

Supporting Justice: An evaluation of UNIFEM's Gender and Transitional Justice Programming in Rwanda (1994-2008)

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Background to Review –

The UNIFEM Governance, Peace and Security Unit is developing a global programme to support gender equality in transitional justice processes. The objective of the programme will be to develop strategies for the integration of a women's human rights perspective into various transitional justice (TJ) mechanisms; including truth commissions, criminal prosecutions, traditional justice and/ or reconciliation mechanisms, institutional reform and reparations. The programme will seek to support country offices in formulating effective strategies to support women's engagement with transitional justice processes which link to longer term rule of law recovery and justice sector reform programmes.

As a first step to this programme development, a review of UNIFEM's past support to transitional justice processes in key countries is being undertaken to assess the effectiveness of past programming. The review will extract lessons learnt which will serve as a base for the development of a more coordinated, coherent and systematic approach in support of national stakeholders.

Rwanda is a critically important country to review programmatically both from a country-specific perspective as well as from an institutional standpoint. Politically, the gendered nature of the genocide itself, the impact of past gender oppression on women survivors, the complexities of delivering justice in the aftermath of mass atrocity and the strong political will for gender equality and transformation since 1994, all provide for a unique case study in gender and transitional justice. Institutionally, UNIFEM's involvement in mobilizing, coordinating and supporting civil society and government over the past 14 years as well as the selection of Rwanda as a pilot for the new One UN initiative, provide the situational and institutional context for lesson-sharing in post-conflict contexts more broadly.

BACKGROUND

Women's position pre-conflict

Rwanda can be characterized as a traditionally patriarchal society. Prior to the genocide, women's roles were confined to the domestic sphere and their status was one of inferiority, legally and culturally. Women's access to education and employment opportunities were limited - among

secondary school students, boys outnumbered girls 9 to 1 and at a university level this rose to 15 to 1.¹ The Family Code of 1992 officially designated husbands as heads of households, making their consent a prerequisite for wives to open a bank account, engage in commerce, or enter into any legal agreement.² Women did not have the right to inherit property and their access to land and credit – both critical resources in an agrarian-based society – were restricted.

Culturally, the ideal image of a Rwandan woman was (and remains today) one who fulfils her maternal role. According to a government report prepared for the United Nations Fourth World Conference on Women in 1995, this ideal dictates that a woman must be “fertile, hard-working, and reserved. She must learn the art of silence and reserve...”³ Violence against women has traditionally been an accepted norm, reflected in the local proverb that “a woman not yet battered is not a real woman”.⁴ As late as 1984, women were almost completely absent from government’s policy-making apparatus, and it was not until 1990 that the first woman held a ministerial position.⁵ The lack of education, high rates of illiteracy, limited access to the public sphere and formal

¹ Human Rights Watch, *Shattered Lives* (1996).

² Sharlach (1999).

³ Quoted in, Human Rights Watch(1996).

⁴ Human Rights Watch (1996). There appears to be no systematic research on violence against women prior to the genocide, however pre-genocide levels can be inferred from current day levels. In 2004 the Ministry for Gender and Promotion of Family (*Ministère du Genre et de la Promotion de la Famille*, MIGERPROF) released the first in-depth attempt to quantify levels of VAW and explore its causes. The research found that 25.2% of women were victims of sexual violence during the five years that preceded the research. In terms of violence in the home, the report stated that 51.3% of women were victims of domestic psychological violence (including being forbidden to visit family or friends, being deprived of health care and treatment, having money withheld, and being the target of insults and verbal threats), 31% had suffered physical domestic violence and 8.7% had been victims of domestic sexual violence. 40% of women reported suffering from domestic violence frequently (more than 3 times a year) and 36% reported being victims once or twice each year. In the first months of 2007, Rwandan National Police (PNR) statistics showed that rapes were more numerous than any other crime reported (reported in *The New Times*, 23 May 2007). However in their 2007 Annual Report, the head of PNR noted that this is also likely a reflection of decreasing stigma and increased sensitization and awareness which has led more victims to be willing to report incidents to the police (*The New Times*, 24 January 2008).

⁵ Sharlach (1999).

employment all contributed towards a structure of enforced vulnerability⁶ for women and the feminization of poverty.⁷

Starting in the early 1990s there appeared to be a slow shift in certain sectors of civil society and government; a handful of women's organizations appeared (including Haguruka, one of the first dedicated women's organizations) and a dedicated Ministry of the Family and Promotion of Women was established. There was however strong resistance to these changes and civil society organizations advocating for women's rights faced open threats to their security and the security of their personnel.

Women's Access to Justice Pre-conflict

There is little research on women's access to justice prior to 1994, but a sense of the obstacles can be inferred from present levels of distrust and lack of access - which in spite of institutional reforms and efforts at gender sensitivity remain low. In 2004 the ministry in charge of gender affairs (MIGERPROF) conducted research in which it found that a very small percentage of female victims of violence sought assistance from the local authorities (5.8%) or the national police (PNR) (0.4%). The main reason offered (45%) was that women do not trust community social services and expect no help from them. In the event that the violence were to recur, 71.4% maintained that they would still not report the matter.⁸

⁶ Enforced vulnerability, similar to enforced poverty, can be understood as vulnerability or dependency that is forced upon target populations through an unjust and unequal social system which hampers agency and the power they are able to exercise over their own situation.

⁷ There is little gender disaggregated research on poverty levels available prior to 1994, however the patriarchal cultural and legislative framework of the country placed women in a vulnerable position economically. Today, nearly one-third (32.1%) of Rwandan households are headed by women of which 62% lie below the poverty line compared to 54% of male-headed households. There is a clear targeting of gender inequalities in much of the poverty eradication programmes in civil society and government since 1994 and whilst poor rural women remain the most marginalized and many of the gains must still be translated from policy to practice, there have been key achievements. For example, according to the World Bank, 41 percent of Rwandan businesses are owned by women today, and Rwanda has the second-highest ratio of female entrepreneurs in Africa.

⁸ MIGERPROF (2004).

One obstacle for women in accessing justice in Rwanda has been the different legal systems which operated simultaneously.⁹ Each system had its own rules, procedures, and costs, and frequently neglected the needs of women attempting to obtain justice. Gacaca, for example, was originally an institution reserved for adult men, and women needed to be “represented” by the head of the family – either their husband or father. There was no sanction for sexual violence through these local forums and within the criminal law system the aim was not the punishment of the guilty but rather the preservation of harmony within the community; once again sidelining women’s needs.¹⁰

Gendered Nature of the Genocide

The facts of the Rwandan genocide are well known. In April 1994 the plane of then-President Habyarimana was shot down over Kigali, plunging the country into three months of mass violence which resulted in the immediate deaths of more than 800,000 Tutsis and moderate Hutus. The violence was perpetrated in a way that destroyed institutions, infrastructure, communities, families and social bonds between fellow citizens. Senator Aloysea Inyumba, former Minister of Family, Gender, and Social Affairs noted that what was particular to the Rwandan experience was that the atrocities took place in the most intimate settings – between colleagues, teachers and students, neighbours and, most destructively, within families; they occurred over a short period of time; and they involved mass participation.¹¹

Perhaps an equally striking feature of the genocide was the stark example it presents of the multitude of ways gender impacts shapes conflict and its consequences: the creation and manipulation of gendered stereotypes in order to foment ethnic violence; the sexualized and gendered nature of the violence itself; and the consequences of this violence coupled with pre-existing inequalities and hierarchical relations.

⁹ For a comprehensive overview of women’s access to justice pre-1994, see, Haguruka, (2001); and Women’s Legal Rights Initiative (2004).

¹⁰ Haguruka (2001).

¹¹ Personal interview (2007).

As ethnic hatred and propaganda were increasingly and deliberately being spread in the years leading up to 1994, Tutsi women were targeted for specific denigration. They were characterized alternatively as seductress-spies, beautiful, sexually desirable, arrogant, and “inaccessible” to Hutu men whom they were portrayed as “looking down upon.”¹² Through this dehumanization and sexualization of Tutsi women, a climate was created in which “the mass rape of Tutsi women appeared to be an appropriate form of retribution for their purported arrogance, immorality, hyper-sexuality, and espionage.”¹³

Sexual violence was employed as a deliberate weapon of genocide. Although the exact figures are unknown, some estimate that between 250,000 - 500,000 women were raped. Others argue that the number was higher, and that almost every woman and adolescent girl who survived the genocide may have experienced sexual violence.¹⁴

The list of atrocities committed on women’s bodies is horrific; and included sexual mutilation, gang-rape and sexual torture, the use of foreign objects such as spears to rape women, forcing women to walk naked in public and other acts of public sexual humiliation.¹⁵ The violence was carried out by members of Hutu militia groups (the *Interahamwe*), civilians and soldiers of the Rwandan Armed Forces – including the Presidential Guard.¹⁶ According to Human Rights Watch, “[a]dministrative, military and political leaders at the national and local levels, as well as heads of militia, directed or encouraged both the killings and sexual violence to further their political goal: the destruction of the

¹² Sharlach (1999). Four of the ten infamous “Ten Commandments of the Hutu”, published in the pages of the extremist newspaper *Kangura* in 1990, dealt specifically ethnic gendered hate propaganda against Tutsi women:

Every Hutu should know that a Tutsi woman, wherever she is, works for the interest of her Tutsi ethnic group. As a result, we shall consider a traitor any Hutu who: marries a Tutsi woman; befriends a Tutsi woman; employs a Tutsi woman as a secretary or a concubine.

Every Hutu should know that our Hutu daughters are more suitable and conscientious in their role as woman, wife and mother of the family. Are they not beautiful, good secretaries and more honest?

Hutu woman, be vigilant and try to bring your husbands, brothers and sons back to reason.

The Rwandese Armed Forces should be exclusively Hutu. The experience of the October [1990] war has taught us a lesson. No member of the military shall marry a Tutsi. Human Rights Watch, *Shattered Lives* (1996).

¹³ Sharlach (1999).

¹⁴ Human Rights Watch (1996).

¹⁵ Human Rights Watch (1996); Nowrojee (2005); Weitsman (2007).

¹⁶ Human Rights Watch (1996).

Tutsi as a group.”¹⁷ The use of rape as a deliberate political tool of the genocide is evidenced in the cases before the International Criminal Tribunal for Rwanda (ICTR). As of June 2007, 36 individuals had been charged with rape, amongst them former mayors, political party elites and cabinet ministers.¹⁸

The genocide was not just gendered in the way in which identities were manipulated to encourage sexual violence against Tutsi women, but also in the way in which hate propaganda equally targeted and encouraged Hutu women to kill. In 1995, African Rights released a report documenting how thousands of Rwandan women were directly and indirectly involved in the killings.¹⁹ The report noted that contrary to common belief, there was no evidence that women were more likely to hide those targeted during the genocide than men were. One widow stated:

When Pro-Femmes and all the beautiful women’s organizations are saying, “The future of Rwanda is women”: Ah, no, it is not, this is just a joke.... During the genocide, it was horrible. You had women who were killing like men. But also what they were doing was horrible. They were hunting, telling where people were hiding, or going, taking clothes or jewellery from the bodies ... they didn’t even help to hide.²⁰

Gendered Impact of the Genocide

Fatouma Ndangiza, Executive Secretary of the National Unity and Reconciliation Commission (NURC), describes some of the challenges facing Rwanda in the wake of the genocide as relating in particular to the devastation of the social fabric of the country. She notes that there were over half a million widows, many of whom had been raped and were HIV positive; between 300 – 400,000 orphans; no infrastructure; a combined total of 4 million refugees and former exiles who

¹⁷ Ibid.

¹⁸ Four have thus far been convicted of the charge. These four are Akayesu, Semanza, Muhimana, and Gacumbitsi. ICTR Newsletter (June 2007). See also, De Brouwer (2007).

¹⁹ Perhaps the most disturbing case is that of Pauline Nyiramasuhuko, former Minister for Family and Women’s Affairs who is currently on trial before the ICTR. She is the first woman to be charged with genocide and rape as a crime against humanity. In testimony given at her trial witnesses allege that she instructed members of the *Interahmwe* to „select the nicest” Tutsi women to rape and murder and to consider the rapes as a “reward” for their involvement in the killings. Harman (2003).

²⁰ AVEGA widow, November 10, 1998 in Sharlach (1999). Rwanda is perhaps the only known case of women’s direct involvement in genocide on a large scale. Weitsman (2007).

needed to be repatriated; huge levels of trauma not just of those in the country but also those returning; insecurity; obvious mistrust amongst citizens and no common bonds.²¹

For women, the widespread and systematic use of sexual violence had horrific consequences. In addition to the psychological trauma, the physical illnesses resulting from the violations included fistulas, scars, sexual diseases, scarring, and a host of reproductive illnesses. It is estimated that nearly 70% of rape victims were infected with HIV – a deliberate strategy of the *genocidaire*²² and one which, according to local women’s organizations, ensured that the genocide continued long after the 100 days. Those women who became pregnant as a result of the rapes faced the choice of an illegal, and often botched, backstreet abortion, or of bearing the child of rape and grappling with the shame, stigma and emotional trauma this incurred for both mother and child.

The human rights abuses suffered through gender-based violence have been compounded by the extreme poverty and pre-conflict secondary status of women in Rwandan society:

Living on less than US \$0.70 a day, most women are hungry and have insecure housing. If widowed, they are often without any family income. If sick, they are unable to work. Multiple family members frequently are infected with HIV, causing households to become poorer and poorer with no way to reverse the trend in future generations.²³

Justice Needs Post-Genocide

Given the diverse and interrelated consequences of the genocide for Rwandan women, justice needs for women survivors have been wide-ranging and have encompassed far more than the need for just formal justice or prosecutions. Rwanda is a key example of the need for transitional justice measures to encompass social justice and development goals if they are to redress the consequences of gender-based violations. Whilst poverty exists across the country, women were particularly vulnerable given their lack of access to resources. The interface between the gendered nature of the genocide and the gendered hierarchy of pre-genocide society has had a devastating

²¹ Personal interview (2004).

²² President Kagame in an interview stated: “We knew that the government was bringing AIDS patients out of the hospitals specifically to form battalions of rapists.” in Landesman (2002).

²³ Cohen et al. (2005).

impact on women; one which can only be addressed through transformative justice,²⁴ a justice which takes a systemic approach and seeks to address both the causes of and comprehensive consequences of violations during conflict, including the redress of unequal gendered power relations in society. This would necessarily entail the wholesale reform of patriarchal legislation and governance structure.²⁵

Gender justice²⁶ also requires thinking more holistically about the full range of human rights violations that take place – not simply individual acts of violence - and their relationship to each other, as well as how they can be redressed comprehensively. This would include considering the total consequences of the violation in any policy of reparation. For example, in a context of mass rape and the deliberate spread of HIV, addressing barriers to health care and the provision of ARVs with psycho-social support for these women is a key justice need and should constitute part of any reparations program. However these medications without proper nutrition are toxic, and given the existing patterns of feminization of poverty due to systemic injustice, failing to ensure both immediate as well as long term food security through access to land, credit and economic opportunities can only provide limited redress.

²⁴ Transformative justice includes within its ambit root causes, and necessitates that the context which gave rise to the incident is “included in the search for understanding, healing and a better future,” seeking “to effect change on a structural level while helping those whose lives were affected by interpersonal harm.” Sullivan and Tift (2006). There is some debate over the relationship between transformative and restorative justice, but, typically, restorative justice is seen as including initiatives which aims to repair the injuries caused by a crime and restore individual and communal relationships. Whilst restorative justice can create spaces for addressing the root causes this is not its primary goal. By contrast with both these forms of justice, retributive justice focuses on punishment for the perpetrator in proportion to the crime.

²⁵ In making the argument for why legislative and governance reform are central to an effectively engendered transitional justice programme, Makau Mutua states:
“To center women’s rights in a transitional justice project, one can imagine the repeal or enactment of laws that make the female gender visible in the legal system. These would include, but not be limited, to laws that sanction without pity sexual and gender-based violence. Or one could think of educational initiatives that develop a gender consciousness in the judicial system such that sexual and gender violence is not an afterthought or absent from the minds of judges.” Mutua (2008).

²⁶ Gender justice can be defined as “the protection and promotion of civil, political, economic and social rights on the basis of gender equality. It necessitates taking a gender perspective on the rights themselves, as well as the assessment of access and obstacles to the enjoyment of these rights for both women, men, girls and boys and adopting gender-sensitive strategies for protecting and promoting them.” Pam Spees, quoted in Valji (2007).

Whilst socio-economic justice may be the most immediate or pressing concern for women given their daily struggles, justice through the formal court system has also been an important demand of women survivors; a demand driven by the need to ensure that there is punishment commensurate with the horrific acts perpetrated, but also that these individuals do not remain in the same communities, posing an ongoing security threat to victims and compounding existing trauma. Prosecutions are also seen as providing an important element of acknowledgment. In conducting interviews amongst rape survivors on their knowledge and expectations of the ICTR, Binaifer Nowrojee found that what women mentioned above all was a desire for acknowledgment:

they say that they are looking for public acknowledgment of the crimes committed against them. They want the record to show that they were subjected to horrific sexual violence at the hands of those who instigated and carried out the genocide.²⁷

Transitional Justice Mechanisms

In the wake of conflict and mass violence, there is a need for policies and measures which seek redress for past human rights violations, address victim's needs for healing, reconciliation and justice, as well as establish a culture of rule of law and respect for human rights going forward. These policies or mechanisms are collectively referred to as transitional justice, which has been defined by former UN Secretary General Kofi Annan as:

the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.²⁸

In Rwanda, the mass scale and mass involvement of the Rwandan population in the genocide has presented obvious challenges to any efforts to seek retributive justice through the court system. At

²⁷ Nowrojee (2005).

²⁸ United Nations Secretary General (2004).

one point in the 1990s, the number of prisoners was well over 122,000²⁹ and the country was spending more than ten percent of its annual budget housing and feeding this population – money that was urgently needed to address the socio-economic needs of the remaining population. With the legal system in ruins and only a handful of judges and lawyers remaining, it was estimated that it would take more than a century to complete the prosecution of all suspected *genocidaire*.

Given the enormity of these challenges, Rwanda chose to employ different forums at different levels of society to seek prosecutorial justice; in particular, the International Criminal Tribunal for Rwanda (ICTR), domestic prosecutions and the revival and adaptation of a local justice mechanism, *gacaca*.

ICTR

The ICTR was established by the UN in 1994 through UN Security Council Resolution 955 and was tasked with the prosecution of crimes of genocide and crimes against humanity perpetrated in 1994 in Rwanda or by Rwandan citizens in neighbouring countries.³⁰ The Tribunal began its work in 1995 in neighbouring Tanzania with a mandate to try “those most responsible,” – ie, the authors and political leaders of the genocide.

The ICTR and SGBV Cases

With regards to the prosecution of sexual violence cases, the ICTR has received much praise for its groundbreaking judgment in the Akayesu case, which marked the first conviction for genocide by an international court, the first time an international court punished sexual violence in an internal conflict, and the first time that rape was found to be an act of genocide.³¹ Moreover, in the

²⁹ Rombouts (2006).

³⁰ It was initially the Rwandan government who requested that the United Nations establish an international tribunal to handle the highest level crimes from that period, but ironically, when the UN presented finalized plans for the tribunal, Rwanda stood as the only party opposed to the measure. Amongst the Rwandan government’s objections was the exclusion in the founding resolution of the use of capital punishment. Some concessions were eventually agreed – although capital punishment was not one of them – and the establishment of the tribunal proceeded. Peskin (2008).

³¹ Nowrojee (2005). Akayesu, a former mayor, was convicted by a unanimous verdict on nine counts of “genocide, direct and public incitement to commit genocide, and crimes against humanity (including rape). Most importantly, the Trial

judgment, the Court established a broad legal definition of rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”; and noted that these acts of violence need not include penetration or even physical contact.³²

Disappointingly, the Akayesu case quickly became an exception, and by the end of 2002, the prosecution of sexual crimes had all but ground to a halt and charges of sexual violence were dropped from cases even where there was strong evidence to prosecute them.³³ Institutionally, the ICTR seemed to be insensitive to the needs of women survivors.

One Tribunal prosecutor, speaking on condition of anonymity, related to a researcher just how uncomfortable and difficult the experience of testifying in front of the court can be for Rwandan witnesses: most have never been on a plane, the food is unfamiliar as are the surroundings, the courtroom environment itself is intimidating and when enter it they are confronted by the sight of the accused who appear “relaxed and well looked after.” In reflecting on the Court’s relationship to witnesses the prosecutor concluded, “[f]or a few days we take them out of their abject poverty, *just to extract legal information.*”³⁴

These issues are compounded for female witnesses as the power differentials are often much more striking, and are compounded by an adversarial legal system that has sometimes left the women feeling it was they themselves who were on trial.³⁵ In her seminal work on women survivors and the ICTR, Nowrojee notes that rape victims who have testified before the Court have been subjected to brutal cross-examinations, including being made to restate details of the violations repeatedly for as long as weeks on end. In perhaps the most known incident, judges began

Chamber found that the systematic rape of Tutsi women encouraged by Akayesu constituted genocide. United Nations (1998).

³² Koomen (2007). Subsequent decisions have, however, backtracked on this broad definition. Thus, according to one report, in order to establish rape, “ICTR prosecutors must still ensure that their witnesses explicitly tell the Court how they were injured.”

³³ Nowrojee (2005).

³⁴ ICTR Prosecutor, anonymous in Koomen (2007).

³⁵ Nowrojee (2005).

laughing during the cross-examination of a victim of gang-rape. No recognition was made of the inappropriateness of the judges' behaviour and no apologies were made to the victim.³⁶

The absence of a comprehensive strategy to deal with sexual violence cases from the start meant that much ground was lost initially. A Human Rights Watch report from 1996 concluded that Tribunal investigators, mainly men, rarely asked Rwandan women about sexual violence. Those that did ask were given little information because of a lack of trust by witnesses and the fact that they were unable to offer protection from retaliatory attacks to those who did provide testimony.³⁷

Where testimony was sought on gender-based violence, there wasn't a clear plan for context and gender-sensitive evidence gathering techniques. One female prosecutor for the ICTR notes that there was no privacy when they went "on mission" to Rwanda to find and interview witnesses. She tells the story of visiting one woman where the entire community came out to greet them: "The whole village came! To see this vehicle, to ask for bottled water. Everyone knows why we are there! I tell you, I rethought the whole tribunal."³⁸

The Court has made an effort to learn from past weaknesses in this regard. A gender advisor was brought on board and whilst there was limited victim protection for ordinary witnesses during the early years of the ICTR, the Registry now provides witnesses safe houses – an important development for protecting women's security.³⁹ Here too, however, a lack of coordination and planning has had a negative impact on women who have testified. According to Nowrojee, the ICTR does well protecting victims of sexual violence during the trial, but does little to protect victims following testimony. That is, during trial, the witnesses are kept in safe houses when they are not testifying, and their names and faces are concealed whilst giving testimony. The rules of the ICTR however require that the names of witnesses be given to the defence, who may leak this

³⁶ Ibid.

³⁷ Human Rights Watch (1996).

³⁸ Koomen (2007).

³⁹ Ibid.

information back to a witness” community, leaving her vulnerable to stigmatization and victimization upon her return.⁴⁰ The ICTR claims that witness protection post-trial is the purview of the Rwandan government - the Rwandan government for its part claims that all matters pertaining to witness protection are the responsibility of the ICTR.⁴¹

As a result of these and other issues, there has been little trust among Rwandan women in the ICTR process to deliver justice for sexual violence.⁴² As Nowrojee notes:

Even as Rwandan rape survivors continue to recognize the value and potential of an international court set up to deliver justice to them, the overwhelming sentiments expressed by them are a burning anger, deep frustration, dashed hopes, indignation and even resignation. Justice moves slowly for all at the ICTR, but even more slowly for rape victims ... If the current trend continues, when the doors of the ICTR close, the judgements from this court will not tell the full story of what happened during the Rwandan genocide. They will not correctly reflect responsibility for the shocking rapes, sexual slavery and sexual mutilations that tens of thousands of Rwandan women suffered.⁴³

The ICTR’s ability to communicate their work to their intended beneficiaries has been a further weakness. There is an information centre headquartered in Kigali but the information here is primarily in the form of pamphlets and other media that is available predominantly in English and French. The geographical and language barriers mean that few rural Rwandans have access to this centre or the materials housed there. There have rarely been attempts by prosecutors to go out into rural areas to explain the ICTR to the average Rwandan.⁴⁴ Efforts have been made to transport members of the Rwandan legal community to Arusha to see the tribunal first hand and some work has been done in translating case material into Kinyarwanda, but again access to this material is limited to a literate and educated population and those who actively seek it out. Another communication gap has been that witnesses are rarely informed of the results of the trial in which

⁴⁰ Nowrojee (2005).

⁴¹ Ibid.

⁴² Onyango (2005).

⁴³ Nowrojee (2005).

⁴⁴ Ibid.

they testified.⁴⁵ Results of trials are available on the ICTR website in Kinyarwanda, but this is of little use to those without internet access.⁴⁶

Some of the more successful outreach initiatives have been those conducted in partnership with civil society organizations such as Internews, a US based media partner who has taken news footage and documentaries of the ICTR's work to rural Rwandan towns for screening. These sorts of partnerships are limited in number however, and some analysts note that the Tribunal will rarely enter into partnership with an organization that is not connected to the government in some way.⁴⁷

ICTR and Civil Society

The relationship of the Court to civil society, in particular women's organizations in Rwanda, has been tense. Survivor groups have objected to the comfortable lifestyle the accused enjoy whilst awaiting trial, in particular, there has been anger over the access to treatment provided for HIV positive defendants versus the lack of availability (at least initially) to life saving drugs for women victims in Rwanda.⁴⁸ In an open petition given to then Secretary-General of the UN Kofi Annan in 2004 the Action for Rwandan Genocide Witnesses (ARGW) in collaboration with AVEGA, Pro-femme and others noted their anger at

... the scandalous double standard that these women [survivors testifying before the ICTR, generally infected with HIV] continue to be subjected to in a process whose

⁴⁵ De Brouwer (2007).

⁴⁶ Peskin (2005).

⁴⁷ The reasoning behind this is that partnerships with government organizations or government-related organizations are believed to help the ICTR maintain the relationship it needs with government to function. Ibid.

⁴⁸ The Court did set up a fund to assist women witnesses subsequently, but as these victims represent a tiny minority of the total number of victims in Rwanda it has done little to assuage resentment about the amount of money being spent in Arusha versus the amount of money being given as targeted assistance to victims or in the form of development aid to Rwanda more generally. This has been one of the most persistent criticisms of the ICTR – the amount of money that has been invested in relation to the number of cases tried or in relation to the money given to Rwanda to rebuild post-genocide. Whilst there are obviously strong arguments to be made in favor of the Tribunal, it is easy to see from the statistics the source of concern: In its first decade of operation (January 1997 to April 2007), the ICTR completed only 33 trials. The cost of operations during this time was approximately US\$1 billion, an average of about \$30 million per completed case. International Criminal Tribunal for Rwanda, "The Tribunal at a Glance" (2007). By contrast, between 1995 – 2005 Rwanda received approximately \$111m donor aid for all domestic transitional justice initiative. Samset et al. (2007).

stated aim is to help bring some justice to the victims of the Tutsi genocide of 1994 in Rwanda.

Civil society has however played a crucial role in the work of the Court, in particular on cases of sexual violence. The Akeyesu case provides a positive case study of the influence civil society can wield in ensuring justice for women through the judicial process. This precedent setting case would never have occurred had it not been for a combination of the insightful questioning and leadership of trial judge Navi Pillay,⁴⁹ but more importantly, for the pressure exerted by a coalition of women's organizations under the name of the Coalition for Women's Human Rights. The Coalition, a grouping of over 40 human rights organizations globally, including a number of local Rwandan women's organizations, had been formed in 1996 with the express mandate to "monitor the ICTR and ensure that it protected the rights and interests of women appearing before the Tribunal". They began their advocacy initiatives with a letter to then Chief Prosecutor Richard Goldstone and followed this by filing an *amicus curiae* brief with the Office of the Prosecutor requesting that the original indictment against Akeyesu be amended to include charges of rape and sexual violence.⁵⁰

A number of local Rwandan NGO's, with financial and technical support from UNIFEM, further contributed to the case by traveling to Taba (the area in which crimes had been perpetrated) and collecting testimony to feed back to the Tribunal's investigation team.⁵¹

The combination of external pressure with internal leadership has been credited with ensuring that sexual violence was acknowledged as having been a systematic and deliberate strategy of the genocide.⁵²

⁴⁹ Pillay accomplished this through her persistence in thoroughly interviewing witnesses to unearth testimonies of rape. For example, following direct and cross-examination of witness "H" in the Akayesu case, Pillay asked additional questions of the witness to bring out evidence of the rape to which the witness had alluded. Van Schaack (2008). Pillay made an increased effort to ensure that charges of rape were brought against Akayesu after she was informed that in general, ICTR investigators had been discouraged from inquiring into evidence or testimony of rape and that the effect of this was that very few, if any, charges of rape were being laid. Institute for War and Peace Reporting (2007).

⁵⁰ Van Schaack (2008).

⁵¹ Personal interview, UNIFEM staff (2008).

⁵² Other important initiatives by civil society on SGBV included:

Domestic Prosecutions

The 1996 Rwandan Organic Law separated crimes related to the genocide into four categories in order to fast track prosecutions and encourage the release of prisoners.⁵³ The categories grouped responsibility by the seriousness of the crimes committed, with category one – which included the crimes of genocide and sexual torture – being dealt with through the formal courts.⁵⁴

Prosecutions of genocide related cases began in December 1996. The establishment of a plea bargain system under the 1996 Organic Law was intended to reduce the number of trials by encouraging confessions for reduced sentences. The reality was far different, and by 1998 few prisoners had confessed and only 1,292 cases had been tried.

Much effort has been put into reforming the judicial system and the international community has lent much of the technical and financial support that has been used to rebuild the judicial system.⁵⁵

The Coalition's ongoing advocacy work which included a 1997 letter to Justice Louise Arbour which made recommendations on the protection of female witnesses; an additional *amicus curiae* brief in 2001 concerning the case of Emmanuel Bagambiki (the Cyangugu region case), who had testimony against him indicating that he had been involved in rape but was not charged with rape by the ICTR; letters in 2003 to Carla Del Ponte and Kofi Annan regarding the poor quality of ICTR investigations of rape cases and a 2005 lobbying of the ICTR to permit expert testimony from Dr. Binaifer Nowrojee in cases of sexual violence. Coalition for Women's Human Rights in Conflict Situations (website). Work by other civil society groupings included that of the Association of Widows of the Genocide of 1994 (AVEGA) who assisted the ICTR in finding witnesses to sexual violence committed by defendants in the Cyangugu prefecture case (Van Schaack (2008)); and the work of the Monitoring Project on Gender-Related Crimes at the International Criminal Tribunal for Rwanda which was established by Human Rights Watch and the International Centre for Human Rights and Democratic Development (ICHRDD) (Copelon (2001)). The Working Group on Engendering the Rwanda Tribunal (IWHR) also submitted amicus briefs in favor of charging Akayesu with rape. The IWHR consisted of individuals from the Center for Constitutional Rights and the University of Toronto Faculty of Law (Copelon (2001)).

⁵³ *Organic Law on the Organisation of Prosecutions for the Crime of Genocide or Crimes Against Humanity committed between October 1, 1990 and December 31, 1994*. This law established the following categories of crimes - Category 1 covers the planners and organizers of the genocide; those who were in a position of authority (in political parties, the army, religious orders or militias) on the national, prefectural, communal, or sectoral level; those who were killers of great renown because of the zeal or cruelty with which they carried out the killing; those who committed acts of sexual torture. Category 2 covers perpetrators or accomplices of intentional homicide or serious assaults that resulted in death; Category 3 covers persons accused of other serious assaults; and Category 4 covers offenses against property.

⁵⁴ The 2001 Law which established the gacaca courts amended the categories to include rape (which was previously absent) as a Category 1 offence alongside sexual torture.

⁵⁵ In 2004 the judicial system essentially stopped trying cases in order to focus on wholesale reform efforts. According to Human Rights Watch (2008), these efforts have been supported in the main through donor funding, of which Belgium, the Netherlands, and the European Union have been the largest.

Specifically the donor community has supported the building of courts, improvements in information technology, the writing of new legislation and training of judicial personnel. HRW notes however that donors have rarely used their influence to criticize or address systemic issues such as the politicization of the judicial system, and that “[g]iven the extent of financial and political support for the judicial system, donors should be in a position to press the Rwandan government more vigorously for action.”⁵⁶

Civil society monitoring of genocide trials has been damaged by the overall politicization of genocide trials. LIPRODOHR, a local human rights NGO, had been conducting systematic monitoring of court cases - however in a 2004 crack down by the RPF government on those it accused of harbouring “genocide ideology” LIPRODOHR was particularly targeted and twelve of its senior leaders, including amongst them their most experienced trial observers, fled the country. The organization has since resumed its activities however trial observation and monitoring is no longer part of this.⁵⁷

Domestic Prosecutions and SGBV Cases

The fact that sexual torture was included amongst the most serious of crimes was a direct consequence of the mobilization and leadership of local and international civil society and Rwandan women parliamentarians. The original draft law had placed sexual violence crimes in category 4 – along with looting and property crimes. Local women’s organizations, including Profemme, Avega, Haguruka, Rwandan Women’s Network and others – with UNIFEM support – put together a team to gather women’s input and testimony from across the country. These issues were taken to the Rwandan Women’s Parliamentary Forum (*Forum des Femmes Rwandaises Parlementaires* (FFRP)) and individual victims were brought to the Parliament to meet with Forum members. This group, along with the Forum, drafted a document which was given to all parliamentary members as a basis for advocacy and education.⁵⁸ In the words of one activist

⁵⁶ Human Rights Watch (2008).

⁵⁷ Ibid.

⁵⁸ This document was also given to the ICTR to inform their strategy.

involved in the campaign, what was needed was targeted sensitization of MPs to shift the existing mindset on sexual violence which regarded rape as “*une crime banal*” – not a serious issue and certainly not a crime against humanity.⁵⁹ Without the collective mobilization and initiative of these women’s organizations it is doubtful that this shift in attitude would have been secured. As this was prior to the 2003 establishment of a gender quota, there were few women in parliament at the time, and the effort to secure category one status for sexual violence cases has been described as a “tug of war” and “a battle” by women MPs involved – one that would not likely have been won alone.⁶⁰

Inclusion of rape as a category one crime has however had complicated consequences. On the one hand it has served as an important acknowledgement to survivors of the seriousness of their experiences; a symbolic step away from the invisibility with which such violations are generally treated. However by ensuring that these cases are dealt with through the formal courts, there has been no motivation for disclosure or confession on the side of perpetrators. As most women were raped after their family members and witnesses had been killed in their presence, there are few corroborating witnesses and many defendants are acquitted for lack of evidence.⁶¹

These complications have been compounded by an untransformed judicial system - of the women HRW interviewed who had attempted to press charges between 1998 and 2003 for incidents of rape during the genocide, half reported that the authorities had never even registered their complaint.⁶² Given this treatment and the added trauma of testifying (even behind closed doors), the risk of community members finding out and the consequences for victims, it is little surprise that in 2004 Haguruka, a local NGO that provides legal support to women and children in need,

⁵⁹ Personal interview, UNIFEM consultant (2008).

⁶⁰ Devlin and Elgie (2008).

⁶¹ Human Rights Watch (2008).

⁶² Rape is not historically treated as a serious crime in Rwanda and given the social stigma attached to it most victims are encouraged to address it through traditional family mediation processes rather than report the incident. Describing the legal situation of violence against women in 2007, Freedom House underlined that “[I]mportant gaps remain in legal protections, especially to prevent violence against women. Although the penal code defines rape as a crime, prosecutions are rarely pursued”.

estimated that less than one hundred women had seen their genocide period rape cases go through the ordinary courts.⁶³

Gacaca

As a result of the failed plea bargain system, the still vast number of outstanding genocide-related cases and the impossibilities of prosecuting all suspected *genocidaire* through the courts, in 1998 then Vice-President Kagame announced the establishment of community courts to deal with the majority of these cases; a revival of a traditional justice mechanism known as gacaca.⁶⁴

Gacaca was originally a form of dispute resolution that dealt with physical or verbal affronts or property disputes. Parties to the process were generally from the same community and the courts were presided over by *Inyangamugayo* – or “wise old men” who were respected in the community. When Rwanda was colonized a Western judicial system was adopted, however gacaca remained in place to deal with lesser crimes and intracommunity disputes.⁶⁵

The idea of using this traditional justice mechanism to deal with the vast number of genocide related cases was conceived through the “Urugwiru meetings” held in 1998 and 1999 between the Rwandan president and public figures from civil society, government, and other sectors of Rwandan society.⁶⁶ Following much debate over the use of gacaca courts and whether they could “provide the kind of justice Rwandans needed,”⁶⁷ the gacaca courts mandate and function was established by law in 2000.⁶⁸ It was decided that the courts would not have jurisdiction over

⁶³ Amnesty International (2004). It is difficult to find exact numbers of rape cases which have already been tried through domestic courts, however it has been described as an “extraordinarily small number of cases,” particularly given the large number of rapes which were actually perpetrated during the genocide. Some of the reasons for this include: “Weaknesses in the legal system includ[ing] gaps in statutory law, insufficient protections for victims and witnesses who wish to report or testify, lack of training for authorities with respect to sexual violence crimes, and poor representation of women among police and judicial authorities.” HRW report cited in Plan International (2008).

⁶⁴ Human Rights Watch (2008).

⁶⁵ See, Karekezi et al. (2004); and Ingelaere in Huyse and Salter (2008).

⁶⁶ Karekezi et al. (2004).

⁶⁷ Ibid.

⁶⁸ *Organic law No. 40/2000*.

category one offenders - the major architects of the genocide and those who perpetrated acts of sexual torture. These were to remain in the jurisdiction of the ICTR and domestic courts.

In 2001 Rwandans voted for nearly 250,000 Inyangamugayo to preside over the community courts at the different levels. As this vote took place before the establishment of a 30% quota of women's representation in all public office positions, there was no quota established for the number of women judges.⁶⁹ As a result the percentage varies by level of the court. The highest percentage of women judges, approximately 35%, were elected at the lowest level of the courts, the cell level. The lowest percentage of women judges, about 19%, were elected at the highest level of the courts, the provincial level.⁷⁰

Before being formally established, the gacaca courts were piloted in twelve regions of the country in mid-2002.⁷¹ National roll out of gacaca then began in 2005 during which time the courts underwent an information gathering stage in order to identify perpetrators and cases and classify individuals according to the four categories. Actual trials began only in mid-2006 at which time the information gathering stage had identified 818,000 accused who would be called to appear before the gacaca courts.

As noted, the gacaca courts hold jurisdiction over categories two to four⁷² suspects who include killers, conspirators, accomplices of intentional homicide and those who committed property crimes. Current day gacaca is a modification of the original traditional justice/ community dispute resolution mechanism but with the integration of some aspects of the Western legal system. It continues however to be based largely on restorative justice principles.⁷³ Although punishments meted out by gacaca courts in their current form can vary up to and including life in prison, an

⁶⁹ Kanakuze (2003).

⁷⁰ Penal Reform International (2005).

⁷¹ Karekezi et al. (2004).

⁷² Now only two and three as the last two categories have been collapsed together.

⁷³ Gacaca through its inclusion of the entire community, the back and forth dialogue between parties in a procedure more akin to mediation than a legal court battle, and the truth-seeking and accountability through confession, does reflect many restorative justice principles in theory.

important feature of the courts is the “plea bargain” element – sentences are reduced where the accused confesses (reduction in sentencing is also dependent on the timing of the confession), apologizes publicly and provides details of the crime. These reduced sentences often include some form of community service as part of the sentence and to facilitate reintegration back into the community. The courts are communally participatory – the entire community is expected to attend and to act as prosecutor to identify perpetrators and victims, as well as witnesses to present evidence. There are currently 12,103 gacaca courts established nationwide presided over by 169,442 *Inyangamugayo*.⁷⁴

In its short period of operation, the gacaca jurisdictions have been altered four times by law (2004, 2006, 2007 and 2008). Some of the more important changes include the reduction in the number of judges required at a session (originally set at 19, then reduced to 14 in 2004 and to 7 in 2007); the reduction in the number of categories from four to three in 2004; and in 2007 the criteria for categorization was slightly changed in order to decrease the number of accused in the 1st category. The most important and recent amendment however has been the amendment passed by the House of Deputies on April 10, 2008 and by Senate in June 2008. The amendment reclassifies sexual torture cases as category two so that they can now be dealt with by gacaca courts – essentially undoing the original efforts of women’s organizations to ensure that these cases were classified amongst the most serious crimes. This presents even starker challenges for victims of sexual violence and is a key area of concern cited by victims and women’s organizations.⁷⁵

⁷⁴ Ingelaere (2007).

⁷⁵ An overall assessment of gacaca courts is beyond the scope of this report and there has been much written on this elsewhere. Of interest here however is new research which points to an increase in perceptions of insecurity amongst Tutsis (ie, the group constituting the majority of genocide survivors) since the 2005 national rollout of gacaca courts. In his report titled “Living the Transition,” Ingelaere’s graphs levels of perceived security amongst Hutu and Tutsi based on months of in-depth research in different communities. He finds that Tutsi feelings of security sharply decreased with the launching of gacaca and more specifically with the national roll out in 2005. This has particular relevance to women who were victims of sexual violence given the already heightened feelings of insecurity caused by having the offender released into the community and the isolation and stigma attached to this crime. These factors make it that much less likely that women will be willing to come forward when gacaca starts to deal with sexual violence cases. Ingelaere (2007b)

Gacaca Courts and SGBV Cases

Rape in Rwanda was traditionally seen as a “family affair” if it was reported at all. The focus was on how to restore relations between the two families rather than punish the perpetrator. Often the perpetrator was forced to marry the victim or pay “compensation” in the form of cattle to the victim’s family.⁷⁶ Kamashazi Donnah notes that the issue of rape was so shrouded in secrecy and shame that many continue to believe that it did not exist prior to 1994.

Although sexual violence cases related to the genocide were originally meant to be handled by the domestic courts, gacaca, as noted above, was used for the hearing of confessions, identification of perpetrators and classification of cases as well as evidence gathering in all cases related to that period. Some of the key challenges with this system have included the risk of disclosure and stigma for survivors.⁷⁷ Perhaps the greatest impact the current model for justice has had on women survivors has been the provisional release of prisoners awaiting their hearing before gacaca. HRW notes that for some women, seeing their alleged perpetrators has further traumatized them, others have endured security threats and intimidation by perpetrators who want to ensure that there are no witnesses to testify against them. In the words of one victim, the provisional release policy “has eroded their faith in the justice system.”⁷⁸

The structure of confessions and plea bargaining in gacaca has had a negative impact on rape survivors as it provides incentive for guilty parties to publicly confess to details of their crimes, including the identity of victims, despite whether victims want to remain silent or not. Donnah alleges that some women have been victimized by their partners following the revelation through the gacaca process that they had been raped.⁷⁹ Moreover, the Women’s Legal Rights Initiative’s “Rwanda Assessment and Analysis Report,” in 2004 points out that, within the communal context

⁷⁶ Donnah (2003)

⁷⁷ In 2004 the Gacaca Law was amended to allow a rape victim to give testimony before a single gacaca judge, confidential testimony in writing, or testimony to staff at the provincial prosecutor’s office, however implementation has been inconsistent.

⁷⁸ Human Rights Watch (2004).

⁷⁹ Donnah (2003). Donnah does not however specify how many victims this has occurred with or where this information was found.

of the gacaca, a confession of rape by the perpetrator is almost as shameful to the victim as to the rapist, so it harms the victim doubly, in public.

Surveys conducted by the International Rescue Committee on behalf of the National Unity and Reconciliation Commission in 2002, 2005 and 2006 demonstrate that the general population's belief in the appropriateness of gacaca to deal with sexual violence cases has actually diminished over time. In response to the statement "Women will have difficulties revealing themselves as victims of sexual violence" respondents increased from 53% agreement with the statement to 63% over the four year period.⁸⁰

In spite of the original advocacy to keep such cases out of gacaca, the growing belief that these courts are unsuitable to try sexual violence perpetrators and the difficulties experienced in relation to simply gathering evidence and classifying cases of this nature through these courts, the government pushed through the latest amendments to the gacaca law and in July 2008 began trying these cases before gacaca courts.

At the time of the interviews, the proposed amendments reclassifying sexual violence cases and allowing them to be dealt with through gacaca had not yet been passed into law. Local women's organizations all expressed a sense of apprehension and concern regarding the new proposal. More than this, there was a marked sense of resignation, by both victims and civil society; a sentiment that did not exist previously when women had mobilized successfully to ensure that sexual violence was placed as a category one offence. The resignation seemed to come from knowing that government was determined to push through these reforms quickly, and whilst there has been some concern voiced, advocacy on the issue has in general been weak. This is despite the belief voiced amongst many interviewed that if the reforms moved ahead as planned, the majority of women victims will never see justice for their cases.

⁸⁰ Ingelaere (2007a).

The silence is in part because the issue of rape is surrounded by sensitivities. Some work has been done by AVEGA who have held meetings between their members and the local authorities to discuss how these cases are being dealt with.⁸¹ Some of the key concerns raised by AVEGA members include the issue of testifying to rape in front of gacaca where, unlike in a court, you are amongst your neighbours and immediate community whilst testifying. Other concerns are that the judges are not capacitated for this, that there are no provisions to provide women with psycho-social support before, during and after the process and that many women will not testify to such matters even in private as it is culturally foreign to do so. Constructive suggestions put forward by this organization have been that judges for these cases be women, hearings be held in private and that judges be swapped between districts to ensure that women are not testifying in front of their neighbours.

There have been safeguards built into the new act which reflect an effort to address some of these concerns. In particular, the new law allows for trials to proceed in closed session and provides that only the “best judges” will be selected for these cases and will be trained before hand. Additionally, violation of the secrecy of a closed session hearing carries with it the possibility of severe punishment, including a prison term of one to three years. It is unclear however whether such measures will be adequate. Similar measures were eventually introduced with the 2004 amendments to the gacaca law to allow victims of sexual violence to testify in private to a single judge, interviewees noted that this has not been effective however as the moment a woman asks to testify in private she reveals herself as a rape victim, defeating the efforts at confidentiality.

There is no consensus on how best to handle rape cases. According to the Executive Secretary of the National Service of the Gacaca Courts (SNJG), Mrs. Domitilla Mukantaganzwa, the number of alleged authors of SGBV cases to be transferred to gacaca is estimated to be some 6, 808

⁸¹ AVEGA-AGAHOZO is a Rwandan NGO started in 1995 by 50 genocide widows. It continues to serve the needs primarily of genocide-related widows but has expanded to include amongst its beneficiaries orphans, children who head households, those who lost children, the handicapped and the elderly. AVEGA and IBUKA – the umbrella survivors’ organization, are the two largest and most well-established organizations dealing with issues of genocide survivors.

persons.⁸² Some civil society members are advocating that these cases must stay in the court system - many of these women have never told anyone about their experiences and are unlikely to do so in the circumstances presented by gacaca. Others recognize that there have been problems with dealing with genocide crimes through the formal judicial system and that in principle gacaca is a positive initiative, it is the implementation in practice that has been problematic and has led to a constant shifting of goal posts; first there were four categories of offences, then three and now the law is being changed again.

A further critical issue raised by interviewees is the speed of the process and the sense that there is a preoccupation on the part of government with finishing this process now and closing the door on the past and on genocide-era justice issues. This does not take into consideration the needs of victims. Interviewees noted that there has been pressure on all sides and there has been no time for sensitization or education. Some suggested that it would be better if SGBV crimes were dealt with separately as gacaca is running against the clock (albeit an artificially created one) and people are not psychologically prepared for them to now be dealing with formerly category one cases.

Other key TJ issues/ policies

DDR

Demilitarization, demobilization and reintegration (DDR) programs are key components of an overall country strategy post-conflict. The goal is to reintegrate former combatants back into a new peaceful society in a sustainable manner as fully contributing citizens. In the words of the former UN Secretary General Kofi Annan, “[d]isarmament, demobilization and reintegration processes are one of the keys to a transition out of conflict and back to normalcy. For populations traumatized by war, those processes are among the most visible signs of the gradual return of peace and security.”⁸³

⁸² “1994 Genocide - Gacaca Courts Will Start Trying Rape Cases Next Month,” *Hirondelle News Agency*, June 25, 2008.

⁸³ UN Secretary General (2004).

DDR is also however one area of post-conflict programming where gender inequalities are often at their starkest – these programs tend to implicitly assume that former combatants are men, and have failed to provide for the needs of women who may have been part of the fighting forces, whether by choice or force, in a range of roles. Moreover, for women in the communities, men returning from conflict may expect to regain their positions as breadwinner and head of family, with consequences for women who have assumed new roles during the conflict. Conflict, and involvement in it, is premised on a militarized identity which coupled with the perceived loss of status that can sometimes accompany the end of war for combatants, often leads to increased violence in the homes and communities of former combatants. DDR programs that fail to demilitarize the mindset of combatants and develop skills for conflict management that are not premised on violence, neglect the needs of women and can lead to the displacement of violence from one arena to another. Lastly, given the gendered roles of conflict –where the majority of fighters are men and the majority of victims women, the priority placed on DDR programs over reparations programs – both in terms of timing and funding – can re-establish old power hierarchies in the new dispensation and lead to resentment and anger about the perpetuation of new injustices.

In Rwanda, a dedicated government body - the Demobilization and Reintegration Commission (RDRC) – was established in 1997 to demobilize and reintegrate ex-combatants from armed groups, the *Forces Armées Rwandaises* (FAR) and the Rwandan Defense Forces (RDF).⁸⁴ In 2002 the Commission embarked on its second phase with support from the Multi-country Demobilization and Reintegration Program (MDRP); a World Bank project. The second phase is focused on supporting the successful economic and social reintegration of ex-combatants back into society. Demobilization is meant to take place in line with an overall national reconciliation and reconstruction strategy and in coordination with the Poverty Reduction Strategy of the Government of Rwanda.⁸⁵ One of the key goals of the RDRC is to facilitate the reallocation of Government

⁸⁴ United Nations Office of the Special Adviser on Africa (2007).

⁸⁵ Ibid.

expenditure from military to social and economic sectors.⁸⁶ This goal has particular importance for gender justice as militarization of society has been linked to higher levels of violence against women in other settings, and decreased social spending places an increased burden on women who are expected to take on additional responsibilities and roles in their community and families.

None of the commissioners of the RDRC are women but the commission has specific targets in their planning process for benefiting women who fall under their mandate. Less than 1% of demobilized ex-combatants were women and little is known about their reintegration as there has been no dedicated research.⁸⁷ This dearth of information means that it is difficult to assess how these women have reintegrated. Some suggest that although they remain the poorest of the ex-combatants, these women are active in their communities and have reintegrated successfully.⁸⁸ However, according to the Ndabaga Association, an organization of former female combatants, their members still face numerous obstacles that have hampered their full integration into their respective communities. These include a lack of access to basic housing, health care and education, in addition to continued stigma and discrimination from the rest of the community.⁸⁹ A common experience during the DDR process is for the number of women combatants to be underreported or underidentified, either because of institutional, cultural or definitional barriers. This means that those women who should benefit from the programme often do not. This has been a concern in Rwanda as well, where the MRDP notes that “women are also being underreported by combatant groups at the front end of the process, and that more needs to be done to encourage women combatants to present themselves, and to properly identify and incorporate women into national DDR programs.”⁹⁰

Like many transitioning states Rwanda has prioritized the reintegration of ex-combatants- providing aid packages to assist this reintegration – whilst reparations for victims remain unaddressed. Upon

⁸⁶ Ibid.

⁸⁷ Farr (2004).

⁸⁸ Ibid.

⁸⁹ “Rwanda: Ex-combatants seek inclusion” (2004).

⁹⁰ Multi-Country Demobilization and Reintegration Program (MDRP) Secretariat (2004).

demobilisation, a member of the Rwandan Defence Force is granted approximately US\$90. In addition, all former army soldiers, *including those of the former army associated with the genocide*, the ex-FAR, are given "recognition of service allowances". The value of these allowances varies with rank – whilst an army private receives US\$180, a colonel will receive \$820. Moreover, the country's Demobilisation and Reintegration Commission gives each ex-combatant a reintegration grant of \$180 six months after demobilization provided they present a viable project they intended undertaking to support their new life.⁹¹ With reparations still outstanding fourteen years on, and unlikely to be addressed anytime soon, the focus on ex-combatants, particularly when this grouping includes those potentially implicated in the genocide,⁹² can lead to resentment on the part of survivors. In the words of one survivor "when you say militia, the government stands up ... when you say survivors, orphans, those who were infected with AIDS by these militia, no one stands up."⁹³

The MRDP notes that given this inherent tension between programs for ex-combatants and the needs of violence-affected groups and communities which are the site of reintegration, DDR programmes should utilize community development mechanisms to channel assistance to ex-combatants in order to balance both needs. They point to Rwanda as being a positive example in this regard and note that assistance has explicitly been channelled through local community development committees. Whilst this may have some mitigating effect, it does not directly address the injustice of having a comprehensive DDR strategy with no commensurate attention on victim's right to reparations.

Institutional and Governance Reform

Perhaps the greatest contribution to gender justice post-conflict has been the focus by the current government on institutional and governance reform broadly to redress the oppressive laws and

⁹¹ Ibid.

⁹² Part of the reintegration process does include former combatants appearing before gacaca for those that are implicated in genocide atrocities. All former combatants however are encouraged to engage with gacaca in some role to facilitate their reintegration. See, Bowd (2008).

⁹³ Mgbako (2005).

institutions of the past, overhaul legislation to address gender equity, and increase the representation of women in the public sphere. The 2003 Constitution stipulates that all decision-making bodies should be composed of at least 30% women and interviewees spoke of a focus on building up women's leadership at the grassroots level to ensure a long term succession strategy for women currently in the legislature and other high level positions. Gender budgeting has been introduced in key government departments and there is a strong emphasis on gender mainstreaming throughout the policy making process. Legislation has been overhauled and key new bills include those that allow for women to inherit as well as the criminalization of domestic violence. Also important to note is the existence of the NURC, an institution which has explicitly incorporated gender justice and women's contributions to peace-building and reconciliation into their mandate of promoting reconciliation in Rwanda.

Outstanding Justice Needs for Women

A number of interviewees noted that 14 years on, there is an assumption that women's needs have lessened. In practice, the opposite is the case and victims' needs appear in fact to have grown, in particular as the effects of HIV/AIDS and trauma spread through the violence take their toll.⁹⁴ Human Rights Watch, African Rights and others have reported what they see as the inadequate response of the Government of Rwanda to women who suffered sexual violence during the genocide in areas including legal redress, medical treatment and trauma counselling.

Reparations

International law encompasses a right to reparations for victims of gross human rights violations.⁹⁵ In Rwanda, the principle of an indemnification fund has been recognized in the 1996 Organic Law as well as the subsequent gacaca law.⁹⁶

⁹⁴ Personal interview, Inyumba (2007); See also, Kayitesi-Blewitt (2006).

⁹⁵ The right to reparation is well established as a central right to remedy in all key international human rights texts including the Universal Declaration for Human Rights, International Covenant on Civil and Political Rights and the Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. Additionally, in 2005 the UN General Assembly passed the Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of

The 2001 gacaca law initially required gacaca courts to draw up lists of victims, damages suffered and to make a determination of reparations amounts to be awarded. These amounts were never actually awarded and in 2004 the law governing the the mandate and functions of the courts was changed (before the national rollout of gacaca in 2005). Under the 2004 law, gacaca courts are meant to simply draw up a list of victims and damages - and this solely for purposes of restitution for material damages. All other aspects – compensation for loss of family member, psychological harm etc – was all to be dealt with through a separate law – the Indemnification Fund [*Fonds d'Indemnisation*, FIND law]. This law has yet to be put in place.⁹⁷

In 2001, a first draft of the Indemnification Law (FIND) was mooted which took the approach of dealing with reparations for all victims of the genocide, even those for whom the national courts of Rwanda had already awarded damages.⁹⁸ Under the proposed law, compensation would be awarded to direct victims of the genocide as well as family members of the deceased or injured depending on the harms suffered. Consultations on the proposed law were extensive and included input from AVEGA and others on the gendered elements of the bill. In particular, AVEGA noted that reparations should also be awarded to the common-law partners of those who were not legally married - license fees for marriage in the past resulted in a situation in pre-genocide Rwanda

International Human Rights Law and Serious Violations of International Humanitarian Law which affirms that victims of crimes under international law have the right to full and effective reparations.

⁹⁶ Rombouts (2006).

⁹⁷ Ibid.

⁹⁸ Rwanda's court system utilizes the French system of *partie civile*, or civil parties. Under this system the judge whilst ruling in a case can at the same time award damages to the victims. The Rwandan courts did initially award compensation in several cases, "but there was no consensus on an adequate compensation for various violations: similar losses and damages have resulted in very different compensation being awarded by different judges." Rombouts (2006). These sums were not paid out however and in 2001 the draft FIND legislation proposed one system of compensation for all genocide related cases even where courts had already ordered payments. Rombouts notes "[i]n these cases, the idea was that the damages awarded by the FIND would replace the amounts awarded by the court. It would be up to the FIND to reclaim the amounts due from the convicted perpetrators. There was, however, no guarantee that the amount awarded by the court would be the same as the one awarded by the FIND. Of course, this idea is contrary to the rule of law."

where 42% of people in cohabiting unions were not officially married, leaving women in a vulnerable position when their partners passed away.⁹⁹

However, in 2002, before the law could be formally passed, a new draft was launched that proposed awarding one equal lump-sum payment to all beneficiaries, regardless of the magnitude of the harms or losses suffered and neglecting the concerns raised by women's organizations regarding in particular women in co-habiting unions. To date, the draft law, or any law on reparations, has yet to be passed.¹⁰⁰ This has caused increasing frustration amongst victims. Jean Glaubert Burasaeditor of *Rushyashya*, a bi-weekly newspaper published in Kigali, was recently quoted media as saying that “[t]his refusal to compensate the survivors is another way of humiliating victims, and supporting those responsible for the genocide.”¹⁰¹ Reparations are an integral component of the justice due to victims, and without it not only are the impacts of the violations amplified, but reconciliation is hampered. Former Deputy Minister of Justice Gerald Gahima has acknowledged that: “In the absence of a settlement of the complex issue of reparations, the ability of the gacaca process to lead to reconciliation is undermined.”¹⁰²

A key reason for the hesitancy in establishing a reparations fund appears to be the legal requirement this would create on the government to equally pay reparations to victims of RPF crimes during the course of the conflict. The 2001 FIND draft, reflecting the government's obligations under international law, states explicitly that reparations would be paid: “without any distinction between victims of genocide and of crimes against humanity.” However, given the present context where all mechanisms of transitional justice have been politicized and deliberately exclude justice for victims of RPF crimes, a reparations fund which includes these individuals will

⁹⁹ Byrne et al. (1995); also noted in interview with Haguruka (2008).

¹⁰⁰ There is an assistance fund - Assistance Fund for Genocide Survivors [*Fonds d'Assistance aux Rescapés du Génocide*] (FARG) which is intended to benefit needy “*rescapés*,” ie, those who escaped persecution. Not all the intended beneficiaries are necessarily victims and the fund is not a reparations fund but an assistance fund for a specific section of the population which takes the form of social services.

¹⁰¹ Twahirwa (2006).

¹⁰² Gahima (2007).

not be supported by government, and one that excludes these victims will only further highlight the injustice of politically defining “victims”.¹⁰³

Civil society interviewees noted the particular need for reparations for women survivors, as: “Gacaca just prosecutes but [women survivors] need socio-economic support. The Government is still thinking about how to do this and what the nature of reparations will be, but victims don’t have time to wait – and in the interim gacaca is running but with no reparations.”

Physical and Mental Health needs

Sexual violence in conflict has very specific physical and psychological health consequences, and as such any redress for these violations needs to include access to health care for survivors as well as adequate treatment. Although not all cases of HIV in the country are related to the genocide, many are, and it is estimated that there are today between 50,000 and 100,000 patients in need of anti-retroviral (ARV) therapy. As of January 2004, only 2,000 Rwandese were being treated with these drugs.¹⁰⁴

In 1999, AVEGA estimated that over 80% of survivors remained traumatized by the genocide five years on. It is likely that since then, the need for psycho-social services has increased as the events of 1994 “have not faded but become more real in people’s minds”.¹⁰⁵ There is only one national trauma centre out of the Ministry of Health and it is based in the capital with limited capacity. In 2003, this one unit saw over 10,000 visitors alone. They are increasingly finding that the cases they see are no longer pure trauma, but are now taking the form of physical symptoms as well as psychological diseases.¹⁰⁶

All interviewees noted the urgent need for dedicated trauma support to women survivors. One positive example of an integrated model for support in a context of limited resources is the Village of Hope (VOH) Project initiated by the Rwandan Women’s Network, a partner of UNIFEM. VOH

¹⁰³ According to one reparations expert, “[i]n practice, the entire reparation debate in Rwanda only regards those victimized as a result of the genocide or for political moderateness.” Rombouts (2006).

¹⁰⁴ Amnesty International (2004).

¹⁰⁵ Personal interview, Inyumba (2007).

¹⁰⁶ Personal interview, Nytera (2004).

brings women together to provide a space for sharing, healing, education and awareness as well as peace-building activities. The project has won two international awards – a red ribbon from the international HIV conference in Toronto in 2006 and an award from UN’s Habitat for Humanity. It was also singled out by current UN Secretary General Ban Ki-moon on a recent visit to Rwanda. In describing the success of the project, RWN pointed not just to the healing environment of peer support but its contribution to other justice mechanisms. Women who have come through VoH have been willing to testify at the ICTR, courts, gacaca – they are given support here and the space to build confidence and deal with potential stigma. They are also provided a community mobilizer who goes with the survivor to testify and give support. In the words of an RWN officer: “People do not just wake up one day and go in front of a crowd to tell how you were raped and brutalized”. There is a need for spaces to prepare women for testifying. Now that gacaca is trying sexual violence cases, projects such as VOH can play a crucial role in assisting women to testify. These spaces will also be important in dealing with what are likely to be thousands of unresolved cases, providing spaces for healing and perhaps eventually justice through courts.

Prisoner reintegration

As noted above, prisoner release programs have a specific impact on women who are forced to live in the same community as their rapists once released. Although there is reportedly a program being carried out between the Department of Justice and local governments in terms of reintegration and training of prisoners, there was no mention of the specifics of reintegration, who is monitoring and who is ensuring the safety of these women. Additionally, no work is being done with survivors in those communities where perpetrators are being released.¹⁰⁷ Co-existence in these communities is difficult as survivors bear the brunt of stress due to insecurity and trauma.

Justice for women genocidaire

Although this does not relate specifically to justice needs for women survivors, there is a need to recognize the multiple roles played by women during the genocide – not just as victims but as

¹⁰⁷ Personal interview with Nytera (2004).

instigators, planners and ordinary killers. Not one interviewee during the course of this research spoke of women prisoners or the role of women beyond that of victim and peacebuilder. The focus exclusively on women's capacity for reconciliation and peace reinforces essentialist and gendered stereotypes and assists in furthering impunity, as justice is meted out along gender lines. A recent newspaper article in *Hirondelle* noted that it is rare for women to come before gacaca¹⁰⁸ despite the ample evidence of their involvement in killings.¹⁰⁹

The Position of Women in Rwanda Today

During periods of conflict and unrest, traditional gender roles are often destabilized, leading to some limited gains for women despite the horrors of violence taking place.¹¹⁰ Consolidating these gains however and preserving them against a reactionary backlash which forces a return to traditional roles is rare. Rwanda is perhaps the first country to successfully manage a continuously forward progression to gender equality in the wake of mass unrest. In the political and public spheres not only has there been no official backlash against women's new roles, but spaces have continued to open rather than shut down. In the words of Alphonsine Mukarugema, a parliamentarian and a member of its social commission: "Everything linked to the advancement of gender can be traced back to the consequences of the genocide."¹¹¹

In part, this success has been the result of force of circumstance. Post-genocide, 70% of the population was female, with men having either been killed, fled or in prison. Over 50% of households were female-headed and today this continues to be the case for more than a third of Rwandan households. The destruction of the family structures destroyed traditional gender roles and threw society into flux. One interviewee gave the example of the need to rebuild houses post-

¹⁰⁸ "1994 Genocide - Gacaca Courts Will Start Trying Rape Cases Next Month," *Hirondelle News Agency*, June 25, 2008.

¹⁰⁹ According to official statistics from the Rwandan Ministry of the Interior, there were 3,105 women in prison, representing 3.4% of the total prison population. Almost all were there on charges related to the genocide (as opposed to ordinary crimes), and ranged across all categories of offenders. Six women charged with genocide have received the death penalty, of whom one had her sentence reduced to life imprisonment on appeal, and one has been executed. Hogg (date unknown).

¹¹⁰ See, Meintjes et al. (2001).

¹¹¹ African Rights (2004).

1994. Although construction was traditionally a man's job, out of necessity women came together to organize themselves to reconstruct their homes – “climbing roofs and everything”. The tackling of new roles has given new confidence to women who, having become aware of their own strength and capabilities, are today arguing for their own rights. Post-1994 also saw the rapid evolution of women's organizations¹¹² as well as a different and more progressive attitude towards women's role introduced by the returning exile community.

But perhaps the single largest contribution to the new focus on gender equality is political will at the highest levels of government. The 2003 constitution established a quota of 30% women in all political institutions, and in that same year women won 49% of legislative seats, making it the only country in the world to reach a gender balance at this level. The Ministry of Gender and the Promotion of Women (MIGEPROFE) was established in 1995 and has been a key institution advocating for women's empowerment and gender sensitive policymaking within government. Family law has been reformed in the areas of inheritance, divorce, property ownership and domestic violence, and gender sensitive budgeting has been mainstreamed into government departments.

In the words of one UNIFEM member: “Rwanda came out with a commitment never to subjugate part of the population based on gender again.” She goes on to note that whilst this does not mean that all men are committed to gender equality, leadership at the highest levels certainly is and “nobody dares contradict this”.

The challenge however has been in translating these gains into real change for women who continue to deal with barriers imposed by culture, entrenched attitudes and ongoing poverty. In the sphere of education, for example, although there is no gender difference in enrolment rates at a primary school level, various studies have highlighted higher repetition, dropout and low

¹¹² This growth was fuelled “by three developments: 1) after 1994 the international community supported women's organizations in Rwanda; 2) the post-genocide government encouraged their reemergence; and 3) the conditions [...] post-genocide prompted women to assume leadership roles.” Today, these women's groups form “probably the most vibrant sector of Rwandan civil society.” USAID quoted in Devlin and Elgie (2008).

performance rates for girls compared to boys; and the proportion of girls in higher level science and technology is comparatively low. Rural women in particular have not seen the gains achieved in the political arena matched by social and economic changes in their everyday lives. Institutional reform has also been uneven - in 2004 women constituted only 4% of the national police force.¹¹³

With regards to women's access to justice, in particular for SGBV cases, this continues to be hampered by a number of factors. On the legal front, although the Rwandan penal code defines rape as a crime, the 1988 law under which this is covered does not adequately define the criminal elements of the act, including clear definitions of force and coercion. In August 2006, the National Assembly unanimously adopted a draft law on the "Prevention, Protection and Punishment of Any Gender Based Violence". This draft was forwarded by FFRP with the help of both UNIFEM and UNDP. Two years later however it has yet to be ratified by senate. According to Freedom House "[i]mportant gaps remain in legal protections, especially to prevent violence against women. Although the penal code defines rape as a crime, prosecutions are rarely pursued."¹¹⁴

Other key obstacles to access to justice include a lack of sensitization of prosecutors and judges and security officials in general on how to deal with sexually violent crimes. For example, in 2004 Human Rights Watch interviewed the provincial attorney of Gisenyi and the attorney for Kigali: both voiced the view that women were responsible for what happened to them in cases of sexual violence.¹¹⁵ Despite key gains in this area, the gap between protection on paper and the reality on the ground remains.

Gains in women's equality and empowerment have also been affected by the overall political environment. Rwanda continues to be classified by Freedom House as a country that is "not free", and the political situation in the country has been described as one in which "the RPF wields almost exclusive military, political and economic control and tolerates no criticism or challenge to

¹¹³ Human Rights Watch (2004).

¹¹⁴ Freedom House (2007).

¹¹⁵ Human Rights Watch (2004).

its authority.”¹¹⁶ There is disagreement amongst observers over the impact that narrow political spaces have had on civil society. Some, such as Rombouts, argue that civil society’s failure to advocate more strongly for the reparations needs of victims is indicative of an overall tendency towards weak advocacy from NGOs in a climate of top down decision-making by government. Others believe that despite the political context, women’s organizations have managed to have a strong presence and impact: “In other words, even though Rwanda may be an authoritarian society, it is one in which women have a considerable and active presence”.¹¹⁷ It is certainly the case however that those issues which resonate with a government agenda are more easily moved forward by women’s organizations and tend to be the areas where these groups concentrate their focus; perhaps operating from the strategic assumption that their influence is strengthened by pushing those issues that are acceptable and remaining less vocal on those that are not.

UN Support to TJ Initiatives in Rwanda

There have been numerous projects, collaborative initiatives and funding provided by various UN agencies for TJ programming in Rwanda over the past 14 years. Whilst not an exhaustive list, below are some of the key initiatives:¹¹⁸

The World Health Organization - funded a program of psycho-social counselling for women victims of violence from 1999 to 2002

UNDP - has been extensively involved in supporting police and judiciary reform. Since 2002 they have provided support to gacaca – building capacity, training judges, assisting with building capacity to document and collect evidence. They have also provided training and support to judges at the ICTR and the domestic courts prosecuting genocide-related cases

UNICEF - has conducted trauma alleviation programmes and training in trauma identification and assistance

¹¹⁶ International Crisis Group (2002).

¹¹⁷ Devlin and Elgie (2008).

¹¹⁸ See, UNDP (2004); Kimonyo et al. (2004); UNDP, “Support for Capacity Building to Ministry of Justice, Supreme Court, and Gacaca Jurisdictions”.

MONUC – was involved in demobilizing and repatriating ex-combatants from the DRC back to Rwanda

UNAMIR, UNHCR and UNHRFOR were all heavily involved in security sector reform – in particular capacity building, human rights training and institutional support for the police and armed forces in the years immediately after the genocide.

ICTR - between 1994 and 2003 the ICTR, a UN body, was allocated the second highest amount of money of all UN agencies engaging in Rwanda – second only to the World Food Program which had been primarily responsible for emergency humanitarian relief and providing food in the immediate aftermath of the genocide. During this period, the ICTR received \$544m (today this has grown to over \$1b that has been invested in the court).¹¹⁹

UNHCR - under the Rwandan Women’s Initiative (RWI), UNHCR has worked closely with the government and Rwandan women to ensure that gender specific issues and needs are addressed and to create an enabling environment for women to contribute to the country’s development.

UNIFEM Programming, Partners and Impact

This section details relevant UNIFEM programmes and initiatives in addition to those cited above:

*Key programmes*¹²⁰

A gendered program of transitional justice in Rwanda necessitates a holistic response which spans formal justice, restorative, economic and reparative justice, and legislative and institutional reform. Each of these elements plays a role in addressing the comprehensive causes and consequences of past violence. Given the need for such an expansive program of redress, it becomes difficult to ring-fence which activities are considered “transitional justice” work in this context. This being said, what is perhaps most striking about UNIFEM’s programming in Rwanda is the comprehensiveness of the issues covered as well as the way in which role players and issues are integrated across

¹¹⁹ This is in contrast to the \$1.26m given to UNIFEM during this same 10 year period.

¹²⁰ It has been somewhat difficult to secure information on past UNIFEM activities given staff turnover at the institution. As noted in the recommendations section below, there is a need for increased documentation on UNIFEM projects as well as independent project evaluations which are easily accessible.

projects and issue areas for increased impact – a key example would be the partnering with AVEGA, the genocide widow’s association, to provide training for national police on how to deal with current day victims of violence against women. AVEGA has experience in dealing with training and trauma counselling of its own members and was an obvious choice to conduct the training for police. Working with a victim-based organization however has the additional impact on the organization itself, not just the original targeted beneficiaries of the police. It allows AVEGA to provide new opportunities and become an agent of change and empowerment for its members. The pairing also renders clear in practice the continuities in cause and consequence of violence against women in the past and present.

In supporting gender and TJ projects, UNIFEM has utilized the strategic partnerships it has cultivated with key Rwandan women’s organizations and umbrella bodies, government departments and state institutions. Through this existing machinery they are delivering locally-informed activities which address many of the key justice needs identified in the preceding sections. A few examples of key past TJ-related programmes include:

- Providing legal support to survivors through Haguruka;

- Working with ARCT and AVEGA to provide psycho-social services to women survivors;

- Empowering members of AVEGA in peace-building through income generating activities.

This project has a two-fold objective of bringing women together and building relationships across divides through development activities, as well as providing new skills in income generating activities such as basket weaving.

- Supporting the establishment through Profemmes of the Campaign Action for Peace (CAP) which brings together women to overcome divisions and forge reconciliation, deal with consequences of the genocide and address prevention.

UNIFEM and Gacaca

UNIFEM’s key work on gacaca has included sensitization and awareness of all parties as well as training of gacaca officials. Support was provided to the major women’s organization umbrella body Profemmes to increase the capacity of women to play a more effective role in these courts. Through Profemmes, UNIFEM supported sensitization and awareness raising in 2004 with

Rwandan women ahead of the national implementation of gacaca courts. The motto of the campaign was “Rwandan women participate effectively in gacaca”. Profemmes noted that many women did not feel equipped or confident about taking on these public roles without support. They therefore worked towards empowering women to play a full roll in gacaca in a number of ways, including media outreach and education through public radio, television and articles in popular magazines as well as providing training specifically for women judges to take up their new role in these courts.

Profemmes also conducted training of community leaders and training of trainers on conflict resolution and reconciliation. They began by training 3 women per district, explaining how the gacaca process works and why it is important to participate. These women then took the responsibility for training others and conducting outreach and education on gacaca. Profemmes notes that 209 women were trained through this initiative, spreading the message to over 19,000 people. The trainings deliberately targeted a range of women community leaders from those who have family accused of crimes to those who were victims or survivors and have lost family as a result of the genocide. By conducting outreach broadly the project, through the training and meetings, served as a site of reconciliation itself amongst women.

UNIFEM staff voiced confidence that from the point of view of their partners, the project was effective and successful in its objectives. It was also noted at the time of the original in-country interviews (February 2008), that should gacaca proceed in dealing with sexual violence cases, the groups formed through this initial project could be remobilized in order to conduct sensitization around rape cases and gacaca.¹²¹ In the course of a follow up interview conducted after the amendments had been made to the gacaca law shifting SGBV cases to the local courts, UNIFEM staff noted that they will be conducting training with those judges who are selected to hear these cases. This training will be focused in particular on issues of confidentiality, which although provided for in law is not widely known or respected. The implementers of this training have yet to

¹²¹ At the time of writing it was unclear how exactly that would be taken forward.

be identified however it was likely to be the NURC and local officials. UNIFEM has also supported the NURC to conduct peace-building and sensitization of gacaca judges and local authorities in 3 districts more broadly on issues of peace-building and combating genocide ideology.

Plans for future projects include increased support to women appearing as witnesses before gacaca. This would likely take the form of building on existing projects such as the work being conducted with the Rwandan Women's Network to establish a network of paralegals to assist women who want to testify before gacaca, as well as the creation of a training manual for gacaca judges. There was an acknowledgement of the need to mobilize for the prioritization of women's cases given that gacaca is now being wound down, and there are plans to take stock of what has happened in Rwanda regarding post-genocide justice; including monitoring and evaluation of genocide rape cases going before gacaca, consultations with partners on what will happen to cases not completed by the time gacaca winds down, and whether gacaca has benefitted women. A consultant will be brought in to "stock take" the existing and past support work conducted in this area. On each of these issues UNIFEM are working with partners such as Profemmes, NURC, Haguruka and others to inform future activities. There had been plans for more direct work with gacaca courts however government's decision to shut them down soon makes this work unlikely. The target of future work will therefore probably be with community leaders as they will be chiefly responsible for any post-gacaca work. There was also a recognized need for advocacy and dialogue around gacaca and whether it is not too early to wind the process down. Given however that these plans are well underway it may already be too late for such advocacy.

UNIFEM support to DDR

UNIFEM has worked with Ndabaga, the Demobilization Commission as well as the RDF in supporting the DDR process through a dual strategy that seeks to empower former women combatants and assist their reintegration whilst mainstreaming preventative actions on GBV into the DDR program.

Projects with the Ndabaga Association of Female Ex-Combatants in Rwanda focused on integrating gender into the DDR agenda at both a local and regional/ international level as well as

conducting workshops which explored the specific challenges facing women ex-combatants as they reintegrated back into their communities. More importantly, through their work together, they have expanded the agenda of gender and DDR beyond a focus on women ex-combatants to advocate with former combatants for the positive role that these women can play in regional peacekeeping missions – serving the dual purpose of increasing women’s role and representation on these bodies as well as providing opportunities for women ex-combatants to utilize their skills and experiences in new roles. Ndabaga are now actively involved in advocacy to ensure that Rwanda’s involvement in peacekeeping operations elsewhere on the continent includes women and mainstreams gender concerns. UNIFEM also provided support to economic empowerment projects.

Work directly with the Demobilization Commission has focused on increasing the Commission’s capacity as well as conducting training specifically on DDR and GBV. This was a joint initiative with CIDA in 2004 and appears to have been a successful one that is now being replicated in other countries – the MDRP/World Bank worked alongside the Demobilization Commission in integrating UNIFEM’s input into the DDR programme and will now be sharing these initiatives with other countries through the MRDP.¹²²

Other TJ related work

SGBV

When working in the area of women in conflict, there is often a tendency to portray the sexual and gender-based violence of the conflict period as “extraordinary” – obscuring the “ordinary” everyday experiences of SGBV in a “peacetime” setting or the continuities and relationship between the two; including that these experiences often share the same root causes of unequal power relations and result in the same wide-reaching consequences for victims themselves. It is for this reason that Resolution 1325 on women, peace and security counts amongst states’ duties the obligation to

¹²² MRDP (2004).

penalize and remedy all forms of violence against women in conflict and post-conflict situations. Additionally SGBV itself unseats conventional – but gendered – notions of peace and conflict which inform political analysis and policy, including : How do we label a country as “post-conflict” when a large percentage of its population continues to experience ongoing levels of violence and insecurity; and can a purely backward looking focus truly deliver justice if it fails to address similarly rooted current day forms of violence.¹²³

For these reasons, and because some of UNIFEM’s key activities concerning SGBV work have also been integrally linked to pursuing institutional transformation of the police and security forces – a key transitional justice area - UNIFEM’s work in Rwanda on issues of SGBV are equally considered part of their gender and transitional justice programmes here. Some highlights of this work follow:

- The “Draft Law on the Prevention, Protection and Punishment of Any Gender Based Violence” was passed in the Rwandan parliament in 2006. It was prepared by the Forum for Rwandan Women Parliamentarians (FFRP) after a series of national consultations supported by UNIFEM and UNDP which allowed women parliamentarians to meet with key stakeholders as well as conduct interviews with 720 women nationwide. The research revealed that “more than 50 per cent of these women had been assaulted by their male partners for not preparing meals on time, more than 50 per cent for suspicion of adultery, and a similarly large number had been raped during the 1994 Genocide.”
- In close partnership with UNDP a number of institutionally-directed initiatives on SGBV have been conducted, including joint training of judges on dealing with SGBV cases, training within the Ministry of Defence with military personnel and the establishment of a Gender Desk, launched in 2005 which coordinates a comprehensive response to SGBV cases as well as prevention activities. Through this work, investigating officers have been trained in victim empowerment, psycho-social support and victim protection. In an

¹²³ Valji (2007).

illustration of the comprehensive way in which such projects are being conceptualized, police have also been provided with motorcycles to allow them to respond rapidly to reports of violence, as availability of police vehicles had served as an obstacle to effective response action in the past. Feedback on the initiative has been particularly positive from the side of the police force and Rwandan Commissioner General of Police Andrew Rwigamba has stated to the media that in the police service's struggle to respond to SGBV, "UNIFEM is our main partner and supporter." In 2007 UNIFEM signed an MOU with the Rwanda National Police to conduct activities at a community-level. The key aims here are to encourage women to speak out and for each police station to have designated offices and individuals for GBV.

- UNIFEM's work with the Rwandan Defence Force is perhaps the most innovative in terms of best practice for other contexts, as they have worked with this institution to assist them in rethinking their entire conceptualization of security to include human security – and more specifically to include GBV as a "security threat"; and within this to look at their role in preventing and addressing it.¹²⁴ Projects such as this demonstrate the practical possibilities for engendering institutional – and in particular security sector – reform in a post-conflict setting.

UNIFEM: The View from Partners & Results Achieved

In a recent visit to Rwanda Mrs Ban, wife of the current UN Secretary-General, described UNIFEM as a "catalyst" for important work in Rwanda. This, it would seem, is an apt description for the role this institution has played over the past 14 years. UNIFEM's partners span key civil society bodies, government, state institutions and other UN bodies for whom they provide needed technical and financial support. In reflecting on the nature of these partnerships, UNIFEM staff were positive, noting that there is a sense of a team spirit both in the UN as well as within the government that lends itself to good working relationships. This is facilitated by the fact that in Rwanda "these are small circles and people know each other and work well together".

¹²⁴ UNIFEM (2007).

With regards to government, key projects have included giving support to the Women's Parliamentary Forum to introduce and take forward the GBV bill which has passed in the lower house and is currently being considered by the Senate. This legislation was the sole initiative of the Forum and demonstrates that having women in positions of power is not just about the justice of equal representation, but has a real impact on the policies created. UNIFEM provided technical support to the Forum, assisting in particular to do broad national consultations with women. A gender desk was set up by UNIFEM in parliament – the desk functions as a focal point for information and support to parliament on gender issues, in particular on legislative reform to effect gender equality.

As mentioned above there has also been diverse work with the national police and the armed forces, including the establishment of a gender desk in the police as well as the Ministry of Defence. Work with the Ministry of Justice has included capacity-building of judges and prosecutors in order to assist them to understand SGBV cases and how to handle them through the judicial process.

There seems to have been limited engagement between the National Unity and Reconciliation Commission and UNIFEM. UNIFEM staff noted that they had provided support for an NURC report on women, reconciliation and peace-building and had also supported two annual conferences (2005/ 2006) which looked at the role of women in peace-building. There was mention of plans going forward to capacitate judges at gacaca to deal with SGBV cases in line with their new mandate. Whilst an implementation partner had not yet been chosen for this project it was noted that this was likely to be the NURC.

Amongst civil society partners, the view of UNIFEM, their work, the role that they play and the way in which they engage with local partners– both NGOs and government - was overwhelmingly positive. Interviewees noted that UNIFEM has grown in credibility and reputation since it began in Rwanda and is appreciated for the open, inclusive and participatory manner in which it functions. A key characteristic that was cited by all participants is the coordinating role which the institution

plays. Coordination is particularly important in the immediate aftermath of conflict when there is a sudden focus by the international community, increased resources are available, and there is often a proliferation of new civil society organizations. For those that they fund and work with directly, UNIFEM's role includes facilitating networking which provides space for developing contacts, coordinating future activities, and sharing best practice. Even those – such as the NURC – who have had limited direct engagement on project activities with UNIFEM were quick to point to the important coordinating function served for all those involved directly or indirectly in the gender field through invitations to events, launches and partner initiatives.

There were minimal concerns voiced by partners, but one concern that was voiced is the lack of adequate funding available. Many noted that they do not feel that UNIFEM has enough funds to be supporting local partners in the way they would like. As one interviewee noted, they “appreciate [UNIFEM's partnership with their organization] at 80%” – citing the limited resources and length of projects funded (generally one year which is too short and does not allow for follow up) as their only concerns. A key UN partner also noted that UNIFEM has established itself as a key knowledge source and resource for local organizations, but is constrained by resources. All however qualified this observation by stating that the institution used what resources it does have available in a positive and effective way in order to maximize impact – in particular by deploying through partners as well as through their advocacy work. As one partner observed: “Through their advocacy other people can act”; adding that their outreach campaigns inform where private sector and donors put their money.

A number of interviewees did note gaps in programming related to women survivors that remains to be addressed. This is covered further below.

How have partnerships evolved?

UNIFEM staff and institutional partners were asked about the way in which projects have been conceptualized and partnerships established in the past. All interviewees painted a similar picture of an ad hoc and organic process. In some cases, organizations had done their own strategic planning and decided what their future work would be based on local needs. They then

approached UNIFEM to secure funding and worked with them to develop the project proposal further. In other cases, organizations were aware of UNIFEM's work simply by being involved in the same field in a country where the number of civil society organizations doing this work is limited. Through informal meetings at events or other sites, the two organizations decided to sit down and explore overlaps. This then grew into collaborative initiatives.

One organization stated that projects were initiated from either side, and that UNIFEM invites all stakeholders to discuss their own proposed plan of action and local partners then identify from within that plan what overlaps with their own plans and what areas they have expertise in. In one district UNIFEM staff visited a community work day during which women were presenting basket weaving work as an income generating project. The women were told to put together a project proposal and skills and financial support is now being provided to the project.

UNIFEM staff believe that part of the strength in their operating model is the flexibility of a broad 3-year plan which is adaptable. Because of this, the national office is able to shift to meet the needs of partners and be informed by needs on the ground at all times. Whilst UNIFEM had proposed some activities to be included in the new One UN programme, they then held meetings with partners to draft actual workplans and work through the proposed projects. In the end, this meant that all decided future activities were chosen by the partners themselves. UNIFEM sees it as their role to provide funding support, technical support and coordination. They then "take the backseat on much of this" and remain on hand to review project documents, build capacity in partners to ensure local ownership work with and review the implementation reports.

Relationships with other UN Agencies

One of the most important fellow UN body relationships for UNIFEM in Rwanda appears to be with the UNDP. Some key joint initiatives have been described above and include the work on GBV with the National Police, establishing a Gender Desk under the framework of the joint UNIFEM-UNDP Project, "Enhancing Protection from Gender-based Violence", joint advocacy on key issues such as the 16 days of activism programme, joint training of judges on dealing with GBV cases and training within the Ministry of Defence on military personnel and GBV. The two bodies worked

together to set up a gender cluster – which includes government, donors and other UN bodies - to coordinate work in this sector. The cluster met last year on a monthly basis. The two organizations are now working together on the UN Task Force on Gender which is made up of gender focal points from each agency who come together to coordinate and ensure that gender is mainstreamed through all UN work.

A development which will undoubtedly increase cooperation between UNIFEM and fellow UN agencies in Rwanda is the recently launched “One UN – Delivering as One” programme. One UN is an initiative aimed at coordinating UN organizations to deliver through one programme agenda, and by doing so decrease duplication, coordinate outputs which draw on the expertise and comparative strengths of each UN agency, and increase the effectiveness of delivery outcomes. Eight countries, amongst them Rwanda, were selected to pilot the initiative. In Rwanda, One UN will coordinate 16 UN agencies to deliver as one body. The programming component of One UN - “One Programme” – aims to integrate all agency programming into a common operational document. Thematic groups have been set up for each pillar area and agencies will work as co-chairs to develop the annual work plans for these areas. All work and activities of the 16 agencies are included within this framework. Justice as a theme falls under the good governance pillar, and for this reason UNIFEM co-chairs this group. Those interviewed were optimistic that the new initiative would not only lead to increased coordination and effective use of limited resources, but would also elevate gender issues and ensure mainstreaming across all programmes and activities.

UNIFEM appears to have made an effort to convey to their civil society partners the modalities and goals of the new program and to keep them informed. Most expressed a sense of optimism that increased UN coordination will serve their work well, or that in a worst case scenario it would have no impact on them at all. Only one partner expressed reservations, stating that they were unsure what the impact would be and would wait to see how it will be implemented. One Programme has only just been launched in 2008 and is still very new, and as a result impossible to evaluate. A potential site for concern may be that the purported aim of the programme is to support government initiatives. The question this raises concerns the role of UN agencies in advocacy and programming that may not have political backing or support. In Rwanda this would include issues

such as comprehensive justice for all victims, including victims of RPF crimes, the implementation of a reparations programme and support for the opening up of democratic spaces.

Recommendations and Way Forward: Gaps, future programming, lessons learned

Strengths and Gaps

It became evident through the course of this research that UNIFEM has established itself as an integral role player in the gender field in Rwanda. The unique contributions they are able to bring include playing a needed coordinator role amongst beneficiaries as well as within the wider civil society community and sharing expertise. Highlights of UNIFEM's engagement in Rwanda – and practices with relevance for other post-conflict contexts – include the organization's wide engagement at multiple levels and with a wide range of stakeholders to ensure comprehensive programming and maximum impact. For example, in their engagement with gacaca they have worked through women's groups to sensitize Rwandan women to the process and ensure their buy in and participation; with judges to train them in undertaking their mandate in a gender-sensitive manner; as well as capacity building with female judges to enable them to effectively perform in their new roles. With state bodies UNIFEM has worked to ensure the integration of gender concerns into the multiple sites of planning and implementation of post-conflict justice initiatives – this has included establishing gender desks for coordinated action and training and sensitization with numerous institutions including parliament, the national police, the Demobilization Commission, gacaca, Ministry of Defence and others.

It should be noted that at least part of UNIFEM's success is due to the context in which they operate – the Rwandan government's strong emphasis on gender issues and political will to push for gender equality provides an enabling environment that is relatively unique. Most post-conflict settings do not have this sort of enabling environment and as such the parameters of what can be achieved are constrained. However this political context has also provided a weakness in UNIFEM's engagement and programming in that they appear to have been unwilling to use the positive relationship with government to push an agenda that was beyond that of government – ie, an agenda that may have been contentious but is in line with their overall mandate. For example, whilst reparations may be a contentious issue, it is one covered by international law. Equally the

silence with regards to the movement of SGBV cases to gacaca is worrying. Understandably there is a need to work through local organizations however local organizations in the context of Rwanda do not always have the ability to voice criticisms or concerns in the way that they should – Freedom House continues to characterize Rwanda as “not free,” and International Crisis Group notes that public contestation is scarce, as Rwanda’s civil society “is either government controlled or fiercely persecuted” and as a result “does not challenge government tactics.”¹²⁵ Even where local groups are not voicing these issues or cannot voice these contentious issues, it should be the priority of international organizations to ensure that the state is reminded of its international legal obligations towards its citizens.

UNIFEM is perhaps the only body that has a comprehensive view of gender issues and gender justice and work across a range of issues from HIV/AIDS to income generating schemes, promoting women’s roles in peace-building, combating SGBV and more. Many of the existing organizations are either constituency-based – for example AVEGA which is comprised of genocide widows – or are focused on key focal areas within the broader field of gender such as Haguruka which focuses primarily on income generating work and economic empowerment for women.

Partners speak highly of the way in which projects have been initiated – the power to initiate projects lies on both sides and did not lie with just UNIFEM to set the funding agenda. There is space for initiative to be seized by the local partners to determine the work and activities. This ensures that what UNIFEM is supporting is locally relevant and determined. In short, UNIFEM’s overall characteristics could be described as comprising ***locally driven programmes, good relationships, technical expertise and integrated programming.***

Specifically in the area of transitional justice, one area of concern identified is the absence of a consistent institutional understanding of what exactly “transitional justice” is, its importance, and how UNIFEM’s work relates to this field - or what work has historically been done by the

¹²⁵ International Crisis Group (2002).

organization. In part this would appear to be a result of staff turnover. Many of the key staff seem to be new and there is therefore limited institutional memory. Beyond this, there is also a lack of a uniform understanding of transitional justice in the institution. Issues of justice are integral to ensuring reconciliation between Rwanda's citizens and contributing to stability rather than a descent into cycles of violence once more. Grievances continue to exist in Rwanda, there is evidence that genocide ideology is still entrenched amongst some and the dangers of further violence are never far from the surface – as evidenced by ongoing incidents of killings related to gacaca witnesses as well as the 2 separate incidents of violent attacks on memorials during the 2008 genocide memorial week.¹²⁶ Despite the importance of transitional justice work to this context as well as the opportunity for lesson sharing for other contexts, there does not appear to be a focus on individual survivors or a uniform understanding of the importance of this work. One UNIFEM interviewee noted that they did not consider their work at UNIFEM to be TJ work – perhaps the work they were doing in the region could be described as such however nationally it was not framed or understood in that way. The interviewee went on to state that it would be difficult as a UN agency to single out women survivors of sexual violence from the genocide for targeted programmes when all women were in need – including returnees, refugees, and those that remained. This is in contrast to the UNGA resolutions which call for a focus on widows and victims of sexual violence.¹²⁷

There is a need for both an institutionally uniform view on TJ work as well as a more concerted focus on women survivors. One organization who works closely with issues of women survivors and justice voiced concern that they do not see UNIFEM having a presence amongst these women. The focus on women's role in reconstruction, peace-building and reconciliation is positive as it empowers women and speaks to their agency to make change. But this should not be at the expense of a continued focus on their rights to justice for the past – there is a need to be both backward and forward looking. Moreover, in the course of conducting interviews of UNIFEM staff

¹²⁶ In one of these incidents, a police officer was killed in Kigali when a grenade was thrown at the memorial site he was guarding.

¹²⁷ UNGA Resolution 59/137. *Assistance to survivors of the 1994 genocide in Rwanda, particularly orphans, widows and victims of sexual violence* adopted at the 59th session in 2005.

no mention was made of an overall strategy for victim engagement, assessment of needs and programme planning. The number of evaluations conducted of past projects also appeared limited. This is a weakness in the field of TJ overall where monitoring and evaluation appears to be sidelined in programming cycles. This constrains the ability of interventions to address the needs of its intended beneficiaries.

Key issues where there appears to have been silence or insufficient mobilization include the new gacaca law, reparations and community reintegration. Each of these issues have specific implications for women survivors, and UNIFEM work and advocacy on them seems to have been limited.

With regards to the proposed changes to the gacaca law to reclassify sexual torture and rape as a category two offence which then falls within gacaca courts' jurisdiction, there has been little mobilization from civil society and women parliamentarians. This is surprising given that it was precisely this constituency that was seminal in ensuring that rape cases were classified as category one in the original legislation. Most of those interviewed raised concerns about the amendments: that women were unlikely to report rape to these community bodies, that gacaca was taking place too quickly to allow for sensitization or even thought as to what measures need to be in place to address rape cases fairly, and that the move undermined the original intention in placing rape in the formal court system. Few of these organizations however had done more than merely voice concerns to government during consultation meetings. There has been no organized advocacy or mobilization and as noted above the overall sentiment appears to be one of marked resignation to what is seen as an inevitability.

Reparation is a further key area where UNIFEM appears to have remained silent. Resolution 1325 calls on states to ensure that victims of gender-related violence have the right to reparations for any damages incurred during conflict. This is an integral component of any transitional justice programme and has particular meaning for women whose experience of harm is differential because of the gendered power relations that exist in every society. The question of UNIFEM's work on reparations or their views on the need for reparations was put to staff who stated that in

their view this was an “internal” or national issue. This is incongruent with Rwanda’s obligations under international law and UNIFEM’s own mandate. Not only is there a vital need to voice a call for reparations but to also push for the adopted programme to be gender sensitive in both policy and practice.

Future programming in gender and TJ in Rwanda

Identified gaps in current programming and recommendations for future programming are outlined below.

Community reintegration – An identified issue of concern with broad implications for Rwandan women is the issue of reintegration. This includes the reintegration of men returning from prison which is becoming more urgent as gacaca draws to a close and many prisoners are being sent back into their communities having had their cases heard. The implications for women are the same as that of the interim releases, and include security threats and the possibility of retraumatization caused by living in close proximity to those who may have perpetrated act of sexual violence against them. As it is unlikely that either domestic courts or gacaca will deal with more than a handful of genocide-era rape cases, women will also be forced to deal with the daily injustice of knowing that these individuals have been released without any measure of accountability.

There are also the inherent complications of reintegrating large numbers of men back into families and communities after many years. Profemmes notes that they have been working with women whose husbands are in prison to assist them to become self-sufficient. These women are now economically empowered and they have seen how this can pose a threat to returning men and result in increased domestic violence. There are also the numerous cases of women who have in the interim had children with other men, leading to family complications and situations of violence when the prisoners are released. There is limited reintegration assistance and what is being done is not adequately considering the gendered implications of reintegration. This is equally true for ex-combatant reintegration which - as evidenced in post-conflict societies elsewhere – is often a faultline for future violence in homes and communities, particularly targeted

against women. There is a need to think here not just about working with women but also with men to facilitate the demobilization of militarized masculinities.¹²⁸ Survivors, ex-combatants and ex-prisoners are all in need of reintegration programmes in Rwanda which should have a specifically gendered focus.

Documentation and research – A number of interviewees identified the need for further research. This includes a study of women survivors' experiences over the past 14 years and their specific needs to ensure that programming is a targeted response to actual need. It was acknowledged that there has been a proliferation of training in recent years by different stakeholders and research is needed to evaluate the actual impact. Given the multiplicity of processes here – gacaca, prosecutions, institutional reform – the absence of systematic research, in particular surveys to monitor on the ground impact, means that there is little information by which to assess the impact of these processes. One NURC member noted that they have no way of measuring the impact of their institution or whether it is fulfilling its mandate. Similarly, the head of the trauma unit in the Department of Health noted in 2004 that there had been no research conducted in the field of trauma since 1995, including the impact of trauma on survivors and on the country as a whole or the impact of whatever limited counselling is available.¹²⁹ They are therefore unable to assess their impact or effectiveness. Whilst there has been a fair amount of research on gacaca, one Justice official observed that it was not coordinated and had limited impact as it is often done by outsiders who then extract the information rather than use it to inform policy.¹³⁰ Some work is being done through UNDP but there is a need for more gender-specific research. This was noted by a few partners who felt that there was a role here for UNIFEM to document women's experiences with gacaca - their roles, experiences, and

¹²⁸ Civil society organizations in other conflict situations, such as northern Uganda, are piloting innovative work on masculinity workshops to prevent the kind of violence in homes and communities that often accompanies ill-planned reintegration programs.

¹²⁹ Personal interview (2004).

¹³⁰ Personal interview (2004).

lessons learned. The value of research is recognized already in other areas of UNIFEM's work such as the partnering with the National University of Rwanda to conduct gender disaggregated research on gender-based violence,¹³¹ and interviewees noted that the knowledge products produced by UNIFEM thus far have had an important impact not just in Rwanda but more broadly. But given the vast lessons to be learned in Rwanda there is a need for further documentation and dissemination to learn the positive and critical lessons from gender and TJ in Rwanda.

There is also a need for increased documentation by UNIFEM itself of the activities it has supported and lessons learned. Given the range of initiatives UNIFEM supports and the holistic approach to gender justice in a post-conflict setting, there are valuable lessons which can be shared with civil society in other transitioning countries. There is also however a need for more independent evaluations of individual projects – UNIFEM staff noted that there had been only one evaluation of country programming at a regional level in 2004 and an institutional assessment in 2007 that they were aware of and there appear to have been few evaluations of the activities of implementing partners. In particular, it would be important to assess what has been the impact of capacity-building and sensitization with different constituencies – are levels of GBV amongst ex-combatants in Rwanda lower than other post-conflict countries, or has the training of gacaca judges led to increased sensitivity in their handling of genocide-related rape cases.

Gacaca – As mentioned above, with proposed reforms being pushed through the the legislative process quickly there is an urgent need for mobilization and advocacy to ensure that these cases are dealt with in a manner which puts the victims and their needs first. Should the reforms go through and there is no money available for immediate training or gender sensitization work with gacaca judges (given how many judges there are it was noted that each training costs millions of Rwandan francs) efforts should still be made to call attention to what this move will mean for women

¹³¹ "Rwanda: Search for Gender Violence Solution On," *The New Times*, 14 December 2007.

survivors and input made on how best sexual violence cases can be handled. It was suggested that given the limited funding available, perhaps UNDP and UNIFEM could together create a training manual which they then collaborate with other donors to roll out.

Post-Gacaca work – Once gacaca shuts down, there will be a need for plans to deal with left over cases. Equally important will be ongoing trauma support for victims and witnesses including the provision of centres for healing or merely spaces for women to gather and share their experiences and gain skills such as that provided by the Rwanda Women's Networks Village of Hope

Continued advocacy and sensitization of new laws with women beneficiaries, law enforcement, leaders, and other key stakeholders. There is still strong cultural resistance to these changes despite a government friendly environment for pursuing gender equality.

Civil Society Capacity

National capacity amongst women's organizations in Rwanda is generally strong though somewhat uneven as many of the key organizations are based in urban areas with limited rural reach.

Mainstreaming has had inconsistent results in civil society– the NURC for example has for the past year been without a head of their gender desk who is currently on extended leave and it would appear that gender has not been mainstreamed through the institution sufficiently to continue without a focal point of leadership.

Whilst civil society overall has had their influence limited by the narrow political spaces which continue to exist and dampen vocal criticism, gender is one area where progress has been significant. Rwanda stands as an example of what can be achieved when the political will for transformation exists. This is not to say that the overall political context has not affected which issues on the gender agenda are taken up. Government's own reluctance and resistance to a reparations programme may explain why civil society, including UNIFEM, have been less than vocal on the issue despite a clear identification of the need for such a policy. It seems that many organizations, including UNIFEM, carefully guard their relationships with government and will push

the agenda that allows them to achieve their goals without treading on uncomfortable spaces, believing that they can achieve more in this way.

Conclusion

Rwanda is an important site for learning lessons given the overwhelming nature of the violence; the starkly gendered nature of the society; the conflict and its legacy; the use of a multi-tiered transitional justice response and a holistic approach which includes both international and local/traditional mechanisms; as well as the unique opportunity for influencing policy in a context of high gender representation in public office post-conflict as opposed to the standard backlash which greets women's advocacy for equality in the wake of social upheaval and violence.

Although there are some gaps in UNIFEM's gender and TJ programming – particularly in relation to justice for individual survivors, reparations, reintegration and an institutional weakness in understanding what is transitional justice and its importance to the Rwandan context - UNIFEM's overall programming can still be described as a best practice model for other contexts. The holistic approach which integrates gender sensitive SSR and judicial reform, work with local justice mechanisms and support for legislative reform to ensure that the principles of gender justice are entrenched in law, as well as the process for designing projects which are locally informed, owned and implemented, all point to a model for gender and transitional justice programming which addresses root causes and consequences of gender injustice in an integrated and comprehensive way.

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Interviews –

Fatouma Ndingiza – NURC Executive Secretary (2004)
Aloisea Nyumba – Senator, former Minister for Gender Affairs (2007)

2008 -

Assumpta Umurungi – AVEGA, Executive Secretary
Christine Umutoni – UNDP, Head of Unit and Programme Manager
Christine Tuyisenge – Haguruka, Director
Dativa Mukeshimana – Duterimbere, Secretary General
Frank Kobukyeye Kamwaga - National Unity and Reconciliation Commission, Director of Peacebuilding and Conflict Management Unit
Immaculée Mukankubito – Institut de Recherche et Dialogue pour la Paix
Jeanne Izabiriza – Butare Province Executive Secretary (Rwandan government) (former UNIFEM consultant)
Midori Takeuchi – Food for the Hungry International, Program Officer
Odette Kabaye – CIDA, Gender and Development Project Coordinator
Peter Turyahikayo –Rwandan Women Community Development Network, Program Manager
Rakiya Omaar – African Rights, Director
Suzanne Ruboneka – Profemme, Coordinator, Campaign Action for Peace

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Other sites of research -

3 gacaca sites visited, 3 women victims interviewed

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