



Perspectives Series: Research Report

## Gender-sensitivity of the Truth, Justice, Reparation and Non-Repetition processes in Burundi

Mathilde Boddaert



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Mathilde Boddaert

This research was conducted between December 2011 and May 2012. As a new TRC-draft law dated 14 November 2012 became available as we were publishing this report, our references to the 'TRC-draft law' relate to the original version of it, contained in the October 2011 Kavakure Report. Nevertheless, we occasionally mention the new draft law. This report was researched and written by Mathilde Boddaert under the guidance of Impunity Watch. A final edit of the report was overseen by Impunity Watch Gender Coordinator Karlijn Leentvaar and Gender Project Officer Karen Hammink.

### Impunity Watch

Impunity Watch (IW) is an international non-profit organisation seeking to promote accountability for past atrocities in countries emerging from a violent past. To this end Impunity Watch does systematic research on root causes of impunity that includes the voice of victims, to convince relevant stakeholders to make and implement effective policy. IW works closely with civil society organisations in countries emerging from armed conflict and repression to increase their influence on the creation and implementation of related policies. IW currently runs Country Programmes in Guatemala and Burundi, while also undertaking specific and comparative research in other conflict-affected countries on particular aspects of impunity as part of a '*Perspectives Programme*'.

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<sup>1</sup> French acronym for Association burundaise pour la Protection des Droits Humains et des personnes détenues

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## English and French Acronyms

<b>AFJB</b>	Burundian Women Lawyers' Association (Association des Femmes Juristes du Burundi)
<b>AFRABU</b>	Association for Returnee Women in Burundi (Association des Femmes Rapatriées du Burundi)
<b>AMEPCI</b>	Association for memory and protection of humanity against international crimes (Association pour la Mémoire et la Protection de l'humanité contre les Crimes Internationaux)
<b>APRA</b>	Arusha Peace and Reconciliation Agreement
<b>APRODH</b>	Burundian Association for the Protection of Human Rights and Detained Persons (Association burundaise pour la Protection des Droits Humains et des personnes détenues)
<b>AVOD</b>	Widows and Orphans' Association for the Defence of their Rights (Association des Veuves et des Orphelins pour la Défense de leurs Droits)
<b>BINUB</b>	Integrated United Nations Office in Burundi (Bureau Intégré des Nations Unies au Burundi)
<b>BNUB</b>	United Nations Office in Burundi (Bureau des Nations Unies au Burundi)
<b>CAFOB</b>	Collective of Women's Associations and NGOs of Burundi (Collectif des Associations et ONGs Féminines du Burundi)
<b>CARAVI</b>	Centre for Support and Reflection of Associations of Victims of socio-political conflicts (Centre d'Appui et de Réflexion des Associations des Victimes des conflits socio-politiques)
<b>CEDAC</b>	Training Centre for the Development of Ex-combatants (Centre d'Encadrement et de Développement des Anciens Combattants)
<b>CEDAW</b>	Convention on the Elimination of all forms of Discrimination Against Women
<b>CEJP</b>	Episcopal Commission for Justice and Peace (Commission Episcopale Justice et Paix)
<b>CENAP</b>	Centre of Alert and Conflict Prevention (Centre d'Alerte et de Prévention des conflits)
<b>CENI</b>	National Independent Electoral Commission (Commission Nationale Electorale Indépendante)
<b>CNDD-FDD</b>	National Council for the Defence of Democracy-Forces for the Defence of Democracy (Conseil National pour la Défense de la Démocratie-Forces de Défense de la Démocratie)
<b>CNDRR</b>	National Commission for Demobilisation, Reinsertion and Reintegration (Commission Nationale pour la Démobilisation, Réinsertion et Réintégration)
<b>CNIDH</b>	Commission Nationale Indépendante des Droits de l'Homme
<b>CNTB</b>	National Commission for Land and other Properties (Commission Nationale des Terres et autres Biens)
<b>CSLP</b>	Strategic Framework for growth and Fight against Poverty (Cadre Stratégique de croissance et de Lutte contre la Pauvreté)
<b>CSO</b>	Civil Society Organisation
<b>DDR</b>	Disarmament, Demobilisation, Reintegration
<b>D&amp;R</b>	Demobilisation & Reintegration
<b>FAB</b>	Armed Forces of Burundi

	(Forces Armées du Burundi)
<b>FDN</b>	National Democratic Forces (Forces Démocratiques Nationales)
<b>FONAREC/JT</b>	National Forum of Community Networks for Transitional Justice (Forum National des Relais Communautaires en Justice Transitionnelle)
<b>FORSC</b>	Forum for the Reinforcement of the Civil Society (Forum pour le Renforcement de la Société Civile)
<b>FNL</b>	National Liberation Forces (Front National de Libération)
<b>GBV</b>	Gender-Based Violence
<b>GFP</b>	Gender Focal Point
<b>GIZ</b>	German Agency for International Cooperation (Deutsche Gesellschaft für Internationale Zusammenarbeit)
<b>GNP</b>	Gender National Policy
<b>GRJT</b>	Reflection Group on Transitional Justice (Groupe de Réflexion sur la Justice de Transition)
<b>IA</b>	International Alert
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICGLR</b>	International Conference on the Great Lakes Region
<b>ICRC</b>	International Committee of the Red Cross
<b>IDPs</b>	Internally Displaced Persons
<b>IJCI</b>	International Judicial Commission of Inquiry
<b>INGO</b>	International Non-Governmental Organisation
<b>IPU</b>	Inter-Parliamentary Union
<b>LEAP</b>	Learning Equality, Access and Peace (Program)
<b>LOGiCA</b>	Learning On Gender and Conflict in Africa
<b>MDNAC</b>	Ministry of National Defence and Former Combatants (Ministère de la Défense Nationale et des Anciens Combattants)
<b>MDRP</b>	Multi-County Demobilisation and Reintegration Programme
<b>MIPAREC</b>	Ministry for Peace And Reconciliation under the Cross
<b>MSNDPHG</b>	Ministry of National Solidarity, Human Rights and Gender (Ministère de la Solidarité Nationale, des Droits de la Personne Humaine et du Genre)
<b>MSP</b>	Ministry of Public Security (Ministère de la Sécurité Publique)
<b>NAP</b>	National Action Plan for the implementation of UNSCR 1325
<b>NGO</b>	Non-Governmental Organisation
<b>NGP</b>	National Gender Policy
<b>OAG</b>	Observatory of the Governmental Action (Observatoire de l'Action Gouvernementale)
<b>OHCHR</b>	Office of the United Nations' High Commissioner for Human Rights
<b>PDRT</b>	Emergency Demobilization and Transitional Reintegration Project (Projet d'urgence de Démobilisation et de Réintégration Transitoire)
<b>PNB</b>	Burundian National Police (Police Nationale Burundaise)
<b>PNDRR</b>	National Programme of Demobilisation, Reinsertion and Reintegration (Programme National de Démobilisation, Réinsertion et Réintégration)
<b>RFP</b>	Women and Peace Network

	(Réseau Femmes et Paix)
<b>SGBV</b>	Sexual and Gender-Based Violence
<b>SPPDF</b>	Synergy of Partners for the Promotion of Women's Rights (Synergie des Partenaires pour la Promotion des Droits de la Femme)
<b>SSR</b>	Security Sector Reform
<b>SSD</b>	Security Sector Development
<b>ST</b>	Special Tribunal
<b>TC</b>	Technical Committee (in charge of preparing for the establishment of Transitional Justice Mechanisms)
<b>THARS</b>	Trauma Healing and Reconciliation Services
<b>TJ</b>	Transitional Justice
<b>TJM</b>	Transitional Justice Mechanism
<b>TJRNR</b>	Truth, Justice, Reparations, guarantees of Non-Repetition
<b>TMC</b>	Technical Monitoring Committee (for the National Consultations)
<b>TRC</b>	Truth and Reconciliation Commission
<b>TSC</b>	Tripartite Steering Committee (for the National Consultations)
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Program
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNIFEM</b>	United Nations Development Fund for Women
<b>UNSCR</b>	United Nations Security Council Resolution
<b>UN Women</b>	United Nations Entity for Gender Equality and the Empowerment of Women
<b>UPRONA</b>	Union for National Progress (Union pour le Progrès National)
<b>VAW</b>	Violence Against Women





## Executive summary and main recommendations

This paper contains an analysis of the gender-sensitivity of processes of truth, justice, reparation and non-recurrence (TJRNR) in Burundi, in which we identify key obstacles towards increasing the gender-sensitivity of these processes and formulate recommendations to overcome them. TJRNR processes are implemented with the goal of coming to terms with the violent past and in such a way that it has the potential to transform society so that future conflict can be avoided. In Burundi, some of these processes are already taking place while others are currently being developed.

The successive Burundian conflicts that cost hundreds of thousands of lives particularly in the 1970's as well as in the 1990's have had different impacts on men and women. Men were mostly direct victims during the conflict, while women have continued to suffer disproportionately in the aftermath of war. Men and women both had to take on new roles as the result of the conflicts as well as the peace processes. Some women have made important steps toward empowerment in the public sphere since then, and their participation in politics has undeniably improved, as is evident in the 2005 Constitution. Despite this progress, the voices of the majority of women are seldom heard in Burundian society, and their rights are insufficiently protected either by law or by law enforcement bodies. Women's rights and gender issues are still relatively under-addressed in Burundi, and these issues remain little understood or accepted as valid concerns among some actors.

In this context, the Burundian Truth, Justice, Reparation and Non-Repetition processes have not been addressing gender issues in a substantial way, although they are being increasingly promoted. In a country that is one of the poorest in the world and that struggles with the legacy of great internal cycles of violence since gaining independence, these issues are just not perceived as a priority. Indeed, TJRNR processes in general already face a lot of challenges, such as conflicting political interests, limited financial means, new and weakness of institutions and the lack of rule of law.

Nevertheless, the gender-responsiveness of the various Transitional Justice (TJ) processes should be a crucial objective, especially as *mainstreaming* gender does not impinge on other priority issues and would not require much in additional funding. The implementation of a gender sensitive approach would include a balanced representation of men and women in TJRNR mechanisms; effectively hearing and responding to the ideas, demands, rights and needs of all victims' groups, including men and women; and addressing gender-based discrimination and inequalities in the design and the implementation of the mechanisms. These entry points are pre-requisites to the efficiency of TJRNR processes, and the ability of Burundi to overcome the violent past. Movement towards a more fair and prosperous society relies on their implementation. While some women are already taking part in the development of these processes (mostly women active within women's organisations) the absence of a gender-sensitive approach would most likely result in the underrepresentation of female victims in these mechanisms, and in the lack of adequate responses to their needs. Indeed, the dominant gender roles in Burundian society are such that the majority of women are mostly absent from the public sphere and are not expected to take part in justice-related affairs. Further, they often lack the needed resources for participation in transitional justice and development processes, including access to education, information, or financial resources.

There are several obstacles to the adoption and implementation of a gender-sensitive approach in TJRNR processes in Burundi. This report contains recommendations for different actors on how to overcome and address these obstacles. Burundian authorities and state institutions, as well as other stakeholders, have

shown little interest in, or willingness to address gender issues so far. While progress is noticeable on the questions of sexual violence and women's participation, the government does not yet seem to be as willing to redress other forms of gender inequalities and gender-based violence. The established gender roles in Burundian society rely on a strong patriarchal culture where women's roles in institutional structures have been limited in the past. This might explain some of the reluctance to engage in the topic of gender and women's rights questions in Burundi.

The lack of knowledge or expertise on gender among Burundian authorities and institutions constitutes another challenge to implementing a gender-sensitive approach in TJNR processes. While we find genuine engagement and interesting work on these questions among local Civil Society Organisations (CSOs) – particularly women's associations – as well as some international agencies and the Ministry of National Solidarity, Human Rights and Gender (MSNDPHG<sup>2</sup>), there is still a general lack of practical know-how on how to translate 'gender-sensitivity' into concrete gender-responsiveness. Notably, some of the gender approaches taken are still solely focused on women's rights, thus failing to address the 'gendered' aspect of TJNR issues, and mostly consider women as victims. Some of our recommendations are therefore to challenge the stereotyping of women as victims only, by promoting women's role as key actors in Burundian society and institutional life.

Looking more closely at the gender-sensitivity of the TJNR processes in Burundi, we examined the draft law on the Truth and Reconciliation Commission (TRC) contained in the November 2011 'Kavakure-Report'. Although it is still possible that the TRC will never become a reality, because the TRC has the potential to be a key-process in current Burundian efforts to come to terms with the past and an opportunity to challenge and change current gender-inequalities, we dedicate substantial attention to it in this report and our recommendations. The 'Technical Committee (TC) in charge of preparing for the establishment of Transitional Justice Mechanisms', which designed that TRC-draft law, initially did not consider gender as a relevant element for the design and set-up of the TRC. Since no representative of civil society or of organised victims participated in the TC, important grass-roots experience and knowledge were ignored and an opportunity to include the concerns and ideas of both female and male victims was missed. Relevant ministries such as the MNSHRG were not consulted on its mandate and focus either. However, these deficits were partially 'repaired' by study-missions to South Africa and Rwanda, consultation meetings with stakeholders (including civil society) and capacity development, all of which contributed to increase the TC's insights and understandings on the relevance of a gender-sensitive TRC. Recommendations from CSO networks, like the Reflection Group on Transitional Justice, further supported TC gender-sensitivity.

The full report of the TC's work or 'Kavakure-Report', named after its president, contains a section with 'recommendations' for the TRC that are more gender-sensitive than the TRC-draft law itself. The insights in these Recommendations were not fully reflected in the TRC-draft law either because of a lack of political will or, most likely, because "gender is not a priority". The few gender-sensitive points that the TRC-draft law contains do provide for a gender balance among Commissioners; confidentiality and anonymity of testimonies by victims 'if needed', particularly for victims of sexual violence; and a few other provisions that will benefit all victims, but are particularly relevant to women's participation.

A reviewed TRC-draft law has been submitted to the Council of ministers as we are publishing this report. The new version dated 14 November 2012 does not take into account CSOs' and the UN's recommendations as far as gender is concerned, and it is not any more gender-responsive than the 2011

<sup>2</sup> French acronym for Ministère de la Solidarité Nationale, des Droits de la Personne Humaine et du Genre



version in the Kavakure Report. The TRC-draft law has not been examined or promulgated by the Burundian Parliament yet. Since the Burundian government indicated that the normative framework for the TRC would be set up by the end of 2012, therefore it is urgent for CSOs and the international community to advocate for a more gendered focus in the TRC and that the concerned Burundian authorities take these past and future recommendations into consideration. The TRC's gender-sensitivity can be significantly improved by recruiting gender-balanced and -sensitive staff at all levels; facilitating access to the TRC through mobile hearings which are needed due to the problems rural women have in accessing justice mechanisms; enabling victims to choose whether they want to testify in public or behind closed doors; allowing victims to decide on the sex of their interlocutors; and organising 'women's only' hearings. The TRC-draft law also establishes that the Commission will generate recommendations for the design and implementation of follow-up measures in the fields of justice, reparation and non-recurrence, and provides some on these processes – without, again, any gender-sensitive approach.

Concerning the justice process, in 2005 the Burundian Government and the United Nations (UN) have agreed on the set up of a Special Tribunal (ST) to deal with conflict-era human rights violations. However, several contentious points remain between the UN and the government. Among these is the fact that the Burundian government considers the ST as conditional, linking it to the outcomes of the TRC while the UN advocates for the establishment of an ST independent of the outcomes of the TRC. As the current party in power, the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), was one of the warring parties in the last conflict, there is a strong tendency in the state to divert attention away from 'justice' towards 'reconciliation' and 'pardon'. This explains why all references to the Special Tribunal made in the October 2011 TRC draft-law were totally omitted from the one of November 2012. As far as gender issues are concerned in the justice process, no debate or official proposal exists yet, which is mostly due to the general stalemate over the ST. To fill a part of this void, this report reflects on possible ways for the Tribunal to become gender-responsive. Some entry points are similar to those mentioned for the TRC, while others need to address technical challenges involved in achieving a gender sensitive approach in judicial prosecutions.

The existing debate on reparation reveals the complexity of this process in Burundi, given the very high number of victims and their level of expectations *versus* the restricted financial means available in the country. We observed a relative lack of consensus on the forms that reparation should take and a general lack of consideration of gender-related issues.

The TRC-draft law contains provisions for the Commission to order immediate reparations during its activities followed by a reparation programme to be determined upon its recommendations. The draft law contains very little awareness of differences in the way conflict has affected men and women, and consequently these differences are not reflected in reparations. Therefore, it is absolutely necessary to provide technical support and conduct advocacy efforts to improve the gender-responsiveness of future reparations programs.

In the meantime, some reparative measures are already in place in Burundi. They include symbolic reparation and the restitution of land and other property to returned refugees and Internally Displaced Persons (IDPs). In neither case has a gender-sensitive approach been taken, although the need for it is dire in the case of land restitution. Having no inheritance right, women are excluded from land ownership, thus putting returnee widows – and widows in general – in serious hardship in such a rural country. While an annex to the Arusha Peace and Reconciliation Agreement (APRA) recommends legalising women's rights to inherit land, this important recommendation has never been implemented. The National Commission for Land and other Properties (CNTB), responsible for settling returnees-related

land issues, may show some signs of gender-sensitivity; however it lacks the needed expertise as well as a clear, gender-sensitive legal framework to effectively offer gender-responsive solutions. This situation requires financial support and capacity-building in the design and implementation of a gender-sensitive policy on land, as well as substantive advocacy and awareness-raising efforts to respectively address the legal and cultural structure of Burundi, which are not conducive to women's land ownership. Land access-related reforms must be addressed both as a reparation measure as well as guarantees of non-repetition, since the general land shortage in Burundi triggers local tensions and violations of human rights on a daily basis.

Other reparatory measures are included in the National Action Plan (NAP) for the implementation of UNSCR 1325, such as the establishment of a collective reparation fund for victims of sexual violence during the conflict. Meanwhile, some CSOs are promoting various forms of gender-sensitive reparations as well. This report examines one of their suggestions, a 'Fund for rehabilitation and social cohesion', as a potential good practice in reparation. Indeed, this project engages victims as actors of the reparation process within their community; it is based on a traditional practice and aims at being gender-sensitive, while also contributing to conflict non-repetition by enhancing social cohesion.

Most TJRNR-measures implemented so far in Burundi have been in the area of non-repetition. As far as gender is concerned, the focus has been on increasing the numerical participation of women in (political) institutions through the implementation of quotas. This has resulted in an increase of the number of women in high political posts (with 30% women in the National Assembly and 42% women in government), but with a much lower percentage of women involved in lower-level institutions where there is no quota (women making up 17% of *Colline* counsellors). The security sector reform has also looked at increasing the number of women in the police and the military, as part of a strong gender approach supported by international actors. Indeed, women represent less than 0.05% of the Burundian military and 3% of the police officers today. However, many ex-combatants have been integrated in the military and the police and the two institutions are currently 'overstaffed' so hiring of new personnel is scarce. Improving the gender-sensitivity of these institutions will therefore not be reached by employing more women, but would need to focus on addressing the cultural, institutional and sometimes financial obstacles, within these institutions, to their gender-sensitivity. Some efforts have already been undertaken in the police in particular, through gender-sensitive training for male police staff and the activities of a network of policewomen, which has been instrumental in promoting their role. More profound gender-sensitive changes in both the military and the police are needed. This requires more awareness-raising and advocacy work towards and within the Ministries concerned, as well as additional funding.

There is a clear missing link in the efforts promoting the gender-sensitive implementation of the law at the level of the justice system. There has been no real gender approach in the reforms conducted so far. While women's access to justice is particularly difficult, it is part of a broader lack of access to justice for the majority of Burundians. As one conflict victim states, "*Justice is a good thing in itself, but it does not exist here*". A lot remains to be done to enhance the capacities, efficiency, transparency and fairness of the modern justice institutions in regards to gender issues. In the few cases when women have dared to prosecute a perpetrator for violence committed against them, the police and the legal institutions have failed to take their cases seriously. The gender-sensitive reform of the justice system should be treated as a priority in today's Burundi. This is all the more necessary since the recent reform of the Penal Code that has toughened the legal sanctions against rape in combination with expected reforms to combat violence against women. These reforms will require a gender-responsive judicial system.

The NAP for the implementation of UNSCR 13525, adopted in 2011 in Burundi, promotes gender-sensitive programming in various areas related to TJRNR processes and explicitly includes the fight against current gender-based violence, promoting measures for increased security and redress, but also focuses on prevention, protection and victim support. The draft law against Gender-Based Violence (GBV) that has been brought in the Parliament is instrumental in achieving this. The NAP moreover promotes different measures to enhance equal access of men and women to assets such as land, training, education and political representation. Funding, close follow-up and monitoring must ensure the effective implementation of this key national instrument promoted by the international community.

In conclusion, the foreseen and actual increased numerical representation of women in political positions and in some of the TJRNR mechanisms' staff constitutes an essential step in Burundi. Now the meaningful or 'qualitative' participation of these women must be ensured. The overall staff gender-sensitivity and practical skills for implementation of 'gender-responsiveness' of both men and women need to be developed. Additionally, gender inequalities and discrimination have yet to be taken into account and redressed in the various processes. This first includes addressing obstacles to female victims' participation to the truth, justice and reparation processes; and tackling men and women's differing needs and experiences, including the exacerbated impact of conflict-era human rights violations on women's lives, which has mostly been overlooked thus far.

A slowly increasing number of Burundian actors – CSOs and the MSNDPHG – have been promoting a gender-sensitive approach for TJRNR processes and have undertaken wider activities redressing gender inequalities. They, with the support of international stakeholders, must further encourage and help the government in tackling those issues, and continue to raise awareness among the population on the need for a gender sensitive approach to TJRNR issues and long-term development. There are some signs of openness on the topic of gender-based violence within the government and in Burundian society. In this context, the development of TJRNR processes that include a gender-sensitive approach constitutes an important window of opportunity in addressing these issues as part of an effort to enhance the broader democratic and peacebuilding efforts under way in Burundi.

## Primary Recommendations

Our primary recommendations focus on the TRC because the TRC has the potential to increase gender-sensitivity of other processes of TJRNR and therefore has the potential to increase gender-equality on a larger scale.

- Establish a joint committee involving CSOs (particularly women's and victim's organizations) and the international community (particularly UN Women) that oversees the design, implementation and monitoring of the TRC. Ensure the meaningful involvement of these actors in gender-sensitizing the TRC law.
- Provide a space for women and men to talk about the continuing consequences of violent conflict on their lives. This will increase understanding of the gendered consequences of conflict.
- Disaggregate data of all persons that participate and those that testify before the TRC by sex, to enable a gendered analysis of facts and consequences of conflict, identifying how male and female victims are affected by the conflict as well as their most pressing needs in the post-conflict era, so that these can contribute to make further TJRNR-processes gender-sensitive.
- Establish mobile teams of investigators who speak Kirundi, and hold local level hearings to facilitate victims' access to TRC. This will benefit all victims from remote and not easily accessible areas who lack the means (financially, transport, childcare facilities) to attend these hearings and ensure that women's voices are included.

- Establish training guidelines for all investigators and other personnel of the TRC on gender-sensitive approaches and practices. Establish a transparent performance evaluation system with clear indicators to monitor performance of personnel in this respect. The system should include disciplinary measures as well as criteria of excellence. Sufficient staff should be dedicated to implement this system and follow-up.
- Appoint and train<sup>3</sup> investigators who can develop the expertise and skills to address gender-based crimes specifically, particularly those involving sexual violence.
- Include all gender crimes listed under the Rome Statute<sup>4</sup> in the list of crimes to be addressed by the TRC, while adding to it crimes specific to Burundian context such as forced marriage of a rape victim to the rapist. This will not only shed light on the crimes that occurred and their gendered dimensions and consequences, but also provide information for the Special Tribunal.
- Include in the list of process-related infractions in TRC and ST laws: preventing or forcing women and men from being heard; retaliating against victims, witnesses and alleged perpetrators who were heard, including if within the family sphere, whether through physical or a socio-economic violence, with particular attention to gender relations.
- Dedicate one of the proposed 'annual thematic training workshops and hearings' in the TRC-draft law to gender-based crimes as well as to the gendered consequences of conflict, to raise the awareness of the wider population on the specific ways men and women suffered during conflict, continue to suffer, and how this affects long term development issues and non recurrence.
- Create mechanisms for follow-up on the TRC after its mandate has ended, so that the truth-telling process can continue. Indeed, in the direct aftermath of the conflict victims focus on survival and security for themselves and their families. This is particularly true for female victims, who seem more inclined to focus on security and survival issues in the aftermath of conflict and who also may have more difficulty in claiming, or re-claiming, their rights. This tendency is further accentuated if they become the head of their household and in cases of sexual violence. The result of the combination of these factors is that it may take years for their stories to emerge.
- Set up a Gender Unit or 'Sub-Commission' in the TRC, as suggested by women's organisations and the GRJT. This organ could be involved in the steering as well as the monitoring of investigations, hearings and trials, as well as in the implementation of the various gender-sensitive measures throughout the processes.
- Organize 'women only' hearings in the TRC.

<sup>3</sup> Training should include the legal background of gender crimes, their nature, causes and consequences, investigatory techniques for interviewing the victims concerned, and (especially for the ST Judges) jurisprudence on gender crimes

<sup>4</sup> These are: rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, trafficking or any other form of sexual violence. Forced marriage should be added in the case of Burundi.



## Introduction to the research

### Background

This project exists in the context of increased attention to gender in the field of conflict, peacebuilding and transitional justice.<sup>5</sup> Given new political and legal commitments and numerous initiatives to gender-sensitivity at the international level, why is the implementation of these commitments still lacking? Through in-depth research and focussed policy recommendations, Impunity Watch (IW) hopes to gain an understanding of this gap and to contribute to further implementation of international commitments through the inclusion of a gender perspective in TJRNR efforts and related processes, including greater operationalization of CEDAW and UNSCR 1325.

In 2008 IW released its report *Recognizing the Past: Challenges to Combating Impunity in Guatemala*, which summarised the findings of a two-year baseline research into impunity, conducted in partnership with three local organisations. In the course of this research, IW partners raised concerns regarding the lack of attention for gender sensitivity of transitional justice processes and the limited attention for other experiences women and men have other than sexual violence in armed conflict. IW also noted that the rights, needs and ideas of women were poorly reflected in processes aimed at dealing with the past in other post-conflict contexts. Rather than recognizing and supporting women's active roles in, and contributions to, rebuilding societies after violent conflict, the predominant approach seems to perpetuate their vulnerability. Building on these findings, IW developed a comparative research-for-policy project under its Perspectives Programme focusing on impunity for violence against women in armed conflicts in Guatemala, Bosnia and Herzegovina and Burundi.

IW conducts systematic research on the root causes of impunity, to determine what hampers the implementation of these policies, whether or not these policies properly address what is needed, and to make sure that victims' stories and voices are taken into account and addressed to avoid relapse into conflict and to see justice done.

To get to the root causes of impunity, Impunity Watch looks at the pre-conflict context and the factors that increase vulnerability during and after conflict for certain groups in society. Conflict usually exacerbates these risk factors, making vulnerable groups (be it by ethnicity, gender, religion, social status) even more vulnerable in the post-conflict era. Taking into account the pre-conflict political, economic, social and cultural context is vital in understanding the root causes of inequality, which are often conflict triggers, and also in understanding the barriers in the design, implementation and successful execution of TJRNR measures in a post-conflict setting. If certain groups or subsets of the population are more vulnerable and this vulnerability is not taken into account in attempts made to redress the inequality, there can be no solid basis for a democratic state or an end to a culture of impunity. At this time, it seems that the sense of urgency and need to adopt a gender sensitive perspective in TJRNR efforts is still lacking among many stakeholders in Burundi, as our desk research and field research have confirmed. There remains a continuing lack of accountability for grave human rights crimes in Burundi and a lag between policies and their implementation.



## Gender Project

Women's and men's experiences differ during armed conflict and they therefore have different obstacles to face in the aftermath of conflict. If policies are written without taking these different experiences and needs into account, or even acknowledging them, chances are high that these policies do not properly address these differing needs. The lack of acknowledgement of the different needs of different groups might have even been the root cause of the conflict. In view of the fact that the main purpose of TJRNR efforts is to reduce the likelihood of the recurrence of these atrocities and conflicts, that there will be an end to impunity for human rights violations, and that victims find justice and compensation for crimes they suffered in conflict and in the aftermath of conflict, then these policies should be relevant, and inclusive or else they risk being ineffective. It is therefore vital to take into account the stories and experiences of both male and female victims and voices from marginalized and vulnerable groups in society and to unearth existing inequalities and root causes of conflict, in order to address differing needs of victims and bring an end to impunity.

Impunity Watch conducted in-country research in Bosnia Herzegovina, Burundi and Guatemala (November 2011–June 2012) to further assess the (obstacles for) gender-sensitivity of key TJRNR processes and actors and to formulate targeted, context-specific policy recommendations to improve TJRNR efforts. Recommendations in this report were based on this research and take into account identified key obstacles and current best practices.

This research is not exhaustive, but it does provide an overview of the current status of gender-sensitive TJRNR processes and bottlenecks to effective implementation of more policies that are inclusive of both men and women. We gained great deal of insight into the concerns of victims by interviewing a limited number of men and women affected by conflict-era violence and its aftermath.

## The report

### Desk research

To inform the field research, we undertook a mapping of international agreements, actors and initiatives<sup>6</sup>, as well as a desk-study into processes of TJRNR in Burundi. This involved studying key TJRNR documents, such as the report of the 'National Consultations' on TJRNR mechanisms, Burundian and international CSOs' activities on these issue areas, and country- and region-specific writings about gender and TJRNR processes, including studies by NGOs, academics, and international organisations. It also included a preliminary mapping of international, national and local key actors active on TJRNR-related processes in Burundi.

### Field research

The field research was conducted on TJRNR mechanisms and produced the current in-depth resource documents for each of the three countries. Although the research was primarily focused on analysing official state-led, (-sponsored, or -endorsed) TJRNR processes, attention has also been paid to other key TJRNR efforts, including those by non-state actors (e.g. NGOs and religious institutions) and the international community. We also conducted in-depth interviews with victims of conflict-era violence to better understand the similarities and differences in the needs and ideas of women and men in relation to TJRNR processes. The country reports contain detailed policy recommendations directed at both the national level and the international community.

<sup>6</sup> This document can be found on our website: [www.impunitywatch.org](http://www.impunitywatch.org)

This report begins with a general introduction to Burundi and starts in chapter one with a short overview of the conflict, followed by an analysis of how men and women were affected differently by it in chapter two. In chapter three, we discuss the gender-sensitivity of current TJRNR processes and actors in Burundi and provide analyses of the rights to truth, justice, reparations, and guarantees of non-recurrence. In each case, the international commitments that have been made are examined and we identify good practice examples and lessons learned from the country under research. Chapter four and five contain the report's main conclusions and a list of recommendations for key actors at the national and international level.

## Methodology

### Desk research

As stated earlier, the in-country and comparative research phase built upon desk studies for each country as well as an international literature review. These desk studies provided insights both on progress as well as on the main obstacles to gender-sensitive TJRNR processes.

### Interviews

In Burundi, the research primarily involved one-to-one interviews to gain in-depth insight into individual experiences. In Burundi, 40 interviews were conducted with 40 key TJRNR and gender actors, as specified in annex II (*see page 87*).<sup>7</sup> Key TJRNR actors included state officials involved in designing and implementing TJRNR processes; representatives of the international community based in Burundi who are active on TJRNR processes (as the UN, the EU and some of Burundi's bilateral partners); representatives of international CSOs working on TJRNR issues in Burundi ; and representatives of local civil society, including key CSOs, women's groups, victims' associations, independent experts, etc., who are active on TJRNR. It should be noted that, although it was crucial to interview gender advisers to TJRNR processes (if in place), in-country researchers also interviewed senior officials not tasked with gender matters. The media, also key players - positive and negative - in relation to TJRNR processes, were not interviewed under the current project due to time constraints.

### Victims' voices

Part of the in-country and comparative research is focused on providing insights into the specific needs and ideas of men and women with respect to TJRNR processes, with the goal of better linking survivor perspectives to TJRNR efforts and thus ensuring a victim/survivor-centred approach to TJRNR. The results of these in-depth semi-structured interviews illustrate the similarities and differences in the needs of men and women and provide a basis for further research.

Interview participants and the area were chosen as a result of two geographic studies. In-country researchers selected a less studied and rural region known to be affected directly by recent armed conflict. Interviews were conducted either individually or in-group interviews with between 10 to 20 survivors. Interviewees were selected on the basis of their belonging to a particular victim-group, e.g. widows. Our goal was to interview a diverse group of survivors, both male and female, in order to gain insights into their experiences both during conflict and in the post-conflict era and obtain a balanced perspective on their expectations and needs.

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<sup>7</sup> Interviews were held with 8 representatives of Burundian state institutions, 18 representatives of local civil society including victims' organisations, 4 international NGOs, 8 representatives of international state actors and with 2 academics or independent experts, although it should be noted that people frequently switch from civil society organizations to state institutions and vice versa.

Twenty victims from the Mabanda Commune of the Southern province of Makamba were interviewed individually. Given the enduring and pressing land problem in the country and the extremely vulnerable situation of women, especially widows, we chose to focus on widow(er)s as well as returned IDPs and refugees. The choice of Mabanda was based on three factors: the Makamba province was affected by both the 1972 violence and the 1990s-2000s war; the conflicts caused the displacement of a great part of the province's population; and finally, Mabanda is one of the two Makamba Communes with the highest number of returnees and where land issues are of great magnitude.

IW worked closely with local civil society in designing and executing the interviews with the victims (see 'Local civil society'). This coordination was deemed crucial to build trust as well as to ensure that civil society groups will be interested in taking forward any outcomes. To implement these interviews in the Makamba region, IW coordinated with two locally-based CSOs ('Tubabarane', which carries out economic empowerment activities for marginalised people, and 'Abana Makamba', which works with IDPs and children), as well as two Bujumbura-based CSOs that have Points of Contact in Makamba ('APRODH', which defends victim's rights and offers judicial support, and 'Fontain-Isoko for Good Governance', which has field research experience with a focus on gender).

### **Local Civil Society**

IW works closely with a wide variety of civil society actors in Guatemala, Burundi and Bosnia, including human rights and peacebuilding NGOs, women's groups, victims' associations, academics, etc. Cooperating and coordinating with local civil society (NB/ by 'local civil society' we mean CSOs originating from the country under study) allows IW not only to build on local civil society's expertise and experience but also to ensure sustainability of the project.

At the start of the in-country and comparative research phase, local civil society actors in the three countries studied were asked to assess the research plans to ensure that our research work connects with and contributes to current civil society initiatives to improve the gender-sensitivity of key TJRNR processes. The assessment took place in the form of exchanges with key civil society organisations mapped in the preliminary research phase of this project. Different key civil society actors (local and international) in the three countries studied were also interviewed with respect to gender matters and TJRNR processes.

At the end of the research phase, in each country, we invited civil society organisations to a validation session in which key findings and policy recommendations were discussed. Subsequently, key civil society actors have been asked to participate in a multi-stakeholder policy consultation with other key TJRNR actors. Further discussion of findings and fine-tuning of policy implications took place at these consultations with the goal of generating country-specific policy recommendations, and enhancing dialogue between different stakeholders (including civil society) on the design and implementation of key TJRNR policy and practice.

# 1. Brief introduction to Burundi

Burundi today is a relatively peaceful but impoverished country. The political institutions in Burundi were weakened by the conflict and have yet to become truly democratic institutions that reinforce the rule of law equally for the entire population. Over the last few years, the country has shifted from a political division by ethnicity to a political division by political affiliation. The result has been a lack of dialogue with the opposition party by the party currently in control, the CNDD-FDD, which makes democracy unattainable and threatens the current peace. While the end of the conflict and aid have allowed for some progress in development, politically unstable and unequal governance, a lack of political dialogue and growing demographic pressure on land are major concerns for the stabilisation and the fair development of society.

## 1.1 Burundi – Brief overview

Burundi is a small, landlocked country in the Great Lakes region, with a population of about 8 million<sup>8</sup> on a hilly landscape the size of Haiti (27 834 km<sup>2</sup>). Like its neighbour, Rwanda, Burundi is composed of a Hutu majority and a Tutsi minority, as well as the Twas, a marginalised group who constitutes about 1% of the population. The three groups share the same culture and language, Kirundi. According to the last census, women represent slightly more than half of the country's population.

In 2011, Burundi was the third poorest country in the world<sup>9</sup> and international aid represented approximately 42% of the national income<sup>10</sup>. Poverty is both one of the causes and one of the consequences of conflicts that have rocked the country since its independence in 1962. Corruption is another major obstacle to development and security, as well as the fight against poverty. In 2011, Burundi was the second most corrupt country in Africa and the tenth in the world<sup>11</sup>.

More than 90% Burundians live on agriculture and livestock. In such a small country with hostile terrain, this high dependence on agriculture along with strong demographic pressure and the use of traditional techniques threatens the sustainability of land and leads to land disputes. In this context, the return of refugees and Internally Displaced Persons (IDPs) to their homelands after the conflicts has complicated matters, weakening rural populations further.

Social or ethnic groups ( <i>estimates</i> )	Data	Sources and dates
Hutus	86%	Alertnet, 2012
Tutsis	13%	
Twas	1%	
Religions		
Christianity	67%	CIA World Book, 2012
Indigenous Religions	23%	
Islam	10%	
Evolution of Poverty	Data	Sources and dates
Income per capita in 1992	USD \$210	Ministry of Planning and Communal Development & UNDP, 2011
Income per capita in 2008	USD \$137	

<sup>8</sup> 2008 Census. Estimates place the figure in 2012 to 10 millions. See 'CIA World Factbook'

<sup>9</sup> United Nations Development Program (UNDP), 2011

<sup>10</sup> 'CIA World Factbook', 2012

<sup>11</sup> Transparency International, 2011

Human Development Index (HDI)	0.316 (185 <sup>th</sup> on World Scale)	UNDP, 2011
Mean years of Schooling	2.7 years	
Displaced Burundians today		
Internally Displaced Persons (IDPs)	157,000	UNHCR, 2011
Refugees	84,000	

The poor socio-economic situation of the Burundian majority will inevitably factor in the population's interest and expectations towards the Truth, Justice, Reparation and Non-Repetition (TJRNR) processes. If establishing the Truth is perhaps not of every Burundian's immediate concern, our study revealed that most people promote the need to teach Burundi's post-independence history, so that new generations are aware of the past events and avoid reproducing the same causes and patterns. Reaching agreement on one *same* version of history is a big challenge in contemporary Burundi.

## 1.2 Recent History

### The conflict

*'To put it simply, the conflict in Burundi involves Hutus against Tutsis. Beyond this basic truth, participants and observers of the conflict are in violent disagreement about almost every other aspect of the conflict'.* (René Lemarchand, 1996)

Historically, Burundi was a Kingdom ruled by the 'Ganwas', the ruling aristocracy – who according to many<sup>12</sup> are related to the Tutsis<sup>13</sup>. Society was based a patron-client web, with the Ganwas enjoying the highest status, and the Twa the lowest.<sup>14</sup> For centuries, the different groups lived on the same hills and mixed marriage was common<sup>15</sup>. In fact, Hutus and Tutsis have a shared culture and language, and therefore are not always considered separate ethnic groups. Rather, the difference between Tutsis, Hutus, and Batwas has mainly relied on social status and occupation – Tutsis traditionally being cattle breeders, Hutus being agriculturalists and Batwas being hunters. This meant that one could become Hutu or Tutsi, for instance. However, the colonial policy of 'divide and rule'<sup>16</sup> exaggerated social and clan divisions. The Belgians favoured the wealthier Tutsis and the Ganwas, and some believe that they imported the myth of the superior race or ethnicity. While it would be an over-simplification to say that colonial policies are the sole reason for Burundian conflict, the distinctions made between Hutu and Tutsi by colonialist powers has certainly been used and manipulated in the recent conflicts.

One of the first tragedies illustrating the role of political struggle in Burundi was in 1961. While the country was on the road to independence under the leadership of the charismatic Prince Louis Rwagasore, a political plot led to his assassination<sup>17</sup>. The opportunity for post-independence unity

<sup>12</sup> Nigel Watt, 2008. Some analysts actually say that the Ganwas were part – and at the top – of the Tutsi hierarchy.

<sup>13</sup> According to Aloys Batungwanayo (General Secretary of AMEPCI Gira Ubuntu and history and political science Researcher), the Tutsis and the Ganwas had a relative proximity under the Monarchy but are two different groups. Following the overthrowing of the Ganwa monarchy in 1966, the Tutsi army under the radical Micombero, a Tutsi Hima, prosecuted the Gwana as well as the Hutus. The overthrown king, Ntare, was assassinated in 1972.

<sup>14</sup> René Lemarchand, 1996

<sup>15</sup> 'Burundi Transition. A war-weary country grapples with peace', Alertnet

<sup>16</sup> René Lemarchand, *op. cit.*

<sup>17</sup> According to some sources, his assassination was ordered by the Belgians and executed by an ally party, the Christian Democratic Party (PDC), which they had created to counter the rise to power of popular, pro-independence Rwagasore. See in particular René Lemarchand, *op.cit.*

disappeared and so-called ethnic divisions became polarized<sup>18</sup>. At the same time, the Hutu revolution in Rwanda crossed the border. The Hutu idea of a majority democracy to counter the 'Tutsi hegemony' inspired Burundi's Hutus and led to tensions with the Tutsi minority<sup>19</sup>. This led to a cycle of Hutu revolt and Tutsi repression in response to the revolts. An attempted coup for a Hutu state in 1965 and the subsequent insurgency of 1972 and 1988 were met with an overwhelming response by the Tutsi-dominated army, which included the massacre of 100,000 to 200,000 and the displacement of approximately 300,000 Hutus. These are euphemistically referred to as 'the Events'. The 1972 tragedy is considered genocide by international standards. *'The venom created'*<sup>20</sup> by this cycle of violence would then gnaw at society from the inside and plant the seeds for another conflict. The 1972 massacres and the effects of the Rwandan Revolution respectively fuelled a fear of 'the other' for the Hutus and a fear for their survival for the Tutsis, resulting in ethnic radicalisation – an important factor<sup>21</sup> in the Burundian conflicts.

Following decades of military rule and ethnic tensions, the Burundian people unanimously supported the creation of a 'Charter of National Unity' through a referendum in 1991. Ensuing reforms allowed Burundi to hold multiparty elections in 1993, which resulted in the rise to power of the first democratically elected Hutu president, Melchior Ndadaye. However, Tutsi soldiers assassinated the President and his close associates three months after his election. Consequently, the country was seized by an eruption of anti-Tutsi violence. In Burundi, the 1993 events are referred to as 'la Crise' (the Crisis). Following the outbreak of the Rwandan genocide, Tutsis in Burundi feared Hutu genocidal intentions. Hundreds of thousands of Hutus in refugee camps since 1972 became radicalized against old myths of Tutsi superiority and the fear of past 'genocidal Tutsis' during the decades they spent abroad<sup>22</sup>. The civil war saw the creation of various ethnic militias and the multiplication of Hutu rebel movements.

The civilian population was also an actor in this 'community war'. A general climate of fear, insecurity and chaos were the background for the massacre of 200,000 to 300,000 people<sup>23</sup>, mostly Tutsis, in that more than a decade-long conflict, and about 1.5 million<sup>24</sup> had to flee - mostly within the country for the Tutsis and to neighbouring countries for the Hutus. For many analysts and many Tutsis, the war constituted genocide against the Tutsis. Some Hutus also claim 1993 as genocide against their ethnic group, accompanied by a violent coup d'état<sup>25</sup>. While both the 1972 and the 1993 events were described as genocides in the 2002 report of the International Commission of Inquiry for Burundi, denial of genocides persists to a certain extent between the two ethnic groups, according to AC Génocide, a victims' association<sup>26</sup>. As the latter highlights it, this could constitute an obstacle to the Truth process.

### The Peace Process

Regional talks began in Tanzania in 1998 and culminated in the signing of the Arusha Peace and Reconciliation Agreement for Burundi (APRA) in August 2000. Nonetheless, the main rebel groups did not sign the Agreement and fighting continued. It was only in 2003 and 2006 respectively, that the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), the party currently in power, and the Party for the Liberation of the Hutu People-National Liberation Front

<sup>18</sup> René Lemarchand, *op.cit.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Nigel Watt, 2008

<sup>21</sup> Peter Uvin, 2009

<sup>22</sup> Marc Sommers, 2001

<sup>23</sup> Multi-Country Demobilization and Reintegration Program (MDRP), 2008

<sup>24</sup> In 1996 the number of IDPs was 882,000 and the number of refugees 428,000. See '2005 UNHCR Statistical Yearbook', UNHCR.

<sup>25</sup> Aloys Batungwanayo, General Secretary of AMEPCI Gira Ubuntu. History and political science Researcher

<sup>26</sup> Questionnaire response from 'AC Génocide', February 2012. Author's archives. The exact term used in French to talk of 'denial' was 'négationnisme'.

(Palipehutu-FNL) signed cease-fire agreements with the government. Nonetheless, the Palipehutu-FNL disarmed only in 2009.

The peace process, which gradually started in the 2000's, had the support of the peacekeeping forces of the African Union and the United Nations. A new power-sharing constitution was adopted by referendum in February 2005, providing a relative balance of Hutus and Tutsis in State institutions<sup>27</sup>. The first post-conflict general election took place the same year.

However, the political climate deteriorated after the victory of the CNDD-FDD in the 2005 elections, as the different political parties were unable to share power<sup>28</sup>. The 2010 triple electoral campaign was marked by the use of intimidation and violence by the major parties<sup>29</sup> and the arrest of political opponents. Except for the 'Union for National Progress' party (UPRONA), all opposition parties boycotted the presidential and parliamentary elections, alleging fraud<sup>30</sup> during the May local elections. This paved the way for the re-election of President Nkurunziza of the CNDD-FDD. Dialogue between the ruling party and the opposition was completely ruptured by these events.

### Recent Political Developments

Since the 2010 elections, extra-parliamentary opposition parties are subject to pressures through acts of intimidation, the manipulation of the law on political parties<sup>31</sup>, arbitrary arrests and some extrajudicial executions<sup>32</sup>. The FNL is being accused of violence<sup>33</sup> and according to some sources, they, as well as other armed groups, are organising themselves abroad<sup>34</sup>.

Freedom of speech also appears to be threatened. The government considers activists and journalists as the opposition<sup>35</sup> and retains the same 'fate' to the most critical among them. According to several sources, Burundians have no confidence in either the judicial system or the police. This reflects a pervasive belief amongst the population that these and other government institutions are corrupt<sup>36</sup>. As a result, a 'National strategy for good governance and the fight against corruption' was adopted by the Government in 2011, but tangible change in government institutions is not yet visible.

When the majority of the populace does not trust their institutions to uphold the rule of law with equality for all its members, there is a resulting threat to security and stability. This is reflected in the voice of the Vice President of the Sahwanya-Frodebu party, who states, "people are killed just like in the past, not because they belong to a different ethnic group, but because they are of a different political party"<sup>37</sup>. Faced with rising

<sup>27</sup> The 2005 Constitution declares that the two Vice-Presidents must be from different political parties and ethnic groups (article 124), that the Government is comprised by a maximum of 60% Hutus and a maximum of 40% Tutsis (article 129) and that the same distribution is applied to the National Assembly with the additional participation of three Twas (article 164). See 'Constitution of the Republic of Burundi', 2005. In the Senate, like in the army, the ethnic balance of 50-50 should be respected. See Nigel Watt, *op. cit.*

<sup>28</sup> The governing party amended the constitution to reduce the number of ministerial posts allocated to different parties. See 'Country Profile Burundi', Alertnet

<sup>29</sup> Human Rights Watch, 2011

<sup>30</sup> The involved parties did not present evidence of grand scale fraud, but according to Human Rights Watch, the fact that the National Independent Electoral Commission (CENI) did not publish the vote tally raises doubts about the integrity of the process. See Human Rights Watch, 2011. Nevertheless, the local elections were considered free and fair by the international community.

<sup>31</sup> Elyse Ngabire, 2012

<sup>32</sup> Security Council/10473, 2011

<sup>33</sup> Human Rights Watch, 2012

<sup>34</sup> *Ibid.* and 'Country Profile Burundi', Alertnet

<sup>35</sup> Marc Niyonkuru, 2012

<sup>36</sup> Observatory of the Governmental Action (OAG), 2012

<sup>37</sup> Vice-president of the Sahwanya-Frodebu party, quoted in Abbas Mbazumutima and Rénovat Ndabashinze, 2012



violence, impunity and the government's refusal to negotiate with the opposition, there is a rising fear of the renewal of conflict in Burundi. This possibility is intensified by systemic poverty<sup>38</sup>, made worse by inflation, and the increasing pressure on and competition for land.

Given the current political climate, establishing processes of truth and justice that are fair, impartial, transparent, inclusive and safe, is a daunting task, especially since the current ruling party was one of the most active rebel groups. Some even fear that the Truth and Reconciliation Commission (TRC) be a trigger for violence, particularly for intimidation and retaliation purposes. Many observers argue that with the 2015 elections approaching, there exists another opportunity for manipulation of the process, which could lead to increased violence. The question therefore becomes, 'when is the right time' to hold the TRC? When will it have its best chance to establish an historical record, fight impunity, and empower Burundians to participate in the political process?

The complexity of the current situation illustrates the many challenges that processes of truth, justice, reparation and non-recurrence face in post-conflict settings such as in Burundi. These processes must be carried out in a holistic and coordinated manner if they are to contribute to lasting changes. It therefore becomes necessary to understand the societal dynamics that are underlying causes of the unequal division of powers and responsibilities between men and women as these dynamics remain a key-obstacle for the equal participation of women in society. As the latter make up slightly more than half of the Burundian population, sustainable change without them is not realistic.

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<sup>38</sup> The general strike in March 2012 against the high cost of living revealed the degree of Burundians' discontent regarding the socio-economic situation, despite the unfavourable climate for exercising civil liberties. See D. Hakizimana, E. Ngabire, R. Ndashinze and C.-S. Urakeza, 2012. The inflation rate was 9% in 2011 (CIA World Factbook) and prices continued rising in 2012.



## 2. A short analysis of gender, peace and conflict in Burundi

Traditional gender roles have been changing since the last conflict and women have become more politically active and better protected by Law. However, cultural traditions continue to shape gender relations and deeply rooted cultural concepts about the roles of men and women are always difficult to challenge. The term ‘gender’ does not have a translation in Kirundi.

### 2.1. Gender analysis of the Burundian society

*‘The hen does not sing when the cockerel is there’<sup>39</sup>*

In Burundi’s education and socialization process, children are taught that girls must respect and serve boys<sup>40</sup> and they internalize that women are inferior<sup>41</sup>. Masculinity is linked to power and to responsibility<sup>42</sup>. The husband is responsible for the family and the grown-up son for his parents. While women are “responsible” for the household, this means that women are the providers for the daily needs of the family. Despite the central role that women play in the family’s production and reproduction, traditional gender roles hinder them from having any authority in the private sphere in Burundi, and also from having access to resources such as money and property.

In the Burundian tradition, property is passed down from father to son. Women do not have the legal right to own land, which constitutes an important aspect of persisting gender inequality in Burundi. Women’s inability to own land means that they are dependent on either their husbands or male relatives. As the head of the household, the husband has the right to make all decisions for himself, his wife, and their children<sup>43</sup>. Furthermore, husbands who can afford to do so also have mistresses, who are mostly single women. Culturally, the same practice is strictly banned for wives.

Women’s presence in the public sphere is limited. In many rather poor families, the confinement of women’s roles to the household and field results in their having restricted access to education and information. Politics is perceived as a male concern. A woman who wants to participate in politics typically has to seek permission from her husband. These cultural practices constitute clear obstacles to women’s in TJNR processes. Regardless of the information women may have access to, the ability to act on that information is severely circumscribed, as participation in public life is not yet culturally acceptable on a wide scale for them.

While the conflict and the peace-building context have brought some positive developments regarding women’s participation in public life, as we will see it in section 2.5, this mostly remains an urban and ‘elite’ phenomenon. Gender roles and expectations appear to differ significantly with education level and age as well as between urban and rural populations. However, regardless of these factors, “traditional expectations of men and women continue to make up the core of Burundian identity” (Uvin, 2009).

<sup>39</sup> Translation of the Burundian proverb ‘inkokokazi ntibika isake iriho’ (in Kirundi).

<sup>40</sup> Interview with Huguette Nininahazwe, Bachelor of Laws, 26.01.12. Author’s archives.

<sup>41</sup> Ministère de l’Action Sociale et de la Promotion de la Femme de la République du Burundi, 2004

<sup>42</sup> Peter Uvin, *op. cit.*

<sup>43</sup> See in Béatrice Ndayizigamiye, 2012

Such deeply rooted gender expectations carry obligations and taboos that restrict both men's and women's freedom and rights. As far as the latter are concerned, their mothers and uncles traditionally teach future brides to submit to their husband and stay silent, including in case of violence against them. Most women who are abused by their husband or another man may not perceive it as a crime, and even if they do, often do not dare denouncing them out of fear that they will be considered bad wives and be ostracized by the community. Given that women's right to own land is severely restricted due to legal or societal factors, and given their broader socio-economic dependency on their male relatives, women have few or no alternative other than resignation.

As far as men are concerned, gender roles and expectations severely limit their ability to acknowledge violence done to them, especially sexual violence.<sup>44</sup>, or who are HIV-infected, face heavy taboos as these are seen as diminishing their masculinity. Being a victim in these ways is a contradiction to the expectation that men must be powerful and 'in control'.

Two values in Burundian culture are considered more important than individual rights: honour and family cohesion or unity<sup>45</sup>. In the hierarchy of rights, a wife's rights and needs are last. In this construct, violence against an individual (especially sexual violence), and particularly the denunciation of violence committed within the family, is first considered as reflecting negatively on the honour and the cohesion of the victim's family, instead of being considered as a criminal act.

This cultural context can influence processes of truth and justice and will need to be taken into account in the design and implementation of these mechanisms, to ensure their efficiency and sustainability as well as to avoid reinforcing gender inequalities. While these deeply rooted cultural influences present great challenges, there are signs of positive change.

## 2.2 Gender Equality Data

According to UNDP's Gender Equality Index, in 2011 Burundi ranked 89<sup>th</sup> among 187 countries. Significant progress has been made in terms of gender equality over the last two decades in Burundi. The 1989 literacy policy, the recognition of the need to increase girls' enrolment in primary education since 1999<sup>46</sup>, as well as the adoption of quota for female representation in institutions in 2005, were catalysts for this change (see table on page 29).

	Men	Women	Year	Source
Literacy rate for ages 15 and above (by sex)	73%	61%	2009	UN Statistics Division
Literacy rate for ages 15 to 24 (by sex)	77%	76%	2009	
Enrolment in primary education (by sex)	98%	100%	2009	
Enrolment in secondary education (by sex)	18%	15%	2010	
Enrolment in higher education (by sex)	4%	2%	2010	
Life expectancy at birth	57 years	61 years	2012 est.	CIA World Factbook
HIV prevalence for ages 15 to 24 (by sex)	1%	2.1%	2009	UNDP

<sup>44</sup> Women and Allies Peacebuilder Network (WAP) and Fontain-Isoko, 2011

<sup>45</sup> Brother Désiré Yamuremye, Director of 'Service Yezu Mwiza'. Comment made at the Impunity Watch 'Policy consultation' on this very research, 22.05.12, Bujumbura. And Brother Emmanuel Ntakarutimana, President of the CNIDH, Interviews on 16 & 23.02.12. Author's archives.

<sup>46</sup> Ministère de l'Action Sociale et de la Promotion de la Femme de la République du Burundi, 2004



Government composition	57,7%	42,3%	2011	WAP, Fontain-Isoko <sup>47</sup>
Composition of deputies at the National Assembly	69.5%	30.5%	2011	Inter-Parliamentary Union (IPU)
Composition of Senators	53.7%	46.3%	2011	
Composition of Governors of Provinces (not elected - nominated by the president)	82.4 %	17.6%	2011	Observatory of the Governmental Action (OAG)
Composition of Communes Counsellors	66.3%	33.7%	2011	
Composition of Collines Counsellors	83%	17%	2011	
Labour force participation	87.5%	91%	2009	UNDP
Composition of employees in the non-agricultural sector	86%	14%	1990	World Bank
Composition in senior posts of the central administration	80%	20%	2011	'Vision Burundi 2025' <sup>48</sup>

While in 2011, Burundi came 27<sup>th</sup> out of 150 on a world scale in the representation of women in Parliament<sup>49</sup>, it is worth noticing that women are much less represented at the local political level<sup>50</sup>, particularly at the provincial and the Colline (hill) levels<sup>51</sup>. This difference can be explained by the absence of a law providing quotas for women's representation in these two administrative divisions (while it exists at other levels). It appears then that if the Law does not actively promote the inclusion of women, they are not elected or nominated.

It is evident that inequalities between women and men also persist at the economic level. The female workforce is mostly confined to the agricultural and informal sectors. There are also persistent inequalities between boys and girls in education. Primary education became free for everyone in 2005, allowing for wider enrolment, including girls. However, the dropout rate is higher among girls. While enrolment at the university level is very low for both boys and girls, twice as many boys attend university than girls. Women are expected to get married and this is also seen as appropriate social achievement for them that at times seems to contradict the purpose of receiving a higher education. Social achievement for men is more easily advanced through higher education.

### 2.3 Brief overview of gender equity laws and policies

The Arusha Agreement and Burundi's Constitution proclaim gender equality and condemn discrimination and exclusion on the grounds of gender. The Burundian government officially supports these standards, displaying a willingness to defend gender equality and fight violence against women. Thus far measures have been taken towards the achievement of these objectives by creating or reforming laws and policies to be more gender-sensitive, with the support and pressure of international (including regional) actors. While these formal changes are important steps towards gender-equality, their implementation faces many obstacles. In addition, there are still inequalities in the law as well as judicial loopholes in terms of gender equality and the protection of women from physical violence.

<sup>47</sup> Women and Allies Peacebuilder Network (WAP) and Fontain-Isoko, *op. cit.*

<sup>48</sup> Ministry of Planning and Communal Development & United Nations Development Program (UNDP), 2011

<sup>49</sup> Inter-Parliamentary Union (IPU), 2011

<sup>50</sup> Women and Allies Peacebuilder Network (WAP) and Fontain-Isoko, Bujumbura, 2011

<sup>51</sup> Burundi is divided in 17 Provinces, 129 the Communes and 2908 Collines (which means hills).



Name	Main Points	Date of adoption
<b>INTERNATIONAL INSTRUMENTS</b>		
International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR)	The two Covenants of the International Bill of Human Rights reaffirm the principle of non-discrimination (article 2) and stipulate that States must guarantee that men and women can equally enjoy all human rights (article 3).	1990 (ratification of both Covenants)
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Affirms that discrimination against women is fundamentally unjust and constitutes a violation of human dignity, and provides that all measures must be taken to ensure adequate legal protection of men's and women's rights.	1992 (ratification)
African Charter on Human and Peoples' Rights	Article 18 stipulates that the State is required to eliminate all forms of discrimination against women, <i>de jure</i> or <i>de facto</i> .	1989 (ratification)
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (or 'Maputo Protocol')	The 'Maputo Protocol' guarantees comprehensive rights to women including social and political rights; the right to control their reproductive health; the right for widows to inherit from their husband; and prohibits harmful practices against women.	2003 (signature; no ratification yet)
Protocol <sup>52</sup> on the Prevention and Suppression of Sexual Violence Against Women and Children (International Conference on the Great Lakes Region – ICGLR)	This Protocol, which is legally binding for member states, aims to protect women and children against the impunity of sexual violence (article 2). Member States guarantee that sexual violence shall be punishable in times of peace and in situations of armed conflict (article 3).	Adopted in 2006, came into force in 2008
Kampala Declaration on the fight against Sexual and Gender Based Violence (SGBV), ICGLR	Member states of the ICGLR commit to prevent SGBV; to end impunity for SGBV crimes; and to support SGBV victims. For this purpose, they also commit to putting in place a media strategy in support of the fight against SGBV. A first work plan on the implementation of this Declaration has been established in May 2012.	2011 (signature of the Declaration)
<b>CONSTITUTION and NATIONAL LAWS</b>		
Constitution of the Republic of Burundi	Article 13 declares the equality of all 'in worth and dignity', and that 'no Burundian (...) be excluded (...) on the grounds of (...) gender'. Articles 180, 164 and 129 respectively state that a 'minimum' of 30% women sit in the Senate, the National Assembly and the Government.	2005

<sup>52</sup> This protocol is part of the 'Pact on Security, Stability and Development in the Great Lakes Region' (the 'Great Lakes Pact')

Electoral Code	Provides that the Communes Councils are composed of at least 30% women (no similar measure was adopted on the provincial and 'Colline' (hill) levels however). It also establishes a 25% women quota in political parties.	2009
Penal Code	The 2009 reform increases penalty for rape and sexual harassment and criminalises domestic rape. Adultery, committed by men or women now, and polygamy have also become punishable. (See page 76 for further detail)	2009 Reform of the 1981 Code
Law on the Person and the Family	Men and women now share parental authority and have equal rights and responsibilities regarding custody, guardianship and adoption of children <sup>53</sup> .	1993 amendments to the 1988 Code
Labour Code	Article 73 declares equal pay for everyone for equal working conditions, qualifications and performance, regardless of sex. Article 122 grants pregnant women maternity leave from 12 to 14 weeks.	1993 amendments to the 1968 Code
<b>GENDER-RELATED NATIONAL POLICIES</b>		
National Gender Policy (NGP)	The axes of the NGP are those of the Beijing platform <sup>54</sup> . The NGP was included in the Constitution in 2005. (See page 74 for further detail)	2003 (and currently being updated)
National Action Plan (NAP) for the implementation of UNSCR 1325	The eight axis of the NAP aim to address gender-based violence and support its victims; enhance equality between men and women; increase women's participation in public life; and allow for the development of women's autonomy. The NAP has an axis dedicated to 'post-conflict justice'. (See page 75 for detailed analysis of the NAP).	December 2011

In addition to this legal framework, it should be noted that gender is included in various strategic documents framing the government's socio-economic policy. For instance, the instrument for development planning 'Vision Burundi 2025' promotes gender-equality by proposing measures to improve women's access to education as well as to loans. It also intends to increase women's participation in the country's economic development. In addition to that, the 2010-2015 'Strategic Framework for growth and Fight against Poverty II' (known as 'CSLP II' in French<sup>55</sup>) also promotes gender equality in various areas of public life, as we will analyse it further (see page 74).

The recent adoption of gender-sensitive legal reforms and policies in Burundi has been the result of active advocacy work and pressure from international, regional and national actors. We will analyse these various reforms in further detail as part of the Non-Repetition processes.

### Persisting gender inequality in the Law

While new legal texts and policies promote equality and improve the protection of women's rights, the persistence of pre-conflict gender-insensitive legal framework constitutes a major obstacle to effective

<sup>53</sup> United Nations Committee on the Elimination of all forms of Discrimination Against Women (CEDAW), CEDAW/C/BDI/1, 2001

<sup>54</sup> Author's interview of Ms Laëticia TWAGIRIMANA, 'Women's Promotion and Gender equality' Director General, and Ms Estella CIMPAYE, Director of Women's Promotion Department, Ministry of National Solidarity, Human Rights, and Gender (MSNDPHG), 26.03.2012. Author's archives.

<sup>55</sup> Acronym for 'Cadre Stratégique de croissance et de Lutte contre la Pauvreté II'

progress on this issue. This may occur in three cases: where ‘modern’ laws exist but are not enforced seriously by the stakeholders; where no legislation exists on a particular matter where gender inequality persists; and where provisions in the law reflect patriarchal culture.

Legal loopholes are the most problematic on the question of inheritance in Burundi. This matter is determined by custom and tradition, which are applied in informal as well as in formal settings. Tradition states that only sons inherit from the father, as daughters are ‘intended’ for a different family – that of their husband’s. Consequently, women do not inherit from either their parents or their husband (in principle they only have usufruct rights on the property and land of their deceased husband, which the son inherits). This gender-based inequality contradicts the new Burundian Constitution and carries severe consequences for women.

## 2.4 Summary of gendered findings related to the impact of the recent conflict

*‘The main difference lies in the fact that men were generally confronted by other men, while women had more chances to survive after inhuman torment, and then found themselves condemned to a living hell in the aftermath of that turbulent period’<sup>56</sup>.*

### Immediate direct and indirect victimhood in the conflict

Men were the most direct targets and perpetrators in the Burundian conflicts. This conflict also involved “victim-perpetrators,” those who were forced to do violence to others. Men and boys forced to enrol as soldiers are the most striking example. Young men were particularly vulnerable to forced recruitment, and many became perpetrators against their will. Some women and girls were forcibly recruited as well but to a much lesser extent. Other cases of imposed violence were particularly destructive too, such as soldiers forcing men to rape or torture their wife and children. The trauma forced perpetrators suffer is at least as profound as the one suffered by other victims, as the Training centre for the development of ex-combatants (CEDAC)<sup>57</sup> expressed.

For each man involved in the fighting, a family was left without physical protection and they lost their primary source of income. The absence of a father and husband in a patriarchal society often triggered progressive family disintegration and increased the vulnerability of women and children, faced with increased sexual violence and displacement. Between 65 and 85% of IDPs and refugees<sup>58</sup> throughout the various conflicts were women and children. On their way to refugee camps and once in them, refugees faced extremely hard living conditions. Particularly, many Hutu were forced into IDP or “regroupement” camps by the government during the last conflict, allegedly for their protection. The population of these camps referred to them as concentration camps. Treatment was generally worse in ‘camps de regroupement’ given their nature<sup>59</sup>, and humanitarian assistance was not always allowed. Because their freedom of movement was restricted women had insufficient or no access to cultivation fields. In cases of food shortage in all of the camps, women and children were more likely to experience famine. Women

<sup>56</sup> ‘AC Génocide’ (victims’ association). Response to interview questionnaire, Feb. 2012. Authors’ archives. Original quote in French: ‘La seule différence réside dans le fait que les hommes sont généralement confrontés aux autres hommes d’abord, et les femmes peuvent avoir plus de chance de survivre après des supplices inhumains, et se retrouver au lendemain des drames condamnées à poursuivre une vie d’enfer’.

<sup>57</sup> Author’s interview with Eric Niragira, Executive Director of CEDAC (Training centre for the development of ex-combatants), 22.02.12. Author’s archives.

<sup>58</sup> Enid de Silva Burke, Jennifer Klot and Ikaweba Bunting, 2011

<sup>59</sup> Women’s Commission for refugee women and children, 2000



and girls were particularly vulnerable in the various camps. Increased poverty and likelihood of starvation led to an increase in prostitution as a means of survival.

Women were the *direct targets* of sexual violence during the conflicts, which seemed to be used as a means of ethnic cleansing and dominance strategies. Women of the ‘other’ ethnic group were raped and those who were pregnant were killed or tortured<sup>60</sup>. Forced inter-ethnic marriages were practiced as a mean of uprooting women from the other ethnic group, since in the patrilineal tradition the wife and children take the husband and father’s name and ethnic identity. Women from the same ethnic group were also raped or used as sex slaves by armed groups’ officers. Some men were also the victims of rape; however, with the fear of stigma, very few of them have reported such abuse and male rape in the conflict remains largely unknown. Whether men or women, and as Brother Emmanuel Ntakarutimana, President of the Independent National Commission for Human Rights (CNIDH<sup>61</sup>) says, victims of rape all suffer from deep, long-lasting mental and physical wounds<sup>62</sup> that can lead to depression and suicide.

#### The conflict’s long-term consequences

At first glance, men and women from the same ‘group’ of victims faced similar trauma and difficulties post conflict. For example, returnees’ poverty level depends primarily on whether they have lost their house and land, regardless of gender. The socio-economic integration of displaced persons is a long-term challenge for both men and women. Widowers and widows with children both must raise these children alone. Finally, men and women both have increased HIV and AIDS rates post conflict, although the rate is higher among women.

Although men and women have much suffering and difficulty in common, the gender roles that foster women’s dependency on men also exacerbate the impacts of the conflict on women<sup>63</sup>. While widowers can remarry and have a new wife help raise their children, widows are socially forbidden from remarrying, except in some cases where they can marry the brother of their deceased husband. They become single parents who have no legal right to their husband’s land, and severely limited opportunities to make money in any other way. Widows who come back to their parents’ house face severe social stigma as being ‘abnormal’ and are often open to denigration and abuse by her parents or brothers.

Stigma and marginalisation also affects women and girl ex-combatants and those ‘associated’ with armed groups, more than male ex-combatants<sup>64</sup>. This difference is related to their gendered social positions and men’s ‘legitimacy’ of being expected to fight, unlike women. The multiplication of sexual partners during the conflict and the development of polygamy have also had a differential impact on women than men, as the status of a marriage or relationship is determined by the man. Some of the men who remarried during the war rejected their former wife or abandoned their new wife at the end of the conflict. These women remain alone, stigmatized as bad women and therefore are marginalized and have little or no economic resources. Married women who survived rape are usually rejected by their husbands and stigmatised by society, even more so if the rape resulted in pregnancy. Pregnant girls will often leave school (unwanted pregnancies being the second highest cause for girls leaving school prematurely in

<sup>60</sup> Dushirehamwe, 2009

<sup>61</sup> French acronym for Commission Nationale Indépendante des Droits de l’Homme.

<sup>62</sup> Author’s interview with Frère Emmanuel Ntakarutimana, President of the CNIDH, 16 & 23.02.12. Author’s archives.

<sup>63</sup> Author’s interview with Goretti Ndacayisaba, Programs and Administration Coordinator, Association ‘Dushirehamwe’ 20.02.12, Author’s archives

<sup>64</sup> Author’s interview with Laureline Monnier, then Manager of the ‘Dukanure’ and ‘GRAPP’ Projects for ‘Heartland Alliance’, 01.02.2012. Author’s archives



Burundi<sup>65</sup>), which therefore decreases even more their ability to respond to their socio-economic difficulties. These conflict-related gender inequalities leave women with far fewer social and economic means to ‘recover’ from the conflict than men.

The perpetuation and proliferation of some forms of gender-based violence that developed during the war further reinforced concepts of masculine dominance as well as that of a second-class citizen, after the conflict. This is exemplified by the spread of sexual violence, which doubled between 2003 and 2006<sup>66</sup>, and the continuation of extra marital sexual relations and polygamy, which used to be perceived as shameful to the family, according to some interviewees. These peacetime practices bear social and economic consequences for women, as those men often have to divide their resources between women, or leave the mistress with a child without assuming fatherhood.

While the impact of the conflict on women has been devastating, the societal upheaval has also allowed for some shifts in gender roles and expectations and some women have taken steps towards emancipation, both during the war and in the peacebuilding period.

## **2.5 Women and men’s roles during the conflict and in the post-conflict environment**

The war and post-war peacebuilding have led Burundian men and women to undertake new roles in society. While gender roles have sometimes been ‘destabilized’ in the public sphere, established gender roles and power relationships remain deeply entrenched, in the private sphere. Women’s groups and the international community’s ‘gender’ policy have had an effect on Burundian women and led to a few steps toward empowerment, mostly in the public sphere.

### Roles in the conflict

During the war, many traditional gender roles were firmly in place and sometimes reinforced<sup>67</sup>. Most fighters and decision-makers were men, while women mostly took care of children and, sometimes, supported their combatant husbands and sons. In that sense, it can be argued that these women played an indirect, home-based role in the conflict<sup>68</sup>, through moral or logistical support to the men combatants.

At the same time, many women performed roles, which used to be exclusive to men. Many of them became heads of the household due to the prolonged absence or death of their husband. In 2005 between 20% and 55% of families in the various IDP camps were headed by women<sup>69</sup>. Some female heads of household were able to find paid work during the war, particularly among those who took refuge in Tanzania, where working women are more common. . As a result, Burundian women started to be seen in trade and construction jobs, both abroad and in Burundi. Many women remained heads of household after the war, as one wife over three lost her husband during the latest conflict<sup>70</sup>.

In the public sphere, some women joined the ranks of armed groups, by political conviction for some, but most often by force or for protection and need for food<sup>71</sup>. Once in the armed group, women played a wide array of roles, including tactical tasks such as spying, delivering messages, trafficking arms or

<sup>65</sup> 2003 study by the ‘Forum of African Women Educationalists’ quoted in IRIN In-Depth, 2004

<sup>66</sup> ‘Vision Burundi 2025’, 2011

<sup>67</sup> Author’s interview with Seconde Nyanzobe, Legal Representative of Fontaine-Isoko for Good Governance, 24.01.2012. Author’s archives.

<sup>68</sup> As expressed by various actors at the Research findings’ validation meeting held on 10.05.2012 in Bujumbura, with 15 CSOs.

<sup>69</sup> Dushirehamwe, 2009

<sup>70</sup> Anne Bariyuntura, 1995. The same source reveals that one man out of ten became a widower as a result of the Crisis.

<sup>71</sup> De Tessières, 2007



recruiting and mobilising new combatants. A few educated women also became administrators, secretaries, and very occasionally Officers. Some women, from both ethnic groups, were also combatants.<sup>72</sup> Women were not only victims, but also perpetrators. The following extract from an ethnographic study on Hutu refugees illustrates the violence of torture committed by women on women: *'The Tutsi girls were given bamboos. They were made to kill by pushing the bamboo from below (...) often removing foetuses from pregnant women intact and forcing the mother to eat the foetus (...)'*<sup>73</sup>.

The breaking of some of the gender clichés and roles in the public and the private spheres during the war has had a stressful and frustrating impact on men sometimes, as indicated by some of our male respondents. They felt disempowered. This is also due to the fact that it happened in conjunction with other conflict-related 'weakening' factors for men, like displacement, increased poverty, conflict-related trauma, handicap or the loss of traditionally male-held resources such as land, money and paid jobs.

De TESSIÈRES and the women's organisation 'Dushirehamwe' see the idea of "emancipatory conflict" as occurring primarily on the surface at this stage, as well as two-sided<sup>74</sup>. Indeed, it is worth noting that gender relationships did not really change during the conflict. For example, in IDP and refugee camps, where 65 to 85% of the population were children and women<sup>75</sup>, most heads of camps were men. In armed groups, many of the roles women played were traditionally female-related ones: supplies providers, water- and equipment-porters or cooks. Further, they were also used as sex slaves or human shields. Even when some women took on traditionally male roles in armed groups, they were not always treated as men's equals and often stayed at lower ranks than their male counterpart. Second, some of the new roles women played during the war were taken up either by default or by force<sup>76</sup>. The clearest example of this was forced recruitment in armed groups; but becoming the head of the household without equal legal and social standing for property and rights was more of a debilitating burden for many women, rather than a positive step towards emancipation made by choice with social and legal support.

The shift in gender roles was not wanted or foreseen by men either, at the societal level. In other words, despite this kind of development on the surface, resistance to gender equality remained strong among Burundians, especially in the private sphere. As far as the socio-political sphere is concerned, men did not particularly seek women's empowerment there either, as this may constitute a conflict of interest<sup>77</sup>. However, certain women did seek increased participation and did so in a very proactive manner through their struggle for peace. While they constituted a small minority, these women had an exemplary role and a wider impact on women's situation in the post-conflict period, through their political actions during and after the war.

### Roles in the peace-making process

As soon as the last conflict erupted in 1993, women's organisations were created outside of the political parties<sup>78</sup> for the first time in Burundi, in search for peace. These associations were intentionally multi-ethnic and played an active role in building bridges between communities. As these organizations were working for peace, women's CSOs also promoted women's roles in the political space as part of a broader

<sup>72</sup> Malkki Liisa H., 1995

<sup>73</sup> Malkki Liisa H., 1995

<sup>74</sup> Dushirehamwe, *op. cit.* and De TESSIÈRES, *op. cit.*

<sup>75</sup> Enid de Silva Burke, Jennifer Klot and Ikaweba Bunting, 2011

<sup>76</sup> Dushirehamwe, *op. cit.*

<sup>77</sup> Author's interview with Oliver Hoehne, Bujumbura-based Political Advisor for the Swiss Embassy in Kenya, 16.02.2012. Author's archives

<sup>78</sup> Dushirehamwe, *op. cit.*

‘gender’ agenda, looking for more equality. The first of these organisations was ‘Women for Peace’<sup>79</sup> and the ‘Collective of Women’s Associations and NGOs of Burundi’ (CAFOB<sup>80</sup>), benefiting from UNIFEM’s support. By engaging in socio-political activities such as peace marches, media programs, lobbying and international conferences, these women gradually asserted and empowered themselves. They developed the capacities of an increasing number of women during this process, through a wide-scale training project for women in conflict resolution and mediation techniques. Beneficiaries of this project later constituted the women’s organisation ‘Dushirehamwe’<sup>81</sup>. These women’s associations played a major role in spreading the idea of a gender-sensitive approach to conflict analysis and resolution in Burundi. Given the gender-sensitive and inter-ethnic agenda of these organisations, they often faced opposition from within society. Nevertheless, these developments were the beginning of an increased participation of women in the Burundian political life. Indeed, ‘Women’s committees for peace’ started spreading throughout the country as of 1997, and women in political parties started playing a more active role by engaging in the peace process.

Some men were also actors for peace from within their regular gender roles. Many stories relate the impact that individuals among elders and other prominent male figures, such as the Bashingantahe, had in preventing conflict escalation at the local level, by using their influence within the community. Later on, the actors making peace at the negotiation table would also all be male figures, as a result of their decision-making positions in the country. Women were excluded from participating in the Arusha peace negotiations, despite their pro-active role in ending the war and their calls for a seat at the negotiation table.

After months of campaigning, women CSOs did manage to get permanent observers’ status at the Arusha peace talks for seven of their representatives in February 2000. As part of their advocacy efforts during the peace negotiation process, women’s organisations held the ‘All Party Burundi Women’s Peace Conference’ in July 2000 in Arusha, which was attended by all nineteen parties involved in the peace talks. The Conference allowed women to express their needs, interests and demands for peace and reconstruction. With one exception, all points among women’s demands were incorporated in the Arusha peace agreement – a great success and milestone for the promotion of women’s rights in Burundi.

Indeed, the points women made in the APRA constituted key references for future advocacy work for women’s rights in post-conflict Burundi. Additionally, women started to be perceived as real policy-making actors in the area of development, social justice, reconstruction and reconciliation, even if they were not yet considered equals. One of the resulting concrete manifestations of this evolution was the appointment of two women and four men as members of the peace agreement monitoring committee. Progress in women’s participation in politics has continued in the post-conflict period, within the governmental institutions and civil society.

### Roles in the post-conflict period

The transition and the peacebuilding periods witnessed a quantitative as well as qualitative increase of women’s roles in political and social affairs in Burundi. First, with the introduction of the 30% quota for women in several of the country’s institutions, more and more women became elected representatives and Ministers, finally entering the highest levels of politics. Second, women’s CSOs continued expanding. Like other male-dominated or -led CSOs, women’s organisations played an instrumental role in the

<sup>79</sup> ‘Femmes pour la Paix’ in French

<sup>80</sup> ‘Collectif des Associations et ONG Féminines du Burundi’ in French

<sup>81</sup> Dushirehamwe means ‘Let’s reconcile’.



recovery and the peacebuilding processes, but in a more gender-sensitive manner. They engaged in community reconciliation; dialogue and solidarity with refugee and IDP women, as well as income-generating activities promoting women's economic empowerment. Thus women's organisations have been instrumental in creating opportunities for other women by becoming actors in reconstruction and 'self-recovery'. In addition, these CSOs raised awareness and conducted advocacy work on gender and women's rights in Burundi, thus allowing for the adoption of new laws and policies protecting 'all' Burundian women.

It is worth noting that the developing role of women as well as the increased attention to their needs, in political affairs, would not have been possible without the support of the male majority in power and the support and pressure of the international community. The peacebuilding activities that multiplied as of 2006 increasingly promoted 'gender' and UNSCR 1325 in the country, thus contributing to the qualitative empowerment of Burundian women. By consulting and supporting women's CSOs, UN agencies, bilateral partners, international NGOs as well as the Ministries in charge of the promotion of women or gender have allowed for the development of the perception of women as competent professionals.

Nevertheless, progress related to women's empowerment has to be looked at with a broader perspective. It must be noted that few Burundian women have benefited from the CSOs' 'empowering' activities, and that the newly adopted laws and policies have had limited impact on their daily life so far. Women's political participation is still limited to the educated, urban elites. At the local level, there are fewer women who are either willing or able to participate in political life without the incentive of a quota policy, as we saw it at the province and 'Colline' (hill) levels. Thus the political empowerment of a minority of women has widened the gap between women from rural, conservative and poor areas *versus* educated women from urban areas, mostly Bujumbura, with more resources. The increased number of women participating in politics, such as MPs and Ministers, has not systematically meant 'improved qualitative representation' of women. This might be due to a focus on the promotion of the interests of their own social class, a lack of gender-sensitivity from women politicians, the continued dominance of men and patriarchal values in the political system, or some combination of all of these.

The majority of Burundian men and women did not intend to reshape gender roles during either in the conflict or the post-conflict periods. New reforms and female leadership may come largely from well educated upper class women; outside forces in the international community, or through 'top-down' approaches, the conflict and the post-conflict periods *have* opened some windows of opportunities for the empowerment and the better protection of women's rights in Burundi. The Truth, Justice, Reparation and Non-Repitition (TJRNR) processes can either magnify or undermine this development, depending on their gender-sensitivity.

### 3. Key TJRNR-processes, -actors and -instruments and assessment of their gender-sensitivity

#### 3.1 Overview of the TJRNR processes

The Arusha Peace and Reconciliation Agreement (APRA) set the general framework for most aspects of TJRNR processes in Burundi. Some of these processes have already been implemented or are ongoing, such as the reintegration of former combatants, mechanisms in charge of settling returnees' land claims, as well as institutional, political and legal reforms. Other processes still need to be developed. In 2005 the UN and the Burundian government formally agreed on two mechanisms to respectively establish the truth on conflict-related crimes and human rights violations and to prosecute the most serious crimes: a Truth and Reconciliation Commission (TRC) and a Special Tribunal (ST). There remains much to do for their implementation, particularly with regard to the ST. In 2011 a draft law for the TRC was designed. Although the law establishing the TRC is not yet completed and remains controversial, this represents important progress. Given its past role in the armed conflict, the governing party appears to be caught between its reluctance to set up those two mechanisms according to international standards, and the pressure from the international community, on whose aid the country's economy heavily depends.

The 'spirit' of the APRA promotes equality between men and women, as does the Constitution of Burundi. Nonetheless, the Arusha Agreement shows uneven gender-sensitivity regarding TJRNR processes in particular, which sometimes turns out to be weak or vague. Other sources as well as some actors have the potential to further promote the gender-sensitivity of the TJRNR mechanisms in Burundi.

#### Actors involved in the TJRNR processes

The understanding of gender and the degree of sensitivity to such a concept varies greatly among the Burundian authorities, the international community and national civil society in Burundi. These degrees of 'sensitivity' vary within the same *kind* or *group* of actors as well as within the same institutions. Most often, real understanding of, and sensitivity to gender issues remain concentrated among a few 'gender professionals' in the various structures, and mostly among women (with the relative exception of structures oriented on women and gender). Unfortunately, only *some* of the institutions' and organisations' leaders are sensitive to or interested in gender issues, and most of them are men. Additionally, as we will see it, a gap often remains between the actors' gender-sensitivity and their efficient responsiveness.

Among the various actors, the Burundian Government as a whole appears to be the least gender-sensitive at the moment. Nevertheless, progress is being made when it comes to training and raising some of the staff's gender-awareness. Indeed, the government has shown increasing signs a willingness to address gender issues, as reflected in some of its recent strategic policies like 'Vision Burundi 2025' and the 'CSLP II'. The gender approach has mainly been developed in response to pressure from, and with the support of, the international community and CSOs. Most of the efforts related to 'gender' seem to remain relegated to the Ministry of National Solidarity, Human Rights and Gender (MSNDPHG<sup>82</sup>). Today, the

<sup>82</sup> French acronym for Ministère de la Solidarité Nationale, des Droits de la Personne Humaine et du Genre

general lack of conviction within the government regarding the importance of gender issues, combined with the lack of financial means<sup>83</sup> to develop these ideas institutionally hinder greater advancement.

The recent adoption of the National Action Plan (NAP, hereafter) for the implementation of Resolution 1325 provides a window of opportunity for future progress on women and gender issues in Burundi, including processes related to dealing with the past (*see page 75 for a detailed analysis of the NAP*). As it emanated from the government and was based on a UN Resolution that receives a lot of support from donors<sup>84</sup>, the NAP constitutes a strong, potential ‘source’ and tool to promote gender-responsive TJNR mechanisms in Burundi.

The most committed actors to gender issues in Burundi so far have been local women’s CSOs, along with UN agencies or particularly UNIFEM and now UN Women, a few bilateral donors, the European Union (EU), as well as some international NGOs. Among them, however, only a few actors show real awareness of, or commitment to the promotion of gender-sensitive TJNR processes. This is possibly due to the fact that both ‘gender’ and ‘dealing with the past’ are relatively new issues in Burundi, and so are ‘gender-sensitive TJNR processes’ for most international actors. Moreover, many actors still find it hard to translate gender-sensitivity into concrete practice. In addition to this relative lack of awareness and tools for practical implementation, or as a result of it, some local and international actors seem to consider ‘gender’ as a secondary issue, when trying to deal with the many other complex questions related to Truth, Justice and Reparations processes in particular. This may also be the result of a misperception that gender is one of those many topical issues that need to be prioritized, while it should be addressed as a *crosscutting* theme. Nevertheless, some of those actors have engaged in the promotion of gender-sensitive TJNR mechanisms and, in doing so, have played key roles in initiating reflexions in this domain in Burundi.

Until now, efforts undertaken by those actors have mostly focused on the participation of women in TJ processes and sometimes on the treatment of sexual violence, through advocacy work, technical support, capacity-building as well as information and consultation initiatives with the population. It is worth noting that approaches are often women-centred, rather than adopting a wider gender perspective, with a few exceptions. Yet, failing to involve men as both a factor in the analysis as well as a target audience means not involving half of the concerned population and failing to address the origins and the main obstacles to the problems – men and women’s relationship as defined by the culture. Furthermore, the *de facto* alienation of men in the treatment of gender issues runs the risk of antagonizing both sexes and therefore being counter-productive. This is particularly true as some men may perceive gender equality as a competition for power, as Brother Emmanuel Ntakarutimana points out<sup>85</sup>. In addition to this, many of those actors as well as the Burundian media<sup>86</sup> mostly consider women as a ‘vulnerable group’ and rarely as ‘actors’ or citizens. This reinforces stereotypes that need to be tackled in order to ‘empower’ women and allow for some progressive development towards more balanced gender relations. In sum, even when some local or international actors show sensitivity and responsiveness to gender issues, the approach adopted is sometimes ‘incomplete’ and partly inefficient.

<sup>83</sup> Author’s interview with Ms Laëticia TWAGIRIMANA, General Director for the ‘Promotion of Women and Gender Equality’, and Ms Estella CIMPAYE, Director of the Department for the Promotion of Women, Ministry of National Solidarity, Human Rights and Gender (MSNDPHG), 26.03.2012. Author’s archives.

<sup>84</sup> Actually, some donor countries have reportedly expressed to the MSNDPHG their intention of funding the Burundian NAP. Ms Laëticia TWAGIRIMANA, *op. cit.*

<sup>85</sup> Author’s interview with Frère Emmanuel Ntakarutimana, President of the CNIDH, 16 & 23.02.12. Author’s archives.

<sup>86</sup> Author’s interview with Jeannine Nahigombeye, Program Coordinator for Impunity Watch Burundi and President of Radio Isanganiro, 14.02.2012. Author’s archive

This can either be due to a lack of creativity or of comprehensive understanding of the issue and the needed ‘know-how’ for the conceptualisation of gender-responsive projects, or to a lack of long-term funding (needed to address structural factors such as culture). This limited knowledge and skills in gender programming has often been observed during this research, and particularly so in the area of dealing with the past. This highlights the need to continue building capacities and providing technical support to targeted actors amongst the most ‘convinced’ and influential ones, particularly within the government and local civil society.

Other obstacles hinder the latter’s further contribution to the promotion of gender-sensitive TJNR processes in Burundi today. First this includes the general, increasing sidelining of CSOs from public policy-making by the government (including in the current revision of the TRC-draft law), as it considers CSOs as ‘the opposition’. Second, we observe a sort of ‘putting on hold’ of funding, from donors, for activities related to the Truth and the Justice process at this stage, pending the promulgation of the final TRC law and its endorsement by the UN. Yet, it is at this crucial moment that renewed advocacy and awareness-raising efforts are needed as far as the Truth process is concerned, in particular. When we analyse the Burundian TJNR processes at a later stage, we will present the various actors’ input to the official initiatives and their gender-responsiveness into more detail.

A new key tool for the actors’ work in the preparation and development of TJNR mechanisms came out in December 2010, when the report of the ‘National Consultations on the Establishment of Transitional Justice Mechanisms’ was published. Carried out upon the joint decision of the UN and the Burundian government, the ‘National Consultations’ collected the opinions of 3.887 Burundians in 2009 on pre-determined Truth, Justice and Reparation mechanisms as well as relevant institutional reforms.

#### The National Consultations on the Establishment of Transitional Justice Mechanisms

It is essential to analyse the National Consultations’ process and findings in order to know the extent to which they constitute an influential source of ‘gender-sensitivity’ for the TJNR processes. As a starting point, it must be recognized that the National Consultations *per se* have a general, potential influence on the Burundian TJNR processes.

#### *A highly acknowledged instrument with a two-sided influence*

The National Consultations appear as an instrument of weight in the shaping of the mechanisms dealing with the past in Burundi for three reasons: first, for the nature and the scale of the information they collected (Burundians’ opinions), as well as the intention behind it. Referring to the National Consultations’ results, in the design and the implementation of the TJNR processes, constitutes a pledge for the democratic legitimacy of these mechanisms, their appropriation among the population as well as their efficiency. As a matter of fact, the 2007 Framework Agreement (‘Accord Cadre’)<sup>87</sup> between the UN and the government established that the views collected through the Consultations should be ‘taken into account’ by the founding acts of the TJNR mechanisms. Second, the fact that the government, the Burundian civil society as well the UN were equally represented in the Tripartite Steering Committee (TSC) in charge of the Consultations confers a strong political legitimacy to the process and its results. Third, and as a result of the previous points, a fervent image of success and a resulting pride are attached to the National Consultations among Burundians as well as some international actors. The President of the Technical Committee (TC) in charge of preparing for the establishment of Transitional Justice

<sup>87</sup> ‘Framework Agreement between the Government of the Republic of Burundi and the United Nations on the establishment and definition of the mandate of the Tripartite Steering Committee in charge of National Consultations on transitional justice in Burundi’ (‘Accord Cadre’), Bujumbura, 02.11.2007



Mechanisms (TJMs) referred to the National Consultations when stating that the Burundian TJ process was ‘a model process’<sup>88</sup>. In addition to that, the National Consultations’ report is pretty much the sole official document dealing with most TJNR processes in Burundi. As a result of these factors, the various actors and the media in Burundi constantly refer to the National Consultations, with the consequence of overstressing their *de facto* weight.

Yet, this image of complete success – or the pursuit of this image – has overshadowed the existence of some methodological flaws in the Consultations’ questionnaire, which do hinder the academic and empirical legitimacy of the results. Several questions were ‘closed-ended’ and ‘multiple choice’ at the same time, resulting in responses that state one thing and its contrary at the same time<sup>89</sup>. Therefore, some of the data collected is biased or almost false; worse, such results can easily be manipulated – which is dangerous for such a politically sensitive question. The National Consultations must be considered cautiously and for what they are only, i.e the reflection of some ‘trends’ in the public opinion rather than absolute opinions – which is not often expressed as such by the various actors.

The National Consultations’ influence on the TJNR processes is two-sided and relative. Despite their flaws, their findings are a strongly recognized source of knowledge for the ‘democratic’ shaping of the TJNR processes. Nevertheless, they do not constitute an objective or a binding source. The various actors can manipulate results in order to promote their agenda, or may decide not to follow the findings and recommendations when they do not fit their interests, as we will see it further.

Now, if carefully used by impartial actors, the ‘double legitimacy’ of that process – the democratic and the political one – *does* make it a strong tool to promote public opinion trends on the TJNR processes. Whether the approach taken in the National Consultations has been gender-sensitive remains to be analysed now.

#### *Gender-sensitivity of the National Consultations*

The TSC in charge of steering the Consultations reportedly was gender-sensitive and willing to be gender-responsive<sup>90</sup>. With the input and support of women’s associations and a few international actors, these efforts have been successful to a certain extent.

To start with, the balance between men and women among the ‘actors’ and the ‘subjects’ of the Consultations was almost exemplary. There was close to perfect parity in the TSC (only the UN members were two men - which may raise the question of the kind of model the UN wants to set), and full gender balance in the report-writing team as well as in the Project Management Unit. Additionally, training on the importance of the gender dimension of TJ was delivered to some of the field staff<sup>91</sup>. However, the organ in charge of the strategic oversight of the project’s implementation<sup>92</sup>, the Technical Monitoring Committee (TMC), was widely dominated by men. No information is available on the members of the sub-contracted firm that created the methodological tools<sup>93</sup>; nevertheless, it is worth noting that the call

<sup>88</sup> Author’s interview with Minister Laurent Kavakure, Former President of the Technical Committee responsible for the preparation of the implementation of Transitional Justice Mechanisms in Burundi, 06.03.2012, Author’s archives.

<sup>89</sup> For example: ‘What do you think of the representation of women and men within the TCR? Choice 1. A Majority of Women (Possible answers: Yes, No, No opinion). Choice 2. A Majority of Men (Possible answers: Yes, No, No opinion)’. Consequently we find that 82.78% of participants would like the majority to be male, at the same time as 71.81% of them wish the majority to be women – an example of important statistical contradictions.

<sup>90</sup> Interview questionnaire responses of Ms Claudine Amanimana, ‘Moderator’ and Co-Author of the National Consultations Report; currently Secretary of the Independent National Commission for Human Rights (CNIDH), 08.03.2012. Author’s archives.

<sup>91</sup> Ibid.

<sup>92</sup> Gérard Nduwaho, Dushirehamwe Association and International Alert, 2010

<sup>93</sup> The *Africa Label Group* of Burkina Faso

for application contained no gender-related requirement – which could partly explain the lack of gender-sensitivity of the methodology. The principle of parity, however, was again remarkably followed in the sampling of the interviewees, which included 1,964 men and 1,923 women. The Consultations also showed a true willingness to include different ‘cross-cutting and sub-groups’ among the respondents, by varying the socioeconomic categories and ‘groups of victims’ surveyed.

The conceptual and methodological framework of the Consultations and the resulting questions formulated did not examine gender or the specificity of the different ‘categories’ at all, neither as variables in the survey nor as factors to be addressed in the TJRNR mechanisms. Nevertheless, and given the TSC’s intention of being gender-sensitive, gender *was* a little bit addressed, under three types of questions. First, the respondents were asked about men and women’s participation in the various TJRNR processes and related institutions, demonstrating the TSC’s will to promote both men and women as actors, not only victims. Further, a question on the establishment of an education program on human rights, including women and children’s rights, illustrated the Consultation’s vision for gender change in the society. With regards to the crimes and victims that must be addressed by the truth and reparation processes (but not the Special Tribunal), only one category that mostly concerns women was mentioned: ‘victims of rape and other sexual violence’. It would have been useful to ask questions about other kinds of ‘gender crimes’, as per International Criminal Law and UNSCR 1820, as well as about root causes for these crimes. Moreover, it would have been interesting to inquire about the specific needs of male and female victims today, as well as the various groups’, and about their potential participation in the various mechanisms (as was done in our interviews with the victims – *see page 42*).

The way collected answers were processed has unfortunately further hindered a ‘gendered’ analysis of the surveyed opinions. Despite the great efforts that were put in having a gender-balanced sample, data was not gender-disaggregated in the Consultations. Additionally, the findings of the community meetings and the focus groups with the different ‘groups’ and ‘categories’ were not provided in the report<sup>94</sup>. As a result it is impossible to evaluate the differences of opinion and needs between and within different groups, as it is between male and female interviewees.

As a conclusion, it can be said that the National Consultations have only seized part of the opportunity to obtain gender-sensitive opinions of the population regarding TJRNR processes, and on some of the ‘gender issues’ related to dealing with the past. Nevertheless, two of the few gender-related opinions that they have highlighted are key in the Burundian context: that is the population’s acceptance of women’s participation in the various processes, and its support regarding the need to address ‘rape and sexual violence’ – a taboo question with strong impunity in the country.

When assessing the gender-sensitivity of the official TJRNR mechanisms in the four upcoming parts, we will examine the extent to which the government has responded to these views and needs of the Burundian population. Before this however, it is necessary to complete or nuance those opinions of the population as a whole by those of the *victims* of the conflicts, as they are the most concerned actors by the TJRNR processes among the population.

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<sup>94</sup> We do not find a part listing the information collected from focus groups and community meetings, nor is it stated whether the statistics presented in the report include them (or if they are only based on individual interviews, which were conducted with 703 people only).



### Victims' needs and expectations of TJRNR processes

To *illustrate* some aspects of the opinions and needs of the victims in relation to TJRNR processes, twenty male and female survivors were interviewed individually in March 2012, on TRJRN processes mostly but also on gender-based inequalities in general in Burundi. The objective was to identify similarities and differences in TJRNR-related needs and expectations of men and women, including various sub- and cross-groups.

Given the persistent and pressing land problem in Burundi, particularly for returnees, and the extremely vulnerable situation of women, especially widows, we chose to focus our study on returned IDPs and refugees (hereafter called 'returnees') as well as widow(er)s, through an ethnic- and gender-balanced sample<sup>95</sup>. We chose to undertake this study in the Mabanda Commune of the Southern Province of Makamba, for three reasons: firstly, the Makamba province was affected by both the 1972 violence and the 1990s-2000s war; secondly, the conflicts caused the displacement of a great part of the Province's population; and finally, Mabanda is reportedly one of the two Makamba Communes with the highest number of returnees and where land issues are of great magnitude.

To conduct and validate the study, we worked in close collaboration with four local CSOs<sup>96</sup>. Their participation was key in building confidence with the interviewees. We explained to the latter that the interview's aim was to convey their needs and expectations to TJRNR stakeholders as part of a broader research-based advocacy work. Most interviewees judged the study to be of utmost relevance especially that they considered it as an opportunity to voice their problems and concerns. Interviewees were mostly peasants witnessing economic hardship. This may have constituted one of the research's biases: indeed, some victims may have overstated their socio-economic problems, given the fact that they were being interviewed by an 'international NGO'. Another bias of the research is related to the interviewees' overall lack of knowledge on TJRNR processes. This may have caused a certain 'artificiality' of their answers, since they may be the mere result of our questions on issues that may have never come to their knowledge before. Therefore we tried to differentiate between what interviewees expressed as their genuine needs and expectations for dealing with the past, from those statements that may have only been 'answers' generated by our questions.

#### **Mabanda survivors' voices on the TJRNR processes**

**Slight gender-based differences and limited sensitivity to gender-based inequalities** was observed in the twenty interviewed victims' collected opinions. Among the various groups, sub-groups and crosscutting groups of respondents, the most immediate perceptions and priorities expressed throughout the discussion were **reconciliation, forgiveness, conflict non-repetition** and **reparations**. Truth and justice processes were not mentioned as spontaneously.

<sup>95</sup> Among the 10 men and 10 women surveyed, were included (with a gender balance): 8 Tutsis, 8 Hutus and 4 Twas; 4 returnees, 5 widow(er)s, and 11 returned widow(er)s. Among them there were 4 victims of 1972 (all Hutus), 14 victims of the last conflict started in 1993; and 2 victims of both conflicts.

<sup>96</sup> We collaborated with two locally-based CSOs - 'Tubabarane', which carries out economic empowerment activities for marginalised people and 'Abana Makamba', which works with IDPs and children - and two Bujumbura-based CSOs which have Points of Contact in Makamba - 'APRODH', which defends victim's rights and offers judicial support, and 'Fontain-Isoko for Good Governance', which has field research experience with a focus on gender.

Expressed positions on a **justice** mechanism were the most complex. On the one hand, when asked about a prosecution process, 75% of interviewees were in favour of it, mostly for impunity reduction purposes. On the other hand, tone, body language and answers to other questions seemed to tell that most survivors may not feel the need for, or do not believe in a Justice process. Indeed, many expressed resignation or fatalism: *'Those lost will not be brought back to life by the process. They are gone'* and *'Justice is a good thing in itself, but does not exist here'*.

Aware of existing political tensions and the lack of good governance, interviewees from all 'groups' expressed two prerequisites for the justice as well as the truth process during the discussions. The first one is the necessity to have **impartial**, ethnically mixed members in the TRC and the ST. Here, while some men mentioned the needed presence of foreigners, some women exclusively referred to Church representatives. The second prerequisite was **victims' protection**: male respondents in particular fear that both processes may trigger new conflicts or personal reprisals. Anonymity, as a mechanism of Victims' Protection, was considered to be a major solution especially by male victims. Moreover, many interviewees spontaneously mentioned the need to have **access to information** related to the proposed mechanisms. This highlights the link between the level of information, confidence-building in the processes and the 'feeling' of safety among the population. Most interviewees, male and female, ruled out police protection as they see it as a corrupted and non-professional body. Three women highlighted that women's participation to the TRC and the ST may be dependent on the **geographic location** of those institutions and **women's available resources** to reach them. As far as the crimes that the ST should address, regardless of the interviewees' profile, ten victims mentioned killing or massacres; six - rape or sexual violence against women, and four - looting or house destruction (not in a mutually exclusive way).

When asked, 95% of the interviewees consider the **truth process** as essential. Some individuals, essentially men, see the truth as the first step towards conflict prevention; while others, both men and women, see the **TRC as a way towards reconciliation and forgiveness**. Reconciliation was often mentioned as a strategy to deal with the past by the interviewed victims, indeed. As some local reconciliation initiatives show it, the understanding of this concept is focussed on the re-establishment of social cohesion in the present and (what is referred to as) peace and conviviality, leaving out the element of punitive justice and generally lacking to address root causes. Close to this idea, the importance of forgiveness was sometimes mentioned over a punitive justice process. As one interviewee put it, *'the one who recognizes his wrongdoing is half forgiven'*. Such a position could be due to the **fear** among the victims for their safety, **lack of confidence** in the rule of law and the **feeble knowledge of**, and **access to the official mechanisms**. Further, forgiveness rather than punishment seems to be deeply rooted in the culture of Christian Burundians, who constitute the majority of the population. Moreover, the concept is strongly promoted by the political actors currently in power. A slight gender-based discrepancy was noted on this question, with women being more in favour of forgiveness than men. This might be related to the **imposed practice of silence** on Burundian women we referred to earlier, and the consequent attitude of resignation. Connected to the idea of forgiving, is the **will to forget** the past, as a few interviewees expressed it. *'It is not necessary to unearth what was buried/ what is rotten'*, says the Kirundi expression. Considered in the light of the immense problems Burundians face on a daily basis, the magnitude of the violence during the war, and the lack of trust in the current state institutions and political actors, such a strategy is completely understandable. This has to be taken into account in the design and implementation of the truth and justice mechanisms, ensuring that victims are well informed, protected and able to participate in them.

**Guarantees of non-recurrence** are of great concern for both male and female interviewees, as 85% of them believe that the recurrence of the conflict is a possibility. Men unanimously believed in this, and they exhibited a better-informed analysis of the political factors to this than women. Some of the measures suggested to prevent conflict repetition varied according to the profile of the respondents, where **political dialogue** was almost exclusively mentioned by men, and **land reform** was mostly referred to by returnees and Batwas of both gender, as these are the groups facing the highest difficulties in having access to land. All interviewees invariably put forward the need for the professionalization of the police and the teaching of post-colonial history.

Interviewees of all profiles expressed **a strong need for reparation, although they do not all expect it to happen**. This is very likely due to the fact that their main challenge, as victims, **is to meet their basic needs**, as all of them mentioned it, with few variations. *'If reparations are possible'*, as some victims said, most would prefer **individual material reparations**, to be determined on the basis of each family's needs and losses. In this regard, more returnees mentioned the need for restitution than other victims, especially the 1972 refugees (of Hutu origin), who are the most affected by land despoliation. **Only a few individuals acknowledged the possible interest of collective reparations**, when suggested. **Symbolic reparations such as memorialisation did not seem to be the interviewees' major concern**. However, when asked about it, most of them acknowledged its importance, with no clear differences between the groups. Some said memorialisation helps to not forget the past – some in a positive way, others in a negative way - or to commemorate the dead. Commemoration days seemed to be more widely supported than monuments, and in both cases there was a broad consensus on the need for them to be *unifying*, i.e for victims of all ethnic groups. At the same time, a few survivors were strongly opposed to the idea - especially that of monuments, which they considered a waste of money. Interviewees were divided on the importance of state recognition of past crimes and apologies, with no profile-based difference. **No victim demanded psychological reparation** (in fact only six people of equally both sexes alluded to conflict-related trauma during the discussions). However, this should not be seen as an indication that there is no need for mental support; rather, it reveals the cultural taboo over the voicing of war-related suffering, as well as the negative image given to psychological support, often associated to madness in Burundian culture.

Throughout the discussions and as some of the above-made points reveal it, interviewees' opinions did reflect the **need for 'profile-specific' attention in TJRNR processes**, of which gender is one element. Other key-elements that determine the 'profile' of a victim, and that must be factored in the design and the implementation of the mechanisms concerned, would be their situation as part of a particular victims' sub-group (widow(er) or/and returnee), their individual stories, the conflict they were affected by ('72 or '93) and, connected to that, their ethnic identity.

Regarding the awareness of victims about gender-inequalities and the opinions expressed as to whether, and how, TJRNR mechanisms should redress these inequalities, we observed a **gap between the interviewees' awareness of gender-based inequalities and their limited demands for gender-sensitive TJRNR mechanisms**. Women are more aware than men of the gendered consequences of the conflict on their lives. This awareness was however not matched by gender-sensitive demands of TJRNR-mechanisms. For example, only two women stressed the need for women victims of rape to receive special attention in the reparation process.

Similarly, most interviewees do not see, do not want to see maybe, or reject the relevance of having women collecting female testimonies in the TRC and the ST for instance. Even when asked about the specific needs of victims of sexual violence, only two female respondents mentioned the fact that female victims may prefer talking to a woman. The most likely reason for this position could be that for the interviewed victims, **honesty and competency** are what **matter first in the TRC and ST members**, as many of them, men and women, expressed it in other questions; **not gender**. It is worth noting, however, that these declarations were counter-balanced by other statements against women holding positions in TJRNR institutions, revealing some **discrimination and prejudices against women**, both among male and female interviewees. According to one man, for example, people do not always trust women because *'they talk'* (i.e they cannot maintain confidentiality). Another man mentioned that *'some men may not like talking to a woman'*, and another male interviewee stated that women would not like to see other women in such positions, because *'they underestimate or denigrate each other'*. A woman stated that it is better for men to be in charge of the process, because *'women have never solved disputes before'*, and another one justified this by the fact that *'men have more relevant ideas'*. As a man put it forward, *'this question probably depends on the person'*; consequently, it is probably better to give victims the right to choose the gender of their interlocutor.

To conclude on the victims' views regarding the necessity, or not, for TJRNR processes to be gender-responsive, while most interviewees did not directly request gender-responsive TJRNR mechanisms, their general lack of gender-sensitivity, particularly amongst men, confirms the **need for gender-responsive and -balanced mechanisms**. With this regard, Burundian women and men's internalisation or 'aware acceptance' of gender-based discrimination have highlighted the fact that a quantitative gender-balance amongst leaders and staffs involved in TJRNR mechanisms is not sufficient. To ensure the gender-responsiveness of these processes, decision-takers, designers, leaders and implementing agents **must be gender-sensitive and have the needed know-how** to effectively design and undertake gender-responsive measures and actions.

### 3.2 The Truth process: the road towards the Truth and Reconciliation Commission

The establishment of truth is the most supported process for dealing with the past or moving towards 'reconciliation' among the population, according to the National Consultations and Impunity Watch's research with the victims. So far, the only mechanism planned for the above is the Truth and Reconciliation Commission (TRC), as envisaged in the APRA and determined by the Burundian government and the UN in 2005, following the publication of the 'Kalomoh Report'<sup>97</sup>.

No systematic archiving or recognition of crimes has been undertaken yet in Burundi. Forensic investigations or exhumation of bodies have not taken place either, and until this moment the government does not wish to allow nor support exhumation<sup>98</sup>. At the same time, survivors do not seem to systematically expect exhumations. While we did not include this in the research, this might be because of lack knowledge about this possibility, or because it is not a practice found in the Burundian culture, as the Episcopal Commission for Justice and Peace (CEJP) sees it<sup>99</sup>.

<sup>97</sup> This is the report of a UN Assessment mission that stayed in Burundi in May 2004 (the report was named after the President of that Mission, Mr Kalomoh). The mission's objective was to evaluate the possibility of establishing an International Judicial Commission of Inquiry (IJC) for Burundi, as provided for in the APRA. Eventually, that mission's report recommended the set up of a TRC and a Special Chamber within the Burundian judicial system.

<sup>98</sup> Aloys Batungwanayo and Benjamin Vanderlick, 2012

<sup>99</sup> French acronym for Commission Episcopale Justice et Paix. Interview on 14.03.2012. Author's archives.

The APRA foresees the identification of mass graves. Only a few of them are protected today in Burundi as they were established as ‘monuments’. The Independent National Commission for Human Rights (CNIDH) is examining the possibility of acting for the protection of mass graves<sup>100</sup>, as many Burundians seem to wait for it<sup>101</sup>. The CNIDH and the International Committee of the Red Cross (ICRC) have also started exploring the question of missing persons, discussing the way the TRC could address it as well as the role the CNIDH could play on this matter.

A significant milestone in the truth process was reached in October 2011, when a draft law for the TRC was officially submitted. That draft law was widely criticized by the local civil society, the UN and other international actors, including for its lack of gender-sensitivity. A reviewed TRC-draft law has been submitted to the Council of ministers as we are publishing this report. The new version, dated 14 November 2012, does not take into account CSOs’ and the UN’s recommendations for enhanced gender-sensitivity of the Commission. The TRC-draft law having not been examined or promulgated by the Burundian Parliament yet, strong advocacy efforts by all actors are required to improve the gender-sensitivity of both the design and the implementation of the TRC. The analysis contained in this Report is based on the original TRC-draft law contained in the October 2011 Kavakure Report.

#### Overview of the process establishing the TRC-draft law and the various actors

Following the publication of the National Consultations’ report in December 2010, a ‘Technical Committee in charge of preparing for the establishment of Transitional Justice Mechanisms (TJMs)’, (hereafter ‘TC’ or ‘Committee’) was set up. While the TC initially had limited gender-sensitivity, given its origin and composition, various initiatives allowed for the enhancement of this.

The seven members of the Committee, all Burundian, were named by a presidential decree and included no representative of the civil society, to the detriment, most likely, of the promotion of the victims’ rights and gender issues. The TC comprised of five men and only two women, with a male President – currently Minister of Foreign Affairs and International Cooperation Laurent Kavakure, then Senior Diplomatic Advisor to the President of the Republic. According to Minister Kavakure, the TC ‘initially’ did not consider the gender component in its work<sup>102</sup>. These issues were definitely not a priority for the TC and the Burundian Presidency. Thus for example, actors such as the MSNDPHG and the newly established CNIDH (also involved in the fight against Gender-Based Violence) (GBV) were not formally consulted on the preparation of that TRC-draft law. Members of the TC mostly started to hear about ‘gender issues’ during their study missions to South Africa and Rwanda, according to the TC President.

Thanks to such missions, consultation meetings with the various stakeholders (including the civil society) and capacity-development input from the United Nations Office in Burundi (BNUB)<sup>103</sup>, the Swiss Confederation as well as NGOs, the TC’s capacities and gender-sensitivity could improve. Additionally, some CSOs sent written recommendations to the TC for the design of the TRC law, including gender-sensitive points. The first ones came from the Reflection Group on Transitional Justice (GRJT)<sup>104</sup> just before the TC completed its work in October 2011. The GRJT put forward the need to ensure male/female parity in the composition of the Commission; to consider gender-sensitivity when it comes to victims’

<sup>100</sup> Jean-Marie Vianney Kavumbagu, President of the Sub-Commission on Human rights’ Protection, CNIDH. Email exchange with the Author, Author’s archives.

<sup>101</sup> CENAP, 2011

<sup>102</sup> Author’s interview with Minister Laurent Kavakure, Former President of the Technical Committee responsible for the preparation of the implementation of Transitional Justice Mechanisms in Burundi, 06.03.2012, Author’s archives.

<sup>103</sup> French acronym for Bureau des Nations Unies au Burundi.

<sup>104</sup> French acronym for Groupe de Réflexion sur la Justice de Transition.



protection; and to pay particular attention to women victims of sexual violence. Some of the GRJT's recommendations were included in the TC's report and acknowledged as such. This first contribution from the civil society towards enhanced gender-sensitivity of the TRC, albeit quite general and restricted, represented an important step in the promotion of the TRC-draft law's gender-responsiveness.

The TC presented its report to the President of the Republic in October 2011 and to the BNUB and the Office of the High Commissioner for Human Rights (OHCHR) in November 2011. The civil society, perceived as 'the opposition', was excluded. The 'Kavakure Report', named after the TC's President, comprises of a first draft law for the TRC; methodological guidelines and recommendations for the TRC (as a complement to the draft law); as well as proposed criteria for appointing members of the TRC and a budget.

An information campaign on the TRC-draft law was reportedly being carried out towards the population<sup>105</sup> in 2012, and the draft law was reportedly reviewed with different ministries, political parties as well as a limited part of the civil society. Meanwhile, many observers believe that the government was promoting the draft law for approval, rather than 'consulting' the various actors with the objective of amending it. The fact that the November 2012 version of the TRC-draft law does not take into account any of the recommendations made by the civil society and the UN highlights the Burundian Authorities' lack of inclusiveness of other stakeholders in the process. The decision-takers appear to be first and foremost the Presidency, with the government to some extent, followed to a much lower extent now by their political, technical and main financial partner - the UN. The actual *hierarchy* among the main actors foreshadows high challenges in the promotion of a more gender-responsive TRC.

In 2011, the BNUB, with trained civil society partners, started establishing a 'National Forum of Community Networks for Transitional Justice in Burundi (FONAREC/JT)'<sup>106</sup> across the country. It aims at informing and mobilising the population for the 'Transitional Justice' process and particularly the TRC, while communicating the core of the grassroots' debates to the capital. The inclusion of women was sought in the composition of FONAREC's local points of contacts – which allowed for the representation of 30 to 35% of women among them<sup>107</sup> – as well as in the target audience of the awareness-raising campaign on 'TJ mechanisms'; however, the contents of this campaign did not address gender issues while promoting 'everyone's right to participate'<sup>108</sup>. It is key to develop the gender-sensitivity of this national-scale, grassroots initiative, as it can constitute a great instrument to raise awareness among the population. Other examples we will examine later seem to confirm a rather 'minimalist' gender-sensitive approach on TJ issues from the BNUB and OHCHR. Meanwhile, the United Nations Development Fund for Women (UNIFEM) and now the United Nations Entity for Gender Equality and the Empowerment of Women, known as UN Women, have been more involved in these questions, mainly through their partnership with the MSNDPHG and their support to women's CSOs.

Indeed, some CSOs have been playing a pro-active role in the preparation of the truth process, in parallel to the official developments, sometimes incorporating a gender-sensitive approach. With international actors' funding, technical support and capacity-building efforts, some organisations have conducted

<sup>105</sup> Clémence Cobampora, Peace and Reconciliation Director, MSNDPHG, Impunity Watch 'Policy Consultation' held on this very research, 22.05.12, Bujumbura

<sup>106</sup> It is called 'Forum National des Relais Communautaires en Justice Transitionnelle' (FONAREC/JT) in French.

<sup>107</sup> Author's interview with Julien Attakla, Human Rights Officer & Chief Transitional Justice Unit, Integrated OHCHR & BNUB Human Rights and Justice Section, 14.02.2011. Author's archives.

<sup>108</sup> Ibid.



research with the victims in order to identify their expectations and needs<sup>109</sup>, with particular attention to gender in some cases. Other CSOs have raised awareness and mobilized the population and community leaders about the truth process, including women. By ‘preparing the ground’ for the truth process in a gender-sensitive way, these organisations’ past and potential contributions are of undeniable added value.

Unfortunately, these organisations’ advocacy efforts to promote a gender-responsive TRC came after the Technical Committee submitted the TRC-draft law, except for the GRJT. Nevertheless, the TC has shown a sort of ‘double gender-sensitivity standards’ in the Kavakure report: the part on ‘Recommendations’ for the TRC provides interesting elements that could be used by the government and advocacy actors to improve the draft law itself – in general, and particularly as far as ‘gender’ is concerned.

#### A critical analysis of the ‘Kavakure Report’ and the proposed TRC-draft law

According to the CT’s draft law, the TRCs mission is to investigate and establish the truth on ‘serious violations of human rights and international humanitarian law’ committed between the 1st of July 1962 (independence day) and December 4, 2008 (taken as the end date of the conflict). The draft law gives the TRC a two-year mandate and is declared independent.

#### *The TRC-draft law’s gender-sensitivity*

The TC has remained quite ‘timid’ on the issue of gender in the TRC-draft law itself, while broadly following the already limited gender recommendations of the National Consultations’ report. The November 2012 version of the TRC-draft law is not more gender-responsive than the first version, contained in the Kavakure Report. One of the few gender-responsive measures contained in the TRC-draft law is the ‘*political, ethnic, regional and gender balance*’ in the composition of the Commission (Article 11). This is widely supported by the respondents to the National Consultations and ‘accepted’ by the victims we interviewed. The formulation of this article, nonetheless, could be reinforced with the clear provision of *equal* representation of men and women or ‘parity’ among the Commissioners. It is therefore necessary to provide the establishment of an impartial, independent and gender-sensitive Selection Committee in the final draft law, with no political parties in it, as expressed by the majority of the victims we interviewed, as well as the respondents to the Consultations<sup>110</sup>. Other articles addressing the various services and bodies of the Commission do not mention the need for gender balance, while we consider this as key for all levels of the TRC, particularly among the staff interacting with the population. No specific point is made regarding the gender-sensitivity of the TRC Commissioners and staff, nor gender training, while this is of utmost importance to ensure effective gender-responsiveness of the TRC’s work. This should be fully part of a capacity-building policy and, before this, the recruitment policy.

The TRC-draft law excludes the participation of foreigners among the Commissioners, while 76% of the respondents to the National Consultations supported this idea. Indeed, foreigners are often perceived as impartial because of their non-involvement in the Burundian conflicts. From a gender point of view, it might be assumed that foreign Commissioners’ distance with the local context could also allow for a greater latitude in dealing with gender issues. Meanwhile, the draft law’s substitution of their presence as

<sup>109</sup> With this regard, in 2011 Impunity Watch initiated a joint, ongoing project called ‘Victimes à la Une’, implemented by five women’s organisations (Fontain Isoko, who led the synergy, Réseau Femmes et Paix, Ntarambirwa, Association pour la “Promotion de la Fille Burundaise and CAFOB). 60 focus groups were conducted with about 100 victims of the conflicts from five different hills, in order to collect their views on the TJNR processes. The victims’ opinions were later broadcasted in radio programmes in partnership with ‘La Benevolencija’, and are to be conveyed to the various stakeholders by Impunity Watch through a newsletter. Another, complementary study to this one was carried out with the victims in 2012 by ‘THARS’ (Trauma Healing and Reconciliation Services), while other CSOs, including women’s, have implemented similar projects at various points.

<sup>110</sup> GRJT, ‘Forum for Strengthening Civil Society’ (FORSC) and OHCHR recommendation.





Commissioners with the establishment of an 'International Consultative Council' reduces their role and should be revised.

Regarding the needs of specific groups of victims, the draft law emphasizes victims of sexual violence as well as other special groups in a few instances, as part of the broader Protection measures. Article 49 illustrates this, when affirming the need to *'take special measures to help victims and witnesses – particularly the traumatised, children, elders or victims of sexual violence – to participate in this process'*, as well as article 50, stating that *'confidentiality and anonymity will be guaranteed to victims and witnesses when necessary, especially for cases of sexual violence and cases involving minors'*. While these subgroups and crosscutting groups have the advantage of not being gender-discriminatory, as not just women are concerned, it should be made clearer that individuals from other groups can also benefit from the rights to confidentiality and anonymity. Further, the draft law foresees that hearings will be public or behind close door *'upon the appreciation of the (sole) Commission'*; now, given the Burundian context, women and men may feel the need to choose whether they want to speak in private or, on the contrary, in presence of an audience 'witnessing' the hearing, for the various socio-cultural and security reasons analysed earlier.

These are the sole gender-responsive measures included in the TRC-draft law contained in the Kavakure Report. While this could be taken as a sign of the TC's lack of gender-sensitivity, the Recommendations' part of the Report invalidates this to a certain extent, as it is much more elaborated than the draft law itself with respect to 'gender'.

#### *The 'Recommendations' of the Kavakure report*

The part on 'Recommendations' for the TRC comes as a set of additional suggestions from the TC to the authorities in charge of setting up the TRC, which were not included in the draft law itself. As far as gender is concerned, first the Recommendations put forward the principle of ethnic and gender balance in the recruitment of *all* supporting staff in the TRC (Section 2.2.5). As we recommended it earlier, it may be surer to clearly establish gender parity through quota.

Second, in the paragraph dedicated to the 'gender dimension' of the TRC (2.2.11), the TC stresses the need for the TRC to *'pay special attention to the gender dimension at each step of the process'*. Suggesting ways and entry points for accomplishing this intention is necessary to ensure its actual implementation. The final TRC-draft law could require for instance – and to start with – the development of a strong understanding of gender relations in the country in general, as well as during the conflict, among the TRC Commissioners and staff; the realisation of gender-sensitive information and awareness-raising campaigns among the population (while paying attention to effectively reaching women) about the TRC, while engaging communities about women's participation and the ways 'taboo violations' such as sexual violence will be addressed by the TRC; allow victims, witnesses and alleged perpetrators to chose the sex of interlocutors; ensure psychological support through gender-sensitive teams; organise mobile investigations and audiences, so that all citizens concerned, including women, can reach or rather be reached by the TRC; organise hearings attended by women only, to overcome the difficulty some have to express themselves in a mixed audience<sup>111</sup>; disaggregate collected data along gender lines, among other criteria, *etcetera*.

<sup>111</sup> Goretti Ndaycayisaba, Coordinator of programmes and administration, Dushirehamwe, Impunity Watch 'Policy Consultation' on this research, 22.05.12, Bujumbura.

Third, the Kavakure Report's Recommendations highlight the importance of '*giving priority to 'special' categories of victims such as (...) widows*', among those who will take part in the hearings (2.3.3.1). This is a positive sign showing that the TC may consider the need to address widows' specific situation and/or an acknowledgement of their generally limited availability to participate in such processes.

Finally, greater attention is paid to violations against women in the Recommendations: notably, '*rape and violence against women*' are listed as human rights violations of first category<sup>112</sup> – that is to say the most serious ones. The Kavakure Report does not define these two violations. It is necessary that the final TRC-draft law qualifies them, particularly by considering the inclusion of forced marriages, forced pregnancies, sexual slavery and sexual acts made under pressure or blackmail, as they were observed in Burundi. Further, it will be necessary to indicate whether these crimes are treated as war crimes or crimes against humanity – which should be the case as per the Rome Statute, which Burundi ratified in 2004. According to the TC's President when we interviewed him, sexual violence would be included in the next version of the TRC-draft law as a crime against humanity<sup>113</sup>. It is not, in the November 2012 version of it. It is worth stressing the fact that those various crimes should not be treated as 'women issues', as suggested in the Report, but rather as gender-based violence, as they also concern men in different ways and roles.

Also illustrative of the Recommendations' focus on women, the former suggest the creation of a 'Sub-Commission for Women'. Given the restricted gender-sensitivity of the TRC mandate and probably of some of its members, this body or a 'Gender Sub-commission' could be of great added value, if provided with enough human and financial resources, a clear mandate as well as the tools and power to enforce it. Such a sub-commission could ensure a more substantial and systematic monitoring of gender issues than if done through the sole regular measures and by the sole regular staff.

As a conclusion, even if the Kavakure Report's recommendations can be further improved themselves, they constitute an interesting tool to enhance the gender-sensitivity of the final TRC law – the new, November 2012 draft law not being more gender-responsive itself. Meanwhile, for advocacy strategy purposes, it remains important to understand why the TC used 'double gender-sensitivity standards' in its report. The decision to somehow 'downgrade' the gender-responsiveness of the draft law denotes either an 'active' lack of political will to conduct a gender-sensitive truth process, or the mere 'passive' perception that gender issues are secondary. In this latter case, the advocacy work of CSOs and UN agencies have more chance to be successful in promoting a gender-responsive truth process, and can probably aim at higher objectives.

#### Contribution of the civil society and the UN following the submission of the TRC-draft law

Once the Kavakure Report was published in October 2011, CSOs managed to obtain the report informally and, just as the UN, analysed the draft law. The 'Forum for Strengthening Civil Society' (FORSC)<sup>114</sup>, the GRJT, OHCHR/the BNUB as well as a group of women's organisations passed their observations and recommendations to the Burundian authorities in December 2011. In this part we look at the gender-sensitivity of the contributions of those actors 'representing' the victims or gender and human rights' international standards.

In its feedback on the Kavakure Report, FORSC, one of the largest network of Burundian CSOs, made neither mention of gender nor any reference to the need to pay special attention to women, despite the

<sup>112</sup> See entitled section 2.2.4.1 but actual section 2.3.4.1, following a mistake in the sections' numbering.

<sup>113</sup> Minister Laurent Kavakure, *op. cit.*

<sup>114</sup> French acronym for 'Forum pour le Renforcement de la Société Civile'

presence of women's organisations in that Forum. The GRJT and OHCHR/the BNUB made a few observations about the TRC-draft law's gender-responsiveness, resuming some of the points of the Kavakure Report's Recommendations – without, however, going much further. The GRJT highly recommended the creation of a Unit dedicated to Gender in the TRC and reiterated its recommendations from October 2011 (*see page 46*). While OHCHR/the BNUB's comments converged with those of the GRJT as far as gender issues are concerned, one might expect a more comprehensive gender analysis as well as stronger recommendations from the UN. Nonetheless, UN Women seems to have the intention to develop a strategy and action plan aimed at promoting gender-sensitive 'Transitional Justice Mechanisms'. This is an extremely promising development for this area, to be followed.

The feedback provided by a group of fifteen local women's organizations<sup>115</sup> on the TRC-draft law reflected a rather deep analysis of the specificity of women and gender relations in Burundi. In addition to similar observations to the GRJT's, they demanded the right for women to be heard by a female counterpart. Further, they suggested that the (potential) act, by anyone, of denying women the right to testify before the TRC be considered as an infraction, as a response to obstacles to women's free participation. While these proposals are of great added value, they should be developed from a women-focused to a gender-sensitive approach. Particularly, men may have similar needs to women with regard to the two above-mentioned points, albeit for different, gender-specific reasons. Similarly and as response to men and women's protection needs, the infraction of *retaliating* against victims, witnesses and alleged perpetrators who were heard by the TRC should be created. This infraction should apply to the family as well as to the public sphere, cover physical as well as socio-economic violence, while paying particular attention to gender relations.

It seems that none of the actors who commented the draft law has received a response from the Burundian authorities, apart from the UN who, nevertheless, only received a letter of acknowledgment, reportedly. While the government does not seem to effectively consider the contribution of the civil society, the latter's advocacy efforts have appeared quite limited or stagnating in 2012, despite the stakes. The abovementioned women's organizations, joined by a few others, have formed a 'Women's organisations' Synergy of action on Gender and TJMs in Burundi' in January 2012. However, these organisations have not taken up any initiative as a group yet, probably for limited financial and human resources. Yet this synergy bears the potential of making important contributions to the gender-responsiveness of the TRC, given the capacities that some of these organisations have demonstrated. As for the GRJT, given its mandate of being a 'reflection' platform rather than an 'action-oriented' one, its advocacy efforts remain limited as a group. Nevertheless, the Group held two meetings with international diplomats as a follow-up on the progress of the establishment of the TRC, over the first semester of 2012, during which the Group acclaimed a 'more gender sensitive process'.

### Concluding

According to the Burundian government, the normative framework for the TRC should be set up by the end of the year 2012. While a new TRC-draft law has been submitted to the Council of ministers in

<sup>115</sup>Those organisations are: Collectif des Associations et ONGs Féminines du Burundi (CAFOB) ; Réseau Femmes et Paix (RFP) ; DUSHIREHAMWE ; Synergie pour la Promotion et la Protection des Droits des Femmes (SPPDF) ; Fontaine ISOKO pour la Bonne Gouvernance et le Développement Intégré ; Association Femmes pour la Paix (AFP) ; Association des Femmes Journalistes (AFJo) ; Association des Femmes Juristes du Burundi (AFJB) ; Collectif des Associations de développement de Kamenge (CADEKA) ; Réseau des femmes et alliés artisans de la Paix (RAP) ; Association pour la défense des droits des veuves et des Orphelins (AVOD) ; DUSUBIZEHAMWE ; Réseau pour la Paix et la Réconciliation ; Association des Femmes Rapatriées du Burundi (AFRABU) ; Association pour la Promotion de la Fille Burundaise (APFB).

November 2012, and may be soon examined by the Parliament, this may be the last opportunity to further advocate for the improvement of the TRC law and its gender-responsiveness. Such efforts must involve the civil society, but also - and ideally in a joint effort - the UN, as they are supposedly the main promoter of UNSCR 1325 while having some influential power on the Burundian government, as the main financial partner for the future TRC, potentially. In parallel, continued gender awareness-raising efforts are needed in the country, as the 'gender' challenge is of societal scale for the TRC: the latter will have to deal with the past of a society that has only recently started to talk of women's rights and gender related justice and development issues. In addition, Burundi's present context is such that many other challenges put into question the mere holding of the TRC, its independence and impartiality, needed support, future work, relation to processes of justice, reparation and non-recurrence (including the transformation of key-state institutions), as well as Burundian men and women's participation to it – a wide array of issues that may compete with the promotion of the 'gender' component.

The prevalence of other political stakes and deadlocks in Burundi has even more postponed the development of a gender-sensitive project for the judiciary mechanism that should follow the TRC – the Special Tribunal – as the latter is still far from being a reality.

### 3.2 The Justice Process

Since the Arusha peace talks onward, the establishment of a judicial accountability mechanism has been controversial and sometimes seen as conditional in Burundi. In the APRA already, the signatory parties agreed on the establishment of an International Criminal Tribunal only in the case where an International Judicial Commission of Inquiry (IJCI) was to identify crimes against humanity, war crimes and genocide. Eventually, following the UN 'Kalomoh report' and ensuing negotiations between the UN and the Burundian government in 2005, it was agreed to establish a Special Tribunal (ST) and without prior holding of an IJCI, considered to be redundant with the work of the long agreed TRC. Since then, important political hurdles have continued to threaten the creation of the ST. The debate on this judicial mechanism is rather stagnant up to date and is far from tackling gender issues.

Deep contentious points persist between the two leading actors of the process. While the government considers that the establishment of the ST will be decided following the recommendations issued by the TRC, the UN and many international and national actors urge the government to set up the ST after the TRC completes its mission, with no conditionality. Moreover, up to date there is no agreement between the two actors on the independence of the ST and its prosecutor. The government's strategy seems to be to protect itself and its allies from all responsibility, and this entails maintaining as much control on the Truth and Justice processes as possible. Further, to the eyes of many observers, the government manipulates the reconciliation objective in order to reduce the importance of, or eliminate, punitive justice.

It must be noted that the concept of reconciliation resonates with local practices in Burundi. It is part of ancestral processes like the mediation by the respected, local notables called *Bashingantahe*, and is sometimes used in local peacebuilding initiatives. Thus, analysing the Justice process in Burundi cannot but examine the actual *practice* of reconciliation through mediation, given its wider outreach *versus* the population's lack of trust in the modern justice system, perceived as corrupt, complex and inefficient. Meanwhile, in a patriarchal setting such as Burundi, it is rather unlikely that such local traditional practices will show much gender-sensitivity. It will be necessary to assess this as we analyse the wider pros and cons of such a mechanism and actors in potentially dealing with the past.

Partly connected to the observations made about the cultural practice of reconciliation and the inefficiency of the modern justice system, the culture of impunity is deeply rooted in the country. This is the case both for crimes committed during peacetime as well as for crimes committed during the war. A number of people were arrested and sometimes judged by the regular Justice system in the 90's, for crimes committed in the 1993 'Crisis'; but the political manipulation and the unfairness of the process rather degraded the state and image of 'Justice' in Burundi. In an equally political move, about a decade later Burundians witnessed the release of those arrested individuals. Previously seen as 'perpetrators', they were now considered 'political prisoners' and were granted provisional immunity. This reversal bore major consequences for the Burundian transitional justice process<sup>116</sup>, as it further disillusioned the population with regard to their justice system, its independence, efficiency and function as a guarantor of protection from any perpetrator. Consequently, and as most survivors we interviewed expressed it, Burundians hardly trust that the Special Tribunal can be fair and efficient: *'Justice is a good thing in itself, but it does not exist here'*, said one of the victims. Nevertheless, and probably mostly due to their desire and hope to see an end to impunity, and avoid conflict repetition, most Burundians remain in favour of the idea of a Special Tribunal dealing with the gravest past crimes, as the National Consultations highlighted it.

### The Special Tribunal (ST)

#### *Overview regarding the official Justice process*

While the UN and the Burundian government have agreed that the judicial mechanism for transitional justice would be a Special Tribunal, its exact nature does not seem to have been determined. However (if it ever takes place), according to Stef Vandeginste<sup>117</sup>, the Burundian ST would be a hybrid tribunal based on national and international law, as was the case in Sierra Leone.

In the National Consultations as well as in our interviews with survivors, about 80% of the respondents were supportive of the justice process. Justice being a multi-faceted and culturally influenced concept, it is interesting to look at the interviewed victims' understanding of it. They mainly conceive Justice as peace, conflict settlement or resolution, and reconciliation. Interestingly, the ideas of fairness and victims' rehabilitation were only expressed once by the twenty interviewees. Punishment was not mentioned at all and actually, one third of the respondents (mostly women) said it was not important. The sample of interviewed victims was not comprehensive and large enough to allow one to drawing conclusions on their expectations on the nature and functions of the ST, but it would be interesting to study this further. Particularly, it would be key to know whether the conciliatory or settling function of Justice that the interviewed victims mentioned actually takes precedence over its punitive and restorative functions for Burundians – victims in particular.

In the meantime, the importance of 'forgiveness' and the lack of any visible, strong demand to punish those responsible for past crimes among the population, can serve the interests of some Burundian political players given their past record of human rights violations. Indeed, there is a trend, among the various political parties, to neglect the punitive aspect of transitional justice and to emphasize 'Truth and Forgiveness' or 'Pardon' (as the President translates the TRC in Kirundi). The current party in power, the CNDD-FDD, actually expressed this in its May 2007 Memorandum on the TRC and the ST, stating that *'instead of giving priority to suppression through the mere judiciary process, mutual forgiveness is the best*

<sup>116</sup> Author's interview with Pierre-Claver Mbonimpa, Founder and President of the Association for the Protection of Human Rights and detained persons (APRODH), 01.02.2012. Author's archives.

<sup>117</sup> Stef Vandeginste, 2011

*way to guarantee national reconciliation and sustainable peace*'. This explains the apparent contradiction between the discourse and actions of the government regarding the ST, as understood by Stef Vandeginste<sup>118</sup>. While Burundian political actors have a vested interest in not setting up the ST, mostly promoted by the international community, their political discourse does 'not reject' this mechanism in order to align themselves with the expectations of their international partners, whose aid and recognition they need. The government's interest to protect itself from penal prosecutions constitutes a big stalemate and, along with the consequent deadlocks between the UN and the government, obstructs the implementation of the ST.

As a result of this and despite the Technical Committee's mandate to prepare the implementation of the various 'Transitional Justice Mechanisms', the Kavakure report included very few provisions on the ST. It established that genocide, war crimes and other crimes against humanity would fall under its jurisdiction, as widely supported by the surveyed Burundians in the National Consultations, and that its work would cover the same historical period as the TRC. It was understood that the ST would be established after completion of the mandate of the Commission. However, all references to the Special Tribunal made in the draft-law of the Kavakure report were totally omitted from the November 2012 TRC-draft law. This seems to further demonstrate the Burundian government's intention to establish a pardon-driven TRC, and away from any punitive justice.

Except for one civil society initiative from FORSC, who presented a draft law for the ST to the President of the Republic in December 2011, there has not been any elaborate advocacy effort yet with regard to this mechanism in Burundi. As part of this restricted debate on the ST, there is very limited thinking on its gender-responsiveness so far. Even FORSC's draft law proposal does not show much gender-sensitivity while otherwise constituting a rather complete advocacy tool on the Special Tribunal. In an attempt to fulfil this 'vacuum' of reflection on the ST's gender-responsiveness, the following part will complete FORSC's contribution with a few thoughts, entry points and guidelines with this regard.

### *Reflections on the Special Tribunal's gender-responsiveness*

The National Consultations raised one question with regard to 'gender' when it comes to the ST, and that is related to men and women's representation in it. As is the case for the TRC, most Burundians support the presence of both genders in the Tribunal.

FORSC's draft law proposal does not resume this particular point of a gender-balanced ST. It contains only one gender-related provision, which is that all 'gender crimes' defined as crimes against humanity by the Rome Statute be tackled as such by the ST. These crimes include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, trafficking or any other form of sexual violence. Forced marriage should be added in the case of Burundi, as mentioned for the TRC. Nevertheless, the categorisation of gender crimes among the most serious ones has a double-edged consequence on the fight against impunity: while it sends a strong signal to the society, saying that these crimes and more broadly GBV are fundamentally unacceptable and severely punished, it may also intimidate the victims. Given the gravity of the sentence at stake (and possibly of the repercussions on victims when they accuse perpetrators), some may not dare denouncing such crimes. This is what happened with the Rwandan International Penal Criminal Tribunal<sup>119</sup>. In other words, this categorisation runs the risk of not giving the chance to the Tribunal of addressing gender crimes 'at all'. Meanwhile, the transitional justice process,

<sup>118</sup> *Ibid.*

<sup>119</sup> Serge Rumin, Director of the Security Sector Development Program, Mémorandum d'Entente Burundo-Néerlandais. Impunity Watch 'Policy Consultation' on this research, 22.05.12, Bujumbura.





including the ST, constitutes a great opportunity to bring the slow progress observed in Burundi in the fight against sexual violence against women one step further. The process of setting up the ST must absolutely examine how to avoid or mitigate that counter-productive impact.

The law and the mandate of the ST should also address some of the challenges to women's access to justice as a mechanism and concept, since this is a big issue in Burundi, as we will elaborate it when dealing with the justice reform (see page 72). Challenges that may concern the experience of the ST include the fact that women have less education than men at this time. This inevitably leads to less understanding of modern justice institutions amongst women, and less access to information and public affairs in general. All of this contributes to the common trivialization of violence against women in Burundi, including in the institutions – which constitutes, in itself, another challenge to Justice for women.

In response to these and to the other obstacles identified earlier, strong gender-responsive measures are needed in the implementation of the ST, from the conceptualisation phase to its judgment work. This includes most measures we put forward regarding the TRC (see pages 50 to 53), as well as the two following ones: taking into account the time factor in investigations, since it erases evidence of sexual and other sorts of physical violence; and providing free legal and paralegal assistance to victims and alleged perpetrators in a gender-sensitive manner. This is an activity that some CSOs could contribute to, as several of them have been providing this type of assistance to victims in general, including to women.

If it is ever set up, the Special Tribunal alone will not be in a position to, nor does it aim to, address all crimes committed between 1962 and 2008. This is actually implied in the Kavakure Report when it provides that *'the Commission will formulate recommendations for the criminal prosecutions of alleged perpetrators of other grave violations'*. Edem Comlan<sup>120</sup> stresses the need to foresee other mechanisms that ensure the complementarity as well as the continuity of the ST's work, to be found in the regular domestic justice system<sup>121</sup>. For this purpose, the latter must be reformed and reinforced in a gender-sensitive manner. We will examine these points further when dealing with institutional and legal reforms as 'guarantees of non-repetition'. Connected to the role of the domestic justice system, the Burundian Penal Code must be amended in the same way, and before the ST is set up, as the latter may partly rely on it if it is of hybrid nature.

With regard to the question of complementary mechanisms to the ST, the non-state, culturally rooted mediation practice of the 'Bashingantahe' is sometimes seen as a potential community-based mechanism for the Burundian TJ process. While assessing the relevance and the legitimacy of such an informal mechanism, it is also necessary to examine its gender-responsiveness.

#### Traditional local 'mediation' practices

Several kinds of actors conduct local mediation practices in the Burundian society, whether traditional local notables – the 'Bashingantahe' – or a few Burundian CSOs. The main objective of these interventions seems to be reconciliation rather than fairness, and social cohesion has primacy over individual rights. While the Bashingantahe can order reparations by one party towards another, punishment is reportedly not commonly used or not used at all. As a result, this mediation practice

<sup>120</sup> Then Head of Mission of 'RCN Justice et Démocratie' Burundi. Impunity Watch 'Policy Consultation' on this research, 22.05.12, Bujumbura.

<sup>121</sup> Edem K. Comlan, then Head of Mission of 'RCN Justice et Démocratie' Burundi. Impunity Watch 'Policy Consultation' on this research, 22.05.12, Bujumbura.



cannot be considered as 'Justice' the way modern law defines it. Nevertheless, it echoes with Burundians' possible perception of justice as a 'settling' and 'conciliatory' tool maybe, as mentioned earlier.

As CSOs involved in such mediation activities mostly base their approach on the traditional practice of the Bashingantahe, we will focus our attention on this very institution. Historically, the Bashingantahe are traditionally respected local figures whose role consists in settling disputes in their community. They mediate or make decisions on the basis of mostly traditional, non-codified rules, as well as their individual judgment, which is perceived as impartial. Indeed, Bashingantahe are seen as people embodying a set of virtues found in the concept of 'Ubushingantahe', including '*a sense of equity and justice, a concern for truth, a righteous self-esteem, a hard-working character*', as defined by Agnès Nindorera<sup>122</sup>. Bashingantahe are more accessible to the population than modern justice institutions in the sense that they are better understood, are in closer proximity to the population and are supposedly free of charge. Thus, until some reforms of the decentralized institutions took place in 2005, they were the first actor to be seized by citizens before going to the local tribunal, according to Cassien Simbare, President of the 'Indahe Foundation' of the National Council of the Bashingantahe<sup>123</sup>.

According to him, the National Council would like the institution of the Bashingantahe to take part in the Truth and Justice processes<sup>124</sup>. While the above-mentioned description makes it quite an appealing actor for this role, other characteristics of the Bashingantahe, as well as some negative developments, raise the question of the relevance of their involvement. First, the fact that customary law plays an important role in their work inevitably entails little consideration of women's rights, as explained by Jeannine Nahigombeye, President of 'Radio Isanganiro' and Program Coordinator for 'Impunity Watch' Burundi<sup>125</sup>. Despite the openness of the National Council of the Bashingantahe with regards to women's rights and their awareness-raising efforts on this issue among Bashingantahe<sup>126</sup>, at the grassroots level the latter mostly seem to remain gender-insensitive. Second, according to tradition only men can be Bashingantahe. While a recent 'reform' within the institution has entitled women to take oath with their husband and consequently integrate the institution, in practice, the man takes the lead in most Bashingantahe couples, according to Cassien Simbare. Further, this position remains denied to women who are not the spouse of a Bashingantahe.

On top of its lack of gender-sensitivity, the institution has been de-legitimized over time. This is firstly due to the fact that Bashingantahe were politically manipulated by various regimes, from colonial times onwards, as well as to the negative role that some of them reportedly played in the Burundian crises as local leaders (while others acted against violence and in favour of peace). Additionally, the principle of 'free social service' behind this institution has been eroded, with the development of corruption practices among Bashingantahe. Finally, even if some of these local leaders still enjoy full respect and support from their community, the Burundian Authorities would probably not back their involvement in the transitional justice process. Since the 2005 introduction of elected representatives at the Colline (hill) level, the latter have been, in a way, competing with the Bashingantahe for local power<sup>127</sup>. Further, according to Cassien Simbare, the government reportedly does not trust the Bashingantahe.

<sup>122</sup> Agnès Nindorera, 2003

<sup>123</sup> Author's interview with Cassien Simbare, President of the 'Indahe Foundation' of the National Council of the Bashingantahe, 13.03.2012. Author's archives.

<sup>124</sup> Ibid.

<sup>125</sup> Jeannine Nahigombeye, *op. cit.*

<sup>126</sup> Cassien Simbare, *op. cit.*

<sup>127</sup> Jeannine Nahigombeye, *op. cit.*



Given the lack of political support and recent hostility against them by the government, diminished legitimacy at the local level and lack of gender-sensitivity, it appears rather inefficient to resort to the local mediation practice of the Bashingantahe as a complementary mechanism to the ST or the TRC, especially when it comes to finding ways of enhancing the gender-responsiveness of TJRNR processes. Nevertheless, the ideas and concepts behind their role can constitute a source of inspiration for ‘alternative’, yet in fact *mainstream*, ways of dealing with disputes and harm done to others in the Burundian context, as long as a more gender-sensitive approach is included. With this regard, the ‘Peace committees’ of the Confessional NGO ‘MIPAREC’<sup>128</sup> constitute a widely supported mediation initiative, in which women can play a more active part – and are increasingly doing so and recognized for that<sup>129</sup>. However, just as in the Bashingantahe mediation approach, the main limitation to these initiatives remains the predominance of traditional rules, whereby family – and community – cohesion prime over individual rights, without the needed attention given to gender-based inequalities and power imbalances between men and women.

### Concluding

Much remains to be done in the Justice process with regard, first, to the conception and implementation of the single mechanism envisaged so far, the Special Tribunal, given political stalemates at the highest level; and second, regarding the way the ST would respond to gender issues and redress gender crimes. In a context where there are increasing signs of political will to fight against sexual violence and GBV, the ST could constitute an opportunity for accelerating and reinforcing these efforts in Burundi. However, the Special Tribunal, if implemented at all, cannot be the only institution addressing all gender crimes nor all other crimes committed during the various crises. Other mechanisms, to be found in the regular justice system first and, maybe, in local non-state initiatives, must be considered and developed. Their gender-responsiveness must also be unconditionally improved, given the deeply rooted obstacles to women’s access to justice and to the defence of their rights in Burundi. If there is to be a genuine gender-sensitive justice process and results, state institutions’ reforms are a must in Burundi, on both a normative and practical level, as we will see it when dealing with guarantees of non-repetition. Political will shall be a determining factor in this.

While the ST relates to punitive justice, wider Impunity Watch research with the victims shows that the latter are quite divided about the importance and prioritization of punitive or restorative justice, as alluded to earlier. The Reparation process shall respond to the need for restorative justice, which has been long awaited by the most impoverished ones as a result of the conflicts.

### **3.3 The Reparation process**

Reparations are a complicated and sensitive issue. While it is often heard that ‘nothing can bring the dead ones back to life’ among Burundian victims, expectations for reparatory measures are high among those who lost their goods, house, land, cattle, and sometimes their beloved ones. In addition to helping the victims overcome the socio-economic and psychological difficulties they face as a result of the various conflicts, reparations may also be claimed as a response to poverty, in the Burundian context. Yet, as other countries’ experiences show, the means available for reparations or the political will to find them rarely meet the victims’ needs and expectations. For these reasons, many people and actors in Burundi seem quite realistic about the challenges facing the implementation of a reparation programme.

<sup>128</sup> Ministry for Peace And Reconciliation under the Cross

<sup>129</sup> Author’s interview with Minister Elie Nahimana, Coordinator of the Bujumbura Liaison office and WFD Project Point of contact, and Karoline Caesar, Technical advisor, MIPAREC, 24.02.2012. Author’s archives.

Reparations can be of material, financial or symbolic nature, and granted on an individual or collective level. As the UN General Assembly Resolution 60/147<sup>130</sup> defines it, they can take the form of restitution, indemnification, re-adaptation, satisfaction and guarantees of non-repetition. This is also the approach taken by the 'Nairobi Declaration on Women's and Girls' Rights to Remedy and Reparation'. This report will address guarantees of non-repetition in the next section however, as one of the four pillars of TJ. Reparations must address 'gender' as a factor determining the specific types of violations committed on men and women; but mostly, they must address gendered inequalities and discrimination as a factor that determines the consequences and impact of the violations suffered by victims, and a factor that exacerbates them, in the case of women most of the time.

The current status of official reparation measures in Burundi is twofold: a national reparations programme is foreseen as a follow-up to the TRC, generating reflection about the reparation process and occasional advocacy efforts. In the meantime and as provided for in the APRA, some memorialisation initiatives have been taken as well as some restitution measures, not without facing complex challenges. So far, gender issues have not been addressed in the existing reparation measures, while in some emergent initiatives gender issues are being addressed.

### The emerging reparations programme and other initiatives

#### *The Kavakure Report: first official guidelines on the reparations programme*

In the Kavakure report, the TRC-draft law establishes the link between the TRC and reparations, stating that these will arise from the Commission's research work on truth. It defines in broad terms the types and forms of reparation, as well as the mechanisms and actors involved. The November 2012 TRC-draft law does not bring any substantial change with regards to Reparation.

Both individual and collective forms of reparations are mentioned as possible measures in the Kavakure report. The Burundian debate on reparation does not show much consensus on this yet. Most actors met during this research and respondents to the National Consultations put forward collective reparation as the most adaptable or realistic form for it<sup>131</sup>. However, according to our interviews with victims from Makamba and to Seconde Nyanzobe, Legal Representative for 'Fontaine-Isoko for Good Governance'<sup>132</sup>, victims are mostly in favour of individual reparations. 'Experiencing' the conflicts' impact in one's daily life probably explains why victims expect reparations to bring individual solutions to their *particular* problems.

Two reparation mechanisms are foreseen in the Kavakure report: the ordering of immediate reparations by the TRC during its activities, and the establishment of a reparations programme to be determined upon the TRC's recommendations, for which the State shall establish a reparation fund. This highlights the need for stronger advocacy efforts promoting a gender-sensitive TRC. The draft law provides that cases of reparations for land and other property issues be referred to the National Commission for Land and other Properties (CNTB<sup>133</sup>), invoking its mandate in this area. We will go back to the CNTB's land restitution work later (*see pages 62-64*).

<sup>130</sup> Article 18 of the UN General Assembly Resolution 60/147, 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and serious Violations of International Humanitarian Law', 21.03.2006

<sup>131</sup> In the National Consultations, more individuals answered 'yes' to the question whether collective reparation can be envisaged, than to the question whether material individual reparation can take place (respectively 85,7% versus 61,15%).

<sup>132</sup> Author's interview with Seconde Nyanzobe, Legal Representative of Fontaine-Isoko for Good Governance, 24.01.2012. Author's archives.

<sup>133</sup> French acronym for 'Commission Nationale des Terres et autres Biens'

Given the material and symbolic stakes behind reparations, the process may raise not only high expectations but also competition among victims and maybe the wider population, given the poverty level in Burundi. In such situation, some groups could be disadvantaged due to their limited access to resources in general, such as women. The TRC-draft law does not address those challenges at all, including gender issues, whether as an *access* question or as a factor determining differentiated reparation needs. More than in any of the other processes dealing with the past, 'gender' seems to be considered as a secondary or irrelevant issue in the already complex reparation process in Burundi, strangled between high expectations and limited means.

To avoid discriminatory practices, tensions and favouritism in the reparation process, the various violations that can be repaired for must be clearly qualified and categorised with a gender-sensitive eye, as well as the specific benefits and beneficiaries attached to them. This should be done in consultation with male and female victims and the various stakeholders, as well as in relation to the National Consultations' results. It is necessary that the bodies in charge of the design and the implementation of reparations be composed of individuals of integrity and mixed ethnic origin, and those who are gender-sensitive and neutral vis-à-vis the communities they deal with in the implementation phase. Additionally, strong, gender-sensitive information campaigns should ensure efficient outreach about the process and its rules to all 'groups' of victims within the population.

The Recommendations' part of the Kavakure Report's does emphasize the need to pay special attention to 'vulnerable groups' as recommended in the APRA, including women, children victims, as well as victims of GBV and populations-victims of discrimination (point 2.2.4.2 of the Recommendations). Interestingly, in our interviews with the victims, only a few exceptions among female survivors stressed differentiated needs between the two genders, mentioning women's needs as being greater than men's. Another Impunity Watch-initiated research conducted with a hundred survivors<sup>134</sup> confirmed that for most of them, gender is not a relevant entry point for reparation: *'The pain is the same for men and women; differentiated reparations should be based on individual cases'*. On another aspect of 'gender', however, most answers provided in the interviews with the victims illustrated the necessity to consider the various 'sub-groups' of victims when dealing with reparations, as previously mentioned. Among them, victims of sexual violence have already received special attention from the MSNDPHG for reparations.

#### *The NAP: collective reparations for the conflicts' victims of sexual violence*

Axis 'VI' of the National Action Plan (NAP) for the implementation of Resolution 1325, adopted in December 2011 in Burundi<sup>135</sup>, foresees collective reparations to victims of sexual violence committed during the war. This is in line with the National Consultations' findings, in which more than 92,94% of the Burundians surveyed supported reparations for rape and sexual violence<sup>136</sup>. To implement this measure, the NAP establishes a fund for collective reparations for these victims, placed under the joint responsibility of the Ministry of Justice and the MSNDPHG. It was allocated BIF 10,000,000<sup>137</sup> (USD 6.8 million), which is 40% of the total NAP budget. This seems to confirm the Burundian government's

<sup>134</sup> See footnote 109 p.48 for a description of this project called 'Victimes à la Une'. It is important to note that the surveyed victims first received an information session on the TJRN processes and that, as a result of the various focus groups, their awareness on the various mechanisms and their rights considerably developed. This may have had an impact on their opinions expressed, compared to victims who are not as well informed.

<sup>135</sup> For a longer analysis of the NAP, see page 75.

<sup>136</sup> The Burundians surveyed in the National Consultations mostly support reparations for the following violations, in order of priority: looting of goods, house burning, killing, rape and sexual violence, despoliation of goods and other properties, torture, and expropriation of land by the state for public use without indemnity.

<sup>137</sup> Figures from the NAP budget as indicated in the version of the NAP obtained from the MSNDPHG in April 2012.

willingness to act on the matter of sexual violence. At the time of writing this report, the nature of the foreseen collective reparations and the methods to be used are not yet defined.

While victims of sexual violence do require special support, attention to gender in reparations cannot be limited solely to redressing this type of crime. Some women's organizations went beyond this targeted approach and proposed wider reparation/non-repetition measures and that have the advantage of not being stigmatising.

*The proposed 'Fund for Rehabilitation and Social Cohesion'*<sup>138</sup>

Among women's CSOs, the Women and Peace Network (RFP)<sup>139</sup>, a group of eighteen Burundian women's organizations, has proposed and advocates for a 'Fund for rehabilitation and social cohesion' aimed at responding to the socioeconomic needs of the individual victims as well as the communities<sup>140</sup>. In concrete terms, the intention is to finance joint local initiatives managed by the victims, in which people could exchange goods, expertise or services at the community level. The approach is based on a traditional practice, the *ikibiri*<sup>141</sup>, which refers to the community engaging in joint work without compensation, and is perceived as positive social interaction. At the same time as it allows for the economic self-recovery and social reintegration of its individual beneficiaries, this project seeks to strengthen social cohesion and fight poverty – two sources of past and potential conflict. Not only does it constitute a reparation method, but it can also act as a 'conflict non-repetition' mechanism.

With respect to gender issues, RFP's vision is that the activities financed by this fund are for all victims, with special attention to women. Until now there are no details on potential selection criteria of participants in the fund's activities or on measures aiming to promote women's participation along with men. Meanwhile, if this project actually takes a gender-sensitive approach, it can allow for the gradual economic empowerment of women and, just as importantly, their social emancipation, while avoiding stigmatisation of women or other 'vulnerable groups' in general. Regarding men, this approach has the advantage of providing indirect emotional support to beneficiaries, while overcoming obstacles to regular forms of psychological assistance, for men – obstacles that relate to masculine attributes such as resilience and infallibility, for instance. The Trauma Healing and Reconciliation Services (THARS) emphasizes the need for social activities such as group work, which can definitely help heal psychological wounds<sup>142</sup>. Although this RFP proposal is gender-sensitive in an essentially indirect way, it bears the potential of constituting an exemplary project that provides gender-responsive reparations without generating much additional costs in its implementation.

While financial resources are needed to implement reparation projects in general, as far as gender is concerned it is rather the relative lack of sensitivity and expertise on 'gender and reparation' that seem to constitute a big obstacle to gender-responsive measures, together with the patriarchal culture. This is clearly reflected in the reparation measures that have already been implemented in Burundi, while facing wider, complex challenges in the society.

<sup>138</sup> Original name in French: 'Fonds de réhabilitation et de cohésion sociale'

<sup>139</sup> French Acronym for 'Réseau Femmes et Paix'.

<sup>140</sup> Author's interview with Evariste Ngendakumana, Projects' Coordinator, Women and Peace Network (RFP), 24.02.2012. Author's archives.

<sup>141</sup> Kirundi term that can be translated as 'let's unite and support each other without compensation/retribution'.

<sup>142</sup> 'Trauma Healing and Reconciliation Services' (THARS). Interview on 21.02.2012. Author's archives.



### Existing separate reparation measures: reparation-satisfaction and -restitution

The most pressing needs for reparations were treated rapidly and in absence of a transversal reparation program. These measures focused on economic recovery and reconciliation, which concerns mainly the restitution of land and other property to returnees as well as some symbolic reparations.

#### *Symbolic reparation or 'reparation-satisfaction'*

For some victims, recognizing past crimes and commemorating victims brings moral satisfaction and therefore helps healing some of the wounds resulting from the violations suffered. This is where the expression 'reparation-satisfaction' mostly finds its meaning. This sentiment is shared among both men and women, Hutus, Tutsis and Twas. There seems to be little gendered differences in the victims' expectations towards such measures, but this question would require further and detailed research.

75.75% of the Burundians surveyed in the National Consultations support symbolic reparation. With regards to memorialisation initiatives in particular, 90.99% of the respondents are in favour of the idea of monuments for the victims. However, IW research work with the victims and the civil society revealed a certain lack of consensus. Memorialisation is a very sensitive issue in Burundi. Until recently, the only monuments erected commemorated 'national heroes'<sup>143</sup>. In 2010 the government raised a 'National Monument' in memory of all victims for the first time, as foreseen in the APRA. Burundians were not consulted on it and there is no consensus about, nor ownership of the monument. Other local exclusively Hutu or Tutsi monuments were erected, where people gather mostly on commemoration days organized by the authorities or by private actors such as families, religious groups, victims' associations or political parties. These commemoration initiatives are controversial as they are selective<sup>144</sup> and often ethnically based, which brings back and reinforces past divisions. In some cases this happens unintentionally, but in other cases division is intentional, especially when it involves political actors<sup>145</sup>. In an attempt to transcend these political and ethnic dynamics, in 2011 the Centre for the Alert and Prevention of Conflict (CENAP)<sup>146</sup> and the Association for memory and protection of humanity against international crimes (AMEPCI)<sup>147</sup> organised two 'collective memory' events. They respectively commemorated the 1972 and the 1993 victims, bringing together individuals and actors of all affiliations for the first time. This initiative contributed to mutual understanding and had many positive impacts<sup>148</sup>.

There are still important barriers to inter-ethnic dialogue and commemoration initiatives in general in Burundi; they include first the culture of silence about past conflicts, as a result of trauma and sometimes fear; second, and despite certain improvements, persistent misconception of the 'other' ethnic group and its past; finally, and as far as monuments are concerned, the lack of support by parts of the population, either because of the political manipulation made out of them, or due to a culturally-based lack of understanding of their *raison d'être*, and because of the cost induced.

While examining past and current commemoration initiatives, gender does not appear to have been considered at all so far. A gender-sensitive approach could first look at the 'whom' or 'what' to commemorate. For example, the 1913 'National Women's Monument' in South Africa commemorates women's suffering during the war. Gender-responsive commemoration initiatives could also pay

<sup>143</sup> Aloys Batungwanayo and Benjamin Vanderlick, 2012

<sup>144</sup> Most of the time, Hutus commemorate the 1972 massacres and Tutsis the 1993 massacres.

<sup>145</sup> Aloys Batungwanayo and Benjamin Vanderlick, *op. cit.*

<sup>146</sup> French acronym for le Centre d'Alerte et de Prévention des Conflits.

<sup>147</sup> French acronym for l'Association pour la Mémoire et la Protection de l'humanité contre les Crimes Internationaux

<sup>148</sup> For example, these meetings allowed progress towards collaboration between victims' organizations, as seven of them signed a 'Memorandum of Understanding of Victims' Associations' in October 2011. They now constitute the 'Centre for Support and Reflection of Associations of Victims of socio-political conflicts' (CARAVI in French). CENAP, 2011





attention to potential gender-based expectations and needs amongst survivors. No systematic data has been found on the actual participation of men and women in commemoration initiatives and reasons behind it; however, a few diverging observations from victims' associations have been collected on the matter, maybe just reflecting a mixed reality. In fact, according to Impunity Watch's research with victims, the latter's needs and expectations in terms of commemoration do not vary along gender lines. Commemoration seems to be primarily a personal and at times a religious matter.

If the truth process is to be gender-sensitive, it should further assess whether it is relevant to adopt a gender-sensitive approach to symbolic reparations in Burundi on the basis of men and women's voices, and examine 'how' this could be implemented. The findings of the TRC could also open the way for new 'reparation-satisfaction' initiatives, such as dignified burial, as provided for in the APRA, and official apology, as awaited by most of the victims we interviewed, both men and women.

### *Reparation-restitution*

Reparation-restitution represents a much bigger challenge and stake for many Burundians. Here again, however, little consideration was given to 'gender', with heavy consequences on the lives of women. Restitution of property is often the form of reparation that affected victims most expect. However, land restitution is one the most complex measures to implement in today's Burundi. This is the result of conflict developments, increasing pressure on land and the lack of political will to provide a strong and gender-sensitive legal framework to address these issues.

The various Burundian conflicts led to the displacement of over one million civilians within and outside the country. When hundreds of thousands of families returned home, a significant number among them had no longer land or a house. This is particularly true for Hutu refugees who left during the 1970s, whose land expropriation was carried out on a large scale by the Tutsi Authorities following the 1972 events. Their return, organized in the 1990s and the 2000s, became further complicated by the decades that had passed since they had left. Among the new occupants of the lands, some families had legally acquired the property from the authorities of the time; other *de facto* occupants became their legal owners through the thirty-year prescription rule provided in the Land Code; while in other cases the state had expropriated and kept the land for itself, which under Burundian law is considered legal if for 'public interest'. So when displaced families return home, two parties have claims on the same land and both are within their rights under current Burundian law, as summarized by Alfonsine Bigirimana, President of the Burundian Women Lawyers Association (AFJB)<sup>149</sup>. In response to this historical-legal stalemate, parties have sometimes found amicable solutions, but in many cases, these situations have raised disputes at the local level. Indeed, land ownership is crucial for the Burundian population. Yet, it has become increasingly scarce in this small, relatively overpopulated territory. In a country with such feeble resources, land disputes are on the rise and make up about 90% of all cases before the Burundian courts today<sup>150</sup>. The structural lack of land constitutes a huge obstacle to the restitution or transfer of land to returnees.

Meanwhile, the land crisis reinforces existing barriers to women's access to land in Burundi, and this is particularly the case for returnee widows. While widowers can find employment, are allowed to remarry (which will secure child care), and are entitled to inheritance from their father, these solutions traditionally do not apply to widows. Their survival mostly depends on what they can produce with their cultivation of the family land. As a result, the loss or the non-restitution of land affects widows to a

<sup>149</sup> Author's interview with Alfonsine Bigirimana, President of the Burundian Women Lawyers Association (AFJB), 31.01.2012. Author's archives

<sup>150</sup> CNTB, 'Bilan d'Activités 2006-2011'.



greater extent than other returnees. The loss of access to land, among women, actually extends beyond the case of landless returned widows. Indeed, their in-law family in general can shun widows, especially when they were displaced for decades or when they have no heir (a son). As previously mentioned, a woman's return to the land of her family of origin is unwelcome in Burundi. *Because* tradition excludes women from inheriting from their husband and their father, widows are deprived of a dignified status from their family and the one of their husband, all the more so in cases when land was lost. Unless they get married to a brother of their husband, widows often find themselves in total destitution.

While challenges and stakes are high for returnees' access to land, especially for widows, the governmental response proves to be insufficient to address these issues in a fair, gender-sensitive and sustainable way. The APRA did provide for the restitution of land and property to refugees and IDPs (or their compensation)<sup>151</sup>, and promoted equity between women and men in the treatment of returnees<sup>152</sup>. However, the APRA-originated mechanism in charge of addressing these issues – nowadays the CNTB – lacks the means and power to effectively implement equitable land restitution.

The CNTB's mandate is to '*identify disputes related to land and other properties between the victims, affected third parties, public or private services*' and in general to '*settle those disputes*'<sup>153</sup>. It is not a judicial body and its decisions are not binding. It first looks for an amicable settlement between parties and should this fail, it formulates proposals for solutions. Given the general lack of a clear legal framework on land and the lack of protection of the rights of refugees and displaced in Burundian law<sup>154</sup>, the CNTB's mediation work is relatively prone to subjectivity and, as a result, is widely criticized. Similarly, the lack of protection of women's rights with respect to access to land in Burundi does not allow the institution to pursue a truly gender-sensitive approach, as underlined by Goretti Ndacayisaba of 'Dushirehamwe'<sup>155</sup>. Nevertheless, according to the CNTB President, Monseigneur Bambonanire, the CNTB is aware of gender-based inequalities and '*brings special attention to women as a vulnerable group*'<sup>156</sup>. However, the absence of gender-disaggregated statistics on the Commission's work means there is not way to know if this position is reflected in practice. Moreover, one can easily imagine that, as in other mediation practices in Burundi, power relations between parties influence the adopted solution to the detriment of the weakest, among which are women.

In the event of dissatisfaction with the CNTB's proposed decision, the parties can resort to other mechanisms that include a competent court or, as more traditionally practiced, the mediation of a local leader such as the Bashingantahe. Concerning the protection of women's rights, however, both these actors do not constitute better alternatives to the CNTB, as they do not generally demonstrate great gender-sensitivity or easy access for women as far as courts are concerned.

The problems faced by landless returnees, and among widows in particular, illustrate the pressing need for the state to redress imbalances in accessing to land in Burundi through a gender-sensitive approach. In other words, and as highlighted by the 'Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation', real reparatory solutions lie in taking measures that transform structural inequalities in the society. Such measures would also contribute to the non-repetition of violations of the

<sup>151</sup> See article 7, Chapter I; and article 8, First Chapter of Protocol IV.

<sup>152</sup> See article 2 of Protocol IV of the APRA.

<sup>153</sup> CNTB, 'Bilan d'activités 2006-2011'

<sup>154</sup> Observatory of the Governmental Action (OAG), 2006

<sup>155</sup> Author's interview with Goretti Ndacayisaba, Coordinator of programmes and administration, 'Dushirehamwe'. Interview on 20.02.2012. Author's archive.

<sup>156</sup> Author's interview with Monseigneur Sérapion Bambonanire, President of the CNTB, 26.03.2012. Author's archives.

socioeconomic rights of men and particularly women, as well as conflict prevention measures, since many Burundians and observers believe that ‘Land Issues’ were, and still are, a major factor behind the successive conflicts in Burundi. For all these reasons, we will further tackle the need for integrated, gender-sensitive land-related reforms in the part on ‘non-repetition’.

### Concluding

The conception of the upcoming reparation programme and the implementation of past and ongoing reparation initiatives have shown little consideration to gender issues so far. This is partly due to the many other challenges facing reparations, including the lack of financial means and resources in general, such as land, as well as the lack of consensus on most of the different forms of reparations within society, regardless of gender. In addition to this, the lack of expertise on ‘gender-responsive reparations’ observed during the field research, and the relatively limited voicing of men and women’s specific needs constitute other obstacles to a more gender-sensitive approach. Technical and financial support from the international community and the reinforced engagement of the civil society on these issues can help in addressing these obstacles.

Most actors agree that collective reparation is the most realistic form of reparation in the context of Burundian poverty. To answer victims’ high expectations, they must provide material responses to their needs. This must be carried out with particular attention to women’s effective access to the reparations offered, as well as to any marginalised group in a community. As illustrated by the proposed ‘Fund for Rehabilitation and Social Cohesion’, men and women can and should also be engaged as actors in the collective reparation process. Community-based reparation projects not only have the advantage of being more cost-effective than direct financial or material solutions, but they also contribute to the reconciliation process as well as the progressive transformation process towards women’s empowerment, if conducted in a gender-sensitive way. Moreover, engaging the victims as actors of their country’s recovery process could contribute to strengthening the nascent sense of citizenship among Burundians – an instrumental development towards conflict prevention in a country that has witnessed repetitive cycles of violence.

Reparations should indeed look forwards as much as they look backwards, including the provision of *structural* responses through policies and laws that redress causes of gender-based inequalities and violence, as expressed by Louis-Marie Nindorera, ‘Global Rights’ Country Director in Burundi<sup>157</sup>. This highlights the necessary link between reparation and non-repetition in providing sustainable responses to the victims’ needs.

### **3.5 Guarantees of Non-Repetition**

Among the various processes dealing with the past, ‘guarantees of Non-Repetition (NR)’ aim at preventing the recurrence of conflict and gross human rights violations. To do so, they seek to address the *root causes* of those developments and practices – some of which are gender-based; they intend to reintegrate or reform the *actors and institutions* that could contribute to renewed armed violence or gross human rights violations, by ‘transforming’ them into accountable, efficient agents of peacebuilding and the Rule of Law in the case of state institutions; and, in order to back this, they aim at better protect human rights through legal and political reforms.

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<sup>157</sup> Author’s interview with Louis-Marie Nindorera, Country Director, ‘Global Rights’ Burundi, 20.02.2012. Author’s archives.

As far as ‘gender’ is concerned, guarantees of non-repetition can address it at two or even three levels: first, by including women and taking into account the ‘gender factor’ in the various conflict non-repetition measures (such as Disarmament, Demobilisation and Reintegration (DDR); institutional and legal reforms; new policies); second, by seeking to fight and prevent GBV and gender-based crimes, among other human rights violations (including through gender-responsive Security Sector Reform (SSR) as well as legal reforms); third, by promoting the advancement of women in society, as part of improving gender relations and more equality (for example through awareness-raising, gender-sensitive education and media). These three levels constitute a system of connecting vessels, where the impact of actions made at a one level feeds the next one. Actions on all three levels are necessary to ensure effective and faster impact, as well as sustainability. The ‘level’ of action of the various stakeholders is determined by their gender-sensitivity and know-how as well as their political priorities. As we will see, most actors involved in this area intervene at the first two levels today in Burundi, with a few exceptions among women-oriented actors, who also intend to promote the advancement of women to a certain extent.

A brief overview of the various ‘guarantees of non-repetition’ taken so far in Burundi, begins with institutional reforms of the justice sector officially started in the 90’s. Further initiatives developed after the signing of the APRA and the different ceasefire agreements, which first triggered the implementation of DDR programmes, paving the way for the police and the military reforms. While these programmes gradually improved in gender-sensitivity, in parallel, various policies, legal reforms and awareness-raising campaigns promoting female participation, women’s rights and the fight of Violence Against Women (VAW) developed. Whereas the various areas of non-repetition have lacked systematic connection until now, the NAP for the implementation of Resolution 1325 brings hope for a more comprehensive and cohesive approach to fostering gender equality and preventing all forms of GBV in Burundi, including socio-economic ones.

In the meantime, the Technical Committee has probed further into this area of dealing with the past in its October 2011 TRC-draft law. With this regard, it is worth mentioning that, in addition to institutional reforms, the TRC will have to formulate recommendations on the writing of Burundian history. As a matter of fact, the writing of ‘one’ historical narrative of Burundi’s post-colonial past is much awaited by the most politically-aware Burundians and considered by them as a major non-repetition measure. No reference is made to gender as far as guarantees of non-repetition are concerned in the TRC-draft law, despite the stakes and potential in this area of dealing with the past. Here we identify a need for focused advocacy, which we recommend when dealing with the various aspects of ‘non-repetition’.

#### The Disarmament, Demobilisation and Reintegration Process (DDR)

The effective Disarmament, Demobilisation and Reintegration of the various armed groups are crucial for the peacebuilding process and conflict non-repetition. The two successive DDR programmes in Burundi have shown improving gender-sensitivity, thanks to sustained technical and financial supports.

The Burundian DDR process started in 2004. The Disarmament part was conducted by the African Union and the UN troops, and the ‘National Programme for Demobilisation, Reinsertion and Reintegration’ (PNDRR)<sup>158</sup> was coordinated by the National Commission for Demobilisation, Reinsertion and Reintegration (CNDRR)<sup>159</sup> with the support of the then Multi-Country Demobilization and Reintegration Program (MDRP). The main target groups of the PNDRR were the CNDD-FDD and the Armed Forces of

<sup>158</sup> French acronym for Programme National de Démobilisation, Réinsertion et Réintégration.

<sup>159</sup> French acronym for Commission Nationale pour la Démobilisation, Réinsertion et Réintégration.



Burundi (FAB)<sup>160</sup>. When the PNDRR closed in December 2008, it had demobilized 26,283 former combatants, reinserted almost 23,000 of them and reintegrated about 21,000 of them – thus fulfilling half of the targets originally set<sup>161</sup>. A second DDR programme started in 2009 following the signing of the last ceasefire agreement with the Palipehutu/FNL. The ‘Emergency Demobilization and Transitional Reintegration Project’ (EDTRP or PDRT<sup>162</sup> in French), also conducted by the CNDRR, has reintegrated about 6,500 ex-combatants and 11,000 people ‘associated’ with the armed group, to date<sup>163</sup>. It continues to pursue its activities, currently planned until the end of 2012. In addition to the government, UNICEF and a few CSOs have contributed to the reintegration process of male and female ex-combatants, mainly through capacity-building, the creation of income-generating opportunities and trauma healing initiatives.

Despite proclaimed intentions of being inclusive and paying special attention to women, the first DDR programme mostly excluded women, where they represented 2% of the beneficiaries<sup>164</sup>. There seems to be four main reasons for this<sup>165</sup>, which resulted from the Programme’s lack of gender-sensitive analysis of the armed groups’ organisation and women’s situation in the process. First, participation in the programme was determined on the basis of lists of combatants that were submitted by armed groups’ leaders. Given the reintegration process’ benefits, having one’s name on those lists was desirable even for those not in the ranks of the armed groups, and as a result was subject to manipulation by the male leaders in charge. In the process, many women who were part of the armed groups were not declared on these lists. Second, a major criterion for access to the DDR process was the possession of arms or being a “combatant”, whose definition again was related to “having used weapons”. Given gender roles and the lack of weapons in some groups, many women in armed groups were not given weapons. Third, a rule excluded combatants who were accompanied by children from taking part in the DDR process. Inevitably, this mostly excluded women, who had at times become pregnant within the armed group. Finally, life conditions in cantonment camps were extremely difficult and offered no protection to women. As a result, some of them left the armed group before they could enter the demobilization phase, while others had fled earlier. The 2007 establishment of the MDRP’s “Learning for Equality, Access and Peace (LEAP)” program contributed to the creation of a gender focal point and a gender action plan in the PNDRR<sup>166</sup>. While most of the activities foreseen could not be implemented by the time the PNDRR closed, capacities of the various DDR actors got enhanced in addressing ‘gender’ thanks to LEAP-supported awareness-raising initiatives, technical assistance and training activities<sup>167</sup>.

A gender action plan was adopted upon the conception of the second DDR Programme, the PDRT, with the technical support of the LOGICA<sup>168</sup> Multi-Donor Trust Fund that ‘built upon lessons from the LEAP programme’<sup>169</sup>. Gender was mainstreamed throughout the programme’s activities<sup>170</sup>. The first positive impact of this evolution concerns women’s access to the Demobilisation and Reintegration (D&R) activities: this time, they had to demonstrate their direct or indirect participation in the FNL themselves

<sup>160</sup> French acronym for Forces Armées du Burundi.

<sup>161</sup> MDRP, 2008

<sup>162</sup> French acronym for ‘Programme de Démobilisation et de Réintégration Transitoire’

<sup>163</sup> Author’s interview with Jeroboam Nzikobanyanka, PDRT Coordinator, CNDRR, 06.03.2012. Author’s archives.

<sup>164</sup> Author’s interview with Eric Niragira, Executive Director of CEDAC (Training centre for the development of ex-combatants), 22.02.12. Author’s archives. However, this number should be considered in relation to the proportion of women within the various armed groups.

<sup>165</sup> Savannah de Tessières, 2007/2009

<sup>166</sup> MDRP website

<sup>167</sup> Progress Report, Learning for Equality, Access and Peace Program (LEAP), Aug. 2007- Feb. 2009

<sup>168</sup> Acronym for Learning On Gender and Conflict in Africa

<sup>169</sup> LOGICA Website

<sup>170</sup> The World Bank, 2011



before an ‘ad-hoc’ tripartite committee. The PDRT also took into consideration FNL ‘dependants’<sup>171</sup> such as spouse and family, who could participate at some stages of the D&R process<sup>172</sup>.

Regarding the issue of violence against women in the demobilisation camps, according to the PDRT Coordinator<sup>173</sup>, protection measures targeted at women were taken and were backed by awareness-raising initiatives on sexual violence.

Finally, the PDRT sought to pay special attention to the socio-economic reintegration of vulnerable groups, including women<sup>174</sup>. Thus, for example, while it has supported the development of income-generating projects by male and female ex-combatants, the PDRT also raised awareness regarding women’s right to manage their own profits. This is a very gender-sensitive response to women’s lack of financial autonomy and to the traditional control over money by men in the household. It would be interesting to conduct further research on the various awareness-raising initiatives taken and on the follow-up of the reintegration activities, as this is most needed in order to optimize the long-term impact of these projects. Reintegration is a complex socio-economic process that does not just involve the individual beneficiaries, but also their families and community of return. Yet, the official reintegration programme seems to have partly overlooked these aspects. Some CSO projects aim to address this issue.

Given their status and roles in the society, women and girls former combatants’ social reintegration has often been more challenging than men’s. Some women and girls have been rejected by their families and/or stigmatised by their community, as their involvement in armed groups is socially unacceptable. Among CSOs’ responses to this plight, it is worth mentioning the establishment of a platform for expression dedicated to and managed by women ex-combatants throughout the country<sup>175</sup>. While one of the main goals of this platform is to empower female ex-combatants and promote their rights<sup>176</sup>, it also facilitates the exchange of experiences among them and provides a chance to increase their public visibility. Another good practice addressing women and girls’ social reintegration was an initiative that worked both with female former child soldiers and their communities. While providing rehabilitation support to the girls during a several-week retreat outside their community (including through vocational training and mental support), it raised awareness within the girls’ communities about their situation as ‘victims’, rather than ‘bad girls’, preparing the ground for their return and reintegration<sup>177</sup>. This comprehensive, two-fold approach proved to be very successful<sup>178</sup> and needs to be reproduced in order to reach many more girls and women, if relevant.

CSOs have also worked extensively with former male combatants, including through the development of “peer-to-peer” mental support. This is of particular interest for two reasons: first, because it empowers former combatants by training them on trauma healing; second, because mental support, particularly through an inclusive approach that reduces stigmatisation, can help address aspects of conflict-era violence that men struggle with, and that may lead to increased indices of violence in the post-conflict era. According to Eric Niragira, the Executive Director of the Training centre for the development of ex-

<sup>171</sup> See Operational Guide to the Integrated Disarmament, Demobilization and Reintegration Standards, UN, 2006

<sup>172</sup> Progress Report, Learning for Equality, Access and Peace Program (LEAP), Aug. 2007- Feb. 2009

<sup>173</sup> Author’s interview with Jeroboam Nzikobanyanka, PDRT Coordinator, CNDRR, 06.03.2012. Author’s archives.

<sup>174</sup> Progress Report, Learning for Equality, Access and Peace (LEAP) Program, Aug. 2007- Feb. 2009

<sup>175</sup> This is an Initiative by the Training centre for the development of ex-combatants (CEDAC)

<sup>176</sup> Author’s interview with Eric Niragira, Executive Director of CEDAC (Training centre for the development of ex-combatants), 22.02.12. Author’s archives.

<sup>177</sup> This is an Initiative by Heartland Alliance.

<sup>178</sup> Author’s interview with Laureline Monnier, then Dukanure and GRAPP Project Manager, Heartland Alliance, 01.02.2012. Author’s archives.

combatants (CEDAC)<sup>179</sup>, such support has a positive impact on former combatants' socio-economic reintegration<sup>180</sup>. According to him and THARS<sup>181</sup>, psychological healing is essential in determining society's capacity to dealing with its past and engaging in reconciliation, both for 'perpetrators' and 'victims'.

While the CNDRR and CSOs have been working on the reintegration of former combatants into civilian life, thousands of them were reintegrated into the police and the military, at the junction between the Disarmament, Demobilization and Reintegration and the Security Sector Reform processes.

### The Security Sector Reform (SSR)

As the institutions responsible for the democratic provision of state and human security, the military, the police and the judiciary constitute key actors in preventing the repetition of conflict and gross human rights violations. Given the roles these institutions have played in the various Burundian conflicts, ranging from failing to effectively enforce the law and protecting citizens, to committing crimes and human rights violations, the need for a Security Sector Reform (SSR) was envisioned at the end of the last conflict.

The objectives of such a transformative process must be to make those state institutions more accountable as well as more representative of all segments of society, and to improve the efficiency of their response to the security needs of all groups, while enforcing the law equally and without prejudice. Therefore, a truly gender-responsive Security Sector Reform should strengthen the fight against impunity for gender-based crimes and other forms of GBV, where possible, both through improved prevention and response. While the APRA mentioned the need to redress sex-based imbalances and disparities in the security sector institutions, no reference was made to the need to give special attention to men and particularly women's specific security needs. However, Burundi's Constitution clearly states that '*the Security Sector should serve as a protective mechanism for all Burundians and everyone should identify with it*' (article 241).

The Burundian SSR started in 2004 with the creation of new police and military forces, while integrating former combatants of ex-rebel groups along with former police and military forces. It is only since 2007 that the process has had a gender component, with various bilateral and multilateral interventions<sup>182</sup>. Tackling gender issues has become more systematic with the establishment of the Burundian-Dutch 2009-2017 'Security Sector Development' (SSD) Programme, which has adopted a crosscutting 'gender approach'.

Although the APRA foresaw the need for vetting and lustration in these various initiatives, no vetting or lustration measure have been taken so far. Consequently, although there is no systematic monitoring of this issue, former criminal soldiers and leaders appear to have been incorporated to the reformed security forces. While the inclusion of alleged war criminals into the security institutions of the country makes it difficult if not impossible for citizens to trust their own police and armed forces, other "softer" measures to reform security institutions and their personnel have been implemented.

<sup>179</sup> French acronym for Centre d'Encadrement des Anciens Combattants.

<sup>180</sup> Eric Niragira, *op. cit.*

<sup>181</sup> 'Trauma Healing and Reconciliation Services' (THARS). Interview on 21.02.2012. Author's archives.

<sup>182</sup> The French, the Belgians, the Germans, the BINUB, UNDP, UNIFEM and ICRC have all taken gender into account in their SSR initiatives at some points (not always with a gender 'focus', but at least by being sensitive to gender).



### *The reform of the military*

The demobilisation process of former armed groups has provided Burundi with the majority of the women currently working as police and in the military, although there are far fewer women in the military than the police forces.

Women who had previously achieved military ranking of some kind were denied the promotions men received in the national armed forces. Thus today, after the demobilisation, only a third of the women in the military hold the rank of an Officer. Overall, women represent 0.05% of the military forces. Given this situation, the 2012-2017 Gender Strategy of the 'National Democratic Forces' (FDN<sup>183</sup>) was developed as part of the SSD Program with the aim of increasing women's representation in the military. As the FDN Gender Focal Point, Captain Flora Kwizera states, they have preferred limiting the Gender Strategy to this sole goal at the moment, given the limited means available<sup>184</sup>.

To achieve this, the FDN Gender Strategy developed three ambitious axes, built on a thorough gender-sensitive analysis of existing obstacles. First, the strategy has set up a strong female recruitment and retention policy, taking into account women's disadvantaged educational background as well as their need for different facilities. Operational measures for implementation include the creation of an evaluation scale adapted to women in the accession process to the military school; the development of separate infrastructures for women; and the lifting of the 'obligation' to conduct some male rituals for new recruits. The second axis of the Strategy (connected to retention measures), aims at adapting laws and internal rules that regulate the military system. For example, the allowance of maternity leave has recently been introduced. Finally, the third axis aims at informing and raising awareness regarding women's participation in the military, both within the military institution and the Burundian society.

Indeed, Captain Kwizera indicates that cultural factors have been one of the main challenges to the incorporation of women in the military. The National Consultations found that the cultural *norm* regarding women's participation in the security sector might be changing in Burundi, as 71.60% of the respondents are in favour of it. However, in practice, the military is still strongly associated with concepts of masculinity, despite the variety of functions the military serves. There is deeper opposition to the idea of women's incorporation within the military itself than is found in the population at large. The phrase '*this is not a place for women*' is heard often in the military according to Captain Kwizera, and women are continuously denigrated by men.

Other obstacles to the increased participation of women include the under-representation of female officers; the absence of women at the decision-making level in the Ministry of National Defence and Former Combatants (MDNAC<sup>185</sup>); the general lack of gender-sensitivity and understanding of women's added value to the military at all levels of the hierarchy; and the lack of financial means to address gender issues. The ministry has not allocated any part of their budget for this issue. Given these obstacles, it is difficult to attract new female recruits. As noted by Serge Rumin, the Director of the Burundian-Dutch SSD Programme, the question of building infrastructures dedicated to women takes place in a broader context in which the police and the military are lacking financial means for their development in general.

<sup>183</sup> French acronym for Forces Démocratiques Nationales.

<sup>184</sup> Author's interview with Captain Flora Kwizera, Gender Focal Point for the FDN, Ministry of National Defence and Former Combatants (MDNAC), 23.03.2012

<sup>185</sup> French acronym for Ministère de la Défense Nationale et des Anciens Combattants.





As a result they are facing a dilemma between building new, needed infrastructures for their forces in general, or make buildings for (a few) women only.<sup>186</sup>

In addition to these obstacles to women's recruitment and retention, Mr. Serge Rumin stresses the fact that the military and the police forces have been overstaffed since the former combatants' Reintegration process. Consequently, he recommends that efforts towards the enhancement of women's participation take place internally, by promoting the added value and the professional advancement of those women who are already part of the security forces. This is something that the FDN Gender strategy has started to address through its internal awareness-raising campaign. In the meantime, relatively cheap measures can be taken with respect to the retention and promotion of women in the military. Notably, it is urgent to respond to harassment and violence against women within both the military and police forces. A code of conduct that is gender-sensitive should be implemented under the direction of leaders who support gender sensitivity. The implementation of this code of conduct would require sound monitoring and follow-up, and should include clear disciplinary measures for infractions.

While the development of the gender-sensitivity of the military and police have similar objectives and entry points, the military and the police are very different institutions and require measures specific to their problematic, as stressed by the Director of the SSD Programme. An important difference lies in the fact that the police work and live in much higher proximity with the population. As a result of this, the need for a more professional, ethical and gender-sensitive law-enforcement body is pressing, and the police reform has received more attention than the military so far.

#### *The police reform*

As highlighted in an 'International Alert' (IA) study<sup>187</sup>, most Burundian women perceive that the police and the justice system do not protect them sufficiently. Cases of violence against women particularly illustrate this: in those cases where women go to the police to denounce sexual or domestic violence, in spite of social barriers and stigmatization, men are rarely arrested. In the rare instances when they are arrested, the authorities often rapidly release them. This can be due to the trivialization of violence against women; to some 'arrangement' whereby male alleged perpetrators bribe the police; or to inter-family settlements that occur when the family of the victim considers that the attempt to receive justice for this violence is less important than the family's honour. Consequently, effective judicial prosecutions for punishable forms of violence against women seldom take place, and impunity prevails. The women surveyed in the IA study blame the indifference to their situation in both policies and the judiciary; the underrepresentation of women in the institutions concerned; as well as corruption.

The original 2007-2017 Strategic Plan for the Burundian National Police (PNB)<sup>188</sup> does not contain any indication of awareness of the need for increased gender sensitivity in the police forces; therefore it contains no concrete measure to improve the gender-sensitivity of the PNB. Some observers consider that the 'community policing' component of the Plan (for which a pilot project is being run at the time of writing this report) may *de facto* contribute to reducing violence at the local level, which would include violence against women. Serge Rumin disagrees with this for several reasons: first, as a general consideration, the Burundian police institution is not strong enough generally speaking to be decentralised and 'softened' in its structure and working approach. Second, being part of communities exposes the police further to any manipulation from the most influential ones amongst community

<sup>186</sup> Serge Rumin, Director of the Dutch Security Sector Development Program, Mémorandum d'Entente Burundo-Néerlandais. Impunity Watch 'Policy Consultation' on this very research, 22.05.12, Bujumbura.

<sup>187</sup> International Alert, 2009

<sup>188</sup> French acronym for Police Nationale Burundaise.

members; as a result community policing may not be able to protect better all citizens in general, nor women in particular. Third, they may particularly fail to respond to violence against women because the project has no gender-sensitive component so far<sup>189</sup>. If and when ‘community policing’ is planned at the national level, it is necessary to promote the adoption of a gender strategy, in order to avoid the reproduction of insensitive attitudes towards women’s suffering and rights. As a security actor acting at the grassroots level, community policing bears the potential of having an important negative or positive impact on the fight against such violence indeed.

The introduction of a gender-sensitive approach in the reform of the PNB came later with the interventions of international agencies such as UNIFEM and UN Women, the United Nations Office in Burundi (BINUB) and the BNUB, and particularly the German Agency for International Cooperation (GIZ) and the ongoing SSD Program, which mainstreams gender at the strategic level. With the exception of a few NGOs contributing research work, civil society is not involved in making reforms, either in the police or the military. The various gender-sensitive activities undertaken as part of the current police reform pursue two main goals: increasing women’s quantitative and qualitative participation in the police, and develop the gender-responsiveness of the police in its operations. In support of women’s recruitment, retention and career-development, some form of affirmative action aims to redress gender-based educational inequalities and male domination of the police forces. The qualitative integration of women in the police forces has further been supported with the establishment of a ‘Network of policewomen’, under the leadership of a charismatic female General. Through exchange of experiences and advocacy efforts, this network has reinforced policewomen’s solidarity and determination, and has been instrumental in promoting their role in the police. It has also increased their visibility and thereby contributed to regarding change in attitudes about the presence of women in the security sector. Progress has become visible in this regard: according to some sources<sup>190</sup>, policewomen are gaining recognition and respect due to their integrity and their added value when dealing with cases regarding other women.

While it is generally recognized that improved women’s participation in the police contributes to more effective protection of women, interviewed CSOs and victims expressed the need to complement this progress with an increase in education and awareness of gender-sensitivity in the general population of law enforcement.<sup>191</sup> In Burundian society, girls and women are still often considered ‘responsible’ for being raped. Security forces do not differ substantially from the rest of society in this belief<sup>192</sup>. As a beginning of a response to the police’s lack of gender-sensitivity, training on Sexual and Gender-Based Violence (SGBV) was delivered by several UN agencies and CSOs. Interestingly, GIZ related that male police trainers ran those sessions – a ‘soft’ but nonetheless significant practice in developing a new model of gender-sensitive policemen. Further, some trained Gender Focal points (men and women) have been established in each police station of the country, with a mission focusing on dealing with sexual violence.

There have reportedly been more police interventions for domestic violence<sup>193</sup>. Yet, in Burundian culture, the house is considered as a private sphere that is out of the reach of authorities<sup>194</sup>. Jolie Ruth Morand,

<sup>189</sup> Author’s interview with Serge Rumin, Director of the Dutch Security Sector Development Program, *Mémoire d’Entente Burundo-Néerlandais*, 07.03.2012. Author’s archives.

<sup>190</sup> See for instance Léonce Bitariho in ‘La Dignité de la Femme’ (2011)

<sup>191</sup> Author’s interview with Tracy Dexter, independent Consultant on Gender and Peacebuilding, 03 and 08.02.2012. Author’s archives.

<sup>192</sup> *Ibid.*

<sup>193</sup> Author’s interview with Jolie Ruth Morand, Coordinator of the Police Reinforcement Project, GIZ, 08.03.2012. Author’s archives.

<sup>194</sup> Tracy Dexter, *op. cit.*

Coordinator of GIZ's 'Police Reinforcement Project', highlights an increased number of arrests for violence against women in general in Burundi<sup>195</sup>, which confirms that there is progress in this area. This can be the partial result of police and legal reforms, in combination with gender awareness-raising initiatives in the police forces, activities aimed at increasing trust between the police and citizens, as well as the positive contribution of local female leaders.

Nonetheless, there is still much to do to develop the police's gender-responsiveness, given deeply entrenched values in both society in general and the police force in particular. While progress is noticeable, certain things are taking longer than originally foreseen. For instance, women make up 2.82% of the police in 2012, despite the PNB Strategic plan's aim to increase their representation from 1.2% in 2007 to 10% in 2017 (that is, an annual raise of about 1 percentage point). Women are even less represented at Officers' and decision-making levels in the ministry, requiring additional measures to support their effective advancement. Finally, living conditions and regulatory texts have remained unchanged and both of these must be revised with the goal of the inclusion of women in order to better protect their rights and ensure retention<sup>196</sup>.

Aware of the fact that bigger change requires additional, improved means and action from the top, Phase II of the SSD Programme (2011-2013) aims at building capacities with regard to gender-sensitive budgeting and planning within the Ministry of Public Security. It also seeks to establish a 'Gender desk' at the cabinet level, in order to ensure effective conduct and monitoring of the implementation of the gender strategy. However political will to set up the 'Gender desk' seems to be lacking thus far.

The Director of the SSD Programme notes that while political will is an essential pre-requisite for the improvement of the security institutions' response to gender, societal change is just as necessary if transformation is to be possible, as well as effective and sustainable<sup>197</sup>. Reforms and policies can be the engines of societal change, but this requires the involvement and inclusion of the society being affected.

Despite the major connections between the role of the police and the judiciary in enforcing the Law, the reform processes of these two institutions do not appear to be coordinated so far. Some UN agencies are reportedly starting to look at connecting the SSD Program's gender axis to the Justice reform<sup>198</sup>. Further, efforts towards reforming the Justice sector have lacked gender-sensitivity overall, creating a major missing link in the fight against impunity for violence committed against women and other human rights abuses in Burundi.

### *The Justice Reform*

There are many obstacles to effectively obtaining justice in Burundi, both for men and women. The challenges for the justice system include the lack of an independent judiciary, corruption, the existence of criminal networks that actively hinder judicial transparency, a lack of resources (especially in local tribunals), slowness of the processes and the complexity of some outdated procedures and laws. Justice remains 'remote' from most Burundians as a result of these factors.

As mentioned earlier, access to the justice system is particularly difficult for women, as a result of their lack of resources, education and information. In addition, they face substantial repercussions and stigmatization if they attempt to prosecute the perpetrators of crimes against them, especially in the

<sup>195</sup> Jolie Ruth Morand, *op. cit.*

<sup>196</sup> See Willy Nindorera, 2009 and Gertrude Kazoviyo and Pékagie Gahungu, 2011

<sup>197</sup> Serge Rumin, *op. cit.*

<sup>198</sup> Author's interview with Marie-Josée Kandanga, Project Officer, 'UN Women' Burundi, 23.03.2012. Authors' Archive.

cases of sexual and domestic violence and consequently, many victims remain silent. In those rare cases when women do risk reporting violence committed against them to the police and tribunals, the authorities involved, whether the police, representative, or judiciary, may fail to either investigate or to prosecute, as mentioned earlier. They may even obstruct the judicial process by seeking an “amicable settlement” between the parties to preserve family honour, according to Seconde Nyanzobe, Legal Representative of ‘Fontaine-Isoko for Good Governance’<sup>199</sup>. In 2010 the MSNDPHG statistics show that only 22% of the 3,715 reported cases of gender-based sexual violence resulted in an investigation; 1.6% of perpetrators were prosecuted and only 1.4% were punished<sup>200</sup>.

The need for a gender-sensitive reform of the judiciary is not only relevant for cases of conflict-era violence, but also for current cases. However, efforts to reform this sector after the 1993 justice modernisation plan failed to integrate a gendered-approach in system-wide efforts. The APRA only mentioned the need to redress gender imbalances, but made no further recommendations (article 7).

At the same time, international donors often require special attention to vulnerable groups (including to widows and victims of GBV) when supporting projects to develop the judiciary system, according to Tracy Dexter<sup>201</sup>. Additionally, UNDP has supported capacity-building for the departments in charge of suppressing GBV in the Ministry of Justice. The slow rate of progress made in judicial reform as a whole also indirectly contributed to a more gender-sensitive justice. This includes the improvement of capacities of magistrates through multiple training initiatives since 1993 and the establishment of free and mobile legal assistance in the various Communes by the Justice Ministry. The CSLP II, adopted in 2012, sets the general goal of reinforcing ‘Justice for all’ and developing judicial assistance for ‘the most vulnerable’. Detailed means of implementation and budgeting remain to be examined.

Some specialized CSOs have been very active in supporting the effective defence of all Burundians’ rights, including through free legal aid services to the poorest and to female victims of sexual violence in particular. Some CSOs also deliver human rights’ education and conduct advocacy work for the adoption of legal reforms on gender-related issues, in an effort to deliver a holistic approach to promoting women’s rights.

#### Gender-sensitive and gender-oriented legal and political reforms

While Gender-Based Violence existed before the conflict, war increased it and exacerbated its impact on women, as demonstrated earlier. GBV mostly concerns sexual violence, domestic violence, girls’ restricted education and the worrying situation of widows and ‘second wives’, left without resources. Gender-sensitive policies and laws are necessary in the political realm in order to prevent the repetition and perpetuation of GBV. This should include measures enhancing the protection of men and particularly women’s rights; the establishment of punitive measures for gender-based crimes, and measures fighting the root causes of GBV.

Several policies and legal reforms have taken place with this regard in Burundi. As Belgian Ambassador Smets puts it<sup>202</sup>, the issue of women’s rights in increasingly recognized and addressed by the Burundian government. While this trend will very likely continue with the recent adoption of the NAP, several obstacles within society and on an institutional level hinder the implementation or passage of various reforms.

<sup>199</sup> Seconde Nyanzobe, *op. cit.*

<sup>200</sup> MSNDPHG, *ibid* (2010)

<sup>201</sup> Tracy Dexter, *op. cit.*

<sup>202</sup> Author’s interview with the Belgian Ambassador Smets, 06.03.12. Author’s archives.



### *The National Gender Policy (NGP)*

The first Burundian National Gender Policy (NGP), developed between 2004 and 2010, implemented the twelve themes of the 'Beijing Platform for Action' of 1995. The NGP was designed to fight gender-based inequalities both institutionally and culturally by establishing specific mechanisms, such as 'Gender Focal points' in every Ministry. While the creation of these Focal points was a positive step, there were practical problems with their implementation: their mission and role were unclear and seldom promoted within the different ministries; their means and powers were restricted; and their work was not well coordinated between ministries, according to some of the interviewed CSOs. The first NGP was supposed to establish a National Gender Council to monitor and evaluate the NGP, but that has not happened yet. The second version of the NGP (2011-2025) is reportedly being revised<sup>203</sup>; it offers an opportunity to strengthen the implementation and monitoring mechanisms of the NGP.

### *The Strategic Framework for Growth and Fight Against Poverty II ('CSLP II')*

The second version of the CSLP, planned over the 2011-2015 period, has made great progress in promoting human rights and women's participation in public life compared to the first version, as a result of the advocacy work of women's organizations. This is the case in community recovery; transitional justice (which foresees the integration of a 'gender perspective', in addition to the participation of women) and legal reforms (including on inheritance and the fight against GBV)<sup>204</sup>.

The first of four strategic axes of the CSLP II are dedicated to '*Strengthening the rule of law, the consolidation of good governance and the promotion of gender equality*'. Points 279 and 280 recognize the need to avoid '*increasing inequalities that disadvantage women*'. To that end, the government intends to promote equality, equity and gender-sensitivity of social actors; to reduce the power of tradition-based practices; to promote the rights and the representation of women; to develop integrated policies on GBV and to improve women's access to and control of resources while developing their skills. These measures would allow for increased women's autonomy and would help overcome the stereotype of women as 'victims' only, an approach that is needed to foster change with regards to gender relations.

The percentage of the CSLP II's budget dedicated to the 'Promotion of Gender Equality' ranges between .04% and .13% from 2011 to 2015<sup>205</sup>, which raises concerns about the allocation of resources for this issue. The '*results' expectations*' with regards to gender seem rather low: only the representation of women in Parliament and in decision-making positions is mentioned in the table of results' indicators, under the sub-axis 'Promotion of Gender Equality'<sup>206</sup>. In addition to this, result indicators listed under other CSLP II thematic lines do not address gender at all, despite the objectives set.

The recently adopted NAP for the implementation of Resolution 1325 has incorporated many objectives from the CSLP II, the NGP and 'Vision Burundi 2025' regarding gender. The international obligations to regularly report on the NAP's implementation and the financial support that it should receive, as already announced by some donors to the MSNDPHG<sup>207</sup>, will certainly enhance the execution of these policies.

<sup>203</sup> Laëtitia TWAGIRIMANA and Estella CIMPAYE, *op. cit.*

<sup>204</sup> Goretti Ndacayisaba, *op. cit.*

<sup>205</sup> 'Cadre Stratégique de croissance et la Lutte contre la Pauvreté II' (CSLP II), 2012

<sup>206</sup> *Ibid.*

<sup>207</sup> Laëtitia TWAGIRIMANA and Estella CIMPAYE, *op. cit.*



### *The National Action Plan (NAP) for the implementation of Resolution 1325*

The Burundian NAP was in development by the government, civil society and (later on) UN Women since 2007. It was adopted in December 2011 and covers the period 2012-2016. A multipartite Steering Committee presided by the MSNDPHG and co-presided by UN Women has been established in order to lead its implementation. Ten Ministries, other UN agencies, regional organisations and CSOs are part of this Committee. The implementation of the NAP's activities falls under the responsibility of the various ministries, in partnership with the UN and international and local CSOs.

A cross-cutting analysis of the eight axes of the NAP<sup>208</sup> shows that it aims to improve gender-based violence prevention and support its victims; reduce discrimination against women and enhance equality between men and women; enhance women's participation in public life and allow for the development of women's autonomy. For these purposes, the measures planned on paper are rather ambitious and very responsive to gender issues.

The most ambitious measure foreseen by the NAP concerns the possible promulgation of a law on inheritance, matrimonial regimes and bequests that gives women the right to inherit<sup>209</sup> (Axis IV). Given the political and societal sensitivity of this issue as explained earlier, a study on the question is seen as the first step in this process according to the NAP, to be followed by further awareness-raising among community and CSO leaders on the question.

Axis VI of the NAP aims at making 'post-conflict justice' more gender-sensitive by ensuring that women's needs are taken into account in the 'Transitional Justice Mechanisms' as well as that women participate in these processes. It also provides support<sup>210</sup> to victims of sexual violence committed during or after conflicts. While the proposed measures in this area are varied and rather comprehensive, ranging from the training of judges to facilitating women's access to the mechanisms, the cultural barrier does not seem to be addressed.

Finally, the NAP provides for the implementation of mechanisms to fight against GBV, particularly on a prevention and protection level (Axis III). One of the planned activities consists of opening a dialogue between the population and 'stakeholders in security issues' around GBV. This preventive, long-term approach is complemented by the short-term delivery of training on the legal framework protecting girls' and women's rights aimed at the defence and security forces as well as community and CSO leaders.

Axis IV of the NAP is focused on prevention as well as the repression of GBV, by promoting the law against GBV for which a draft has been submitted in 2011.

### *Legal reforms to better respond to gender-based violence*

Sexual violence against women is one of the most acknowledged forms of GBV since the end of the conflict. A few studies provide an insight of this phenomenon today: we know for example that 3,715

<sup>208</sup> The Burundian NAP's axes are: 1. Promotion of UNSCR 1325 for its implementation. 2. Equality and Equity with regards to men and women's participation in decision-making positions 'women's participation and empowerment'. 3. Reinforcement of women's rights protection mechanisms in conflict and post-conflict times. 4. Legal reforms promoting gender equality. 5. Taking into account women and girls' rights and needs in post-conflict programming. 6. Taking into account women and girls' rights and needs in post-conflict justice. 7. Effective women's participation in peace negotiation processes and in peacekeeping and peacebuilding operations. 8. Coordination and funding of the implementation of UNSCR 1325.

<sup>209</sup> 'Libéralités' in French.

<sup>210</sup> 'Prise en charge' was the term used in French – which may mean provide support to or assist, without being more precise.



cases of sexual violence were reported in 2010<sup>211</sup> (there are no current estimates on unreported instances of sexual violence); that the majority of perpetrators are civilians; and that victims are usually minors<sup>212</sup>. At the 'Seruka Centre', which receives and supports victims of sexual violence, the victims know their rapists approximately 75% of the time, and 95% of the victims are women<sup>213</sup>.

In recent years, the government of Burundi has made undeniable efforts in the fight against sexual violence. Key progress was made with this regard in 2009 with the revision of the Penal Code. The sentence for rape was extended, and now ranges from 5 to 25 years of prison and even life imprisonment in the most serious cases, along with a fine of USD 40 to USD 160. Domestic rape was finally criminalized, although with very low penalty compared to other cases of rape, with only 8 days imprisonment and/or a fine of USD 8 to USD 40.

To promote its implementation, the reformed Penal Code was translated into Kirundi, and awareness and information campaigns about these reforms were launched with contributions from CSOs. However, there are still many obstacles hindering the effective prosecution of domestic and sexual violence. In addition to cultural barriers and social stigmatization, the procedures involved in prosecution are long and demanding. Rape victims are required to provide a legal certificate of medical proof of rape. This is very problematic when victims do not have the financial or logistical resources to gain access to appropriate medical facilities in the best of circumstances, let alone within the very limited timeframe in which it is possible to collect such evidence. For this reason, many CSOs are recommending the revision of the Code of Criminal Procedure. The National Assembly is examining a proposal at the time of writing this report<sup>214</sup>.

At the regional level, Burundi signed the Kampala Declaration on the fight against Sexual and Gender-Based Violence (SGBV) from the International Conference on the Great Lakes Region (ICGLR) in December 2011. This instrument requires member states to prevent SGBV, end impunity and support victims. While this mechanism is not binding and the objectives may not be achievable within the given timeframe, this regional dynamic constitutes an opportunity for the fight against SGBV, if it is well managed and politically supported. The national strategy on GBV in Burundi is consistent with the Kampala Declaration and is funded by the United Nations' basket fund for the fight against GBV<sup>215</sup>. This strategy is coordinated by the MSNDPHG and implemented in cooperation with the Ministry of Justice, the Ministry of Public Security and the Ministry of Health.

A 'Proposed Draft Law on Prevention, Protection, Reparation and Repression of Gender-Based Violence' was submitted by the ICGLR to the MSNDPH in June 2011, with the technical support and advocacy work of women's organizations, notably the Association of Women Lawyers in Burundi (AFJB)<sup>216</sup>, as well as UN agencies. This law, also prescribed by the NAP, is in the process of preparation and adoption. According to UN Women and the MSNDPHG, the finalized version is expected in 2012<sup>217</sup>. The draft law includes comprehensive measures in response to identified obstacles, addresses a multitude of different actors and deals with all forms of GBV in Burundi. Among the included objectives, we particularly note the intention to raise awareness among communities and stakeholders involved in the prevention of GBV

<sup>211</sup> Ministry of National Solidarity, Human Rights and Gender (MSNDPHG), '2010 Interim Report on Sexual and Gender-Based Violence'

<sup>212</sup> United Nations Integrated Office in Burundi (BINUB), 2009

<sup>213</sup> WAP and Fontain-Isoko, 2011

<sup>214</sup> Gaudence Kubwimana, 2012

<sup>215</sup> Marie-Josée Kandanga, *op. cit.*

<sup>216</sup> French acronym for 'Association des Femmes Juristes du Burundi'.

<sup>217</sup> Marie-Josée Kandanga, *op. cit.*



(including in the education, the police and the justice systems); to promote socio-economic equality between men and women; and to reform penal and judicial procedures. The draft law also provides for the creation of a fund for victims of GBV aimed at facilitating their access to justice (and medical care), as well as to ensure the payment of damages through the State.

This law on GBV is comprehensive, and once adopted, will likely contribute to a change in social and cultural norms with regards to violence against women in Burundi. Journalists<sup>218</sup> and conflict victims interviewed indicate that Burundian women as well as men are becoming increasingly aware of women's rights, that these are increasingly protected, and that a man who exhibits physical violence against a woman is subject to punishment. However, perceptions are far from changing with regards to some socio-economic inequalities between men and women, as deeply rooted resistance to women's land ownership may illustrate it.

*Land access-related reforms. The need to protect women's rights and to prevent conflict*

There is a great need for integrated gender-sensitive reforms that formalise or organise access to land and its use in Burundi<sup>219</sup>. According to Prime Rupiya, Country Coordinator of 'ACORD' Burundi, "*the right to land is the right to peace*"<sup>220</sup>. 'Land Issues' in Burundi, if not structurally and sustainably resolved, could lead to renewed conflicts according to many observers. Indeed, the lack of access to land for an increasing number of Burundians causes wider impoverishment and social marginalisation.

While the current land crisis is mostly the consequence of demographic pressure as well as the misuse<sup>221</sup> and the disorganized use of land<sup>222</sup>, it is also the result of the absence of a comprehensive land policy and effective land laws in Burundi. Land ownership typically occurs through inheritance, and women are not allowed to inherit land. The direct purchase of land is a developing alternative to acquisition through inheritance in Burundi; although this is not a feasible option for poor Burundians, and amongst them women in particular.

The APRA established that measures should be taken to prevent land-related disputes. One such measure would be a law that regulates succession in general<sup>223</sup>. An annex to the peace agreement recommended the promulgation of a law that specifically grants women the right to inherit<sup>224</sup>. However, the 2011 Revision of the 1986 Land Code has shown no gender-sensitivity. It has addressed other critical issues related to land ownership in general, such as the lack of formal registration through certificates and the problem of land expropriation. While the measures taken constitute positive progress in regulating land ownership, the law and the procedures remain inaccessible and do not address the questions of a succession law and of women's access to land<sup>225</sup>.

The lack of political will of the ruling elite constitutes a major obstacle to the adoption of gender-sensitive inheritance law. A few years after such a law was adopted in Rwanda in 1999, a gender-sensitive draft inheritance law was brought before the Burundian Transitional Parliament upon the initiative of AFJB, female parliamentarians and the Ministry in charge of gender. The Parliament passed that law but the Presidency has been reluctant to adopt it. In 2011, President Pierre Nkurunziza forbade any further

<sup>218</sup> Especially newspapers 'Syfia Great Lakes' and 'The Dignity of Women' (which come from the same publisher).

<sup>219</sup> Monseigneur Sérapion Bambonanire, *op. cit.*

<sup>220</sup> Comment made at the Impunity Watch 'Policy Consultation' held on this research, 22.05.2012, Bujumbura.

<sup>221</sup> Monseigneur Sérapion Bambonanire, *op. cit.*

<sup>222</sup> Dominik Kohlhausen, 2012

<sup>223</sup> Protocol IV of APRA, Chap. I, art. 8, g

<sup>224</sup> Report of the Commission IV on 'Reconstruction and Development', Chap. II, point 2.5.2.2

<sup>225</sup> Dominik Kohlhausen, 2012



activities related to this question. On another hand, the current position of the MSNDPHG shows much awareness of the need for change, while stressing the fact that the idea of granting women the right to inherit may ‘*disturb social order*’<sup>226</sup> and would require much time and awareness-raising. Indeed, many Burundians remain opposed to the idea of women’s right to inherit land, especially but not only in rural areas<sup>227</sup>, and is often perceived as a foreigners’ idea. Yet, one of Burundian women’s main security concerns is their (lack of) access to land, according to the 2009 ‘International Alert’ study. It is worth noting that a research conducted by the International Human Rights Law Group in 2002 revealed that some judges recognized the right of girls and women to share the family land with their brothers, in their judgements<sup>228</sup>. In other words, some Burundian courts show more flexibility than the government or society<sup>229</sup> on the issue of women’s access to land. While this may give some hope on the issue, this cannot make up for the absence of policies and laws in the country, that are much needed as part of non-repetition measures.

### Concluding

Non-Repetition initiatives vary greatly in their gender sensitivity. While there is much room for progress in the judicial reform and access to land, there have been sustained efforts to reduce sexual violence. Gender-sensitive reforms of the military and the police sectors have begun recently with international support. It is hard to assess their impact at this early stage; but the objectives set show gender-sensitivity from the actors involved.

Nevertheless, many gender-insensitive cultural and institutional obstacles to effective guarantees of non-repetition persist. Gradual, structural change is needed in order to overcome them. Meanwhile and on a more contextual level, the upcoming Truth, Justice and Reparation mechanisms constitute windows of opportunities for the introduction of new *attitudes* and *practices* in dealing with past as well as present and future gender issues – which will increase the likelihood of non-repetition. The level and degree in which the various mechanisms integrate a gender-perspective will be determined by the political will first, and technical and financial capacities second. In this equation, sustained efforts from civil society as well as international actors like the UN can further encourage the adoption of gender-responsive approaches. Coordinated efforts throughout the various TJRNR processes are necessary to effectively fight against impunity for gender-based violence and crime, and prevent their recurrence.

<sup>226</sup> Laëtitia TWAGIRIMANA and Estella CIMPAYE, *op. cit.*

<sup>227</sup> A debate on the succession issue organised by the Café Littéraire ‘Samandari’ in March 2012, held in the ‘Université du Burundi’, clearly illustrated the perpetuation of traditionalist positions even among urban, young educated milieu (the audience being mostly composed of men, however).

<sup>228</sup> International Human Rights Law Group, 2002

<sup>229</sup> Gertrude Kazoviyo and Pékagie Gahungu, 2011

## 4. Conclusion

In past and current TJNR processes in Burundi, gender issues have often ended up taking the back seat for a number of reasons as identified in this report. A gendered perspective is increasingly considered in the developing mechanisms and policies; however the approach taken is still focussed on women as victims and fails to address the perspectives of men. Sexual violence against women receives particular attention, whether in the truth and reparation process, capacity-building initiatives in the police, or legal reforms. At the same time this issue is still a taboo in Burundian society where the victim gets the blame (women suffering abandonment by their husband or family and/or exclusion from their community) while the perpetrator goes free. Sexual violence against men is an even more delicate topic. While there appears to be political will to stop sexual violence against women, such political will is less apparent when it comes to fight broader gender-based inequalities. Yet, other forms of violence against women are as important to be addressed as sexual violence is, in Burundi. Indeed, the perpetuation of, and impunity for physical forms of violence against women are only possible because of women's socio-economic dependency on their husband, limited education and restricted access justice. The reparation and non-repetition processes can and must tackle this, through a truly encompassing gender approach and strategy.

The fact that various processes of TJNR are currently being designed offers a window of opportunity to promote their gender-sensitivity. Current positive measures to address gender-inequalities focus on an increase in the numerical representation of women in state institutions. The qualitative increase in the participation of women could be improved. Such an improvement would require a change in the current idea about women's and men's social roles, which form a key-obstacle to women's meaningful participation. As this research has shown, a comprehensive analysis of gender relations before, during and after conflict is essential to identify the main obstacles for male and female victims to participate in and benefit from the various processes on truth, justice, reparation and non-recurrence, as well as to assess some of their respective needs. Once this analysis is done, measures can be taken in order to ensure any victim's participation, effectively respond to men and women's specific needs, and address gender-based violence and discrimination in the various processes.

The recent adoption of the NAP for the implementation of UNSCR 1325, the regional and national will to fight against sexual violence, and the availability of instruments promoting gender-sensitive TJNR mechanisms offer a relatively favourable context for the design and implementation of such gender-sensitive approach and measures. CSOs and the international community, along with the Ministry in charge of gender-equality, must seize this opportunity and advocate for increasingly gender-responsive TJNR processes. At the time this report's publication, attention should focus on the TRC-draft law, as it is currently being revised and will influence the shaping of the future TJNR processes.

Looking at the broader picture and in the meantime, effort is required to strengthen the rule of law in Burundi and the population's trust in the institutions. The lack of justice and the perception of the lack of justice constitute serious obstacles to any Burundian's participation in the TJNR processes and therefore to their eventual success. To that end, it is important to involve the population further and promote the society's engagement in dealing with its past and in the promotion of everyone's rights. The development and exertion of citizenship in a way that respects gendered differences, and that tackles gender-inequalities, would strengthen TJNR processes and, as a result, the sustainability of their impact.

## 5. Recommendations

The following recommendations are considered by IW as the most important and as having the most potential to ensure sustainable transformation as informed by our research and the subsequent multi-stakeholder policy-consultations.

Although we make separate recommendations for aspects related to truth, justice, reparations and non-recurrence, we underline the need for an integral approach of TJRNR processes. This approach is a necessary condition for processes to be effective in the structural transformation of society from war and post-conflict to sustainable peace.

### Regarding the truth-process, and particularly the TRC

#### Recommendations proposed to the Burundian Authorities

- Structurally involve CSOs, in gender-sensitizing the TRC law. Ensure the meaningful involvement of CSOs, including women's organisations (particularly victims' organisations), and the international community (particularly UN Women), in the TRC by establishing a joint committee that oversees the design, implementation and monitoring of the TRC.
- Provide a space for women and men to talk about the continuing consequences of violent conflict on their lives, which will increase understanding of the consequences of conflict, and of the differences in these consequences for different groups, particularly the differences between men and women.
- Disaggregate data of all persons that participate and those that testify before the TRC by sex, to enable a gendered analysis of facts and consequences of conflict, identifying how male and female victims are affected by the conflict as well as their most pressing needs in the post-conflict era, so that these can contribute to make further TJRNR-processes gender-sensitive.
- Establish mobile teams of investigators who speak Kirundi, and hold local level hearings to facilitate victims' access to TRC. This will benefit particularly female victims from remote and not easily accessible areas who lack the means (financially, transport, childcare facilities), to attend these hearings.
- Establish training for all TRC personnel on gender-sensitive approaches and practices.
- Establish a transparent performance evaluation system for TRC personnel with clear indicators to monitor performance of personnel in this respect. The system should include disciplinary measures as well as criteria of excellence. Sufficient staff should be dedicated to implement this system and follow-up.
- Appoint and train<sup>230</sup> specific investigators, to address gender-based crimes, particularly sexual violence.
- Include all gender crimes listed under the Rome Statute<sup>231</sup> in the list of crimes to be addressed by the TRC, while adding to it crimes specific to Burundian context such as forced marriage of a rape victim to the rapist. This will not only shed light on the crimes that occurred and their gendered dimensions and consequences, but also provide information for the Special Tribunal.
- Include in the list of process-related infractions in TRC and ST laws: 'preventing or forcing women and men from being heard'; and 'retaliating against victims, witnesses and alleged perpetrators

<sup>230</sup> Training should include the legal background of gender crimes, their nature, causes and consequences, investigatory techniques for interviewing the victims concerned, and (especially for the ST Judges) jurisprudence on gender crimes

<sup>231</sup> These are: rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, trafficking or any other form of sexual violence. Forced marriage should be added in the case of Burundi.

who were heard', 'including if within the family sphere, whether through physical or a socio-economic violence, with particular attention to gender relations'.

- Dedicate one of the proposed 'annual thematic training workshops and hearings' in the TRC-draft law to gender-based crimes as well as to the gendered consequences of conflict, to raise the awareness of the wider population on the specific ways men and women suffered during conflict, continue to suffer, and how this affects long term development issues and non-recurrence.
- Create mechanisms for follow-up on the TRC after its mandate has ended, so that the truth-telling process can continue long enough to ensure that all conflict victims have the opportunity to be heard.
- Set up a Gender Unit or 'Sub-Commission', as suggested by women's organisations and the GRJT. This organ could be involved in the steering as well as the monitoring of investigations, hearings and trials (particularly those dealing with gender crimes), as well as in the implementation of the various gender-sensitive measures throughout the processes, particularly on outreach and protection issues.
- Organize 'women only' hearings in the TRC.
- Search for alternative non-official truth-telling efforts to ensure that women's voices get heard and they can share their experiences without facing the obstacles they might encounter in the official TRC process.

## Regarding the Justice process

- Following the Rome Statute, include 'gender crimes' within the first category of crimes to be addressed by the ST, as being crimes against humanity or war crimes, and adjust the Burundian Penal Code by including 'gender crimes' as punishable crimes under national constitution.
- If a ST is established, ensure that it takes into account lessons learned concerning gender-sensitivity from other special tribunals, particularly from the ICTY and the ICTR, that it will be in line with international human rights standards and agreements, particularly those that promote and defend the rights of women, and that it will include measures to facilitate women's participation (like closed hearings, confidentiality, avoiding having to repeat statements several times, etc.).
- The justice-sector should be aware of women's reluctance to denounce crimes committed against them, particular if it concerns crimes of a sexual nature. To overcome these barriers, the justice sector should actively engage in outreach to contradict such ideas while at the same time ensuring the protection of these women. To achieve this they could coordinate with CSOs and the international community, while also involving local community representatives such as the *Bashingantahe*, religious leaders, and schoolteachers since these are important local power holders and possible agents of change.
- Conduct research to determine if local level justice mechanisms, like the *Bashingantahe*, can provide for gender-sensitive justice for war-era human rights violations at the local level.

## Regarding Reparations

- Conduct further research on the needs of Burundians concerning reparations. This research should include interviews with all segments of Burundian society to obtain a fair and accurate representation of the needs of the population. This could be done either through integrating this element in the TRC or by undertaking particular research with a representative group of victims, both women and men. All data collected should be disaggregated, not only for the gender demographic, but all demographic indicators.

- When designing and implementing a reparation programme, authorities should ensure that reparations are in line with international standards, particularly the Nairobi Declaration, when determining the various violations that require reparations. Here it should be taken into account that female victims, particularly victims of sexual violence, may not immediately make a claim for reparations; as a result, include a wide time-period during which reparations can be claimed and received.
- Include national and international CSOs in the design and monitoring of any reparation programme, including victims' and women's organisations, especially the Women and Peace Network (RFP<sup>232</sup>), which has developed a proposal for the establishment of a gender-sensitive 'fund for rehabilitation and social cohesion'.
- Include monitoring mechanisms in any reparation initiative to ensure effectiveness and equitable distribution.
- Consider the following options for collective reparation: free access to education, vocational training programmes and health centres. These would improve the economic situation of victims and support long-term development.
- Change the national legislative framework regarding land ownership, and create a Succession Law enabling women to inherit land. This would have a particularly positive effect on widows. See also under Non-Repetition.

### **Enforce victims' rights and – protection in processes of truth, justice and reparations:**

- Allow victims to decide whether they want to testify in closed or in public hearings (particularly important for victims of sexual violence) and whether they prefer to talk to male or female investigators. Ensure that victims can decide whether their statement should be regarded as confidential or not and explore the idea of legal penalties for any breach in confidentiality.
- Establish educational efforts to inform Burundians of their rights and the mechanisms in place to protect those rights. Engage communities and local leaders in ensuring victims, witnesses and accused persons protection, by informing the populations about their rights, about the importance of processes of TJRNR and about mechanisms' procedures and rules (including protection measures).
- Establish and fund personnel and training for the provision of gender-sensitive psychological support to victims, witnesses and well as alleged perpetrators during and after the testimony.

### **Regarding Guarantees of non-repetition**

- Establish quotas for women, including positions of authority, in the Justice and Security sectors.
- Actively recruit staff experienced and trained on gender-sensitivity in the Justice and Security-sectors.
- Set concrete indicators for justice and security staff on gender-sensitivity as well as a monitoring system with incentives for compliance with these indicators in an outstanding manner (role-models), as well as disciplinary measures for non-compliance.
- Highlight these good and bad examples in an awareness-raising effort that is particularly directed towards the justice- and security sectors.
- Interview women about the most pressing practical limitations that keep them from engaging in the justice and security sectors and design and implement an action and follow-up plan based on

<sup>232</sup> French Acronym for 'Réseau Femmes et Paix', a group of eighteen Burundian women's organizations.



the outcomes that may include such things as: the provision of separate dormitories and bathrooms, day-care for children and pregnancy leave.

- Establish rules and regulations that prevent and severely punish all forms of gender-based violence within the police and the military and adapt existing Codes of conduct with regards to gender equality and discrimination with appropriate disciplinary measures.
- Establish annually determined quotas to ensure proportionate representation of women among decision-makers and officers in the State institutions.
- Include quotas for women's participation in the future Organic Laws of the security and defence forces.
- Develop a 'gender axis' in the community-policing project that is currently being developed. This can be done through the delivery of training on human rights, gender issues, the international and national legal and normative framework on these matters, including GBV, once the community police forces are established, as well as by ensuring strong participation and representation of women in the project.
- Extend institutional quotas for women's political representation to the 'Colline' and the provincial levels, not only on national and 'communal' level.
- Support the implementation of the NAP on UNSCR 1325 and of the gender-related objectives of the CSLP II.
- Design and adopt a law on inheritance, matrimonial regimes and bequests in which women can inherit.
- Offer specific vocational training to women as well as focussed support for the establishment of income-generating activities with the help of CSOs and the international community.
- Adopt the law on GBVs.
- Once the new GBV law passed, ensure its effective implementation by establishing a steering- and monitoring mechanism under the responsibility of the MSNDPHG, in collaboration with other relevant ministries, civil society, the ICGLR and the UN.
- Adopt and enforce a specific law on domestic violence.
- Better define the role and mandate of Gender Focal Points (GFPs) in the revised version of the National Gender Policy. Provide these persons with advisory and monitoring functions that inform the design, implementation, monitoring and evaluation of gender-sensitive policies of the respective ministries. Ensure that the GFPs have sufficient skills, financial means and (political) power to fulfil such role. Facilitate their coordination under the lead of the MSNDPHG to ensure cohesion of their work and its relation to the government's multi-sectorial gender-policies (such as the NAP, the NGP and certain points of the CSLP II).

## GENERAL RECOMMENDATIONS

### To all actors:

- Lobby for the implementation of international instruments and agreements that promote equality between men and women, women's participation and women's rights.
- Ensure the equal involvement and sensitization of men and women so that gender issues do not become solely women's issues or ignores the needs and roles of men.
- Identify and disseminate good practices and lessons learned with regards to the gender-sensitive reform of state institutions and extend these gender-sensitive reforms to other Ministries, particularly in the education sector.



**To civil society organisations:**

- Actively engage with the Burundian authorities in jointly establishing priorities for TJRNR processes and sustain their advocacy and lobbying efforts.

**To international donors, INGOs and development partners:**

- Support the implementation of the NAP on UNSCR 1325 and of the gender-related objectives of the CSLP II by seeking cooperation and dialogue with state institutions.
- Continue providing technical and financial support for capacity-building activities with regards to gender issues, both for the government and non-state actors.
- Provide practical manuals on gender-sensitive training and implementation in Burundi.
- Adopt longer timeframes in the planning and funding of gender-related programmes.

## ANNEX 0 – Glossary of key terms

Gender	The socially constructed roles of, relationships between, and responsibilities of men and women - see annex I for more information.
Gender-sensitive	To pay attention to similarities and differences in the roles of, and relationships, inequalities and differences <i>between</i> women and men, as well as <i>among</i> women and men (along other axes of identity) – see annex I. Ultimately, gender-responsiveness consists in effectively providing responses to the identified gender issues, differences and inequalities.
TJRNR processes	Processes related to victims' right to know, justice, reparations and guarantees of non-recurrence - see annex II.
(Local) civil society	<p>Civil society refers to the arena of un-coerced collective action around shared interests, purposes and values; commonly embraces a diversity of spaces, actors and institutional forms, including registered charities, non-governmental organisations, community groups, women's organisations, faith-based organisations, etc. (NB/ media not included in this project)</p> <p>When referring to 'local civil society' IW means CSOs originating from the country under study.</p>
Victim/survivor's needs and ideas in relation to TJRNR processes	<p>The needs-and-ideas phrase is used to refer to a plurality of issues:</p> <ul style="list-style-type: none"> <li>- victims/survivors' self-indicated needs or requirements in the post-conflict context (e.g. prioritisation of schooling-for-children/housing/employment)</li> <li>- (self-indicated thoughts on own) rights and rights' violations, and order of those violations</li> <li>- self-indicated ideas or thoughts around TJ (e.g. perception of 'justice', thoughts on what is needed to deal with the past)</li> <li>- self-indicated prioritisation of TJ issues (e.g. killings/disappearances /rape)</li> <li>- self-indicated prioritisation of TJ efforts (e.g. what TJ mechanisms are seen as key or most needed, who's TJ efforts are seen as key or most needed)</li> <li>- self-indicated benefit from TJ efforts (e.g. did TJ efforts positively affect the life of victims/survivors)</li> <li>- self-indicated concerns, fears and doubts around TJ efforts</li> <li>- self-indicated ideas around gender balance in TJ efforts (e.g. participation of women)</li> <li>- (self-indicated) protection needs in relation to TJ</li> </ul>

## ANNEX I – The concept of gender

The terms “gender” and “sex” are hotly debated concepts. Generally, however, “sex” refers to the *biological* characteristics that define men and women,<sup>233</sup> such as hormones and reproductive organs; the term “gender” refers to *socially constructed* roles of, relationships between, and responsibilities of men and women. These determine men and women’s access to power and resources – be they public or private, material or immaterial. Characteristics of masculinity and femininity differ per time and place and depend on culture, class, nationality, and ethnicity – hence gender experts often talk about masculinities and femininities.

Gender-sensitive TJRNR processes:

A gender-sensitive approach to truth, justice, reparation and non-recurrence (TJRNR) processes pays attention to the roles of, and relationships, inequalities and differences between women and men as well as among women and men (taking into account for example different age categories, socio-economic background, and other axes of identity) in a particular context, including through integrating their specific concerns and experiences in the design and implementation of TJRNR-related actions; ensuring more equal participation of men and women in these processes, both at the quantitative and qualitative level; treating men and women as heterogeneous groups; and analysing (the construction of) gender identities (including their evolution during and after conflict) in a specific context to transform gender roles and tackle root causes of GBV - this with the ultimate goal of ensuring that women and men benefit equally from the TJRNR-related efforts and to build a more inclusive society.

## ANNEX II – List of interviewees in Burundi

- Ms Claudine AMANIMANA, Independent National Commission of Human Rights (CNIDH), 08.03.2012
- Mr Julien ATAKLA AYINON, Integrated OHCHR & BNUB Human Rights and Justice Section, 14.02.2012
- Mr Monseigneur Sérapion BAMBONANIRE, National Commission for Land and other Properties (CNTB), 26.03.2012
- Mr Prof. Venant BAMBONEYEHO, AC- Génocide CIRIMOSO, 07.02.2012
- Ms Consolata BARANYIZIGIYE, Commission Episcopale Justice et Paix (CEJP), 14.03.2012
- Ms Alphonsine BIGIRIMANA, Association des Femmes Juristes du Burundi (AFJB), 31.01.2012
- Mr Edem, K. COMLAN, RCN Justice et Démocratie, 13.02.2012
- Mr Johan DEFLANDER, La Benevolencija, 08.03.2012
- Ms Tracy DEXTER, independent Consultant on Gender and Peacebuilding, 03 & 08.02.2012
- Ms Triphonie HABONIMANA, Association pour la Mémoire et la Protection de l'humanité contre les Crimes Internationaux (AMEPECI), 08.02.2012
- Mr Oliver HOEHNE, Swiss Embassy, 16.02.2012
- Ms Marie-Josée KANDANGA, UN Women, 23.03.2012
- Mr Laurent KAVAKURE, Minister of External Relations and International Cooperation, 06.03.2012
- Ms Capt. Flora KWIZERA, Ministry of National Defence and Former Combatants (MDNAC), 23.03.2012.
- Mr Pierre Claver MBONIMPA, Association for the Protection of Human Rights and Detained Persons (APRODH), 01.02.2012
- Ms Laureline MONNIER, Heartland Alliance, 01.02.2012
- Ms Jolie-Ruth MORAND, German Agency for International Cooperation (GIZ), 08.03.2012
- Ms Jeannine NAHIGOMBEYE, Impunity Watch & Radio Isanganiro, 14.02.2012
- Mr Pasteur Elie NAHIMANA et Karoline CAESAR, Ministry for Peace And Reconciliation under the Cross (MIPAREC), 24.02.2012
- Ms Goretti NDACAYISABA and Joséphine NTAHOMVUKIYE, Dushirehamwe, 20.02.2012
- Mr Charles NDAYIZIGA, Centre d'Alerte et de Prévention des conflits (CENAP), 31.01 & 10.02.2012
- Mr Evariste NGENDAKUMANA, Réseaux Femmes et Paix (RFP), 24.02.2012
- Mr Louis-Marie NINDORERA, Global Rights, 20.02.2012
- Ms Huguette NININHAZWE, Law student, 26.01.2012
- Mr Eric NIRAGIRA, Centre d'Encadrement et de Développement des Anciens Combattants (CEDAC), 22.02.2012
- Mr David NIYONZIMA, Pierre-Célestin NDIKUMANA & Charles, Trauma Healing and Reconciliation Services (THARS), 21.02.2012
- Brother Emmanuel NTAKARUTIMANA, Independent National Commission of Human Rights (CNIDH), 16.02.2012 & 23.02.2012
- Ms Seconde NYABZUBE, Fontain-Isoko for Good Governance, 24.01.2012
- Mr Jeroboam NZIKOBANYANKA, Commission Nationale pour la Démobilisation, Réinsertion et Réintégration (CNDRR), 06.03.2012
- Mr Pavel PINKAVA and Ms Sophie MONSEUR, European Union, 08.02.2012

- Mr Serge RUMIN, Dutch Security Sector Development (SSD) Program, Burundo-Dutch Memorandum of Understanding, 08.02.2012
- Mr Cassien SIMBARE, Indahe Fondation, 13.02.2012
- Mr Amb. SMETS, Belgian Embassy, 06.02.2012
- Ms Laëtitia TWAGIRIMANA et Estella CIMPAYE, Ministry of National Solidarity, Human Rights and Gender (MSNDPHG), 26.03.2012

## ANNEX III – Actors' mapping

	NAME	TJRNR	Gender or Women’s rights	Human Rights	Other	MISSION or OBJECTIVES of relevance	ACTIVITIES	MAJOR ACCOMPLISHMENTS
LOCAL   <								

	CEDAC (Centre d'Encadrement des Anciens Combattants)	RNR				Foster peace and development with the contribution of the perpetrators and victims of war	Support disarmament processes; advocacy; economic and social reintegration of former combatants; trauma healing ("peer-to-peer support"); provide support to widows and orphans of conflict	Set up and coordination of ex-combatant associations in the whole country. Economic support to 41 ex-combatant women's associations.
	Dushirehamwe	TJRNR	X			Contribute to gender equality, peacebuilding and reconciliation	Advocacy, research and training on gender and peacebuilding	Research and advocacy on the gender-sensitivity of the National Consultations and the TRC, with other NGOs. Research on the role of Burundian women in the conflict and in the peacebuilding process. Advocacy and research on the implementation of UNSCR1325.
	Fontain-Isoko for Good Governance	TJRNR	X			Promote good governance and fight against gender-based violence (GBV)	Advocacy and research on GBV and awareness-raising. Focus groups with victims	Gender analysis and advocacy of the TRC-draft law with other women's NGOs. Campaign against Sexual and Gender Based Violence. Advocacy and research on the implementation of UNSCR1325 in Burundi. President of the Synergy of women's organisations on gender and TJ. Co-implemented the "Victimes à la une" project (an IW initiative in partnership with Fontain-Isoko).
	THARS (Trauma Healing and Reconciliation Services)	R				Heal trauma and promote reconciliation	Initiatives for collective and individual trauma healing. Research and workshops on trauma healing.	In March 2012, undertook a research that aims to identify victim's psychosocial needs. Set up the program 'Healing Memories'.
	CHOVIFE (Coalition des Hommes contre les Violences faites aux femmes)	NR	X			Involve men in the fight against GBV	Advocacy for women's rights	(Relatively new organisation)



SPPDF (Synergie des Partenaires pour la promotion des droits de la femme)		X	X		Enhance women's political participation	Training and advocacy	Organizes training on advocacy for local leaders (Abatangamuco) in eight provinces
WAP (Women Allies for Peace)	NR	X			Conflict prevention and advocacy for women's rights	1325 UNSCR dissemination	Research in collaboration with Fontain-Isoko on the implementation of UNSCR1325 in Burundi
AGB (Association des Guides du Burundi)		X			Promote peacebuilding and women's education	Training and awareness-raising	Campaign to fight against alcoholism; participated in the 'Amahoro' project to promote peace.
MPPF (Mouvement pour la Participation Politique de la Femme)		X	X		Enhance women's political participation	Training campaigns to promote women's participation in politics	Capacity building workshop for elected and non-elected women.
AFJB (Association des Femmes Juristes du Burundi)	(J)NR	X	X		Promote, defend and protect women's and children's rights, including by promoting their access to justice	Judicial support to women victims. Conferences, seminars, workshops. Formal education. Information & documentation/ databases. Advocacy.	Submitted a draft law on the protection against GBV. Collaborated on the development of the Burundi human rights monitoring report submitted to the UN Committee against torture in 2006.
ADDF (Association pour la Défense des Droits de la Femme)	NR	X	X		Advocacy for women's rights; monitoring women-oriented social action; supporting girls' education	Protection and assistance to GBV victims	Opened 18 centres for adult literacy
OAG (Observatoire de l'Action Gouvernementale)			X	Good governance	Monitor the government's work and raise civilian's awareness about the state's role and accountability	Research, awareness-raising, training workshops and advocacy campaigns	Evaluation of sectorial return policy, reintegration and rehabilitation of victims of conflict

	Nturengaho	RNR	X			Provide support to GBV victims	Psychosocial and medical support to GBV victims	Dissemination of theatre play to raise awareness on GBV
	Centre SERUKA	RNR	X			Provide support to GBV victims	Psychosocial and medical support. Emergency shelter.	Campaign against sexual violence: 'OYA!'
	AC-Genocide	RNR				AC-Génocide CIRIMOSO fights against Genocide in general, with a relatively closer attention to the 1993 Burundian genocide against Tutsis.	Conferences on Genocide	Monthly meetings for the victims of the 1993 conflict and co-author of a letter to the state authorities denouncing the destruction of the Kivyuka mass grave.
	FORSC (Forum pour le Renforcement de la Société Civile)	TJRNR	X			Conflict prevention and peacebuilding; Fight against poverty, economic, social and political injustice; To bring forth a culture of responsible and active citizenship; Promote good governance and Rule of Law	Observer in national consultations on TJMs	Submitted a draft law for the TRC and to the Special Tribunal
	FOCODE (Forum pour la Conscience et le Développement)	TJRNR			Youth	Promote development and Reconciliation	Education. Campaigns to stop GBV. Transitional justice training workshops	Conferences on transitional justice in various universities
	APFB (Association pour la Promotion de la Fille Burundaise)	TJRNR	X		Youth	Raise Burundian girls' awareness on the role they can in the social, economic and political life of the nation.	Awareness-raising activities on sexual violence against women. Promotion of human rights and gender. Fight against HIV/AIDS. Education and vocational training. Advocacy work. Reflection workshops.	Focus groups with victims in Rumonge commune and participation in the campaign 'we can stop GBV'. Fight against GBV in schools. Support to people living with HIV and AIDS, victims of sexual violence and vulnerable children

APRODH (Association pour la Protection des Droits Humains et des Personnes détenues)	NR		X		Monitor human rights and prisoners' rights in particular	Provide legal assistance to prisoners in need	Set up human rights' observers in all Burundian communes
APDH (Association pour la Paix et les Droits de l'Homme)			X		Build a society respectful of human rights	Research on land issues and transitional justice issues. Advocacy work. Monitoring of human rights' situation.	Implementation of a project in partnership with CARE that aims at the economic empowerment of women-Umwizero.
RFP (Réseau Femmes et Paix)	TJRNR	X		Peace	Increase women's participation in peacebuilding and good governance for sustainable development. Enhance the protection of women's rights.	Awareness-raising campaigns; training workshops; advocacy; women's reintegration; support to victims of sexual violence.	Promote a rehabilitation and cohesion fund as a reparation mechanism. Consulted women on their needs and expectations of TJMs. Carried out a study on the inheritance issue and women. Participated in the "Victimes à la une" project (an IW initiative in partnership with Fontain-Isoko). Conducts advocacy work on the prevention and the repression of GBV, while providing psychological and economic support to the victims.
Ligue Iteka	NR		X		Promote human rights	Research and monitor human rights situation and peacebuilding process. Advocacy.	Implementation of GBV project in Bubanza province. Participation in National Consultations as Civil Society representative
SBVS (Synergie Burundaise contre les Violences Sexuelles)		X			Prevention of GBV	Capacity building. Information and awareness-raising.	Provision of psychosocial assistance to victims of GBV in 14 communes, in partnership with Care International
FAWE (Forum for African Women Educationa-list)		X			Promoting girls' education	Training and information awareness; research and advocacy campaign	Research on barriers to girls' education in Burundi

	AFRABU (Association des Femmes Rapatriées du Burundi)	RNR			Victims	Advocacy for returnees' rights and participation in peacebuilding initiatives	Economic and social empowerment of women returnees	Participation with other organisations in the project "pour une voix forte des femmes dans la consolidation de la paix et la Réconciliation"
	ASRPDH- Kivvuka	RNR			Victims	Promote victims' rights (Bubanza province-based)	Advocacy for victims' rights	Co-author of the letter to state authorities to denounce the destruction of the mass grave of Kivvuka
	ALM Buta (Association Lumière du Monde Buta)	RNR			Victims	Promote victims' rights (Bururi province-based)	Advocacy for victims' rights	Co-author of the letter to state authorities to denounce the destruction of the common grave of Kivvuka
	ARG Amira	RNR			Victims	Promote victims' rights (Gitega province-based)	Advocacy for victims' rights	Co-author of the letter to state authorities to denounce the destruction of the common grave of Kivvuka
	MIPAREC (Ministry for Peace And Reconciliation under the Cross)	TJRNR				Promote peace, community-based development and social cohesion	Contributes to setting up "Peace Committees", gathering various groups within the communities, mediating local conflicts. They also set up "self- help groups" for community- based economic recovery.	Many cases of conflict settled by the Peace Committees are considered as successful reconciliation between victims and persecutors among Burundians.
	Centre Ubuntu	RNR				Promote peace and reconciliation	Organizes theatre projects, psychosocial counselling, peace education, and media programs	Trained 90 people in counselling and trauma healing.
	AVICIBU- Bugendana	RNR			Victims	Promote victims' rights (Bugendana Commune-based)	Organizes public events in memory of the Bugendana victims	

B U R U N D I A N  I N S T I T U T I O N A L  A C T O R S	Ministry of National Solidarity, Human Rights and Gender	NR	X	X				Set up Gender Focal Points in all Ministries. Advocated for and prepared National Action Plan for UNSCR 1325 (adopted in 2011); the NAP puts forward a collective reparation fund for victims of sexual violence. Conducted, and will conduct further awareness-raising campaign on inheritance law issue.
	Justice Ministry	J, potentially						
	Ministry of Public Security (MSP)	NR						Ongoing reform including a gender axis.
	Ministry of National Defence and Former Combatants (MDNAC)	NR			X			Ongoing reform including a gender axis.
	Première Vice-Présidence de la République	TJRNR			X		Lead the TJ process in Burundi	
	Parliament – ‘Gender and Human Rights Commission’		X	X		Analyze all human rights and gender issues before they are discussed in plenary session of the parliament		
	National Commission for Land and other Properties (CNTB)	R				Mission: to solve land and other property-related disputes resulting from post-independence wars (it mainly concerns returnees and IDPs)		

	Independent National Commission for Human Rights (CNIDH)	T and R potentially. NR		X		Mandate: to receive complaints and investigate human rights violations, fight against torture, rape and other forms of GBVs, provide legal assistance to victims or propose concrete measures to the government to promote rights protection.		Is examining the possibility of acting for the protection of mass graves. Have also started exploring the question of missing persons with the International Committee of the Red Cross (ICRC). May be involved in ensuring effective victims' protection during the Truth process. May be involved in the follow-up work subsequent to the TRC, including in the Reparations process.
	National Commission for Demobilisation, Reinsertion and Reintegration (CNDRR)	NR				Demobilisation, reinsertion and reintegration of former combatants		
I N T E R N A T I O N A L  N G O S	Global Rights	TJR	X	X		Promote human rights through capacity-building and by supporting local civil society initiatives	Research, training and advocacy on land and transitional justice issues	Training workshops for CSOs on the TJM, including on GBV and the TRC. 500 cases of land related conflicts solved in the provinces of Ngozi, Muyinga and Kirundo
	Care International	NR	X			End GBV by involving boys and men. Promote women's economic empowerment	Funding local NGOs working on GBV; women's solidarity groups for micro-projects and micro-credit	Implementation of Gezaho project to stop GBV
	Catholic Organisation for Relief and Development Aid (CORDAID)	TJRNR				<i>(Relevant objectives in Burundi)</i> Make the TJMs responsive to victims' needs and raise the victims' awareness on TJMs.		Funded the IW-initiated "Victimes à la Une" project, raising awareness and assessing the needs of the victims with regards to TJNR processes. This project was implemented by five local civil society organizations under the leadership on Fontaine-Isoko.
	RCN Justice & Démocratie	NR	X			Support public institutions and civil society in order to enhance justice and restore the population's trust in justice institutions	Preserve the oral history of the conflict; Opening spaces for dialogue; Conflict transformation	Production and representation, throughout the country, of a theatre play dealing with conflict transformation and TJ

	Search for common Ground	TJRNR			Peace and reconciliation	Objectives of relevance: Reinsertion and resettlement of marginalised groups. Promotion of accountability in local conflicts, including land-related conflicts.	Radio programmes. Community-based activities such as training workshops on leadership, peaceful conflict resolution and advocacy skills.	Community reconciliation. Reinforcement of and support to the media. Support to the creation of women's organisations. Media coverage of the National Consultations.
	La Benevolencia	NR			Conflict transformation	Prevent conflict by raising public awareness on conflict cycle and peacebuilding	Production of popular radio programs	Production of "Sorongora" radio episodes aimed at raising awareness on TJMs.
	International Alert	TJRNR	X			Conflict transformation and capacity building of the main actors	Dialogue, research, advocacy and training	Research and advocacy on the gender-sensitivity of the National Consultations. Training workshops on Gender and TJ
	Human Rights Watch	NR		X		Monitor and report on human rights' situation	Provides regular independent reports on the Human rights situation in Burundi	
I N T E R N A T I O N A L	BNUB (Bureau des Nations unies au Burundi), TJ Unit	TJRNR				'Encourage the Government of Burundi to establish TJMs, including the establishment of a Truth and Reconciliation Commission, in accordance with the results of the work of the Technical Committee, the 2009 national consultations, Security Council resolution 1606 (2005) as well as the Arusha agreements 2000'	Assisting civil society and state institutions in the preparation and implementation of TJMs	Technical and financial support to the National Forum of Community Networks for Transitional Justice in Burundi (FONAREC/JT).



O R G A N I S A T I O N S	UN Women Burundi	TJRNR	X			Promote gender equality, women's participation in the peacebuilding process, women's empowerment and fight against GBV	Technical and financial support for women's rights-related projects (esp. working with women CSOs); awareness-raising campaigns; advocacy	Research on the national situation of GBV in 2008. Awareness-raising campaign on TJ for women (2008). Support to the SSD program for gender axis
	International Conference on the Great Lakes Region (ICGLR)		X	X	Peace-building	Promoting peace and security in the region	Organisation of regional meetings of state officials. Advocacy.	Heads of states' Kampala summit in Dec. 2011: adoption of a declaration in which member states commit to eradicating sexual GBV
	European Union (EU)	(Potentially)	X	X	X (...)			
B I L A T E R A L  P A R T N E R S	Belgian Embassy	(Potentially)	Gender is mainstreamed in their programs		Justice sector reform (among other programs)			
	Swiss Embassy	TJRNR	X	X			Advocacy work to the Burundian government to ensure victims' needs are taken into consideration in the TJRNR processes. Support to CSOs, the MSNDPHG and the CNIDH.	Financial support to the media information campaign on the National Consultations. Outreach initiatives based on the main findings of the National Consultations. Technical support and advocacy to the Technical Committee.

	Dutch support to the Security Sector Development (SSD) Program, Netherlands-Burundian Memorandum of Understanding	NR	X					Designed and supported the implementation of an eight-year Security Sector Development Program within the MSP (police) and the MDNAC (defence). Gender is mainstreamed throughout the program's strategy.
	German agency for international cooperation (GIZ)	NR	X				Training; research; technical support	Trained all policewomen for 2 years. Helped set up and support a 'Police women network'.
E X P E R T S	Didace kanyugu		X					
	Dr Philip Ntahobari		X					Member of GRJT
	Anne Marie Bhirabake	X						
	Lucie Nyamarushwa	X						
	Emmanuel Ntakarutimana		X					
	Tracy Dexter	X	X					
	Dr Denis Bukuru		X					Member of GRJT
	Dr Nahiri Arzoumanian-Rumin	X						Member of GRJT

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