Global Rights Burundi

EVALUATION OF USAID PROGRAMS IN BURUNDI

Draft Report

Management Systems International

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EXECUTIVE SUMMARY

Introduction

The evaluation was commissioned by USAID/REDSO in Nairobi to support a reassessment of programming priorities, in light of upcoming elections in Burundi, as planned in the Arusha Peace and Reconciliation Accord.

The field visit was undertaken by two MSI consultants, Ms Fabienne Hara and Mr Emery Brusset, between July 7 and 20, 2004. They covered the work of the two organizations funded by REDSO in the field of conflict mitigation and prevention: Search for Common Ground, and Global Rights. The analysis was divided into two separate reports, each covering one of these institutions. Debriefings were held in Bujumbura and Nairobi, and the report presented on 31 July.

The findings are listed below as observations, following the three tier structure foreseen in the Scope of Work.

Observation N° 1: Design

The evaluation finds that there is a small but significant mismatch between the objectives of the organisations. The USAID Intermediary Results are focused on the institutional aspects of the political transition. Search's objectives date to 1995, and flow from a gradual evolution over the years. This organization covers a wider understanding of conflict to include all societal vulnerability to conflict, and the risks of future conflict. The objectives of Global Rights are broader in the sense that they deal with NGO capacity and all forms of disputes formulated by the population.

USAID's and its partners' objectives refer to different processes and timeframes. In recent months Search has gradually shifted its focus toward a community approach, broadly defined as more tuned to specific cases of tension in the population. Global Rights seeks to phase out its capacity building program after 5 years.

The evaluation uses the NGO objectives as its principal point of reference.

Recommendation 1:

The IR should be explained by USAID to include the societal dimensions of conflict in the country, as these are key to the conflict (particularly because of the elections, and importance of land conflicts), and better reflect the programs funded.

Observation N°2: Design

In the design of objectives and weighting of activities (either written, as found in the agency literature, or oral, as very cogently communicated by the program directors) the organizations do not refer to an analysis of the drivers of the conflicts. The concept behind the interventions is not clear.

The objectives found (and these are frequently stated separately from one another, or are confusingly cross-cutting in some programming documents) reflect more the dual foundations of the programs: (1) expertise in certain conflict management and arbitration techniques, and the (2) wealth of personal contacts, rather than a deeper analysis of what causes the most risk of conflict.

This leads to a reduced overall efficiency. It is not possible for the organizations to weigh the merits of the different components in terms other than continuity or non-continuity with existing structures.

Recommendation 2:

1. *A long range conflict assessment should be carried out in both organisations, leading to a priority ranking of different areas of interest and some indicators of success.*

2. *The triggers which the evaluators found for the peace process are: demobilisation, disarmament and reintegration, the repatriation of refugees, and the poor quality of information about elections and the economy, both areas where there will be much critical change in the short term. Programs should address these issues more specifically. In particular Search should target the future demobilised soldiers and help them get information on DDR packages, as well as vocational training.*

Observation N°3: Management & Implementation

The flow from objectives to corresponding activities and then the implementing structures of both organisations is not clear for GR. The GR programme is divided into two, one stream dealing with the grey zone between state law and customary law, one stream dealing with facilitation of constitutional and legal issues in the Arusha agreement. There is also a continual effort to identify and strengthen local NGOs, but this has not yielded ongoing relationships.

Search runs four components, dealing with promoting a more benign/active media, support to women in the communities, assistance to victims of violence and rape, and dialogue among high conflict risk youth groups.

The operational links between the different components of Search are good, at all levels, although it is not clear whether this is the result of the integration initiative. However these four components crowd out one another in the field, as the logistical capacity is very limited (particularly one vehicle per field

office) for an outreach program. Global Rights is run as two separate components, one centred in the communities in the field (where it is directly operational) and one turned to legislative lobbying with other NGOs.

The relationships of the main organisations to their partners are heavily influenced by previous commitments, and in some cases for GR there is a sense of drift (phasing out legal clinics from certain areas with no valid reason). These partners include paralegal advisers in the case of GR, a decreasing number of associations, and a divisive community of national civil society organisations. In the case of Search this concerns radio stations, and in particular Radio Isanganiro.

Recommendation 3:

1. *There should be a new planning workshop in which the coordination between components is clarified, based on the conflict assessment, and an analysis of the impact achieved, or the potential for impact.*

2. *There should also be an increase in the logistical capacity, funded by USAID, to maintain the efficiency of the programs.*

3. *There should be a better conceptualisation of the link between objectives and partnerships, and a definition of the relevance of one to the other. The programs should in this process define partnerships and lasting institutional survival as one of the impacts of the programs.*

Observation N°4: Management & Implementation

The political nature of the work and the highly polarised nature of the society have complicated the human resource management processes of Search, and to a lesser extent of GR. There is considerable uncertainty in some quarters concerning the criteria used in selection and promotion. The ratio of field staff to headquarters staff is good.

Recommendation 4:

Both organisations, but particularly Search, would need to formalise and explain the structures they run. The priority must be given to avoiding providing an excuse for criticisms about unclear staff management principles, rather than squaring the circle between representativity and merit based recruitment without a formally recognised policy.

Observation N° 5: Management

Both organisations have managed to achieve an impressive continuity of presence, high rates of staff retention, and high profile and significant relations with partners, the society, and the state in Burundi. This is less true for GR, which is still not connected to major civil society initiatives or

lobbying activities related to the lawmaking process, even if it has a strong profile in the Provinces where it operates and attracts high profile staff.

Overall the programs are based on the twin assets of partnerships with institutions and people (such as facilitators, or partners) and on conflict mitigation processes (enhancing dialogue for example). This means that the content of the messages and types of conflicts to be addressed can be adjusted rapidly.

Recommendation 5:

It is crucial for USAID not to upset the balance created by proposing new programme orientations, but to take advantage of the relative indetermination and flexibility of programmes to adjust to evolving reality.(not clear)

Observation N°6: Impact (Search)

The media programmes have had a significant impact on the conflict, because of the quality of design which enabled Search (i.e. Studio Ijambo and Radio Isanganiro) to catch and hold the attention of the majority of the radio-listening population. The productions have led to a new interaction between media and the political class over the period 2001-2004, and a universally recognised improvement in quality of reporting in the country as a whole. There has been little attention on the part of Search to the capacities it has created, in the form of individual journalists, but also radio stations, other than Radio Isanganiro.

Recommendation 6:

1. *This issue of capacity created needs in fact to be reviewed from a variety of perspectives, in particular sustainability, protection and guarantees of political immunity to manipulation (for example advice in human resource management), demarches in cases of intimidation.*

Search's Youth and women's components are much more localised in their impact than media (a few communes and sharply defined groups), but very deep. This is because of the relevance of the issues covered to the population, the problematic nature of information on the peace implementation (particularly elections), and the need to build new capacities to respond to conflicts as the society moves away from the traditional modes of arbitration.

2. *USAID through Search should seek to bring more funding to the youth and women's activities to extend their geographic scope. Although the impact of VOT was not measured, the past evaluation suggests it is responding to conflict rather than preventing it, and we would recommend it be handed over to another service organisation operating in the health sector. A review of the importance of Search-VOT should be carried out, which currently constrains the performance of the other programmes. The conceptual link between conflict mitigation and assistance to victims of rape is tenuous.*

Observation N° 7: Impact (Global Rights)

GR has not been able to achieve the desired impact in the activity covered by the evaluation (support to the Truth and Reconciliation Commission) due to the weakness of the context which it seeks to influence (Parliament and civil society) and the necessity for the Burundian political parties to conclude political negotiations on the issue of impunity. In the para-legal assistance field it has a very effective but geographically decreasing impact: it is currently only present in two Communes, even though it has been offered funding by UNHCR in Muyinga an Kirundo Provinces.

Recommendation 7:

1. *USAID and GR should study the legal clinics as an original, low cost and effective form of influence on one of the main long term causes of conflict in the society. It should revamp past projects and launch new ones.*

2. *In particular, an assessment of the potential role of the legal clinics to help solve land conflicts related to refugee repatriation and DDR process should be conducted. Also, an assessment of the state of civil society would be helpful.*

3. *GR needs to assess risk of duplication with the Bashingantahe institution, to clarify relationship with local administration, local judiciary and CNRS. Some of the Provinces could be funded through other donors.*

Both organisations have invested in monitoring of impact, particularly Search. This has helped promote the discussion about objectives. However few evaluations carried out include impact data, and surveys and information generated by others are still not well used (eg research done by OTI, evaluation of the VOT programme).

4. *This burgeoning process of impact monitoring should be promoted further, and funded by USAID.*

The work carried out has led to a great degree of voluntary commitment and risk taking.

5. *More attention needs to be paid to security of Search trained "messengers of peace". The activities of both organisations lead to a high exposure to security risks for those who cooperate with them. This raises issues of duty of care, which need to be thought about more carefully than is currently done (maybe by generating more visits to show that there is a commitment to the work and information flows).*

Observation N°8: Adjustments as Regards Elections

It is possible for both organizations to engage in a more targeted program dealing with issues pertaining to the elections. These could easily capitalise on the existing assets, and there is a risk of weakening what exists, which would

have an impact on continuity and efficiency. The VOT model has not been the most constructive in this sense.

However both organizations remain well placed to deal with other conflict triggers

Recommendation 8:

1. *The GR program could be used to address in a deeper manner the issue of land, which, even if there is repatriation, will be a source of unease;*

2. *Search but particularly GR could support civil society networks and frame their actions to allow for an effective communication plan, particularly rumour management and the trickle up of good information on the campaign in the hills*

3. *Agree with civil society on a "code of conduct" and an acceptable "campaign language" and start monitoring the pre campaign in a systematic way as of now;*

4. *Search could contribute in the training of local election observers through its youth and women's programs (see Kenya and Zimbabwe experience). However this should not lead to an electoral assistance program, which should be instead supported by an independent organisation, preferably from the region.*

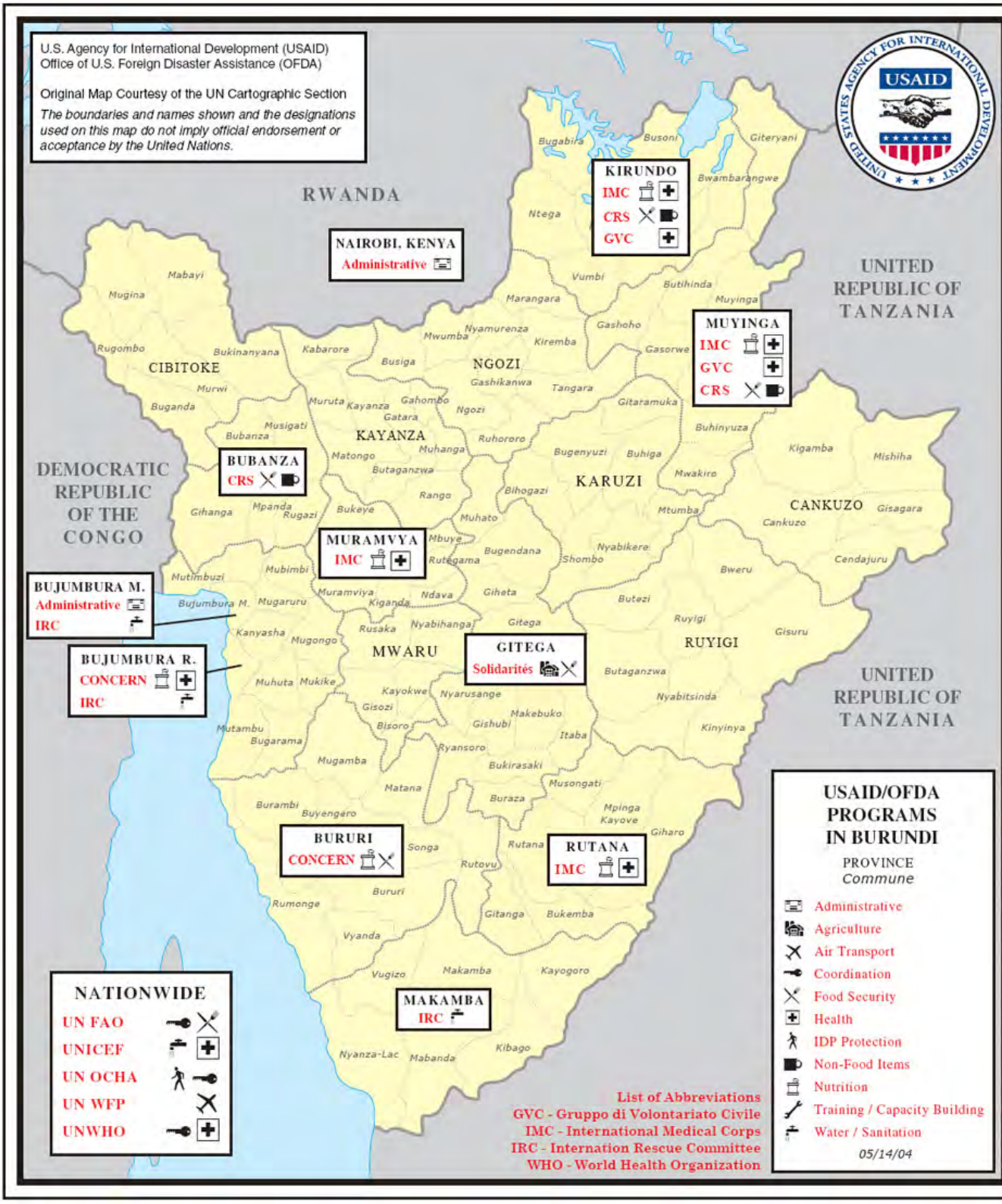
ABBREVIATIONS AND ACRONYMS

AC genocide	Action Contre le Génocide
ACAT	
AFJ	Association des Femmes Juristes
AOP	Annual Operating Plan
AOPS	Annual Operating Plans
APDH	Association pour la Promotion et la Défense des droits de l'homme
APRODH	Association pour la Protection des droits humains
ASF	Avocats Sans Frontières
AU	African Union
CARE	Cooperative for American Relief Everywhere
CECI	
CIVIC	…a new NGO…
CMC	The Ceasefire Monitoring Commission
CMM	Conflict Mitigation and Management department
CNDD-FDD	
CNRS	
CRS	
CSO	Civil Society Organisation
DDR	Demobilisation, Disarmament and Reintegration
DDRR	Demobilisation, Disarmament, Rehabilitation and Reintegration
DFID	Department for International Development
DRC	Democratic Republic of Congo
FAB	The new integrated high command of the Burundi army (or is it only the Burundi Army???)
FDD	
FFP	
FNL	See PALIPEHUTU-FNL
FORSC	Forum pour le renforcement de la société civile
FRODEBU	
FY	Fiscal Year

G10	… for the Tutsi parties
G7	… for the Hutu parities
GR	Global Rights (formerly known as International Human Rights Law Group)
HRW	Human Rights Watch
IFES	International Foundation for Elections System
IGO	Inter-Governmental Organization
IHRLG	International Human Rights Law Group
IJCI	International Judicial Commission of Inquiry
IR	Intermediary Result
IR 1	Intermediary Result- Peace Process and Transition Institutions Strengthened
IR2	Intermediary Result – Increased Participation of Civil Society
MP	Member of Parliament
MSI	Management Systems International
NGO	Non-Governmental Organisation
OFDA	Office for Foreign Disaster Assistance
OTI	Office for Transition Initiatives
PALIPEHUTU-FNL	
POC	Joint operational plan for disarmament and demobilization
PRM	Population, Refugees and Migrations department
PVC	
RCN	Réseau Citoyen Citizens' Network
REDSO	Regional Economic Development Services Office
RESO	….a network of international NGOs running offices in Burundi that meets twice a month to exchange information and views on the context
Search	Search for Common Ground
SFCG	Search for Common Ground
SIDA	Swedish International Development Cooperation Agency
SRSG	Special Representative of the Secretary General
TRC	Truth and Reconciliation Commission
UN	United Nations

UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UPRONA	
US	United States of America
USAID	US Agency for International Development
USD	United States Dollars
USG	US Government
VOT	Or VoT Victims of Torture
WFP	World Food Programme
WHO	World Health Organisation

MAP OF BURUNDI



1 BACKGROUND

1.1 Evaluation Approach and Methodology

Because of US Embassy travel restrictions, and the short time in country, field visits only took place to Ngozi province (two communes of Ngozi and Nyamurenza). Both Search for Common ground and Global Rights have field offices ('antennas') in Ngozi, and facilitated the visits to the communities in the hills, including transport and translation. The consultants seize this opportunity to thank both organizations for their friendly reception, and to stress their openness to the evaluation process.

The visits included semi-structured interviews and direct observation, particularly of the legal clinics. Interviews were also carried out in Bujumbura with Barundi politicians, journalists, other agencies, and staff from the two NGOs. The list of persons met is included in Annex I.

The results framework provided the points of reference on which the evaluation will be based. These were drawn from the USAID and NGO documents, and when found of limited content, from interviews of staff. These results were analyzed at three levels, as provided for in the Scope of Work: planning and design of the interventions, management and implementation of the activities, and impact achieved in terms of changes in the broader context (beyond the outputs of the programs).

The design analysis segment was carried out primarily on the basis of documents given, supplemented with interviews with key personnel. Following the Scope of Work, reference was made to conflict analysis. The evaluation also refers to implicit theories of conflict and non-formal goals.

The management analysis section was carried out by semi-structured interviews with a number of staff (approximately 10 individual interviews for each organization and three group interviews).

The question of impact is considered very important, and the evaluation consecrated a larger amount of time to it, mainly dedicated to semi-structured interviews and review of the relevant reports, seeking out specific indicators.

The selection of the indicators was based on a methodology laid out and discussed with the client in the inception phase. For IR 1 (peace process and transition institutions) the evaluation followed one action by GR from initiation to its phasing out, rather than evaluated all activities. The evaluation proceeded by the identification of possible waste or on the contrary multiplier effects; gap analysis between the intended and achieved; constraints and how they are addressed; and an analysis of the quality of outcomes (in particular relevance).

For IR2 (civil society) the evaluation proceeded by splitting the interviews into four groups of population: (1) the political class, including some high

level Burundi officials, and donors other than Search and GR. (2) Farmers and persons who have benefited from the community activities of both organisations. (3) Staff from all organisations, which can be called "partners" by the fact that they implement similar activities. (4) Staff from both NGOs. Due to the lack of time, the impact assessment relied on existing surveys in both organisations, and some surveys carried out by other organisations (for example baseline surveys by OTI) in related fields.

The indicators for IR 2 required some degree of elaboration by the evaluators. An objective should be explicit, that is, it must clearly show why an intervention will be judged better or worse in meeting the objective. To be used in an evaluation, an objective should indicate a form or level of success at which an intervention will be considered good in terms of reaching this objective.

As this quality was not found in the documents, we proposed to use three forms of implicit objectives to track direct contributions, drawn from language, which has been recurring in the preliminary interviews. These can be defined as:

1. To catch people's imagination (short term impact): Has there been a propagation of new models of social interaction, which are attractive and are reproduced and emulated further within the society? What are these models, how attractive are they? Were they proposed at the right time, or allowed the organization to buy time while contradictory messages of incitation to violence and tension were being spread?
2. To create new modes of interaction (medium term impact): Have the activities allowed groups which did not previously have contact to talk to each other, either through political representatives, community to politicians, or between communities? Have these contacts been of a new nature? Were they noticed as important by a significant number of people?
3. Capacities (long term impact): what institutions have been created, for example new radio stations? What personnel have been trained and what skills have been improved which will allow the society to respond to a new upsurge in violence? What sustainability have these new capacities got?

1.2 Country Background

The Scope of Work asked that the evaluation begin with an analysis of *"the evolving drivers and manifestations of the waning conflict, as well as the peace building processes in Burundi"*. We have here taken a focus on the events and trends, which characterise current Burundi, rather than a more historical perspective.

In the last ten years, the Burundi context has been characterized by two dynamic processes that have run in parallel: the civil war that started in 1993 with the assassination of the first democratically elected Hutu president Melchior Ndadaye, and the peace process, which began officially in Arusha

under the auspices of Julius Nyerere in June 1998. The Arusha process, which came after the failure of several internally negotiated power sharing agreements, has so far lasted six years. It has been negotiated in stages (Arusha agreement in 2000, agreement on the transitional arrangement in 2001, cease fire with *Conseil national pour la défense de la démocratie – Forces de défense de la démocratie* in 2003), and by several mediators.[1] The implementation of these agreements is now being guaranteed by the former AU now UN peacekeeping mission.

The length of the process can be explained by the fact that the formal peace process was never fully inclusive of all parties, allowing them to "talk, and fight strategy" in order to gain a position of superiority. These constant re-alignments and the rebels' late accession to the talks have given rise to internal divisions within the parties, alliances and counter-alliances. Burundi has hung between war and peace since 2000 as the Arusha agreement's implementation has become an endless cycle of re-negotiations on the concerns of various parties. The current talks on the electoral system and post elections constitution, as well as the current attempts to include the FNL in the talks, are a good indication that the process has not yet been completed. To date, none of the fundamental reforms addressing the root causes of the conflict and included in the Arusha document have been implemented.

In this context, the 'peace process' can be defined in two ways: either strictly as the negotiation and implementation of the Arusha agreement, or broadly as the framework that has gradually formalized the different stages of conflict transformation.

Formal and informal achievements of the peace process

The first principal result of the talks, the Arusha agreement, is a thorough and balanced reflection of the 20 parties' wishes for political representation and access to political power, and is based on a series of unanimous resolutions. The three completed protocols (I, II, IV) establish a clear and ambitious program of action aimed at advancing the cause of reconciliation, democracy and reconstruction in Burundi. *Protocol I*, which focused on the nature of the conflict, includes the set up of two justice mechanisms: an International Judicial Commission of Inquiry and a Truth and Reconciliation Commission. *Protocol II*, which dealt with democracy and good governance, lists power sharing principles and outlines a complex election system that would protect minority rights; *Protocol IV* of the Arusha Agreement provides a roadmap for economic aspects of the post-conflict period.

The two major sub-agreements missing in Arusha, a transitional power sharing agreement (an item of Protocol II) and a cease-fire and security sector reform program (Protocol III), were reached much later. In July 2001, the two main political parties, FRODEBU and UPRONA, agreed on a three

[1] UNSRSG Ahmedou Ould Abdallah, Carter Center, Community of Sant Egidio, Julius Nyerere, the Regional Initiative on Burundi (chaired by President Musevenu), Nelson Mandela, Jacob Zuma.

years transition period with a rotating presidency, which led to the return of exiled FRODEBU politicians to Burundi. The composition of the National Assembly was modified and the Senate was set up to include more members from the various coalitions of political parties (called G7 for the Hutu and G10 for the Tutsi parties).

On 16 November 2003, the transitional government led by President Buyoya signed a landmark ceasefire agreement with the party of Jean-Pierre Nkurunziza. This complemented the ceasefire reached earlier in 2002 with two minor rebel groups (the CNDD-FDD faction led by Jean-Bosco Ndayikengurukiye and the PALIPEHUTU-FNL faction led by Alain Mugabarabona). This agreement anticipates full integration of the current Burundi army and the FDD. Following the signing, an African Union force with South African, Ethiopian and Mozambican troops was deployed in the spring 2003, and replaced a year later by a UN peacekeeping force, authorized on 1 June 2004.

Role of media in the process

The inclusion of the rebels in the process would not have been possible without the active participation of the media in broadening the political debate after the signing of the Arusha agreement in 2000.

For the first two years of the Arusha process, the media failed to fulfil its duty to inform the people about the state of negotiations. The Buyoya government argued that restrictions were necessary to avoid ethnic mobilization and strong reactions from certain constituencies. In particular, it accused FRODEBU of civil disobedience and of mobilizing the Hutu population against it. In fact the media were being used as a pretext to control the information that people received about the talks.

Control of the media has indeed been a deeply entrenched obsession shared by all Burundian politicians. In 1996 suspension of the freedom of press followed a three-year period during which the media of various parties had encouraged violence by spreading messages of ethnic hatred.

When, in his capacity as Mediator, Nelson Mandela sought to include the rebels in the peace process, he asked President Buyoya to comply with rebel pre-conditions, which included the release of all political prisoners regardless of their crimes; the restoration of the rights of political parties; and the closing of military population 'regroupment' camps. Mandela also demanded that freedom of the press be restored. He thought that a radical change of policy towards the press was required in order to prepare the people for a peace agreement and to pave the way for the return of exiled Hutu politicians. The media had to start supporting the process of national reconciliation and reconstruction of the country through a debate that would be as broad as possible.

Gradually, radio was made accessible to all parties involved in the conflict. The FDD and the FNL appointed spokesmen started being interviewed by

Burundian journalists by mid 2001. The content of the Arusha agreement was also finally publicized though the media and the actions of some NGOs. Today all private radio stations in Burundi try to give a fair share of time to politicians from all sides in their broadcasted debates.

Ceasefire and DDRR

Since the signing of the comprehensive ceasefire agreement between the transitional government and CNDD-FDD rebels headed by Jean-Pierre Nkurunziza, both sides have demonstrated total respect for the cessation of hostilities. Bujumbura Rural is the only province where members of the PALIPETHUTU-FNL (FNL) still clash with government forces, which now include members of the FDD.

FNL, the sole remaining rebel group in the field, has only recently demonstrated its willingness to join the talks. It has been seriously weakened by the operations of forces under the new integrated high command of the Burundi army (FAB) and the FDD and by sanctions imposed by regional leaders on the movement in June 2004.

An integrated military high command responsible for carrying out the reform of the army has been working since January 2004 on a plan to integrate former FDD rebels. The Ceasefire Monitoring Commission (CMC) has proposed a joint operational plan (POC) for disarmament and demobilization. Both sides have demonstrated willingness to implement part of the plan by separately disengaging and assembling their forces and respecting the cessation of hostilities. But the process is running out of steam because of lack of commitment and funds to carry out the actual integration.

The main issue that remains to be solved is the conflict between two different conceptions of the DDRR process; international donors, including the World Bank, put an emphasis on disarmament and demobilization of the rebels, while the Global Cease Fire Agreement talks about "integration" of both troops into a new national army first. Furthermore, many issues remain unsolved. The Forces Armées Burundaises can hardly be considered as a unified body. Many officers are now openly rebelling against their superiors and accusing them of misinforming them about the demobilization and disarmament process. They claim that they refuse to remain hostages to the 1993 "putschist officers", now that the war is over, and that they want to negotiate their own future. For example they want to negotiate their demobilization package directly, as it is very likely that most ex-combatants will want to buy a piece of land and build their own house in the region of origin.

Repatriation and land

A permanent suspension of hostilities in Burundi and the prospect of elections carry the risk that a great many people who were uprooted will

rush home to a country not yet prepared to receive them. It will only be possible to repatriate approximately one million Burundians quickly if thorough advance preparation is made. Too little attention has been paid to the land question this involves, however, by both the transitional government and the international community.[2]

Burundi has experienced two main waves of refugees. The first was in 1972, when genocidal acts of the army against the Hutu elite led approximately 300,000 to flee, mostly to Tanzania. In 1993 the assassination of President Ndadaye and the massacres which followed started another round of flight and displacement. After ten years of war, over 500,000 are estimated to be in the refugee camps in western Tanzania. Another 300,000 are thought to be dispersed across Tanzania. There are approximately 280,000 permanently displaced persons in Burundi itself, living in 226 registered places. Moreover, every month 100,000 people on average became temporarily displaced as a result of the ongoing fighting.

To one degree or another all these refugees and displaced persons have been the victims of land expropriation. The 1972 Hutu refugees were deprived virtually systematically of their goods and lands in the fertile Imbo plain by the Micombero and Bagaza regimes. The 1993 refugees were less often the victims of expropriation - but this does not mean that their return will be any easier. As with displaced Tutsis currently living on the edges of the cities, many were victims of profiteers who benefited from the absence, or death, of the legal owners either to seize land or to sell it at a profit. War-profiteers have also manipulated rampant administrative and political corruption to appropriate the estates which could have been used to help with the resettlement of refugees.

The Burundi government and the international community have thus far failed to recognise the scale of the problems they will face with the return and resettlement of refugees and displaced persons. But there is a precedent in Burundi's history for what the poorly prepared return of refugees can mean for political stability. Following the election victory of FRODEBU in 1993 some 50,000 refugees from 1972 returned spontaneously. Their arrival was handled badly by the newly installed government, which was trapped between the necessity of returning to the refugees what the former regime had stolen from them and the fear of the Tutsis that they would be the losers. It was, in part, the demonstrations of expropriated Tutsi families which led to the coup d'état and the assassination of President Ndadaye on 21 October 1993.

The issue (with varying degrees of intensity depending on the areas) will be an ongoing source of tension during the transition process and could become an issue during the elections. Those disappointed by the peace process are likely to use every opportunity to block reforms in the first few months after a definitive cease-fire. There is scope for both Hutus and Tutsis to engage in a political war over the restitution of land to refugees and

[2] See ICG reports, 2004.

displaced persons and over payment of reparations and compensation to expropriated or resettled families.

The foreseeable disappointment of a large number of refugees who will be unable to recover their property offers ideal political opportunities for the opponents of the process. The transition could likewise be in serious danger The urgent requirement in this situation is to defuse the land conflict trigger through the creation of an innovative transitional judicial process designed exclusively for land management. One example would be to adapt the traditional institution of Bashingantahe, and work with the local administration and CNRS to help implement the resettlement process. These new structures should help elaborate the precise rules governing:

(a) the resettlement of refugees and displaced persons on their property; (b) compensation criteria for expropriated families; (c) resettlement criteria for estate lands; (d) the amount of reparations for those unable to return to their former property; and (e) establish the principle whereby a widow has full rights to the property of her deceased husband.

Elections

Arusha set 1 November 2004 as the deadline for elections, and tensions have been growing in the lead-up to this new phase in the peace process. At the last regional summit on Burundi on 5 June 2004, the transitional government proposed rescheduling the elections to October 2005. Regional leaders rejected this ploy, insisting that conditions already agreed on be respected, to avoid an institutional vacuum and the reopening of the negotiations. They called for last chance consultations, which were held in Pretoria on 21 July. Progress has been made but the parties have yet to agree on post elections power sharing.

The main issue of the talks was to harmonize the Arusha agreement, signed by UPRONA and FRODEBU, with the demands of the FDD rebels on the elections, post elections constitution and power sharing arrangement. The FDD have now fully accepted the Arusha measures, the principle of ethnic quotas, an indirect election of the President through Parliament, and the existence of a Senate based on ethnic quotas. However, UPRONA, fearing to score miserably in the elections, but still detaining instruments of power like the army command and the economy, seeks to guarantee a 40% share of posts in the post elections government during at least five years. Some of its leaders, who have been involved in past crimes, also want to guarantee their immunity from prosecutions through the elections. UPRONA, mainly representing Buyoya's constituency of Tutsis from the southern region of Bururi, is now attempting to reach an alliance with other Tutsi parties.

The FDD, more confident in a ballot victory, wish to remain free of appointing Tutsis of their choice. The FDD have started an official campaign in the countryside and actively recruit new members for the movement.

Meanwhile, FRODEBU is dangerously losing members to the FDD. The party is eager to see an agreement on the constitution, as well as the cantonment of troops to start its own campaign on the ground. Frustrated by the failure of the Pretoria talks, it has now called for the resignation of the UPRONA vice president Alphonse Kadege.

In a situation of unfinished negotiations on power sharing, the population is left in the dark about the date of the elections and the type of electoral systems that will prevail. And while the informal electoral campaign has already started, no preparation is made for communal elections, which are supposed to happen first according to Arusha, and voter registration and education has not started.

Moreover, most refugees have not returned, the political prisoners have not been released and the FNL is still not officially part of the process. The armed rebels are free to move among the local population, and the army has not started returning to barracks or handing in heavy weapons. It is most likely that elections will take place in a situation where the two separate armies still will co exist with the UN peacekeepers.

1.3 US Integrated Strategic Plan

The US Government has deployed resources from a variety of agencies to ensure that Burundi becomes a *"peaceful, reconciled and equitable country that supports individual prosperity and national development" (USG Strategic Plan)*, underpinned by a goal of transition to peace and socio-economic recovery.

This goal is achieved through support to the provision of basic social services from REDSO and PVC (through Population Services International, UNICEF, WHO, Family Health International), Food security (WFP, Africare, CARE, CRS and World Vision) from FFP, and good governance. Additional NGO activities are also funded by OFDA and PRM to alleviate suffering, facilitate repatriation and reintegration, and prevent unnecessary deaths in the population. Some funding for local NGOs also comes from the US Embassy Democracy and Human Rights Fund.

The good governance strategic objective is defined by two Intermediary Results (IR1 and IR2), ensured by the work of two NGOs, Search for Common Ground, and Global Rights (formerly known as International Law Group). Some funding is also earmarked from the CMM office in Washington for Search. The governance component of the USG strategy is the object of the present evaluation. OTI has also been implementing an accelerated program to promote citizens' participation and peace education. This may soon shift to closer cooperation with the two REDSO funded NGOs. However it has not been covered by the evaluation.

IR1 is defined in the following terms: "transition institutions and the peace process strengthened". The peace process is here understood in a broader sense of the Arusha agreement and the overall process to achieve its terms. The activities supported are consequently the contributions by NGOs to a

greater public support and interest, even to a strengthened a constituency for peace, as well as targeted support to all institutions which are critical to the peace process. The implementation of the agreement would result in the root causes of the conflict being addressed, and is consequently seen as a valid priority.

IR 2 is defined as: "increased participation of civil society". The USG Integrated Strategic Plan for Burundi (2003-2005) does not describe civil society in detail, but points out that the population has been denied the opportunity to "provide meaningful inputs into the structure of the governing bodies or receiving the benefits that their economies have produced". It also mentions significant community initiatives to organize against violence and support the peace process. In practice the evaluation finds that the range covered by civil society extends from nationwide structures such as the Catholic Church commissions to rural agricultural cooperatives in rural communes, often handed over from previous development efforts.

USAID management structures have had a reduced scope. Due to the instability in the country (for example a general evacuation of the capital took place in July 2003, where only essential Embassy staff remained in country) and the pervasive insecurity, there is only a Limited Presence Office on the ground, which is supported by a team based in REDSO in Nairobi.

2 BRIEF PROGRAM DESCRIPTION

The International Human Rights Law Group / Global Rights is a non-profit organization of human rights and legal professionals with operations in some 20 countries, engaged in advocacy, and human rights training around the world. Its mission is to empower local advocates to expand the scope of human rights protection and promote broad participation in building human rights standards and procedures at the national, regional and international levels. At the end of 2003, the organization changed its name to "Global Rights". The organization decided not to translate its English name into French or Kirundi for its Burundi project, where it is still defined as an US based operation.

The Global Rights / Law Group Program in Burundi was first part of the Great Lakes Justice Initiative, together with International Foundation for Elections System (IFES), Search for Common Ground and Africare. This Initiative, approved by the Clinton government in 1997, allocated 10 million dollars to public education, ethnic reconciliation, civil society organization capacity building, and justice system improvements, and was launched in 1999. After the signing of the Arusha agreement between Burundian parties in August 2000, it became part of the "Foundation for a transition to peace" program elaborated by REDSO in support the implementation of the agreement[3] .

GR/IHRLG established an office in Burundi in June 2000, under a cooperative agreement with IFES, whereby GR/IHRLG would receive 40% of the funds the first year and 60% the second year[4]. Global Rights established its program after the signing of the Arusha agreement, on the assumption that Burundi would soon enter a post conflict phase. However, the ceasefire was only signed in 2003, three years after the GR office opened, which restricted movements of all international staff within the country, predominantly to the areas in the north and center. When Global Rights began operating, the presence of non-humanitarian international NGOs and IGOs, as well as journalists, was very limited. In the field of human rights, Human Rights Watch had a full time person, the UN human rights observer mission had been dramatically reduced, and most other international institutions relied on the few Burundian human rights organizations, and especially Ligue Iteka to get information.

In its first year of programming, GR/IHRLG focused on a capacity building program for civil society, starting with an assessment of NGO needs, training in human rights monitoring, reporting and advocacy skills, and technical assistance in developing projects and proposals. The group also identified areas of Burundian law that were in need of reform. The capacity building program has continued up to now through training in management skills and promotion of human rights and the distribution of sub grants to NGOs for small high need projects.

[3] See USG Integrated Strategic Plan for Burundi, 2003-2005 22 May 2003.
[4] See Cooperative agreement AOT *A*00-99-00266-00, IFES/Law Group consortium Burundi.

In 2002-2003, the group added three new programs areas. The first one, legal assistance, aimed at supporting legal service providers in general, but focused more specifically on the "legal clinic" in the province of Muyinga. This responded to a problem identified by UNHCR concerning the significant disputes arising around the question of land use and ownership in the repatriation process. It was seen by the Programme Unit in UNHCR as a major constraint, and the design of the work (using in particular young lawyers trained in Bujumbura) was carried out by GR/IHRLG.

The clinic program was operated jointly with some local NGOs[5], and sponsored by UNHCR with World Bank funding to support the refugee repatriation process from Tanzania, to provide legal counselling and mediation services to communities on all manner of disputes (even though 70% of the cases revolved around land). In 2002, the program also decided to open an office in the northern province of Ngozi and to support legal clinics in the area.

Some NGOs, church organizations and associations of lawyers had been providing legal assistance in an ad hoc manner, mainly in the capital Bujumbura for obvious security reasons. "Legal clinics", a concept invented by the "Association des femmes juristes" in 1997, was based on the idea that law was a form of healing expertise to be given to the population. It provided legal advice, and mediation services to alienated segments of the population, who could not afford the courts or did not trust the justice system to represent their interests. These clinics relied on voluntary lawyers or persons with legal training, who offered free consultations a few times a week.

The UNHCR funding was discontinued from December 2003 (it may still be resumed). When earlier that year GR opened an office in Ngozi with USAID funding, it brought together all organizations involved in providing legal services to disenfranchised parts of the population (NGOs, Church organizations, group of Burundian lawyers) in a workshop in March 2003, and decided to increase its support to specific partners.

The principle of the legal clinics is very simple. It consists in notifying the population that a consultation will be held at a specific place in a commune, at a certain time. The meeting includes primarily the parajurists who live in the commune and are supported by Global Rights, staff of Global Rights (trained lawyers, in some cases volunteer graduates), representatives of the commune administration, and some respected individuals and Abashingantahe (traditional arbitrators). The population comes to present the disputes at some length. There is an incentive for all parties to be represented so that each side feels his or her own case is well represented. The general population also gathers, partly out of solidarity with one or the other party, but also out of curiosity. After cases have been presented the relevant legal norms and customary practices are explained, and the process then oscillates between mediation and describing the burden of guilt and possible penalties as foreseen by law. The clinics do not adjudicate, but

[5] Libéjeun, Association des Femmes Juristes, Ligue Itéka.

represent an important form of improved access to justice, and generate a form of public pressure for pre-trial resolution.

The "parajurists" are selected amongst the general population on the basis of references from the authorities and some consultation, and on the basis of their personal qualities, in particular sound judgment, and a status of respect on the part of the population. They receive four days of training, with classes on basic bodies of law applicable to the most pressing issues at hand[6]. They continue operating on a voluntary basis and are consulted on all cases which are formally referred in the clinics (some of them are already explained to GR who refers them to the legal authorities if the issue falls under criminal law). Most of the issues that have been presented are about land (70%), divorce and polygamy (women don't trust tribunals because husbands can corrupt the judge), recognition of extra marital children, controversial reimbursement of loans, and administrative orientation. GR is now trying to organize the legal service providers into an association called "Association des parajuristes", which would give them some formal recognition.

GR's second program area concentrated on legislative advocacy initiatives by civil society to influence the adoption of legal reforms that impact on human rights, and on monitoring the effective implementation of the transition's legislative agenda. The third program area aims at supporting effective approaches to transitional justice (political prisoners, amnesty, accountability for past crimes), by building the capacity of local NGOs. In 2003 the USAID funded Victims of Torture project was also launched, along with other components run in close coordination by other NGOs. GR was tasked to coordinate the component dealing with legal assistance to victims.

The main activity implemented by GR Burundi combined the two program areas on legislative reform and transitional justice: the organization formed a network of legal service organizations and started developing collective action plans and joint advocacy strategies on a few selected bills of interest on the agenda of the National Assembly. The working group of NGOs also appointed a full time lobbyist in Parliament, paid by GR.

So far the working group has mainly concentrated its efforts on the legislation creating the Truth and Reconciliation Commission, the post constitution transition, and the legislation punishing war crimes, crimes against humanity and genocide[7]. It has proposed amendments to the draft law. It has also lobbied for Burundi to ratify the Rome Statute of the International Criminal Court.

The action on Truth and Reconciliation is a good example of the practice that GR tries to import into Burundi. GR first organized meetings to study the set up of Truth and Reconciliation Commissions around the world with several key partners organizations like Ligue Iteka, Observatoire de l'action

[6] Code foncier, code de la famille, code de procédure pénale, code de compétence et de l'organisation judiciaire, prise en charge des victimes de torture

[7] See Grant proposals to USAID and Annual Operating Plans.

gouvernementale, Association des femmes juristes et Association Burundaise de Défense des prisonniers, ACAT, APRODH, through a CD-rom produced by Search for Common Ground.

When the draft law elaborated by the government appointed commission was presented to the Council of Ministers last year, GR immediately convened five meetings with six MPs belonging to different parliamentary commissions[8] as well as its partner organizations. The participants came up with a list of nine proposals to the draft law, including:

- A list of criteria that would disqualify partisan personalities from being appointed members of the TRC and guarantee the neutrality of the institution;
- A call to focus the mandate of the TRC on a selection of events which represent the diversity and the gravity of crimes and which would meet expectations of the greatest number of victims;
- A note of caution on the timing of the TRC. The group stressed that the political conditions were not ripe for the set up of the TRC, and that as long as the perpetrators of the crimes are in power, victims and witnesses will fear to expose the committing of crimes. Furthermore the military and the rebels have not been "cantoned" (assembled in specific compounds for demobilization) and could still take revenge on those who would dare testify;
- A demand to clarify the respective mandates of the International Judicial Commission of Inquiry and the TRC, and the management of information by the two institutions[9].

The amended text was sent to the Political Commission of the National Assembly through the six MPs and to the Senate through two senators. Five amendments proposed by the group were accepted. However, the government unexpectedly withdrew the draft law. It reintroduced it only in June 2004 on the occasion of the visit of the UN exploratory mission on the set up of an International Judicial Commission of Inquiry in May 2004, but without any of the amendments considered in 2002. The organizations, which had worked on the draft law, were disappointed but have not yet protested against the government. GR led a delegation to meet with the UN mission and gave the members of the mission a common strategy paper on the establishment of the IJCI with specific recommendations and asking for the creation of a Mixed Court in Burundi.

[8] Catherine Mabobori, Raphael Bazeruke, Emile Mworoha from the Political Committee, Laurent Gahungu from the Justice Committee, Saturnin Coyiremeye and Pascasie Nkinahamira from the Committee on repatriation at the National Assembly.

[9] Documents on the draft law presented to National Assembly on behalf of the working group.

3 PREPARATION AND DESIGN

3.1 A correct analysis of Burundi context and legal needs

The background analysis of the political and legal context presented in Global Rights' proposals to USAID and its internal AOPS are of good quality, in that they reflect an accurate understanding of the peace process, of the situation of human rights and of the needs of Burundi society.

This is partly due to the quality of the original staff of the program. The first international director of IHRLG Burundi, Meriam Ghalmi, had a long experience in the Great Lakes. She had served as a human rights observer in Rwanda after the 1994 genocide, as a coordinator for Doctors of the World in eastern DRC in 1995 and again as a human rights observer in Burundi between 1998 and 2000. She had a good knowledge of the country and an excellent network of contacts within local civil society, international NGOs as well as IGOs. One of the evaluators had a sustained interaction with her over the period 1998 and 2002, and could confirm her expertise on GR's area of work[10]. This has been continued through other staff members, often closely tied to Ligue Itéka, and trained in law in Burundi.

However, a review of the organization's yearly plans from 2000 onwards shows continued difficulty in prioritizing and organizing into a sequence the objectives of the GR Burundi program. A needs driven approach without strong framework of mandate and operational guidelines seem to have dominated the planning process in the first few years, which led the staff to draft an overly ambitious and unrealistic plan of activities[11]. This leads to a state which the evaluation would describe as having two and a half approaches.

3.2 Evolving Objectives

The evaluators note that the objectives of the program are presented differently in the four Annual Operating Plans (AOP); in grant proposals; and in reports from the organization. Their number varies each year, as well as their qualification and categorization. The notions of "objectives and "sub-objectives", "program areas and components", "activities", "outcomes" and "expected results" seem to have been interpreted variably by the different program staff in Bujumbura and Washington, making performance difficult to measure. For example:

- in 2000-2001, the AOP presents two core "objectives", three "program areas", respectively including a list of four or five "activities" to implement, each requiring intense preparation and qualified staff;

[10] FH, in her capacity of International Crisis Group Central Africa Program Director, conducted many interviews of Law Group staff between 1998 and 2004: Meriam Ghalmi, Pierre-Claver Nzeyimana (Burundi lawyer, former chief of staff of former prime Minister Pascal-Firmin Ndimira) and Louis Marie Nindorerra (former executive secretary of Ligue Iteka).

[11] See AOPs, 2000-2001, 2001-2002, 2002-2003, 2004-2004, and minutes of program staff meetings.

- In 2001-2002, the plan shows seven program "activities", each with three to seven activities to implement and an average of four "expected outcomes";
- In 2002-2003, the AOP shows five "program areas", with three "objectives" each and an average of five "activities" and four to six "projected outcomes". To each activity corresponds to a complicate staffing equation sharing responsibility between the Bujumbura and Washington offices. The AOP also mentions gender as a crosscutting program priority.
- In 2003-2004, the AOP lists five program "goals", with three to five "objectives" each, two to seven "activities" and four to eight "expected results" for each objective. Each program is expected to monitor its performance through two to ten "indicators".

The change in planning formats and formulation of key objectives indicate that the GR program in Burundi went through quite a long experimental phase before identifying its operational niche and added value. Planning guidelines from the AOPs processes sent by Washington, and dutifully respected by the staff in Burundi show an effort to rationalize the planning process[12], but also a difficulty to fine-tune the strategy of intervention.

It is possible to design the program closer to the timeframes and issues as they appear in Burundi. In this sense the yearly planning of objectives is restrictive, and not well adapted to the dynamic timing of the peace talks and of legislative reform agenda, which requires great flexibility and reactivity to events. Nor is the annual planning timeframe appropriate to evaluate the longer-term aim of building the capacity of an emergent civil society. While some issues may appear timely at one time, they may quickly become less so in a few months. On the other hand capacity building would need to be very tuned to the evolution of the funding situation and fundraising potential in the country, and this requires a very long term view.

3.3 An increasingly strong linkage with the national peace process:

In spite of rigid planning timeframes, the linkages of Global Rights activities to the peace process have increased over time, mainly as a result of the organization's learning process and choices.

The peace process is mentioned consistently in early internal memos from 2000 onwards. In particular, the issues of transitional justice and of the repatriation of refugees and related land disputes are clearly identified as key to a sustainable peace in all yearly plans. Looking at the program in 2004, the consultants could see three direct and indirect linkages with the peace process:

First, the work on legislative reforms targets directly the implementation of Protocol 1 of the Arusha agreement, which analysed the nature of the conflict, and provided for an International Judicial Commission of Inquiry

[12] See memo introducing 2nd quarter review, Guidelines for review, timeline for AOP 05 process, sent by Deputy Director for Field Operations, Scott Campbell on 12 April 2004.

and a Truth and Reconciliation Commission. GR's selection of the bill on the TRC as a target for mobilizing a constituency for peace and its lobbying activities in Parliament is directly connected to the formal peace agreement as well as the broader post-conflict reconciliation process.

Secondly, the support to legal clinics in Ngozi has direct links to Protocol IV of the Arusha agreement, which provides a roadmap for refugee return, land disputes resolution, and reconstruction. Although GR's entry point into the program was its objective to support legal service providers[13], its operational impact on the implementation through the clinics of the Arusha Accord is now very concrete and unquestionable. The link with the peace process through the theme of land was formalized *a posteriori* but clearly has become an organizational priority[14]. GR commissioned a study on the issue in early 2004.

Finally, promoting debate within Burundi society through strong advocacy and civil society initiatives aims at changing the environment of peace talks. It decentralizes the discussion geographically from Bujumbura to local communities, and socially from the elite to the ordinary citizens. It prepares the ground for sensitization campaigns on key political processes like referendums and elections as well as for a necessary national debate on the future of the country.

3.4 An outstretched model of intervention

The consultants felt that the individual program areas had some internal coherence, but that there was a tension between the two recognizable streams of activities of the organization: the one that supports legal service providers in rural communities and the one that promotes civil society advocacy on legal reforms and transitional justice. The tensions can be described as follows:

- the two streams target different audiences: the legal clinics program targets local communities and local associations, and the advocacy/legal reform program aims at influencing the elite in the capital Bujumbura, (the leadership of civil society organizations or parliament, government and political parties);
- the program seeks to simultaneously strengthen two very different kinds of civil society networks, rural (mostly composed of rural development institutions) and urban (NGOs often patterned after foreign models), and requires different kinds of competence;
- it operates at two different levels: the local micro level and the national macro level, requiring very different types of capacity, in particular in terms of the location and running of offices in more remote regions;
- a common monitoring and evaluation system cannot apply to both streams of programs, as they should be evaluated on quite different criteria: the first program on the legal clinics can be evaluated on the

[13] See early internal documents.
[14] See interviews with GR senior staff in Bujumbura and Ngozi, and GR partners.

basis of changes occurring in clearly identifiable individual histories, as well as broader shifts in the cultural attitudes of the population at different levels (to justice, to repatriation, for example). The second stream requires a more technical institutional analysis, as the evaluation needs to take into account the external context related to the political situation, legislative and constitutional frameworks, as well as the performance of other civil society partners.

The addition of the Victims of Torture program has reinforced this tension and overstretched the human resources, as the teams are pulled in very different directions. Legal assistance to victims requires a continued relationship with clients, while the clinics on the other hand call for a more roving work. Several staff members mentioned that the VOT project created a sense of drift, and several partners of GR confirmed that legal assistance was not performed adequately by GR, which has decided to withdraw from the project in May 2004. This role of assisting victims and provide them with legal advice has been being transferred to APRODH only in July 2004, an organization which mainly defends the rights of the prisoners[15].

The most popular and immediately operational program of the organization is also the one that is most removed from its basic philosophy. The legal clinics program is highly regarded in the local population and amongst other agencies such as UNHCR[16], whose needs for help with the administration, and with the resolution of land disputes is constantly growing. UNHCR and other donors are keen on the continued involvement of GR in supporting the clinics[17]. However, GR's capacity building philosophy commands it to *"empower Burundian CSO to deliver legal services responsive to local concerns and designed to leave grassroots communities with a sustainable capacity to resolve potentially divisive land and property disputes in a peaceful and equitable manner"*[18]. This tension between popular demand/donor expectations and instructions from GR headquarters is affecting the planning process and preventing the organization from fully capitalising on the success of the legal clinic project.

3.5 Evaluation and reporting

The evaluation points of reference are the periodic grant proposals to USAID, AOPS, the monthly reports and the minutes of the bi-monthly program staff meetings. The reports and meetings minutes are rigorously presented and show a willingness to follow up and evaluate recommendations made in previous meetings. Reports relate activities to objectives of AOPS, and a timeframe is systematically proposed for the implementation of new activities. Monthly and quarterly reports include a contextual update. To the consultant's knowledge, no external evaluation, or

[15] Interview with Director of APRODH.

[16] The document "Evaluation of the Burundi Community Rehabilitation Project 1999 – 2002, on behalf of the United Nations High Commissioner for Refugees and the World Bank" mentions the legal clinics as an element which greatly increased the relevance of the UNHCR reintegration activities in Burundi.

[17] Interviews with UNHCR and USAID staff.

[18] The GR program director has repeatedly mentioned that the "culture" of the organization is to build sustainable capacity in country, and not to substitute to local organizations wherever possible.

even organization evaluation seems to have taken place other than of the UNHCR funded component in Muyinga Province, which has currently been discontinued.

The evaluation did not collect any salient evidence concerning technical support on the part of USAID, either positive or negative. The increasing willingness of USAID staff to visit the field, and the continuity of funding, has contributed to the quality of dialogue.

4 MANAGEMENT AND IMPLEMENTATION

4.1 Bujumbura Based Partners

GR has sought to include a variety of different players in its activities on transitional justice and advocacy initiatives. It has set up this "cadre de concertation" of legal civil society organizations, and now has weekly meetings with Iteka, Association pour la Protection des droits humains (APRODH), Association des Femmes Juristes (AFJ), Commission épiscopale justice et paix to discuss the legislative reform agenda.

The organization also has sustained contacts with the Church, which in many remote places is the only counter power to the local administration. It also collaborated with international NGOs like HRW, RCN (publication of laws), and ASF (training of magistrates and lawyers). It recently conducted a joint study on land with CARE education for peace and reconciliation program as well as APDH. GR is also part of RESO, a network of international NGOs running offices in Burundi that meets twice a month to exchange information and views on the context.

It has made a special effort to create a synergy with radios. It gave a small grant to Radio Publique Africaine for a program on justice. It recently co-organised a national debate on the post elections constitution with radio Isanganiro.

GR evaluates its partnership with these partners as satisfactory, with one strong reservation. Despite the fact that the "cadre de concertation" has now met many times and undertook many collective actions, GR finds that it still has to take the initiative every time[19]. Several other participants in these meetings acknowledged that the GR director was always the one who ended drafting all the documents.

However, the evaluation notes that leaders of partner organizations seem to be involved personally in the activities, to be supportive of the lobbyist they have hired in April 2004 (Mr Kabayabaya) and to have well internalized the advantages of such a practice.[20] Interviewees found lobbying Parliament useful and have understood the need to establish a network of contacts in Parliament to get information on draft laws on time.

4.2 Community Based Partners

GR objective was to work with a group of local associations close to the communities and strengthen their capacity to help the local population to get a fair access to justice. The GR director underlined to the evaluators the novelty of the approach, in contrast to other Burundian human rights organizations like Ligue Iteka, which have always counted on the support of foreign networks of international human rights organizations to have a voice inside Burundi. According to this approach, Burundi requires a sustained

[19] Interviews with Global Rights Burundi Director.
[20] Interview of Director of APRODH.

effort to reach local communities and make ordinary citizens more aware of their rights. New solidarities were born during the war, which could be capitalized on. Furthermore the province of Ngozi, home to the coffee production industry had been one of the best protected provinces in the country for years, which led GR to believe that it would be possible to operate there.

However, the identification of an organized rural civil society in Burundi proved to be more difficult than expected. From the end of 2002 to the end of 2003, GR experimented different unsuccessful approaches. First the organization had the objective of covering several provinces but it soon realized that it was too ambitious. Then it decided to collect the names of all organizations in three provinces and to approach them systematically with the intention of training them and strengthening their technical and managerial capacities.

The list established and obtained by the consultants shows mainly small associations involved in agriculture, fishery, cattle raising, and youth (called "groupements" rather than "associations" as is the case in Bujumbura). Their links to the legal clinics, or to legislative lobbying, are extremely weak, requiring the development of a new stream of activity. There are few grass-root organizations and associations that possess the required dynamism, resources and management depth, to be long term partners. The objectives of GR headquarters in Washington appear too remote here. The concept of civil society as it is currently formulated by GR is very foreign to rural society.

At the beginning of 2004, the organization decided to diminish the number of partners and assist a few selected local partners only: Association des parajuristes; APDH; an organization helping orphans (Garukirimfufyiy); and an association dealing with cattle raising (Rama). It also realized that the repatriation of refugees from Rwanda to Ngozi, already the second more populated province of Burundi, was creating particularly acute land conflicts and decided to shift its focus to land issues, which are a much stronger basis for the mobilization of the population. GR commissioned a study on land with CARE and APDH.

4.3 Quality of the Financial Resource Management

GR has the financial capacity to fund projects implemented by others, and therefore has played the role of a small donor since 2001. The evaluation has not been able to do a thorough study of GR's sub grant policy nor of the performance of partners. However, anecdotal evidence gathered through interviews, and internal documents shared with the evaluators, show that the financial assistance tends to be given ad hoc, without a strategy underpinning the selection of partners.

The evaluation was able to investigate one case of failed partnership between Global Rights and the Forum pour le renforcement de la société civile (FORSC), co-led by a new NGO called CIVIC and by Ligue Iteka. The conclusion was that the position taken by Global Rights was questionable.

In March and April 2004, a group of twenty NGOs was brought together to prepare a national campaign for good governance and discuss coordination of civil society actions during the campaign and the elections. The group met on twelve occasions, but when the time came to decide who would send out the invitations, Iteka waged a campaign against the leader from CIVIC, a politically independent Hutu MP, accusing him of monopolising the initiative. As a result, some of the twenty organizations withdrew their participation and promised financial participation. Global Rights decided not to give the USD 5000 promised for the event, and justified it by its wish to remain neutral. However, the event took place, partly funded by CECI, partly funded by bank loans. 200 people and 127 associations, including 35% women, participated. They came up with a series of interesting and concrete recommendations on the electoral system and the monitoring of the elections[21].

Civil society needs to organize itself in view of the elections, and the withdrawal by GR from participation in the event indicates that some of its decisions may not be relevant to needs. Having always been the major channel of donor funds, with a budget superior to the budget of the Ministry for Human Rights, the famous Ligue Iteka may suffer now from the same syndrome as the political class, and be reluctant to share power. It is more in line with needs that GR, more knowledgeable than international donors, counteract the tendency toward a patronage system within civil society. It could play an active role in detecting new initiatives worth supporting.

The efficiency of the program is reduced by the fact that it is still funded to this day via IFES, which collects a fixed fee for what is essentially a financial transaction, with no programme assurance content.

4.4 Quality of the Financial Resource Management

Global Rights has currently one Director, two program officers and three assistant program officers, plus an administrator accountant, all of them national staff. The total staff is 26 persons in both the Ngozi and Bujumbura offices.

Several observations can be made on human resources management within the organization. First, the recruitment of senior Burundian staff has been done on the basis of a strong professional track record, and it should be noted here that all senior program staff with the exception of the Program Director are women. Their level of technical competence and commitment is high. However, it is difficult to evaluate individual performance, as no procedure for staff evaluation seems to exist within the project.

Management decisions are very concentrated in the person of the director. The Program Director frequently is involved in day-to-day program management. His intellectual skills and personal integrity (as evidenced by

[21] Interview of Executive Director of CIVIC, Director of APRODH, Eugene Nindorerra, former Minister of Human Rights, Search for Common Ground.

his standing in the Barundi human rights community) are clearly important assets for the organization.

However the continuity of programs has suffered from the fact that the position of Program Director has remained vacant between March 2002 and January 2003 after the departure of Meriam Ghalmi. One of the senior project officers took the role of active program coordinator, but during FY 2002, there were no full time staff for the program in Washington DC[22]. The departure of a senior officer to the GR office in Sierra Leone a few months later has left the program with no strong direction for a while.

The Program Director post was advertised as an international position first, and was finally given to a Burundian national, a former executive secretary of Ligue Iteka and program officer of Global Rights. The evaluation finds that hesitation about recruitment of a local director has undermined the confidence of the current local director.

Despite the fact that the planning exercise, which the evaluation team witnessed for 2005, is an inclusive process involving all program staff, individual responsibilities for each task are not clearly identified, the consultants have not been able to see a clear organizational structure.

[22] AOP 2002-2003.

5 IMPACT

GR made three contributions to the peace process and civil society in Burundi, understood in a broad sense: in terms of changes in awareness toward dispute resolution rather than escalation, in terms of new relationships between key groups in the country, and in terms of capacities with a potential for long term peace-building.

5.1 New social models and impact on public perception

The organization has managed to attain a high degree of impact on the awareness of the population of other models of conflict resolution than violence, thanks to the mobile legal clinics.

The intense degree of spontaneous and lively popular participation, witnessed by this evaluation as well as the UNHCR evaluation in 2003 in Kirundo and Muyinga, speaks to the relevance of the clinics to the countryside. Their advantages are their low cost, perceived neutrality and efficiency, and proximity to the concerns of people, in contrast with tribunals which take months and often years to render a judgment, and whose officials often want to be paid extra fees. As GR's senior staff told the evaluation repeatedly, the clinics never "impose" a solution, they always favour a compromise-based approach, based on social pressure in reference to publicly acknowledged rules.

The popularity of the legal clinics can also be explained by the fact that they represent a revived and modernized form of the institution of the Bashingantahe. Before independence, the Bashingantahe were traditionally respected notables in the communities, usually called by the population to resolve local disputes. The institution was replaced by the colonial administration, then later made illegal by President Bagaza, and finally manipulated by the two Buyoya governments, who appointed a number of them throughout the territory. By making them accountable to central authority and not to the communities anymore, the state undermined their legitimacy tremendously. The population seems now to have invested the clinics with the same trust as they used to invest in the Bashingantahe.

There is of course a risk of tensions between the remaining Bashingantahe and the teams of legal clinics, but the clinics try to include or collaborate with them as much as possible. There is also a risk that, without constant follow up, the dispute resolution will veer away from the reference to law, and become more based on mediation, and the possible abuses which come with it. This would be an argument for direct implementation by GR, rather than phasing out to local institutions which do not have the necessary legal training.

GR, as an international NGO based in Bujumbura, has proven to be able to operate as shuttle between different levels of decision making. It can collect very direct information on the preoccupations of the population (staff have described the legal clinics as a mirror) from legal consultations, and can

report the information between the communities and international organizations, such as UNHCR and national institutions like CNRS. This unadulterated channel of information is a powerful reminder to the political class in Bujumbura (which could easily become wrapped up in its sole problems of power sharing) that there are real electoral issues that need to be addressed. These are for example reflected by GR through the Search for Common Ground media program, which is piloted to the communities where difficulties arise as a result of the peace process.

Finally GR's intervention has also contributed to reinforce capacity of local parajuristes by organizing training. The competence of the legal service providers remains minimal but the risk of misjudgement or use of arbitrary powers is minimized by the presence of other members of the clinics.

5.2 Changing Forms of Interaction

The evaluation noted the de facto emergence, through the legal clinics, of a new kind of interaction between the population and modern law, which can help the resolution of land disputes and problems to refugee repatriation

GR's support has clearly contributed to a decentralization of legal service provision and the strengthening of the referral systems between legal service organizations and the administration. It plays a useful intermediary role between the population and the state structure, helping on the one hand the administrators to defuse tensions in the zone they administer, and on the other hand the population in understand modern law, which is foreign to Kirundi speaking and illiterate rural communities. Most people distrust the judicial administration and modern law to deliver an impartial judgment in land and marital disputes.

Another important aspect of the new relations between groups which GR has facilitated is that between the returnees and the local communities. By helping resolve the host of land use and land ownership issues which come from the years of separation, GR is making a direct contribution to the repatriation. Should these issues not be addressed, it is very plausible to believe that the repatriation process, which is only beginning, could be slowed down, even reversed. Unresolved issues have in the past forced many to return to Tanzania, Rwanda, or the DRC, where their presence will continue to undermine the resolution of the conflict.

The practice of networking, lobbying and advocacy is new to Burundi and GR efforts to import this practice should be recognized as valuable and innovative. Burundi lacks a tradition of citizen participation in public debates as a result of state centralization and repression, and GR's efforts to generate greater public support and interest for transition institutions can be seen as quite revolutionary, even though they can only be judged on the longer term.

Before GR's intervention, most organizations interested in justice and reconciliation had limited their individual approach to a strong condemnation of impunity of criminals through press communiqués. GR

has attempted to move them beyond that and to help them launch creative actions on different fronts.

It should however be noted that this impact is very localized geographically: it has occurred only in the three provinces of the north (Kirundo, Muyinga, Ngozi) and activities are currently only being carried out in four Communes of one province. There is no valid reason, other than capacity, for that deep impact not become wider.

5.3 Lobbying limited to Parliament

The political environment in Burundi limits the relevance and impact of lobbying initiatives. The peace process is not yet completed and impunity of leaders of all parties is still poisoning the implementation of the agreement. The implementation of reforms still remains to this day conditioned to negotiations.

Despite an agreement on the establishment of two mechanisms of transitional justice in Protocol I, no serious will for recognition of culpability existed during the formal Arusha talks. None of the parties had any intention of expressing an acknowledgement of responsibility either in the 1972 or in the 1993 mass killings and in the assassination of President Ndadaye. On the contrary they labelled one another "génocidaire", and were disqualified, to mobilize support of their constituencies. Ironically, the transitional power sharing settlement, reached by the very leaders who accused each other of crimes against humanity, was based on the minimum common objective that their government position would guarantee temporary immunity.

Unsurprisingly, the arrangement has produced a highly unstable transition, where implementation of the agreement and in particular of Protocol 1 remains as big a challenge, as its negotiation. The power sharing arrangement between faction leaders who have committed war crimes limits any possibility of indictment and genuine truth telling during the transition. If the TRC were to start its hearings now, it is likely that it would design a heavily negotiated truth rather than an honest account of guilt for past crimes. As long as basic issues like security and disarmament have not been resolved, and as long as the perpetrators of the crimes are in power, victims and witnesses will fear to expose crimes. Furthermore most of these leaders fear to be disqualified from elections if truth is heard before they get elected.

GR has acknowledged that the political conditions are not ripe for the establishment of a TRC and confesses that it has no quick solution to offer in terms of access to justice. The staff understand that priority has been given to ending violence in the peace process, and thus, government and rebel elements, which have committed crimes, have been made to share power to accept to stop fighting. The objective in GR in this context is to create a constituency for peace and reconciliation, an aim that would combine two of its project objectives: Create fora to debate transitional justice issues and strengthen civil society participation in legislative reforms.

The evaluators recognize that the action of the organization, however innovative, is limited by political conditions beyond control. However, GR could show more creativity in choosing its lobbying targets, and the initiative and work toward the Truth and Reconciliation Commission has had no impact.

Lobbying the Parliament is a good initiative in itself, but is structurally limited by the fact that Parliament has been an artificially maintained institution throughout the transition. Some MPs were elected in 1993 but their mandates have long expired, and the others, as well as the senators have been co-opted as a result of the negotiation of the transitional arrangement in 2001. Neither the MPs nor the senators are accountable to the people of Burundi.

Some 15 parliamentarians have signed four petitions in favour of the establishment of a Truth and Reconciliation Commission since the beginning of 2004, circulated by a fellow Parliamentarian, which shows that an interest exists in parliament for this issue.

There is a wide range of players that GR lobbyists could affectively target: including the politicians themselves; the embassies; the AU; the UN; and the press.

5.4 Capacity building: trials and errors

The objective of Global Rights around the world is to strengthen civil society participation as a counter power to authoritarianism. However, the director acknowledges that Burundi civil society is emergent and not yet fully aware of its role and that strengthening it is a long-term project that goes beyond the technical and financial capacity of one organization.

GR, in trying to target many different types of civil society institutions with very different objectives, is making it difficult to reconcile its work with the overarching theme of "access to justice". The range of partners includes rural organizations (for example tile making), weak human rights organizations, and urban organizations which have been often at risk of becoming politicised and ethnicised.

Hopes that multiparty democracy, free press and civil society could take root at the beginning of the 1990's were quickly shattered in 1993 with the beginning of the civil war. Between 1993 and 1996, Tutsi militias ethnically purified Bujumbura and most Hutu intellectuals and politicians went into exile. In the same period, Tutsi dominated parties, which had lost the elections, transformed into civil society organizations. Between 1996 and 1998, the new government colloquially called 'Buyoya II' suspended the constitution and political parties. But civil society reappeared visibly as a Tutsi dominated and Bujumbura based group of organizations, with for most of them linkages to political parties. Extremists sidelined the moderates. Organizations like AC genocide defending Tutsi interests or PA Amasekenya; a youth organization organising "Sunday trainings" were strongly opposed to Arusha process and the inclusion of "FRODEBU

génocidaires" into government. The delegation of civil society who attended Arusha came to support the Buyoya government position was rewarded with jobs at the national assembly.

For GR to achieve an impact compatible with its own objectives, it is logical that it engage in capacity building. By placing this objective as a theme of its work and an end in itself, however, it creates a loss of coherence and dispersion of effort. In this context gradual disengagement from the legal clinics in Muyinga and Kirundo provinces is to lose impact voluntarily by pursuing too many objectives at the same time. It is premised on the notion that local organizations should receive funds directly from UNHCR when in fact the latter have not identified partners with the required capacity)

6 FINDINGS AND RECOMMENDATIONS

Recommendation 1:
The IR mentioned by USAID planning documents does not need to be adjusted but should be shown to include the societal dimensions of conflict in the country, as these are key to the conflict (particularly because of the elections, and importance of land conflicts). Future formulations could include elements which are in line with the GR strengths: formulating new forms of interaction between the groups repatriating and the communities which have remained behind; new relations between the population and the justice system; new channels of communication opened between the countryside and the capital; and networks of NGOs able to lobby on relevant issues of the implementation of the peace agreement as they emerge.

Recommendation 2:
A long-range conflict assessment should be carried out in GR, leading to a priority ranking of different areas of interest and to some indicators of success. This should be based on the implementation of the peace agreement, and be put in relation with the causes and drivers which an organization like GR will find amenable to influence.

The triggers which the evaluators found for the peace process of relevance for GR are: the repatriation of refugees, and the poor quality of information about elections and the economy, both areas where there will be much critical change in the short term. The programs of GR should address these issues more specifically, and in particular the gradual phasing out of the legal clinics from some areas should be reversed. Resources should be sought to extend the program to new areas of repatriation, using funds earmarked for that purpose in UNHCR, as well as the EC and USAID.

Recommendation 3:
There should be a new planning workshop in which the coordination between components is clarified, based on the conflict assessment, and an analysis of the impact achieved, or the potential for impact. This would in particular seek to define the two main elements of the program of GR as assessed by the evaluation, namely: the community impact achieved through the mobile clinics (which are a powerful and original programming tool), and the impact achieved through legislative networking and lobbying.

USAID should review its policy of funding logistical capacity so as to maintain the efficiency of the programs at a time of expansion: many more areas are accessible, and the needs covered by the organization are increasingly relevant in a time of election.

There should be a better conceptualisation by GR of the link between its objectives of access to justice, and its notions of partnerships with local civil society, in particular a definition of the relevance of one to the other. The programs should have fewer and clearer objectives, and in this process of

elaboration define partnerships and lasting institutional survival as one of the impacts of the programs.

Recommendation 4:
It is crucial for USAID not to upset the balance created by proposing new programme orientations, but take advantage of the relative indetermination and flexibility of programmes to adjust to evolving reality. GR is not equipped to shift its program to election assistance. However by helping in the flow of information to and from the population, by working in the area of the vulgarisation of law, and by supporting the return of groups which have been exiled from their communities, they are highly relevant to an environment which will facilitate the running of the elections.

Recommendation 5:
A review of the importance of GR-VOT should be carried out, which currently constrains the performance of the other programmes. The conceptual link between legal assistance and assistance to victims of rape is valid, but this function has already de facto been transferred to APRODH. USAID should consider whether concentrating the program in one single organization would not increase efficiency.

Recommendation 6:
More attention needs to be paid to security of the local parajuristes staff that work in the legal clinics. The activities touch on sensitive issues, putting people, as well as those who cooperate with them, at risk of undue pressure. This raises issues of duty of care for GR, which need to be thought about more carefully than is currently done (maybe by generating more visits to show that there is a commitment to the work and information flows). The links to the legal system may have to be reinforced in the future.

Recommendation 7:

1) The GR program could be used to address in a deeper manner the issue of land, which, even if there is repatriation, will be a source of unease;

2) GR could support civil society networks and frame their actions to allow for an effective communication plan, particularly rumour management and the trickle up of good information on the campaign in the hills ;

3) GR should pursue broad agreement with civil society on a "code of conduct" and an acceptable "campaign language", and start monitoring the pre campaign in a systematic way as of now;

4) GR could contribute to educating the population about communal law, communal elections and responsibilities of the local administration. However this should not lead to an electoral assistance program, which should be instead supported by an independent organisation with logistical capacity and required independence to field monitors, preferably from the region.

Recommendation 8:
A study should be conducted on the concept of civil society. Specifically, the study should concentrate on the differences of rural and urban civil society and the specific needs of these two heterogeneous entities.

Recommendation 9:
The legal clinics program should be expanded to other areas where refugee expropriation has been massive, for example the Rumonge region. GR conducted an assessment to visit the Legal Clinic run by Ligue Iteka in June, and UNHCR has in the past funded such activities in the region.

Support should be provided for continuous training of the current "parajuristes" and for the training of new recruits. However, if the program is to grow, GR should approach the CNRS and seek closer coordination with the institution.

Recommendation 10:
GR needs to diversify its targets of lobbying and include the embassies, the UN, the international NGOs, but also Burundi politicians and businessmen.

USAID should recognize that the strategy of working on a selected number of NGOS, assisting them and allowing them to network is essential in the peace process: it ensures that issues which reflect the concerns of the population are also included in the negotiations in Bujumbura, and that pressure is placed on the political class to find solutions which do not only reflect particular interests. This should be complemented by a more top down approach that seeks to create conditions propitious to the emergence of civil society practices and the engagement of people at all levels of society, as they interact in ways that affect public environment. This can only be done if international donors, the United Nations peacekeeping operation understand and support actively the action of civil society.

ANNEXES

Annex I: List of Persons Met

Global Rights

Louis Marie Nindorera

Esperance Musirimu

Donna Fabiola Nshimirimana

Groups of parajurists in Ngozi province

USAID

Robert LUNEBURG, USAID Coordinator, Bujumbura

Steven SMITH, Senior Regional Conflict Management Advisor, USAID/REDSO

US Embassy

Alex LASKARIS, Deputy Chief of Mission, US Embassy, Bujumbura

Burundian interlocutors

Simon Nyandwi, Minister of Interior

Deo Ngendahayo, head of security for the Presidency

Pancrace Cimpaye, spokeman for the president

Eugene Nindorera, former Minister for Human Rights

Joseph Nzeyimana, FDD, Spokeman

Evariste Ndahishimiye, FDD, Cease fire Commission

Leopold Miburo, MP

Terence Nahimana, MP

Pierre Claver, APRODH

International

Nureldin Satti, UN Deputy SRSG

Corrine Archer, UN Political Affairs Department

Pierre Bardoux, ICG Political Analyst

Susanna Campbell, Tufts University

Bill Yates, head of Great Lakes Program, International Alert

Tony Jackson, Great Lakes Policy Adviser,International Alert

Ivan Campbell, Great Lakes Program,International Alert

Dr Mel Mc Nulty, Regional Conflict Advisor,FCO/DFID/Ministry of Defence

Marie Goreth NAHIMANA, Program Assistant, UNHCR

Ngozi

ABUBEF

CARE

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