



## NGO REPORT ON VIOLENCE AGAINST WOMEN IN *BURUNDI*

### EXECUTIVE SUMMARY

**CEDAW, JANUARY 2008**

The aim of the report is to show the difficulties faced by thousands of women in Burundi due to the increase of violence against women. It is based on General Recommendation No19 of the Committee that affirms gender-based violence is a prohibited form of discrimination and recommends that States parties:

- Take concrete and efficient measures to eradicate violence against women;
- Ensure sufficient legal protection to all women against every form of gender based violence, including violence within the family, and the respect of their integrity and dignity;
- Establish statistics on the scope, causes and consequences of violence against women and on the efficiency of measures intended to prevent and fight against this kind of violence.

Unfortunately, the Government of Burundi has taken few measures to implement this recommendation.

**On the legislative plane**, although the Constitution of Burundi integrates the CEDAW Convention and other international instruments, laws to implement the principles contained in these international texts are incomplete or insufficient.

Indeed, the Criminal Code and the Criminal Procedure Code do not effectively protect women from violence. The new draft Criminal Code adopted to enhance protection is not efficient inasmuch as the sanctions are not strict enough.

The failure to make inter-partner violence an *ex officio* crime shows a willingness to excuse violence against women despite the serious consequences of these crimes on the victim, the children, the family and the whole society affected by the culture of violence.

The Criminal Procedure Code only gives limited possibilities of action to victims of gender-based violence, enabling the public prosecutor to disregard women's complaints<sup>1</sup>.

In addition, the laws regulating reparation are not easily applied to victims of gender-based violence and prevention measures are needed to address the complex causes and consequences of such violence.

Finally, the discriminatory provisions that can be found in all areas of the legislation and the prevailing gender inequality contribute to the perpetuation of violence against women. Burundi thus fails to comply with Article 2 of the Convention and General Recommendation n°19 of the Committee.

**On the judicial level**, many serious obstacles affect the legal protection of women, particularly victims of gender-based violence:

- The trivialization of these crimes by the society in general and especially by agents of the police and judiciary;
- The fear of stigmatisation and reprisals;
- The ignorance of the aggressor's identity, especially when it is a member of armed forces or organised criminal groups;
- The very high cost of police and judicial services and medical certificates;
- The widespread corruption worsened by an excessive length of judicial proceedings<sup>2</sup>;
- The lack of deontological control of the judiciary;
- Economic dependence and *de facto* judicial incapacity that prevents women from starting proceedings without the husband's agreement<sup>3</sup>.

**On the administrative level:**

- The Government has not established a national policy nor plan of action and has no strategy to eradicate violence against women or at least to suppress the obstacles mentioned above and encourage victims to report violence; the victims now have no protection<sup>4</sup>.
- There is no system of data collection, follow up and/or evaluation of actions taken in the

---

<sup>1</sup>As an example, N S<sup>1</sup>, a victim of cruel treatments was disabled for 8 months due to physical and sexual violence inflicted by her husband. He was only condemned to 6 months of jail and did not have to pay any compensation. The prosecutor refused to appeal the decision, despite the insistence of the victim and women's organisations that were scandalized by such a trivialization of violence against women.

<sup>2</sup> Proceedings can easily last for 10 years.

<sup>3</sup> Denouncing violence and engaging in judicial proceedings for example.

<sup>4</sup> They do not even have access to medical care.

fight against this violence nor any coordination of action in favour of victims. Community mobilisation and awareness raising is insufficient.

- There seems to be no hierarchical control towards over the police<sup>5</sup>.
- The schooling level of girls is very low<sup>6</sup>.
- The elimination of discrimination is far from being a concern for the State<sup>7</sup>.

In this context of widespread discrimination aggravated by the armed conflict, violence against women has reached an appalling level. It is difficult to evaluate the scope of the phenomenon, as there is no case registration department, but the numbers available are alarming. As an illustration :

*From 2004 to November 2007, the Seruka centre of MSF Belgium registered 5,466 cases of sexual violence<sup>8</sup>, an average of 1,366 victims per year and 27 victims a week.*

*In 2005, Iteka League and MSF Belgium reported 1,791 cases of sexual violence, an average of 34 victims a week.*

*In 2006, they reported 1,930 cases of sexual violence, an average of 37 victims a week, which marks a significant increase compared to the previous years.*

*The same year, a study by the gender unit of UNOB indicated that 60% of reported rapes concerned children and 24 % of the rape victims were less than eleven years old.*

These statistics only reflect the reported cases. Many victims do not speak up for several reasons especially the fear of reprisals. Other forms of violence than those of a sexual nature are particularly underreported, as the victims of such violence will not benefit from free medical care and may never tell their story to anyone.

The increase of violence against women was often considered to be a consequence of the **armed conflict** where women suffered terribly. In particular they have suffered from:

- Rape preceded or followed by brutality or cruel treatment;
- Massacres and looting;
- Forced enlistment and other consecutive suffering;
- Forced displacement and its consequences, as well as difficulties to recover their rights after the conflict (in particular property rights).

---

<sup>5</sup> Too much misconduct goes unpunished.

<sup>6</sup> About secondary technical and education, the gap is bigger because of girls' dropping out due to prejudices and gender stereotypes. Girls schooling rate increased from 38.89% in 1995 to 40.95% in 2004. At university level, only 27% of students are girls.

<sup>7</sup> Including inter alia the unequal distribution of work within the family and society, the dowry of girls, the representation of the family rooted in the Code on persons and the family, the administration of family goods, son preference, the orientation in education.

<sup>8</sup> In most cases these amount to rape.

However, the 2006 numbers show the persistence of **violence within the family and the community**. Within the family, gender-based violence takes the form of:

- Sexual violence, mainly incest, marital rape and sexual harassment;
- Physical and verbal domestic violence;
- Economic violence.

Within the community, sexual violence and especially rape is also widespread. For example :

- Rape by closed friends and neighbours, especially of young girls or women living alone;
- Sexual harassment in the workplace and especially in the context of unregulated domestic work;
- Physical violence;
- Trafficking and forced prostitution.

Finally numerous cases of **State violence against women** have been reported, for example:

- Violence committed by agents who abuse of their position and authority;
- Sexual violence or other violations linked to the non separation of male and female detainees and to the failure to provide adequate facilities and care as required by pregnant or breastfeeding women detainees;
- Arbitrary arrests and detentions following marital disputes or based on illegal grounds (the fact of being out late or dressing in a certain way).

To face all these forms of violence, denounce aggressors and start judicial proceedings, victims have no support from the State. Thousands of women live in fear and frustration. The State has not fully implemented the Convention, especially Articles 2, 4, 10, 12, 14 and 15, and has not followed recommendation n° 19 of the CEDAW Committee.

## **Recommendations to the Government of Burundi**

### *Legislation*

1. The Government must review the legislation and amend every discriminatory provision, especially Article 122 of the Code on Persons and the Family, and take steps to advance the promulgation of a law on successions, matrimonial regimes and liberalities.
2. It should ratify the optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women as well as the optional protocol on women's rights of the African Charter of Human and People's Rights.
3. It must ensure the rapid adoption of the revised Criminal Code and Criminal Procedure Code and make sure it takes into account proposals from civil society, especially by providing for

the ex officio prosecution of inter-partner violence. Also the criminalisation of prostitution (“soliciting”) should be eliminated (Article 539 of the draft Criminal Code).

4. It must pass a law on gender-based violence with a large and exhaustive definition. In particular, sexual violence committed by state agents should be qualified as an act of torture and marital rape as a crime.
5. A national policy on the fight against gender-based violence, with a plan of action and a precise calendar, should be elaborated.
6. It must reform the Labour Code and include in the new legislation regulations on domestic work.
7. It must implement the gender national policy and put in place a national council on gender.

#### *Public denunciation and acknowledgement*

8. The Government must condemn publicly and without ambiguity all forms of violence against women and girls, including violence within the family, and all forms of violence committed during the conflict.
9. It must make a public commitment to assume its obligation to exercise due diligence to fight against gender-based violence.

#### *Monitoring*

10. It must put in place a system of data collection to register systematically every alleged case of gender-based violence, the prosecution and the definitive condemnations pronounced and widely publish this data.

#### *Gender-based discrimination*

11. It must set up strategies to eliminate stereotypes and discriminatory practices, especially dowry.

#### *Investigation and prosecution*

12. The State must give clear directives to the police, the army and other branches of the security forces and provide sanctions for those in charge of law enforcement who hinder or delay the investigation or proceedings against the perpetrators of violence against women.
13. State agents suspected of having committed acts of sexual violence or other violations should be suspended of their functions while awaiting the end of the investigation when there is serious evidence of a violation.

14. It must provide the necessary material and human support to the police, especially means of transportation and implement a long-term reform plan to enable the police to react more rapidly and more efficiently to such cases.
15. It must set up an independent mechanism of control to ensure that independent and impartial investigations can deal promptly with allegations about policemen who failed to duly investigate cases of rape or other types of gender-based violence.
16. It must improve the recruitment and training of law enforcement and judicial personnel and increase the number of women within the police and the judiciary.
17. Specialised units in charge of investigation on violence against women especially sexual and domestic violence must be created in each of the 17 provinces of the country.
18. It must initiate investigations and prosecute all cases of sexual violence or other types of violence against women committed during the armed conflict; and establish a specialised chamber within the mechanism of transitional justice as suggested in Resolution 1606 adopted in June 2005 by the Security Council of the United Nations.
19. As regards the Truth and Reconciliation Commission, the Government must ensure effective participation by women, in compliance with the Convention and Resolution 1325 of the Security Council.

#### *Training*

20. It must provide systematically specialised training to the police, the judiciary and other state institutions, on how to investigate cases of rape, sexual violence and other forms of gender-based violence including domestic violence, and on how to deal with victims of such acts; including concrete ways of improving their behaviour.
21. It must encourage education of girls and provide secondary education to all children living with disabilities, with particular attention to young girls.

#### *Support to victims*

22. It must ensure that during judicial proceedings women victims of rape or other forms of violence willing to testify in private can be heard in separate rooms.
23. It must put in place a programme of support to victims and witnesses to guarantee security of victims and their family and protect them against intimidation and reprisals.
24. It must create an official compensation fund to give adequate reparation to victims of rape and other forms of gender-based violence.
25. It must make available for victims of rape and other gender based violence services of legal assistance in the whole country, including rural areas.

26. It must set up shelters for victims of rape and other forms of gender-based violence who are in a situation of distress.
27. It must take new initiatives to raise the awareness and enhance public support to victims of rape and bring to an end the full-scale discrimination they suffer.

#### *Detention*

28. The Government must guarantee an independent and efficient monitoring of detention places, including police and army detention cells to avoid arbitrary detention of women.
29. It must set up an efficient mechanism to receive complaints of sexual violence within detention centres, investigate those complaints and provide protection and psychological and medical care to victims.
30. It must guarantee the complete separation of men and women at all times in police custody and in detention centres, and make sure women detainees are guarded exclusively by female agents.

#### **To the International Community, including the United Nations and the main donor countries:**

1. They should provide technical and material support to programmes being implemented so as to immediately and efficiently support victims of gender-based violence.
2. They should implement in collaboration with the government and local as well as international NGOs awareness raising campaigns to prevent violence against women and put an end to the stigmatisation of victims of rape and other forms of gender-based violence.
3. They must stress the need for the authors of crimes of rape and other forms of violence against women to be brought to justice.
4. They should support the reform of the judiciary especially by giving technical assistance to guarantee the establishment of independent and impartial national courts.
5. They should ensure a training in humanitarian and human rights law, especially in women's rights and the prohibition of violence against women, to all members of armed forces and all authorities in charge of law enforcement especially police officers, as well as judges and prosecutors.