Civil Society and Good Governance in Burundi
Young democracies are prone to unsteady starts in the areas of constitutionalism, good governance and respect for human rights. Since Burundi is a country emerging from prolonged conflict, Kituo Cha Katiba (KCK) commissioned a fact-finding mission to the country with a view to exploring the possibilities of networking between Burundian civil society and its counterparts in the region. The aim was to strengthen citizens’ participation in the advancement of good governance and democratic development within the East African Community (EAC). The mission findings are based on in-depth interaction with a cross-section of civil society organisations, the media, academia, government officials and the donor community. The main focus of this report is the inter-civil society relations and intra-civil society relations with government and donors. The report examines the aspirations of Burundians regarding the EAC, with recommendations for a vibrant regional body. The mission found a fairly exuberant civil society in Burundi, despite just having emerged from conflict and that relations between civil society and government had improved tremendously in comparison to earlier years. The report notes the undeniable contributions of civil society in Burundi’s constitutional and democratisation process, which ranges from negotiating for peace during the civil war, to current efforts at offering service delivery, poverty alleviation programmes and acting as a check on government by exposing human rights violations etc. On the flip side, the daunting challenges that confront Burundian civil society and threaten to stall its democratic engagement are also captured. These include donor dependence, poor financial and human resource sustainability and inter-organisational conflicts.

The mission recommends continuous effective engagement with government and formalised mechanisms for dialogue as a strategy for cementing positive relations between civil society and government. The mission also advances specific recommendations to various stakeholders including Burundian civil society, the Government of Burundi and KCK.
Civil Society and Good Governance in Burundi

Promoting Inclusiveness and People Participation in the East African Community

A Report of the Fact-Finding Mission to Burundi

Editors
Aliro Omara
Tulia Ackson

FOUNTAIN PUBLISHERS
Kampala
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# Glossary

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<tr>
<td>ABASA</td>
<td>Alliance Burundi-Africaine pour le Salut</td>
</tr>
<tr>
<td>ABP</td>
<td>Agence Burundaise de Presse (Burundi Press Agency)</td>
</tr>
<tr>
<td>ABR</td>
<td>Association Burundaise des Radiodiffuseurs</td>
</tr>
<tr>
<td>ACAT</td>
<td>Christian Action for the Abolition of Torture</td>
</tr>
<tr>
<td>ACCOBU</td>
<td>Chamber of Commerce of Burundi</td>
</tr>
<tr>
<td>AD</td>
<td>Anno Domini</td>
</tr>
<tr>
<td>AFAB</td>
<td>Association des Femmes Entrepreneurs du Burundi</td>
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<tr>
<td>AFJB</td>
<td>Association of Women Jurists of Burundi</td>
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<tr>
<td>ANADDE</td>
<td>Alliance Nationale pour le Droit et le Développement</td>
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<tr>
<td>APRODH</td>
<td>Association Barundi pour la Protection des Droits Humains et des Détenus</td>
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<tr>
<td>APR</td>
<td>Public African Radio</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>AV-INTWARI</td>
<td>Alliance des Vaillants</td>
</tr>
<tr>
<td>AWEPA</td>
<td>The Association of European Parliamentarians for Africa</td>
</tr>
<tr>
<td>BEN</td>
<td>Burundi Entrepreneurs Network</td>
</tr>
<tr>
<td>BINUB</td>
<td>United Nations Integrated Office in Burundi</td>
</tr>
<tr>
<td>CBOs</td>
<td>Community Based Organisations</td>
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<tr>
<td>CCIB</td>
<td>Chamber of Commerce</td>
</tr>
<tr>
<td>CCM</td>
<td>Chama Cha Mapinduzi</td>
</tr>
<tr>
<td>CAFOB</td>
<td>Le Collectif des Associations et des ONG Féminines du Burundi</td>
</tr>
<tr>
<td>CEPGL</td>
<td>Economic Community of Great Lakes Countries</td>
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<tr>
<td>CIVIC</td>
<td>Centre d’Initiative pour une Vision Commune</td>
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<tr>
<td>CMSN</td>
<td>Military Committee for National Salvation</td>
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<td>Acronym</td>
<td>Full Form</td>
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<tr>
<td>CNDD</td>
<td>Conseil National pour la Défense de la Démocratie (National Council for the Defence of Democracy)</td>
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<tr>
<td>COMESA</td>
<td>Common Market for Eastern and Central Africa</td>
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<tr>
<td>COSOME</td>
<td>Coalition of Civil Society for Elections Monitoring</td>
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<tr>
<td>COSYBU</td>
<td>Confédération des Syndicats du Burundi</td>
</tr>
<tr>
<td>CRECO</td>
<td>Constitution and Reform Education Consortium</td>
</tr>
<tr>
<td>CSB</td>
<td>Confédération Syndicale du Burundi</td>
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<td>CSOs</td>
<td>Civil Society Organisations</td>
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<tr>
<td>CUF</td>
<td>Civic United Front</td>
</tr>
<tr>
<td>DDR</td>
<td>Demobilisation, disarmament and reintegration</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
</tr>
<tr>
<td>EAC</td>
<td>East African Community</td>
</tr>
<tr>
<td>EABC</td>
<td>East African Business Council</td>
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<tr>
<td>EHAHRD</td>
<td>East and Horn of African Human Rights Defenders</td>
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<tr>
<td>FBU</td>
<td>Burundi Francs</td>
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<tr>
<td>FDD</td>
<td>Front for the Defence of Democracy</td>
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<tr>
<td>FEMCOM</td>
<td>Federation of National Associations of Women in Business COMESA</td>
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<tr>
<td>FIDA</td>
<td>Federation of Women Lawyers</td>
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<tr>
<td>FNL</td>
<td>Front National de Libération (Front for National Liberation)</td>
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<tr>
<td>FORSC</td>
<td>Forum for Strengthening Civil Society</td>
</tr>
<tr>
<td>FRODEBU</td>
<td>Front pour la Démocratie au Burundi (Front for Democracy in Burundi)</td>
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<td>FROLINA</td>
<td>Front pour la Libération Nationale</td>
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GDP  Gross Domestic Product
GRADIS  *Groupe de Recherche et d’Appui au Développement des Initiatives Démocratiques*
HIV/AIDS  Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
INKINZO  *Parti Socialiste et Panafricaniste*
KCK  Kituo Cha Katiba
KCRC  Kenya Constitutional Review Commission
MDG(s)  Millennium Development Goals
MOU  Memorandum of Understanding
MRC  *Mouvement pour la Réhabilitation du Citoyen-Rurenzangemero*
MP(s)  Member of Parliament
NCC  National Communications Council
NGOs  Non-Governmental Organisations
NHRIs  National Human Rights Institutions
NTV  Nation Television
OAG  Observatory for Government Action
OAU  Organisation of African Unity
OIDEB  Observatory for Child Rights in Burundi
OLUCOME  Observatory for Fight against Corruption and Economic Embezzlement
ONUB  United Nations Operation in Burundi
OPB  *Observatoire de la Presse du Burundi*
PALIPEHUTU-FNL  *Parti pour la Libération du Peuple Hutu-Front National de Libération* (Party for the Liberation of Hutus -Front for National Liberation)
PARENA  *Parti pour le Redressement National*
PDC  *Parti Démocrate Chrétien* (Christian Democratic Party)
<table>
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<tr>
<th>Acronym</th>
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<tr>
<td>PIT</td>
<td>Parti Indépendant des Travailleurs</td>
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<td>PL</td>
<td>Parti Libéral</td>
</tr>
<tr>
<td>PP</td>
<td>Parti du Peuple</td>
</tr>
<tr>
<td>PRP</td>
<td>Parti pour la Réconciliation du Peuple</td>
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<tr>
<td>PRSP</td>
<td>Poverty Reduction Strategic Plan</td>
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<tr>
<td>PSD</td>
<td>Parti Social-démocrate</td>
</tr>
<tr>
<td>PTA</td>
<td>Preferential Trade Agreement</td>
</tr>
<tr>
<td>RADDES</td>
<td>Ralliement pour la Démocratie et le Développement Economique et Social</td>
</tr>
<tr>
<td>RPA</td>
<td>African Public Radio</td>
</tr>
<tr>
<td>RPB</td>
<td>Rassemblement du Peuple Burundais</td>
</tr>
<tr>
<td>SIDA</td>
<td>Swedish International Development Agency</td>
</tr>
<tr>
<td>SNR</td>
<td>Service National de Renseignement (National Intelligence Service)</td>
</tr>
<tr>
<td>TRC</td>
<td>Truth and Reconciliation Commission</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNESCO</td>
<td>United Nations Scientific and Cultural Organisation</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commission for Refugees</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Childrens Fund</td>
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<tr>
<td>UNSC</td>
<td>United Nations Security Council</td>
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<tr>
<td>UPRONA</td>
<td>Union pour le Progrès National (Union for National Progress)</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organisation</td>
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</table>
Kituo Cha Katiba: The Eastern Africa Centre for Constitutional development (KCK) acknowledges the invaluable work and dedication of all people who contributed in one way or another to the success of the mission. First, we thank the mission members who took time off their invaluable time to visit Burundi between 7 July and 11 July, 2008 to meet with various stakeholders. Without their commitment the fact-finding mission would not have been possible. Our special thanks go to Dr Tulia Ackson and Mr Collins Odhiambo for compiling the initial draft report and to Hon. Aliro Omara and Dr Tulia Ackson who devotedly edited the report. KCK also extends its sincere gratitude to all the respondents in Burundi without whom it would be impossible to successfully undertake the fact-finding mission. Their insightful and frank contributions are acknowledged in leading to a balanced and well informed publication. A note of appreciation also goes to Mr Felix Haburiyakira of Association Barundi Pour la Protection des Droits Humains et des Detenus (APRODH) who helped us with the interpretation during the entire mission and for his patience and commitment.

KCK appreciates the participation of all participants at the dissemination workshop for the draft mission Report which convened on 24 April 2009, and their constructive comments and recommendations.

We would like to thank our funders and development partners: The Swedish International Development Agency (SIDA), the East African Regional Office in Nairobi, Kenya for supporting this programme and for being true partners.
Executive Summary

This is a report of the fact-finding mission organised by KCK and conducted in Bujumbura, Burundi from July 7 to July 11, 2008. The report was disseminated on 24 April 2009 to about fifty stakeholders composed of representatives from human rights non-governmental organisations (NGOs), faith-based organisations, the media, professional organisations, academics and government officials from key government ministries and institutions. The goal of the mission was to explore possibilities of KCK networking with the people of Burundi to strengthen citizens’ participation in the advancement of democratic development and good governance within Burundi and the EAC. The mission interacted with a cross-section of civil society organisations (CSOs), the media, academia, officials of selected institutions, government departments and the donor community. The mission provided a strategic opportunity to open critical debate with these stakeholders, on issues affecting civil society, their respective roles and the governance challenges facing Burundi. Although the report details the historical and political perspective of the country, the central focus is an account of the state of civil society in Burundi. It emerged that Burundian civil society is confronted with common challenges that bedevil civil society in the rest of the region such as donor dependence; poor financial and human resource sustainability and inter-organisational conflicts and competition. Nevertheless, civil society in Burundi was found to be fairly active with a vibrant media and trade unions, although unlike NGOs, the relationship between the media and the Burundian government somewhat fell short of what is expected in a democratic society though it had reportedly improved compared to previous years. Donor–civil society relations in Burundi were quite good.
Given the history of tensions between civil society and the government, the mission felt that their recurrence cannot be ruled out depending on the political situation. It was therefore recommended that civil society should take advantage of the improved relations with government to engage government more effectively with a view to evolving agreeing with the government on a formalised mechanism for dialogue and conflict resolution between the two.
Kituo Cha Katiba and its Fact-finding Missions

Introduction

KCK was established in 1997 with the mission of promoting constitution making and democratic governance in the East African region. KCK provides a mechanism and neutral forum for activists, academicians and politicians to engage in dialogue, self-reflection and critical debate over a wide variety of issues that are of critical contemporary relevance. The vision of the organisation is to promote the active participation of civil society in the process of good governance and to inculcate a culture of constitutionalism, where the constitution is a living document that reflects the aspirations and needs of the common people. KCK is governed by a Board whose members come from Burundi, Kenya, and Tanzania Mainland, Rwanda, Uganda and Zanzibar. Its secretariat is currently in Kampala, Uganda.

The Burundi mission adds to the several fact-finding missions KCK has conducted since 2001, in different countries in the region namely, Zanzibar, Kenya, Uganda and Rwanda. The mission to Burundi is very similar to the one undertaken by KCK in Rwanda in 2004, which examined the nature of civil society in Rwanda. The Rwanda mission was led by Prof. Chris Maina Peter, a Professor of Law at the University of Dar es Salaam. There were two missions to Kenya. The first mission to Kenya in 2001, headed by then Chairperson of the Uganda Constitutional Review Commission, Prof. Fredrick Ssempebwa, examined the constitutional amendment
in Kenya; the second mission in 2007, examined the minimum standards necessary to ensure a peaceful general elections in Kenya in 2007. The report of this mission provided useful background country information to the Koffi Annan team in the aftermath of election violence in Kenya; the mission to Uganda in 2002, which was headed by the former United Nations (UN) Technical Adviser to Liberia, Prof. Haroub Othman from Zanzibar, aimed at influencing constructive debate on the issue of promoting political dialogue amidst the controversy over the type of government system Uganda should adopt; the mission to Zanzibar headed by Hon. Abubaker Zein, a member of the Kenya Constitutional Review Commission (KCRC) delved into the subject of the Muafaka Agreement between the ruling Chama Cha Mapinduzi (CCM) and Civic United Front (CUF) as a basis for fostering peaceful constitutional development in the Isles; the mission reports have contributed tremendously in discussions on constitutional development in these countries.

**Background to the Burundi Fact-finding Mission**

Organised against the backdrop of Rwanda and Burundi joining the East African Community (EAC) at the Fifth Extraordinary Summit of Heads of State of the EAC held in June 2007 in Kampala, KCK, as a regional CSO, saw the need for an inaugural fact-finding mission to Burundi to assess the nature and functioning of civil society in the country. The fact-finding mission took place from 7 July to 11 2008, in Bujumbura, Burundi.

**Goal and Objectives**

The project goal was to explore possibilities of KCK networking with the people of Burundi in order to strengthen citizens’ participation in the advancement of democratic development and good governance within Burundi and the EAC.
The objectives of the fact-finding mission were to:

- Initiate dialogue with key stakeholders in civil society, government, and donors in Burundi, in order to form a rational opinion and comprehensive understanding of the nature of civil society in Burundi.
- Document the progress, challenges and lessons learnt by civil society in Burundi and their impact on its role in the country.
- Capture the fears, aspirations and recommendations of civil society in Burundi about the EAC in order to define the necessary interventions for the betterment of the EAC.
- Contribute to the building of a network of civil society between Burundi and its counterparts in East Africa by identifying areas of mutual concern and interest that shall form the basis of future networks at East African regional level.
- Provide a regional dimension for civil society in Burundi by enabling civil society and other actors in the region to share experiences and learn from each other’s mistakes and best practices.

The Mission Team

The mission team comprised the following prominent East Africans:

- Mr Mahadhi J. Maalim, (Tanzania, Zanzibar), Principal Secretary, Ministry of State (Presidents Office) Constitutional Affairs and Good Governance, Zanzibar (Head of mission);
- Prof. Charles Gasarasi, (Rwanda) Research Professor, Centre for Conflict Management, National University of Rwanda.
- Dr Tulia Ackson, (Tanzania Mainland), Lecturer, Faculty of Law, University of Dar es Salaam;
- Mr Collins Odhiambo, (Kenya) Advocate, Head of Programs & Deputy Chief Executive Officer, Constitution and Reform Education Consortium (CRECO);
Hon. J.M Aliro Omara, (Uganda), Advocate, former Commissioner, Uganda Human Rights Commission and;

Ms Edith Kibalama, Executive Director, KCK, provided logistical support.

Study Methodology
In order to achieve the above objectives, the mission met and discussed with a cross-section of CSOs and key stakeholders from Burundi. However due to resource constraints it was not possible to interview as many private individuals as the mission would have wanted, hence the concentration on officials of selected institutions, government departments and NGOs. Respondents were from the following institutions:

- The executive arm of government
- The judiciary
- Academics
- Civil society including human rights and women NGOs
- Trade unions
- Religious leaders and institutions
- The media
- The donor community

As a strategy, KCK has learnt to tread the delicate balance between being a critic and monitor of government, while at the same time promoting positive models, processes and policies related to constitutionalism, good governance and democratic development. Being an indigenous civil society regional watchdog, KCK seeks to influence policy makers within the region and to maintain appropriate open communication with governments using a persuasive working methodology. This involves dialogue, advocacy
and activism supported by credible empirical data. Therefore, the mission provided a strategic opportunity to open critical debate with civil society, the state and the donor community, on issues about civil society, their respective roles and about governance challenges facing Burundi.

**Expected Outcomes**

- Increased awareness about civil society in Burundi would upscale interaction between civil society in the country with its counterparts in the EAC countries of Kenya, Tanzania mainland, Uganda, Rwanda, and Tanzania Zanzibar, and contribute to the strengthening and consolidation of an East Africa civil society.

- The information generated by the fact-finding mission to Burundi would build KCK’s knowledge about the country and act as a bedrock for informing KCK’s future interventions, as well as providing key actors notably the EAC, national governments, civil society, private sector, academics and ordinary citizens with comprehensive and reliable information about civil society in Burundi and its perceptions about the EAC, thereby providing a basis for informed and necessary interventions.
General Background

Country Profile

Burundi is a small country situated in central Africa and one of the five partner states of the EAC. It is a landlocked country bordering Rwanda to the north, Tanzania to the east and south, and Democratic Republic of Congo (DRC) to the west (Mpangala: 2004:31). Geographically, it has a surface area of 27.8 million square kilometres. It is a rich fertile land with a beautiful hilly landscape and a tropical climate. Its natural resource base is largely forests, wild animals, birds, some minerals (Mpangala: 2004:32), and rivers such as the Ruzizi, Kagera, Muragarazi and Kanyaru. The population stands at 8.5 million people as per latest data, with its density being one of the highest in Africa at about 300 persons per square kilometre. This is exacerbated by an equally high growth rate, estimated at 3.8% per annum in 2007. Burundi’s capital is Bujumbura.(World Bank). Ethnically, the country is peopled by Bahutu (85%), Batutsi (14%), and Batwa (1%), as the major nationalities, with minority immigrant ethnicities from DRC and Tanzania, loosely referred to as Swahili speakers.(Daley 2008:13). The major language spoken is Kirundi which is the national language, with French as the official language. Swahili is mainly spoken around the Lake Tanganyika area and in the capital Bujumbura. The dominant religion is Christianity at 67%, with Catholics being the majority at 63.9% of all Christians. Geopolitically, Burundi falls within the Great Lakes region. It has economic and socio-cultural links with the East African countries of Rwanda, Tanzania, Uganda and Kenya. By virtue of this link and location, the country found it inevitable and easy to join the EAC
in 2005 as a full member, while maintaining its membership in the Economic Community of Great Lakes Countries (CEPGL), with Rwanda and DRC as the other members. By its membership to the EAC, the country has therefore linked its political, economic, and social aspirations with those of Rwanda, Tanzania Uganda and Kenya.

The Economy

Burundi’s economy is predominantly agrarian, with coffee as its main source of export revenue. Coffee growing is entirely on a small holder scale. Other agricultural products include cotton, tea, sorghum sweet potatoes, bananas, beef milk, palm oil and hides. The country is also endowed with some natural mineral reserves like tungsten and gold. Burundi’s trading partners include Kenya, Tanzania, Uganda, France, Belgium, and Zambia. The national currency is the Burundi Franc (FBU), exchanging at 1,000 FBU for United States (US$) 1 dollar at the time of the mission.

Burundi is one of the poorest countries in the world; a problem that was exacerbated by conflict. Its per capita income drastically declined by approximately 40% during the periods of civil war from US$180 in 1993 to US$110 in 2007, making it is one of the world’s lowest per capita incomes (World Bank). As a country emerging from conflict, Burundi’s economy is at present a typical post conflict African economy. Owing to the combined effects of destroyed social and economic infrastructure, declined investments, massive displacements and a huge reduction in donor assistance in times of conflict, Burundi’s economy experienced a devastating decline. The country’s annual investment ratio stood at 15 percent of Gross Domestic Product (GDP) at the start of the decade only to decline to 6 percent between 1998 and 2000 (PRSP 2006:7). From 2001 to 2008, its GDP growth rate averaged only about 3% annually. This receding GDP caused per capita income to drop to US$83 in 2004 from a level of US$214
in the early years of the preceding decade (Background to Burundi’s PRSP). The economy remains highly volatile because of fluctuating agricultural sector production and prices, and in 2008, even with the increase in fuel and food prices, real GDP growth was estimated at 4.5% (World Bank).

United Nations Development Programme (UNDP) assessments reveal that most of Burundi’s development indicators reverted to levels of 15 years earlier as a result of the civil war that began in 1993, notably the doubling of the number of people living below the poverty threshold between 1993 and 2004, estimated at 67% of the population in 2006. With a growing population that is over 90% dependent on agriculture, against increasing land scarcity, food insecurity features among the major challenges facing the country. This is worsened by climate change effects, with erratic rains affecting planting and harvesting seasons.

Despite these challenges, Burundi is striving to improve its economic development. The government in partnership with its development partners, civil society and other stakeholders at regional and international level, has embarked on a recovery programme to reverse the country’s declining economy. Since 2000, it has implemented macro economic and structural reforms like fiscal policy reforms, anti-corruption strategies to promote public accountability and financial management, as well as prudent monetary policies (World Bank). Some improvement has since been registered but the World Bank projects that for Burundi to regain its pre-war economic status, it must maintain a GDP growth rate of 8% over the next four years.

The principal strategy for economic reform and progress being implemented by the government is the Poverty Reduction Strategy Paper (PRSP) that was launched in 2006, two and half years after its approval in 2004 by the International Monetary Fund (IMF) and the World Bank.
A participatory community-wide and thematic consultation carried out in the run up to the development of the PRSP identified the following as the causes of poverty in Burundi:

- Governance
- Security
- Conflict resolution constraints
- Structural rigidities
- Instability of the macro-economic framework
- Poor quality of and insufficient access to basic social services
- Increase in the number of vulnerable groups
- High prevalence of HIV/AIDS
- Gender and equity constraints.

On the basis of these findings, the PRSP has sought to strategically focus on improving governance and security, promoting sustainable and equitable economic growth, developing human capital and combating HIV/AIDS. Economic growth in particular is adversely affected by demographic explosion, shortage of arable land, the predominance of subsistence agriculture, inadequate infrastructure to support production and a low level of savings and investments (Burundi’s PRSP).

Linked to its economy is the country’s social development. As stated, it is one of the poorest countries in the world, where the conflict situation caused the percentage of the population below the poverty line to double in one decade as mentioned earlier. In terms of its social and human development indicators, it is quite unlikely that Burundi will meet the 2015 target of the Millennium Development Goals (MDGs). The rural and urban poor lack adequate financial resources to access basic social services. In urban areas, the challenge is primarily unemployment and income poverty,
whereas in rural areas it is shortage of land and climate change effects: drought or floods, which are the predominant causes of vulnerability. According to the United Nations Children’s Education Fund (UNICEF) Short-Duration Country Programme Document of June 2008, children and women in Burundi remain vulnerable to the impact of widespread poverty, decline in quality of life, high unemployment, rising food prices and grave inequity in access to basic social services. Children’s rights still face challenges and the country continues to be monitored under UN Security Council Resolution 1612. The introduction of free primary education in 2005 however, raised enrolment from 59% in 2004/2005 to 72% in the 2005/2006 school year indicating positive development in advancing the right to education.

Public Administration

The country’s current constitution was adopted by its parliament in September 2004 and approved by a public referendum in February 2005. In this transition constitution, Burundi is described as a unitary independent sovereign state secular and democratic to be managed on the principle of government of the people, by the people and for the people (Article 4 of the Burundi Constitution). The country’s political system therefore is based on multi-party democracy. The framework of government stems from this Constitution. Administratively, Burundi is divided into 17 provinces with the capital Bujumbura as one of the provinces.

The administration is divided into three arms of government: the Executive, Legislature and the Judiciary. The country is headed by a president elected by universal adult suffrage. The president is the Head of State and Government. She/he is also the Commander-in-Chief of the Armed Forces. The current president is Pierre Nkurunziza. There are two vice presidents, the first in charge of political and administrative affairs and the second in charge of
social and economic affairs. In addition, as part of the Executive is a 26-member cabinet appointed by the president. The constitution provides for a 60% Bahutu and 40% Batutsi representation in the cabinet with at least 30% women representation (Article 129 Burundi Constitution 2005). The legislature is divided into two chambers: the National Assembly which is the Lower Chamber and the Senate which is the Upper Chamber, both elected for a five year term. The National Assembly has two categories of members of parliament (MPs): 100 MPs elected by universal adult suffrage and 18 MPs (deputies) appointed to cater for ethnic and gender balance. (United States (US) Department of State: Background Note Burundi). The MPs are elected in 17 multi-member constituencies using a party list proportional representation system. Political parties and lists of independent candidates must receive at least a 2% vote nationally to be represented in the National Assembly. The current distribution of political party representation in this assembly is as follows:

- 64 from the National Council for the Defence of Democracy–Forces for the Defence of Democracy (CNDD-FDD)
- 30 from Front pour la Démocratie au Burundi (Front for Democracy in Burundi) (FRODEBU)
- 15 from Union pour le Progrès National (Union for National Progress) (UPRONA)
- 4 from Conseil National pour la Défense de la Démocratie (National Council for the Defence of Democracy) (CNDD)
- 2 from the Mouvement pour la Réhabilitation du Citoyen-Rurenzangemero (MRC)
- 3 representatives of the Batwa ethnic group
- Parliament has powers to make laws, but this legislative power is not absolute and exclusive. The president may on the advice
of the Constitutional Court promulgate a presidential decree, which has the effect of law. It is not clear whether under this constitutional provision the president can amend laws passed by parliament, thereby retaining the power to overturn the legislative objectives of any law with the approval of the Constitutional Court.

The composition of the Senate on the other hand is determined as follows:

- 2 senators, one Muhutu and one Mututsi are elected from each of the 17 provinces by distinct ballots of an electoral college comprising members locally elected by communal and provincial councils.
- 4 seats are reserved for former presidents.
- 3 seats for the Batwa minority.

Women must according to the constitution comprise 30% of the Senate (US Department of State: Background Note on Burundi). The aim of such a process is to ensure a diversified representation of the Burundian population. The current size of the Senate is 49, which includes 34 elected senators, 4 ex-presidents, and 3 Batwa representatives. In addition to their separate and specific tasks, the combined function of the National Assembly and Senate is legislation. Several political parties are active in the country. There were 21 registered recognised parties at the time of the mission confirming the plural nature of politics in the country. Multi-party politics is guaranteed by the constitution. The mainstream parties though were the CNDD-FDD, the FRODEBU and UPRONA.

The Judiciary is established and recognised as a separate arm of government by the constitution which legally guarantees its independence. The judiciary is hierarchically structured and is regulated by the law “Code of Organization and Judicial Competence of 17 March 2005” which was promulgated pursuant to Article 205
(3) of the 2005 Constitution. At the basic administrative level (hill level) operates the Hills Courts (Inta yo ku mugina) in which elders (Abashingantahe) and elected persons from the hills sit to hear and settle disputes. The jurisdiction of the Hills Courts is conferred and regulated by the Local Government Law (Law No 1 of 2006 on the Organisation of Municipal Administration), which limits their jurisdiction to resolution of disputes through reconciliation without criminal jurisdiction and the power to impose punishment. At the commune level is the Resident Courts or Resident Tribunals (Tribunal de Résidence) with power to adjudicate both criminal and civil cases including land matters. The Resident Tribunals have limited jurisdiction defined by law. At the provincial level are County or Tribune Courts (Tribunaux de Grande Instance) above which are appeal courts currently based at Bujumbura, Ngozi and Gitega. At the highest level is the Supreme Court which exercises both original and appellate jurisdiction on all matters. There is the Constitutional Court with jurisdiction over constitutional matters and on issues related to human rights violation. The Supreme Court together with the Constitutional Court constitutes the High Court of Justice with the competence to try a sitting president and senior members of government for high treason (Article 234 of the Burundi Constitution 2005). There is also a Military Court system with jurisdiction over military matters.

Jurisdiction over human rights that is, the interpretation of the Bill of Rights is entrusted with the Constitutional Court, but the Ministry of Human Rights is by law charged with the responsibility of protecting and promoting human rights. The creation of the ministry is indicative of the political commitment to uphold fundamental rights and freedoms, and to put in place effective measures for human rights protection and promotion. The country has no independent national human rights institution to monitor state compliance with international human rights
standards. However, according to the constitution, there should be an Ombudsman with the mandate to receive complaints related to maladministration including instances of human rights violation (Article 237 of the Constitution). This constitutional provision seems to remain in abeyance as no enabling law has been enacted to bring it into operation. The mission was however informed of government commitment to create an independent national human rights institution in conformity with the Paris Principles on National Human Rights Institutions (NHRIs), and that a law to create the institution was in the making. Such an institution will be highly welcome in the country, as it is very unlikely that the Ministry of Human Rights, being part of the executive can address the question of impunity in human rights violation, and hold the government accountable for such violations.

The Legal System

Before colonialism the Barundi like all other pre-colonial African societies applied local customs in the resolution of disputes and conflicts. With the coming of the Belgians was introduced the written law. After independence, the written law came to govern most, if not all, issues with the exception of some civil and private law issues (Ntahobaye quoted in International Refugee Rights (2008). Notable exceptions related to inheritance, marital property, acquisition and ownership of unregistered land. Although customary law is still applicable especially in the Hill Courts there is a move to codify it with a view to eliminate its harmful practices, make it clear and readily accessible.

The law applicable in Burundi therefore consists of laws passed by parliament and some unwritten customary law. The supreme law is the Constitution of Burundi 2005 which was adopted through a national referendum conducted in 2005. Article 159 of the constitution gives power to parliament to make enabling laws to
bring into effect the provisions of the constitution, and to regulate the conduct of public affairs and all matters within the country. The Constitution of Burundi like that of Rwanda, but unlike those of the other EAC partner states, specifically incorporates into domestic law the provisions of key international human rights instruments making them applicable and enforceable sources of law. Article 19 of the Burundi Constitution stipulates:

The rights and duties proclaimed and guaranteed, among others by the Universal Declaration of Human Rights, the International Covenants on Human Rights, the African Charter on Human and Peoples Rights, the Convention on Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child are integral part Constitution of the Republic of Burundi.

This is a progressive development in giving legal effect to key human rights instruments at the domestic legal sphere in the country. However international human rights instruments other than those mentioned in the constitution still require ratification and specific laws to domesticate their applicability at municipal level.

The Political History of Burundi

Pre-Colonial Burundi

There is continuous debate and differing literature about Burundi’s pre-colonial history especially with regard to the peopling of the territory and issues surrounding ethnicity. The bone of contention is the settlement of the three groups, the Bahutu, Batutsi and Batwa, in seeking to determine who were the first to occupy the territory that is now Burundi. Part of the debate is whether these three groups, who speak the same language, and share the same culture are really separate ethnic groups or merely component social or occupational classes of the same ethnic group. The challenge faced in documenting Burundi’s history lies in the available limited oral history over several
centuries, exacerbated by the distortions of the colonialists to suit their interests. Nevertheless, there is a degree of general agreement by different authors and sources on the settlement of the three groups. The first inhabitants, (sometimes referred to as the indigenous inhabitants of Burundi) are believed to be the Batwa (pygmies), followed by the Bahutu believed to have settled in Burundi about the 1st century A.D. The last entrants to this territory in the 15th century are believed to be the Batutsi. The Batutsi were pastoralists, the Bahutu largely agriculturalists, while the Batwa were hunter-gatherers and specialists in pottery. Even in pre-colonial times, the Bahutu were the majority in composition followed by the Batutsi and a very small population of the Batwa. The Bahutu today comprise approximately 85% of the population in Burundi and Rwanda, the Batutsi (14%) and the Batwa 1%. Despite this population composition, governance in pre-colonial Burundi was dominated by the Batutsi under an aristocracy with the king (Umwami) at its helm as the Head Aristocrat (Ubiganwa). The Batutsi maintained monopoly of power through military, bureaucratic and ideological institutions. Although the king distributed power through a hierarchical administrative system, his administrators were appointed by him, most of whom were from the aristocracy and particularly from his own clan. However by the 19th century, Bahutu began to hold some lower positions in the administration hierarchy (Mpangala 2004:35). According to Mpangala, although the Umwami came from a single clan among the Batutsi, (the Bahima clan, largely found in Bururi Province), all Batutsi were identified with the ruling class even those who were not members of the ruling clan.

Ownership of cattle which was the chief occupation of Tutsis seemed to be related closely with political and military power (Mpangala 2004:257). At the dawn of the colonial era, Burundi was a largely organised and stable society under a monarchy with a distinct style of governance. Like in any society, there were some
internal hostilities but these were attributed to political rivalry between royal clans (Daley 2008:47).

Despite the current ethnicisation of the Barundi, there is no sufficient historical evidence to explain the categorisation of the people as separate ethnic groups. The use of the terms Batutsi and Bahutu as explained by Daley (2007:45) seems to have been associated with occupational specialisation and wealth measured by one’s possession of cattle rather than ethnicity. This is reflected in the socially acceptable and common practice of Ukwihutura (shedding ‘Hutuness’), where a hitherto Muhutu would become a Mututsi upon acquisition of wealth, mainly cattle. In modern social-class terms, this is basically ascending the social ladder, from a peasant to a bourgeois class, a normal phenomenon that has nothing to do with ethnicity. The Arusha Peace and Reconciliation Agreement for Burundi of August 2000, makes reference to the pre-colonial history of Burundi. The parties to the Agreement concur that the pre-colonial people of Burundi recognised themselves as Barundi under one monarch. They believed in the same God (Imana), practised the same culture, spoke the same language and lived together in relative harmony. But there are certain traditional practices that have been identified as sources of injustice and frustration among the Bahutu, the Batutsi and the Batwa, such as Ukenena (discrimination in the sharing of food and drink); Ukwihutura (climbing the social ladder – upward mobility from Hutu to Tutsi and with the corresponding gutabira, the downward mobility from Baganwa (royal clan) to Tutsi, but with no social demotion from Tutsi to Hutu); Ubugeregewa (bonded serf); Ubugabire, a clientele system based on the unequal distribution of wealth and cattle between Hutus as clients and Tutsis as the patrons – this system was not only confined to Hutus but Himas as well, and to some small extent wealthy Hutus in areas with very small Tutsi population, the Hutu was a patron); Ukunyaga (dispossession) and Ukwangaza (banishment). (Daley 2008:44-48). The parties
to the Arusha Agreement noting these practices explain that there were no known serious ethnic conflicts between the various groups in the pre-colonial period. The post-colonial devastating conflicts between the groups in Burundi have therefore been attributed in the Agreement to colonialism and its legacy. However, another view by Mpangala (2004) is that during the Arusha Negotiations debating the theoretical perspectives of the causes of conflict in Burundi, two views emerged. The position of the Tutsi-based parties was that pre-colonial Burundi did not contribute to the post-independence conflict. The Hutu-based political parties on their part argued that in fact the pre-colonial society of Burundi contributed to the conflict because of the economic and political dominance of the Tutsis over the Hutus and Twas. The Hutu-based parties also stated that, the absence of violent conflict between the two groups did not mean the absence of hatred, hostility and frustration so long as there was exploitation and dominance. (Mpangala 2004: 122-123).

**The Colonial Legacy**

Burundian society experienced several changes in the colonial era between 1888 and 1962 under two separate colonial powers, namely the Germans and Belgians. It was socially reconstructed to suit the colonisers’ twin goals of administration and economic exploitation. Under German colonial rule from 1897 to 1918, (Burundi was part of the Ruanda-Urundi German colony), the Germans employed a system of government which came to be known as “indirect rule.” They signed protection agreements with the Batutsi ruling kings to control the country (Mpangala 2004:36-37), but entrenched their overall control in the region. They also excluded the Bahutu and the Batwa from the administration of the country. In addition, the Germans used violence in some instances to quell rebellion of chiefs who were opposed to their rule.
The Germans lost colonial control of Burundi after their defeat in the First World War in 1918 and under the Mandated Territories plan of the League of Nations, Burundi was entrusted to Belgium in 1924. Like the Germans, the Belgians had a distorted preconceived notion of ethnic superiority in Burundi, which they used to interpret the administrative hierarchy of Burundi society. Against this background, the colonisers developed and entrenched the perceived ethnicity traits and ethnic segregation among the Barundi. They used the Hamite myth, advanced to defend the misconception that the rulers in Bantu Africa were of a different racial group with Caucasian heritage and racial superiority to Bantu Africans. This myth was thus effectively employed to categorise society in Burundi that saw Batutsi as racially different, bearing North African descent, thus superior to the Bantu Bahutu and Batwa. (Daley 2008:48-49). This false ethnic hierarchy was constructed by the colonisers positioning Batutsi as superior to the Bahutu and the Bahutu superior to the Batwa (Mpangala 2004:40).

This very hierarchical classification however defeats the notion of ‘Hamite’ Batutsi racial superiority. If both Bahutu and Batwa are ‘African Bantu’, what then makes Bahutu ‘ethnically’ superior to Batwa? As seen later in this report, this colonial distortion was negated with the formation of Burundi’s first political party UPRONA - with Bahutu and Batutsi members - and the election by Bahutu and Batutsi, of Prince Louis Rwagasore, a Mututsi as Prime Minister. This was a signal that was never lost on the colonialists, resulting in its decampaigning of UPRONA and allegedly party to Rwagasore’s assassination.

Daley (2004:49) quoting from De Heusch (1964:98) holds that the Belgian belief in this superiority hierarchy was so entrenched and was directly translated, promoted and practiced in the Belgian form of administration in Burundi. It was reflected in the Belgian Official proclamation of 1938), which stated that: “... the Belgian government is convinced that it must continue to maintain and
consolidate the traditional position of the Tutsis governing class because of its great qualities, its undeniable intellectual superiority, and its potential to lead.” True to that belief, the Belgians accorded privileges to Batutsi at the expense of the other groups. Batutsi were granted preferential access to resources like land, administrative positions and education. This saw a rising powerful and literate Batutsi class to the exclusion of Bahutu and Batwa. This policy thus abolished land chiefs that had in the pre-colonial times been mostly a preserve of Bahutu. While the colonial government focused on educating Batutsi, Bahutu were relegated to labour in plantations, farms and in public works, while the Batwa were employed as servants (Mpangala 2004:40-41). The Belgian administration went as far as issuing identity cards to classify the Barundi as Bahutu, Batutsi and Batwa.

Daley (2004:58-90) explains that the involvement of the military in Burundian politics is a creation of the colonial style of government. The Germans and for some time the Belgians ruled Burundi by the use of military force and discipline creating a militarised culture. She argues that the colonial state imposed superior military technology and created a standing army as back-up to its political power. There was no interaction between the people and the military. Further, the recruitment of Africans into the national army was ethnically biased. In Daley’s opinion “… the means of security [were] removed from the people, so were the safeguards that prevented people from being abused.” Having imposed such a military structure, and developed an ideology of ethnicity as a tool for dominance, exploitation and governance, the repercussions were soon to be experienced, as tensions began to develop between the Batutsi and Buhutu.

The Arusha Agreement is cognisant of this colonial legacy. It states: “in the context of the strategy of “divide and rule” the colonial administration injected and imposed a caricatured, racist vision of Burundian society accompanied by prejudices and clichés
relating to morphological considerations designed to set the different components of Burundi’s population against one another on the basis of physical characteristics and character traits.” Towards independence, according to the Arusha Agreement, the colonisers intensified divisive tactics although the manipulation did not stifle the nationalist movement for independence.

**Burundi’s Post-colonial State 1961-2000**

By 1950, the Belgians had permitted the formation of competing political parties. Two political parties in what was then known as Ruanda-Urundi emerged, namely UPRONA, the first political party established in 1950 and wholly multi-ethnic, and the Parti Démocrate Chrétien (Christian Democratic Party) (PDC), a Tutsi dominated political party supported by the Belgians. As seen from the composition of UPRONA, it is fair to say that despite ethnic polarisation aggravated by Belgium’s divisive policies, several Barundi in the struggle for its independence made nationalist efforts to steer clear of ethnic lines (Mpangala 2004:41). Under the leadership of Prince Louis Rwagasore and the party slogan “Unity and Progress,” UPRONA won the 1961 elections to the colony’s legislative assembly, with a promise of ushering the country into a new era of a sovereign and united Burundi (Daley: 62). This victory and the common Burundian struggle for a united nation were however, short-lived as the Belgians continued to support the ethnically biased PDC and to weaken UPRONA.

On 1 July, 1962 Burundi gained independence and King Mwambutsa IV established a constitutional monarchy where he was the head of state. The king attempted to create a united Burundi by appointing equal numbers of Bahutu and Batutsi in his government. But the king was weak and unable to control the ensuing power struggles between Bahutu and Batutsi and feuds within the Batutsi clans, an extension of colonially created divisions.
and thus rivalries. The political atmosphere between 1962 and 2000 was thus characterised by ethnic politics and military dictatorship that resulted in coups, assassinations and extreme violence. This incessant ethnic tension has had negative repercussions on the development of democratic governance in Burundi. What was termed democracy as introduced by the Belgians was really political participation of traditional and westernised elites and not the local people (Daley: 56). The Belgians dreaded a united Burundi with a strong and visionary leader, reflected by the majority Bahutu support for Prince Rwagasore as leader of UPRONA and future Executive Prime Minister. He posed a threat to their divide and rule policy, having united all Barundi under UPRONA, despite being a Mututusi royal from the Bahima-Baruli ruling clan. He was and is still revered as a national hero, in the same club as Patrice Lumumba from neighbouring DRC, who suffered a similar but more gruesome death.

Prince Rwagasore was assassinated on the eve of his installation in October 1961, in what is believed to be the work of PDC leadership and the Belgians (Daley 2007:63). His death triggered the ethinisation of the membership and support of the UPRONA party, thus polarising the only political party with a multi-ethnic and nationalist outlook (Mpangala: 2004:42). In theory, by 1962 Burundi had the structures for democracy. It had by this time 15 political parties all of which contested for Burundi’s first elections. Several of the parties were however ethnic based, as each group ventured to monopolise power through ethnicity.

In 1966, King Mwambutsa was deposed by his son Prince Ntare V who was in turn overthrown in the same year by his Prime Minister Captain Michel Micombero. Micombero abolished the monarchy, took over power as the military president of Burundi, and declared the country a republic under a one-party system with UPRONA as the sole ruling party. The ruling party UPRONA had since
the assassination of Prince Rwagasore in October 1961 become a predominantly Tutsi party and perpetuated the marginalisation of the Bahutu. The Batutsi controlled the state machinery and segregated Bahutu children from attending secondary school, and continued the Belgian approach of relegating Bahutu to unskilled labour posts. In this period, several Bahutu lost their lives through massacres and genocide. In 1972 a rebellion by Bahutu broke out in Rumonge and Nyanza where a large number of Batusti were reported killed. In return President Micrombero ordered a state organised killing of Bahutu in which it is believed close to 300,000 people were killed prompting further response from Bahutu in which some Batutsi were killed. Thousands of Bahutu fled the country to neighbouring Rwanda, Tanzania and DRC. To this date there is no consensus as to whether these mass killings amounted to genocide, but some scholars assert that what took place was genocide against the Bahutu.

Inevitably, the act of massive violence in 1972 contributed immensely to increased ethnic tensions between the Bahutu and Batutsi (Mpangala: 2004:43). Change of governments in Burundi from 1966 also assumed the character of military coups. Characteristic of change of heads of state in Burundi, Jean-Baptiste Bagaza took over power in 1976 through a bloodless coup d’état and established a new constitution in 1981, under which he was elected president in 1984. His human rights record was faulted with the suppression of religious activities and the detention of his political opponents. Bagaza was also ousted in a coup d’état led by Maj. Pierre Buyoya in 1987. Buyoya suspended the Burundian Constitution, dissolved opposition parties and instituted his ruling Military Committee for National Salvation (CMSN). His government was characterised by human rights violation, and lack of democratic governance. By 1988, there were growing tensions between the ruling Batutsi and the majority Bahutu, which led to violent confrontations between the army, the Bahutu opposition and Batutsi hardliners. The period
saw an estimated 150,000 people killed and tens of thousands of Bahutu fleeing to neighbouring countries as refugees.

In 1988, the Buyoya government instituted a commission of inquiry to investigate the causes of the 1988 unrest and human rights violations, and to develop a charter for democratic reforms raising some glimmer of hope for Burundi. But Buyoya's move was driven not by a will for democratisation but largely as a result of pressure from the international community. A new constitution was promulgated in 1991 providing for a president, an all-ethnic government, a parliament, and making room for multi-party politics. Although he had been confident of winning the general election of 1993, Buyoya was defeated by Melchior Ndadaye, who became the first Muhutu president. Barely three months later, Ndadaye was assassinated in a military coup by factions of the Tutsi-dominated armed forces in October 1993. Burundi relapsed into civil war in which once again thousands of people were killed and hundreds of thousands displaced. The economy of the country began to decline, exacerbated by regional trade sanctions by the Preferential Trade Agreement (PTA) economic bloc against Burundi. The PTA Bank, hitherto headquartered in Bujumbura, had to shift to Nairobi, Kenya.

In 1994, Cyprien Ntaryamira of the predominantly Bahutu FRODEBU party was elected president but was only four months later killed in a plane crash together with the then Rwandan President Juvenal Habyarimana. The death in the plane crash of the two presidents as is well known, is held to be the beginning of the genocide in Rwanda. In Burundi Ntaryamira's death exacerbated violence and unrest with further decline in the security situation even with the assumption of power by President Sylvestre Ntibantunganya. In all, Burundi experienced civil strife and extreme violence in 1969, 1972, 1988 and 1993 to 2000, in which 2 presidents and one prime minister were assassinated. Apart from the tensions between Bahutu
and Batutsi, Burundi experienced class divisions amongst the Tutsi clans. The Tutsi of the Bahima clan monopolised power at the expense of other Batutsi (Mpangala 2004:44). The Batwa on the other hand were largely ignored and marginalised by both Bahutu and Batutsi groups.

The colonially created and nurtured animosity between the Bahutu and Batutsi created much anxiety, fear and apprehension on both sides of the perceived ethnic divide. The Bahutu had in practice been denied their right to effective involvement in political matters, and were economically and socially marginalised relative to the Batutsi. Following the entrenched ethnic hatred between the two groups, the Batutsi, as Mwalimu Nyerere correctly observed in 1996, had a genuine fear to be under a Bahutu dominated government (Mpangala 2004:54) regardless of the causes of the tension between the groups.

**Recent Political Developments**

Following the signing of the Arusha Peace Agreement in 2000, which involved 17 political parties, Burundi’s transitional government was formed in 2001 with a transitional constitution and a parliament in 2002. This transitional government, based on power sharing among the country’s two main ethnic groups, took office in January 2002 for a 36-month term (World Bank website). At the beginning of this transitional process, implementation was ineffective as some armed political groups unsatisfied with the transitional government frustrated its implementation. A second transitional process was however developed which included signing of ceasefire agreements with all parties including armed groups that had not been signatory to the Arusha Peace Agreement. By 2005, Burundi was on its way to a foundational transitional government with the parliamentary and local government elections held. A new constitution was approved by a referendum in February 2005 aimed at promoting
constitutionalism and good governance in post conflict Burundi. It also emphasised protection of minority rights and power sharing (World Bank Website). Further promising signs of peaceful transition were revealed by the signing of a power sharing agreement between the government and the last remaining group, Parti pour la Libération du Peuple Hutu-Front National de Liberation (Front for National Liberation) (FNL-PALIPEHUTU) in December 2008. The group has since changed its name to FNL and as of 2009 is a fully registered political party.


The genesis of the Burundi peace process lies in the consensus of 1995, by the Great Lakes region Heads of State and Government to initiate a formal process for peace negotiation. The process spanned from November 1995 when the presidents of Burundi, Rwanda, Uganda, and DRC announced the Regional Initiative for Peace in Burundi, to August 2000, though its full realisation came in 2006 with the signing of a ceasefire agreement between the government of Burundi and FNL-PALIPEHUTU. The process was initially mediated by Mwalimu Julius Nyerere the founding president of independent Tanzania. After his death, Nelson Mandela took over the mediation mantle, with Ugandan President Museveni as its chairman.

At the inception of the peace process, Burundi’s civil society was excluded from the negotiation process. However, being the most affected by the war in Burundi, civil society put up a strong struggle to be admitted into the peace process. (Mpangala 2004:290-291). Women were especially vocal in fighting for inclusion in this process. Le Collectif des Associations et des ONG Féminines du Burundi (CAFOB) organised two conferences, one in Kampala, Uganda in 1998 in coordination with the Organisation of African Unity (OAU) Committee for Peace and Development, and the other
in Arusha, Tanzania. Both conferences were influential in driving the cause of civil society inclusion in the Burundi peace process. These conferences registered success and a delegation of women was permitted to attend the third round of the peace negotiations as observers.

Furthering their cause, women groups organised the All Burundi Women’s Peace Conference in Arusha held in parallel with the Arusha Peace Negotiations. The conference presented recommendations to the peace negotiation team and all the recommendations were considered by the negotiating parties. All but one proposal were included in the Arusha Peace and Reconciliation Agreement (Mpangala 2004: 294-295). Apart from the direct contribution to the negotiation process, women in Burundi were also actively involved in sensitisation of Burundi to solidify unity in society.

As part of the peace process the UN deployed 5,600 peacekeepers in the country in 2004 to monitor the ceasefire under the peace accord. In 2007, the peacekeeping operation started scaling down, testifying to the improving security situation by the time of the mission. The country was looking forward to the 2010 general election which is hoped to further strengthen peace and the democratisation process. (However at the time of writing this report in December 2009, although a contingent of South African troops under the Africa Union (AU) mission left Burundi, the UN Security Council extended the Bureau Intégré des Nations Unis au Burundi (United Nations Integrated Office in Burundi) (BINUB)’s mission for another year until 3 December, 2010 partly in view of Burundi’s upcoming elections in June 2010).
3

Democratisation in Burundi: A New Beginning

Introduction

Burundi, as we have seen, had an abortive democratic experiment at independence, marked by the assassination of the first elected independence prime minister. Thereafter, successive coups completely shattered the possibility of democracy taking root. The coming into power of Major Pierre Buyoya in 1987 was seen by many as the beginning of a new political era in Burundi. Maj. Buyoya’s reign marked the beginning of “reforms intended to heal the country’s ethnic rift.” It also led the country on the road to its first democratic elections since independence. In the election held on 2 June 1993, Melchior Ndadaye, who ruled the country for a few months before he was killed in a military coup, won and was duly installed as the president of Burundi. Since then there have been concerted efforts internally, regionally and internationally to restore peace and put Burundi on the firm path of democratic governance and economic development.

There have been several peace talk initiatives to bring on board all other groups that were engaged in armed struggle against the reigning regimes. It was then hoped that the implementation of the peace agreements entered into by the said parties would end the decade-long civil war in Burundi. The Arusha Peace and Reconciliation Agreement in particular heralded the return of real peace to the country. The Agreement addressed political issues, and issues pertaining to ethnic discrimination, and key economic and
social issues that have over the years bedevilled the country, leading to the destructive situations of conflict and war. On the political front, the Agreement called for the institution of a new political, economic, social and judicial order in Burundi in the context of a new constitution inspired by Burundian realities, and founded on the values of justice, the rule of law, democracy, good governance, pluralism, respect for fundamental human rights and freedoms of the individual, unity, solidarity and equality. A new constitution based on this Agreement was approved by referendum in 2005.

Other aspects of the Arusha Agreement relating to peace, security and democratic governance were provisions calling for measures to combat impunity for genocide, war crimes and crimes against humanity; and measures to deal with discrimination by guaranteeing the equality of rights and duties for all Burundian citizens irrespective of their ethnic, regional, political, religious and social backgrounds. In that connection, all political or other associations advocating ethnic, regional, religious or gender discrimination or ideas contrary to national unity would be outlawed. In the same spirit affirmative action would be put in place to correct historical and existing imbalances in all sectors.

The Legal Framework for Political Participation and Practice

The legal framework for politics in Burundi today has its foundation in the Arusha Agreement which laid down vital principles to govern the exercise of politics and power without jeopardising peace and security as has been the case in the past. These principles have been entrenched in the Constitution of Burundi of 2005 which, among other things, provides for and recognises a multiparty political system. The system guarantees the right to freely form political parties and for political parties to freely operate and form coalitions during elections. Political parties are also free to conduct
their activities without interference from public authorities. They are only subjected to restrictions aimed at preventing divisions along ethnic, regional, religious lines with the potential to rekindle hatred detrimental to national unity and the maintenance of public order. For example, one restriction is the ban on political parties or other associations advocating ethnic, regional, religious or gender discrimination or ideas that contravene national unity.

The other important constitutional provisions relate to ethnic and gender quotas in government. The constitutional provision in the new constitution, which embraces and guarantees representation of all ethnic groups in the Executive, the National Assembly, the Senate and in the Military, is believed to have contributed to the relative calm in Burundi today. Again, despite the disproportionate ethnic composition of Burundi society, the Constitution provides for a 50 to 50 quota for Bahutu and Batutsi in the army; 60% Bahutu and 40% Batutsi representation in the National Assembly, with the Batwa guaranteed 3 members of parliament in the National Assembly. The Constitution also guarantees women a minimum of 30% of all the MPs represented in the National Assembly. To ensure that all ethnic groups are politically represented, the president is required to appoint two vice presidents who must be chosen from different ethnic groups.

With the favourable legal environment for political parties as many as 21 political parties were reported to have been formed but with varying degrees of strength and effectiveness. All have been successfully registered and allowed to operate because they comply with the constitutional requirements and other regulatory laws.

**Political Parties**

The current ruling party is the National Council for the Defence of Democracy-Front for the Defence of Democracy (CNDD-FDD). The CNDD-FDD was formed in 1995, a breakaway wing of the pro-
Bahutu FRODEBU composed of supporters who could not tolerate the power sharing agreements entered into by FRODEBU and the Batutsi-leaning UPRONA in 1994. The disagreements stemmed from the allegation that the assassination of the first Muhutu elected President, Melchior Ndadaye in 1993 and the killing of his successor, Cyprien Ntaryamira in 1994, was due to Batutsi chauvinism and radicalism against leadership by Bahutu. The CNDD ultimately formed a military wing, the Front for the Defense of Democracy (FDD). CNDD-FDD gained power in 2005 after the country’s first democratic elections under the new constitution, having won 59 seats in parliament.

**Opposition Parties**

Burundi has a number of opposition political parties. These include the Alliance Burundi-Africaine pour le Salut (ABASA), the Alliance Nationale pour le Droit et le Développement (ANADDE), the Alliance des Vaillants (AV-INTWARI), the Front pour la Démocratie au Burundi (FRODEBU), the Front pour la Libération Nationale (FROLINA), the Parti Socialiste et Panafricaniste (INKINZO), the Parti pour le Redressement National (PARENA), the Parti Indépendant des Travailleurs (PIT), the Parti Libéral (PL), the Parti du Peuple (PP), the Parti pour la Réconciliation du Peuple (PRP), the Parti Social-démocrate (PSD), the Ralliement pour la Démocratie et le Développement Economique et Social (RADDES), the Rassemblement du Peuple Burundais (RPB), CNDD which split from CNDD-FDD in 1998, and UPRONA.

Of these opposition political parties there are politically influential ones that merit special mention. Two of these namely FRODEBU and UPRONA have seats in parliament. The other is PALIPEHUTU-FNL the group which by the time of the mission was still engaged in rebellion against the government.
FRODEBU was founded in 1992. Accredited and praised for its “moderate character and openness towards the poor ... [section] of Batutsi population” (Calmeyn). FRODEBU is principally Bahutudominated. It has 24 seats in parliament. It was an influential political party in the 1990s, but has lost its supremacy to the ruling party, CNDD-FDD. While its failure may not be directly related to its “moderate” character, its decline is attributed to the Hutu majority who did not feel having Batutsi among its membership. This led to the formation of CNDD-FDD. However, at the time of this study, the mission was told that currently, CNDD-FDD has a number of members who are drawn from the Batutsi ethnic community, thus conforming to the constitutional requirement against ethnically based political parties or organisations.

UPRONA is the party that led Burundi to independence. It was a multi-ethnic party until the assassination of Rwagasore the first prime minister in 1961, allegedly at the instigation of the then pro-Belgian PDC. Since then it is reported that UPRONA became a Batutsi-dominated political party. Inter-ethnic rivalries between Bahutu and Batutsi factions are said to have ensued shortly after the assassination that saw the exodus of Bahutu out of the party. It has all along been the only party in Burundi since 1972, when Micombero declared it the only party and under which he ruled until the early 1990s when a multiparty system was re-introduced. UPRONA lost the 1993 democratic elections to FRODEBU. It won 10 seats in the current parliament.

PALIPEHUTU-FNL was at the time of the mission the only rebel group left out of the new Burundi Government. In January 2005, when then President Ndayizeye invited all rebel groups to join the national army, only PALIPEHUTU-FNL refused, while all other groups were integrated in the national army (Freedom House, Freedom in the World- Burundi, 2006). It remained militarily active and continued to fight the government. There were cases of
rape, arbitrary and illegal arrests, abductions, torture, or lynching, which have been reported in the PALIPEHUTU-FNL strongholds of Bujumbura Rural and Bubanza (Freedom House). At the time of writing this report there were however, several developments. On 17 April, 2008, members of the rebel group attacked several military positions around Bujumbura that resulted in clashes between the government and the rebels resulting in 100 deaths. Despite a ceasefire in May 2008 and a progressive assembly of FNL dissidents at government waiting areas awaiting demobilisation, a handful of other rebel combatants continued to oppose the ruling government. (US DOS: Human Rights Report: Burundi 2008). The remaining rebel combatants survived by camouflaging among civilians in the pre-dominantly Bahutu Nyakabiga suburb of Bujumbura, running retail business in the market, and hiding on the fringes of the rice or tobacco fields along the 4-km stretch between the airport and the city centre, only attacking army or police installations at night. They were so vulnerable that at one point in the course of the peace talks, their leader, Agathon Rwasa, had asked for US $ 1,000 for each of his men as a condition for surrendering. Many of the FNL dissidents also remained out of control looting, robbing and committing other human rights violations despite the presence of African Union peacekeepers strategically placed at waiting sites of Randa and Buramata where these combatants were assembled. During the mission, there were concerns that the Burundian Government was not doing enough to stop the rebel group from harassing people in Bubanza and Bujumbura Rural; the argument being that the government has the means to fight them and if determined, the zeal to successfully fight PALIPEHUTU-FNL.

There were strong views from some of the persons interviewed that no fair competition exists between the ruling party and the opposition parties in Burundi on account of intolerance and weak organisations within the opposition parties. No doubt Burundi was
still considered to be encountering considerable political challenges including the lack of a stable democratic culture. However, in spite of the political odds still facing the country and its history of violence, Burundi was commended by one of the respondents as the only country in the region with the highest number of former presidents peacefully residing within the country. Former presidents Pierre Buyoya; Jean-Baptiste Bagaza; Domitien Ndayizeye and Sylvestre Ntibantunganya all live peacefully in Burundi. This was viewed as a good development compared to the past, when leaders out of power were either killed or had to flee.

**Peace and Security**

The relative peace in Burundi was attributed to a Ceasefire Agreement signed in May 2008, which went hand in hand with the cantonnement of the FNL fighters in June 2008. As the leader of the FNL, Mr Agathon Rwasa, stated, FNL “was committed to moving forward in implementing the ceasefire accord” and that the launch of the cantonnement process was “a gesture that will … allow an improvement of security, and people to [perform] their ordinary activities without problems … and that the war [was] over (IRIN 17 June 2008). The Agreement was a result of peace efforts by the international community and regional governments after the failure of the Comprehensive Ceasefire Agreement of 2006 between the current CNDD-FDD led government and the rebel group of PALIPEHUTU - FNL. The said Ceasefire Agreement of 2006 did not bear any good results on account of “the increasingly authoritarian style of the political leadership; loopholes in the ceasefire agreement; and the failure of the political leadership to deal with the governance challenges of the country (Handy, P, *ISS Today*, 2007). The fact that the population was in dire need of peace was however emphasised by different sections of the population which the mission met. Generally, there was apprehension among Barundi that the current peace would be short-lived.
Proponents of this view argued that the peace pact signed by the government and rebels was a result of pressure from the international community and was therefore not sustainable. Other issues cited as likely to compromise the current peace were ethnic tensions, which continue to simmer in spite of the power sharing quota system introduced under the Arusha Peace and Reconciliation Agreement. The quota system which, among others, gave the majority Bahutu ethnic group 60% and the Batutsi minority 40% representation in government has not yet been evaluated to determine its feasibility, but some Barundi are reported to be opposed to the formula on account that it merely advances numbers over competence or merit. It was claimed that the slots reserved for Bahutu in government are sometimes filled by individuals without the requisite qualifications and competence for the portfolios. As such, it was contended by some respondents that the power sharing quota system may not be sustainable. Besides, there was concern that the Batwa ethnic group was not well represented in government, as they occupy only three seats each in the National Assembly and the Senate, and none in cabinet.

Paradoxically, the fighting between the CNDD-FDD led government, and the remaining PALIPEHUTU-FNL rebel group, was seen as a silver lining that reduced ethnic tensions between the Bahutu and Batutsi because the leaders of both political groups are Bahutu and their membership predominantly Bahutu. For the first time the PALIPEHUTU-FNL war with the CNDD-FDD led government was seen more as a war to advance the self interests of the leaders for power as opposed to the advancement of Bahutu or Batutsi. This, it was claimed, helped generate the general feeling among the public that the problems facing Burundi are caused more by the selfishness of political leaders, and not necessarily ethnic differences. As such, some people the mission interacted with were of the opinion that the ethnicity question is a diminishing issue in
Burundi in the context of creating instability; rather it is the political interests of leaders. It was said that as a positive development people in Burundi are not afraid or offended when they are identified by their ethnic origin. Indeed people do crack jokes and tease one another’s ethnicity. As testimony to improved harmony between ethnic groups, intermarriages, which have always taken place since time immemorial, have continued today without fear of being shunned, castigated or condemned. As a positive development, arguments that promote ethnicity are being strongly discouraged and are usually dismissed and disregarded by the community. The example cited was the futile attempt by Mr Radjabu, the former President of CNDD and Secretary General of CNDD-FDD, to use pro-Bahutu sentiments when he argued that the Batutsi in the FDD did not want CNDD - FDD in power. Batutsi in FDD and the people rejected his ethnic sentiments and supported the alliance.

**The Role of the Army in Burundi Politics**

According to some Barundi, the army in Burundi is strong and has a strong albeit subtle influence in the affairs of the country. For example, it is said to have been instrumental in stopping the mini-genocide of 1994. Some Barundi believe that its 50:50 Bahutu-Batutsi representative compositions has made the possibility of a military coup by the army much difficult. There is a strong feeling that it has undergone various forms of training that has impacted on its orientation and thinking, turning it into a professional national army. This, coupled with the democratic election of the current national leaders, has contributed to making the national army a neutral force that would most likely support whoever is in power.

Apart from the quota system in the army, the inclusion of the former presidents in the Senate was hailed as one of the peace-sustaining measures, which has so far worked very well and kept the former presidents free within the country. Currently, four past presidents;
Pierre Buyoya, Domitien Ndayizeye, Syvestre Ntibantunganya and Jean Baptiste Bagaza are members of the Senate.

At the political level, there was considerable worry among Barundi that the forthcoming general elections may be fraught with fraud, making the current peace in Burundi precarious. A number of reasons were advanced to explain this concern. Some respondents attributed this fear to the perceived government resistance to the establishment of an independent electoral commission thus, rendering the possibility of a rigged election with the results being violently resisted; others attributed their fears to the current violent stalemate between the CNDD-FDD and PALIPEHUTU-FNL; and yet others were concerned about government’s refusal to register the PALIPEHUTU-FNL as a political party, which was believed to be a ploy on the part of government, to limit FNL’s campaign time as the country approaches the 2010 elections. However, as noted elsewhere in this report, the Constitution of Burundi prohibits registration of any political party which advances ethnicity. This being the case, PALIPEHUTU-FNL seems to have fallen prey to the law.

**Human Rights, Internal Security and the Administration of Justice**

At the time of the mission, the human rights situation in Burundi had by and large stabilised since the war broke out in the early 1990s. Among other fundamental human rights, the majority respondents commended the freedom of expression ensuing in the country as a positive development and improvement compared to the situation in the country a few years ago. According to some respondents, the level of freedom of association and expression in Burundi compared with that of Rwanda and DRC was considered quite advanced.

Nonetheless, characteristic of most post-conflict states, the human rights situation in Burundi was described as delicate with many challenges. As noted above, historically, Burundi has been tainted by bloody wars, civil unrest, and mass killings since independence.
Although Bahutu uprisings led to political and ethnic purges in 1965, 1968, and 1969 in Burundi, the violence in 1972 marked a watershed in the history of Burundi. The political violence of 1972 led to the death of thousands of Bahutu and Batutsi. Up to 90,000 Bahutu are said to have been massacred by the government (Lemarchand, (1997) quoted in *International Refugee Rights* (2008)), while Batutsi politicians put the number of slain Batutsi at 50,000 (Nduwayo, quoted in *International Refugee Rights* (2008). Since then, although violence and killings continued, violence on the same scale was not seen again until the early 1990s. Following the killing of president Melchior Ndadaye in a coup in October 1993, some Bahutu went on reprisal killings of Batutsi. The Batutsi-led and dominated army responded with systematic attacks on Bahutu, killing as many as 100,000 (Lisa Malkki: 1995: 285).

The assassination of several political leaders in post independence Burundi such as Prince Rwagasore, and Melchoir Ndadaye; the 1969, 1972, 1988 and 1993 massacres; and the mass killing of an estimated 100,000 killed within a year in 1994; illustrate the extent of human rights abuse Burundi has experienced. There have since been concerns about arbitrary unlawful arrests and detentions, unlawful killings and massacres, and other significant human rights violation and abuse by successive governments and/or rebel groups. In 2004, the rebel group FNL claimed responsibility for killing 160 Congolese Batutsi refugees in a UN camp at Gatumba, near the Congo border in Burundi. The attack was strongly condemned by the UN Security Council, which issued a statement of outrage at the fact that “most of the victims were women, children and babies who were shot dead and burned in their shelters.” The Council called on the top UN envoy in Burundi to investigate the incident with a UN representative from Congo, a step that increased UN intervention in the Burundi civil war.
Acts of torture and ill treatment in prisons continued to be reported at the time of the mission. Serious concerns about arbitrary and unlawful arrests often cited the arrest and detention of the former transition president Domitien Ndayizeye together with seven others in August 2006, who were prosecuted on “charges of alleged coup-plotting. International human rights groups claimed that the government framed Ndayizeye, and tortured him into false confession. Along with this accusation, the International Crisis Group in December 2006, accused the government of arresting critics, muzzling the press and committing human rights abuses. The former president, together with four others were later acquitted and released on 15 January 2007 by the Supreme Court. Another example cited during the mission was that of Mr Hussein Radjabu, a former Chairman of CNDD-FDD, who was arrested, charged and sentenced to 13 years imprisonment with two of his co-accused for allegedly “threatening state security and slandering the Head of State” (UN Security Council, Third Report of the Secretary General on the United Nations Integrated Office in Burundi, 15 May 2008). Some quarters however asserted that the real reason for the arrest of Mr. Radjab had to do with his criticism of the sale of the presidential Falcon 50 jet at a questionable price. There are several views held that his deposition, as Secretary General of CNDD-FDD and his subsequent arrest were politically motivated evidenced by the simultaneous sacking of four key ministers allied to him, among them the Information Minister Karenga Ramadhan, others resigning in due course, including one of the vice presidents and the paralysis in parliament following the expulsion of 22 MPs allied to him.

Among the killings reported during the mission was that of a UN representative and project staff, and a World Health Organisation (WHO) representative, who were working in Burundi. The militia, armed police, and the armed forces are believed to have been behind the killings. There have also been incidents of grenade attacks on
UN vehicles. According to the UN Security Council, *Third Report on Burundi* of 15 May 2008, the “human rights situation in the country remained a source of deep concern. While the numbers of violations committed by the national defence forces remained at the same level, those committed by the police were reported to have escalated and new cases of torture and summary executions were attributed to the national intelligence services. The same report also indicated that a significant number of politically motivated human rights violations and some target assassinations had also taken place during the reporting period. The major concern, for most of the respondents discussed with during the mission was that these alleged violations were committed with impunity.

The history of serious human rights violations, means that a number of transitional justice issues remain outstanding, especially the very important question of accountability for these serious human rights violations and abuses. It is of great concern to many Barundi that these crimes were committed with impunity. For example, the perpetrators of the 2004 and 2006 Gatumba and Mayinga massacres respectively have never been punished, probably because they were from the army and intelligence services. It was alleged that the perpetrators were covered up and facilitated to slip out of the country.

In connection with the question of impunity, a good number of Barundi expressed serious concern about the independence of the judiciary in Burundi. There was dissatisfaction with the manner in which judicial officers perform their duties. Some judicial officers are believed to be influenced by the government and that their decisions are being made in favour of the government. It was emphasised that efforts towards institutional strengthening of the police and judiciary are insufficient. The mission interviewed some judicial officers and practicing lawyers who confirmed the challenges facing the judiciary. It emerged that victims of human
rights violations fear to take cases to court. They were clear in their mind that the judiciary is not independent basically because of structural factors. It was alleged that in spite of the constitutional provisions, the independence of the judiciary is compromised by the influence of the executive on appointments to the judiciary. One factor that undermines the independence of the Judiciary is the lack of security of tenure for judges. The mission was informed that judges can be administratively removed and transferred to administrative positions within the judicial system. The budgets of the Judiciary are administered by the Ministry of Justice. Promotions are also controlled by the Ministry of Justice and is said not to follow constitutional criteria. For example, the Supreme Council that is supposed to make judicial appointments is chaired by the president but has been operational in making appointments and promotions minus seven elected independent members required to make the membership of the Council complete.

The Arusha Peace Agreement called for the institution of justice mechanisms to ensure accountability for the atrocities committed from independence to the date of the peace agreement. One mechanism that the agreement called for was a National Truth and Reconciliation Commission (TRC) to investigate and provide for arbitration and reconciliation including clarifying the history of these violations. In 2004, the UN Security Council endorsed the creation of the TRC and a Special Chamber to try those accused of heinous crimes (UN Security Council, S/2005/158). This was agreed to by Burundi in October 2005, which set up a team to work with the UN, to work out specifics of the TRC. By the time of the mission, little progress had been made regarding the operationalisation of the TRC or the Special Chamber. While the TRC was seen as contributing to peace and reconciliation, and the special chamber as addressing justice, there is a feeling that use of the Chamber can be a danger to the country’s fragile peace: some of the potential candidates are
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said to belong to warring factions which must be guaranteed peace for them to give up warfare. The fear of prosecution reigniting violence is reflected in the 2006 Ceasefire Agreement, which in addition to granting immunities renamed the proposed TRC as Truth, Pardon and Reconciliation Commission, and gave it the mandate of exercising amnesty.

There was worry that there may be no political will to deal with past atrocities by operationalising the Special Chamber and the TRC. The Arusha Agreement itself which brought peace, grants amnesties which were further expanded by the Pretoria Protocol. The question of impunity therefore remains unresolved and may convey an unfortunate picture of a culture of impunity in Burundi.

**Government Efforts Towards Human Rights Assurance and Good Governance**

The above account illustrates the challenges that the government is confronted with in improving the human rights record of the country. The situations of conflict did result in all sorts of violations and injustices, besides causing structural and institutional damage. As a country struggling for its feet after more than 10 years of conflict, the government is reported to have demonstrated some commitment towards human rights protection. The commitment is reflected in the fight initiated by the government against impunity of national security personnel in relation to human rights abuses and violations. In December 2007, 20 police officers were dismissed by presidential decree, and several defence force staff members prosecuted and sentenced to terms of imprisonment for human rights abuses (UN Security Council, *Third Report of the Secretary General on Burundi*, 15 May 2008). The army and the police were blamed for 71 murder cases in 2007, while the rebel group FNL was to blame for 96 deaths (League ITEKA, 2007 Annual Report). The government was reported to have taken some measures to introduce the institutional framework in the country for dealing with abuses
and impunity by, among others, establishing the Government Human Rights Commission, an Anti-corruption Court and a functional court system.

The Anti-corruption Court

The Court was established by the law of 13 December, 2006 but only began to operate in November, 2007. The Anti-Corruption Court is a specialized court established to deal with the cases of corruption and related offences. It is part of the judicial system of Burundi, and appeals from it lie to the Supreme Court. The court has a total of nine judges including the president of the court. The court only deals with cases referred to it by organs that investigate corruption, namely the police in charge of corruption and the prosecution unit. By the time of the mission, the court had received 126 cases and had settled 60 of them.

The court is not involved in creating awareness about corruption. Its role is limited to deciding on cases brought before it. In terms of its collaboration with CSOs, the court periodically interacts and participates in workshops organised by CSOs such as Observatory for Fight against Corruption and Economic Embezzlement (OLUCOME) that deal with corruption.

By the time of the mission, the Anti-corruption Court was still new, and had just realised that corruption matters require technical knowledge, calling for specialised judges with special skills to handle corruption cases. While the court enjoys financial independence to manage funds allocated to it by government, it faces financial constraints. It was, however, noted that because the country has just come out of war, financial constraints are not only unique to the court but to other government institutions as well. To this end, the court expressed gratitude for the support of the BINUB which aided it with seven vehicles and computer equipment which improved its performance.
According to some critics, the court was established not because of government’s genuine will to fight corruption, but merely to please donors that were urging government to commit to the fight against corruption. To the critics, the court has not had much impact since it has not handled many cases of corruption nor arrested or prosecuted any government or political bigwigs.

**The Government Human Rights Commission**

Burundi has a Government Human Rights Commission, set up by presidential decree. Besides inadequate funding, its independence has been cast in doubt. The mission however learnt that efforts were underway to lobby for the establishment of an independent human rights commission. The idea of establishing a fully fledged commission was presented to cabinet by the Ministry of Human Rights in June 2008. A draft bill establishing the human rights commission is now in place. The draft bill has been discussed by some stakeholders including civil society who have made their input to it.

However, doubt was expressed as to whether an independent human rights commission that will function in accordance with the Paris Principles will ever be established in Burundi. Some respondents saw little or no political will on the part of government to do so attributing this problem to the direct interest government has demonstrated in appointing members to serve its interests on the existing Government Commission. To this end, some respondents rested their hope of having an independent human rights commission, on a regional approach. It was hoped that garnering support from the EAC would be a viable strategy to lobby the government of Burundi to establish an independent human rights commission expeditiously. Should the human rights commission ever be established, CSOs expressed their commitment to working with it to monitor the human rights situation in the country.
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Burundi is [proud] of her past [as a] Nation-State and not [Ethnic]-State, of her hard-working people, its respect of the authority sometimes comparable to fear of claiming its rights. The country is irrigated by a dense network of associations of … civil society which are starting to show their capacities to make their members’ rights respected. The private sector is still embryonic but its members already showed their level of resistance to the embargo [imposed] by the countries of the Sub-region in 1996-1999. All those are encouraging signs showing the degree of the [civic] sense. But all this is neither coordinated, nor visible nor audible

(Message from National Council of Basingatahe to Burundi, Declaration of 31 August, 2007).

Introduction

Civil society has many definitions depending on one’s purpose and target. The mission to Burundi adopted the definition espoused by Peter and Kibalama who define civil society as,

… voluntary organisations that occupy the space between the family and the state. These are associations; both formal and informal which are separate from the state and enjoy some autonomy from the state, and are formed voluntarily by members of society to protect or extend their interests or values…. [these] include trade unions, employers associations, professional associations such as lawyers and journalists associations, religious organisations, cooperatives, women and youth associations as well as other associations dealing with social, class and gender interests in the process of social struggles generally.
The emergence of civil society in Burundi is largely linked to the democratisation era, which in principle began in the early 1990s. At the beginning CSOs in Burundi were formed by scholars who founded such organisations as Ligue ITEKA and Ligue SONERA (sonera means “to respect” in Kirundi) both formed to engage in the promotion and protection of human rights. At the time, trade unions were emerging. Since 1993, many CSOs have sprang up, working to promote human rights, especially organisations promoting the interests and rights of youth and women, as well as fighting poverty. The private media emerged about the same time. Noticeably therefore, although the years before 2005 were characterised by political unrest, civil society was in “session” and worked hard towards building the war ravaged but re-emerging nation of Burundi. Many had been formed to fill the gap left by the weaknesses of government institutions in providing social services and inability to manage the difficult situation in which the country found itself.

The Nature of Civil Society in Burundi

Civil society in Burundi began its activities well before the enactment of the law of 1991 regulating the operations of NGOs and relations between the state and NGOs, which was subsequently modified in 1992, and later in 1994. Ligue ITEKA for example was formed in 1990 before the Ministerial Edict Number 550/029 of 1991 and the Ministerial Edict Number 530/0273 of November 1994 on NGOs. The 1994 law regulates all local associations including NGOs, religious institutions, non-profit organisations and trade unions.
Although still very young, civil society in Burundi was described as well organised and quite vibrant. According to some respondents, civil society in the country is also quite open and frank. Most CSOs were formed in 1992, at the outset of efforts to reintroduce democratisation in Burundi. The forerunner CSOs were formed by academics; the first two being the Burundi Human Rights Ligue ITEKA and SONERA, established to specifically deal with human rights. After the 2005 elections, civil society took advantage of the failures and weaknesses of the past and the new government and divisions in Burundi to fill the void. CSOs including NGOs and the emergence of the independent media became the alternative voice of the people articulating their views and engaging with the government in many respects.

Over the last 10 years, civil society in Burundi has made significant strides. It has organised itself into different organisations including the media, the Bar Association, trade unions and NGOs, and is engaged in working in different fields: It embraces human rights defenders, women associations, youth associations, religious organisations and those working with vulnerable groups including victims of war, those affected by famine, and people living with or affected by HIV and AIDS. The organisations work on various issues including human rights, women and children’s rights, corruption, development, health, education, and poverty eradication, across the country.

Some of the NGOs such as OLUCOME, Observatory for Government Action (OAG), Ligue ITEKA and APRODH have been described as very strong, on account of their level of organisation and other capacities. Some respondents tied the strength of these organisations to their capacity to undertake studies and analyses, comparably big numbers of permanent staff, funding base and the ability to mobilise funding. Other respondents pegged the strength of CSOs to their ability to challenge the government. For example
a number of women organisations have succeeded in pushing for law reform including penal reforms, and are lobbying for improved rights of vulnerable groups, better laws to address sexual violence, inheritance and matrimonial rights. Respondents were appreciative of the role the Burundi civil society played in the peace process, not only through advocating for dialogue between the conflicting parties, but also making valuable contributions in form of ideas to the peace teams. In fact it was noted that since 2005, CSOs in Burundi visibly promoted reconciliation between conflicting communities in the country. The private media was commended for the role it played during the 2005 elections. The media informed citizens about the electoral process and availed a forum for them to air their views. It also linked the people to politicians by bringing their concerns to politicians. In spite of this positive evaluation, it was noted that like the rest of other institutions in the country, civil society in Burundi was still undergoing a process of self-consolidation and transformation after years of war and political instability.

The Legal Framework Governing Civil Society Activities in Burundi

The legal framework relating to the registration of civil society was first promulgated by ministerial edict in 1991, and subsequently reviewed on 18 April, 1992. Attempts to review the law in 2003 were unsuccessful, so the 1992 law is still applicable. The law regulating civil society requires that all associations covered by this law have to be registered by the Ministry of Home/Internal Affairs. It was generally observed that the legal framework allows different associations to work freely in the country, well in line with the Constitution of 2005, which recognises freedom of association.

The Law Relating to Civil Society

Civil society in Burundi is governed by the Décret-loi No1/011 du 18 avril 1992 Portant Cadre Organique des Associations Sans
But Lucratif whose objective is to govern the organisation and functions of all non-profit making associations that are currently not amenable to any particular law. However, mutual associations, political associations, public utility organisations and foundations are excluded from the ambit of the said law. The law was made during the period of democratisation in 1992, to create an organised manner in which CSOs would operate.

The law defines a non-profit making association as one which does not engage in commercial and/or industrial activities, and whose principal objective is not to make material or pecuniary profit for its members. However, non-profit organisations may engage in certain commercial activities aimed at facilitating the realisation of their objectives. Further, the law requires a minimum basic administrative structure for all non-profit organisations. For instance, section 9 requires that all organisations have a General Assembly to function as the supreme decision-making organ of the organisation. It is the General Assembly, which is mandated to nominate an Executive Committee responsible for day-to-day running of the organisation. The Executive Committee in turn nominates a legal representative for the association, who must act in strict compliance with directives issued by the Executive Committee and the General Assembly. All organisations are also obliged to submit annual reports to the minister every March. At the minimum, the report must contain a rendition of the organisation’s activities, membership details, bank accounts and both fixed and movable assets. This law also contains provisions relating to statute modification, dissolution and liquidation of registered CSOs. In addition, the Décret-loi No1/011 du 18 Avril 1992 Portant Cadre Organique des Associations Sans But Lucratif makes provision that foreigners/foreign based organisations have to be registered to be recognised and allowed to operate in Burundi.1

Registration of Local CSOs

The registration of CSOs in Burundi was on the whole described as easy without any bottlenecks. A source at the Ministry of Home/Internal Affairs put the total number of CSOs so far registered in Burundi at approximately 3,000. One respondent noted that there were about 800 CSOs registered by the Ministry of Home Affairs and, according to him, this was a sign of a favourable registration environment. It was the general view that registration of CSOs in Burundi is by and large unencumbered by legal requirements, and that there was limited government interference if any. Government tended to interfere in cases where the intending CSOs are believed to serve political interests. The procedure for registering local CSOs varies from that of international CSOs.

Registration of not-for-profit organisations is governed by the Décret-loi No1/011 mentioned above. The law allows the registration of an individual CSO or coalition of NGOs and cooperatives. An intending association has to meet a number of requirements stipulated in the law. Registration is therefore very much dependent on fulfilling the legal requirements. For example, the application must clearly identify the founding members who must all obtain judicial certificates indicating that the founding members do not have criminal cases pending in court at the time of application; present the constitution outlining the objectives of the organisation; state the field in which the applying organisation will work; and show that the organisation seeking registration would be a non-profit making organisation.

Procedurally, interested parties are required to submit an application to the Ministry of Home/Internal Affairs for consideration in accordance with the set criteria. The application has to be notarised before it is submitted to the Ministry. A technical committee analyses the application. The applicant(s) is expected to submit to the ministry an application which fulfils the stated legal
requirements, namely, outlining the objectives of the association, its statutes, area of operation, and clean criminal records of each founder member.

On receipt of the application for registration with complete application documents and fulfilment of all legal requirements, the Ministry of Home/Internal Affairs technical committee, which deals with registration of associations, meets to discuss the application. The committee in charge of non-profit organisations meets once a month to look at the applications and assess whether the requirements have been fulfilled. For an organisation to qualify for registration there must not be any previous cancellation of a registration. The committee also analyses whether the objectives of the new organisation and area of responsibility are not similar to those of an already registered organisation.

Once the committee is satisfied that the application has met all the legal requirements, the applicants are invited to pay 40,000 Burundi francs (equivalent to about US $ 40 at the time of the mission), into the bank account of the Ministry of Home/Internal Affairs. The fees support the functioning of the committee, which deals with registration of not-for-profit organisations. In case there are any rectifications to be made in relation to the application, the committee communicates the same to the founding members of the organisation. It is within the powers of the Technical committee to advise the Minister to register the organisation or to refuse registration. When all the conditions have been met, the committee recommends registration of the organisation to the Minister. The Minister of Home/Internal Affairs issues a Certificate of Registration, which accords legal personality to non profit associations. All duly registered associations are published in the official government bulletin. Information relating to approved applications is fed into

the computer at the Ministry. Thereafter, local CSOs are expected to submit annual reports of their activities to the Ministry of Home Affairs. The Ministry analyses the reports to establish whether the organisation complies with its objectives. Any shortcomings are communicated to the president of the organisation, in writing.

In the event that the application is rejected, the committee is obliged to give reasons for its decisions, and the reasons must be communicated to the founding members of the CSO. According to the Ministry of Home/Internal Affairs, conflicts have risen over organisations seeking to work in the same area, and which adopt similar approaches. From time to time, applications are rejected, if the statutes of the proposed organisation are identical to those of registered ones or where a founder member has a criminal record. In the former situation, the applying organisation is advised to revise its objectives while a replacement of a proposed founding member is usually recommended where a proposed founder member has a criminal case against him or her pending in court. While reviewing the criminal records of founders, only existing cases are considered. Previous criminal records do not matter.

Although no cases of deregistration have happened according to the Ministry and CSOs interviewed, the Ministry has the power to deregister an organisation. The procedure is such that a committee composed of advisors/directors to the Ministry of Home/Internal Affairs analyses and makes a report to the Minister pointing out the shortcomings of the organisation and why it should be deregistered. The decision to deregister an organisation is taken by the Minister after consultation with the committee. According to the Ministry, a dissatisfied party can appeal the decision in court.

Churches in Burundi are currently considered non-profit organisations for purposes of registration, notwithstanding the fact that religious organisations have objectives that differ from those of ordinary CSOs. It was pointed out that some religious organisations
oppose the idea of being treated as CSOs. The mission was however informed by an official from the Ministry of Home/Internal Affairs that a separate draft law governing the operations of religious organisations was in the offing, and was due for presentation to cabinet. Despite the requirement that religious organisations must register, the Ministry was uncertain about the number and type of religious organisations operating in the country.

Registration of International CSOs

The 1992 CSO Law does not apply to international CSOs, which must first apply for registration through the Ministry of Foreign Affairs, and are required to subsequently apply for registration/recognition at the parent Ministry under which the work of such CSOs falls. For instance, an NGO intending to promote or protect human rights will have to apply to the Ministry of Human Rights through the Ministry of Foreign Affairs. The rationale given for this procedure is that international NGOs would have registered in their countries of origin and their authenticity is better verified by the Ministry of Foreign Affairs which can then make recommendations to the relevant ministry. It was disclosed that registration of international NGOs takes about one month, and renewal of licenses is automatic.

The Actual Practice

There was general consensus that CSOs are free to operate in Burundi after registration. The Constitution of Burundi 2005 guarantees freedom of association and freedom of speech, which are fundamental to the operations of civil society and the media. The freedom enjoyed by civil society is largely associated with the said constitutional guarantees: one important question though is what is the practice? How does the law impact on the operations of civil society in Burundi?
Compared to the past, there was a general agreement that civil society is relatively free to operate. Government sources maintained that CSOs have good working relations with the government, and that they operate in an atmosphere of freedom of association, speech and expression. Generally CSOs were reported to have their voices heard in freedom with very few incidences of intimidation, arrests, detention, torture and ill-treatment of civil society activists. As should be expected, civil society has at times had to contend with interferences from the government, which on occasions has arrested or prosecuted officials of NGOs on account of their activities. Government was reported to be uncomfortable with the activities of NGOs who “behave like political parties beyond the limit of their objectives,” to quote one government official. The media has also on several occasions been accused of violating their code of conduct. Several examples were cited when government resorted to iron fist measures in dealing with CSOs it was not happy with. The first notable example was the treatment meted to the president of the Teachers’ Trade Union, the largest trade union for civil servants in Burundi. In October 1997 and March 2007 she was arrested and detained because of her trade union activities but later released without charge following pressure from the international community and civil society on the Burundian government. The second example was that of the arrest and detention of the president of OLUCOME, Mr Gabriel Rufyiri who was arrested and detained in September 2004 following his investigations, findings and revelations about corruption in road services. He was also arrested on another occasion and detained from August to December 2006, for publishing the results of his investigation into alleged corruption in the ministries of Home /Internal Affairs and Finance.

More cases include the threats to and arrests of various members of the civil society in 2007. In that year, Mr Terrance Nahimana, the president of CIVIC, an NGO, was arrested and detained because
of his official activities. It was reported that a number of journalists were also imprisoned because they denounced torture, embezzlement and corruption by government officials. Some respondents were of the view that the journalists had been arrested on allegations by government that they had published news which was against public interest and threatened state security.

The challenges and obstacles in relations between CSOs and the government were considered to have been more or less managed since the beginning of 2008. From that time to the period of the mission, there had been no arrests of activists, no threats to civil society activities, and there had been respect for freedom of expression. As such, 2008 was witnessing a more vibrant civil society without major issues with the government. For instance, several CSOs were able to issue press releases and statements, which condemned government for conduct and activities that violated human rights. But government by and large did not resort to the old practice of arresting and detaining the activists issuing the statements of condemnation. This was the case, notwithstanding the serious tones of the statements, for example an open letter entitled “Request for Political and Security Assistance to Burundi” by a group of 46 parliamentarians addressed to the UN Secretary General on 22 February 2008 accusing the ruling government for persecuting, arresting and conducting extra-judicial executions against the opposition. One other such strong criticism that did not openly draw the wrath of the government was a statement by the Catholic Church issued on 12 June 2008. In this case, the Episcopal Conference of the Catholic Church met and delivered a message to the government, presidents of opposition parties, CSOs and the citizens in general, about the bad political situation in the country.
Shortcomings of the Law Regulating CSOs in Burundi

Beyond the constitutionally guaranteed freedom of association and speech, the law regulating civil society in Burundi has some shortcomings, which affect the practice and functioning of CSOs. A number of problems were identified relating to the process of registration of non-profit organisations in Burundi. First, there is no provision in the law requiring the minister to process an application and act within a specified time after the lodging the application for registration. That there is no specified time for ministerial response to an application which leaves the minister with wide discretionary powers. Several organisations complained that the process of registration can take as long as a year although others had their applications processed within a month. There was a strong feeling that the law needs to clearly stipulate the time-frame within which the minister shall act on applications. Another complaint identified regarding the law is the centralisation of registration in Bujumbura, to the disadvantage of people in regions wishing to register grass-roots organisations as they have to make several trips to the capital.

It was apparent that the law governing civil society was not widely known even to members of civil society. Although the law had been in place for about 16 years, it was evident to the mission that it was not well known by the members of civil society, let alone the average Murundi. On account of lack of awareness of the law regulating civil society, some respondents wrongly asserted that there was no appeal in case the Minister refuses to register a CSO but the applicants are dissatisfied with the Minister’s decision. An official from the Ministry of Home/Internal Affairs was categorical that one can appeal to the courts against the decision of the minister, although the law on civil society makes no such express provision. No procedure though is prescribed in the law giving directions on the procedures for appeal. However where the law does not specify appeal, the practice is for one to take the usual court process to seek redress. Since the law
does not state that the minister’s decision is final, recourse can be made to courts of law against his decision even if the law does not specifically provide for an appeal procedure. The perceived and lack of specific prescribed appeal procedure constitutes a weakness of the existing law governing civil society.

The existing law as has been noted earlier, is applicable to all organisations, whether religious or secular, coalitions, consortiums, or foundations and trusts. There were strong sentiments especially from religious circles, against lumping together religious organisations and churches in the same group as secular organisations. The faith-based organisations argued that their orientation and objectives are basically different from those of these other organisations, much as some of their work may involve measures to advance the welfare of the people. The law it was claimed, has a weakness because it treats federations or coalitions of CSOs just as any other civil association. Many were of the view that the law is not clear about registered associations forming and registering as members of a federation or coalition of CSOs.

There were concerns that the law fails to specifically recognise and allow registration of coalitions of CSOs, which join together for a particular purpose to be executed for or within a prescribed period or for the duration of a particular event. This being the case, coalitions have leeway to either continue with their activities after the objectives for which they were united or formed have expired or have been overtaken by events. For instance, in 2005, a coalition of CSOs joined together to form the Coalition of Civil Society for Elections Monitoring (COSOME) for the purpose of monitoring the 2005 elections. Its activities ended with the end of the 2005 elections. On the other hand some organisations formed for particular activities have continued to operate beyond the initial aims for which they were created. For example, OAG primarily
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created by 18 member associations\(^3\) for the specific purpose of monitoring the implementation of the Burundi peace agreements entered into between Burundi political rivals and rebel groups (in Dar es Salaam and Arusha, Tanzania) have continued to exist and operate. In the course of monitoring the implementation of the Arusha and Dar es Salaam Agreements, members of OAG decided that the organisation should continue to operate and monitor government activities, and evaluate the implementation of its commitments. To date, OAG is a coalition of a number of CSOs which work in areas of human rights, good governance and special needs for vulnerable groups. The concern seem to be that despite the contributions being made by organisations like COSOME and OAG to the Burundian population, the law does not give them a special and unique recognition as registered coalitions. If this argument is a correct reflection of the law, the implication is that CSOs in Burundi can only informally join together without legal personality to undertake particular tasks.

A provision in the law which was pointed out as a serious flaw is the requirement that CSOs must file annual reports of their activities with the Ministry of Home/Internal Affairs for verification of their activities against the declared objectives of the CSO. This requirement according to the Ministry of Home/Internal Affairs is intended to enforce accountability on the part of civil associations. Thus a CSO which fails to file a satisfactory annual report can be deregistered. CSOs did however express grave concern about this kind of legal requirement. They view the mandatory filing of annual reports for verification as designed to give government control over the activities and financing of civil society. Such a requirement, it was argued, leaves CSOs critical of government at the mercy of the Ministry of Home/Internal Affairs, which has the absolute powers of determining whether or not a given CSO has performed

\(^3\) It was made up of 18 associations, six journalists and six parliamentarians.
in accordance with its declared objectives. However, some CSOs supported this requirement as a good practice necessary to compel CSOs to act responsibly in the performances of their declared objectives. This latter view seems justified because there was ample opinion expressed that many NGOs in Burundi were formed and operate for the financial benefit of its founders. Deregistration was however reported to have hardly taken place, because according to the Ministry of Home/Internal Affairs the procedure is long and involves giving the affected organisation fair hearing and opportunity to discuss any shortcomings, with a view to finding amicable solutions in case it is found to be in violation of the law.

The Law Relating to the Media

The Décret-loi No. 1/025 du 27 novembre 2003 Régissant la Presse au Burundi, is the law that provides for the regulation and registration of the press in Burundi. This law regulates all forms of the media including electronic, print and internet based publications and broadcasts. Section 2 of the law guarantees freedom of the press as well as the rights of journalists to seek information, conduct research and comment freely on matters of public life but within the confines of the law, and respect for the rights of others. The right for journalists to form professional associations of their choice and the right of journalist not to be compelled to disclose the source of their information is protected by the law. This law confers corresponding duties on journalists to respect the journalists’ code of ethics which include the obligation to refrain from publishing matters that impact negatively on national unity, public order and security, morality, human dignity, national sovereignty and the private lives of individuals.

The law on the media attempts to deal with the obvious possibility that the effectiveness of the media in the performances of their noble

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4 See Part (Chapter) 3 of the Décret-loi No. 1/025 du 27 novembre 2003 Régissant la Presse au Burundi.
functions is always affected by financial constraints especially in a country like Burundi. Section 12-14 of the Décret-loi No. 1/025 du 27 novembre 2003 imposes the obligation on the State to provide financial help to all media houses, both state and privately owned operating in Burundi. Accordingly, all state owned and private media houses in Burundi were reported to be benefiting from tax exemptions and a state run fund in support of their media houses. This support by the government was hailed as a positive development for the press in Burundi, although there were also strong feelings that such government support could be used to control private media houses, who are largely viewed as impartial because the funds are distributed at the discretion of the government. Hence it was argued that notwithstanding the good intentions of the law, it could be used to impair freedom of the press.

As any good law bestowing rights, the media law in Burundi attempts to ensure a balance between the rights of media houses and the rights of the general public, as well as the rights of those who give information and of those aggrieved by materials published by media houses and/or journalists. The rights protected include the right by an aggrieved party to respond and correct information published. Persons aggrieved by publications by a journalist or media house have the right to claim, and if successful get reparation from that media house or journalist. To enforce discipline, penalties and other sanctions ranging from suspension, withdrawal of licenses, fines or custodial sentences is prescribed under the law as punishment for journalists and media houses found culpable for violating the media law.

**Registration of Media Houses**

All media houses are bound by law to lodge applications for authorisation to operate with the National Communications Council (NCC), whose decisions are subject to judicial review by
an administrative court. The same applies to all applications to make films within Burundi. The modalities for this authorisation are provided for under sections 15-36 of Décret-loi No. 1/025 du 27 novembre 2003. There are two national bodies established to monitor the activities of the press, namely; the NCC and the Observatoire de la Presse du Burundi (OPB). The NCC is responsible for processing applications for operation in Burundi with powers to issue licenses and accreditation. At the time of the mission, the NCC was six months old in operation. It is run by persons considered to be of professional integrity. Nevertheless its independence and credibility was yet to be tested, particularly when the members are appointed at the discretion of the president. The OPB has the responsibility of ensuring that the media respects ethics and general good conduct in accordance with the law. Although functional, it was criticised for its irregular reports. It is said to be active when there are outstanding events happening. Both institutions namely the NCC and OPB govern the conduct of both the private and public media. They have powers to summon media houses or journalists to answer questions regarding acts or conduct they deem constitute non-compliance with the provisions of the media law.

The Observatoire de l’Afrique Centrale is a regional body with headquarters in Bujumbura, which monitors media houses in member states within the Central African region. Though a regional organisation, it has been compiling monthly reports about the media in Burundi.

**Actual Practice**

There is a general positive rating of the media law in Burundi. The question is what happens in practice regarding the freedom of the media and their effectiveness. By and large the rating got from the people interviewed, is that compared with the past, Burundi today enjoys freedom of expression more or less in accordance
with the provisions of the Constitution of Burundi of 2005 and the Décret-loi No. 1/025 du 27 novembre 2003 Régissant la Presse au Burundi. It was reported that prior to 2008, journalists were subjected to harassment, torture, arbitrary arrests and detentions, because of issuing publications critical of the government or publishing views contrary to that held by the government. This was always the case irrespective of the existence of the laws upholding freedom of press. Example was given of three journalists, Matthias Manarakiza (the editor of Isinganiro Radio), Serge Niyibyizi (the Chief Editor of Radio Publique Africaine), and Dimitille Kiramvu, who were arrested and detained in November 2006. Manarakiza was arrested and detained on 29 November 2006 and charged with publishing/leaking sensitive information allegedly prejudicial to national security, public order and security. The alleged information prejudicial to state security was a report alleging that there was a planned attack by some faction of the police force on the residence of Hussein Radjabu, the former Chairman of the CNDD, and at the presidential palace. Along similar lines, Niyibyiz and Kiramvu were also arrested and detained on 22 November 2006 on the charge of “violating legislation on secret information by reporting on a coup plot case while investigations were pending.” Instead of being rewarded for their bravery in revealing useful information, the trio were detained for about two months but later acquitted by the High Court of Burundi on grounds that the charges were baseless, and that the prosecution had failed to establish any breach of law by the three accused.

The press in Burundi though improving has been accused of having inherent weaknesses. It was accused of lack of professionalism because many of the media houses are manned by or employ individuals who are not trained in journalism, and therefore not well versed with the necessary rules of the game. Training has been hampered by the absence of a school for journalism. While some
private universities offer courses in communication they do not offer courses in journalism. Private radios for example, are mainly manned by untrained staff. The media houses are also said to be concentrated in Bujumbura, with little regional or countrywide reach. In particular, newspapers circulate very few copies and target only readers in Bujumbura because of the challenges of distribution and insufficient resources to produce many copies. Circulation of newspapers is therefore very limited even for the government owned French and Kirundi language newspapers.

Profile of Some Key CSOs in Burundi

Observatory for Fight Against Corruption and Economic Embezzlement - OLUCOME

OLUCOME is the leading NGO spearheading the fight against corruption in Burundi. The organisation operates on the conviction that corruption hinders development and disturbs peace, hence the need to prevent and fight it. OLUCOME has 100 members who are organised in committees. It has an office in Bujumbura and branches upcountry. Through the countrywide committees, OLUCOME covers the entire country in its effort to sensitise people about corruption, and to receive reports from people on cases of corruption. The NGO has set up a toll free phone line through which people can make calls and report corruption. Through concerted advocacy, OLUCOME has managed to influence government to domesticate the UN and AU Conventions on corruption. OLUCOME was able to influence the establishment of the Anti-corruption Squad and the Anti-corruption Court in Burundi. The NGO is cited as one of the most effective and best run NGOs in Burundi with a satisfying track record.
The Association of European Parliamentarians for Africa - AWEPA

AWEPA\(^5\) is an international non-governmental organisation that supports parliaments in Africa, and works to keep Africa high on the political agenda in Europe. It has some 1500 current and former parliamentarians as members from the European Parliament, almost all European member states, Norway and Switzerland.

AWEPA works in Africa from a development perspective to strengthen the core functions of parliaments: oversight, representation and legislation. It believes that strong parliaments are prerequisites for Africa’s development. They contribute to peace, stability and prosperity on the continent. In Europe, AWEPA members work to increase the commitment among parliamentarians and other political leaders to important issues in Africa.

With more than 20 years of experience, AWEPA has been a catalyst for change and has made an important contribution towards the growth of parliamentary capacity and democracy in Africa. Burundi has equally benefited from the presence of AWEPA and its activities in perfecting and consolidating its parliament. AWEPA has played a remarkable role in Burundi especially during the “paralysis” of the Burundian Parliament which lasted for about a year caused by the censuring of about 22 MPs who were pro Radjabu, the former chairman of CNDD, who protested his arrest and detention and opposed the government’s persecution of those who have different ideas. The stalemate led to CNDD-FDD losing the majority in the parliament, making it difficult for the government to have anything passed by the parliament.

\(^5\) Information provided here is taken from the AWEPA leaflet.
**Burundi Association for the Protection of Human Rights and Prisoners (Association Burundaise Pour la Protection des Droits Humains et des Détenus - APRODH)**

APRODH is based in Bujumbura and it works to promote and protect human rights particularly of people in prison. The organisation reports on abuses of prisoners’ rights. APRODH was responsible for exposing the suffering and torture that the immediate past President of Burundi, Domitien Ndayizeye was undergoing while he was in prison thus influencing decisions that led to his release. APRODH also bravely exposed the killing of 30 civilians in Muyinga.

As a human rights organisation it is preoccupied with civil and political rights. It has been able to monitor and document extra-judicial and summary executions in the country. It also provides legal aid and other forms of support to them. With its members spread all over the country, APRODH played a significant role as election observer during the 2005 elections and compiled credible reports on the elections.

**Observatory for Government Action – OAG**

OAG was established in 1999, to follow up the Arusha talks between the government and rebel groups. After consultations among different CSOs, it was agreed that a mechanism for monitoring government actions should be established. Shortly thereafter, OAG was created. The main purpose of OAG was to observe government action in the social, political and economic sectors in order to draw government’s attention to the different commitments it made with the different rebel groups under the agreement, as well as to hold government accountable in respect of the agreement. The organisation’s composition was organised around 3 pillars, namely 18 associations working in different fields like youth, women, human rights, and development, 6 journalists and 6 members of parliament.
The rationale for the choice of organisations above was the need to involve CSOs, that worked with the people and were familiar with people’s problems; journalists were brought in to highlight the problems afflicting the people; while MPs were brought in to analyse the situation the people live in and use it to influence the nature of policies and relevant laws.

Although OAG was originally formed to monitor the peace talks and the implementation of commitments arising there from its activities had continued to date. It has formulated a comprehensive five (5) year Strategic Plan. The plan has six (6) key objectives:

- To promote leadership.
- Participation of citizens in decision–making.
- Poverty reduction.
- Education in democratic culture.
- To strengthen project designs.
- Capacity building in designing projects.

In addition to the above, OAG conducts research studies, whose reports are distributed to key stakeholders including government, civil society and the donor community. The reports are translated into Kirundi to enable the majority of the Barundi read and comprehend them. The organisation works with the media to publicise its activities. In order to influence government decisions, OAG organises meetings with key people in government including MPs, depending on the focus of the report. It frequently holds workshops with other CSOs and the local administration on topical issues to disseminate information, influence decisions or build capacity. Since 2006, OAG has been writing annual reports on the governance of CSOs. In 2007, the report focused on management and governance of CSOs as a critical factor in the success of NGOs in their work. Efforts were underway to prepare the 2008 report by the
time of the mission. Overall, the organisation has to date compiled about 30 reports on different subjects including education, health, good governance and other thematic areas.

**Ligue ITEKA**

Established in 1990, its goal is to improve human rights understanding by the population and to protect and prevent human rights violations. Ligue ITEKA aims to defend people against violations of their rights especially their liberties and basic rights; defend the right of everyone to participate fully in an active and responsible way to entrench the rule of law in Burundi; and to keep Burundi objectively informed of the situation of human rights in Burundi.

In line with its objectives stated in the foregoing paragraph, the organisation has been able to: collect information on the situation of human rights in Burundi; disseminate information on human rights through publications, conferences, radio programmes and on their website; intervene by way of declarations or meetings with officials, peaceful demonstrations, actions in justice and press campaigns; to ensure, sustain or facilitate training or research activities likely to help beneficiaries to respect human rights and prevent their violation; provide legal aid to accused persons or victims whose rights are violated or are likely to be violated.

The organisation is involved in various other activities. It has in conjunction with the United Nations High Commission for Refugees (UNHCR) been monitoring the rights of Burundi refugees mainly in Tanzania, since 2003. Ligue ITEKA publishes extensively, producing about seven (7) publications a year including its monthly *Hello Publication*. As a strategy of promoting and instilling children rights, it has organised clubs in secondary schools. It has set up Local committees on good governance working to improve the relationship between the population and government leaders, at regional level in some provinces and plans to roll out the committees countrywide are in the offing.
Forum for Strengthening Civil Society (FORSC)

FORSC is a national umbrella organisation founded in June 2002, and is considered one of the most active organisations in Burundi. Having considered the significant role of civil society in the realisation of good governance and social progress in the modern state, the organisation was founded with the aim of bringing together a consortium of CSOs to collaborate and campaign for human rights and good governance. Its vision is to construct a harmonious and democratic society, characterised by tolerance and integrity, and based on human rights and promotion of social justice.

The organisation was founded within the context of the prolonged history of conflict and fragile democracy in Burundi, and at a time when the activities of civil society in Burundi were largely invisible. Despite such a limiting environment, the organisation rose to the challenge, and continues to advocate for human rights, good governance and sustainable peace in the country. Particularly, it works in the areas of training and capacity building for civil society, advocacy on human rights, governance, transitional justice, and early warning mechanisms and peace issues, as well as economic and social policy. It has been at the forefront in coordinating civil society in monitoring consultations on transitional justice issues, with the support of the UN. At its inception, its founding members comprised 26 civil society groups. The number has since expanded to about 148 members. The organisation partners with a number of national and international organisations, such as 11.11.11 (Onze Onze Onze), Oxfam Novib and the Canada Centre.

Research and Support Group for the Development of Democratic Initiative (Groupe de Recherche et d’Appui au Développement des Initiative Démocratiques-GRADIS)

Formed in 2002, GRADIS is one of the Burundi CSOs that engage in research. Its objective is to undertake research in governance and
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human rights in Burundi and in the sub-region, and to strengthen links between grassroots organisations and urban based CSOs. The organisation is also involved in capacity building of CSOs in different fields in order to strengthen professionalism of CSOs including coalitions and other organisations.

**Association of Women Jurists of Burundi - AFJB**

The association brings together 100 members who are women jurists, lawyers, magistrates and civil society development workers. The association was established in 1995 to promote and protect women and children’s rights. It became active in 2000, when it received its initial funding from 11.11.11 (Onze Onze Onze). One of the key activities of the association is to provide legal aid to indigent women. A legal aid clinic run by the association provides legal counselling and court representation to mainly women who are poor, widows and those who have been repatriated from exile. While it lays emphasis on indigent women, the association can also take up cases on behalf of non-indigent women who are willing to personally meet their legal costs.

Other activities of the organisation include lobbying for law reform, initiating and drafting new laws, and training of paralegals, mainly *Bashingantahe*. These are people of integrity from the community who may not necessarily be educated, who follow up activities chosen or originated by local authorities and women leaders. At the time of the mission, the association was lobbying government for a law on succession. The central tenet of the proposed law is to guarantee women succession rights to incorporate among others, the right of women to land ownership through succession. The association was also advocating for a better law on sexual offences, which are prevalent in the country, to include the rights of victims to compensation. Plans were also underway for the association to work with the National Legislation Service to lobby government to
establish a Family Court. AFJB disclosed that it works closely with other NGOs and parliamentarians in its advocacy work to have new laws in place. The members of the association have also been an important resource in providing contacts to key government officials, for purposes of the lobbying and advocacy activities of AFJB.

The AFJB disclosed that it is faced with a number of challenges. Like all other CSOs, it faces financial constraints, which have limited its intended activities. Its work too is affected by prejudice and gender bias, which is still prevalent in Burundi. Because of this, there have been times when the association has met resistance when advocating for women issues. It is not uncommon for the issues to be relegated as mere feminist radicalism against traditions and customs. In response to such negative gender bias, the association has used gender sensitive men to help advance whatever cause the organisation may be advocating for. As a strategy it also has tried to correlate women issues to macro-development to justify the issues and make them more acceptable to everybody. For example, the fight against sexual violence is strengthened by underlining its impact on health, economic loss at the workplace in addition to articulating its impact on the family.

One challenge facing AFJB is the high level of poverty affecting its clients. Most of AFJB’s clients cannot afford even such basics as transport to and from courts of law. This compounds the association’s financial constraints because it has to spend the little money it has to facilitate court fees and attendance. At times it has to find funds to hire lawyers outside the association to handle cases.

One major complaint of the association is that court cases brought by the association on behalf of its clients take too long to be finalised because judges are not gender sensitive. Because of the delays, some women out of frustration abandon the cases. Sometimes the issues being pursued are difficult to handle legally, because there is no clear law governing the issue. This may be compounded by the fact that there are no legal precedents on the issue for judges to follow or be guided by.
The limited awareness of women’s rights in Burundi by both men and women brings with it a specific challenge. The fact that many men and women do not appreciate the rights of women means that efforts undertaken by organisations such as AFJB in the struggle for women’s rights meets a lot of resistance. At the grass root level, leaders of communes who mediate some of the cases affecting the rights of women have little knowledge of women’s rights, and may not even appreciate them at all. Yet it is not possible for the association with its limited membership to be present at many of these commune level cases to render assistance.

The Faculty of Law at the University of Burundi

The Faculty of Law at the University of Burundi was set up 40 years ago. It has six (6) full time professors, eight (8) assistants and 600 students. The assistants train abroad under staff development schemes. The Faculty offers the Bachelor of Laws Degree, and a Masters Degree in human rights and conflict resolution. The Faculty is in the process of reviewing its curriculum, and expects to soon offer research degrees at bachelors, masters and doctorate levels.

The Faculty of Law is part of the University of Burundi which is a public university with 13,000 students, and 13 faculties. It has about 300 professors, 100 assistant lecturers, and about 700 administrative and technical staff. The University has suffered some brain drain partly because of the conflict that makes staff leave the country.

One lecturer at the University observed that as a matter of tradition, teachers do not take part in politics. “Their role in political matters is limited, unless there is a teachers union.” The University of Burundi employees believe however, that they enjoy academic freedom and freedom of association. There is an association of full professors, an association of assistants, a trade union for academics and a trade union for administrative/technical staff. Students are organised under a students’ body which was described as active.
Like the rest of Burundian society, the University is undergoing a kind of soul searching – a period of rediscovery after the war and the process of democratisation, with some political, economic and social constraints. It was described as being militant on social issues. First, the University in the past experienced some turbulence from the student’s body, when students imposed their will on the academic staff. Although external political influence could not be ruled out, most of the students’ demands were internal, and comprised claims relating to group interests and academic regulations. Nevertheless, some reforms have been made to address some of the concerns of the students. It was argued that overall, unlike the olden days when the University was more militant and was seen as a torch that inspired change, students at the university today are seen as more parochial. They are incapable of influencing political processes. Secondly, because of the political context that ensued during the era of the “militancy,” political processes were easier to manage, compared to the complex pluralist society ushered in by democratisation.

The Burundi Bar Association

One of the cardinal roles of the Bar Association is to defend the rights of citizens before the courts of law. The Bar has a total of 86 members of whom 71 are qualified and registered, while 15 are yet to fully qualify. The Burundi Bar Association is governed by Décret-loi No. 1/014 du novembre 2002 Portant Reforme du Statut de la Profession d’Avocat.

The Bar Association is considered to be free from government influence as per section 2 of the Décret-loi No. 1/014 du novembre 2002, which provides that advocates, who are members of the Association, are free and independent to act within the confines of the law. This is in line with section 10 which provides that all advocates must subscribe to an oath to respect the Burundi Constitution, obey the law, exercise the profession with dignity and refrain from acting in
a manner prejudicial to good morals, state security, and public order. Advocates are obliged to maintain professional confidentiality, deal directly with clients and not through intermediaries, refrain from selling the subject matter of litigation they are involved in, and wear the relevant attire to court. In terms of billing clients, advocates are obliged to determine the fees due in consultation with the client and taking into account the complexity/technicality of the case and the resources available to the client.

Apart from the duties, the advocate is entitled to rights such as monopoly of exercising the profession in Burundi, the right to consult their clients in detention, protection against defamation suits in the event an advocate casts aspersions on someone’s character during litigation as a matter of necessity, and protection of advocates’ offices from arbitrary search.

The lawyers association in Burundi has had confrontations with the government over the functioning of the judiciary. Members of the Bar on one notable occasion took to the streets to express their dissatisfaction with government about the poor functioning of the judiciary. On this occasion, lawyers held torches, in a symbolic act of searching for justice in Burundi. Throughout their demonstration, the lawyers kept asking “Where is the law?” “Where is the rule of law?” “Where is respect for human rights?” The demonstrations showed dissatisfaction with the judicial system but also demonstrated proof that members of the Bar were free to act in a way they thought was appropriate to convey their dissatisfaction.

The Association of Women Entrepreneurs of Burundi (Association des Femmes Entrepreneurs du Burundi-AFAB)

AFAB is a 15-year-old non-profit organisation registered by the Ministry of Home Internal Affairs. It has a membership of 400 spread throughout the country, with headquarters in Bujumbura and two branches in the countryside. AFAB has boosted women
self-empowerment by helping women secure loans for business. The organisation works closely with the Chamber of Commerce of Burundi (ACCOBU), the Industrial Organisation Network and the Burundi Entrepreneurs Network (BEN). It also works with other Women Associations like DUSHIREHAMWE, AFJB, Association des Jeunes Filles and the Federation of Women Lawyers (FIDA).

The Media

At the time of the mission, Burundi had one government owned national Radio-TV station, a radio station and newspapers. The government newspaper is called Ubumwe. The Agence Burundaise de Presse (ABP), a government media house, described by some as a government mouthpiece, publishes two newspapers, one in Kirundi, produced weekly and another in French: Le Renouveau du Burundi. In addition to the government owned media television, radio and newspapers, Burundi has one private television, and about 15 private radio stations, out of which 14 are in Bujumbura. Four community radio stations have been licensed but are not yet operational. The private newspapers include Arc-en-Ciel (Rainbow), Iwachu Kwetu, and Ndongozi run by the Catholic Church. Interestingly, a Rwandan paper Umuseso is a favourite among Burundis and is widely bought.

Agence Burundaise de Presse (Burundi Press Agency) – ABP

ABP is a public media house, falling under the Ministry of Communication. It runs 2 newspapers one in Kirundi which is a weekly and another in French, which is published week days from Monday to Friday.

The newspapers cover a wide range of issues. However, due to financial and human resource constraints, circulation is limited to mainly Bujumbura and its outskirts. A total of 1,050 copies of the French paper are circulated daily. Though government funded, ABP
Civil Society in Burundi

Civil Society in Burundi faces financial constraints since government only meets the cost of salaries and rent. Running costs come from revenue collected. In its own assessment ABP says it strives to achieve professional excellence by balancing and verifying news as well as by covering news relating to all political sides.

The Association of Radio Broadcasters (Association Burndaise des Radiodiffuseurs)—ABR

It was founded in 2003. It brings together 12 radio stations. The association strives to promote radio as an instrument of communication. It provides professional training for journalists, and soon expects to open an institute for training radio electronic technicians.

Media Association of Burundi (Association de la Maison de la Presse du Burundi)

*Maison de la Presse* was established in 1995 and is a centre for the promotion of professional journalism, which brings together all journalists in the country whether working for public or private media houses. *Maison de la Presse* boasts a membership of 259 members. With the exception of Ndogozi newspaper, *Maison de la Presse* is home to all private newspapers in Burundi. It is noteworthy that Maison de la Presse was established primarily for promotion of professional journalism on account of some newspapers allegedly publishing information which disoriented the public and at times branded “hate media.”

Trade Unions

The trade union movement in Burundi was described by most respondents as very strong and vibrant. The Teachers Union was

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6 See http://www.unesco-ci.org/cgi-bin/asj/page.cgi?g=Detailed%2F83.html

7 ibid
singled out as the most powerful. The Union works towards improving the working conditions of teachers and the quality of education in Burundi as a whole. The Teachers Union has branches in the provinces and is governed by a committee of nine (9) board members who sit in Bujumbura and 34 members from the provinces. The Union has 14,000 registered members through the public service, of whom 9000, contribute funds regularly. Only teachers from public schools are members.

The Teachers Union is a member of the Confédération des Syndicats du Burundi (COSYBU). COSYBU is believed to be the strongest confederation bringing together 26 unions of different sector interests including teachers, nurses, transporters, the media and most public servants, as well as agriculture, sugar and tea plantation workers. The second biggest is Confédération Syndicale du Burundi (CSB).

The Teachers Union has been at the forefront of the struggle for the improvement of the working conditions of teachers in the country. One of its most outstanding activities was the December 2007 strike. The strike was a result of government’s failure to implement a public service law that increased the salaries, housing allowances, transport and family allowances of teachers. When the president’s promise to effect the changes was not met, it sparked the strike in December 2007. The government had however not resolved the matter by the time of the mission in July 2008. The teachers’ strike nevertheless has been cited as an example of the respect for the right to strike guaranteed by the constitution. There were also some comments that in Burundi it is sometimes difficult to make a difference between trade union activities and opposition political parties’ activities especially when it comes to organised strikes. They gave the example of the 1996 teachers trade union strike which lasted for some time but ended when Pierre Buyoya ascended to power raising the question, whether or not that strike was not politically
motivated. The Teachers Union is definitely serious about the rights of its members. At the time of the mission, the union was planning a strike to avert the harassment of one of its leaders who had been maliciously transferred away from his family and posted to a remote area, on account of his activism.

**Conclusion**

The body of CSOs in Burundi testifies to the many social problems typical of a post civil war society, which need urgent redress, but which the government is not in a position to. The problems of abuse and violation of human rights, political vilification, unlawful arrests and detention because of suspicion and lack of tolerance for critics, corruption in public offices and embezzlement of public funds for personal gain and abject poverty among the majority are among the mounting problems in Burundi. Civil society has tried to fill the gap created by government’s inability to address all these issues.

There is a sizeable and active civil society in Burundi. Burundi’s civil society includes the media, the church, women organisations, NGOs, and trade unions. Civil society emerged during the periods of war because the most affected group of people were ordinary people. Legally they are free to operate within the ambit of the law. The constitution guarantees rights and freedoms of association, assembly, and movement; there are over 10 radio stations most of which are foreign funded except for the national radio and television. Civil society’s influence has transcended political, social, economic and cultural issues in Burundi. Its most significant contributions have included promoting peace and reconciliation, promotion and protection of human rights, advocating for democratic governance, and monitoring government performance. It has made valuable contribution to peace, reconciliation and the overall post-conflict social and economic reconstruction in Burundian society. Its involvement in the Arusha peace process between 1998 and 2000
is notable. It pressured parties to negotiate and regularly updated the Burundian public on the process. In post conflict Burundi, civil society has emerged as a strong force monitoring government activities, advocating and lobbying for legislative, economic and social reforms, participating in demobilisation and reintegration activities. Civil society contributed to the general elections process in Burundi, by observing the election process, undertaking the much needed civic education etc. In the aftermath of war, CSOs were faced with the task of restoring confidence in society and uniting Burundians through campaigns against ethnic divisions and inter-ethnic violence.

Civil society in Burundi was actively involved in preparations of Burundi’s Poverty Reduction Strategic Plan (PRSP) with approximately 145 organisations participating in consultations leading to the drawing up of the programme. The consultations yielded significant proposals for implementation of the PRSP and the role of civil society in the implementation process. The role of civil society was in agreement with training and organising beneficiaries, monitoring and evaluation of the PRSP implementation particularly its impact (PRSP Paper 2006).

Given that CSOs in Burundi emerged as recently as the 1990s they must be commended for the very satisfactory role they have played in the difficult circumstances of Burundi. With the lauded democratisation process in the country there was much hope that CSOs will be given the opportunity to continue with their commendable service to the people of Burundi.

This chapter has explained, and demonstrated with a few examples, how CSOs work in Burundi. The legal framework within which they operate has also been outlined. The next chapter looks at the challenges and prospects of CSOs in Burundi while acknowledging the good working relations between civil society and other stakeholders in the pursuit of justice and building a peaceful Burundi.
Civil Society Relations with Different Actors in Burundi: Challenges and Prospects

Introduction
The relationship between civil society and other stakeholders in Burundi is by and large growing, particularly if one considers what the country has gone through in the recent past. CSOs work together with, among other actors, the Government of Burundi and UN bodies like BINUB and UNDP. This chapter gives an account of the existing relations between CSOs and other stakeholders in Burundi. It also outlines the existing challenges and prospects for civil society in the wake of regional cooperation with its neighbours, and in particular Burundi’s full membership in the EAC.

Civil Society – Civil Society Relations (Intra CSO Relations)
CSOs in Burundi work individually as well as in consort with others under coalitions. Through coalitions, CSOs have formed a strong force. For example, they have organised under FORSC with over 70 member organisations. OAG has about 20 members, while women CSOs have formed a coalition called CAFOP. CSOs have also formed activity specific coalitions to address specific issues. As referred to earlier, a group of CSOs formed an informal temporary coalition—COSOME to monitor the 2005 general elections. Similar plans are underway to put in place arrangements for joint monitoring of the 2010 elections. In another example, civil society formed an
informal coalition to undertake a specific task; five NGOs namely Ligue ITEKA, Global Rights, AFJB, Observatory for Child Rights in Burundi (OIDEB) and Christian Action for the Abolition of Torture – Burundi (ACAT) formed a coalition specifically to prepare and submit a short report on the human rights situation in Burundi to the UN High Commissioner for Human Rights. In the spirit of cooperation it was reported that on several occasions NGOs have worked jointly with religious organisations, particularly in the area of education and health. The mission also learnt that ways were being devised to establish an inter-religious initiative involving the Anglican and Catholic Churches and Muslims.

On the part of the trade unions, officials of the Teachers Union talked of their close working relations with other trade unions and with human rights NGOs to promote the right to education. Thus the “coalition on education for all” brought together 13 CSOs that organised a week of action to advocate for the improvement of the government budget in the area of education, and to urge the international community to improve funding in the education sector. In the same spirit the Teachers Union has been working closely with OLUCOME in the fight against corruption. The media in Burundi was commended for playing a pivotal role in promoting and publicising the good work of other CSOs by giving the work and reports of CSOs much needed coverage especially their events and programmes. The AFAB attests that the media in Burundi has played a tremendous role in exposing the problems affecting women including highlighting issues such as sexual violence, problems associated with rights in marriage. Such good media coverage is believed to have in turn influenced positive action by government in general and other responsible institutions and other arms of government such as the judiciary and legislature in particular. Similarly, outstanding legal cases on the rights of women have been given publicity and prominence in media coverage. The
AFAB reported good working relationship with the media as well as with other CSOs notably the Youth Association for Young Girls, the Women Lawyers Association to advocate for the advancement of women’s rights and building capacity of members through various training programmes.

The media relation with the CSOs reportedly was good with both the public and private groups. Trade unions in particular commended the media for its attention to issues they raise. The government media was named as equally cooperative in broadcasting without censorship information put out by trade unions. The only exception tends to be during trade union strikes when information on trade unions is censored. The trade unions claimed to have a good working relationship with major radio stations namely REMA FM, a radio owned by the ruling party, and others such as Isanganiro, Bonesha, Renaissance and CCIB.

The role of the media in creating awareness in Burundi was credited as generally positive. From time to time, the media holds debates with people of different backgrounds and expertise to discuss issues and respond to questions from the public on different subjects. This was pointed out to have contributed immensely to the creation of awareness on different topics of interests to the public. It was cited as a good practice and positive development when five media houses agreed to simultaneously broadcast the same message, on the same day and at the same time regarding a matter of urgent public importance on account of the political crisis that was facing the nation. Such joint action not only exhibited a high level of co-ordination, organisation, and lobbying skills by the media on a matter of national importance but also a strong level of patriotism and willingness to unite and take critical action especially in times of national crisis. It was pointed out that the unity of purpose demonstrated in the collective response was a calculated strategy to avert government persecution of an individual media house.
Being relatively new in existence and many being born and brought up under a difficult situation in Burundi, Barundi value the importance of learning from each other, and from other regional and international NGOs. The mission learnt that civil society in Burundi has opened its doors to CSOs in the region to jointly work on programmes of mutual interest. A Ugandan based NGO, the East and Horn of Africa Human Rights Defenders (EHAHRD) a network that operates in the countries of Ethiopia, Eritrea, Rwanda, Somalia, Somaliland, Uganda and Kenya, had made contact requesting to network with Burundi CSOs to train them in strategic planning. The Burundi Bar Association was already networking with its counterpart Bar Associations as regional meetings were in the offing.

It would appear safe to conclude that CSOs in Burundi that have fairly similar objectives and interests, appreciate the value of cooperation in the advancement of common causes in national interest. While there were views expressed about unhealthy competitions between some NGOs, no tangible examples were given to support that view. Instead several examples were given, illustrating positive collaboration. Such positive examples also tend to undermine the argument which was proffered by some respondents suggesting that the lack of a clear legal framework on forming coalitions between NGOs has hampered the development of an umbrella organisation for civil society in Burundi. It would appear that the law does not bar any formal or informal coalitions between CSOs.

**Civil Society - Government Relations**

The performance of civil society in a country can be affected positively or negatively by the relationships that exist between them and the state within which they operate. The relationship will depend on the legal framework that obtains, and how the government interprets and implements them. In a number of cases
the relationship can be unhealthy irrespective of the good legal framework. It is a challenge for civil society in African countries to build a conducive working environment with the state that tends to view the work of civil society with suspicion. Tolerance on the part of the state is of course vital to maintaining a good working relationship with the state in case of strong disagreement on issues of policy and practice in the governance of the country. Overall, the relationship between civil society and the government of Burundi was described as fairly good at the time of the mission. A good number of people who met with the mission pointed out that when the current regime had just come to power, the relationship between CSOs and the government was quite difficult. The government did not appreciate the work of civil society. It viewed them with a lot of suspicion. In the past, government regarded them as political activists and linked some of them to opposition political parties. Others were accused of serving partisan interests of one ethnic group - Hutu or Tutsi, over and above those of the other. Almost all government officials interviewed believed many NGOs in Burundi were formed to serve political interests. And indeed, there were strong arguments to the effect that the CSOs in Burundi are not politically impartial or neutral by virtue of the history of some of them. Some are said to have evolved from political parties or at some point in their history had close links with a political party. To the proponents of this view, the line between CSOs and political parties hardly exists. They all talk about and aim at finding solutions that affect society. As one government official commented, there are those in Burundi who believe that, “some CSOs behave like political parties” and they are often “manipulated” to serve political interests. This type of accusation seems not to be an isolated view because the well known and highly effective NGOs such as Ligue ITEKA confessed to have been victims of these accusations. ITEKA was at one time accused by the government of serving the interests of the Bahutu
ethnic group. Yet to its surprise, when a Hutu led government took over power, it was accused and branded by the government of being pro-Tutsi. All in all there have been strong counter arguments that accusations of this kind are not true and are driven by politics, and lack of tolerance to criticism by the government.

The past difficult relationship between government and CSOs seemed to have improved for the better by the time of the mission. The past three years were reported to have seen a lot of positive improvement in the relationship. The improvement, according to some Barundi did not stem purely from the good will of government, but was a result of pressure brought to bear on government by civil society and at times international organisations using varying strategies and interventions. That the situation has improved is not however shared by all who were interviewed. Some criticised the government for having an intolerance streak and the tendency to use force in resolving conflict situations.

There were certainly mixed assessments of the relationship between government and CSOs. While it is apparent that difficulties remain, it was not as bad as it was in the past. Positive examples were cited showing instances when the two worked together. Years of turmoil mean that the government cannot adequately provide certain services and civil society has been able to step in to plug the gap by undertaking some of the roles government should have played. In that way many CSOs have been able to complement the work of government in various ways. Ligue ITEKA for example has on a number of occasions provided vehicles to the police and fuel to judicial officers to enable them travel and visit scenes of crime. The Burundi Women Association has plans supported by government to work together with parliament, the government, and Ministry of Gender in the area of voter education for women.

AFAB, which works in the private sector, rated highly the cooperation that can exist between the government and CSOs.
In fact AFAB reported its ability to influence government policy because it is on many occasions consulted by the government on matters related to the private sector. As a result of the good relationship with government, the organisation has been able to influence government policy and laws. It works closely with the line Ministry of Trade, but also maintains a good working relationship with the ministries of Labour, and Regional Integration, as well as the Chamber of Commerce (CCIB). Aside from the above, AFAB officials confirmed that the association does not require prior government permission to hold its general assembly nor is it obliged to submit returns to government except returns for its microfinance business. AFAB also boasts of links with key bodies and institutions at supra-national level such as the EAC, the East African Business Council (EABC), and of having spearheaded the initiative to form a women entrepreneurs association at the East African regional level. Women entrepreneurs from Rwanda, Tanzania, Uganda and Kenya were invited to participate in its inaugural annual regional women entrepreneurs meeting held in Burundi. AFAB also serves as a focal point for FEMCOM- the Women Business Association of the Common Market for Eastern and Central Africa (COMESA).

OAG is one of the strong coalitions of CSOs. It reported a good working relationship with the government. At the request of government OAG nominated representatives to the Government committee which was reviewing the country’s penal code. It hoped to use this opportunity to contribute to the proper revision of the penal code. OAG also has one of its members on the government committee that monitors external funds expenditure and external debt cancellation. In addition, government has recognised the work done by OAG as demonstrated by the several invitations extended to the organisation to attend different seminars organised by government. Similarly, some members of the diplomatic corps appreciate its work and regularly consult OAG’s reports. On its part,
OAG invites government officials to participate in its countrywide consultations that are held before OAG publishes its reports. Government officials are invited to comment on the draft reports, and incorporate their own views.

On the part of government, the government officials interviewed believe and consider civil society a partner to government. They cited government willingness to accommodate persons from the civil society on bodies like the Truth & Reconciliation Commission, which has two officials each from government, civil society and a representative from the UN Government and civil society also formed a joint team during the civil war to meet and discuss peace initiatives with Burundi nationals in the Diaspora. That there is genuine civil society-government partnership was however dismissed by one respondent who argued that it is a donor requirement for government to ensure civil society visibility and partnership in government programmes as a prerequisite for funding rather than a voluntary act of government to work closely with CSOs.

The relationship between the government and civil society has not all been without conflict. The mission received reports of instances where members of some civil society have run into trouble with the government for criticising it. In particular, it was observed that in 2007, the government committed several violations impinging on freedom of association against members of civil society. This was in the form of threats and arrests of some members of civil society for exercising their freedom of association and expression. In 2007, the president of CIVIC, Nahimana Terrance was arrested and imprisoned. Gabriel Rufyiri of OLUCOME was also arrested and detained. Some journalists were also arrested and imprisoned for denouncing government for such vices as embezzlement, human rights violations such as torture and harassment. There were also claims of threats received by individual journalists and some radio stations through phone calls from government agents. At one time
the arrests triggered an upshot of strong disapproval from the population including civil society. Members of local CSOs formed a coalition, worked with international CSOs to denounce the arrests, mainly through radio and press releases. The strong condemnations led to talks between government and the journalists. Following those talks, relations were reported to have improved, and since the beginning of 2008, no arrests of members of civil society have taken place.

As a measure aimed at reducing tensions between CSOs and government, regular meetings between the two were proposed, and joint meetings of representatives of human rights NGOs and government were being held. Since 2005, representatives from Ligue ITEKA and APRODH have been attending joint meetings with a representative each from the army, the police, the Ministry of Justice, the security service, two officials from BINUB and one from Human Rights Watch, to report human rights violations, and to discuss the human rights situation in the country, as well as suggest solutions. Some NGOs interviewed by the mission confirmed that this measure has been useful in alleviating tensions and counter-accusations between government and CSOs, regarding criticisms about human rights violations and poor governance. It was confirmed that government meets the media once every month to discuss areas of concern, iron out issues and debate solutions.

The Media Government Relations

The media in Burundi is still young but quite vibrant. As indicated elsewhere in this report, there are government and private owned media channels. Though still young, the private media, including television and newspapers in Burundi were rated as reasonably free. Overall, it was reported that there was considerable freedom of expression in Burundi, allowing the people, both urban and rural, to a large extent express themselves freely. Media freedom in Burundi
was attributed to societal advancement which has enabled Barundi to “say what they think”. This change within Burundian society was viewed by some respondents as a positive side of the civil war, which had the effect of making the people more innovative and to adopt a critical outlook to issues. This critical attitude was attributed as well to the enabling environment created by the government, which promotes free expression. Occasionally, members of the public are given the opportunity to directly ask the president questions. The Head of State meets members of the media every three months to discuss topical issues. These interactions were described as free, where the media was said to have freely expressed itself pointing out the weaknesses of government, which one official interviewed by the mission described as “sometimes embarrassing to the government”. According to one commentator “the media in Burundi is so free that everything is allowed.” Another respondent referred to a statement by an official of CNDD-FDD, the ruling party, which seems to reflect government thinking that, “Best to let them speak! You would know what they think.” Apparently, because of the reported expansive media freedom there has been a stream of complaints by government ministers and high profile persons against attacks on them by the private media. The frequency of such complaints was given as evidence of press freedom and the bravery of the media. Complaints were reported to have come from high personalities such as the president’s Chief of Cabinet, the Defence Minister against a newspaper, the Director of NTV against the African Public Radio (RPA), and another by the Home Affairs Minister. Radio RPA was alleged to be a mouthpiece for a political party in the process of formation and was accused of insulting a minister who was described by the radio as corrupt.

The media avails government air time to discuss issues of national importance and to disseminate information to the public. Once and again the media hosts government officials together with
officials from civil society to discuss matters of public interest. The government increasingly, uses the mass media particularly the radio to answer criticism against it allowing information flow and debate on matters of state. Using the radio, the public has made their views known about matters of governance, thus to an appreciable extent holding leaders accountable. Through the radio the government was subjected to intensive criticism over the expulsion of 22 members of parliament from the National Assembly by first questioning the legality of the expulsion, and second the manner in which the government addressed the problem.

As to be expected, instances of misunderstanding and conflicts between government and the media over media reports were cited. Criticisms of government by the media were at times not well received with the government claiming that the media was critical because they promote and serve the interests of opposition political parties in the country. Such allegations by the government are said to have instead helped to build the belief that media houses like ISANGANIRO, BON ECHA FM, RPA and the private Télévision Renaissance, are credible and politically neutral. The government on occasions responded aggressively to critics by arresting and jailing them as was the case with three journalists, who were arrested and jailed following the putsch of 2006, on accusations of publishing news prejudicial to national interest and threatening state security. The arrests led to public outcry and the detained journalists were released. The incidents of arrests, detentions and harassment of the media have instilled fear in some journalists and media houses. Many therefore, due to fear of being arrested or detained are exercising self censorship. A number of respondents felt that with the kind of aggressive response by the state against the media, freedom of expression and free media in Burundi though improving was still very fragile, and could not be said to have reached a firm sustainable foundation.
There are a number of private radio stations in Burundi. One of them is owned by former President Bagaza. His ownership of a private radio station does draw mixed reactions. Some Barundi expressed unease about it because “the ownership was a mockery to media freedom” because it is not considered neutral and independent. Others considered it an illegal act, on the basis that the president is the head of a political party, and the law prohibits political parties from owning radio stations. In that context, others viewed the president’s ownership of a radio station as unfair because the rest of the political parties in Burundi have been denied this right. Interestingly, there were varying accounts of which radio station the President owns; some naming the *Ngonzi Makamba*, others REMA and yet others SALAMA. Whether or not the president owns a radio station is not clear but the cardinal issue of interest to many is whether or not political parties should be prohibited from owning radio stations. Many argued that it should not be the case.

**Weaknesses and Challenges Facing the Media**

The mission conducted frank discussions with media houses about their strengths and weaknesses and the challenges they face. Many confessed that the media is still fragile and needs support, without which, they may not withstand the challenges posed by the process leading to the 2010 general elections. There was anxiety about their insufficient capacity to undertake the media’s envisioned role of monitoring the 2010 elections in Burundi, and that there was actually no substantive law stipulating the prohibition except for an administrative regulation by the NCC. The 2010 elections are being considered crucial for the continuation of peace and the democratisation process in Burundi.

There are fears of potential conflict, based on fears of the return of tensions between government and the media in the past, as Burundi enters the electoral phase of the 2010 elections. Both the private
Civil Society Relations with Different Actors in Burundi

and public media lack adequate funding, which has in case of the print media affected the quality of their work and its geographical reach. Few of the media houses are able to generate their own funds and have to rely on donor funding, therefore facing the risk of their independence being compromised. Most of the newspapers in the country have no track record and have had a short life because they have not been financially viable. Those that survive do so because they are supported by political parties. The media was also accused of lacking trained personnel resulting in unprofessionalism in their management and publications; they are accused of publishing unverified information and of being susceptible to manipulation especially by politicians. The lack of professionalism is partly attributed to the lack of schools to train journalists, leaving most of these journalists to practice without formal training and grooming in journalistic ethics and conduct.

Government and Trade Unions

The trade union movement in Burundi was described as very strong. Because of their strength and vibrancy they have naturally experienced a lot of confrontation and repression from government in terms of arrests, harassment, and at times, killings. The leadership of the Teachers’ Trade Union in particular was reported to have been subjected to these experiences. Until early 2008, the relationship between the government and the Teachers’ Trade Union was described as very hostile. Government viewed the Teachers’ Trade Union as part of the political opposition accusing the Union of serving the interests of political parties. Government did not understand or accept the activities and role of the Union as an advocate for better education. Because of this negative attitude, teachers have experienced nasty incidents of human rights violations. Between February and April 2008, two members of the Union were beaten to death in Karuzi accused of being members of PALIPEHUTU-FNL. In another
incident in Nyanzaraka, teachers were beaten by the parents of a child who had been punished by the teachers, yet another in Bubunza, a female teacher was raped and some male teachers seriously beaten. In October 1997 and March 2007, the president of the Union was imprisoned during a strike, beaten and harassed while in jail. Again in 2007, two members of the Union from Makamba near the DRC and two from Chankuzo near Lake Tanganyika were jailed.

**Challenges Faced by the Teachers Unions**

The Teachers’ Union expressed its critical concern as being the quality of education in Burundi. This is affected by a number of factors including the low morale of teachers due their poor condition of service. Although the Government has since 2005 introduced universal primary education, its success has been negatively affected by the limited number of qualified teachers. The burden of teaching is a major complaint given the low teacher to pupil ratio. Teachers’ salaries are low and their living conditions poor. There are few schools, and most with insufficient scholastic materials. Worse still, the government has introduced a policy of collective promotion irrespective of pupils’ performance. All these factors make the struggle for better education, and working conditions for teachers by the Teachers’ Union in Burundi more difficult. It has affected the morale of the Union especially since there had been no follow up by government on its commitment to the 2002 Teachers Convention in which government agreed on a number of measures to tackle issues raised by the Union. Although the relationship between government and the Union has improved, allowing more dialogue between the two, it is important to note that in the past, members of the Union have been beaten, arrested, harassed, intimidated and others killed. It is also important to note that in cases where there was disagreement between the government and the Union, dialogue between the government and the Union took a long time without solutions
being reached. Fears of government attempts to weaken the Union were also expressed. Concern over infiltration of its membership by government agents so as to ensure that the top leadership is drawn from members of the ruling party was reported, and that this was a serious threat to the independence of the Union.

**Civil Society–Donor Relations**

Overall, the relationship between donors and civil society was rated as good. As observed earlier, most CSOs in Burundi depend on donor funding. Trade unions such as the Teachers’ Union boast of years of partnership with organisations like the United Nations Educational, Scientific and Cultural Organisation (UNESCO), which has supported its cause. There was a claim that donors trust CSOs in terms of financial management, and prefer channelling funds through them than through government. If true, this would suggest the trust and confidence donors have in the CSOs in Burundi based on their perceived good management and accountability.

On the other hand, there was an argument that donors manipulate and advance their own interests through the CSOs they fund. A contrary argument was that some CSOs that have worked their way to credibility, such as Ligue ITEKA and OLUCOME not only have donors chasing them for funding; they can afford to choose and pick which funding to take. There were indeed assertions that many of the CSOs work according to donor priorities. Changing donor priorities had forced CSOs in Burundi to continuously adjust to fit within the donor priorities, a factor which, it was claimed left some areas of interest to CSOs unfunded. As one person put it “the NGOs follow the money”. Donors were also blamed for funding only well established NGOs or those already in existence to the detriment of those just beginning to operate. As a result, new NGOs find securing initial funds an uphill task. Donors were also criticised for placing emphasis on giving funds for operations while minimal
funding is allocated to institutional support of CSOs. Most donors provide allowances and not salaries, which has implications on the quality of staffing; as such allowances are often inadequate for staff upkeep. This state of affairs has forced most local CSOs to depend on members’ contributions, which are themselves inadequate, for the day-to-day running of most organisations.

**United Nations Bodies in Burundi**

Both BINUB and UNDP confirmed that they have good working relations with civil society in Burundi.

**BINUB**

BINUB is the successor of the United Nations Operation in Burundi (ONUB), which was established by the UN Security Council, by its resolution 1545 of 21 May 2004, to support and help implement the efforts undertaken by Barundi to restore lasting peace and bring about national reconciliation, as provided under the Arusha Agreement. ONUB’s mandate in Burundi ended in December 2006 and was subsequently succeeded by BINUB, which was established by Security Council resolution 1719 of 25 October 2006. BINUB was working on two mandates of the UN Security Council. The first mandate (1790) began in January 2007. It moved from peacekeeping in Burundi to consolidation of the peace process in Burundi. The second mandate (1791) was aimed at providing strong political backup to the regional initiative of the EAC and South Africa facilitation. BINUB was supporting the peace process between the Government and PALIPEHUTU-FNL in coordination with regional and international partners. It was also providing political and technical support to help national actors address the root causes of the conflict, prevent a relapse into conflict and create an environment conducive to recovery and development.
Thus, BINUB works on four major domains:

- Peace consolidation and democratic governance;
- Disarmament, demobilisation, reinsertion and reform of the security sector;
- Promotion and protection of human rights and measures to end impunity;
- Donors and UN agency coordination.\(^8\)

BINUB through different coordinated mechanisms assists the government of Burundi to mobilise resources for the peace process and development agenda. According to BINUB officials, Burundi was moving towards stability but considerable humanitarian focus to help the vulnerable was still necessary. BINUB has $35 million to implement projects linked to peace consolidation in the country.

BINUB’s mandate entitles it to work with government, the private sector and civil society. Accordingly, in Burundi BINUB has been working with all these parties, in the fight against corruption, and strives to end impunity in the country by working in the justice sector. It has programmes for strengthening the capacity of these organisations.

**United Nations Development Programme (UNDP)**

Although it does not have a civil society focal point, the UNDP confirmed that it works with a number of CSOs especially those in the fields of governance, human rights and the media/press. UNDP does not support CSOs directly rather CSO support is subject to a government-UNDP agreement.

The UNDP Office in Burundi has supported the government in various fields including developing the law on the press, and amendment of the law relating to CSOs, which is yet to be adopted. The proposed law aims at improving good governance in CSOs.

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including their financial management, as well as to ensure regular meetings and reports of their activities.

**Achievements and Impact of Civil Society in Burundi**

The majority of the respondents were in agreement that CSOs in Burundi have enormously complemented government efforts in governing the country. CSOs’ contribution to the country was cited as significant in the promotion and protection of human rights, specifically in advancing the rights and development of vulnerable groups, and the struggle against poverty. They have played a crucial role in the democratisation process in the country; having sat in and participated in the transitional parliament until 2001, when a new parliament was established. After the assassination of Ndadaye in 1993, and the situation in Burundi was out of control, CSOs were instrumental in facilitating dialogue between citizens and the government and between rebels and the government. Their reconciliatory efforts brought together the different conflicting communities in Burundi divided by political upheavals. They were active in facilitating dialogue between displaced persons and communities that did not leave their homes, who were feuding over property. They have also assisted in re-settlement of the displaced, within the country. Search for Common Ground, an American NGO and which also started a private radio station called *Kisanganiro* was pivotal in disseminating messages of reconciliation in the country. *Ijambo*, a youth centre created in Kamenge by young people from different communities, went around preaching peace and reconciliation.

In 2005, Burundi embarked on the process of developing a new constitution and an electoral code. OAG in collaboration with other CSOs submitted concrete proposals some of which were incorporated into both laws. To contribute to efforts towards a free and fair election scheduled for 2010, OAG had commissioned a
consultant to study and analyse the current constitution and electoral code, and point out their shortcomings and make suggestions to government.

Human Rights CSOs have been instrumental in exposing human rights violations by denouncing them in the media and elsewhere. Their activism helped curb government excesses. CSOs have also been key actors at international fora, where they have provided shadow reports along those of government. During the peace process, CSOs were instrumental in negotiating with the warring parties by promoting dialogue and reconciliation and therefore immensely contributed to bringing about peace. The CSOs enthusiastically participated in the monitoring of the 2005 elections contributing to its success, which consolidated peace and democratisation in the country. Their actions contributed to the validity and legitimacy of the elections as they exposed irregularities that would have undermined the legitimacy of the elections. Organisations such as Ligue ITEKA, OAG, FORSC and COSOME established wide networks to observe and monitor the election in different provinces of the country. The NGOs worked alongside the media mainly the radio stations, for 20 hours uninterrupted, during the elections, which enormously helped to curb electoral fraud.

There was evidence demonstrating the significant contribution by civil society in the promotion and protection of human rights. They were commended for their bravery in exposing human rights violations. For example, APRODH is lauded for confronting government over the Muyinga killings (which were associated with the FNL) for failure to protect the people. After the murder of president Ndadaye, APRODH spearheaded the fight for the rights of prisoners, many of whom had been illegally detained. It organised hearing of their cases and worked with Ligue ITEKA to provide them legal aid.
OLUCOME was singled out as having a strong voice spearheading the fight against corruption. In the past, OLUCOME has had problems with government. In 2006, it accused the minister responsible for security of corruption leading to the arrest of OLUCOME president and forcing some of its officials to flee the country. By the time of the mission, OLUCOME was enjoying good working relationship with government. The good working relations had made it possible for OLUCOME to regularly submit reports of their investigations on corruption to the Ministry of Good Governance. It also collaborates with the ministry to organise activities for the International Day Against Corruption as was the case in 2007.

Organisations like OAG held the view that the impact of CSOs work may be slow and long term in coming. But there was also a strong belief that the work of CSOs has had positive impact on the activity and processes of government. For example in 2007, OAG wrote a report on the general theme of good governance and democracy, and on the functioning of the National Assembly in particular. Some of the proposals contained in the report contributed to finding solutions to the months of stalemate in the National Assembly following the expulsion of 22 members from the Assembly. In the area of the economy, OAG undertook a study on land issues in Burundi, which many stakeholders including government and academics have found useful in tackling land issues in the country.

CSO campaigns and activism had been useful in putting pressure on government to respond with action on various issues. Occasions were cited where OLUCOME had written to the President of Burundi to protest against corruption and action had been taken. A case in point was when OLUCOME wrote to the president protesting a deal in which the Ministry of Defence was due to lose millions of francs through a deal to purchase uniforms from China.
The president intervened and the deal was cancelled. In a separate incident, in 2006 a public uproar by CSOs against the sale of the presidential jet (Falcon 50) below its actual value, prompted the removal of three Ministers of Finance, and led to the establishment of a committee of the National Assembly to investigate the matter.

The Teachers’ Union was credited with the improvement of the working conditions and rights of teachers, and the quality of education in Burundi. The activism of the Union resulted in an agreement signed between government and the Teachers’ Union in 2002, increasing the salaries of teachers, and an agreement to negotiate better terms of service for teachers. Their quest for the improvement of teachers’ condition was said to be relentless.

Civil society in Burundi has had a considerable impact on policy and law in the country. The Bar Association was active in promoting better judicial decisions and human rights in the country. Together with other CSOs the Bar Association reported participation in sensitisation programmes to public, police and magistrates on issues of sexual violence. CSOs have provided legal and medical assistance to victims of sexual violence. They have on invitation by Ministry of Justice submitted comments and proposals on the proposed Penal Code Act, which was before parliament for consideration and adoption. Women organisations in Burundi were instrumental in pressuring government to effect the 30% women representation in key government institutions as required by the post-conflict 2005 constitution. The Association of Women Magistrates of Burundi has advocated for, drafted and submitted to the Ministry of Human Rights a law on succession, the first of its kind in Burundi. By the time of the mission, the law was before parliament.

AWEPA has since its establishment in 2003, contributed in various ways to build capacity of different stakeholders. They signed a Memorandum of Understanding (MOU) with the Parliament of Burundi, which led to the legislative body becoming more
democratic, a factor which is claimed to have contributed to the success of the Arusha talks. They have also helped to enhance the relations between parliament and civil society by encouraging particularly the latter to dialogue with parliament. AWEPA has also trained the media on how to report on elections in a responsible manner. And because of its good relationship with parliament, AWEPA officials argue that their views are not dismissed by the government as mere criticism. AWEPA officials also believe that government began working on a law on social security and health, following a proposal from AWEPA. Nonetheless, AWEPA did not use its good relations with parliament to intervene in the stalemate in parliament, which saw 22 parliamentarians dismissed for declaring themselves independents.

The media played an important role during the peace process especially in updating the population on the developments relating to that process. Through radio, rebels were able to raise issues of concern and offer suggestions thereby defusing political tension and leading to an improved political climate for dialogue in the country. It has been a useful educational tool for the majority of the Burundian population contributing to raising awareness on gender issues, HIV/AIDS and other contemporary issues. The media has provided the forum for exchange of views allowing discussion between the government officials and the public. Overall, there was a general consensus that the media has played a critical role in creating awareness on issues of importance to the people.

The role of the Catholic Church in the peace process highlighted the part played by religious organisations to work for peace in the country. Its role in denouncing violations of human rights and dictatorship in Burundi was equated to the vigilance of South American churches. During the 1993 political crisis that followed the assassination of President Ndadaye, the Catholic Church worked hard for the return of normalcy by preaching reconciliation and
dialogue between rival political leaders, in order to end the fighting and restore peace and stability. At the peace talks in Arusha, members of the Catholic Church were invited to participate in the talks where they urged political leaders to put an end to the fighting. Later, the Catholic Church also participated in the development of the 2005 Constitution, which ushered in the process of democratisation. It was active promoting talks between the government and the PALIPEHUTU – FNL which was still in rebellion. Aware of the fragile political situation in the country, the Catholic Church had continued to closely monitor the political situation in the country and intervening with proposals to political leaders on what should be done. As recent as 12 June, 2008, the Episcopal Conference of the Catholic Church met and delivered a message to the government, presidents of opposition parties, CSOs and the citizens about the political situation in the country.

The Catholic Church believes that government has in the past paid due attention to its advice and proposals regarding various problems facing the country. During the transition period to democracy, when the Head of State, President Buyoya and his Deputy Ndayizeye wanted to remain in power, the Church influenced the two leaders to leave power and to organise free and fair elections. In the message of the Episcopal Conference of the Catholic Church of 12 June, 2008, mentioned above, the Church invited the government to put in place a permanent electoral commission. A few days later, the president issued a legal decree establishing the Commission.

**Challenges Facing Civil Society in Burundi**

In the words of one respondent; “...while the balance sheet of civil society is positive and the future of civil society in Burundi bright, there are also constraints....”

These are both external and internal. Prime among the challenges, civil society in Burundi, as elsewhere in the region and
the developing world, faces the challenge of inadequate finance and financial sustainability. CSOs have no income-generating sources of their own and have to rely on foreign donors who therefore determine their areas of priority. This is exacerbated by the fact that they cannot get local financing in Burundi, as raised by one respondent. Because of this, CSOs are not considered independent. The majority of CSOs including the media in Burundi are believed to be driven by donor agendas and interests, and incapable of challenging these agendas. The fact that they lack their own funding has also greatly contributed to CSOs being reactive rather than proactive in their approach. Naturally, donor dependence impacts on delays in receiving funding for activities planned, as well as staffing issues, both in terms of quality and quantity. One respondent was quick to point out that except for the African Public Radio (RPA) which enjoys more reliable funding from America, funding for all other private media houses is not sustainable. He pointed out that this poses an impending information blackout in situations such as elections, when information from private media houses should be imperative and crucial. Accordingly, there was much anxiety expressed over the impact of donor funding priorities on the upcoming elections in Burundi. One respondent contended that because current funding priorities were focused on peace building mainly from the UN bodies, no funds had so far been earmarked for observing and monitoring the forthcoming elections.

Lack of own funding has also been associated with negative competition for funds among CSOs. Specifically, a problem was cited between the umbrella organisations and their members who compete and work on the same projects. Yet, coalitions are designed to work at different levels vis-à-vis their member organisations.

Some CSOs unable to acquire donor funding were reported to have fallen under the influence of the political opposition that have found such CSOs an easy target, to advance their own interests and
to criticise the government. A contrary view was that it is a natural trend for politicians in general to use civil society to advance their political interests - ruling parties and opposition parties alike. Ruling parties have been known to form alternative NGOs mainly to give positive reports on government performance in critical areas such as human rights and governance. In the case of Burundi, it was revealed that former politicians formed, registered, and ran NGOs, which were branded by government as mouthpieces of the political opposition or being political parties in disguise. Proponents of this view cited the deadlock in the national parliament in June 2007 over the expelled members of parliament as a vivid example where both civil society and the opposition spoke with one voice.

The stalemate had arisen when the majority ruling party lost the majority of its seats in parliament because 22 MPs formerly belonging to the ruling party declared they had quit the party, and were in parliament as independents. Under the Constitution of Burundi however, this was only possible if in the election that brought them to parliament they had contested the elections as independent candidates. This being the case, the leader of the ruling party wrote to the Speaker of the National Assembly for his opinion and possible decision on the 22 MPs who defected from the party, and whether they could still serve as MPs. The Speaker referred the matter to the Constitutional Court for an opinion. The court decided that the 22 MPs be expelled from the house since they had crossed the floor contrary to the constitution.

However, some people considered the decision to have been politically motivated on the basis that the Constitutional Court is not independent and was influenced by party politics. Some quotas stated that the 22 MPs were expelled because they wanted the release of the former president of CNDD who had been sentenced to 13 years imprisonment on the ground that he was planning a coup d’état.
The second challenge is lack of requisite managerial skills, expertise and capacity to operate effectively. With the exception of a few like Ligue ITEKA and APRODH, that have been in existence for some time now, and believed to be well structured and organised, CSOs in Burundi lack capacity, which undermines their efficiency and effectiveness. They do not get any prior training on the work they do, as such rely on job experience. Accordingly, many lack basic skills such as negotiating skills or even dialogue with government and donors. Additionally, it was observed that most CSOs lack capacity to handle such areas as corruption, which is complex, and increasingly involves the use of sophisticated techniques - a factor which some respondents said could explain the paucity of those CSOs involved in fighting corruption in the country. Moreover, operating in the area of corruption requires a good understanding of the laws relating to corruption, which many non–lawyers have difficulty interpreting.

Civil society was also said to lack skills for internal governance and administration characterised by lack of power sharing, infrequent or no change in leadership, and irregular and even absence of reports or meetings. Some CSOs were described as one person organisations, whose identity is tied to the founder, without whom the organisation loses visibility. In some instances, some local NGOs were said to have been founded for purely selfish reasons with short life span. On receipt of initial funding, founders of such CSOs have been reported to have pocketed the funds and disappeared.

For organisations like AFAB which operates in the private sector, its major concern was the uncompetitive business environment in Burundi compared to the neighbouring countries. Among its challenges, it cited Burundi’s investment law which requires a 1% payment of the value of the assets of a company to government if it winds up business. Unlike other East African countries, Burundi still levies import duty on machinery. AFAB strongly recommends
faster harmonisation of Burundi investment laws within the EAC framework, to enable the private sector catch up with the rest of the region.

Despite the successes achieved by the civil society in Burundi some respondents observed that the majority of Burundi are not well informed about the role of civil society. Therefore at times, the public questions the importance of civil society and why it should exist at all. Many NGOs may be working on issues where the impact of their work is intangible or not easily noticeable by the ordinary person. This was attributed to poverty in the country, where the ordinary citizen expects immediate tangible impact on his lot. In the circumstances, the work of many NGOs is not appreciated where they do not provide services directly related to poverty alleviation.

The continuously changing political climate was raised as another factor that sometimes negatively affects the nature of work done by some NGOs, especially those tasked with monitoring government actions. An isolated incident such as the dysfunction of the National Assembly was cited as having affected the entire cycle of amendment and development of law, since parliament could not sit to consider legislative proposals.

Trade unions and strong CSOs like Ligue ITEKA and OAG have been viewed as quite effective, resulting in accusation by government that it was difficult to draw a line between their activities per se and anti-government criticisms by politicians. The 1996 trade union strike was cited as an example. The strike was instigated by the teachers (the largest number of civil servants in Burundi), although other trade unions soon joined in. There was a claim by some of the people interviewed that this strike was politically motivated because as soon as President Buyoya took over power in a military coup, the strike ended. In addition, much as problems for which strikes may be organised may seem obvious on the face of it, it was argued that most strikes often come in a row, alongside political difficulties.
Secondly, in spite of the challenges facing CSOs with regard to the sustainability of their programmes, CSOs were criticised for not being proactive enough in developing approaches that can convince donors to fund more holistic and sustainable programmes, which should not end abruptly and leave beneficiaries in suspense. In order to achieve this, a lot of strategic thinking and capacity building on the part of CSOs was suggested.

Many CSOs in Burundi are believed to advance and serve the personal interests of their founder members and managers rather than the public good. In this sense, some will have unproportionate large travel budgets relative to funds allocated to the needs of the would be target beneficiaries. In fact one respondent remarked that some NGOs were in the first instance created for the benefit and survival of their founders due to the high level of poverty and unemployment in the country. Related to this, CSOs in Burundi have been accused of being self-centred. It was disclosed that in their dealings with other actors, CSOs tend to see themselves as the centre, to the extent that they sometimes want to enjoy an exclusive relationship with donors that excludes other actors such as government or the private sector.

Further, at times civil society has been described as incoherent or inconsistent. An example was given of a situation where CSOs have been willing participants in meetings with government at national level, with good representation and full involvement from inception to the level of monitoring and evaluation, but later make a complete turnaround, disassociate themselves from the process, deny any involvement and disown the recommendations. Arguably, civil society voice has to differ sometimes, but they at times fail to distinguish between a Burundi position from a government report and position. Such moves were deemed counterproductive as they could discourage government from involving CSOs in certain
processes. Lack of consistency in opinion and stand was cited as a challenge infringing on the credibility of CSOs in the country.

Lastly, most CSOs in Burundi are based in the capital and other major cities with a few in the rural areas. As such, they have been viewed as elitist and not genuinely committed to the needs of the ordinary grassroots person. An example was given of the limited focus of CSOs in Burundi on issues of poverty reduction. This, however, may be attributed to donor priorities. To this extent, it was regretted that although Burundi is arable, many people are dying of hunger because CSOs do not prioritise agriculture in their programmes. In the same vein, sensitisation by civil society on consumer protection and fluctuations in prices of commodities was considered vital to rights of the ordinary individual but had captured no emphasis from CSOs. Failure to adequately engage the citizenry if at all on issues of immediate concern to them was considered a weakness and a challenge.

**Opportunities**

Given the progress made, there is increased citizen and government confidence in civil society as a vehicle of social change in Burundi society. There is equally increased donor confidence in civil society in Burundi mainly because of its improved financial management and timely reporting. Civil Society also enjoys an amicable working relationship with the local administration, which makes its work at the grass roots easier.
Burundi within the East African Community: Hopes and Fears

Introduction
Burundi is a full member of the EAC. The move to join the EAC has been positively received by the majority of the Barundi for various reasons. Civil society sees the EAC as an opportunity to grow and learn from other East African countries where civil society movements have been operational much longer than in Burundi. The elite and the business minded see the Community as an opportunity to collaborate with their counterparts within the region to bring development to Burundi. They hope that the labour market will be open to workers from other countries, which should infuse some vibrancy into the country’s economy. The government has specifically established the Ministry of EAC Integration to ensure that Barundi benefit from the EAC and do not remain bystanders. However, there are concerns that the EAC comes with high levels of competition in all aspects of life, and since Burundi is just recovering from civil war, it is likely that the other countries will take advantage of the situation to the disadvantage of Burundi. This chapter tries to capture the perceptions and attitudes of Barundi on the EAC.

General Perception about Burundi Membership of the EAC
There was general consensus that Barundi had enthusiastically welcomed the idea of joining the EAC. It was also reported that a number of CSOs had already initiated contacts, while others were already collaborating with organisations working in other EAC
countries. Nevertheless, there is a general feeling that Burundi is a weak partner because of the effects of 15 years of war, and that the Burundian economy may not be able to compete with the stronger economies of the other member states. There are concerns, perhaps rightly so, that civil society in Burundi is still too young and fragile to be able to work in a “one country” EAC. Therefore, there were mixed feelings about the EAC; a feeling of welcome and a feeling of doubt about its benefit.

**Awareness about the EAC**

It was generally agreed that most Burundian know very little about the EAC. This is not surprising given the reports that there were hardly any discussions in Burundi about the EAC before the country joined. Apart from appointing a government official to deal with EAC affairs, it was observed that by and large, there was still no supporting infrastructure for the EAC to effectively function in the country. Hence, it was still very much a period of learning and capacity building for the citizens, civil society and the government, as they brace themselves for full participation in the activities of the EAC. Like the rest, journalists in Burundi who should inform the public were themselves not well informed about the EAC, and the opportunities it offers. They were not aware of the progress made in the EAC. Because the practice is to invite people from the private sector mainly businessmen to attend EAC functions, there had been limited participation by journalists from both the public and private media in EAC events. Some journalists expressed dismay that only two journalists from Burundi had been invited by the government of Burundi to attend the recent EAC Summit in Kigali; one from the government television and the other from the public radio station.
Aspirations

The elite Burundian society is optimistic about the EAC and sees the future as a very bright one with the possibility of an end to the fragile situation due to civil war. One of the respondents hoped that “with integration, there will be a reduction in conflict, a concerted effort to fight against the flow of small arms, which will all ensure peace and security and reinforce economic development.” Apart from this, some CSOs in Burundi hope to build partnerships with other CSOs from the region which should enhance their ability to work for the Burundians.

Since activism started in other EAC member states more than 15 years ago when Burundi was still entangled in civil war, the EAC comes with the opportunity for the Burundian to learn about the promotion and protection of human rights, rights of women, children and other marginalised groups like the disabled and victims of war. It is envisaged that Burundi will share information on best practices, lessons learnt and challenges faced by other EAC countries in the struggle for human rights promotion and protection and women’s advancement in the region. Burundians look to the EAC for economic development and improvement in the standards of living in the region, among others.

With Burundi’s joining the EAC, some media houses in Burundi see an opportunity for greater and more effective information flow among the EAC countries, going beyond official news or government communiqués. It is also envisaged that, together, media houses in East Africa will be able to standardise news and reporting, which will in turn help media houses to set higher news standards in the region. The EAC is also seen as an opening for exchanging experiences and complementing each other’s capacities. It was noted that by collaborating in the media and other sectors, weaknesses and strengths will be easily identified. There was a suggestion based on the hope that other EAC Member States will support smaller ones
like Burundi, which in addition, is landlocked and less developed in areas such as trade, justice and governance.

For the business community, the EAC offers a bigger market for goods manufactured in Burundi such as cotton, glass and sugar. The opening of a bigger market is hoped will ensure greater movement of goods and a more favourable tax regime that imposes fewer taxes. It is believed that this will expand trade opportunities within and outside the EAC. For instance the business community has already begun travelling within the region. Buses such as GASO and Regional now cross from Kenya through Uganda, Rwanda into Burundi daily, transporting goods and people. Another opening is in the tourism industry. By joining the EAC Burundi hopes to enhance its tourism industry. This hope is grounded on the belief that the EAC brings peace and stability to Burundi as stated in the foregoing paragraphs.

Further, it is expected that the EAC will benefit Burundi through increased flow of investors into the country, which will lead to job creation and usher in peace and security. Another opportunity for Burundi through the EAC is that the latter will open doors for more funding for Burundi as the region negotiates as a bloc.

The Burundi Bar Association was looking forward to the idea of cross border practice as a means of broadening the experiences of their members, as well as that of the entire legal profession.

The aspirations of the Barundi have been enhanced by the fact that already there are EAC bodies meeting to advance the cooperation within the region. In July 2008, the Burundi Bar Association organised a conference for all EAC lawyers in Bujumbura. There were plans for leaders of the Episcopal Conference of the Catholic Church to meet and discuss the establishment of a common initiative of different churches at the EAC level.
Fears /Challenges
It is feared that because Burundi has a very weak economy struggling to recover after 15 years of war, this situation puts it at a disadvantage, especially with regard to its low industrial capacity, compared to the other countries in the region that have more stable economies. This is significant because most industries in Burundi are closed yet Burundi has to compete with the rest of the region. Also there was fear that Burundi’s economic disadvantage may lead to the country’s loss of customs revenue because of EAC policies. Flowing from these concerns, there was apprehension that the harmonisation of customs standards may take a long time, and that there may not be enough resources to apply towards the harmonisation of different standards within the EAC. Another area of concern was the fact that Burundi may not be able to compete with the other East African countries in terms of qualifications and skills in the workplace. Among other reasons advanced, the language barrier was listed as the most significant issue. It was suggested the Burundian government has to ensure that it prioritises English in the curriculum so that Barundi learn and speak English. Further, considerable doubt was expressed as to whether Burundi’s joining EAC offered any better benefits over and above its membership in COMESA. There were also issues regarding how Burundi would harmonise its membership of the EAC and COMESA.

Recommendations
Owing to the concerns about the EAC, it was suggested that government officials need to understand what the EAC is about and sensitise the people about its benefits. Only when government officials are aware of the EAC would they be able to explain to the people the benefits of EAC membership. It was indicated that the government needs to sensitise the people about the EAC so that they keep pace with key developments at the regional level and take advantage of available opportunities. It is believed that this will help the Barundi to move in tandem with the developments in the rest
of the region. For instance, it was noted that it was due to lack of knowledge and information that the Barundi are paying for services that are not necessary, like visas, when entering Tanzania.

It was further recommended that for the EAC to succeed, member states should concentrate on the common interest of the people of East Africa.

With regard to civil society, it was suggested that CSOs in Burundi need to network with their counterparts from the other EAC countries so as to broaden their experience in various fields such as the protection and promotion of human rights, monitoring government activities and electoral monitoring. A joint report on the media in Rwanda and Burundi by PANOS was cited as a good example which other CSOs in the EAC should emulate.

**Conclusion**

Burundi stands to gain much from its membership to the EAC irrespective of the unanswered questions of the Barundi like; what is new in the EAC which could not be achieved through COMESA? The interaction between the East African countries has always been there because of the cooperation in times of peace building and hosting immigrants from the said countries either as refugees or workers. The coming into existence of the bigger EAC therefore just cements the relationship which has always been in existence. The hope of defusing tensions of people from different places and backgrounds in Burundi, and the probability that the EAC may ease the existing ethnic tension, should not be underestimated. There is no need for apprehension, more so for civil society, since experience is a good teacher, they will learn more from their counterparts on how to organise their work and cooperate on issues of mutual interest like human rights promotion and protection and good governance. Barundi should therefore first be sensitised to fully understand what EAC is for, and the fact that regionalisation, like globalisation, is inescapable and is here to stay, and secondly, what they can gain from the EAC, among other issues.
Conclusions and Recommendations

Recommendations of the Mission

The overall goal of the mission was to explore the possibility of KCK networking with the people of Burundi with the purpose of strengthening citizen participation in the advancement of democratic development and good governance in Burundi through the participation of civil society. Hence the mission assessed the state and role of civil society in Burundi. The report therefore has largely given account of the corpus of civil society operating in Burundi, its achievements, challenges and prospects. This chapter gives a summary of conclusions and recommendations.

The Burundi civil society is growing at a relatively fast pace considering the state within which Burundi has been for more than twenty years. The growth of civil society has been attributed to the democratisation process in the country, which has necessitated a fairly conducive environment for the activities of civil society. The 2005 Constitution guarantees freedom of association providing the legal environment for the development and operation of civil society. The 1992 law which governs and controls the registration of associations and societies is equally supportive of civil society formation. The law however was in the process of revision in order to streamline the operations of civil society. A separate law to govern the activities of faith-based organisations was also in the process of development. This would hopefully satisfy the wishes of these organisations who do not wish to be considered NGOs. Government officials confirmed
the information that the relationship between government and civil society had been turbulent in the past but has since improved considerably; the government has come to understand and appreciate the role of civil society in development and good governance. As a result government would take measures to build and strengthen partnership between the two by among others, instituting measures to amicably resolve tension between the government and civil society particularly through constructive dialogue.

Conclusions

Burundi today, is one of the EAC Member States. The country’s history has gone through a number of political phases namely rule by monarchy, the military and stints of democratic governance. Under the monarchy, the Barundi were led by a king (*Umwami*). It was the colonially-created ‘ethnic’ cleavages and suspicions between the Bahutu and Batutsi which plunged the country into the decade-and-half long civil war that ravaged the country until the efforts to resort to democracy were made.

As is evident from this report, the democratisation process in Burundi started in the 1990s, although civil war did not stop until 2005 when democratic elections were held. However, one rebel group, the PALIPEHUTU-FNL was still fighting against government forces, even after the elections, until May 2008 when an agreement was reached to end the hostilities. There were further agreements which led to the December 2008 Agreement under which the rebel group changed its name to FNL on account of the illegality of the ethnic name PALIPEHUTU.

Civil society has strived to keep the government alert on different issues affecting the Burundi community; to work for a better Burundi through provision of legal aid, fighting against corruption and advocating good governance, among other things. Civil society has faced a number of obstacles in the course of carrying out the
said activities including harassment, physical assault, torture and imprisonment. However, it has recorded a number of achievements: It has complimented government activities particularly where there are gaps between the services needed by the community, and the inability of the government to provide the same. For instance, civil society has been able to help communities in the struggle against poverty through activities such as providing trainings and provision of tools of labour. A number of CSOs have been active in the promotion and protection of human rights including provision of legal aid to vulnerable groups and those in prison. They have also been on the forefront in exposing human rights violations, which has kept the government under check on issues of human rights and good governance.

Civil society has equally been active in the democratic process in Burundi especially during the 2005 general elections where it was active in monitoring the election thereby promoting transparency in the electoral process and contributing to the credibility and acceptability of the election results.

It is civil society that has spearheaded the fight against corruption in public institutions. Although Burundi is still struggling with corruption like many other African countries, the contribution of civil society in fighting the vice has been hailed as significant especially for initiating the fight and tirelessly keeping it going.

Civil society has caused a degree of positive improvement on the legal regime in Burundi. For instance, it convinced the government about the need to improve on the country’s Penal Code Act and subsequently submitted proposals for the necessary changes. It was also civil society that pioneered the bill for a new law of succession that would give women in Burundi the right of succession. At the time of the mission, both bills were before parliament. And it was the civil society that initiated and vigorously campaigned for the constitutional provision requiring 30% women representation in the key government institutions.
A commendable achievement is the improved relationship between government and civil society. Given the past tension which resulted in some civil society officials being imprisoned and some killed, it was heartening to hear a government minister acknowledge the role of civil society as positive and describing it as partners in development. Ostensibly, through their work CSOs had succeeded in changing the government’s attitude towards civil society.

The Burundi civil society has continued to work on, but has to contend with a number of challenges some of which are the following:

First, civil society in Burundi, like in other developing countries, is donor dependent. Most cannot generate their own income to hire enough staff and to pay them adequately. Financial dependence on donors was identified as a big weakness since the donors can cut off funding any time on account of changes in priorities. Donor dependency also affects sustainability of programmes. Organisations were known to have collapsed with change of donor priorities and a halt in funding. Donor dependency was also cited as one of the reasons why civil society always stick to donor priorities and neglect engagement in areas that would easily be appreciated by the community.

Secondly, civil society in Burundi is operating in a country severely afflicted with poverty. Many citizens therefore need assistance in tangible form and do not consider issues like good governance as having immediate relevance to their lives. It was reported for instance that the hungry needing food were not interested in an NGO doing research say on food insecurity unless the researcher is offering food. If you cannot give them food they do not understand what you are doing although the findings might help them in future.

Thirdly, civil society admitted that many of their organisations are not trained in strategic planning, project designing and inter-organisation networking, which has hindered the proper planning of their activities and made it difficult for some organisations to access funds from donors.
Fourthly, there were concerns or allegations that some CSOs act as a mouthpiece of political parties, individuals or certain groups and are therefore not impartial in their work. The perception of impartiality on the part of CSOs especially those championing rights was identified as a challenge to be dealt with.

CSOs were also reported as generally based in the capital Bujumbura. Community-based organisations (CBOs) were facing high costs in registering if they are rural-based.

Summary of Recommendations
The mission identified a number of challenges facing the Government and civil society in Burundi. It is in line with these challenges that the following recommendations are made:

To Civil Society
a. Civil society in Burundi as has been noted has been fairly active on matters of public concern. However, there were concerns that most of its staff are untrained and therefore lack all the skills to run the organisations, or to undertake specialised functions for which the organisations were formed. Journalists for example, were accused of lacking in professionalism due to lack of professional training. The mission recommends that stop gap and/or professional training should be organised for civil society staff in various disciplines to be identified by the civil society. In a nutshell, there is need for programmes to build the capacity of the civil society in Burundi.

b. It emerged that the relationship between the media and the government is not as smooth as it should be in a democratic society. The specific recommendation is that the media should provide their staff with the necessary skills and promote professionalism. It is hoped that the Great Lakes School of Journalism will provide the much needed opportunity to train journalists from Burundi.
Conclusions and Recommendations

c. By virtue of its activities, Burundi civil society plays the key role of human rights defenders. It is recommended therefore that it should get sensitised about its rights as human rights defenders as contained in the UN Declaration on the Rights and Responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms also known as the Declaration on the Rights of Human Rights Defenders (See UN General Assembly Resolution 53/144 (8 March 1999).

d. Networking between NGOs was identified as important for the effective delivery of service to the community and forming the necessary synergy to give CSOs a collective voice to defend one another in case of violation of their rights. While there was some evidence of networking, this was on an ad hoc basis and formed around specific issues. There was no convincing evidence of synergy between CSOs across the board at community, district and national levels. It was also not evident that the CSOs worked according to common values and ideology. And it appeared that intra-civil society relationship was that of negative competition and where it was positive it was lukewarm. There was limited support of one another. It is therefore strongly recommended that the CSOs in Burundi form an umbrella organisation as such coalitions have been known to strengthen the work of CSOs by promoting networking and collective effort in the provision of services and in the defence and promotion of human rights and fundamental freedoms. Synergy between different sectors of civil society whether between NGOs and CBOs or across the board with the private sector is necessary in order to strengthen intra-civil society relations and civil society as a sector.
Further, the mission recommends that CSOs move out of their narrow confines and have broader minds to encounter the future and coming changes which are bound to take place in Burundi due to, among other things, regional integration. Burundi’s membership to the EAC would be an opportunity for civil society to share experiences with other EAC CSOs. The need for networking with CSOs within the EAC cannot be overemphasised.

Given the history of tensions between civil society and the government it cannot be ruled out that such trends will reoccur some other time or from time to time depending on the political situation. CSOs should jointly take advantage of the reported improved relations to engage government with a view to agreeing with the government on a formalised mechanism for dialogue and resolution of tensions between the two whenever tensions occur. In negotiating such mechanisms, civil society must be conscious of their rights as human rights defenders and therefore guard against compromising these rights as well as their independence so vital for the performance of their roles.

Experience within the EAC shows that the existence of independent NHRIs in Kenya, Tanzania, Rwanda and Uganda not only augmented the role played by civil society in those countries but also helped smoothen relations between government and civil society. Burundi was yet to establish an independent national human rights commission. Civil society should collectively campaign for the establishment of such a commission in Burundi.

Finally, it did come out that some CSOs were under the control or influence of the government or other organisations with a political agenda. Government in particular was cited as quick in
accusing CSOs of political bias. While some of these accusations could have been made to deflect criticism, the fact that they are made underscores the importance of CSOs’ impartiality or independence in their functioning and should be seen to be so. This is particularly true when working on sensitive areas like in the promotion and protection of human rights. Credibility enhances a CSO’s impartiality, and credibility itself is enhanced if the CSO can support its actions with verifiable evidence and show that it is taking a principled stand on a matter of public importance.

**To the Government of Burundi**

As is evident from this report, the Burundi Government faces a number of challenges including helping the community out of poverty, allegations of corruption, untrained personnel, lack of accountability and transparency, and tension with civil society, though it is slowly fading away.

a. The “fading” tension between the government and civil society is partly attributed to the democratic process taking place in Burundi and partly to the persistence of civil society to fight vices in society. While the improvement in relations was a progressive development, it was of great concern that many instances of harassment, torture, arrest and detention of some members of civil society were attributed to government officials. The mission recommends that the Government of Burundi respect the constitutional provisions of free speech, freedom of the press, freedom of association and assembly rights, and freedoms entrenched in the 2005 Constitution. To consolidate the improving relations between government and civil society, it should work together with civil society towards a functioning mechanism for resolution of tensions between it and civil society. It would improve the working environment
for CSOs if government publicly made it known that CSOs play a positive role and that they are partners with government in development.

b. Faith-based organisations, especially the mainstream churches were critical of being treated as NGOs under the law governing CSOs. The mainstream churches were strong in the argument that their religious activities are different from those of other ordinary CSOs whose basic objectives are purely secular in nature and therefore want to be regulated under a different law specific to the role played by faith-based organisations. The mission recommends that the Décret-loi No1/011 du 18 Avril 1992 Portant Cadre Organique des Associations Sans But Lucratif should be amended to separate regulation of CSOs from faith-based organisations, which were being governed by the same law.

c. Instances were cited to demonstrate government interference with the judiciary. It was also asserted that the judiciary is not independent because of the insecure tenure of service, the poor working conditions, lack of facilities and the alleged discriminatory method of appointment of judges to the bench. It was also accused of making arbitrary decisions or making decisions on the influence of government. These are serious allegations. They may be true or not. They could be perceptions. The mission recommends that the government must be seen to respects the separation of powers between the executive, the legislature and the judiciary as envisaged in the constitution. Importantly the constitution should be amended to ensure that the procedures for the appointment and removal of judges are fair and impartial and particularly free from political influence. Security of tenure and conducive terms of service and working conditions should be secured as a vital requirement for guaranteeing the independence of the judiciary.
d. As pointed out earlier, NHRI[s have come to be recognised for their role in advancing respect for human rights and promoting good governance. They all work together with CSOs in these endeavours and in the process reduce the tensions between government and CSOs. Burundi has no independent NHRI, whereas the other EAC member states have very strong ones playing laudable roles in their countries. The Government of Burundi is strongly urged to urgently establish a national human rights institution based on the Paris Principles on NHRI[s.

e. Finally, it was established that the people of Burundi are not fully aware about the EAC and therefore may have misgivings about it, or may not be appreciating its advantages, or may not know what rights they have within the Community. Government should make deliberate efforts to strengthen sensitisation of the people of Burundi about the EAC.

**Recommendations to KCK**

Considering the challenges facing civil society in Burundi, the mission is of the view that KCK could address some of these challenges and help to strengthen the role of civil society in Burundi.

a. First, the need to build the capacity of CSOs in Burundi was identified as critical. The mission recommends that KCK select some of these capacity gaps and organise training for the CSOs to close the gaps. It should especially organise training for the leaders of CSOs, particularly in areas of sustainability, governance and strategic planning. This will enhance the capacity of the already enthusiastic Burundi civil society.

b. Second given that CSOs are human rights defenders, KCK should in collaboration with other CSOs within the EAC and EAC NHRI[s, train CSOs on the rights of human rights defenders.
c. Third, the mission recommends that KCK direct its efforts towards helping civil society in the EAC region to network and work towards common goals. This should go in line with helping the respective countries to have civil society laws which would have a “regional focus.”

Concluding Remarks

This report was disseminated on 24 April 2009 to about fifty stakeholders composed of representatives from human rights NGOs; faith-based organisations, the media and professional organisations from Burundi. The report was extensively discussed and criticisms and suggestion for its improvement were made. Subject to the criticism and proposals made being incorporated in the report, the meeting adopted the report as reflecting a valid account of the state of CSOs in Burundi. These criticisms and suggestions were taken into account during the compilation of the final report. In particular, historical facts about Burundi were verified as much as possible and efforts were made to obtain accurate information and statistics about the country.
Postscript

After the mission in July 2008, a number of developments of significance to Burundi’s peace and stability in general and to the country’s civil society in particular occurred, and are worth mentioning.

A fairly stable and progressive civil society-government relationship was disrupted in April 2009 when the vice president of OLUCOME, Ernest Manirumva, was murdered by alleged state agents. There was strong civil society condemnation and a public campaign for serious investigations to be conducted into the killing. In November 2009, Pacifique Nininahazwe, a representative of FORSC, was subjected to death threats and surveillance by the Service National de Renseignement (SNR). In early October 2008, the Ministry of Interior issued an order regulating the modalities of meetings and demonstrations and although these were later withdrawn, restrictions on civil society and a number of opposition members remained (Institute for Security Studies, Situation Report 2009). Likewise in August 2009, the Ministry of Interior is reported to have announced that “because some civil society organisations had a ‘double objective’ as far as their activities were concerned, they would need to request a ‘mission order’ from the Ministry for overseas travel, and inform the ministry when organising activities outside of the capital” (Institute for Security Studies, Situation Report 2009). In November 2009, FORSC’s legal registration was revoked by the Minister of Interior on the grounds that it did not conform to registration procedures, yet the same ministry had approved it in 2006, marking it the first time the government of Burundi outlawed a CSO. Activists linked the ban to FORSC’s public campaign over Manirumva’s death (Human Rights Watch 2009).9

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9 See http://www.hrw.org/en/node/87594
The country’s peace process registered significant strides. In December 2008, the Palipehutu-FNL became more open towards negotiating with the Burundian government and committed itself to working towards maintaining peace and reconciliation. In January 2009, PALIPEHUTU-FNL dropped the first part of its name which had an ethnic orientation and started referring to itself only as Forces Nationales de Liberation (National Liberation Forces) (FNL), thereby removing one of the obstacles to the implementation of the 2006 Comprehensive Ceasefire Agreement between FNL and government. A demobilisation, disarmament and reintegration process (DDR) of former FNL rebels began and many were integrated into the security forces and high public service positions. The Burundian government on its part released 118 FNL prisoners. In April 2009, FNL began disarmament and demobilisation and was registered as a political party. Following training, 2100 FNL joined the national army and about 1400 joined the police force (Institute for Security Studies, Situation Report 2009). Subsequently, some of the FNL were offered government positions, and the party leader, Agathon Rwasa, was in June 2009 appointed head of the Burundi National Social Security Institute. He is also the official FNL candidate contesting this year’s Burundian presidential elections. Notably, Jean-Baptiste Bagaza, a former Burundian president and current head of the Party for National Redress (PARENA), has also presented himself for the presidency during the upcoming 2010 elections.

On the downside, Human Rights Watch (June 2009) reported human rights abuse and intimidation in the country with several arrests of opposition members between June 2008 and April 2009, on various allegations, such as threatening state security, defaming the president, and illegal political activities. Competition and rivalry between CNDD-FDD and FNL, which lapsed into violence and human rights abuse by both sides, was reported. In October 2009, inter-party rivalries emerged within the FNL, when expelled
members of the FNL party organised a meeting that voted to remove Rwasa as head of the party. It is feared that such inter-party divisions amongst the FNL leadership could have two serious consequences: it could jeopardise the party’s performance in the 2010 elections yet the party is believed to be a strong contender in the upcoming elections; it could also jeopardise the country’s fragile peace as the 2010 elections approach. On the other hand, suspicions abounded that the ruling party CNDD was responsible for sowing the seeds of division within the FNL to weaken it before the June 2010 elections. “Needless to say, a divided and recently disarmed FNL is likely to exacerbate tensions during Burundi’s pre-electoral phase” (ibid.) However, it is yet to be seen whether the traditional rivalry between the two parties - CNDD and FNL - will have an impact on the 2010 elections. In addition to this, concerns of alleged militarisation of youth groups in several political parties were reported. Human Rights Watch reported in May 2009 that former CNDD-FDD fighters were teaming up with the ruling party’s youth league, imbonerakure, to intimidate and harass the opposition, 10 but the youth league is believed to intimidate the electorate as well (Institute for Security Studies, Situation Report 2009).

Furthermore, in January 2010, 13 soldiers were arrested following an alleged coup plot against the government of Pierre Nkurunziza at a meeting near Lake Tanganyika. Doubt has been cast as to whether this was indeed a planned coup plot or a government ploy to instil

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10 These former combatants are called démobilisé. They are former combatants (from many of the former rebel groups and movements, including former CNDD-FDD combatants) who went through a demobilisation process in Burundi and returned to civilian life. Some of the former FDD combatants joined the youth league of the CNDD-FDD party, which would be the equivalent of a political party’s youth wing. These CNDD-FDD démobilisés are the ones accused of intimidation and harassment. See Human Rights Watch, Pursuit of Power: Political Violence and Repression in Burundi, 3 June 2009.
fear in the opposition. Interestingly, unlike historical notions of ethnic conflict in Burundi, the alleged plotters were military officers of mixed Hutu and Tutsi ethnic composition, a new indication that Burundian politics could be shifting from a purely Hutu/Tutsi ethnic conflict to a political battle based on different political ideologies.

There is general apprehension about election violence and over the outcome of the elections and their impact on Burundi’s fragile democracy. The EAC has also taken a keen interest in contributing towards ensuring that the upcoming elections are free and fair. It has established an electoral support mission to the country drawn from the six countries of the EAC. The EAC in November 2009 also organised a workshop of the National Independent Electoral Commission of Burundi, to provide training to political parties, civil society, and other stakeholders regarding civic and voter-education programmes. Similarly, the electoral commissions of the EAC countries have committed themselves to collaborating and networking with Burundi’s electoral commission (The East African Newspaper).
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