

***Burundi: Civil Society Dialogue with Parliamentarians***  
***Case Study: Workshops on the Truth and Reconciliation Law, 2002***

**BACKGROUND**

Burundi has suffered sporadic ethnic conflict since it achieved independence from Belgium in 1962. In 1972, 1988, and 1993-94, especially serious episodes of ethnically-based killing occurred, and since the last of these three crises, a state of civil war has existed in Burundi. In August 2000, at Arusha, Tanzania, the Burundian government and various parties signed a peace accord which, it has been hoped, would put an end to the war and to the causes which brought it about. The Arusha accord calls for numerous institutional changes to the Burundian government; some of these have already taken place; others remain to be enacted.

One of the institutions set to be created under Arusha is a Truth and Reconciliation Commission (TRC). While its role has yet to be concretely defined, the TRC is to be charged, at minimum, with investigating and reporting on the violence of the last 40 years.

**THE ISSUES**

The parliament assigned the task of passing the TRC law is itself a weak institution, somewhat separated (for multiple reasons) from the people it theoretically represents. (One parliamentarian described it as “a closed world.”) This is the first time in Burundian history that a parliament has existed for ten consecutive years; the other parliaments have all been suspended before they reached that milestone. Only one arguably free and fair parliamentary election has been held in Burundi, in 1993. That election was swiftly followed by the assassination of the newly elected President, Melchior Ndadaye, and an ensuing national crisis which continues today. Elections have not been held since.

Under the Arusha accord, new deputies have been appointed to newly-created seats in the legislature. The assembly has expanded from 81 deputies to more than 220; the Senate was created to comply with the Arusha accord, and the first Senators took their seats in 2002. The disconnect between the parliament and the electorate is, accordingly, considerable, as none of the parliamentarians has ever been held electorally accountable for his or her legislative actions, and the majority have never faced even an initial election to office.

Parliamentary capacity is also limited by financial and human resources. According to Deputy Bernard Rukingamubiri, some parliamentarians have never finished primary school, and a portion of the parliament does not speak French (the language in which the laws are written).<sup>1</sup> Parliamentarians have no government offices in the

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<sup>1</sup> One parliamentarian offered as explanation for this phenomenon that Hutu intellectuals were specifically targeted in past violence, and thus that there are fewer well-educated Hutus available to represent the outer provinces.

parliament building or elsewhere, and no committee or personal staff. Only a small parliament staff serves the parliament as a whole.

Civil society in Burundi suffers from different, but no less severe, problems. It is diffuse, and resource-poor; it represents varied (and occasionally conflicting) interests; given the lack of regular, reliable, independent newsmedia reporting on parliamentary activities, many civil society members find it difficult to follow the progress of laws, much less impact upon them. Ultimately, civil society is a motivated but unorganized (and financially hampered) collection of independent actors, who do not have a long history of collaborative effort on a grand scale. Neither civil society as a whole, nor its independent elements, have ever before engaged in a concerted lobbying effort.

## **RESPONSE**

To facilitate educated discussions on the issues concerned in creating Truth and Reconciliation Commissions, Harvard Law School and Search for Common Ground developed a CD-ROM offering guidance from the experience of five countries that had established such commissions. The CD-ROM was developed independent of the Burundian situation; it is non-prescriptive, and offers choices to be matched with the circumstances of each country seeking to establish a commission.

Using this tool, Search and the International Human Rights Law Group convened three workshops in 2002. The first, in June, included various members of civil society and parliamentarians, as well as a representative of the Technical Judicial Committee charged with drafting the proposed law establishing the Truth and Reconciliation Commission. This group met for a day to hear presentations using the CD-ROM, and to discuss the lessons the other countries' experiences offered for Burundi's proposed law.

In July 2002, the Council of Ministers submitted to the parliament for consideration a proposed TRC law, based on the draft submitted to the Council by the Technical Judicial Committee. In August, Search and the Law Group convened representatives of civil society to review the law, and to develop together, in smaller groups, recommendations for how the law should be changed.

When these recommendations had been developed, a third workshop was held in November 2002. This workshop reunited civil society representatives with parliamentarians, to discuss the merits of the proposed recommendations. A set of proposed changes was agreed upon, largely through consensus, and the proposed changes were sent to the National Assembly's Committee on Political Affairs.

Regrettably, that committee, having reviewed the recommendations made by the workshop participants, ultimately rejected the lion's share of them, preferring to recommend its own relatively modest set of small changes. The bill, as put out by the Committee on Political Affairs, is set to be considered by the National Assembly as a whole during the current session.

## **LESSONS LEARNED**

*Initiative applauded.* The initiative to bring parliamentarians and civil society together to discuss upcoming legislation – apparently the first of its kind – was uniformly applauded by both groups. Deputies noted that consultation with the public in any form prior to the workshops was rare, and that intellectual exchanges to date with non-governmental organizations have been informal, where they have existed at all. The parliamentarians expressed a hope that such contacts would continue, and develop into a more consistent relationship. Senator Kavabuha, for one, said she hoped civil society would prepare texts on other laws, noting that parliament needs all the technical support and input it can get.<sup>2</sup> Likewise, the representatives of civil society said this was their first significant experience of civil society-parliamentary cooperation. Some stressed that from the workshops, civil society gained a greater understanding not only of the proposed law, but also of the workings of the legislative process (a process little understood by non-parliamentarians in Burundi, the deputies observed). Others noted that the workshops crystallized the organizations' own understanding of the issues at stake, and their positions on those issues.

*Choice of Participants.* The aim in selecting parliamentary participants was for each Assembly and Senate committee involved with the legislation to be represented, and for each major political group to be represented.<sup>3</sup> Some interference with the independent nature of the workshops was encountered at the Assembly level; some committee chairs needed to be assuaged that their authority was not being undermined. While requests for participation were rerouted through these committee chairs, the participants were ultimately the original ones chosen by the workshop organizers. This problem was marginally avoided in the Senate (which apparently exercises tighter discipline over its members) by going straight to the committee chairs and asking them to suggest names for participation. In the future, wherever possible, it will be important for civil society to ensure freedom of choice in its selection of participants; to abdicate this choice could easily lead to manipulation of the negotiation process by the committee chairs. That said, for civil society to assert its independence, senators and deputies will have to agree to meet with civil society sometimes against the wishes of their committee chairs. This is, accordingly, a delicate issue which has yet to be fully resolved.

At the third workshop, in an effort to avoid creating the impression that parliamentarians were being ganged up on, the organizers decided to limit the number of civil society participants in the final workshop. As might have been expected, this resulted in complaints from at least one representative of civil society that not enough local associations were represented at that workshop.

Given the problem faced with under-representation of workshop participants at the Assembly committee level -- where the fate of a law's provisions are most directly determined -- more participation by deputies specific to the committee charged with review of the law would be helpful. Moreover, it would be helpful in strengthening civil

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<sup>2</sup> Gervais Gatunange, of the Technical Judicial Committee charged with producing a first draft of the Arusha-related laws, also noted that his committee (part of the executive branch) would welcome input from civil society.

<sup>3</sup> Deputy Pascasie Nkinahamira said that parliamentarians were well-chosen to represent a range.

society if the organizations themselves (rather than the international NGO workshop organizers) were to play a greater role in choosing parliamentary participants.

*Lobbying Follow-Up.* The failure of the recommendations to pass the Committee on Political Affairs resulted from, it seems, multiple causes. Among them appears to be a failure of the civil society organizations and parliamentarians to conduct active efforts to lobby the parliamentarians who had not attended the workshops. Of the parliamentarians who attended the workshops, only one was on the Committee considering the TRC bill; he was in Paris at the time the bill was considered by the committee, and therefore did not take active part in deliberations. Of the others consulted for this case study, one was unaware the law had been reported out of the committee. There appear to have been few contacts, formal or informal, between participants and the Committee members, to discuss the results of the workshops. The value of the exchanges that took place at the workshops is, unfortunately, minimal at best when its effect is limited to the participants.

Another (perhaps greater) failure to follow up occurred on the part of civil society. Multiple interviewees suggested or agreed that recommendations will only be successful where civil society members cooperate to bring their arguments to decisionmakers, and/or the public at large. Civil society's failure to follow through by continuing to consult with decisionmakers was attributed in interviews to a set of factors. They include: (a) insufficient consciousness within the organizations of the importance of lobbying; (b) collaborative and organization problems stemming partly from personality conflicts; (c) a tendency to rely on outsiders (such as Search) to bring organizations together; (d) insufficient human resources; (e) insufficient financial resources; and (f) a failure to see the TRC law as a priority issue.

Future efforts at lobbying (including future efforts in connection with the TRC law) should do whatever is possible to overcome these obstacles, and to ensure a specific follow-up program (for which civil society should take responsibility) is pursued. As Deputy Saturnin Coriyemeye counseled, civil society must "be tenacious," or its voices will not be heard.

*The Two Hats Problem.* Three parliamentarians independently complained of the politicization of civil society groups. They said the use of civil society organizations to articulate political positions undermined the theoretical role of those organizations as speaking for the public good as a whole. Deputy Rukingamubiri identified the problem in particular as occurring when local organizations echo or toe a political line, articulating a political group's position (e.g., UPRONA or FRODEBU) even where the subject matter concerned is beyond the scope of the organization's mandate. Deputy Nkinahamira made the same comment, and Senator Kavabuha expanded it to cover ethnic as well as political group positions. According to Christophe Sebudandi, of the Government Observatory, while this may have been a problem in the past, it is diminishing with time. Sebudandi noted that defunct or essentially inactive organizations have been revived on occasion to serve as "civil society" mouthpieces for politicians' positions; he said it is important to distinguish between true organizations and shell organizations in this respect.

This problem is tied to a more fundamental problem – lack of credibility on both sides. Some parliamentarians believe civil society is only interested in money and jobs; some civil society members have no faith in politicians to speak for the public good.

Ultimately, these are the sort of problems that can only be fixed through more consistent, open, and honest dialogue between the two groups. For such dialogue to succeed, however, the participants must be carefully chosen for their good faith and candor, as well as their ability to influence others to effect change.

*Preparation.* Multiple participants said they would have preferred to have more time to review the materials discussed in advance of the workshop sessions. One parliamentarian suggested that small-group meetings (including parliamentarians) in advance of the workshops would help clarify issues and focus attention on the most important points to be discussed at the workshops themselves. Pie Ntakaruitmana, of Ligue Iteka, stressed that organizations should have (and take) the opportunity to review proposed laws internally before the workshops, so that each representative can truly speak for his or her organization.

In connection with this issue, there was a difference of opinion among the parliamentarians as to the effect of legislative timing on the lobbying process. Deputy Rukingamubiri said the agenda for each week's parliamentary business is set at the beginning of the week, which leaves little time to make concerted efforts to sway legislators to one side or another on possible amendments. Deputy Nkinahamira said given the clear long-term agendas set out at the beginning of a given session of parliament, there would be enough time to conduct workshops on all major legislation. Senator Kavabuha lamented that the Senate has a comparatively constricted 15-day schedule for legislation, which may make lobbying there more difficult than in the Assembly.

*Other ideas.* A set of other ideas were raised to aid future lobbying efforts. Among them were the following:

- That a plenary workshop, involving civil society and parliamentarians, be held at the beginning of every legislative session, to discuss the issues expected to arise in that session. This idea has been given further support by meetings on lobbying held by Search and the Law Group in February 2003.
- That civil society take a proactive approach in suggesting new laws, not merely suggesting amendments to proposed laws.
- That lobbying-education efforts by Search for Common Ground and the Law Group be coordinated with other, similar projects being conducted by such organizations as the Forum of Associations, l'Observatoire de l'Action Gouvernementale, IFES, NDI, and IRI.
- That civil society raise issue consciousness by working with deputies to prepare questions for the Friday parliamentary question-time, at which deputies are allowed to pose questions on issues to representatives of the government.

*Smaller organizational issues.* Deputy Mworoha requested that in future, presentations be made on a large screen; he described the screens of the two individual laptop computers used at the third workshop to be “nearly invisible,” and said the discussion suffered as a result. He further suggested that print copies of any presentation also be provided. Deputy Rukingamubiri said he hoped parliamentary speeches could be discouraged in the future, and that members of civil society could be encouraged to participate more by comparison. Deputy Coriyemeye asked that participants be allowed to go home at mid-day, rather than being required to stay and eat with the group as a whole. He also asked that transportation costs be covered by the workshop organizers.

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Bujumbura, 14 February 2003

## APPENDIX

### Documentary Sources

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