thus, to ensure regime survival.¹⁹ Cooptation here refers to the encapsulation of challengers – rather than their repression - via policy concessions, the sharing of rents or other means in order to prevent a coup, rebellion or revolution.²⁰ Other authors use the same concept of cooptation in various other contexts, for instance, to study how corporations align the interests of non-governmental organizations with their own goals.²¹ Although I do not use this definition of cooptation as the conceptual framework for my analysis, this Burundi case-study also illustrates how both meanings of cooptation are interrelated, as noted in the analysis of the 2020 cooptation practice.

Burundi's peace process and the use of cooptation: mixed motivations and various modalities

In 1966, four years after it gained independence, Burundi became a one-party republic, which it remained until 1992. On 1 June 1993, Melchior Ndadaye (Hutu, FRODEBU²²) won the presidential elections defeating incumbent Pierre Buyoya (Tutsi, UPRONA²³). Barely four months later, on 21 October 1993, Ndadaye was assassinated by government soldiers during an attempted military coup. After this failure to introduce multi-party democracy - which, as Sullivan called it, was vetoed²⁴ by members of the Tutsi-dominated army - Burundi became the scene of a civil war which was “fundamentally political, with extremely important ethnic dimensions”, as stated in the APRA²⁵. The government army, of which the leadership was exclusively composed of members of the demographic Tutsi minority, opposed two rebel movements composed of members of the demographic Hutu majority. A negotiated power-sharing settlement, rather than a military victory, ended the civil war. The recognition and institutionalization of the ethnic factor in the post-conflict state was a crucial item on the agenda of the peace negotiations.²⁶ Burundi's current dual ethnic and gender quota system was initially designed during an internationally mediated negotiations process which resulted in new security and political (including electoral) institutions.²⁷ The introduction of cooptation in parliament should therefore, first of all, be understood in the context of the use of ethnic quotas to reform Burundi's political institutions and its security sector, to which I turn first.

During the Arusha peace talks (1998-2000), the composition of the army and police force was highly contentious. A representative of one of the Hutu parties to the negotiations requested a national army made up of 85% Hutu, 14% Tutsi and 1% Twa, so as to reflect the (presumed) demographic weight of the three ethnic groups. Given the control of the army commandment by the demographic minority ever since the establishment of the single party UPRONA republic in 1966, it came as no surprise that all Tutsi party delegates initially rejected the use of ethnic quotas for the security sector.²⁸ In the end, as proposed by mediator Nelson Mandela²⁹, it was agreed that not more than 50% of the army and police could be drawn from one ethnic group.³⁰ As a result, ethnic parity in the security sector was laid down in the Constitution of 18 March 2005. It also features in the Constitution of 7 June 2018 (even

though it no longer applies to the – powerful - intelligence service). The 2005 Constitution also imposed quotas on the composition of several political institutions. The government was to be composed of a maximum of 60% Hutu ministers and 40% Tutsi ministers and a minimum of 30% women.³¹ At the local level, not more than 67% of the municipality administrators could be drawn from the same ethnic group.³² More important for the purpose of this paper, ethnic (and gender) quotas also applied to the composition of both chambers of parliament. I first turn to the senate, then to the national assembly. For both chambers, different arrangements applied during the period of transition (initially limited to 3 years) and after the transitional period had come to an end.

For the post-transition senate, the APRA introduced ethnic parity (50% Hutu and 50% Tutsi senators). This principle was included in the 2005 Constitution and maintained in the 2018 Constitution. In order to reach ethnic parity, senators are indirectly elected by provincial electoral colleges made up of newly elected municipality councilors. Burundi has 18 provinces and each provincial electoral college elects two senators. In other words, 18 seats are reserved for Hutu and for Tutsi. These 36 senators are elected in semi-separate ballots, with both Hutu and Tutsi members of the provincial electoral college together voting for their preferred Hutu candidate and for their preferred Tutsi candidate. The ballot is ‘semi-separate’, because the electoral college is ethnically mixed, while the lists of candidates are mono-ethnic (be it that political parties must submit two lists - one of Tutsi, the other of Hutu candidates - per province). Because of this indirect election process, cooptation of Hutu or Tutsi is not needed to obtain ethnic parity. The APRA, however, also provided for the cooptation of a fixed number of 3 Twa senators. This was motivated by the need “to ensure the representation of this community”³³, a historically marginalized minority, originally forest dwellers. Both the 2005 and the 2018 Constitution leave it to the electoral commission (CENI) to coopt the Twa senators, who are nominated by 3 Twa civil society organizations and hail from 3 different provinces. Because Twa were absent both from the battle field and the table of peace negotiations, the cooptation of Twa senators (and of 3 Twa national assembly members, see below) was clearly motivated by an imperative of idealism, namely minority representation.³⁴ Burundi thus stands out as a case in which some “others” (also called “forgotten minorities”, i.e. segments who are not at the heart of the ethnopolitical cleavage) are recognized while other “others” (like the Ganwa³⁵ or naturalized citizens) are not.³⁶

The arrangement that was designed for the post-transition senate – and implemented from the 2005 elections onwards – did not apply to the senate during the period of transition. The very last evening before the signature of the APRA on 28 August 2000, a transitional senate was added to the political institutions set to govern during the transition (initially set at 36 months, in actual practice of around 5 years) between the APRA signature and the first post-conflict elections.³⁷ The transitional senate was added at the last minute request of incumbent president Pierre Buyoya, who remained interim president during the first 18 months of the transition. The last minute creation of the transitional senate and the modality of appointment of its members reveals another motivation behind the use of cooptation in Burundi. Here, cooptation was not inspired by minority representation but rather by other *realpolitik* considerations. To understand the cooptation of the transitional senate, we must first take a brief closer look at the transitional national assembly. The APRA and the 2001 Transitional Constitution provided for a very large transitional national assembly (not subject to ethnic quotas). Sixteen political parties that signed the APRA but were not yet represented in the national assembly could appoint 3 members, in addition to the members already in office. Seats were reserved for those parties – some of which were hardly more than a small family affair - as a reward for their agreement to sign the APRA. In other words, the cooptation of transitional national assembly members essentially amounted to a position-sharing mechanism and an interest-based incentive for negotiating parties, largely disconnected from the idea of representation. Apart from 3 Twa representatives and the former heads of state, the transitional senate (subject to ethnic parity) was composed of a number of

coopted senators, at least two per province. Quite remarkably, these transitional senators were coopted among the national assembly members by president Buyoya himself, be it in consultation with the vice-president and the bureau of the national assembly. Thus, cooptation allowed the incumbent president to secure the loyalty of the members of the (at that time quite powerful) senate. Here, cooptation serves the function of transition management³⁸, with the incumbent president Buyoya clearly trying to dictate the terms and modalities of the transition. For Sindayigaya, who participated in the Arusha negotiations, this last minute creation of the coopted transitional senate was nothing less than a “hold-up” on the APRA.³⁹ Seen from this angle, the use of cooptation was overwhelmingly inspired by strategic pragmatism and clever power politics rather than by the value-driven argument of representation of Burundi’s ethnic segments.⁴⁰ As explained below, this perspective on cooptation also helps to explain its later transformation.

The next section deals with the post-transition national assembly. So far, I have identified three types of cooptation. First, transitional national assembly members were coopted by political parties, signatories to the APRA. This first type of cooptation was not linked to ethnic power-sharing or to elections, but essentially an instrument to sweeten the peace deal for negotiating parties. Second, transitional senators were coopted by the incumbent head of state. As noted above, like the first type, cooptation here also served the purpose of transition management. Given the required ethnic parity, this second type can also be classified as a case of cooptative ethnic power-sharing.⁴¹ A third type is the cooptation of a fixed number (3) of post-transition Twa senators by the CENI, upon nomination by “the most representative Twa civil society groups”⁴². This third type also applies to the cooptation of post-transition Twa national assembly members and will not be dealt with in more detail below, where I will focus on the fourth type of cooptation, namely of Hutu and Tutsi in the national assembly. The third and fourth type of cooptation can both be classified as auxiliary to electoral ethnic power-sharing: cooptation is used to ‘correct’ electoral results that are not in accordance with the constitutionally required ethnic quotas.

Table 1 gives an overview of the three types of cooptation covered thus far and – in italics - of the fourth type of cooptation addressed at greater length in the next sections.

Table 1

	<i>senate</i>	<i>national assembly</i>
<i>transitional period</i>	Hutu/Tutsi parity; cooptation by head of state (among transitional national assembly members); cooptation of 3 Twa	no ethnic quotas; cooptation by political parties signing the Arusha Peace and Reconciliation Agreement; no cooptation of Twa
<i>post-transition</i>	Hutu/Tutsi parity; semi-separate ballot; no cooptation of Hutu or Tutsi; cooptation of 3 Twa	<i>60% Hutu / 40% Tutsi;</i> <i>cooptation of a variable number of</i> <i>Hutu and/or Tutsi;</i> cooptation of 3 Twa

Cooptation of Tutsi and/or Hutu at the national assembly: the APRA and the 2005 constitution

A variety of motivations and modalities inspired the cooptation of Hutu and/or Tutsi members of the (post-transition) national assembly. As explained in this section, due to some important political dynamics during the period of transition, the 2005 Constitution went beyond what had initially been

agreed upon in the APRA on the (limited) use of cooptation. This more extension use of cooptation was due to a combination of value-driven concerns (minority representation and a multi-party parliament), interest-driven attempts by smaller parties to revise the APRA constitutional blueprint and a gradually shifting balance of power.

The Arusha peace process

During the Arusha peace negotiations, the composition of the national assembly was a highly contentious issue. Several proposals were put to the table, including ethnically separate ballots, similar to what was agreed for the post-transition senate, as noted above.⁴³ However, as explained in the explanatory note to APRA Protocol II, its constitutional blueprint deliberately combined consociational elements with incentives to discourage ethnic outbidding. The APRA did not explicitly provide for ethnic quotas or reserved seats for Hutu and Tutsi in the national assembly. Rather, an electoral system was designed in great detail and in such a way that (at least) 40 of the 100 national assembly seats were likely to be filled by representatives of the demographic Tutsi minority.⁴⁴ Combined with a qualified (two thirds of the votes) majority requirement for the adoption of (important) legislation, this should award a blocking minority to the Tutsi national assembly members. The key to reach that 40% minority representation was a system of proportional representation with blocked, ethnically mixed electoral lists: “the revised electoral code shall prescribe that lists be multi-ethnic in character and reflect gender representation. For each three names in sequence on a list, only two may belong to the same ethnic group, and for each five names at least one shall be a woman”⁴⁵. In other words, a predominantly Hutu party must have at least one Tutsi among its top 3 candidates and vice versa for a predominantly Tutsi party. This was meant to lead to an approximate 60/40% representation of Hutu and Tutsi without reserved seats and without cooptation. As a one-off exception for the first post-conflict elections, however, the APRA provided for the possible cooptation of additional members of parliament in case one political party obtained more than 60% of the votes. In that scenario, on top of the 100 directly elected members, between 18 and 21 members “shall be coopted in equal numbers from the lists of all the parties that have obtained more than the threshold vote” (which was set at 2%). Cooptation was suggested “despite its limited distortion of the electoral result”⁴⁶ and based on a dual motivation. It was supposed to dilute the result in case of an overwhelming victory by one party and, because the small parties were likely to predominantly Tutsi, it would help to reach a 40% Tutsi representation in the national assembly. In other words, in the APRA, cooptation was envisaged - only for the first post-conflict elections and only if necessary - in order to protect the multi-party nature of parliament and to ensure the representation of the Tutsi demographic minority.⁴⁷ Implementation modalities were left to the electoral legislation, to be adopted by the transition parliament.

The 2005 Constitution and electoral legislation

The dual motivation behind cooptation – promoting multi-partyism and guaranteeing minority representation – reemerged during the political negotiations in the run-up to the drafting of the 2005 Constitution. However, as explained below, rather than an exceptional measure, cooptation became an integral part of the electoral system, in combination with ethnic quotas. In 2004, intense negotiations on the post-transition constitution, the electoral system and ethnic power-sharing took place, essentially a “power play over quotas”⁴⁸. In line with the reservations they had added to their signature of the APRA, several predominantly Tutsi parties wanted to renege on some APRA provisions and called for a more corporate (rather than liberal)⁴⁹ consociational arrangement. Their requests included, inter alia, an alternating (Hutu/Tutsi) presidency and a vice-president (of the other ethnic group than the president) with veto power. They also insisted that “at least 70% of the 40% of the seats reserved for them must be occupied by Tutsis representing Tutsi-led parties and the remaining

30% by Tutsis representing parties with a Hutu majority”⁵⁰. It is not surprising that predominantly Tutsi parties, fearful of the results of the forthcoming elections after a decade of ethno-political civil war, requested stronger guarantees for their own future share in the political institutions. But, during the period of transition, as a result of at least three important developments, the balance of power had gradually shifted, strongly reducing the leverage of those predominantly Tutsi parties. First, in May 2003, as agreed in the APRA, interim president Buyoya (Tutsi, UPRONA) was replaced by interim president Ndayizeye (Hutu, FRODEBU), for the second half of the transition. Secondly, in November 2003, a comprehensive peace agreement was signed by the Ndayizeye government and the Hutu rebel movement CNDD-FDD. This added another very influential player – who had not been involved in the APRA negotiations and who initially rejected the consociational model⁵¹ - to the table of negotiations on the post-transition Constitution. Thirdly, unlike in 1993, an international military peacekeeping presence (initially by the African Union, later by the United Nations) ruled out the possibility of a (at that time still Tutsi-dominated) government army veto against the transition. As a result, the predominantly Hutu parties, supported by the South African facilitation, rejected the above-mentioned requests made by the predominantly Tutsi parties. In November 2004, interim vice-president Kadege (Tutsi, UPRONA) even resigned over this issue. To break the deadlock, the facilitation put forward the cooptation of national assembly members, in addition to the 100 directly elected members and no longer limited (as in the APRA) to the first post-conflict elections.⁵² The protection of members of ethnic minorities against their exclusion from the political institutions was one of the motivations for the proposed cooptation. In addition, the transitional government of interim president Ndayizeye stated, in the explanatory note to the draft 2005 constitution, that cooptation should avoid that power is concentrated in the hands of one political party.⁵³ In other words, in line with the spirit of the APRA, cooptation was introduced as a tool both to ensure minority representation and to protect the multi-party character of the national assembly. Quite conveniently, this dual normative motivation nicely converged with the interests of the smaller, Tutsi-dominated parties that could not reasonably expect to win a large percentage of the votes at the forthcoming elections.⁵⁴ Indeed, depending on the specific modalities of cooptation (which I turn to next), cooptation might well disproportionately boost their weight in the national assembly.

The 2005 constitution – adopted by referendum - stipulated that the national assembly is composed of “at least 100 members”, with 60% of the seats reserved for Hutu, 40% for Tutsi and 30% for women (without reserving seats for men). In addition, as mentioned above and apparently assuming that no Twa members would ever be directly elected, the constitution stated that 3 Twa members must be coopted. Cooptation – to be further elaborated in the electoral code - was introduced as a mechanism to correct the electoral results in case they did not respect the (ethnic and gender) quotas prescribed by the constitution. In line with the APRA, the electoral code of 20 April 2005 specified that for each three candidates in sequence on a blocked list, only two may belong to the same ethnic group. Keeping in mind the required 30% representation of women, the electoral code also stipulated that at least one out of four (rather than one out of five, as stated in the APRA) candidates shall be a woman. So, as Bird argues, the gender and ethnic quotas mechanically intersect⁵⁵, namely at the moment of party list formation. The electoral code further detailed the cooptation mechanism that was to be used to the extent necessary to correct the electoral results. The key modalities were:

1. Cooptation is the prerogative of the electoral commission (CENI), upon consultation with the political parties concerned. Cooptation disputes are taken to the constitutional court.
2. The CENI coopts ‘best losers’ on the lists, without changing the order of the candidates. ‘Best losers’, a concept also used by Bird⁵⁶, does not refer to the number of votes won by the candidate. Burundians vote for a party, not for individual candidates, so ‘best loser’ refers to the place of the candidate on the blocked list.

3. Cooptation only benefits those parties that obtain 5% of the votes cast (while the electoral threshold is set at 2% of the votes cast).
4. Although there is no fixed or maximum number of coopted members, the reasonable interpretation – also adopted by the CENI (see the section on cooptation practice below) – of the electoral code is to limit cooptation to the extent needed to reach the ethnic and gender quotas and not to go beyond. (As a result, the number of national assembly members may vary after every general election, which was indeed the case in practice.)
5. The CENI must strive for a regional balance, coopting best losers – to the extent needed in order to reach the quotas - from the largest possible number of provincial circumscriptions.
6. Cooptation can be used to adjust the electoral results in line with both ethnic and gender quotas. But there is no reciprocity requirement for cooptation in itself. In other words, no 60/40% ethnic requirement within each gender group applies, nor does the gender quota (30% women) apply to the members coopted from each ethnic group.
7. Tutsi can be coopted among candidates on the lists of predominantly Hutu parties (and vice versa for Hutu members). There is no required link between the ethnic identity of the candidate and the dominant ethnic group within the party concerned. This marks a notable difference with the cooptation of Twa (nominated by Twa civil society organizations).
8. Finally, in line with the stated motivation to enhance the multiparty character of the national assembly, cooptation is done “in equal numbers”, rather than proportionally. Every party obtaining 5% of the votes cast is entitled to an equal number of coopted national assembly members. As a result, cooptation is likely to water down the electoral victory of the largest party and to boost the presence of smaller parties in the national assembly. (Not surprisingly, as explained below, this cooptation modality was revised at the initiative of the dominant party CNDD-FDD of president Nkurunziza at the time of the 2018 constitutional reform.)

In summary, the cooptation of Hutu and Tutsi members of the post-transition national assembly was introduced in the APRA as an optional, exceptional measure limited to the first post-conflict elections. During the political negotiations on the post-conflict parliament, however, cooptation became a permanent institution permitting the CENI to correct the electoral results in view of the ethnic and gender quotas laid down in the 2005 constitution. A combination of normative and pragmatic underpinnings explained its use and its implementation modalities. Undoubtedly inspired by values of democratic governance (minority protection and multiparty democracy), the debate on reserved seats, ethnic quotas and cooptation also reflected a struggle around access to positions and power in the new political arena.

Cooptation practice

Cooptation rules have been put in practice during each of the four post-conflict electoral cycles. Tables 2 to 4 below provide more details on the 2005, 2010 and 2015 practice at the level of the national assembly. The 2020 cooptation practice (table 5) is discussed after a brief summary of the relevant aspects of the 2018 constitutional reform. The analysis of cooptation practice requires some basic information on the context that prevailed at the time of each of the electoral cycles.

The 2005 elections

The 2005 first post-conflict legislative and municipality elections were generally praised for their freedom and fairness.⁵⁷ After the overwhelming victory of his party CNDD-FDD in the national assembly elections (58.55% of the votes), Pierre Nkurunziza (Hutu) was – indirectly, by members of parliament - elected first post-transition president of Burundi. It is important to recall that, while it

was involved in the negotiations on the 2005 Constitution, the former Hutu rebel movement CNDD-FDD had not been involved in the earlier APRA negotiations. Although the peace agreement signed by CNDD-FDD in November 2003 formally referred to the APRA, several authors note that its exclusion from the earlier peace process meant that “the party was not committed to the inclusive democratic institutions that had been established by Arusha, with its consociationalist power-sharing framework”⁵⁸. While the CNDD-FDD electoral victory – with the benefit of hindsight – might cast a dark shadow over the future of the APRA-based institutions (including cooptation) in Burundi, the party did not immediately dismantle or reform the institutional landscape. Instead, in accordance with the 2005 Constitution, it entered into a grand coalition government with the two protagonists before and during the Arusha peace negotiations, i.e. the predominantly Tutsi UPRONA and the predominantly Hutu FRODEBU. Taken together, however, these two driving forces behind the APRA obtained no more than 29% of the votes. Their limited electoral support – which continued to crumble during the next electoral cycles – added to the uncertainty around the future of the APRA based institutions.

In order to bring the results of the national assembly elections in line with the reserved seats for Hutu (60%), Tutsi (40%) and Twa (3 seats) and the gender quota (30% women), the CENI – upon consultation with the parties involved - coopted 18 national assembly members, in addition to the 100 directly elected members. As shown in Table 2 below, the cooptation benefitted CNDD-FDD, FRODEBU and UPRONA but excluded two small parties that obtained between 2 and 5% of the votes. Cooptation was done in equal numbers, each party obtaining 5 additional seats.

Table 2

2005 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			total	details		before coopt	after coopt
CNDD-FDD	58.55%	59	5	3 Tutsi women 1 Hutu woman 1 Hutu man	64	41/18	43/21
FRODEBU	21.69%	25	5	3 Tutsi women 2 Hutu women	30	21/4	23/7
UPRONA	7.20%	10	5	3 Tutsi women 2 Tutsi men	15	0/10	0/15
CNDD	4.14%	4	0		4	3/1	3/1
MRC	2.13%	2	0		2	0/2	0/2
Twa		0	3		3		
Total		100	18	11 Tutsi (9 women; 2 men) + 4 Hutu (3 women; 1 man)	118		

A number of lessons can be drawn from the 2005 cooptation practice. First, no Twa were elected. Without the reserved seats and cooptation mechanism, this minority segment would have lacked representation in the national assembly. This first finding also applies to the 2010, 2015 and 2020 elections.⁵⁹ Secondly, in line with the motivation of the drafters of the APRA and the Constitution, cooptation in equal numbers somewhat reduced the dominance of the winner of the elections. CNDD-FDD obtained 59% of the seats before cooptation, 52% after cooptation. Thirdly, cooptation in equal numbers boosted the weight of UPRONA – one of the architects of the cooptation mechanism - in the

national assembly. From 10 seats before cooptation, its presence went up to 15 seats after cooptation (+ 50%). Fourthly, cooptation benefited mainly Tutsi (11), but also Hutu (4), mainly women (12), but also men (3). As will be shown below, cooptation practice shows another trend in the next electoral cycles. Next, cooptation of members of the Tutsi minority segment did not only happen within the predominantly Tutsi parties. Out of 11 coopted Tutsi members, 6 belonged to the predominantly Hutu parties CNDD-FDD and FRODEBU. As a result, cooptation also slightly changed the Hutu/Tutsi ratio within CNDD-FDD and FRODEBU. Finally, cooptation did not counter the ethnic imbalance within the predominantly Tutsi UPRONA party. All of its 15 national assembly members were Tutsi. As a result, the two predominantly Tutsi parties (UPRONA and MRC) had no Hutu member in the national assembly. Nevertheless, it is worth noting that, in 2005 already, most Tutsi national assembly members hailed from predominantly Hutu parties: 29 Tutsi represented CNDD-FDD, FRODEBU or CNDD, whereas 17 Tutsi seats belonged to UPRONA and MRC (both predominantly Tutsi parties). This result is surely in line with the objective of the APRA to promote ethnic co-habitation within the same parties and thus to prevent ethnic outbidding, while guaranteeing ethnic minority representation. At the same time, it also reinforced the concern expressed by the small predominantly Tutsi parties during the negotiations on the 2005 Constitution, namely that too many Tutsi national assembly members might hail from predominantly Hutu parties and, therefore, merely descriptively (not substantively) represent the Tutsi segment. This finding later gained more strength, as shown below.

The 2010 elections

On 24 May 2010, local elections were held at the level of all municipalities. Amidst allegations of fraud voiced by the opposition, CNDD-FDD obtained 64% of the votes. Twelve parties, including FRODEBU and CNDD, established an ad hoc coalition network called ADC-*IKIBIRI* and claimed the annulment of the municipality elections, the replacement of the CENI and additional guarantees ahead of the organization of the presidential and legislative elections.⁶⁰ Their call went unheeded. Six opposition candidates withdrew from the presidential election, which was held on 28 June 2010 with incumbent Pierre Nkurunziza as single remaining candidate. While most opposition parties boycotted the legislation, new national assembly members were elected on 23 July 2010. Benefitting from the opposition boycott, CNDD-FDD improved its score to 81%. UPRONA was the only opposition party taking part in the legislative elections and obtained 11% of the votes. A third party, FRODEBU *NYAKURI*, which was a pro-CNDD-FDD dissident FRODEBU wing, obtained 5.88% of the votes. In addition to 3 Twa, one additional member per party was coopted. For the purpose of our analysis, the (limited) 2010 cooptation practice does not add any new insight.⁶¹

Table 3

2010 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			<i>total</i>	<i>details</i>		<i>before coopt</i>	<i>after coopt</i>
CNDD-FDD	81.19%	80	1	1 Tutsi woman	81	54/26	54/27
UPRONA	11.06%	16	1	1 Tutsi man	17	5/11	5/12
FRODEBU NYAKURI	5.88%	4	1	1 Hutu man	5	2/2	3/2
Twa		0	3		3		
Total		100	6	2 Tutsi (1 woman; 1 man) + 1 Hutu (0 women; 1 man)	106		

The 2015 elections

The third post-conflict elections gave rise to the most serious political, humanitarian, diplomatic and economic crisis since the signature of the APRA. Nkurunziza’s controversial third term ambition generated a major rift within CNDD-FDD, with many senior party cadres fleeing the country.⁶² It also gave rise to unprecedented demonstrations in the capital city, a coup d’Etat attempt and a violent repression which became the subject of investigations by the International Criminal Court. Nkurunziza survived the crisis and CNDD-FDD obtained 77 of the 100 directly elected seats. The ‘new’ UPRONA – of which the leadership was now in the hands of a pro-CNDD-FDD dissident wing – won 2 seats. The third player was the last minute established electoral coalition Abigenga Mizero led by Agathon Rwasa, the former leader of the other main Hutu rebel movement PALIPEHUTU-FNL. Several ousted ‘old’ UPRONA leaders, politically homeless after their party’s hostile take-over, joined the ranks of Abigenga Mizero. This somewhat counterintuitive coalition – composed of cadres of the old Tutsi-dominated regime and of a rebel movement of which the mission was to ‘liberate’ the Hutu from that regime - obtained 21 directly elected seats. In accordance with the electoral code, an equal number of 9 members representing CNDD-FDD and Abigenga Mizero were coopted.

Table 4

2015 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			total	details		before coopt	after coopt
CNDD-FDD	60.28%	77	9	8 Tutsi women 1 Hutu woman	86	57/20	58/28
Abigenga Mizero	11.16%	21	9	8 Tutsi women 1 Tutsi man	30	14/7	14/16
UPRONA	2.49%	2	0		2	0/2	0/2
Twa		0	3		3		
Total		100	21	17 Tutsi (16 women; 1 man) + 1 Hutu (1 woman; 0 men)	121		

The 2015 cooptation practice generates for some new insights, several of which may explain why CNDD-FDD, at the time of the 2018 constitutional reform, revised the cooptation modalities. First, while – ever more so after the 2015 crisis than before - real decision-making power is firmly concentrated in the hands of a group of exclusively Hutu and exclusively male CNDD-FDD military generals⁶³, cooptation now benefits almost exclusively Tutsi and almost exclusively women. Secondly, because cooptation is done in equal numbers, the dominance of CNDD-FDD in the national assembly is again diluted (from 77% of the seats to 71% after cooptation). More importantly, cooptation boosts the weight of opposition coalition Abigenga Mizero in parliament, with 9 extra members (almost a 50% increase of its initial share). In other words, in line with the objective of multi-party democracy that inspired the drafters of the APRA and the post-conflict constitution, cooptation ‘corrects’ the dominant party’s electoral victory. Thirdly, in 2015, cooptation of additional members is necessary because of the ethnic quotas as well as the gender quotas. The 2015 experience thus shows that anyone eager to reform (a fortiori to remove) the cooptation mechanism should take into account both its ethnic and its gender dimension. This may well explain one of the changes made after the

2018 constitutional reform, as explained below. Fourthly, cooptation affects the Hutu/Tutsi ratio within parties. Parties benefitting from cooptation become more ethnically mixed in terms of their representation in parliament. This effect occurs, to a minor extent, within CNDD-FDD and, quite spectacularly, within Abigenga Mizeru. As a result of cooptation, Agathon Rwasa – a historical leader of the Hutu liberation struggle – leads a parliamentary faction composed of a majority of Tutsi members. This has a number of political consequences. Rwasa, for a long time perceived as a radical Hutu war criminal on the run for national and international justice, can now portray himself as a responsible statesman leading an inclusive, Arusha-style coalition across ethnic boundaries. At the same time, the opposition leader faces the challenge of securing internal coherence within his faction, satisfying both his ‘old’ Hutu and his ‘new’ Tutsi supporters. During the 2020 electoral campaign, CNDD-FDD indeed referred to Rwasa as a Trojan horse, warning the (predominantly Hutu) electorate that a vote for Rwasa may well mean a vote for the return of the old Tutsi-dominated regime. Finally, although this is hard to verify, the profile of one of the coopted Abigenga Mizeru members, Fabien Banciryanino (Tutsi, male), may well have enhanced the CNDD-FDD resentment against the use of cooptation (or, at least, its specific modalities). Banciryanino turned out to be the by far most vocal member of parliament, openly and strongly criticizing human rights violations, corruption and other malpractices. In 2018 and 2019, he was the only member of parliament who challenged the constitutionality of some laws and presidential decrees before the constitutional court. All of his requests were dismissed on procedural grounds. Shortly after the 2020 elections, in which he did not participate, Banciryanino was arrested.⁶⁴

Cooptation after the 2018 constitutional reform

At the initiative of the dominant party CNDD-FDD, a new constitution was adopted by referendum in 2018. While it would go beyond the scope of this paper to present the constitutional reform in detail, a number of implications for Burundi’s institutional landscape are worth mentioning. Presidential powers were enhanced, to the detriment of parliament. The institution of a prime minister was (re)introduced. The requirement to form a coalition government including all parties obtaining 5% of the votes was removed. Finally, while ethnic quotas were maintained for all political and security institutions (except for the intelligence service) and extended to the judiciary, a sunset clause was introduced requiring the senate to evaluate the usefulness of ethnic quotas within five years after the 2020 elections.⁶⁵ The constitution maintained cooptation as an electoral mechanism. New electoral legislation was enacted in May 2019, containing two important new cooptation modalities. First, the gender quota was maintained, but the need to use cooptation in order to reach that 30% women in the national assembly was reduced. The 2019 electoral law requires that at least one out of three (rather than one out of four, as stated in the previous electoral law) candidates ranked in sequence on the blocked list shall be a woman. As a result, the number of directly elected women is more likely to respect the gender quota. Second, cooptation is no longer done in equal numbers but proportionately, and benefits all parties obtaining at least 2% (rather than 5%) of the votes cast. The consequences of these new cooptation rules become clear when looking at their implementation during the May 2020 elections (see table 5 below).

Despite the Covid19 crisis, the 2020 general elections took place as initially scheduled, in the absence of international election monitors. CNDD-FDD secretary-general Evariste Ndayishimiye won the presidential election, defeating opposition candidate Agathon Rwasa and five other candidates. CNDD-FDD also won the national assembly elections defeating Rwasa’s newly established party CNL⁶⁶ and UPRONA. For the first time since the end of the civil war, only one party represented in parliament takes part in the government, led by prime minister Alain-Guillaume Bunyoni (Hutu, CNDD-FDD). All key positions – president, prime minister, army chief of staff, minister of the interior and public

security, head of the intelligence service, national assembly speaker, chief presidential advisor – are now controlled by male Hutu with a military degree or background and what is commonly known as *maquis* legitimacy, based on their active role in the CNDD-FDD rebellion during the civil war.⁶⁷

As shown in table 5, 23 national assembly members were coopted, in addition to the 100 directly elected members. Apart from 3 Twa members, they hail from CNDD-FDD (14), CNL (5) and UPRONA (1).

Table 5

2020 National Assembly elections							
party	votes	elected	coopted		total	Hutu/Tutsi ratio	
			total	details		before coopt	after coopt
CNDD-FDD	68.02%	72	14	8 Tutsi women 6 Tutsi men	86	47/25	47/39
CNL	22.43%	27	5	3 Tutsi women 2 Tutsi men	32	25/2	25/7
UPRONA	2.44%	1	1	1 Tutsi man	2	0/1	0/2
Twa		0	3		3		
Total		100	23	20 Tutsi (11 women; 9 men) + 0 Hutu	123		

What can we learn from the 2020 cooptation practice? First, cooptation no longer ‘reduced’ the CNDD-FDD electoral victory. The party’s initiative to replace cooptation in equal numbers by proportional cooptation clearly paid off. Thus, since the 2018 constitutional reform, cooptation no longer serves its initial purpose of countering the dominance of one party in the national assembly. The political consequences of the reform become more tangible when looking at the counterfactual scenario. If we apply the old cooptation rules (with a 5% threshold and cooptation in equal numbers) to the 2020 electoral results, both CNDD-FDD and CNL would have 10 coopted members. In that scenario, CNDD-FDD having 82 (rather than 86) seats, all of its representatives would need to be present in order to meet the two third quorum requirement – i.e. 82 out of 123 members - the constitution imposes on the national assembly. The absence of one CNDD-FDD member would have enabled CNL, UPRONA and the Twa representatives – assuming they agree to join forces - to boycott a national assembly meeting and thus to prevent its deliberations from taking place.

A second important finding is that cooptation is no longer needed to ensure a 30% women’s representation in parliament. As a consequence of the new electoral list formation rules (explained above), 36 women (out of 100 national assembly members) were directly elected, which makes the use of cooptation redundant for gender quota related reasons. In other words, the cooptation mechanism remains useful and necessary only for minority representation related reasons. As shown in table 5, only Tutsi and Twa were coopted. All Hutu were directly elected, while 20 out of 48 Tutsi were coopted. Does this cast a dark shadow over the future of cooptation in Burundi? Perhaps, but not necessarily. On the one hand, one might expect a now Hutu dominated regime to remove an institution that only benefits Tutsi and Twa. This would be in line with Horowitz’ expectation that demographic majorities that overcome a temporary weakness will likely get rid of consociational institutions.⁶⁸ On the other hand, however, cooptation comes with little or no cost and even with a benefit for CNDD-FDD. The potential cost of Tutsi joining forces and collectively boycotting national assembly meetings has in practice been eliminated. In 2009 already, the electoral code was revised in

such a way that national assembly members who do not follow party orders lose their seat.⁶⁹ As a result, dissident behaviour of Tutsi MPs within CNDD-FDD is politically suicidal. So the cost of their cooptation is practically non-existent. It even comes with two benefits for CNDD-FDD. A first benefit is reputational. It allows the former Hutu rebel movement to demonstrate that it has overcome the ethnic divide, with 45% of its national assembly members (39 out of 86) being Tutsi. A second benefit is that electoral cooptation of Tutsi allows CNDD-FDD to coopt the Tutsi segment in society and discourage it from establishing or joining a Tutsi-dominated opposition party. Here's where electoral cooptation and the other meaning of cooptation meet. The most promising avenue for Tutsi with political career ambitions is to join CNDD-FDD rather than to oppose it.

Conclusion

Micro-institutions give real-life meaning to broader theoretical concepts, such as power-sharing and political representation. The analysis of the adoption, evolution and implementation of cooptation norms in Burundi since 2000 has demonstrated the need for a contextualized understanding of their functionality. In the literature, there is a widespread assumption that reserved seats and quotas serve the purpose of enhancing the political representation of societal segments and, thus, to either remedy past discrimination or prevent future exclusion. To some extent, that is also the relevant angle from which to understand reserved seats and cooptation in Burundi. The cooptation of Twa MPs is clearly the best illustration of that justice-seeking perspective. The need for a guaranteed representation of the demographic Tutsi minority also, at least to some extent, explains the use of cooptation.

However, I have also shown that an exclusive justice-seeking perspective fails to shed light on the real-life meaning of cooptation. [Value-driven considerations interacted with strategic manoeuvring by political actors who, at times, strategically used them as a normative justification to further their interests.](#) This case-study [thus](#) shows that reserved seats and cooptation cannot be studied in isolation from Burundi's conflict-to-peace transition, political power struggles and a gradually shifting balance of power. They constituted a technical device in the toolbox of peace negotiators and mediators. Their introduction, alongside other institutional reforms in other sectors (most notably the security sector), contributed to Burundi's stabilization and to the end of what some analysts called "a never-ending spiral of non-cooperation"⁷⁰ between the country's elites. Not only their adoption, but also their subsequent evolution reflects the balance of power, as shown at several moments throughout the above analysis. Tutsi president Pierre Buyoya cleverly introduced cooptation when negotiating the last minute establishment of a transitional senate in 2000. Small Tutsi-dominated parties tried to design the modalities of cooptation in the 2005 Constitution in such a way as to preserve their own political relevance. After 2015, the Hutu-dominated CNDD-FDD used its political weight to eliminate the negative impact of cooptation on its electoral victories. [While it has – so far – kept in place the ethnic balancing mechanism in the national assembly, it ended the political party balancing mechanism that was introduced during the negotiations on the post-conflict constitution.](#)

Except for the Twa minority, cooptation and reserved seats in Burundi were designed in a liberal (as opposed to corporate) manner. Coopted Tutsi MPs – both national assembly members as well as senators – can hail from predominantly Hutu, ethnically mixed parties. Seen from a Tutsi perspective, it can be argued that the cooptation mechanism thus served a merely descriptive representation of their demographic minority. The case can also be made, however, that, in Burundi, institutional engineering based on ethnic power-sharing, while arguably perpetuating the ethnopolitical logic⁷¹, at the same time allowed the country to end a decade of ethnic violence and to gradually de-ethnicize electoral competition.⁷² The Hutu/Tutsi ratio in the composition of parliamentary factions of what used to be Hutu rebel movements (both CNDD-FDD as well as CNL) lends support to that argument.

Cooptation was a key tool to engineer that intra-party ethnic cohabitation. Yet, ethnic pacification does not equal democratization. Cooptation of Tutsi and Twa MPs occurred in an increasingly de facto single-party regime.

What might be the next stage in the lifecycle of cooptation in Burundi? It is hard to predict its future, which will no doubt depend, i.a., on the implementation of the sunset clause requesting the senate to evaluate the use of ethnic quotas in the legislature, the executive and the judicial branch. The Tutsi minority may be expected to argue in favour of their maintenance. At first sight, the Hutu-dominated ruling party might be expected to end electoral cooptation. As noted above, however, a cost-benefit analysis might lead to a different conclusion.

Beyond the case of Burundi, the paper also allows for a more general conclusion on the functionality and on the shelf-life of consociational power-sharing institutions in post-conflict contexts. While institutional design shapes political behaviour by shifting incentives and cost-benefit calculations, the real life meaning of institutions is vice versa also determined by strategic interests and changing power relations. The latter may, to some extent, remove the institutions from their initial rationale (here: multi-party representation), without however dissolving them. Even when introduced in the peculiar, unstable context of peace negotiations and profoundly shaped by the then prevailing balance of power, power-sharing institutions may well survive in a different political environment, namely to the extent that they are sufficiently malleable so as not to obstruct the interest of newly dominant political actors. From a more policy-oriented perspective, a lesson to draw is that it is important for conflict resolution actors to find a balance between designing power-sharing institutions that, on the one hand, are sufficiently constraining and, hence, reassuring for all negotiating parties involved and, on the other hand, an institutional design that is sufficiently flexible to adapt to a new political post-conflict context.

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³ Allison McCulloch and Joanne McEvoy, "Understanding Power-Sharing Performance: A Lifecycle Approach." *Studies in Ethnicity and Nationalism* 20, no. 2 (2020): 109-116.

⁴ Patrick Dunleavy, "Micro-institutions and Liberal Democracy." *Political Insight* 10, no. 1 (2019): 35-39

⁵ Conseil national pour la défense de la démocratie – Forces de défense de la démocratie (National Council for the Defense of Democracy - Forces for the Defense of Democracy).

⁶ Elisabeth King and Cyrus Samii, *Diversity, Violence and Recognition. How Recognizing Ethnic Identity Promotes Peace* (New York: Oxford University Press, 2020).

⁷ Mathias Basedau, "Managing Ethnic Conflict: the Menu of Institutional Engineering" (Hamburg: GIGA Working Papers, 2011).

⁸ Stef Vandeginste, "Governing ethnicity after genocide: ethnic amnesia in Rwanda versus ethnic power-sharing in Burundi." *Journal of Eastern African Studies* 8, no. 2 (2014): 263-277

⁹ Matthijs Bogaards, Ludger Helms and Arend Lijphart, "The Importance of Consociationalism for Twenty-First Century Politics and Political Science." *Swiss Political Science Review* 25, no. 4 (2019): 346.

¹⁰ Andrew Reynolds, "Reserved Seats in National Legislatures: A Comparative Approach", in *Redistricting in Comparative Perspective*, edited by Lisa Handley and Bernard Grofman (Oxford University Press, 2008): 116.

¹¹ See, e.g., Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford University Press, 1995).

¹² Elin Bjarnegard and Par Zetterberg, "Why are representational guarantees adopted for women and minorities? Comparing constituency formation and electoral quota design within countries." *Representation* 50, no. 3 (2014): 309.

- ¹³ Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* (New Haven: Yale University Press, 1977).
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- ¹⁵ Miriam Hanni, "Presence, Representation and Impact: How Minority MPs Affect Policy Outcomes." *Legislative Studies Quarterly* 42, no. 1 (2017): 97-130.
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- ¹⁹ See, e.g., Johannes Gerschewski, "The three pillars of stability: legitimation, repression and co-optation in autocratic regimes." *Democratization* 20, no. 1 (2013): 13-38.
- ²⁰ Vincenzo Bove and Mauricio Rivera, "Elite Co-optation, Repression and Coups in Autocracies." *International Interactions* 41, no. 3 (2015): 453-479; Jennifer Gandhi and Adam Przeworski, "Cooperation, Cooptation and Rebellion under Dictatorships." *Economics and Politics* 18, no. 1 (2006): 1-26.
- ²¹ Dorothea Baur and Hans Peter Schmitz, "Corporations and NGOs: When Accountability Leads to Co-optation." *Journal of Business Ethics* 106, no. 1 (2012): 9-21.
- ²² Front pour la démocratie au Burundi (Front for Democracy in Burundi).
- ²³ Parti de l'unité pour le progrès national (Party of Unity for National Progress). UPRONA was the single party from 1966 (when the monarchy was abolished) until 1992 when multi-partyism was introduced.
- ²⁴ Daniel Sullivan, "The missing pillars: a look at the failure of peace in Burundi through the lens of Arend Lijphart's theory of consociational democracy." *Journal of Modern African Studies* 43, no. 1 (2005): 75-95.
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- ²⁷ Willy Peter Nindorera, "Interactions between peacemaking and constitution-making processes in Burundi" (Berlin: Berghof Foundation, 2019).
- ²⁸ Jean-Marie Sindayigaya, *Burundi. La saga d'Arusha* (Brussels: ARIB, 2004): 35-36.
- ²⁹ Ibidem, 66
- ³⁰ Protocol III, Chapter 2, article 14.
- ³¹ Article 129; see also article 128 of the 2018 Constitution.
- ³² Article 266; see also article 273 of the 2018 Constitution.
- ³³ Protocol II, Chapter 1, article 6, para. 15.
- ³⁴ [See also my analysis on the recognition of the two segment as 'collateral gain': Stef Vandeginste, "Political Representation of Minorities as Collateral Damage or Gain: The Batwa in Burundi and Rwanda", *Africa Spectrum* 49, no. 1 \(2014\): 3-25.](#)
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- ³⁷ Sindayigaya, *Burundi*: 83; Pierre Buyoya, *Les négociations interburundaises* (Paris: L'Harmattan, 2012): 191.
- ³⁸ Christine Bell, "Power-sharing, Conflict Resolution and Women: A Global Appraisal." *Nationalism and Ethnic Politics* 24, no. 1 (2018): 13.
- ³⁹ Sindayigaya, *Burundi*: 81.
- ⁴⁰ In another context, see also Jusic and Stojanovic, "Minority Rights and Realpolitik".
- ⁴¹ I thank Alexandre Raffoul for suggesting the concept of cooptative power-sharing.
- ⁴² Wording used in the electoral code.
- ⁴³ APRA, Appendice I. Notes explicatives sur le Protocol II, 177.
- ⁴⁴ Ibidem, 160
- ⁴⁵ Protocole II, Chapter 1, article 20, para. 8.
- ⁴⁶ APRA, Appendice I. Notes explicatives sur le Protocol II, 177.
- ⁴⁷ Ibidem
- ⁴⁸ Nindorera, "Interactions": 31.
- ⁴⁹ McCulloch, "Introduction: Power-Sharing in Europe": 4.
- ⁵⁰ United Nations Security Council, First report of the Secretary-General on the United Nations Operation in Burundi, S/2004/682, 25 August 2004, para. 3.

⁵¹ Nindorera, “Interactions”: 31.

⁵² Ibidem, para. 5

⁵³ “Ceci afin d’éviter que le pouvoir n’échoie à une seule formation politique sans partage” (section 32 of the Exposé des motifs, *Le Renouveau du Burundi*, 10 November 2004).

⁵⁴ In 1993, no party except FRODEBU and UPRONA obtained more than 2% of the votes.

⁵⁵ Karen Bird, “Intersections of exclusion: the institutional dynamics of combined gender and ethnic quota systems.” *Politics, Groups and Identities* 4, no. 2 (2016): 289.

⁵⁶ Bird, “Ethnic quotas”: 21.

⁵⁷ Mission d’observation électorale de l’Union Européenne au Burundi, *Elections Législatives 2005. Rapport final* (Bujumbura: EU, 2005).

⁵⁸ Ntagahoraho Burihabwa and Devon Curtis, “The Limits of Resistance Ideologies. The CNDD-FDD and the Legacies of Governance in Burundi.” *Government and Opposition* 54, no. 3 (2019): 561.

⁵⁹ After the 2020 elections, for the first time ever, a Twa minister was appointed.

⁶⁰ ADC-Ikibiri, *Mémoire sur les irrégularités et fraudes massives des élections communales du 24 mai 2010*, Bujumbura, June 2010.

⁶¹ From conversations with former party cadres, I conclude that the limited 2010 cooptation practice was due to coincidence rather than the result of a deliberate CNDD-FDD electoral list formation strategy to pre-empt co-optation and its negative effects on the party’s electoral victory.

⁶² Stef Vandeginste, “Legal Loopholes and the Politics of Executive Term Limits: Insights from Burundi.” *Africa Spectrum* 51, no. 1 (2016): 39-63.

⁶³ Gervais Rufyikiri, “The Post-wartime Trajectory of CNDD-FDD in Burundi: A Façade Transformation of Rebel Movement to Political Party.” *Civil Wars* 19, no. 2 (2017): 220-248.

⁶⁴ Human Rights Watch, Prosecution of former MP casts doubt on reform in Burundi,

<https://www.hrw.org/news/2020/10/12/prosecution-former-mp-casts-doubt-reform-burundi#> (last accessed 22 September 2021). Banciryanino was released from prison on 1 October 2021.

⁶⁵ Stef Vandeginste, “Burundi’s institutional landscape after the 2020 elections” (Brussels: Egmont Institute, 2020).

⁶⁶ Congrès national pour la liberté (National Congress for Freedom)

⁶⁷ Ntagahoraho Burihabwa and Devon Curtis, “Postwar statebuilding in Burundi: ruling party elites and illiberal peace” *International Affairs* 97, no. 4 (2021): 1221-1238.

⁶⁸ Donald Horowitz, “Ethnic Power Sharing: Three Big Problems.” *Journal of Democracy* 25, no. 2 (2014): 8.

⁶⁹ Allison McCulloch and Stef Vandeginste, “Veto power and power-sharing: insights from Burundi (2000-2018).” *Democratization* 26, no. 7 (2019): 1186.

⁷⁰ Henri Boshoff, Waldemar Vrey and George Rautenbach, “The Burundi peace process. From civil war to conditional peace” (Pretoria: ISS, 2010): 19.

⁷¹ See the critique by, i.a., Jan Pospisil, “The ungovernance of peace: transitional processes in contemporary conflicts.” *Transnational Legal Theory* 11, no. 3 (2020): 343.

⁷² Jean-Marie Kagabo, *Democratic engineering in Rwanda and Burundi* (Kampala: Fountain Publishers, 2018): 278.

Title:

Reserved seats and cooptation in Burundi (2000-2020)

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